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ALN142: Meinir Pritchard

- I have concerns that the proposed new process does not place a statutory obligation on local authorities adequately to provide for a child's additional learning needs. In a period of austerity, with local government facing challenging budgetary cuts, the removal of the statutory obligation will inevitably relieve local authorities of the obligation to support the provision currently identified in an SEN statement (eg, through provision of speech and language therapy, occupational therapy). The rights of a Welsh child will therefore be prejudiced compared with the rights of a child living in England (where there remains a statutory obligation on the local authority to provide). This contradicts the claims made by the Welsh Government that it is signed up to the UN Convention designed to protect the rights of the child.

- I welcome the fact that the legislation covers the full spectrum to age 25. However, given the dearth of post-16 provision available in Wales, alarm bells ring when I read the acceptance by Welsh Government that local authorities know what suitable provision is available within their own areas. At a time when the Welsh Government is promoting collaborative working and working across borders, are we therefore advocating the ring-fencing of additional needs provision to each LEA, with the result that learning needs provision is provided by postcode rather than by appropriate provision delivered to meet the child's individual and very specific needs? This was a battle which we as a family successfully won over a decade ago, to secure the right of the child to cross boundaries to secure the right provision to meet his needs. I therefore speak from experience when I advocate working across borders and sharing resources to secure the best educational outcomes for children, dependent on their additional needs.

- I note, within the same context as my second point above, the proposals to undertake more scrutiny of independent schools provision to support students with additional needs. I would urge the Welsh Government to note that the provision made by some independent schools fills a current major gap in LEA provision, providing an opportunity for young students with additional needs to go beyond fulfilling their learning needs to achieving more independent living skills without complete reliance on their parents and carers. We were disappointed as a family when the Welsh Government a few years ago stopped funding a long-standing and highly successful part-residential course at Atlantic college. The course provided wonderful opportunities for students with learning difficulties from across Wales to benefit from a tailored programme which used the facilities of Atlantic College and peer engagement with young students from across the world (who themselves benefited from engagement with their peers with learning difficulties). The Welsh Government's solution was to fund courses at further education colleges. However, although there is room for those courses, those college courses cannot possibly match the comprehensive benefits and outcomes achieved by what was forsaken at Atlantic College. Abandoning the course at a college in Wales which is the envy of the world was short-sighted to say the least on the part of the administration and is a lesson to be learnt in the approach to other independent provisions which fill a severe gap in the provision for young people with additional needs, where those needs go beyond what a school and college can provide for those who students with

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severe and specific learning difficulties and where their parents struggle to support them in early adulthood.

I submit these as summary comments, but would ask the Welsh Government better to target and time its consultations on such issues in future, given the significant implications for young people and their families.

ALN143: Derek Tilley

Question 1 – New terminology

- a) Do you agree that a new term, 'additional learning needs', (ALN) should focus on children and young people who need additional and/or different support with learning to allow them to benefit as fully as possible from the education or training available to them?

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

The term "additional learning needs" adds nothing to that understood by "special educational needs". There will clearly be some costs implications for changes to stationary and publications (e.g. for SENTW). In addition, retaining the term "special educational needs" will keep wales aligned with England and ensure that there is a common cross-border terminology.

- b) Do you agree that the new system should apply to children and young people from birth up to the age of 25? If so, what implications should we consider for the professionals involved in assessing and providing that support?

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

Ensuring that all agencies, and especially Health and Social Services, constructively engage with the transition process from the very beginning.

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Question 2 – Individual development plans (IDP)

- a) Do you agree that all children and young people with ALN should be entitled to an IDP which sets out their agreed additional learning provision?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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- b) Do you agree that IDPs should replace statutory assessment and statements of SEN, assessments for learners over 16 (under section 140 of the Learning and Skills Act 2000) and non-statutory plans including individual education plans under School Action and School Action Plus?

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

Please see my response to Question 11.

- c) Do you agree that local authorities should be ultimately responsible for preparing an IDP for children and young people aged 0–25 with ALN and for ensuring that agreed provision set out in the IDP is delivered and reviewed?

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

Please see my response to Question 11.

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Question 3 – A new code of practice

- a) Do you agree that a new code of practice on ALN should include mandatory requirements in accordance with which local authorities, schools, further education institutions, local health boards and the tribunal must act?

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

It should be madatory to comply with all directions detailed in the CoP

Please see my response to Question 11.

- b) Do you agree that the code of practice should set out guidance for any other bodies, such as third sector organisations or other providers of education and training?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Question 4 – Securing provision

Do you agree that further education institutions should be included alongside schools, maintained nurseries and pupil referral units, as institutions that must use their 'best endeavours' to secure the additional learning provision called for in an IDP?

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

The term "best endeavours" should be avoided at all costs. It should be mandatory for provision specified in an IDP to be provided.

Please see my response to Question 11.

Question 5 – Securing specialist provision for young people

Do you agree that local authorities should be responsible for securing specialist education provision for post-16 learners outside of the further education sector where the IDP indicates that this is necessary to meet a young person's ALN?

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

Please see my comments on specialist residetial colleges in my response to Question 11.

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Question 6 – Placement at independent schools

Do you agree that local authorities should be prohibited from placing a child or young person at an independent school which has not been registered to provide the type of additional learning provision identified in their IDP?

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

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Question 7 – A multi-agency approach to planning and delivery

- a) Do you agree that local authorities, local health boards and further education institutions should be required to cooperate and share information in assessing, planning and delivering support to meet ALN?

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

Please see my response to Question 11.

- b) As well as using the code of practice to provide guidance, are there any other ways in which you think multi-agency partnership working could be strengthened?

Supporting comments

Please see my response to Question 11.

Question 8 – Supporting looked after children

Do you agree that IDPs should be able to replace or function as personal education plans for children and young people who are looked after by a local authority?

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

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Legislative proposals for additional learning needs Responses 141-160

Question 9 – Resolving disputes at an early stage

- a) Do you agree that local authorities should be required to put in place disagreement resolution arrangements?

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

LAs are already required to put disagreement resolution in place.

My personal experience leads me to believe that mediation only works if both parties willingly participate. It is also crucial that the mediators understand how the SEN/ALN system works and that the LA officers involved in the mediation process have the power to make binding decisions.

Please see my response to Question 11.

- b) Do you agree that there should be a requirement to use the appropriate local complaints processes prior to appeal to tribunal?

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

Please see my response to Question 11.

Question 10 – Extending the right of appeal

Do you agree with our proposals in relation to extending rights of appeal to tribunal (see proposals 19, 20 and 21)?

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

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Question 11

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

I would like to make the following observations and comments based on being the father of a young lady with a severe learning difficulty who has gone through the school system with a statement and who is now attending a specialist residential Further Education college. I was also a volunteer with IPSEA before working for SNAP Cymru as an Independent Parental Supporter for 12 years including involvement as a facilitator for parental/professional consultations at the launch of the “Statementing or Something Better” project and the subsequent issuing of the SEN reform consultation document in 2012. I will shortly be joining the Cerebra Pro Bono Project hosted at Cardiff University’s Law Department

Firstly, I welcome the extension of the age range to encompass 0 to 25 which is definitely a significant step forward, as providing the right to appeal to any school-aged child or young person with ALN and the extension of the right to appeal to post-16 learners with ALN up to the age of 25.

The emphasis on Person Centred Planning (PCP) is also welcome although this

could have and should have been promoted as best practice for annual reviews and associated meetings within the current system: statementing and PCP are not mutually exclusive.

However, there are major concerns with the White Paper, commitments the Welsh Government made to parents and the timescale to legislate in this legislative period and ensure that a proper consultation has been carried out.

Welsh Government officials have consistently said that there would be no erosion of parents' rights, in fact, they would be strengthened (e.g. Chris Burdett at a SENTW Users' Group meeting and Chris Warwick at parental and professional consultations).

The current SEN statutory framework (Education Act 1996 and associated regulations and Code of Practice) contains features which encapsulate the rights that parents currently have and are vital to the best interests of children with SEN:

- a. a duty on a Local Authority to assess SENs when there is a probability of a child's having such needs
- b. when assessment confirms the existence of SENs, a duty on a Local Authority to describe those SENs in a legal document (the statement)
- c. a duty on a Local Authority to specify the provision required to meet the needs described in the statement
- d. a duty on a Local Authority to arrange the special educational needs specified in a statement
- e. a parent's right of appeal to an independent Tribunal against a Local Authority's refusal to assess or issue a statement and the content of a statement when first issued or subsequently amended, reviewed or ceased.

Whatever changes are envisaged to improve the legal framework it is essential that the above 4 key duties, plus parental rights of appeal in all of the current circumstances, including educational placement, are preserved.

One parental right is to request that the maintained school of their choice is named in their child's statement (Schedule 27, Education Act 1996). If the LA refuses to do so then the parents have the right to appeal to SENTW. This is a very important parental right and features in a significant number of appeals to SENTW.

However, the list of appeals set out on Page 36 of the White Paper does not mention education placement. The Additional Learning Needs Branch has informed me of the following:

Although we are not currently minded to include the naming of a specific educational provider (for example, a school, FEI or specialist post-16 provider) as

a separate section within the IDP, a named provider could form part of the general provision set out in the action plan. Therefore, if a child, young person or parent were unhappy that a named provider was not included in the provision set out in the IDP, or was unhappy with any provider which was named, they could potentially appeal against this.

(By email)

The problem with this response is that although parents “could potentially appeal” against placement will they actually be able to appeal if they don’t still have a statutory right to request that a given educational placement be named in the IDP? Unfortunately we don’t know the answer to that question because, with a couple of exceptions, the White Paper doesn’t detail whether any parts of current legislation will be restated or repealed.

And this illustrates a major flaw with the White Paper, which I will comment on further below: the detail we require to make meaningful judgements on what the Welsh Government intends is not set out in the White Paper: as with the previous consultation document we are being asked to comment on aspirations and not substance.

Any dilution of the 5 features referred to above would inevitably mean that the Welsh Government will have failed to keep its commitment to maintain, as a minimum, the current level of parental rights. Unfortunately, the lack of detail that we have at the moment means that we are not in a position to know one way or another.

Personally, I believe it to be crucial that all the rights of parents and children that are currently included in the Education Act 1996 remain on the face of the new Bill and not pushed into Regulations or the new CoP as there is no guarantee that they would receive the same level of scrutiny by the Assembly.

It is my experience, echoed by many others working in the field, that problems for children with SEN and their parents currently arise when LAs fail to fulfil their duties under the 1996 Act, not because of any weaknesses inherent in the Act itself.

it is crucial to differentiate between the law itself and LAs’ failure to fulfil their duties under that law. It is also essential to recognise that this legal duty is placed on LAs and not schools. Too often parents and schools themselves are led to believe that provision of the right support for a child is a duty which falls on a Head Teacher and that provision must be funded from within existing resources. Whilst an individual LA’s SEN policy may imply a delegation of responsibility, this cannot currently happen in legal terms.

But to be fair to LAs they have to work with fixed SEN budgets and if they identified all of the SEN needs in their area and funded the appropriate provision it would far exceed their budgets. This is the key driving force for the attitude many LAs adopt causing them to use blocking tactics to avoid carrying out assessments in the first place (we don’t give out statements anymore); producing poor quality reports to inform the process (if the evidence isn’t there it can’t be

written into Part 2 therefore there can be no corresponding provision in Part 3); and where provision can be identified making sure that it isn't specified and quantified precisely. It doesn't matter what system is maintained or adopted, unless the Welsh Government ensures that LAs/schools the correct level of funding to provide the provision required to meet the identified needs of all children with SENs then nothing will fundamentally improve.

Schools may "make their best endeavours" but ultimately it is the responsibility of the LA to ensure that the children they have identified with SENs have their needs met. Many requests for a statutory assessment are made because parents, a view often shared by LAs, do not believe that the school's "best endeavours" are adequate.

On page 22 of the White Paper it is stated that:

We propose that the statutory duty for preparing and implementing an IDP will rest with local authorities, to ensure that there is accountability for the delivery of ALN provision. This means that we will expect local authorities to have effective governance arrangements in place to deliver, monitor and review their ALN duties.

and that:

Local authorities would... remain ultimately responsible for discharging their new duties so would need to put in place arrangements to monitor and review the situation

So, this is exactly the same legal situation as in the current system with the legal duty continuing to be placed on LAs. Nothing seems to be fundamentally changing.

So, the question is: what are the Welsh Government proposing that is different to prevent the historic lack of engagement of LAs with their current duties with regards to the production and implementation of a document called a statement which must be reviewed at a maximum of 12 months reoccurring with the preparation and implementation of a document called an IDP which must also be reviewed at a maximum of 12 months?

One thing may be disagreement resolution services. Proposal 17 on page 34 states that the Welsh Government will:

Require local authorities to put in place disagreement resolution arrangements and require the use of local complaints processes prior to appeal to Tribunal.

Further down on the same page it says:

We will restate the existing requirement to put such arrangements in place,

This acknowledges that there is already a statutory duty on LAs to set up and promote local disagreement resolution services brought in by the Special Needs and Disability Act (2001).

Paragraph 2.24 of the SEN Code of Practice for Wales (CoP) states:

2.24 All LEAs must provide disagreement resolution services. They should demonstrate independence and credibility in working towards early and informal resolution of disagreements. It is essential that parents are aware of the arrangements and how and when they can access them. LEAs must therefore inform parents, schools, and others about the arrangements for the service and how they can access it. Parents who have a right of appeal to the SEN Tribunal continue to be able to exercise that right at any stage. LEAs must inform parents in writing that their legal right to appeal is not affected by entering into disagreement resolution. Disagreement resolution can run alongside the appeals process.

(My emphasis.)

One of the minimum standards states that LAs:

- must make the arrangements for disagreement resolution and how they will work known to parents, schools and others they consider appropriate (The CoP's emphasis.)

Yet this clearly hasn't happened. Further, Paragraph 2.23 of the CoP makes it absolutely clear that the LA's duty to provide easy access to disagreement resolution services isn't restricted to the statementing process. It isn't even restricted to the graduated response. Instead it encompasses any SEN issue even if it's school-based:

2:23 Parents may wish to access the local disagreement resolution procedures at any time during the SEN process, including where there is a disagreement with the school about any aspect of their child's special educational provision.

(My emphasis.)

With regard to disagreement resolution services the Welsh Government:

... will include clear guidance and, where necessary, mandatory requirements in respect of these arrangements in the new Code of Practice.

Yet the above is clear guidance and despite the Welsh Governments best intentions hasn't happened. The reason being that LAs, and schools, only have to have "due regard" to most of the current CoP and have frequently told parents that it is only guidance and they don't have to follow it. This has also been compounded by a lack of robust monitoring/enforcement by the Welsh Government and Estyn

Page 16 states:

There is a perception that the existing SEN Code of Practice is not always applied rigorously or is interpreted differently by different local authorities.

adding:

...we have seen no evidence to suggest that there is any systemic failure in the application of the SEN Code of Practice...

There may not have been any empirical research carried out on this issue but there is a significant body of anecdotal evidence indicating that there is widespread failure to apply the current CoP including, for instance, all stages of the graduated response, annual review meetings and transition planning.

The above quote continues to acknowledge that reliance on “due regard/must have regard” is problematic:

...we recognise that its (the CoP’s) current status as guidance to which relevant bodies ‘must have regard’ does leave room for local interpretation.

The answer is to remove all elements of “wriggle room” by making it a statutory requirement to follow the directions set out in the new CoP.

As an aside, I believe that we can anticipate an identical problem with the introduction of the requirement for settings to “make their best endeavours” to implement IDPs. History would suggest that the interpretation of “best endeavours” will differ between LAs, parents and other relevant bodies including the Welsh Government leading to disputes and contributing to negative relationships.

In response to the above problem the White Paper proposes on Page 20 that:

... a new statutory Code of Practice will provide both mandatory requirements and practical guidance on how we expect statutory duties to be carried out.

A problem with the White Paper, and it is a significant one, is that although it makes numerous references to parts of the new CoP being mandatory there is no detail as to exactly which parts will be and which parts won’t be mandatory. All the detail will be in the CoP which, I have been informed by the Additional Learning Needs Branch, will not be available for consultation until after the Bill has been laid before the Assembly. I believe that this is a major flaw in the reform process. The previous consultation document was very heavily criticised for not providing sufficient detail. This was recognised in the Welsh Government’s own document entitled “Consultation - summary of responses” (July 2013). On page 2 it states:

Respondents were in favour of the direction of travel indicated in the consultation but asked for more detail, particularly on the legislative proposals.
(My emphasis.)

In fact, if you look at the whole document more than 50% of it is dedicated to the sections entitled “Issues raised that require further details”. Moreover, both the former and current Ministers for Education acknowledged concern over the lack of detail in written statements.

Yet, time after time when it comes to the actual detail we should be being consulted on the White Paper refers to information/detail/guidance that will be in the new CoP but which isn't available to us now:

The Bill will set out the key information which must be included in an IDP. This will not be an exhaustive list, but will set the minimum requirements which will be explained in a Code of Practice.

(Page 21)

The Code of Practice will also set out requirements for the form and content of IDP and timescales within which an IDP must be produced and reviewed.

(Page 21)

The Code of Practice will set out requirements on the arrangements to be made to support effective transition planning.

(Page 21)

Others with more complex needs will require varying levels of external advice, support or funding along the lines of those on School Action Plus or who have a statement. The Code of Practice will set out guidance in relation to this, to which relevant bodies must have due regard.

(Page 21)

Local authorities would be able to discontinue IDPs for children and young people who took up post-16 opportunities (such as higher education or work based learning) outside of a school, FE institution or specialist FE placement or did not take up the opportunities identified for them within the school or FE sector within a specified timeframe (to be set out in the Code of Practice).

(Page 22/23)

Where they are requested to do so by a parent, a local authority will have the power to put IDPs in place for children educated at home. The Code of Practice will provide more detail on these matters.

(Page 23)

Our intention is that IDPs will be developed in accordance with the principles of person-centred thinking and planning and that the Code of Practice will set out clear guidance on how we expect this to be applied.

(Page 27)

We propose that the Bill will enable the Code of Practice to make further provision about the review process. The Code may also include guidance regarding the scope for aligning the timing and conduct of an IDP review with other multi-agency reviews conducted in relation to the same child or young person (for instance, Continuing NHS Health Care reviews) to reduce the burden on professionals (as well as children and young people and their families).

(Page 28)

Note the use of the word "may" in the above quote: will it or won't it? We need to know now for this consultation to be meaningful.

The Code will provide information to support practitioners working with children below compulsory school age (such as those working in maintained and non-maintained school nurseries, local authority day care providers and other registered day care provision) to help identify ALN early on and provide all children with a broad range of stimulating learning experiences. It will reflect other Welsh Government policy developments, such as the commitment to introduce an Early Years Development and Assessment Framework, focussing on those areas that are essential to young children's development, such as communication and language, social and emotional skills and physical development.

(Page 28)

We will work with key stakeholders to produce clear guidance and requirements for inclusion in the Code of Practice, along with other training and support mechanisms as appropriate.

(Page 30)

The detail of the ALNCO's responsibilities would be set out in the Code of Practice, and we will work with key stakeholders to develop guidance on the role, to be consulted on in due course.

(Page 30)

We will consider what scope for specific Provision Pathways might exist as part of our development of the Code of Practice.

(Page 34)

We will include clear guidance and, where necessary, mandatory requirements in respect of these (disagreement resolution) arrangements in the new Code of Practice.

(Page 34)

Despite the potential benefits of mediation, it is currently underused and under-promoted, so we will use the new Code of Practice to encourage its more frequent use and provide guidance on its effective operation.

(Page 35)

In relation to advocacy services, we will provide clear guidance and mandatory requirements in the Code in respect of the nature and quality of these arrangements.

(Page 36)

All of the above detail should be available to us for comment prior to the Bill being laid. Therefore it is vital that the CoP is made available for consultation before the Bill is laid.

This becomes even more important given that the Welsh Government's intention:

So far as possible, we want to set out in the new Code of Practice ALL THE RELEVANT INFORMATION ABOUT THE OPERATION OF THE ALN SYSTEM.

(My emphasis.)
and

We will therefore look to keep Regulations (in the form of statutory instruments) to a minimum, possibly restricting these only to the procedures by which the Tribunal operates.
(Page 21)

As shown above, the Welsh Government is well aware of the requirement for the detail but, in fact, the White Paper contains no more actual detail than the previous much criticised consultation document.

It would seem that the need for full and meaningful consultation on the actual mechanism of the new ALN system has been sacrificed by the timescales imposed by the Welsh Government's desire to pass the required legislation in this legislative period. Unfortunately, this means both the White Paper and this consultation process are therefore not fit for purpose.

I am also concerned that the Welsh Government:

The bringing into force of legislative reforms, and the simultaneous issuing of the new Code of Practice...
(Page 38).

We now know that the Additional Learning Needs Bill will be brought forward before next summer, but we don't know exactly when.
(<http://wales.gov.uk/legislation/programme/2014-2015/?lang=en>)

It is also acknowledged that the introduction of the legislation and CoP:

...will need to be accompanied by a programme of promotion and training amongst staff in schools and other educational facilities, relevant staff in local authorities, and professionals who are likely to work with children with ALN. This is to ensure that everyone responsible for delivering services for children and young people with ALN understands the process and the role they will be expected to play in it. It will also be necessary to actively promote the new system and terminology amongst children and young people, parents and the wider public.
(Page 38)

We don't know the project management timeline that is envisaged but it will clearly take some time to prepare the training materials etc. and it won't be possible to finalise them before the CoP is finalised and approved by the Assembly. And given that the intention is to include all of the relevant information about how the AN system will operate in the CoP it will obviously be a significant document which will require some time to be properly consulted on. And if we consider the passage of the new CoP in England where a second draft has been issued which has in turn been criticised in the House of Lords because, amongst other things:

despite a DfE commitment that the new Code would be significantly shorter,

clearer and more concise than its predecessor, the new Code is in fact considerably longer
(<http://www.ipsea.org.uk/AssetLibrary/3rd%20Report%20of%20Secondary%20Legislation%20Committee.pdf>)

This may require the issuing of a third draft although the legislative programme may mean that there won't be enough time.

This raises the real fear that here in Wales even with the CoP not being consulted on prior to the Bill being laid before the Assembly, there may not be sufficient time to produce the CoP, carry out meaningful consultation on it and produce the training materials, etc. in a timely manner.

With regard to the proposal to transfer the duty for securing specialist post-16 provision, including residential provision, to LAs (Page 23): this again creates situation where the LA will be responsible for both assessing a need (residential placement) and paying for it. It is particularly concerning that the funding for this aspect of post-16 education won't be ring-fenced but will be transferred to the Revenue Support Grant, instead. Given the current financial restraints on LAs it can be anticipated that young people could be pressurised by LAs to accept local college placements against their will.

But there is a more fundamental issue that the Welsh Government now has the opportunity to correct.

The Equality Act 2012 applies to the Welsh Government and it must have due regard to:

advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

This is also reflected in the Learning and Skills Act 2000 (The 2000 Act) Section 43(1)(c) which specifically states that the above applies to the National Council for Education and Training for Wales (NCETW).

On leaving post-16 education non-disabled, and some disabled, young people have the opportunity to study away from home. Providing they are offered a place and meet the entry requirements the Welsh Government will provide these young people with a loan which will be paid back when they have secured employments and their earnings have reached a certain level. There is no requirement for them to prove that a local establishment can't meet their educational needs.

However, the situation is very different for the relatively small number of young people with severe learning difficulties. Universities do not offer them the possibility to study away from home like their non-disabled peers which may obviously include their siblings.

They do, however, have the possibility to access special residential FE colleges which provide many of the social and educational benefits that university provides.

Currently, it is necessary to have an assessment by the college, which can involve

2

or 3 visits, after which a place may or may not be offered. But the disabled young person has an additional barrier to overcome to secure funding: they essentially need to demonstrate that local colleges can't meet their needs otherwise current legislation means that they will not be funded to attend the specialist residential college of their choice. As stated before, this is not a hurdle that non-disabled young people have to deal with.

Clearly, the 2000 Act predates disability discrimination legislation and it is unlikely that it would be passed in its current form today given the Welsh Government/ NCETW's duty to advance the equality of opportunity of disabled young people. And the fact that the duty is relevant in this situation is already known and acknowledged by the Welsh Government in, for instance, the following document which is unfortunately undated

<http://www.assemblywales.org/cf9800c0a87201183e9130c0980ea41d.pdf>
(See the section entitled The Learning Skills Act on Pages 6 and 7).

But not only is the current legislation discriminatory, the process itself can be very stressful for the disabled young person. As mentioned as part of the application process they must attend the college to be assessed at least once and possibly more. They like the college and want to attend and live away from home, maybe like their non-disabled siblings attending university, but simply do not have the intellectual ability to understand that they can't because a local college, that they don't want to attend, says that it can meet their educational needs. There have been cases where this has caused tremendous upset and impacted very negatively on young disabled people and their families.

All post-16 disabled young people who wish to study away from home and have been offered a place at a setting of their choice should have the same equality of opportunity as a non-disabled young person who has been offered a place at a setting of their choice

The reform process gives the Welsh Government the perfect opportunity to repeal the relevant sections of the 2000 Act and exercise its public sector service duties by introducing enabling legislation otherwise it will be knowingly maintaining a discriminatory system.

Page 28 says that the IDP will be reviewed every 12 months as a minimum. It also acknowledged that the IDP will incorporate the existing IEPs which contain relatively short term targets and, as is acknowledged, are sometimes reviewed monthly at the moment: the current CoP says at least three times a year (Paragraph 4.28, for instance). The danger here is that given that as IDPs only need to be reviewed every 12 months that is exactly what will happen. Early reviews can be requested but what happens if such a request is refused?

On page 35 it is proposed that mediation will be facilitated by an independent party. It is also important that Parent/Family Partnership and Advocacy Services will also be independent (Although all of the Welsh LAs currently use third sector

organisations to provide the parent partnership services current legislation does give LAs the possibility of running them in-house). To be truly independent it is crucial that these services are not funded directly by the LAs so that there can be no possibility of children and their families having any reason to believe that LAs may be able to exert pressure on them. I know from my time with SNAP Cymru that a significant minority of parents would not use the organisation's services because it was funded directly by LAs. Solicitors' marketing roadshows would also encourage parents not to use SNAP Cymru's for exactly the same reasons.

On Pages 22/23 it is stated that:

Local authorities would be able to discontinue IDPs for children and young people who took up post-16 opportunities (such as higher education or work based learning) outside of a school, FE institution or specialist FE placement...

Why? These young people will have exactly the same need for the protection of an IDP as those aged under 16 for exactly the same reasons. .

Page 23 goes on to say:

However, as described earlier, local authorities would be responsible for ensuring the transition planning arrangements had been put in place.

Despite detailed transition planning guidance being available in the current CoP it is widely accepted that the transition planning process for many young people has been very poor with many transition plans being of very low quality. There is nothing that is not known about the transition process yet it has proved to be practically impossible to get Education Services, Social Services and Health Services to consistently engage with their roles and the situation has only worsened with the current financial situation.

Unfortunately, as discussed before, we have no idea what transition planning process will be proposed but all the experience that we have to date would indicate that it is crucial that the full protection of an IDP is maintained until the age of 25.

When the "Statementing or Something Better" process was launched the key driving force was to create a system which would ensure the full engagement, co-operation and participation of educational settings, LA education services, LA social services and Health. This is what was intended to drive transformational change and make a real difference to children/young people with SEN and their families. Somehow this seems to have become diluted over the years.

Paragraph 7:79 of the current CoP states:

LEAs should make clear that the Regulations Education (Special Educational Needs) (Wales) Regulations 2002) require that the advice must relate to the educational, medical, psychological, or other features that appear relevant to a child's current and future educational needs. The advice must also set out how those features could affect the child's educational needs and the provision that is considered

appropriate in the light of those features.

However, I have been involved in many cases where medical staff have categorically refused to produce written advice confirming what they are quite happy to say in private to families. And in other cases when written advice has been provided by medical staff commenting on “future educational needs” LAs have refused to accept it saying that it is they and not medics who are responsible for determining provision despite paragraph 7:79 quoted above going on to say:

...LEAs should not have blanket policies that prevent those giving advice from commenting on the amount of provision they consider a child requires.

It is essential that these services co-operate at all stages of the drafting, implementing and monitoring of IDPs but, unfortunately, there doesn't seem to be anything in the proposals with enough “teeth” to change their historic behaviour of limited co-operation.

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

ALN144 (a): Denise Inger
SNAP Cymru
(Parent & Professional Consultation Responses)

Question 1a – New terminology (Proposal 1)

The Welsh Government are proposing to use the term, ‘additional learning needs’, (ALN) to focus on children and young people who need additional and/or different support with learning to allow them to benefit as fully as possible from the education or training available to them?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree or disagree	<input type="checkbox"/>
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Comments

- ▶ ALN Broader term and more inclusive and less stigmatising. All children are special.
- ▶ ALN keep emphasis on learning.
- ▶ No major change in definition from SEN.
- ▶ Most prefer new term.
- ▶ **‘Stamented’ also poor term that many parent find very, very offensive.**

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- ▶ No mention of categories of need – will these stay the same as now?
- ▶ “Statement made me feel stigmatised and I didn’t want it for my child”
- ▶ ALN is a more inclusive term - those without a statement will have provision and those who currently have a statement will feel less stigmatised
- ▶ The main thing... is that the **provision required is actually provided**
- ▶ ALN & LDD terms will cross over from 16-25 – confusing?
- ▶ ‘Different way of learning’ rather than ‘learning difficulties’.
- ▶ Prefers “Different Learning Needs” than ALN.
- ▶ Statement made me feel secure and protected as a young person
- ▶ Strongly agree. Many people are already doing this
- ▶ Names don’t matter – Provision does.
- ▶ ALN covers: Health, Physical, Education, Behavioural & Social. All these elements need to be taken into account.

Question 1b – New terminology (Proposal 2)

Do you agree that the new system should apply to children and young people from birth up to the age of 25? If so, what needs to be considered for the professionals involved in assessing and providing that additional support?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree or disagree	<input type="checkbox"/>
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Comments

- ▶ Good to keep an eye on people up to the age of 25, but more independence from 18+.
- ▶ Fantastic – A really good idea. Impressive that it goes to 25. I am my child’s project manager.
- ▶ Parents like the idea of clear, continuous document, and know what support to expect.
- ▶ Good to not have to keep presenting needs of child at different stages.
- ▶ Would like to give better transition to college rather than needing reassessment especially for those young persons who don’t have a statement.
- ▶ Good for all transitions, e.g. primary to secondary, changing schools, or looked after children who are between moves between counties - IDP would follow child, which is better as it can be updated more easily.
- ▶ 0-25 is good for the IDP
- ▶ Will have training implications
- ▶ Colleges will need to have better transition arrangements
- ▶ Some YP want to leave school behind and have a new start in FE & might not want the IDP to follow them
- ▶ Already good practice in FE and don’t want to lose that
- ▶ Concerns about post-16 if YP not in specialist provision.
- ▶ LAS unsure of provision available from 16-25 (broader range). Hopefully it will

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help with a more seamless transition.

- ▶ Some schools identify SEN really well, and some colleges identify issues that were never picked up in school – i.e. huge variation between training establishments – practice varies too much.
- ▶ Responsibility should be placed in a multi-agency approach. For example H/V writes ABC has to be done they must take responsibility for it.
- ▶ There will still be issues, however it will be a more holistic approach.
- ▶ Concerns over panels coming together time-wise.
- ▶ Panel decisions/input from professionals.
- ▶ Concern about the complaints procedure LA and post 16 – up-scaling staff
- ▶ Multi agency input, mandatory responses

Question 2a – Individual development plans

Do you agree that all children and young people with ALN should be entitled to an IDP which sets out their agreed additional learning provision?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree or disagree	<input type="checkbox"/>
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Comments

- ▶ Absolutely brilliant idea that all children should have an IDP
- ▶ Much simpler than the previous proposals which said some children would have entitlement and others wouldn't.
- ▶ Equal for all children
- ▶ "Individual" is a very good thing in the IDP.
- ▶ Pleased that it is simplified and that all children have same legal opportunity with IDP, but IDP's need to be individualised – where are professionals going to find additional time to keep IDP's up to date?
- ▶ Better to have a system that is the same across Wales.
- ▶ IDP's are better – don't need to apply for statement which takes too long –IDP can be put in place quicker and parents don't need to fight for it.
- ▶ Would have legal recourse.
- ▶ Hopefully IDP would help identify needs without diagnosis so it's less stressful for parents.
- ▶ IDP is a good idea – *when it is implemented*. Still relies on school to identify that the child has needs.
- ▶ IDP is a good idea, and it works...especially at transition. We felt listened to about decisions
- ▶ Happy that S/A, SAP and ST are all included.
- ▶ Safety net is that there is an accountability for the action plan in the IDP **which will state who will do what and when.**

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- ▶ There must be robust timescales across all agencies that are mandatory
- ▶ Supportive generally, but concerns regarding complaints, accountability (mandatory – all parties), LA specialisms, timescales (all agencies & complaints), multi-agency working should be mandatory.
- ▶ Content of IDP, accountability is essential otherwise its no improvement on the current system
- ▶ Multi-agency driven making a priority re IDP

Question 2b – Individual development plans (Proposal 2)

Do you agree that IDPs should replace statutory assessment and statements of SEN, assessments for learners over 16 (under section 140 of the Learning and Skills Act 2000) and other plans including individual education plans?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree or disagree	<input type="checkbox"/>
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Comments

- ▶ Yes all in agreement
- ▶ It's absurd to have different terminology for pre- and post 16.
- ▶ SEN and LDD is confusing-one term one legislation.
- ▶ Will make transition planning far more clear.
- ▶ See comments from Question 1b

Question 2c – Individual development plans (Proposal 5)

Do you agree that local authorities should be ultimately responsible for preparing an IDP for children and young people aged 0–25 with ALN and for ensuring that agreed provision set out in the IDP is delivered and reviewed?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree or disagree	<input type="checkbox"/>
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Comments

- ▶ A lot for Local Authority to put into place – great for parents.
- ▶ Local Authority delegate's responsibility to school to write IDP's and provide provision- responsibility for the provision and learning rests with the school anyway. LA should have a scrutiny role.
- ▶ **How will Local Authority ensure that ISP's are written and put in place?**
- ▶ I can already hear LA's going nuts over this.
- ▶ Currently there are children in School Action and School Action Plus – nothing to do with the Local Authority (i.e. Post-16) – now these children will be under

LA responsibility. Whilst there is local management of schools, I think the LA should have overall responsibility.

- ▶ **Who determines who has ALN? Can we now go to LA if school doesn't determine ALN and you think they do.**
- ▶ Appeals process has to be robust, otherwise it's no different to the current situation.
- ▶ **LA's do want to know which schools are non-compliant and this will give LA's more authority to intervene in clusters of bad practice.**
- ▶ **Schools need to be scrutinised and monitored to ensure being compliant.**
- ▶ **More work for LA's – can staff cover this as all LA's now have less staff than before e.g. from inclusion managers downwards. This is a big concern**
- ▶ This is a good requirement, but again, concern over LA capacity to accommodate this.
- ▶ Big concern at so many staff cuts across the board in education
- ▶ **Peer SENCO evaluation between schools in a cluster can be less intimidating and very effective at sharing effective practice and improving standards. When school fail peer evaluation LA can come in and scrutinise and train/penalise**
- ▶ Having LA overseeing is a good idea. Make everyone aware of where LA is based rather than going through the head
- ▶ Who is going to "determine"?
- ▶ Should strengthen the graduated response as it is now.
- ▶ Nowhere to go.
- ▶ IDP should outline the provision and this is a positive.
- ▶ Concerns around post-16 new IDP and LA's knowledge/skills in this area (It's new to them)
- ▶ Who "determines" ALN?
- ▶ Can a parent request an IDP?
- ▶ How will LA's link in with education/training providers for 16-25?
- ▶ Again – a simple/robust complaints procedure. Visible and accessible around the process.
- ▶ Action plans must also have accountability around them.
- ▶ A lot of schools refuse personal issues to do with a disability, such as toilet issues, changing nappies etc.
- ▶ Will the IDP be sufficiently robust to incorporate all above areas of need?
- ▶ What would happen for a child with a physical or medical need that could impact their learning that isn't a cognitive need.
- ▶ Concerns about changes, because I have a good statement that is acted on because I have a wonderful head of inclusions manager, head of school, two excellent LSA's and fantastic SENCo, Tracy Thomas of Penyrheol School, Swansea.
- ▶ Scrutiny

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<ul style="list-style-type: none"> ▶ How often are LA going to check each school. ▶ SENCo Peer review. ▶ Parent consultation and interaction (communication and information) ▶ How will Educational Psychologist role change with proposals and with funding being delegated? ▶ Management of services (SALT, Ed Psych, Behaviour) with delegated funding ▶ Are specialist services being bought by schools, or as packages? Will they become private, or will LA retain some funds to keep them and schools buy them in. ▶ LA scrutinising IDP. What are the consequences if they aren't following them? ▶ Discrepancies between departments that support child, e.g. OT, Ed Psych. ▶ Outcomes should be challenging and aspirational. Have minimum standard that will be able to allow child to reach outcomes. If not, why not? Have steps not been followed? ▶ 	<div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> Special measures – action plan – governors removing staff. </div>
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Question 3a – A new code of practice (Proposals 3a & 4)

Do you agree that a new Code of Practice on ALN should include 'mandatory requirements', which local authorities, schools, further education institutions, local health boards and the tribunal 'must act'?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree or disagree	<input type="checkbox"/>
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Comments

<ul style="list-style-type: none"> ▶ Code of Practice must be mandatory so it can be challenged. ▶ But still concerned that bodies won't take their responsibilities seriously like current Code of Practice. ▶ Better that mandatory for health – not currently. ▶ Generally happy with this – just concerned it won't be enforced. ▶ Who will scrutinise of bodies are carrying out mandatory requirements? ▶ How do you know as a parent that people are fully carrying out their responsibilities? ▶ Parent's need to see that the IDP is in place. ▶ Page 21 of White Paper – recourse to Welsh minister. ▶ Funding at schools – formula doesn't follow number of SEN, but degree of poverty in the area. ▶ COP needs to be substantial and have weight in law ▶ If stick with statement, the few will have their provision ring-fenced and those without might get overlooked. With IDP's there will be a more flexible & responsive approach which facilitates the ability to change provision if

circumstances or requirements change – it is a less bureaucratic process as a child might need more or less help at different times

- ▶ IDP needs to reflect accurately the child and their needs – that depends on the SENCO
- ▶ School holds budget – 85% of central funds have now been delegated from the WG to schools
- ▶ There could be a disincentive for schools to identify needs, once identified school has to provide provision
- ▶ In England, schools make decisions to improve SAT scores rather than to meet needs so money is spent on that instead. Money is not ring-fenced within schools to provide for SEN (it is in some). This is an issue as funding goes into a central pot and therefore it depends on the school how it is spent. Schools need to have transparency, scrutiny and accountability (prof)
- ▶ If money is not ring-fenced, schools will choose to benefit the majority and will prioritise funding for what they are measured against – SEN provision measurement required?
- ▶ Should be mandatory to identify the budget for SEN provision within schools
- ▶ There should be specific measures for schools re their SEN provision that need to be robust and transparent. This would give parents more security
- ▶ IDP should identify school provision, LA provision, health provision and SS provision – all clearly stated so each knows their responsibility
- ▶ COP should mention key working
- ▶ COP is a good idea
- ▶ Book for schools to let them know what to do e.g. head teacher not knowing what to do
- ▶ “May include” we would like it to say MUST(x2).
- ▶ Due regard? Cannot ignore it in law(x2)
- ▶ Concerns about the buy-in from the LHB.
- ▶ Wooliness of the word. Accountability.
- ▶ Provision so different from one LA to another.
- ▶ Definition required for “other”.
- ▶ Anyone having input/involvement in an IDP must have due regard.
- ▶ No mention of panels? Who will be making provision decisions in IDP’s?
- ▶ Woolly wording – post code lottery around what support and services are available.
- ▶ 22 ways of working – should be one.
- ▶ Supportive of LA’s working in consortia.
- ▶ Very clear and precise. We all agree this is a positive point.
- ▶ Must not result in 22 different ways of working
- ▶ ‘Other providers’ should ensure that contract refer to due regard e.g. EOTAS
- ▶ Mandatory – must be
- ▶ Panels and provision pathways – where are they? WG MUST prescribe
- ▶ Family partnership – family centred support

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- ▶ Provision pathways
- ▶ In England they have developed these services through funding
- ▶ Mandatory categories – clear definition on information and advice
- ▶ Guidance categories

Question 3b – A new code of practice (Proposal 3b)

Do you agree that the Code of Practice should set out guidance for any other bodies, such as third sector organisations or other providers of education and training?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree or disagree	<input type="checkbox"/>
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Comments

- ▶ Guidance for 3rd sector/other providers – reasonably.
- ▶ Required definition/criteria of “other providers”.

Question 4 – Securing provision (Proposal 6)

Do you agree that further education institutions should be included alongside schools, maintained nurseries and pupil referral units, as institutions that must use their ‘best endeavours’ to secure the additional learning provision called for in an IDP?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree or disagree	<input checked="" type="checkbox"/>
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Comments

- ▶ “Best endeavours” – what does this mean?
- ▶ Funding lack seems to cause a lot of problems with parents seeing provision not being put in place by schools.
- ▶ Schools have different priorities and many follow their targets.
- ▶ How do you challenge?
- ▶ Definitions “reasonable” and “best endeavours” are very woolly – not reassuring.
- ▶ How do you know the school is doing their best?
- ▶ “Require” and “must” enforceable by law.
- ▶ Often give the reason “don’t have time or money” to put provision in place - School say LA has money; LA says school has money.
- ▶ Who will decide what is reasonable? Will LA scrutinise?
- ▶ Schools seem to act on what is convenient – perception.
- ▶ Sometimes parents need to realise that there are limitations to child’s progress. We are entitled to ‘appropriate’ help – not the best help
- ▶ Best endeavours = to do all that reasonably can
- ▶ Important to get it right in legislation and avoid adversarial court system
- ▶ Can test ‘best endeavours’ by asking ‘what do you do?’

- ▶ Best endeavour doesn't mean you actually provide a service – sometimes it can't be done e.g. there might be a shortage of speech and language specialists
- ▶ Pressures on teachers are huge and change can be slow
- ▶ Frustrations of parents are huge and it's hard for a parent to challenge a school
- ▶ Schools can be defensive and hard for parents to challenge, so schools should have good systems in place so 'best endeavours' can be delivered without the need for conflict & upset
- ▶ COP implementation in schools must be scrutinised by capable people who are independent from the LA
- ▶ LA engagement good as more weight than individual schools to ensure provision (parent)
- ▶ SA & SA+ only overseen by school and not the LA currently, so LA limited in their response to children in these stages of graduated response
- ▶ Needs to be transparency, not LA saying school has money and school saying LA has money and parents stuck in the middle
- ▶ No apologies from schools - if things go wrong they don't admit responsibility
- ▶ Yes
All children are in danger of growing up without a good education because the system is so poor and schools haven't changed enough to even educate well children who have no additional needs (YP)
- ▶ YP can have right of address up to age of 21 currently and they can challenge their school in the courts if they believe they have been badly treated, but would be better to go up to 25 years to give a YP more time to develop the ability to challenge. A YP might not understand the impact of a poor education until they are older
- ▶ "Best endeavours" "efficient use of resources" Needs to be realistic and achievable.
- ▶ If a parent goes to tribunal because the provision is not in place, the yoyo effect could cause conflict between LA, parents, and school.
- ▶ Need to qualify "best endeavours"/"efficient use" could add here "by using SEN delegated budget " – to clarify, if they are not using it/abusing it, the LA needs to challenge and hold this responsibility to scrutinise/monitor/evaluate, accountability needs to be included.
- ▶ "Best endeavours" "reasonably can" "efficient use of resources" – woolly wording.
- ▶ Needs further clarification and accountability.
- ▶ Should be reasonable, but meeting needs and ensuring positive outcomes for children/young persons with ALN.
- ▶ What is the purpose of point 6? Is it a get out clause regarding funding for schools? Is it due to delegation? OR Qualify further that the LA will take the ultimate responsibility for the following:-
 - ▶ Compliance by schools
 - ▶ Monitoring
 - ▶ Training
 - ▶ Use of budget
 - ▶ Scrutiny

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- ▶ What if it doesn't happen? "Best endeavours".
"Best endeavours" –
 - ▶ OK, but not thinking outside the box.
 - ▶ Not robust enough.
 - ▶ To lose.
 - ▶ Stronger term e.g. must ensure, must have regard.
 - ▶ Schools delivering best endeavours within the budgets
- ▶ What processes are in place to ensure health provision vital to the educational development of CYP is made available?
- ▶ Should be a mandatory requirement to make parents/YP aware
- ▶ Independent impartial accurate information from an independent provider external to the LA and properly funded
- ▶ Clarity
- ▶ IDP's – should have mandatory structures & processes
- ▶ WG need to be aware that some very complex, conflict loaded cases are being resolved without the need for formal disagreement
- ▶ Centrally funded
- ▶ Complaints standardisation across Wales: head, governing body, LA, SENTW
- ▶ Small country yet everything replicated 22 times. We need best practice for all children
- ▶ Advocacy – post 16

Question 5 – Securing specialist provision for young people (Proposal 7)

Do you agree that local authorities should be responsible for securing specialist education provision for post-16 learners outside of the further education sector where the IDP indicates that this is necessary to meet a young person's ALN?

Agree		Disagree	<input type="checkbox"/>	Neither agree or disagree	<input checked="" type="checkbox"/>
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Comments

- ▶ Currently the Welsh minister - delegated to Careers Wales.
- ▶ Doesn't want at moment – social services don't always agree.
- ▶ IDP will mean FE can pre-empt needs and have provision in place in plenty of time. Good for planning purposes.
- ▶ LA should keep an eye on you up to college. e.g. I had lack of support in college and had to drop out
- ▶ Parental choice/specialist provision/concerns about transport.
- ▶ Need more support for CYP to attend more local provision.
- ▶ What about parental choice already fed into the IDP? Clarity?
- ▶ "Where the IDP indicates" What if there isn't an IDP?
- ▶ What about inclusion in mainstream and access to local provision?

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- What about new post-16 IDP's?

Question 6 – Placement at independent schools (Proposal 8)

Do you agree that local authorities should be prohibited from placing a child or young person at an independent school which has not been registered to provide the type of additional learning provision identified in their IDP?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree or disagree	<input checked="" type="checkbox"/>
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Comments

- Does this mean that independent schools cannot have children placed there if they have an IDP? Does this restrict parent's choice of placement? This needs clarification. Does it mean provision not or can't go to school?
- At present, LA put some provision into private school.
- Some think parents should have choice of school.
- Some think LA should have choice of placement and not used non-regulated schools
- If the school can't provide for the child, then they should not be able to go there
- Safeguarding. No control of this currently.
- Home educated?
- Registered? Where? What does this mean?
- Parents still should have choice of where they send their children to school

Question 7a – A multi-agency approach to planning and delivery (Proposal 12)

Do you agree that local authorities, local health boards and further education institutions should be required to cooperate and share information in assessing, planning and delivering support to meet ALN?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree or disagree	<input type="checkbox"/>
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Comments

- AGREE IN PRINCIPLE – Who is co-ordinating? Keyworker? ALNCO? OT? LA?
- How is information shared? E.g. During the pilot there was a lack of sharing between Bridgend and Torfaen. Health reluctant to share level of health provision.
- At strategic/managerial the local health board and education can't agree in support to be provided in school. Lack of funding in the local health board for OT to be with children's disability team. Head of children services asked CDT

to accept a child, but was told child was outside their remit. Keyworker needs to have clout to get all team to work together (i.e. Director Council Leader).

- ▶ Issues with LHB boundaries not lining up with LA boundaries
- ▶ COP – education, health & SS all have separate priorities and budgets
- ▶ Does require mean must?
- ▶ Delivering = committing to provision
- ▶ Need and age will require different services at different times
- ▶ How do different services co-operate when all need to wait for each other e.g. for EP assessments etc.?
- ▶ Needs time scales
- ▶ Problem with SA as it is now – there is a waiting time for assessments
- ▶ EP report is a picture of the child and help the parents and school to accommodate them
- ▶ How do you keep the teams of advisory teachers and assessors if money is not there?
- ▶ Co-operation and sharing of information very important. E.g. IDP's would enable nursery to give an accurate picture of a child to the primary school etc.
- ▶ Schools need to respect the EY's settings – they don't always
- ▶ IDP's would give more weight and better planning because it would be the same process so the information is transferable
- ▶ Private nurseries are not linked to schools, but the IDP would provide a better link of information
- ▶ Maintained nurseries currently have to abide by the COP. Private nurseries don't have to but often choose to. Schools need to recognise the professional input of private nurseries
- ▶ Nurseries are the best observer of the child – they don't get so much individual attention in the rest of the education system
- ▶ Improves communication, as they know what other parties involved have done. All have general rules and some optional ones to suit others
- ▶ Careers Wales missing from the list. Feel as though they should be listed alongside schools, colleges etc.
- ▶ What will permissions protocol look like?
Accountability /commitment to provide non-educational provision.
- ▶ How will LA police this?
- ▶ No mention of 3rd sector support in this process e.g. Parent Partnership Service, Barnardos, RNIB etc...
- ▶ Permission protocol

Question 7b – A multi-agency approach to planning and delivery (Proposal 13)

As well as using the code of practice to provide guidance, are there any other ways in which you think multi-agency partnership working could be strengthened?

Comments

- ▶ Who is going to enforce?
- ▶ Lack of understanding outside their area,
- ▶ Training provided to understand whole system and pathway
- ▶ Wouldn't be a problem now if everyone followed the COP
- ▶ What incentives are there to follow the new COP?
- ▶ Schools and health should communicate about the needs of the child, rather than keeping it a secret
- ▶ Wording will need to give protection and strength to situations where COP not being followed now – must have regard to, if not legislating, what guarantee is there for compliance.
- ▶ The hope was that there would be more unified approach. Still seems to be going to be postcode lottery. If LA can be flexible.
Clear guidance on minimum for compliance
- ▶ Protection, strongly need a unified approach - do not want flexible – minimum standards and time frames
- ▶ Prefers to call 1PP “All About Me”. 1PP should be done however the person wants. Put a picture on it.
- ▶ Agree with parents being involved or consulted if parents are on forums or groups then they have to represent all children not just their own issues.
- ▶ Reviews to a minimum of once a year.
- ▶ Who decides if they should be done earlier?
- ▶ Criteria for early review e.g. health changes, or when short term targets are not met.
- ▶ CoP must have “must” and “required” areas that have to be done along with guidance.
- ▶ Stepping stones.
- ▶ Pre-school can be patchy. Emerging needs might not be picked up and therefore don't get provision.
- ▶ Agree that FE, health etc. must communicate and work together to share information.
- ▶ Health plan should be brought in to IDP, part of – if not – an appendix.
- ▶ Universal template across Wales
- ▶ Add aims/targets
- ▶ Pilot templates to find out what works best.
- ▶ IDP template would have been useful to have as part of the consultation.
- ▶ Continuing care – from health; 15 domains; very good guidance, but not

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quantifiable.

- ▶ Success criteria and action plan as part of IDP
- ▶ Get a copy of Torfaen IDP.
- ▶ CoP needs to have examples of OPP
- ▶ Training for SENCo, parents, teachers, Social Services etc

Question 8 – Supporting looked after children (Proposal 15)

Do you agree that IDPs should be able to replace or function as personal education plans for children and young people who are looked after by a local authority?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree or disagree	<input type="checkbox"/>
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Comments

- ▶ AGREE IN PRINCIPLE – Reduces time professionals are in meetings. Had 2 meetings a week apart
- ▶ Good for IDP to incorporate PEP for LAC – didn't make sense to have 2 separate meetings
- ▶ Paperwork and agenda should be out before the meeting so everyone can prepare and respond appropriately – currently 2 weeks is guidance to send out info to all parties for AR so SENCO will need additional admin support to facilitate this. It would also be good practice for all meetings
- ▶ ALNCO should have a guide to give some treatment across all schools.
- ▶ If PEP works, then keep it. But if not, change it to an IDP
- ▶ Good idea, although LAC review often in SSD.
- ▶ IDP in school. Where will it be?
- ▶ Who will lead – IRLO/ALNCO
- ▶ PEP have to be trained.
- ▶ IDP's to subsume PEP and other assessments (annual review)

Question 9a – Resolving disputes at an early stage (Proposal 16)

Do you agree that local authorities should be required to put in place disagreement resolution arrangements?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree or disagree	<input type="checkbox"/>
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- ▶ To whom? Parents/child are not mentioned. Needs to be specified.
- ▶ Information of SEN provision when child enters early years/school.
- ▶ Minimum standards for provision to be provided.
- ▶ Needs to be independent/impartial e.g. Careers are planning on promoting internal staff to act as independent advisors to families.

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- ▶ Information by people that don't have a vested interest in one particular group, or trying to protect LA, LHB and school.
- ▶ People are reluctant to share the information they have with other services.
- ▶ PPS provide training for families. Will this continue?
- ▶ Information and advice needs to be INDEPENDENT of the LA
- ▶ Information and advice needs to be mandatory, impartial, independent, accurate, external to the LA AND properly funded
- ▶ PPS are not adversarial but are there to facilitate conversation and understanding – most cases are due to communication breakdown
- ▶ Would like to see WG / consortia directly fund the info and advice service so there would be an equality of access for parents, families and YP across Wales
- ▶ Need help for all those parents who are not able to go through the complaints service. Schools should provide information on this
- ▶ Info & advice can be provided in-house by LA's as things stand, but this is NOT an independent service
- ▶ Clear definitions required of what is mandatory and limitation of misinterpretation

Question 9b – Resolving disputes at an early stage (Proposal 17)

Do you agree that there should be a requirement to use the appropriate local complaints processes prior to appeal to tribunal?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree or disagree	<input type="checkbox"/>
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- ▶ Would like more access to DRS – should be available at all stages. At present this is not the case and it is only available at certain stages
- ▶ DRS services cost LA's – so would centrally funded DRS service be a better arrangement?
- ▶ If PPS were properly funded, there would be less need for formal DRS
- ▶ SNAP does a lot of informal DRS but it is not measured
- ▶ There is a case for central funding to ensure impartiality from the LA
- ▶ Need better use of mediation services – early remedies are a better option and less costly
- ▶ There is a failure of LA's to work with parents. Parents don't readily go to tribunal – it is a last resort and they are discouraged from doing it
- ▶ Disagreements should be dealt with quickly and in the time scale that is best for the child.
- ▶ Should give the school, LA etc. a chance to sort it out, before going up a step
- ▶ Mandatory requirement that parents are informed of their parent partnership service

Question 10 – Extending the right of appeal (Proposals 19, 20 & 21)

Do you agree with the proposals in relation to extending rights of appeal to tribunal?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree or disagree	<input type="checkbox"/>
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- ▶ Time scales for complaints – **reinstate from green paper?**
- ▶ Is there going to be a new level of complaints above school level?
- ▶ More is given to LA's but they are having to cut back – less staff to implement.
- ▶ Local complaints systems; are they the current ones, or are new ones going to be written? More/less levels for complaints to go through.
AGREE IN PRINCIPLE with reasons to go to tribunal and that all children can go to tribunal, not just those with a statement
- ▶ Advocate for child. Film child giving evidence as it may be stressful for child to have to relive the event.
Need supporter for child (close friend). Ex-teacher and head teacher tried to get child to change story after complaints have been made
- ▶ More children will have an IDP (~20%) than those with statements (~2%)
- ▶ Vulnerable parents might be preyed upon by solicitors to take them to tribunal and stop engagement with the LA
- ▶ More children with issues can now go to tribunal under the proposed system therefore need to strengthen the PPS to facilitate communication, DRS & tribunal support
- ▶ This is a better system than the current one
- ▶ SNAP provides specialist advocacy service
- ▶ There currently isn't enough funding to provide sufficient parent support across the country
- ▶ Perhaps there should be a role for something in between PPS & solicitors with more teeth than PPS and less aggression than solicitor - maybe independent role of parent support who are partial rather than impartial (i.e. more on the side of the parent)
- ▶ Should PPS depend on volunteer roles? Should it have more money so it can provide a proper service?
- ▶ Cheaper not to go to tribunal – the ~£10K cost could be better spent on the child's provision. Most uphold parents case anyway
- ▶ New proposal would strengthen parents who are trying to ensure provision for children
- ▶ If schools were evaluated for their SEN provision it would improve services and remove need for DRS etc.
- ▶ Agree that they should be able to go to tribunal if a teacher or LA are not able/bothered to sort it out

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- ▶ Agree that anyone can go to court not just those with a statement
- ▶ Agree. Some may go to university, college, etc
- ▶ PPS do not make decisions – our position is to inform and ensure the voice of the CYP is heard.
- ▶ Centralised funding to create a greater sense of autonomy from a parental perspective.
- ▶ Specialist advocacy for CYP. PPS can provide this service, as long as it is properly funded
- ▶ Complaints system needs to be consistent across schools. Mandatory guidance for schools which is clear and leaves no room for misinterpretation
- ▶ Parents should not have to battle to get an independent advocate.
- ▶ Family partnership rather than parent partnership.
- ▶ Bring in broader range of information; health, social and educational.
- ▶ Team around the family
- ▶ Think parents need someone to moan to rather than giving information and advocacy.
- ▶ ADVOCATE APPLE – EVERYBODY TAKES BITES, BUT NOBODY KNOWS WHAT HAPPENS TO THE CORE
- ▶ Strengthening of advocacy service in family services to go up to SENTW.
- ▶ You should not need a statement. People should be doing it anyway.
- ▶ Better quality teacher training.
- ▶ IDP structure sounds good, but needs structure.
- ▶ Continuing care – WAG.

Question 11 – Any other issues

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.

Proposal 9

- ▶ annual reviews go on without parents/carers present.
- ▶ Support for parents/children/seldom seen/young person
- ▶ Agree in Principle with the proposals, but they do require more detail.
- ▶ This is good as long as it happens – don't want it just to be lip service though
- ▶ Is 'required to ensure' strong enough? Needs to be monitored to ensure delivery of this. Transparency is required.
- ▶ LA monitoring is required to ensure parents fears of 'lip service' are alleviated
- ▶ IDP needs to have depth and detail of health reports too so document is robust and accurate – all complexities need to be stated
- ▶ Health and SS have been quite enthusiastic to attend IDP meetings in Newport – more so than statement reviews
- ▶ A lot of parents might be quite intimidated by multi-agency IDP meetings – they need to be informed in advance who will be there so they can prepare

and take someone with them if necessary

- ▶ All Newport schools have been trained in IDP's and have had new paperwork provided. They have produced a letter to send out to all professionals and parents, signed by the child. This has acted as a real incentive to get everyone along to attend the meetings. Have also included an outline agenda & idea jotter. This will roll out to other LA's (prof)
- ▶ Hopefully this will bring a consistency of approach across all schools and LA's
- ▶ Parents should be encouraged to express their opinions
- ▶ Must be a positive, must be a MUST
- ▶ Need somewhere to go to complain if process is not followed – independent of the school
- ▶ Not enough money to provide dedicated keyworkers for all the families who need it therefore it often falls to the parent which puts them in a difficult position
- ▶ Should listen to parents and children when it comes to making decisions.
- ▶ Everyone needs to talk and be listened to
- ▶ CoP should have guidelines
- ▶ Hope COP gives more guidance on getting child/young person's view, not just pay lip service to it. Parents could have writing frame to ensure their views are considered.

Review letters should inform parents of Parent Partnership Service. Person Centred Planning needs to be All Wales, not postcode lottery. IDP takes longer so this needs to be taken into account.

- ▶ Code must give more guidance in illustrating the YP review. Parents to receive a writing frame, all parents/YP should be informed of FPS
- ▶ Bringing PCP planning together to inform IDP

Proposal 10

- ▶ Short term reviews. Dependent on targets for each child e.g. Ex-SENCO had 180 children on SEN register would take roughly 60 says to review each child once a year.
- ▶ Change permit to conduct.
- ▶ Good to have a meeting at transition and one year after transition.
- ▶ Have 1 meeting every year if needed, or as and when one is needed
- ▶ Parents need to be told by Additional Learning Needs Co-ordinator/Local Authority that interim reviews can be called. Gwynedd/England are proposing to have an area ALNCO as expertise is not always in smaller schools. Good that the tribunal is possible if a review is denied but parents need to know this.
- ▶ IDP annual (permit additional reviews where appropriate)
- ▶ Regional ALNCO consultancy
- ▶ County/cluster ALNCO provision

► **Proposal 11**

- AGREE IN PRINCIPLE lack of continuity across team and counties.
- Help to prevent the misdiagnosis of ALN. Some ALN are hard to identify early on e.g. ASD.
- Help to identify red flags/causes for concern.
- Guidance on planning with school/health/social services
- All professionals should follow CoP
- Must be all professionals, including education, health, social services and voluntary organisations.
- Clear pathway for referral.
- More unification about accessing support for Early Years settings.
- Also more equality about what is available.
- The potential difficulty in identifying a person to co-ordinate the Early Years IDP. Key worker/key working.
- Joint Assessment Framework/Common Assessment Framework not used in all counties. Use same terminology and same form. Universal Assessment Framework
- Early intervention toolkit – Wales wide
- Early years ALNCO

Proposal 14

- AGREE IN PRINCIPLE – time to do their job e.g. non-teaching time to do work.
- SENCO needs to have a teaching background e.g. Ex-SENCO spent 1/3 time teaching, rest of the time spent dealing with issues such as answering the phone and responding to messages. Had to get a PA to have enough time.
- There is no current requirement to be a SENCO.
- SENCO/ALNCO Masters – needs to have a practical element because writing about it does not mean they can do it e.g. PGCE (Post Graduate Certificate in Education)
- Improved/ongoing training for SENCO
- “The statement has helped me lots – stupid to get rid of it – law says it must be done and helped
- Is the person in the ALNCO role going to cover the additional areas?
Non-contact time for ALNCO depending on ALN reg.
Good that ALNCO qualification needed but need to know that LA checking on them. Maybe a practical assessment would be important
- ALNCO – allocated time, non-teaching, senior management role. Transparent budget and have a view on this
- SENCo champions – put forward the best to share best practice and other ideas.
- ALNCo should have non-contact time

Proposal 17

- ▶ Concerns over the body who sit on the complaints team may not be impartial. Also the time scales before it reaches tribunal.
- ▶ Parents are often at their wits end and having to follow a complaint through several tiers of a complaints process is off putting.
- ▶ Complaints – time frame, transparency
- ▶ We need a simple complaint procedure that does not make the parents have to go through too many hoops.
- ▶

Proposal 18

- ▶ Have a person/team in the LA
- ▶ Too much emphasis on formal disagreement resolution. Information delivered effectively to parents by PPS leads to informal disagreement resolution (which we are not measured on).

Proposal 22

- ▶ Agree in principle
- ▶ More robustness in system to prevent need for appeals etc. would be preferable
- ▶ Make schools more accountable – introduce SEN outcome measures. Measure need to be thought out carefully so parents and YP views are taken into account accurately
- ▶ Cross boarder issues need to be taken into account to ensure consistency of services and cross-border working
- ▶ Require a constant system with a mandatory, transparent route with for parents re a system of complaints across Wales i.e. Head Teacher then Governing Body then LA then tribunal
- ▶ SNAP is an advocacy specialist and is ideally placed to offer this, but needs proper funding
- ▶ Agree to have an advocate to support the child.
Have a special person to go in and speak up for the child and put forward the parent's views as well - child may be reluctant to speak about the negative aspects of school in front of teachers or other staff.
- ▶ Consistency of approaches of information gathering across Wales to feed into IDP. Should SNAP identify best practice? Welsh Government should insist on best practice across all LA's. We can see difference to services and assessments across counties.
- ▶ **Other comments**
- ▶ Funding – better use at an earlier stage to stop more problems later on.
- ▶ Training – for those involved.

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- ▶ Delegated budgets – expensive item is needed in year 6, but school was reluctant to buy as pupil was only going to be in school for 1 more year before going to a new setting.
- ▶ A single simplified system, will be better for parents to get an idea of where their children are.
- ▶ Postcode lottery – will it still be an issue in schools, county etc...?
- ▶ Lack of accountability for anyone to take action rather than passing it on.
- ▶ Information is key and will help empower parents and child.
- ▶ Having independent people.
- ▶ How is it going to be implemented?
- ▶ Pump prime – implementation stage for training and development
- ▶ Too many 'shoulds' in white paper, not enough 'woulds' (parent)
- ▶ Teachers see help as optional and protect themselves rather than the children
- ▶ If funding doesn't come with requirements, what are teachers supposed to do?
- ▶ Best interest of learners MUST be primary consideration, adds weight to all the other 'shoulds' in white paper proposals
- ▶ SENCO's don't have opportunity to do multi-agency working because they have so much to do within the schools. They need managerial responsibility, admin support and non-contact time in order to facilitate this. SENCO's have so much admin to do, so admin support would be essential to facilitate multi agency working and the increased work load from the IDP's (which take around 2 hours per review meeting) (prof)
- ▶ Parents are treated with disrespect and disregard at schools
- ▶ All need to work together for the benefit of the child. Parents as partners need to be in the COP
- ▶ Schools don't like conflict if parents disagree and become antagonistic
- ▶ IDP must allow parents and the child to have their voice represented & documented
- ▶ Does the IDP enable bright but struggling YP to identify and require provision to be documented in an appropriate way?
- ▶ IDP training will be needed in order to avoid variation in completing

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

☐

ALN144 (b): Denise Inger
SNAP Cymru

Question 1a – New terminology (Proposal 1)

The Welsh Government are proposing to use the term, ‘additional learning needs’, (ALN) to focus on children and young people who need additional and/or different support with learning to allow them to benefit as fully as possible from the education or training available to them?

Agree	<input checked="checked" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree or disagree	<input type="checkbox"/>
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Comments

SNAP Cymru feel the use of term *additional learning needs* represents a conscious shift from the use of 'special educational needs' to one that is more inclusive and better reflects the diversity of learning need. SNAP Cymru also believe the term ALN is positive and maintains the focus on learning. Many families find the phrase '*Statemented*' offensive and alienating rather than inclusive. Whilst the power of a label can open doors to provision for some children and young people it's not always positive and can also be stigmatising. In reality families tend to be more interested in children's provision, their progress and their wellbeing than semantics.

However, we do believe that the (a) meaning of “special educational needs” in the Act (EA 1996 s. 312) and the (b) meaning of “learning difficulty” (EA 1996 s. 321) is always open to interpretation and results in a widespread variation in families experience of the system.

Whilst we whole heartedly welcome a cultural shift which emphasises successful outcomes rather than inputs, clear definitions, thresholds and triggers must be explicit in the Bill and COP guidance if the proposed changes are to be an improvement on the existing framework and interpretations. Thresholds can act as incentives for settings to respond promptly and appropriately to emerging problems.

The Equality Act's requirement on all settings to put reasonable adjustments into place in anticipation should be clearly cross-referenced in the Bill and COP.

We feel inclusive education should be concerned with overcoming barriers to participation that may be experienced by any pupils at any time.

Question 1b – New terminology (Proposal 2)

Do you agree that the new system should apply to children and young people from birth up to the age of 25? If so, what needs to be considered for the professionals involved in assessing and providing that additional support?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree or disagree	<input type="checkbox"/>
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Comments

- ▶ SNAP Cymru welcomes the proposal; we feel it will improve the child and families family's experience, putting them at the centre, empowering them to participate in planning and decision making which affects them; informing and improving strategic planning, ensuring continuity and progression for children and young people's learning.
- ▶ Whilst there is some excellent practice in FE, often young people with learning difficulties enter further education or training, and the provider may not always have access to all the relevant information about that young person. Children as young as fourteen are entering FE or other educational provision outside of the school system. Due to the nature of their ALN and or personal circumstance require effective intervention to make a successful transition. A continuous approach will Improved transition arrangements and support providers to ensure that young person receives the additional provision appropriate to their needs, from the outset
- ▶ There is already good practice in many FE colleges which can be built upon. Some LA's are beginning to plan more strategically and are inviting representatives from FE to attend LA disability strategy meetings
- ▶ There needs to be reform of the ways in which FE assesses and provides holistic support to young people. Standardised computer assessments fail to discover the full range of needs that a young person may experience and there must be a commitment to provide for all the needs that the young person has or may have in the new, less formal, setting.
- ▶ Early intervention is crucial, young children with ALN often experience up to 7 or occasionally more different caring and educating situations in the course of their early years learning. The Early Support principles and

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approaches should be highlighted as an excellent and proven way to ensure that outcomes from the inputs of all these settings is recorded and built upon through contact and sharing of information with all providers. There is also some excellent practice in EY's with maintained and non-maintained settings appointing ALNCO's, using plans, sharing information, providing equal opportunities and creating partnerships with parents. LA's are required to check provision for disabled children when assessing whether local childcare services are 'sufficient' to meet the needs of families in their area and National Minimum Standards for Regulated Child Care include meeting individual needs, including any special educational needs and disabilities and ensuring they are planned for and provided for. Excellent work is being provided through Flying start and FF programmes. However we welcome the proposals for a continuous approach and would like to see more emphasis on the EY's in future proposals. EY's providers are 'expert observers' and have the opportunity to encourage positive relationships with families which can set patterns for future relationship between parents and schools.

Question 2a – Individual development plans (Proposal 2)

Do you agree that all children and young people with ALN should be entitled to an IDP which sets out their agreed additional learning provision?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree or disagree	<input type="checkbox"/>
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Comments

- ▶ In the interest of fairness and equity for all learners SNAP Cymru welcomes the proposal that all CYP with ALN should have an IDP.
We see the proposals are much simpler than the previous proposals in 2012, which gave entitlement to some children and not others.
- ▶ SNAP Cymru also welcomes the fact that in principle, an IDP can be more responsive to a child or young person's emerging or changing needs, and less bureaucratic to achieve, it also could be seen as removing the 'drive to

obtain a statement in order to access the additional support. However, in our experience the '*battle or quest*' is not to achieve the 'statement', but the detailed assessment and provision that it offers.

- ▶ The IDP as proposed will rely heavily on the quality of implementation, the skills of the workforce and families understanding of the process. It would be helpful for families and professionals to have **distinct formal steps, thresholds and time scales as a framework and provision pathways as exemplars/expectations**
- ▶ Many schools are extremely effective in engaging with families, communicating with parents and sharing information with them regularly through IEPs or other more informal approaches. Such as parent groups, use of media etc. Where parents are involved in designing their CYP's IEP they generally feel their school is more collaborative and flexible in meeting their child's needs. However, collaborative IEP's in most schools seem to be disappearing, and some schools even complete group IEP's. Whilst we are fully supportive of the IDP replacing statements, we are concerned about the nature of the IDP as a successful planning (short and longer term) tool given the numbers of children who will be entitled to an IDP.
- ▶ It must also be noted that the IEP process in some schools is woeful and totally inadequate and the degree of upskilling required will be enormous
- ▶ As an aspiration, the notion of a single plan is welcomed, more detail on the integration of the different plans used across the sectors and age range is needed. I.e. Family service plans, Health plans, Play plan's, behaviour Support plans, Family First plans. We do feel it's likely that certain plans will probably work in parallel and inform each other- It will be incredibly difficult to fully integrate both Social Service and Educational plans without changing the specific duty (required in law) on social services to draw up a Personal Educational Plan.

Question 2b – Individual development plans (Proposal 2)

Do you agree that IDPs should replace statutory assessment and statements of SEN, assessments for learners over 16 (under section 140 of the Learning and Skills Act 2000) and other plans including individual education plans?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree or disagree	<input type="checkbox"/>
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Comments

- ▶ SNAP Cymru believes that Schools and colleges should not wait until a child or young person arrives or applies to do a course before thinking about what provision or reasonable adjustments they could make. Instead they should continually be anticipating the requirements of young people with ALN. The Equality Act's requirement on all settings to put reasonable adjustments into place in anticipation should be clearly cross-referenced in the Bill and COP and the IDP will support this.
- ▶ We see IDP's covering the range from 0-25 as potentially very effective for transition planning and agree that a single process and terminology will be more effective (different terminology and legislation for ALN pre- and post-16 is confusing.)

For IDP's to be successful replacement for SA and 140 Ass we believe the following should be adequately addressed in the Bill and guidance :

Assessment

- ▶ Assessing the skills and needs of learners as soon as possible to determine the nature of support needed and having high expectations is essential. Assessment is intrinsic to the success of the IDP and action plan, and whilst we are pleased about the shift in emphasis to a positive, strengths based approach, identification and diagnosis is important if we are to really understand and provide *‘what’s important for’* the child or young person.
It is important... to identify or diagnose the need before going on to prescribe the educational provision to which that need gives rise.
Where something is identified as an “objective” then the action plan must specify the ALN provision and action intended to meet that objective.
Despite its weaknesses, *such as the time and cost required*, the statutory assessment process is still felt by many families and professionals to provide a rigorous assessment of need. For those children and young people with more complex needs, rigorous assessment will still be required and will need to remain a focus of the IDP process.

- ▶ The pilot families and some professionals found the IDP format trialled, to contain insufficient detail and emphasis and that the insights that a diagnosis and in depth assessment of needs would offer have been side-lined by the shifts in emphasis. Schools and other educational settings need the expertise and support of professionals in health and social care and to be able to draw on specialist services from the Third Sector.
- ▶ There must be a duty on other statutory providers. to comply with a requirement for assessing and reporting. This must be specific in the Bill and the Guidance. For children and young people with more complex needs many families have told us they *“are concerned that schools may be reluctant to call in outside help and to request assessment from specialists if this would put increased pressures on the schools allocation of specialist time, or on the schools budgets and resources.”*

Medical needs

- ▶ The role of healthcare plans and their compatibility within the IDP needs to be clearly stated. The Bill, regulations and COP should include an explicit duty to incorporate these plans. This would encourage collaborative working and prevent of duplication. Such plans are likely to be considered a ‘reasonable adjustment for pupils with medical needs’, however a clear statement within the legislation and COP would mean parents weren’t left to argue their individual case.

Process

- ▶ **We do not agree that the current system as a whole is ‘not fit-for purpose’.** Parents and professionals understand and participate in the clear framework of School Action and School Action Plus, and there is clarity on what to do if these stages are not appropriate or ineffective. However the writing of IEP’s and the twice yearly review of IEP’s with parents and young people *is not* something that families say happens regularly.
- ▶ **We don’t see that removing the graduated response and formal stages will automatically improve participation, accountability or lessen disagreement between families, schools and Local Authorities. Clarity of process will still be required and still be related to effectiveness of provision measured by progress.**

Minimum standards for the structure and content of an IDP

- ▶ For clarity, ease of transfer, accountability and consistency, families and professionals tell us they would like to see a prescribed template for the IDP and process. We feel this would help ensure quality and should be included in the Bill and accompanying regulations and COP.

- ▶ **SNAP Cymru feel that for IDP’s to be effective they should contain the following:**
 - the child or young person’s identified needs;
 - the agreed outcomes for the child or YP
 - the additional provision required to meet those needs;
 - an Action Plan that sets out how, when and who will deliver the agreed interventions and how the outcomes of interventions will be measured; including any medical or care needs
 - Information that is sufficiently robust to form a legally enforceable document.
 - Success criteria and review dates
 - Arrangements for communicating with child/ parents/carers
 - A robust and independent appeal process

Parents and professionals alike are expressing concerns about the over-simplification of IDP's and these concerns arose, along with concerns about a lack of specificity, during the robust pilot phase. Detailed information should also be prescribed regarding the annual review of the IDP. The Final Pilot report also highlighted concerns that there were mixed responses from schools on target setting and there were concerns that there was no obvious place to record a diagnosis in an IDP.

Responsive to changing needs

- ▶ Children and young people with mental health difficulties are particularly vulnerable to stress at transition points such as the beginning of a new school/course or the start of term/an exam period; more attention should be paid to the social and emotional aspects of learning in education, including additional support for vulnerable students at points of transition. We see the role of IDP's as particularly effective here. We see IDP's replacing BSP's and useful for communicating between EOTAS provision and school. Children and young people's wellbeing must be core to effective planning and provision. We must not write off children and young people with social and or emotional difficulties.

Resourcing

Clear information on resourcing ALN and the respective responsibilities of EY's/ settings/schools/Colleges and the local authority in making ALNP is critical in relationships between parents, providers and LA's. Where it is published, shared and understood it brings clarity to parents' expectations of schools/LA's. With greater devolution of funding (in some areas 100% of ALN budget) ring-fencing within schools will be necessary. We are increasingly approached by families who are given mixed messages from schools and LA's. Many schools who receive reduced ALN budgets based on local funding formulae are telling parents that ALN provision will be lessened. We are concerned about the ring fencing of budgets and that 'appropriate' doesn't mean 'adequate' only. Appropriate means that the adequacy of the response or provision is tailored to meet the holistic needs of the child or young person effectively. Transparency and engagement with parents is vital. Some Local Authorities and schools are open and transparent but others are not and do not see the need for change.

Quality Assurance and evaluation

- ▶ The preparation and delivery of the IDP will require robust accountability, evaluation and quality assurance. Each setting/establishment/LA should be required to publish data and be measured on their inputs including, resourcing, provision, training for staff, and detailed outcomes for children/YP with ALN within their settings. This data should be published and subject to Parental, LA and Estyn scrutiny. Parents need to know whether schools/colleges are truly embracing the reforms and using them as a platform to drive up standards and improve provision for children with SEN.

Work force development

- ▶ The biggest single factor in ensuring children and young people do well is the quality of teaching and learning that takes place in the classroom. Children and young people don't make progress as a result of specific interventions alone it takes good teaching from good teachers. For the reforms to be successful schools and colleges will require a comprehensive training programme for both new and existing teachers, lecturers and early

years providers including early identification and spotting children and young people with ALN. Initial teacher training is also vital and we support the necessity of compulsory ALN units as part of additional teacher training and ongoing professional development for all teachers.

- ▶ There must be a continuing reflection on, and understanding of individual learning needs, especially those which are 'hidden' such as difficulties in language and processing and a continuing emphasis on developing personal practice in relation to inclusive learning, teaching and assessment.

Complaints

- ▶ Parents tell us they are concerned about the **triggers or thresholds** for the development of an IDP - this is potentially a key area for dispute if there is disagreement. We would welcome specific detail regarding the process for implementation and complaint. Currently parents have little recourse if they disagree with the schools view of whether their child is making 'adequate progress'. Parents can complain to the school and governing body-but not beyond this. In our experience, Parents often know when their child has a difficulty and often feel the need for an EP assessment to identify specific difficulties and strengths and provide explanations. This form of specialism is rarely available at a school level, driving many parents to request Statutory Assessment as a means of accessing this assessment; this is particularly true when EP time is rationed amongst schools. Hopefully if EPs aren't completing appendix 'D' for formal assessment they will be in settings supporting teaching and learning. However parents are concerned about the decreasing number of EPs and specialist advisory teachers. Workforce planning is part of the reform and this is welcomed. However the concern is availability across Wales and the ring-fencing of school budgets to meet needs of individual children and young people.

IDP's post 16

- ▶ SNAP Cymru believe early planning and communication through the proposed IDP process will allow young people to engage, sustain and

progress within school, college and work-based learning and is welcomed.

- ▶ Whilst the Majority of young people with ALN are staying in education, in mainstream courses with additional support, prevocational courses: entry levels 1-3 and a smaller number in specialist residential provision, some are entering work-based learning and employment, Apprenticeships, Traineeships, supported Employment and Voluntary Work. Other YP attend Day Care Services provided by local authority social service departments or voluntary organisations. **IDP's should be prepared for all these groups.**
- ▶ **IDP's should also be prepared for Children and Young people in EOTAS provision, those who are Home educated and for young people in Custody.**

Question 2c – Individual development plans (Proposal 5)

Do you agree that local authorities should be ultimately responsible for preparing an IDP for children and young people aged 0–25 with ALN and for ensuring that agreed provision set out in the IDP is delivered and reviewed?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree or disagree	<input type="checkbox"/>
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Comments

- ▶ The current SEN statutory framework (Education Act 1996 and associated regulations and Code of Practice) contains features which many parents feel are vital to the best interests of their children. Despite this, parents continue to tell us that they struggle with the current system, but for reasons that differ to those described in the white paper. Parents tell us; *'what they say is not being given weight, that SEN Officers are 'hard or impossible to reach' or fail to communicate decisions'*. Parents across Wales are also being given information which reflects LA policy rather than the law. There is a lack of transparency in how decisions are made and inconsistencies in information. These are failures in the implementation of a system and not the system itself.
- ▶ Whilst we feel the day to day responsibility for supporting teaching and learning happens at school and college level, we believe strongly that

responsibility should remain with the LA to ensure the best for children and young people with identified needs. LAs must advise support and monitor IDPs and their effectiveness.

- ▶ SNAP Cymru welcomes the ability of Welsh Minister to exercise powers of intervention under the School Standards and Organisational Measure (Wales Act 2013 if schools fail to carry out mandatory duties) we need to see similar powers for the Early Year's and Post 16 providers.

Process

- ▶ There is significant confusion regarding the proposals and who will be ultimately responsible for the preparation and implementation of IDP's? SNAP Cymru are concerned that families and professionals seem to be interpreting/understanding the proposal in very different ways.
- ▶ If the Bill places specific duties on the LA to ensure that an IDP is prepared and the content provided, then it is appropriate to speak of the child as having a 'right' to a service and a right to challenge its preparation content and removal. The challenge will remain with the LA.
- ▶ LA's will presumably delegate the responsibility for preparing and delivering the content of IDP to schools/colleges –this will necessitate strategic and operational links with education/training providers for 16-25 and EY's providers. Whilst this is done, to a degree informally, the numbers for whom the LA will have responsibility will increase. There are real concerns over LA's capacity to accommodate this. There is also no mention of a support coordinator role (ALNCO equivalent) for pre and post compulsory age ranges.

EY's responsibility

- ▶ The proposals that LA's should be responsible across the age range is welcomed.
- ▶ For example: whilst it is currently unlawful for a responsible body to discriminate against a disabled child/YP in the arrangements it makes for determining admissions or enrolments to the setting/institution - SNAP Cymru is often involved in cases where schools/LA's are in dispute with parents regarding the refusal to admit/enrol young children to schools because of toileting or continence issues which occur as part of their disability. LA's tell parents that they only have duties to children who are '**of compulsory school age**'. A duty to ensure the preparation of an IDP and the provision it contains could remedy these issues and provide appropriate and timely provision for these children. The proposals will be more in line with the Equalities Act and LA's and schools will have a duty to these children and can plan appropriately and in an anticipatory way allowing these young children the same opportunities for learning as children of the same age without an ALN

- ▶ Maintained nurseries currently implement the COP. Private nurseries, child-minders etc. aren't covered although registration has standards for inclusive practice. All must be aware of their responsibilities to assess, plan and share information on transition.

Post 16 responsibility

The arrangements for enrolment, registration and induction of new learners in FE should also accommodate the needs of the young person as recommended in their IDP's. When students move to FE and beyond the IDP process will ensure the establishment of a support to coincide with the start of the course/work placement, rather than having to wait until the young person is 'known' to the college. **Whilst there is good practice in some colleges, many young people with 'hidden difficulties' and who currently don't have a statement aren't necessarily planned for on transition to college**

Strategic Planning for ALN

- ▶ Whilst a small number of CYP with ALN arrive in a LA without planning, most children and young people will be known to the LA by the time they start school and sometimes earlier. SNAP Cymru feels planning for all children with ALN will be far better with an approach that covers 0-25. LA's can then be aware of clusters of children with specific needs coming to a particular phase and plan in a strategic way for this.

Evaluation and scrutiny

- ▶ LA will be responsible for ensuring the IDP's are prepared and implemented, they will require mechanisms to ensure that inconsistencies in policies and practices between schools and colleges and other settings, are identified and rectified as part of Quality Standards.
- ▶ Schools, colleges and EY's settings must use compatible data/terms/categories and QA systems in order to reliably evaluate and improve outcomes for children and YP.
- ▶ Outcomes should be challenging and aspirational. If not achieved, **why not? Have steps not been followed?**
- ▶ Parent consultation and interaction (communication and information) should form part of LA evaluation as well as ESTYN inspections
- ▶ **Peer SENCO evaluation between schools can be less intimidating and very positive for sharing effective practice and improving standards. SENCO's can be released from their school for 3 or 4 days annually to peer review other schools. If a school fails peer evaluation LA can come in and scrutinise and train/penalise.**

- ▶ SNAP Cymru feel ALNCO's should be given time, status and the recognition that they are particularly effective when they are on the Leadership team. Children and young people with ALN do better in schools/Colleges where there is strong leadership and where there are high expectations of all students.
- ▶ a simple/robust complaints procedure would be essential and transparency regarding numbers of complaints and the remedies is essential. Visible and accessible around the process.

Question 3a – A new code of practice (Proposals 3a & 4)

Do you agree that a new Code of Practice on ALN should include 'mandatory requirements', which local authorities, schools, further education institutions, local health boards and the tribunal 'must act'?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree or disagree	<input type="checkbox"/>
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Comments

- ▶ SNAP Cymru provide the Parent Partnership Service in 20 of the 22 Local authorities. We see very mixed practice in schools and LA's, however, we have seen no evidence to suggest that there is 'systemic failure' in the application of the current SEN Code of Practice. We recognise that the current status of the COP as guidance to which relevant bodies 'must have regard' does however, leave room for local interpretation and is certainly something, we and the parents we work with experience across Wales. Most schools and LA fulfil their statutory duties, but outcomes for these CYP can still remain poor and the parental experience with some schools can remain negative. Interpretation and implementation of the guidance is extremely variable and this is the failure.
- ▶ We feel there should be mandatory elements in the COP. The two types of guidance ('statutory guidance' -much more binding) and good practice guidance' is confusing (*emboldened text is insufficient to discriminate between the two in a COP*) and leaves too much room for individual interpretation. Public bodies have too much freedom to deviate from

guidance and interpretation of the COP. **SNAP Cymru strongly agrees that the COP should include mandatory requirements.**

- ▶ We feel the proposal should also include EY's providers as well as independent and voluntary sector providers.(FF project/advocates etc)
- ▶ With the current duty to 'have regard', decision-makers are expected to follow the guidance unless there is good reason not to do so. i.e. In R v Islington LBC ex p Rixon the court set out precisely what local authorities have to do with guidance issued under LASSA 1970 s7: '**Parliament in enacting s 7(1) did not intend local authorities to whom ministerial guidance was given to be free, having considered it, to take it or leave it ...**'!
- ▶ We believe general duties that are essentially 'aspirational' in nature, where bodies can take resource factors into account in determining how best to meet needs can be ignored and bodies are only required to 'do its best'. Guidance or powers of this nature are unlikely to bring about the intended improvements for CYP and families.
- ▶ Families participating in our recent consultation felt that the 22 interpretations and different ways of working, was very unfair and would like the Welsh Government be bold with the legislation and COP and welcome the changes in LA re-organisation and regional consortia.

Question 3b – A new code of practice (Proposal 3b)

Do you agree that the Code of Practice should set out guidance for any other bodies, such as third sector organisations or other providers of education and training?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree or disagree	<input type="checkbox"/>
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Comments

- ▶ We feel strongly that Health Boards, including GP's and Paediatricians HV's, etc – "*must act* " to share information, notify the school when a child has a health need etc. and be obliged to support schools and assist in the

development an IDP where the child/YP needs require . There may need to be parallel guidance in Health COP regarding IDP's.

- ▶ **Those carrying out functions under this legislation have the right to expect clear and accurate guidance on their responsibilities- the guidance should include Commissioners of services; School Governors; EY's providers/maintained/non- maintained (registered) ; PRU's and EOTAS provision; Training Providers; YOS and Custodial settings**
- ▶ **The current COP has an excellent chapters on Partnership with parents and participation of YP should remain and be strengthened**

Question 4 – Securing provision (Proposal 6)

Do you agree that further education institutions should be included alongside schools, maintained nurseries and pupil referral units, as institutions that must use their 'best endeavours' to secure the additional learning provision called for in an IDP?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree or disagree	<input type="checkbox"/>
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Comments

- ▶ The parents in our consultations were very concerned about the term 'Best endeavours', to do all that they reasonably can. We would like to see the Bill expressly mention the need for settings to be proactive about meeting the needs of pupils – underpinned by the Equality Act duty to be proactive
- ▶ Definitions "reasonable" and "best endeavours" will be open to interpretation variation. Parents are not reassured, as with the term in the current COP 'must have regard' COP, is very woolly and has often disregarded.

The difficulty in relying on the Equality Act to mop up any loose wording in this act is that most pupils with ALN will not meet the criteria of disability within the EA Act. It is vital that the spirit of reasonable adjustments for need is encapsulated within this act.

- ▶ FE institutions have developed some expertise in supporting learners with ALN, particularly those with specific learning difficulties, however, for many YP, particularly those with 'hidden difficulties' where the degree of their

difficulty isn't obvious (for example, students with DCD, mental health issues, Asperger's Syndrome Language and communication difficulties) college can be difficult and for many unsupportive. The proposals for 'best endeavours' is too weak and is unlikely to lead to improved retention rates and grades for YP with ALN. SENDA and the Equality Act seem to have influenced practice more robustly.

SNAP Cymru would like to see:

- ▶ Inclusive practice and anticipatory "reasonable adjustments" should be based on formal procedures for producing and implementing an IDP rather than on personal interest and experience
- ▶ Improved transition arrangement between LA and post 16 providers.
- ▶ Formal arrangements for strategic planning between LA, FE colleges, training providers, and work providers and Third Sector

Scrutiny

- ▶ How do you challenge? How do you know the EY's setting/school/ College/PRU etc. is doing all they reasonably can?
- ▶ Who will decide what is reasonable? SNAP Cymru believe there is a need for collection and analysis of institutional, quantitative and qualitative data for the evaluation and improvement at a strategic level. The LA needs to challenge and hold the responsibility to challenge/scrutinise compliance/monitor/evaluate, accountability needs to be included and should be published

Question 5 – Securing specialist provision for young people (Proposal 7)

Do you agree that local authorities should be responsible for securing specialist education provision for post-16 learners outside of the further education sector where the IDP indicates that this is necessary to meet a young person's ALN?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree or disagree	<input type="checkbox"/>
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Comments

- ▶ Snap Cymru feel requiring LA's to be responsible for securing provision and to anticipate, recognise and provide for individuals' specialist needs post 16 is a positive idea which will support the strategic development of services and organisations to meet diverse needs.

- ▶ Children and young people will be known to the LA and the transfer of responsibility to local authorities will allow for smoother transition planning and for the longer term strategic planning for specialist support. Gaps in provision will be identified and responded to at earlier stages, ultimately preventing the unnecessary placement of young people in out of county provision. Local authorities will be responsible for assessing pupils, securing provision of specialist further education, monitoring and measuring outcomes of that provision. We believe the numbers of young people requiring specialist post 16 placements and provision is small, approximately 120, consequently this can be managed within existing staffing and processes. Careers Wales must still be involved in the provision of advice and guidance.
- ▶ Decisions should be transparent; the placement will form part of the IDP planning for the YP, the right of complaint and appeal to the SEN tribunal will ensure LA 's decisions can be challenged. Currently the decision and appeals are heard by the WG.
- ▶ However, any funding devolved to the LA's should be ring-fenced for the purpose. Being the assessor and purchaser requires transparency and responsibility and decisions about expensive specialist provision should not be influenced by general LA funding.
- ▶ Currently decision for funding applications are agreed amongst education, social services and health prior to the application to WG going ahead. SNAP Cymru have been involved in several cases where Social Services refuse to commit to the residential / waking day element of the placement. SNAP Cymru also frequently supports families where the strategic and managerial representatives of local health board, education and social services department can't agree on the support to be provided in school. We foresee this as an ongoing internal problem which could potentially worsen when decisions are made internally within the LA. Quick complaints and remedy will be required
- ▶ Decisions regarding placements should be made early in the year of transfer, often they are made as late as August, the use of tribunal to challenge these decisions could mean a further 6 month delay.

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- ▶ Clear guidance on transport should be included in the legislation and guidance.

Question 6 – Placement at independent schools (Proposal 8)

Do you agree that local authorities should be prohibited from placing a child or young person at an independent school which has not been registered to provide the type of additional learning provision identified in their IDP?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree or disagree	<input type="checkbox"/>
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Comments

- ▶ We agree, children's wellbeing and protection is paramount. Children and young people's needs should be met as near to home as possible. SNAP Cymru would be concerned if proposal impacted on, or restricted parent's preferred choice of placement? *This needs clarification.* However we would anticipate that any independent school or college which provided good teaching and learning and were robust about QA and the wellbeing of their learners would be registered.
- ▶ Colleges, EY's and other providers are missing. This doesn't seem to align with the proposals across the age range and different sectors.
- ▶ Will registration be UK wide? CYP attend specialist placement in other areas of the UK

Question 7a – A multi-agency approach to planning and delivery (Proposal 12)

Do you agree that local authorities, local health boards and further education institutions should be required to cooperate and share information in assessing, planning and delivering support to meet ALN?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree or disagree	<input type="checkbox"/>
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Comments

- ▶ **SNAP Cymru agree with this proposal, the exchange of information and a duty to cooperate should be mandatory.** Issues of information sharing arose during the ALN pilots and were a barrier, with LA's refusing to share information. There should be robust mechanisms for the exchange of information in a confidential and timely way within LA's and between LA's HB's FE's EY's settings

- ▶ **With the extension of the age range, this duty will have implications for children and adult teams in Health and Social Care-** Requires compatibility with similar duties in the Social Care and well-being Bill and the equivalent Health legislation and guidance?
- ▶ **Careers Wales, Training Providers; YOS and Custodial settings are missing from the list**

Question 7b – A multi-agency approach to planning and delivery (Proposal 13)

As well as using the code of practice to provide guidance, are there any other ways in which you think multi-agency partnership working could be strengthened?

Comments

- ▶ Providing staffing with time written into planning for Multi-Disciplinary Team meetings and a requirement for the appropriate people to attend
- ▶ Requiring joint planning from all parties to an agreed time and date and regulatory for these meeting to occur
- ▶ Good practice from the children's centres' experience shows that planning regular MDTs at the same time, on the same day every week enables professionals to get to know each other and regularly share information about families. These meetings can also be adapted for family support but should be required to exclude non-essential professionals from parent contact meetings to ensure they do not overwhelm or become routine
- ▶ Such meetings can form the basis for the more complex end of the IDP process

Question 8 – Supporting looked after children (Proposal 15)

Do you agree that IDPs should be able to replace or function as personal education plans for children and young people who are looked after by a local authority?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree or disagree	<input type="checkbox"/>
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Comments

- ▶ This appears to be an excellent idea to support planning for some of our most vulnerable children and young people; it has potential to reduce the time and duplication of meetings which professionals attend. The PCP approach/review could be used to inform other plans. LAC officers, Social workers, advocates and Named persons will require IDP/PCP training where necessary.

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- ▶ IDP will be an excellent transferrable source of information for LAC/young people with ALN who are often moved unexpectedly or without planning.
- ▶ However we feel that in reality the IDP and PEP, will probably work in parallel and inform each other- It will be incredibly difficult to fully integrate both plans without changing the specific duty (required in law) on social service to draw up a PEP. The ALN pilot found more examples of the PCP and IDP processes informing other plans so that a single PCP approach can generate a number of different plans and documents. It proved much more difficult to integrate other plans, outside of the education sector, particularly where services are required by law to draw up a specific plan. The legislation would have to change to fully integrate both plans. We do see the integration of plans across programmes and sectors will be difficult.

Question 9a – Resolving disputes at an early stage (Proposal 16)

Do you agree that local authorities should be required to put in place disagreement resolution arrangements?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree or disagree	<input type="checkbox"/>
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Comments

- ▶ Access to Formal disagreement resolution exists now - and can be a very effective tool; it can not only resolve these issues but also provide the opportunity to restore or improve the relationship between parents and the local authority or school. **However it's a tool that is rarely used.** There are examples where formal DRS has been facilitated by the SNAP Cymru through the Datrys service providing DRS for Families/LA's where complex issues have been resolved. In 2013/14 only 10 families were referred to Datrys the formal dispute resolution service for 11 children and young people. 2 of these were resolved through informal dispute resolution saving a minimum £1,200 in each case in costs and a great deal of stress and anxiety for families and professionals involved. Provision and planning was put in place, meeting the child's needs much earlier than waiting for the arbitration of SENTW.
- ▶ SNAP Cymru's Datrys Formal Disagreement Service is facilitated by a trained and accredited team able to provide services across Wales in Welsh and English. We feel that this Formal process should be mandatory prior to access to SENTW. The widespread use of Formal DRS has not had the

'buy-in' from LA's or Parents that was hoped for; we are unsure whether this is a confidence issue or one of publicising the availability of the approach. Many parents say they would like to access informal disagreement resolution to express their feelings and concerns about their situation and find workable solutions that all can accept.

- ▶ We are keen to differentiate between a processes for dealing with complaint and that of mediation. Mediation does not focus on complaints or past grievances; the emphasis is on moving forward from the complaint or disagreement.
- ▶ Complaints systems can lead to incredible frustration, parents often dropping complaints but still harbouring blame and discontent. SNAP Cymru are concerned that there will be too many tiers of complaint.
- ▶ However, there is evidence that referral to PPS services at an early stage before communication breaks down, is an extremely effective remedy. Very complex, conflict loaded cases are being resolved with the support of PPS without the need for formal disagreement. (SNAP Cymru would be more than happy to share examples of this early resolution and preventative work with families)
- ▶ We know Parents tell us their confidence in the SEN system is promoted by successful communication and accurate, clear information. Struggling to find information can leave parents feeling anxious and confused and poorly timed, incomprehensible information makes them frightened and disempowered. Most of SNAP Cymru's casework with families across Wales is concerned with poor communication between families' schools and LA's. Having confidence in the accuracy and neutrality of information is essential in order to build trust. SNAP Cymru believe that if families have information to help them understand their child's needs that is easy to find, easy to understand and trustworthy; there will be less disagreement.
- ▶ Parents also need to know what they can expect from their child's school and what support is provided by the local authority and to have reliable information and transparency regarding funding. We also believe that an increased focus on outcomes for CYP people with ALN, tighter quality assurance and accountability will also will prevent the necessity of DRS. LA's should publish information on the respective responsibilities of schools and the local authority in making special educational provision is proving critical in relationships between parents and schools and local authorities.
- ▶ Where it is published, shared and understood it brings clarity to parents' expectations of schools/LA's. **This transparency improves working relationships and prevents disagreements from escalating.** Good information can help parents know what to expect, make decisions and

promote their confidence. Parents also want to feel involved, have the chance to ask questions and raise concerns, have face to face contact and at times – help to process information. Information though, is only one piece of the jigsaw, it's the engagement and involvement of families in the process and discussion that promotes confidence. **This build relationships even when disagreement arise regarding provision.** SNAP Cymru believe the proposals for IDP and PCP processes has the potential to improve engagement and participation.

Question 9b – Resolving disputes at an early stage (Proposal 17)

Do you agree that there should be a requirement to use the appropriate local complaints processes prior to appeal to tribunal?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree or disagree	<input type="checkbox"/>
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- ▶ Firstly, SNAP Cymru are delighted with the term 'Family Partnership Service' which we feel more accurately describes our work. We are also looking forward to working with the WG to refresh the guidance on Family Partnership services. Where Parent partnership services are patchy as described in the White paper, this is generally because funding is patchy. SNAP Cymru receive a huge variation of contracts and funding from LA '
- ▶ Even with the ROI calculations (Wavehill calculation of approx. £1 spend equates to a minimum of £20 gain). SNAP Cymru also provide added value of trained volunteer teams Independent Parental Supporters. Funding has been insufficient and variable. Whilst the value of partnership services are not in doubt, in reality LA's funding is so stretched they are only capable of funding the PPS service on a part time basis. Since inception SNAP Cymru have subsidised PPS services across Wales.
- ▶ SNAP Cymru supported 5072 recorded matters in 2013-14 of which only 170 did not involve an actual or potential conflict situation.
- ▶ SNAP Cymru employed solution focussed methods to work through the issues with families drastically reducing the number of complaints actually lodged against schools or local authorities. Informal disagreement resolution is the preference of most parents and professionals and is proven as being effective in outcomes for children, families, professionals and budgets.
- ▶ Our involvement has proven impact in resolving issues and reducing the need for appeals to SENTW. 50 families contacted us last year to obtain support prior to prospective appeals to SENTW. After informal dispute resolution only:

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<ul style="list-style-type: none">- 12 families being supported by SNAP Cymru decided to lodge appeals with SENTW- 2 of these were withdrawn by parents following LA agreement to provision or assessment leaving only 10 SENTW appeals requiring arbitration. <p>▶ We dealt with 347 issues around exclusion, supporting families and young people to understand their rights and responsibilities and preparing them for meetings to resolve issues through discussion and planning. Only 49 cases resulted in permanent exclusion. Of these we were able to support families of 15 young people with a managed move which resulted in a smooth transition to a new school and a fresh start.</p> <p>▶ Of the over 5,000 cases we have dealt with around 60% are disabled children and young people. Families in this group have received advice and information about discrimination often leading to improvements in the measures in place to combat the adverse effects of disability through reasonable adjustments and equalising the ways in which goods and services are supplied.</p> <p>▶ Having early access to clear information and guidance on rights and responsibilities impacts on the way the child's needs are discussed often leading to more positive actions and outcomes</p> <p>▶ Of the 22 families who had formal complaints in process about the discrimination they felt their child had received, all received informal dispute resolution and only one family felt the need to pursue their complaint to SENTW.</p> <p>▶ Complaints system needs to be consistent across schools. Mandatory guidance for schools which is clear and leaves no room for misinterpretation. Timely and effective responses to reach early informal disagreement resolution.</p>
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Question 10 – Extending the right of appeal (Proposals 19, 20 & 21)

Do you agree with the proposals in relation to extending rights of appeal to tribunal?

Agree	<input checked="checked" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree or disagree	<input type="checkbox"/>
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Comments

- ▶ SNAP Cymru knows that Parents don't readily go to tribunal – *it is a last resort and they are often discouraged from doing so*. Appeals to SENTW are a trusted independent backstop for disagreements. 84% of appeals since 2003 have been upheld, this would suggest that parental concerns were valid and probably should have been resolved without recourse to the tribunal. Appeals against a refusal to assess continues to be the main reason for appealing to the SENTW, a large number of these appeals are conceded by the LA, this is *reported to be a continuing trend*. In light of this we would recommend the restating of the 2012 Green paper proposal that SENTW and other appeals bodies should publish their decisions and that LA's should initiate a review process and report on their "lessons learned" along with an action-plan, particularly for patterns of appeals, conceded or upheld. SNAP Cymru would like to see this added to the Bill.
- ▶ The numbers of appeals are at their lowest since the inception of the tribunal, whilst complex cases will always require this independent process, SNAP Cymru will continue to see disagreement resolution as a continuum which begins with good communication, honesty, transparency and respect. Parents tell us that LA's say their '*Children's needs must be severe and complex...must be among the 2% worst performing...are told statements are not given for specific learning difficulties*'. That '*there are children "far worse" than your child that don't have statements ...*' '*We no longer statement children because all needs are met in mainstream schools.*' And '*the system has changed this LA doesn't write statements any more*'. **Transparency and honesty and information based on the law and not LA policy would prevent unnecessary appeals and stress for families and unnecessary appeal to the tribunal.**
- ▶ **SNAP Cymru welcome the broadening of the entitlement to appeal to all children and young people with ALN 0-25 and the detail on areas of appeal. We feel this is an equitable system for all children and families.**
- ▶ With potentially more children/families being entitled to challenge and bring an appeal to tribunal under the proposed system, we agree there needs to be

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a strengthening of arrangement for Family Partnership Services to facilitate communication, DRS & tribunal support, including the role of case friend.

Question 11 – Any other issues

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.

Additional comments:

Whilst Families do experience inconsistent approaches between LA's and the existing SEN COP is not always applied rigorously, the majority of schools and LA's already fulfil their statutory duties, but outcomes for children with ALN can still be mixed or poor. SNAP Cymru would like to see the focus on what already works really well for CYP with ALN and an emphasis on high quality teacher training; compulsory ALN modules as part of their initial teacher training, on-going training and professional development and the development of a workforce to include specialist advisory teachers.

SNAP Cymru also believe that Schools that work in partnership with parents invariably see better outcomes for children with ALN. The relationship and partnership between families and school should be at the heart of the reforms.

We wish to celebrate the achievements of individual schools, teachers and multi-agency professionals who see the potential of children and young people and aim high. We hope that statutory reform will result in performance management systems that allow them to celebrate and communicate successful practice through evaluation and impact analysis

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

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ALN145: Ruth Thomas
Natspec

Question 1 – New terminology

- a) Do you agree that a new term, 'additional learning needs', (ALN) should focus on children and young people who need additional and/or different support with learning to allow them to benefit as fully as possible from the education or training available to them?

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

A more inclusive term

- b) Do you agree that the new system should apply to children and young people from birth up to the age of 25? If so, what implications should we consider for the professionals involved in assessing and providing that support?

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

This will improve the life chances of young people as they move into adulthood.

Question 2 – Individual development plans (IDP)

- a) Do you agree that all children and young people with ALN should be entitled to an IDP which sets out their agreed additional learning provision?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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- b) Do you agree that IDPs should replace statutory assessment and statements of SEN, assessments for learners over 16 (under section 140 of the Learning and Skills Act 2000) and non-statutory plans including individual education plans under School Action and School Action Plus?

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

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- c) Do you agree that local authorities should be ultimately responsible for preparing an IDP for children and young people aged 0–25 with ALN and for ensuring that agreed provision set out in the IDP is delivered and reviewed?

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

One plan would ensure a young person's needs are met limiting the danger of things falling between two separate plans...

Question 3 – A new code of practice

- a) Do you agree that a new code of practice on ALN should include mandatory requirements in accordance with which local authorities, schools, further education institutions, local health boards and the tribunal must act?

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

Local authority departments should work together with young people and their parents to ensure the best possible provision is provided. Clear guidance would be necessary for all parties to understand their roles.

- b) Do you agree that the code of practice should set out guidance for any other bodies, such as third sector organisations or other providers of education and training?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Question 4 – Securing provision

Do you agree that further education institutions should be included alongside schools, maintained nurseries and pupil referral units, as institutions that must use their 'best endeavours' to secure the additional learning provision called for in an IDP?

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

Agree with reservation - providers must have the specialist expertise as well as the facilities.

Question 5 – Securing specialist provision for young people

Do you agree that local authorities should be responsible for securing specialist education provision for post-16 learners outside of the further education sector where the IDP indicates that this is necessary to meet a young person's ALN?

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

Young people have aspirations - the most appropriate provision should be selected for any young person.

Question 6 – Placement at independent schools

Do you agree that local authorities should be prohibited from placing a child or young person at an independent school which has not been registered to provide the type of additional learning provision identified in their IDP?

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

The provision should be of good quality and met the needs of the young person.

Question 7 – A multi-agency approach to planning and delivery

- a) Do you agree that local authorities, local health boards and further education institutions should be required to cooperate and share information in assessing, planning and delivering support to meet ALN?

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

In order to be effective there needs to be connections between education and social services, and health departments in order for a child or young person's effective transition into further education

Legislative proposals for additional learning needs Responses 141-160

- b) As well as using the code of practice to provide guidance, are there any other ways in which you think multi-agency partnership working could be strengthened?

Supporting comments

A young person's choice and aspirations should be listened to and acted on. Funding should not be the deciding factor.

Question 8 – Supporting looked after children

Do you agree that IDPs should be able to replace or function as personal education plans for children and young people who are looked after by a local authority?

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

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Question 9 – Resolving disputes at an early stage

- a) Do you agree that local authorities should be required to put in place disagreement resolution arrangements?

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

Young people and families need clear information

- b) Do you agree that there should be a requirement to use the appropriate local complaints processes prior to appeal to tribunal?

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

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Legislative proposals for additional learning needs Responses 141-160

Question 10 – Extending the right of appeal

Do you agree with our proposals in relation to extending rights of appeal to tribunal (see proposals 19, 20 and 21)?

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

All young people should have a tight of appeal

Question 11

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.

Natspec, the Association of National Specialist colleges, represents 76 member colleges and 8 associate members. Five colleges are based in Wales and other colleges near the border also take Welsh learners. These specialist colleges offer learning programmes and inter-disciplinary support for students with a wide range of learning difficulties and disabilities. They give students a personalised learning experience tailored to their needs, abilities, aspirations and interests. Skilled inter-disciplinary teams, real living and work facilities and innovative use of technology enable students to thrive and reach their true potential.

We welcome the opportunity to respond to the consultation.

We note the intention to include residential provision. However we are concerned that specialist expertise may be lost particularly where local authorities develop additional provision in regional areas where independent residential provision already exists

We welcome the recognition that other providers of education and training, including independent specialist colleges (ISC), have a part to play in delivering education and training for children and young people with ALN, and that clear guidance will be developed in the Code of Practice about the ways in which ISC roles might be developed

We strongly support the White Paper's proposed new registration requirement being extended to independent specialist colleges.

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

Legislative proposals for additional learning needs Responses 141-160

ALN146: Jennie Hughes
Cardiff County Council Education Service

Question 1 – New terminology

- a) Do you agree that a new term, 'additional learning needs', (ALN) should focus on children and young people who need additional and/or different support with learning to allow them to benefit as fully as possible from the education or training available to them?

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

The rationale for new terminology is sound and the term 'additional learning needs' has a more positive and inclusive connotation. However, this term is already in widespread use as the 'umbrella term' for different groups of children and young people who may experience barriers to their learning, *including* SEN, but also embracing a wide range of other groups such as EAL, LAC, EMTAS, MAT etc. This use of the term derives from previous Welsh Assembly guidance on Inclusion which will need to be revised if ALN is adopted specifically as an alternative term for 'SEN'.

If adopted as an alternative to the term 'SEN' it is suggested that clarification will be needed regarding whether a 'learning need' includes:

- Early developmental needs pre-3
- Physical, sensory or medical needs not associated with a learning difficulty.

- b) Do you agree that the new system should apply to children and young people from birth up to the age of 25? If so, what implications should we consider for the professionals involved in assessing and providing that support?

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

In principle, Cardiff Council Education Service welcomes the proposal for a more consistent and seamless process of assessment and planning to cover all children and young people aged 0-25.

However, there does not appear to have been any detailed work to explore the practical challenges in terms of capacity, funding arrangements, training, resources and transition.

Extending the right of appeal to the pre-school and 18-25 age groups will also tend to raise expectations and may place additional pressure on existing resources at a time when all

Legislative proposals for additional learning needs Responses 141-160

services are being affected by efficiency savings.

Unless there is a statutory duty on Health Authorities to deliver provision in an IDP, the extended right of appeal will place additional financial burdens on LAs for pre-school and post-16 age groups.

Question 2 – Individual development plans (IDP)

- a) Do you agree that all children and young people with ALN should be entitled to an IDP which sets out their agreed additional learning provision?

Agree	<input type="checkbox"/>	Disagree	x <input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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- b) Do you agree that IDPs should replace statutory assessment and statements of SEN, assessments for learners over 16 (under section 140 of the Learning and Skills Act 2000) and non-statutory plans including individual education plans under School Action and School Action Plus?

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

Introducing the IDP for learners with complex needs in post 16 education and pre-school will be a positive step, but there are concerns about extending the IDP to those currently supported at school action and school action plus.

The proposals do not take account of the significant workload implications demonstrated by the IDP pilots, or the reality of budget constraints. Although the person centred approach has clear merit, there is a significant time investment in the initial stages of developing an IDP, with implications for SENCOs/ ALNCOs, and for other professionals.

Many Cardiff SENCOs have reflected the view that creating an IDP for learners at 'School Action' will be disproportionate to the effort needed to identify and meet the child's additional learning needs, especially as these needs will be temporary in the majority of cases.

- c) Do you agree that local authorities should be ultimately responsible for preparing an IDP for children and young people aged 0–25 with ALN and for ensuring that agreed provision set out in the IDP is delivered and reviewed?

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

It is disappointing that the White paper does not propose that 'ultimate responsibility' should be shared with Health Boards. The majority of disputes ending in appeal (in Cardiff) are in connection with therapy, reflecting the LA's lack of control over this provision.

There are also concerns regarding the proposal to extend the responsibility to cover all learners with an ALN. The responsibility and resources for meeting the majority of special educational needs has been delegated to schools, in line with Welsh Government expectation for increased delegation. Holding the Local Authority 'ultimately responsible' over levels of provision over which there is limited direct control is not realistic.

Question 3 – A new code of practice

- a) Do you agree that a new code of practice on ALN should include mandatory requirements in accordance with which local authorities, schools, further education institutions, local health boards and the tribunal must act?

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

Cardiff Education Service would welcome greater clarity on the statutory duties of all partners. However, the proposed requirement to use 'best endeavours' may be no stronger in practice than the current requirements.

In the current system, the Local Authority can be directed by the Tribunal to fund health provision where the Health Board are under-resourced and unable to deliver. This leaves the Education budget vulnerable to being diverted to supplement health services at a time when both budgets are under severe pressure.

- a) Do you agree that the code of practice should set out guidance for any other bodies, such as third sector organisations or other providers of education and training?

Agree	x <input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Question 4 – Securing provision

Do you agree that further education institutions should be included alongside schools, maintained nurseries and pupil referral units, as institutions that must use their 'best endeavours' to secure the additional learning provision called for in an IDP?

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

Yes; this would improve transition to FE settings and ensure greater consistency of practice.

Question 5 – Securing specialist provision for young people

Do you agree that local authorities should be responsible for securing specialist education provision for post-16 learners outside of the further education sector where the IDP indicates that this is necessary to meet a young person's ALN?

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

Local Authorities have a stronger infrastructure for carrying out assessments and making evidenced based decisions. There may also be potential for more cost effective commissioning arrangements to match provision to needs.

However, it needs to be borne in mind that extending the right of appeal to 25 has the potential to increase expectations and costs significantly unless the handover of responsibility is very well-managed.

The additional cost of assessment processes for older learners also needs to be borne in mind.

Question 6 – Placement at independent schools

Do you agree that local authorities should be prohibited from placing a child or young person at an independent school which has not been registered to provide the type of additional learning provision identified in their IDP?

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

The proposals will introduce much simpler and more effective procedures for approving independent schools to meet additional learning needs.

Legislative proposals for additional learning needs Responses 141-160

Question 7 – A multi-agency approach to planning and delivery

- a) Do you agree that local authorities, local health boards and further education institutions should be required to cooperate and share information in assessing, planning and delivering support to meet ALN?

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

There are already examples of excellent partnership working that demonstrate how collaboration can improve outcomes for learners, secure greater equity and consistency, while also conserving resources by reducing duplication.

However, for this proposal to enable more rapid progress in partnership working, there need to be consistent expectations and statutory duties for all agencies.

- b) As well as using the code of practice to provide guidance, are there any other ways in which you think multi-agency partnership working could be strengthened?

Supporting comments

Well-integrated planning and policy-making processes at ministerial level. Some of the constraints to partnership working can arise from different drivers and priorities at Welsh Government level.

Aligning performance measures wherever possible so that these do not act as a constraint.

Resolve barriers arising from Information Sharing Protocols, and supporting an IT infrastructure that will support electronic information sharing.

Question 8 – Supporting looked after children

Do you agree that IDPs should be able to replace or function as personal education plans for children and young people who are looked after by a local authority?

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

This proposal will ensure a single integrated plan for looked after children with ALN.

Legislative proposals for additional learning needs Responses 141-160

Question 9 – Resolving disputes at an early stage

- a) Do you agree that local authorities should be required to put in place disagreement resolution arrangements?

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

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- a) Do you agree that there should be a requirement to use the appropriate local complaints processes prior to appeal to tribunal?

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

Parents and LAs should be required to demonstrate they have engaged fully in consultation and negotiation, and have used local processes prior to an appeal.

Question 10 – Extending the right of appeal

Do you agree with our proposals in relation to extending rights of appeal to tribunal (see proposals 19, 20 and 21)?

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

Extending the right of appeal is a positive step that will improve accountability and provide a stronger protection for children with less complex ALN. However, as noted above, the proposal that the Local Authority will hold 'ultimate responsibility' for all IDPs needs to be reconsidered.

Question 11

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

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

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ALN147: Tania Ryland SENTW

The Tribunal response

Introduction – pages 3- 8

1. The Tribunal endorses the key principles and the aims that under pin the reform proposals as set out at pages 3 – 4 of the proposals.
2. For the Tribunal's views on the 22 proposals for change summarised at pages 4 – 6 see the commentary set out below. More specific commentary will be provided when the proposals have been outlined more fully through draft legislation and guidance.
3. The Tribunal has only been able to comment on these proposals in general terms in many respects because although the principles and aims are clear the substance and practical detail concerning how these principles and aims will be achieved within the White Paper is limited.

Chapter 1: A unified legislative framework to support children and young people aged 0-25 with additional learning needs.

Proposal 1 page 19 – Introduce the terms “additional learning needs” and “additional learning provision” to replace the existing terms “special educational needs” and “special educational provision.”

4. The Tribunal agrees in principle with the proposal to amend the terminology in the way described. However, since no specific details have, as yet, been provided as to the definitions of the new terms it is difficult to comment beyond this general agreement.

Proposal 2 page 20 – Introduce Individual Development Plans (IDP's) to replace statements of SEN, post – 16 assessments (under s.140 of the

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Learning Skills Act 2000) and non-statutory Individual Education Plans (IEPs) and post – 16 plans.

5. The Tribunal agrees in principle with the proposal to introduce IDP's for all children and young people considered to have additional learning needs from 0 – 25. Again, however, since limited details have as yet been provided concerning what an IDP will look like and how the process will work it is difficult to comment beyond this general agreement.

Proposal 3 page 20 - Require the Welsh Ministers to consult on and issue a Code of Practice on ALN which may include:

- mandatory requirements in accordance with which relevant bodies (likely to be local authorities, maintained schools, FE institution, PRU's, local health boards and the Tribunal)
 - guidance to which those bodies and other providers of education and training must have due regard.
6. The Tribunal considers that a new Code of Practice is essential.
 7. The Tribunal also supports the intention to make key aspects of the Code mandatory for the bodies that have been identified.
 8. Since the Code will play a central role in the new system and limited details have been provided concerning the content of the Code it is essential that the draft Code is made available alongside the draft legislative provision for further consultation.
 9. In respect of the monitoring and enforcement of the Code and the failure of relevant bodies to adhere to its terms it may be sensible to consider providing the Tribunal with powers in this respect.
 10. The Tribunal has frequently encountered cases where the current Code of Practice has not been taken into account and is therefore well placed to assist in a monitoring and enforcement role.
 11. The Tribunal endorses the intention to incorporate all information on the operation of the new ALN system within the Code so as to make the process as simple and accessible as possible.

Proposal 4 page 4 – Set out the minimum requirements for information that must be included in an IDP, and require the Code to set out detailed mandatory requirements to underpin this.

12. It is worthwhile noting that the current system for statements is underpinned in the way that is proposed for the new system and that there is presently

Legislative proposals for additional learning needs Responses 141-160

considerable disparity in the statements produced by different local authorities.

13. The Tribunal supports the items identified as key elements of an IDP.
14. However, clarification will be provided as to whether the reference to “additional provision” is to include placements. If it does not, then the IDP will need to specifically include provision for the identification of suitable placements.
15. Consideration needs to be given to how the introduction of IDPs and the rights of children and young people will be reconciled with the current right of a parent to express a preference for the maintained school of their choosing and for their views to be taken into account in line with s. 9 of the Education Act 1996 in respect of other education placements.
16. In addition provision needs to be made to reflect differences of opinion and where relevant areas of disagreement, where these cannot be resolved.
17. In order to ensure that appropriate provision is set out in IDPs and responsibility for delivery is clearly attributed as proposed it will be essential that those contributing to the IDP process collaborate effectively and have sufficient authority to agree to the allocation of provision.
18. IDPs will also need to incorporate clear review criteria.
19. Provision will clearly need to be made for IDPs to set out transition planning arrangements. It is also recommended that mandatory timescales are set to ensure that transition planning is initiated well in advance. In the experience of the Tribunal this does not always happen at the present time and it contributes to poorly thought out arrangements and to disputes.
20. The Tribunal endorses the proposal that the process for considering whether a child has ALN and what provision is required to support those needs should be child-centred and should automatically involve the child or young person and their parents and relevant agencies in a collaborative way.
21. It is not clear however who will be responsible for initiating the process by which a child or young person is identified as having ALN and whether parents and children and young people will be able to make a request for this process to be initiated, and if so to whom that request should be made. It is recommended that parents and child and young people should have this right and that it should be made clear to whom any such request should be made to. Thought needs to be given to whether such requests can be refused and if so by whom and in addition if such requests can be made and refused parents, children and young people should have a right of challenge in relation to such a decision.

22. Effective collaboration between all those involved in supporting the education and learning of a child or young person is central to securing a better system of ALN. The current SEN system frequently fails because it has not been able to deliver effective collaboration.
23. The current system is underpinned by statutory provisions in the Education Act 1996, which are reiterated in the current Code of Practice, that require schools to use their best endeavours to make SEN provision for their pupils and that require Social Services Departments and Health Boards to cooperate with Education Authorities in regard to the identification, assessment and provision for children with special educational needs. In the view of the Tribunal therefore the current proposals for securing better collaboration through mandatory provisions within the new Code of Practice to which all providers and supporting agencies have to have regard are unlikely, on their own, to deliver improvements in collaboration which are so vital to making the new system more effective. New legislation will be required which harmonises the criteria used by local authority education and social services departments and local health boards to assess the needs of children and young people.
24. It also needs to be made clear who will actually pull the IDP process together and what timescales will be involved in the IDP process so as to guard against drift and delay. Any individual “keyworker” identified as having this role will need considerable experience and authority to ensure that the process is carried out effectively. Also, decision makers will need to consider setting mandatory timescales for the IDP process to counter the risk of drift.

Proposal 5 – page 22 – Require local authorities to prepare an IDP and ensure that any agreed additional learning provision set out in the IDP Action Plan is put in place for all children and young people aged 0 – 25 who have been determined as having ALN and who are receiving or wish to receive education or training.

25. This is a laudable proposal but the Tribunal is concerned as to how this proposal can be delivered in practice given the current pressures on local authorities and given the increasing devolution of powers and responsibilities to schools and the diversity of provision that is available in respect of Early Years and FE provision.
26. The Tribunal also wonders whether, in the light of the extension of responsibility for provision to 25, consideration needs to be given to whether it is appropriate and necessary to make changes to the age demarcations currently placed upon maintained schools.

Proposal 6 – page 23 – Require maintained schools, FE institutes, and PRUs to use their best endeavours to ensure that the additional learning provision set out in a child or young person’s IDP is provided.

27. In the experience of the Tribunal the “best endeavours” formulae for engaging schools in the process of support for children with SEN is weak and relatively ineffective. Rather than extending this to FE institutions it would be preferable to make each provider more directly responsible for meeting the needs of children and young people with ALN in the way that they are responsible for ensuring that the needs of pupils and young people with disabilities are met. Further, individual responsibility can be secured by ensuring, as referred to in Proposal 4 above that the Action Plan within an IDP identifies who is responsible for ensuring delivery of the different aspects of provision and by ensuring that there are adequate enforcement powers in respect of IDPs.

Proposal 7 – page 23 – Require local authorities to secure specialist education provision for post -16 learners where the IDP indicates that this is necessary to meet a child or young person’s needs.

28. The Tribunal endorses this change. The Tribunal agrees with the rationale behind this change.

29. So as to improve the transition process further and as referred to earlier the Tribunal would support mandatory provisions which require transition plans to be prepared and in place well in advance of transition taking place.

30. There is a concern that existing funding may not be sufficient to enable local authorities to take over this responsibility and there is also a concern that unless the sums transferred to local authorities for this purpose are ring fenced that the money will be diverted elsewhere.

Proposal 8 – page 24 – Prohibit the placement of any child or young person into independent school that has not been registered to provide the type of additional learning provision identified in their IDP.

31. The Tribunal endorses this proposal in principle but wonders whether there may be a case for retaining a process for individual approval of a placement in very exceptional circumstances.

Chapter 2: An integrated, collaborative process of assessment, planning and monitoring which facilitates early, timely and effective interventions

Proposal 9 – page 27 – Require local authorities to ensure that children, young people and their parents are involved, consulted with and have their views taken into account from the outset of and throughout the IDP assessment and planning process.

32. The Tribunal supports the proposal to incorporate a person-centred approach to assessment and planning processes.

Proposal 10 – page 28 – Require, as a minimum, IDPs to be reviewed on an annual basis but permit reviews to be conducted earlier or more often where this is appropriate.

33. The Tribunal endorses the proposal in principle.

34. However a process of ongoing monitoring and review needs to be in place underpinning this annual review and any review mechanisms set out in the IDP so that the efficacy of interventions can be assessed.

35. Also thought needs to be given to how requests for reviews from parents and children and young people will be made, to whom and whether such a request can be refused and if so by whom. If requests can be refused then consideration needs to be given to incorporating a right of challenge against these refusals into legislation.

Proposal 11 – page 28 – Require the Code of Practice to provide guidance to professionals on early identification of children with ALN including those aged below compulsory school age.

36. The Tribunal endorses this proposal.

37. In the view of the Tribunal early identification and intervention will be assisted if assessment criteria are harmonised and the statutory framework is one to which all education providers, parts of the local authority and service providers must adhere.

Proposal 12 – page 29 – Require local authorities, local health boards and FE institutions to co-operate and share information in assessing, planning and delivering provision to meet the additional need learning needs of children and young people up to age 25.

38. In the view of the Tribunal one of the biggest failures of the current system lies in its inability to deliver effective collaborative working between departments within local authorities and between local authorities and education providers and other additional service providers, particularly those within local health boards.

39. The absence of collaborative working and provision is commonly at the heart of disputes that reach Tribunal. Annual Reviews are often poorly supported, disputes regularly arise between service providers as to responsibility for

Legislative proposals for additional learning needs Responses 141-160

assessment and provision and parents and young people lose trust in the system that is supposed to help them.

40. The Tribunal is extremely concerned that the current proposal therefore is to restate the existing provisions within the Education Act 1996, amended only to include a duty to share information.
41. Until such time as there is a harmonised statutory framework to which all involved in meeting the needs of children and young people must adhere effective collaborative working for all children and young people with ALN who require it will be difficult to achieve, parents and young people will continue to feel unsupported and many of the disputes that currently arise will continue to arise.
42. In the opinion of the Tribunal a failure to grasp this nettle is likely to be a missed opportunity to make the ALN system in Wales truly effective for those who need it.
43. The Tribunal would be willing to work closely with legislators and other key stakeholders to help draft legislation to secure this aim.

Proposal 13 – page 30 – Require the Code of Practice to provide guidance to support effective multi-agency working practices.

44. The Tribunal considers that changes in legislation alongside the guidance and actions proposed here is essential to bring about and support the changes in culture, practice and working relationships that are needed to deliver effective multi-agency working.
45. Please see comments in regard to Proposal 12 above.
- Proposal 14 – page 30 – Require mainstream schools to designate an ALN Co-ordinator (ALNCO).
46. It appears to the Tribunal that the ALNCO will have a central role to play in the new system.
47. The Tribunal endorses suggestions set out in this proposal in regard to the need to place a duty on schools to have an ALNCO and in regard to the need to ensure that ALNCOs are suitably qualified or experienced to carry out this important role.

48. With the above in mind, in order to emphasis the importance of this role and ensure that the ALNCO has sufficient status to carry out the role effectively it is suggested that where possible ALNCOs need to be part of the senior management team of a school. This will also serve to bring ALN into the heart of school practice and procedure.

Proposal 15 – page 15 – Enable IDPs to replace or serve the function of Personal Education Plans (PEPs) for children and young people who are looked after by a local authority.

49. The Tribunal endorses this proposal.

Chapter 3: A fair and transparent system for providing information, advice and for resolving concerns and appeals.

Proposal 16 – page 33 – Require local authorities to put in place arrangements to give information and advice and require the Welsh Government to set out guidance, including mandatory requirements where necessary.

50. The Tribunal endorses this proposal in principle.

51. However, it remains to be seen, once more details on this proposal are provided, how this will differ from current requirements and how it will facilitate an improvement in the information and advice that is currently available and extend the availability of effective family partnership services.

Proposal 17 – page 34 – Require local authorities to put in place disagreement resolution arrangements and require the use of local complaints processes prior to appeal to Tribunal.

52. The Tribunal endorses the principle that disagreement resolution services should be readily available for those who wish to use them.

53. The Tribunal wonders whether decision makers have considered central funding for dispute resolution services as this would be likely to support impartiality and offer effective monitoring of the quality and effectiveness of the services provided.

54. The Tribunal has reservations about how effective “the appropriate local complaints process” will be in achieving the aim of resolving disputes quickly and effectively.

55. As pointed out in the Tribunal's response to the "Moving Forward in Partnership" Consultation there are currently a number of different local complaints processes that may be applicable, each has its own remit and differing process and procedures. Clarity will therefore be needed as to what is meant by the term "appropriate local complaints process" in order that parents and children and young people know to whom they can complain. In addition the procedures of that complaints process will need to be clearly outlined so as to ensure a fair, transparent and timely outcome is achievable and so that children and young people as well as parents can make a complaint.
56. The Tribunal also has concerns about making it mandatory in all cases to utilise this process. There is a possibility that this will serve to delay an effective outcome in many cases.
57. If the decision is to retain this mandatory requirement than the Tribunal would urge decision makers to consider the possibility of allowing the local complaints process and the tribunal process to run concurrently.

Proposal 18 – page 35 – Require local authorities to appoint an independent person to facilitate resolution of disagreements.

58. The Tribunal supports this proposal in principle.
59. However, greater clarity is needed concerning how this will work in practice. Clarity is needed concerning what is meant by "independent" and what role and what authority the independent person will have to facilitate resolution of disagreements. Clarity is also needed concerning how children and young people can be supported through this process?

Proposal 19 – page 35 – Enable a right of appeal to Tribunal against:

- a decision not to put in place an IDP;
- a refusal of a request to review an IDP;
- the content of an IDP, including the description of the child or young person's needs or the educational provision required to meet those needs;
- a failure to make available the provision identified through the IDP;
- a decision to cease to continue an IDP.

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60. The Tribunal is grateful that its role is to be retained.
61. The Tribunal notes the proposed change of name to reflect the terminology that will be used under the new system. The Tribunal wonders whether it would be helpful to potential users for the title to reflect the disability jurisdiction of the Tribunal in addition to the proposed ALN jurisdiction.
62. In the alternative, and bearing in mind the recommendation in Andrew Felton's 'Review of Devolved Tribunals Operating in Wales Report' to expand the remit of the Tribunal to include admissions and exclusions, it may be sensible to give the Tribunal the more general name of the Education Tribunal for Wales and thereby avoid the necessity of amending the Tribunal name again.
63. The Tribunal is pleased that the right of appeal will be extended to include children and young people in addition to parents. The work carried out by the Tribunal Secretariat in support of the children and young people's right of appeal pilot schemes in Wrexham and Carmarthenshire means that the Tribunal is well placed to extend the jurisdiction across Wales. In addition the very helpful work trialed by Wrexham and Carmarthenshire can be used to help other local authorities build their capacity to deal with this extension of the right of appeal.
64. The Tribunal notes the proposed grounds of appeal in relation to IDPs.
65. The Tribunal is pleased that it will be given powers to enforce the provision identified in an IDP. It is extremely important for the effective running of the system that enforcement powers are available and that they have substance. The Tribunal looks forward to learning what the proposed enforcement powers will be and would be happy to work with decision makers further to finalise these proposals.
66. Clarification of the position in respect of whether there will be a right of appeal in respect of any refusal to initiate the IDP process as referred to in relation to Proposal 4 is needed. It is not specifically mentioned and it is unclear whether this right is not considered necessary because there will be no power to refuse a request from parents or children and young people for consideration as to whether they require an IDP or whether the power to refuse such a request and corresponding right of challenge is encapsulated as part of bullet point 1.
67. Similarly clarification is needed concerning whether the right to appeal against amendments to an IDP is retained within the right of appeal against the content of an IDP.

68. Although not mentioned in this consultation document in order to learn from cases that result in disputes it would be useful for the new system to include a process by which statutory bodies review their practices and procedures in such cases.

Proposal 20 – page 35 – Provide a right of appeal to any child, young person of school age or below who has an IDP (or their parents) or believes they should have one.

69. The Tribunal is pleased to see that decision makers have acted upon the concerns expressed by the Tribunal and others relating to the need to protect the interests of all children and young people with ALN and it endorses this proposal.

Proposal 21 – page 35 – Extend the right of appeal to post -16 learners with ALN, up to the age of 25, who are receiving or wish to receive education or training.

70. The Tribunal supports this proposal in principle.

Proposal 22 – page 36 – Restate the existing provisions in relation to independent advocacy services and case friends, but require Welsh Government to set out guidance on this, including mandatory requirements where necessary.

71. The Tribunal endorses this proposal in principle.

Conclusion

What will the impact be?

72. In the view of the Tribunal the current proposals are unlikely to deliver upon the aim of improving collaborative working in the way envisaged without the legislative frameworks for education, social care and health services being assimilated and placing shared responsibility upon all partners for effective assessment of need and delivery of provision. In turn, it is unlikely that a significant reduction in disputes will be achieved or that the number of appeals will be minimised without these changes.

73. It is positive that decision makers have recognised the need for and the importance of a robust transition plan to try to minimise the uncertainty and

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disruption that these proposed changes are likely to bring. It is vital that this transition plan is made available along side the Bill, the Code and proposed new Tribunal Regulations for further consultation.

74. By way of example, in relation to the climate of uncertainty that currently exists and the impact that this appears to be having, the Tribunal would like to draw the attention of decision makers to the fact that a number of cases that have come to Tribunal recently have highlighted instances where, because of the current uncertainty, local authorities and other service providers appear to have disregarded their obligations under the current legislation and the Code of Practice. In one instance, in particular, a Local Authority specifically stated that it had not followed the Code of Practice because it was now out dated.
75. Clearly training for all partners in respect of the new system will be essential and the Tribunal is pleased that decision makers have recognised this fact in the conclusion of the White Paper.
76. The Tribunal considers that there are likely to be significant cost implications in broadening and strengthening the ALN system as is proposed. The Tribunal looks forward to considering and commenting upon the regulatory impact assessment once this is published.
77. The Tribunal also considers that there are likely to be considerable resource implications for all those involved in the reforms. Capacity issues are frequently highlighted in Tribunal cases already, both in relation to local authority provision and in relation to social care and health provision. Recent SENTW User Group meetings highlighted the grave concerns of local authority ALN staff and other service providers concerning the capacity of local authorities and service providers to cope with the proposed changes. The Tribunal highlights this issue so that it can be addressed in the context of the proposed regulatory impact assessment.

Final Comments

78. The President of the Special Educational Needs Tribunal for Wales would like to thank Tribunal members for their contributions to this response.
79. The President would also like to thank Charlie Thomas and Paul Williams from the Additional Learning Needs Legislative Programme for coming to speak at recent SENTW User Group Meetings to elucidate the reform proposals.
80. The Tribunal hopes that decision makers find this response helpful in taking forward these reforms into legislation.

81. Clearly the process of SEN reform has come a long way since it was first mooted in 2002/2003. The Tribunal has been supportive of the proposed direction of change in large measure and continues to be so. The Tribunal looks forward to having the opportunity to contribute further to the reform process once the broad details set out in this White Paper have been fully worked up into draft legislation and supporting guidance. If the Tribunal can assist legislators and decision makers in preparing these drafts in anyway it is happy to do so.

82. Copies of this response are available in Welsh and in English.

83. Large print, Braille and alternative language versions of this document are available on request to the Special Educational Needs Tribunal for Wales.

ALN148: **Andrea Higgins**
Rhondda Cynon Taff County Borough Council

Question 1 – New terminology

- a) Do you agree that a new term, 'additional learning needs', (ALN) should focus on children and young people who need additional and/or different support with learning to allow them to benefit as fully as possible from the education or training available to them?

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

Welcome use of term ALN as opposed to AN as it is clearer and more appropriate
 BUT
 - lacks specificity and clarity eg which population will it serve
 we have found out that Ethnic Minorities are not included by attending a consultation session but this is not made explicit
 - needs to be clear to us If this is to be a genuine consultation. Otherwise

we do not know what we are responding to
 The previous definition was well established through legislation, the Code of Practice and case law.

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- b) Do you agree that the new system should apply to children and young people from birth up to the age of 25? If so, what implications should we consider for the professionals involved in assessing and providing that support?

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

This is simply not feasible and appears to be a very poorly thoughtout suggestion that completely lacks connectivity to other aspects of the 16-25 age group.

Legislation for young people should be introduced as one package relating to all the issues that affect the lives of this age group eg education and FE, employment finance, housing, health and mental health

These proposals could impact on a significant percentage of the 16-25 population

It will not be possible to implement at any level - resouces / staffing/ skills/ knowledge

Question 2 – Individual development plans (IDP)

- a) Do you agree that all children and young people with ALN should be entitled to an IDP which sets out their agreed additional learning provision?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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- b) Do you agree that IDPs should replace statutory assessment and statements of SEN, assessments for learners over 16 (under section 140 of the Learning and Skills Act 2000) and non-statutory plans including individual education plans under School Action and School Action Plus?

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

Different children with different levels of need will require different types of plans- one size cannot and should not fit all

Far more detail is required about the proposed Individual Development Plans, and the identification, assessment and planning processes that will underpin them. There will need to be prescribed processes which, as noted above, should differentiate the approach used for different levels of need even if the overarching IDP format will be similar or the same.

There is too great an expectation of schools involved in this proposal

How will young people who are 18+ going to be monitored and would they want it?

We need a more graduated response in Plan terms eg a one page profile for lower level needs with an increasingly complex planning format as the complexity of needs increases

It may well be that for a high number of children and young people with more mild to moderate, or specific, additional learning needs more limited, tailored plans are more appropriate than a holistic, overarching IDP.

Children and young people with more severe and complex needs will inevitably still require full multi-disciplinary assessment.

A further issue may be the age appropriateness of a common format, for example, a plan relating to a young adult should perhaps have a very different look, content and structure than a plan for a two, three or four year old. There should also be an expectation that the degree of involvement of the child or young person at the centre of the plan should increase with increasing age.

We would also like to make the point that the assessment process is equally as important as the IDP or plan format. Any new Code of Practice should lay out in clear detail the expectations for assessment that should underpin an IDP or plan. We would argue that the role of the Educational Psychologist in contributing to assessments, and thus the content of plans and specification of provision, is absolutely central for a high proportion of children and young people with SEN/ALN.

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- c) Do you agree that local authorities should be ultimately responsible for preparing an IDP for children and young people aged 0–25 with ALN and for ensuring that agreed provision set out in the IDP is delivered and reviewed?

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

Responsibility and accountability for IDPs for children and young people aged 0 - 25 with ALN cannot solely rest with Local Authorities. It is inappropriate for an organisation to be liable for issues for which it holds no legal responsibility, resources or influence. For the most part, the clear principle should be that responsibility and accountability should rest with the organisational level that holds the legal responsibility and the funding.

Question 3 – A new code of practice

- a) Do you agree that a new code of practice on ALN should include mandatory requirements in accordance with which local authorities, schools, further education institutions, local health boards and the tribunal must act?

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

A new COP will be vital if we are to have new legislation

Contrary to the view that your team seem to be promoting at consultation events the current Code of Practice has been an invaluable document that provides clear guidance in terms of both processes and responsibilities. We acknowledge that the document would benefit from review and updating but would make the following additional points.

Any new Code of Practice requires absolute clarity and specificity in relation to processes and responsibilities at all levels of additional learning needs.

We believe that the role of Educational Psychology Services should be formally incorporated into the procedural guidance, given the important contribution that Educational Psychology makes to the identification, assessment and provision planning for children and young people with SEN/ALN.

Any new Code of Practice must be underpinned by legislation that resolves the issue of prime and ultimate responsibility so that clarity is introduced by the delivery of speech and language and other para medical therapies.

Response to question 3b

Third sector and other education providers are generally transient in nature

dependent on short-term funding, guidance is necessary for the essential contributors.

How would this work as 'these organisations' are so varied?

- b) Do you agree that the code of practice should set out guidance for any other bodies, such as third sector organisations or other providers of education and training?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Question 4 – Securing provision

Do you agree that further education institutions should be included alongside schools, maintained nurseries and pupil referral units, as institutions that must use their 'best endeavours' to secure the additional learning provision called for in an IDP?

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

But this must be clearly and precisely addressed in the legislation and the COP LAs cannot be held as the responsible bodies should they fail to do so

Further education institutions are increasingly providing courses previously provided by schools. If they are not included it would be discriminatory against schools who still provide this.

We note that higher education is not included only further education.

How do you define 'best endeavours' it appears to be vague?

Question 5 – Securing specialist provision for young people

Do you agree that local authorities should be responsible for securing specialist education provision for post-16 learners outside of the further education sector where the IDP indicates that this is necessary to meet a young person's ALN?

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

This can only be viable with a complete change to post 16 on a much wider basis.

As noted in our comments above, we believe that it is both unreasonable and unrealistic to hold Local Authorities responsible for securing specialist education provision for Post 16 learners outside of the further education sector where the IDP indicates that this is necessary to meet a young person's ALN.

There is no clarity that the Local Authority will receive either the funding or the jurisdiction to deliver these responsibilities. It should be noted that the proposal does not just imply the resources required to directly support provision and placement but also to undertake the associated responsibilities of assessment, administration, monitoring and review.

Question 6 – Placement at independent schools

Do you agree that local authorities should be prohibited from placing a child or young person at an independent school which has not been registered to provide the type of additional learning provision identified in their IDP?

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

This is very sensible and should have been put in place a long time ago

Question 7 – A multi-agency approach to planning and delivery

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- a) Do you agree that local authorities, local health boards and further education institutions should be required to cooperate and share information in assessing, planning and delivering support to meet ALN?

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

We would agree with this statement in principle but co-ordinating the process could be difficult.

More children with IDPs, so who will co-ordinate getting everyone together? Who would be responsible for writing IDP and sharing information?

A key issue relates to 'co-operate' and how this is legally framed and delivered, including the requirement to contribute to assessment and resourcing of provision. Clearly specified legal obligations should be placed upon contributing partner organisations such as Health if this is to be successful

- b) As well as using the code of practice to provide guidance, are there any other ways in which you think multi-agency partnership working could be strengthened?

Supporting comments

The Code of Practice does need to address this requirement in prescriptive detail. As noted above, fundamental legislative reform is needed to set out the requirement for partner organisations to contribute to both assessment and the resourcing of provision.

Regular multi-agency forums/meetings would be an effective process but will be very time consuming.

Needs to be a 'layered' approach whereby children/young people with complex needs have everyone involved (as appropriate) and those with less significant needs have simpler version (doesn't this sound a little like déjà vu - SA, SA+ etc?)

Agree people should co-operate where appropriate, e.g. pupil with spelling difficulty will not need a SW involved.

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Question 8 – Supporting looked after children

Do you agree that IDPs should be able to replace or function as personal education plans for children and young people who are looked after by a local authority?

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

It would have been helpful to have a much more information about what an IDP will look like so we can comment with a degree of confidence rather than working on our assumptions!

A very vague and generalised document /plan will not be worth its cost in paper never mind the time it will take to complete. These are a very vulnerable group we will need a robust process in place.

At this stage and with this level of information who knows if an IDP will provide this?

Question 9 – Resolving disputes at an early stage

- a) Do you agree that local authorities should be required to put in place disagreement resolution arrangements?

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

But only because Local Authorities already do put in place disagreement resolution arrangements and encourage direct communication from parents.

Local Authorities often experience difficulties where parents do not raise their concerns directly with the Local Authority before proceeding to SEN Tribunal for Wales. We would wish to see a requirement for parents to participate in the preliminary stages of discussion and negotiation.

A core issue within the proposal is that the services may be required for a vastly increased number of cases, implying a need for significantly more resources. The implied increase in both the age range and the breadth of cases that would require IDPs implies a massive increase in the potential numbers being offered the enhanced statutory rights. Please see comments in the

following section.

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- b) Do you agree that there should be a requirement to use the appropriate local complaints processes prior to appeal to tribunal?

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

We would suggest that the sequence should always be one of direct contact and communication between parents and the Local Authority in the first instance. However, we would argue that there should be a requirement for parents to pursue discussions via the disagreement resolution route before proceeding to the SEN Tribunal for Wales.

We do not think that local complaints procedures, which should remain continually open to parents where they have a complaint against the Local Authority or Local Authority services, are the appropriate route for resolution of complex issues relating to assessment, provision and placement for pupils with ALN/SEN.

The current tribunal system is completely failing in its duties to provide a fair and balanced system of appeals and decision making it is key. This needs addressing as a matter of urgency before you make any further moves with this.

Question 10 – Extending the right of appeal

Do you agree with our proposals in relation to extending rights of appeal to tribunal (see proposals 19, 20 and 21)?

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

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Question 11

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

The principle of addressing needs of a wider ALN group is excellent but we cannot address all needs with the same tool

Use of person centred planning is again a very positive and appropriate move forward but we should have a graduated response

Much of what has been said in this document is exactly the same as was said 2 years ago there is little or no evidence of having previous comments concerns and responses having been addressed

The previous system was not as broken as has been presented. It had many strengths. It needed reviewing updating and improving but not abandoning. This is a clear case of 'throwing the baby out with the bathwater'

There is little or no evidence in these proposals of outcomes and findings of the pilots that were completed being considered unless they 'suit'

There are elements in these proposals which are returning SEN to a pre 1970 level ie not ensure a full and comprehensive assessment process of complex SEN. Many complained about the bureaucracy of statementing but not about the assessment process per se and many many parents valued this

The demands that will be made of LA resources will be immense and does not appear to have been considered ie:
ALN rather than just SEN so a significant increase in population
School action, school action plus and statemented pupils rather than just those with complex needs
0- 25 years rather than just 0-19 years

Much much more thought and consideration needs to be given to this or alternatively just move towards realistic and achievable improvements to systems

Financially this is not the time for changes on this scale

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

ALN149: Rex Philips
NASUWT

1. The NASUWT welcomes the opportunity to comment on the White Paper: *Legislative proposals for additional learning needs* (the White Paper).
2. The NASUWT is the largest teachers' union in Wales and the UK representing teachers and school leaders.

GENERAL COMMENTS

3. The NASUWT welcomes and agrees with the view expressed in the Ministerial foreword to the White Paper that '*every child and young person deserves to be provided with the very best opportunity to succeed*'.
4. In responding to the consultation in June 2012, *Forward in partnership for children and young people with additional needs*, the NASUWT asserted that the reduction in the number of children receiving statements since 2002/03 had resulted from changes to the special educational needs (SEN) descriptors that had made it more difficult for children and young people to secure a statement, and maintained that economics rather than educational needs had been the main driver for change (a copy of the NASUWT response is attached as Annex A).
5. The White Paper reveals that the reduction in the number of pupils entitled to a statement of SEN has continued to decline, with 754 fewer pupils receiving statements at January 2013 when compared to the number in 2011. Overall, since 2002 the number of pupils in receipt of statements has reduced by 3,113.
6. Whilst at face value this decline could support the Minister's view that the system of providing statements to supporting children with SEN is no longer fit for purpose, the Union continues to maintain that the system has been undermined by the desire of local authorities to support the inclusion of most pupils with SEN in the mainstream not in the interests of the pupils but to reduce the pressure on centrally held SEN budgets.
7. The NASUWT finds little in the White Paper to inspire confidence that the proposals will not provide a vehicle for further cost-cutting in terms of addressing the complex needs of those children and young people who should be entitled to specific, targeted and adequately funded support. Indeed, the Union is puzzled by the statement that '*it does not seem fair to base entitlement or protection on*

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the extent of a child or young person's needs'. Surely, the most in need deserve the greater level of protection, especially at times of economic constraint.

8. The NASUWT is concerned that the desire to achieve a more uniformed interpretation of the level of need is based on the assumption that this will resolve problems within the current system and address parental concerns about unfairness and inequity of access to provision. The Union maintains that the fundamental issue that needs to be addressed is about the funding, or more specifically the inadequacy of funding, to meet the current and increasing demands of children and young people with specific learning needs.
9. The NASUWT is pleased to note that a comprehensive consideration of the costs associated with the proposals will be made prior to the introduction of a Bill. However, the Union maintains that, in the interests of transparency, this analysis should include data relating to the total expenditure on SEN provision since 2002/03, expressed as a percentage of the overall expenditure on education on a year-on-year basis.
10. Further, the NASUWT expects the consideration of cost to take full account of the increased demands that the proposals are likely to have on schools and the school workforce. There must be a commitment from the Welsh Government to provide additional funding to support the costs associated with the aims set out in the introduction to the White Paper.
11. The NASUWT is also pleased to note the recognition that the legislative reforms and the new Code of Practice will need to be accompanied by an extensive programme of promotion and training amongst those responsible for delivering services for children and young people with additional learning needs (ALN).

SPECIFIC COMMENTS

12. The NASUWT offers the observations and comments that follow in relation to the questions posed on the consultation response form, but is clear that the answers provided should be set in the context of the views and comments expressed previously in the responses at Annexes A and B of this response.

Question 1 – New terminology

- a) Do you agree that a new term, ‘additional learning needs’,(ALN) should focus on children and young people who need additional and/or different support with learning to allow them to benefit as fully as possible from the education or training available to them?

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

The NASUWT agrees, in principle, with this proposal but advises caution about the rationale proffered for the change in terminology, as it appears to argue against the need for change.

The Union notes that the new term ‘additional learning needs’ is designed to capture children and young people who require additional learning provision in order to allow them to benefit as fully as possible from the education or training available to them. However, it is suggested, subsequently, that more able and talented children and young people, whilst requiring enhanced opportunities in order to achieve their full potential, would not be considered as having ALN, and that the intention is to include in the definition of ALN all those currently regarded as having SEN with the addition of young people up to the age of 25 identified as having ‘learning difficulties and/or disabilities’ (LLD).

Against this background, the Union questions whether the change in terminology is purely cosmetic as it is difficult to identify the additional groups of children and young people to be included as having ALN.

Further, the NASUWT remains concerned that changing the terminology could impact adversely on those children and young people with the most complex needs.

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- b) Do you agree that the new system should apply to children and young people from birth up to the age of 25? If so, what implications should we consider for the professionals involved in assessing and providing that support?

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

The NASUWT agrees that the new system should encompass young people up to the age of 25 who are currently said to have LLD.

However, the Union is concerned about the apparent contradiction in the White Paper in relation to the funding arrangements. On the one hand, it is suggested, in section 1.3, paragraph 5, of the White Paper, that further education (FE) institutions would continue to receive funding directly from the Welsh Government to support additional learning provision suitable to the needs of most children and young people with ALN, whilst on the other hand, it is stated at paragraph 7 that existing funding would be transferred from the Welsh Government to the Revenue Support Grant to support local authorities in their duty to secure specialist post-16 provision.

This appears to present a situation where FE institutions would be directly funded by the Welsh Government to provide for young people up to age 25 with ALN and will also receive funding from local authorities who are seeking to secure the ALN provision.

Question 2 – Individual development plans (IDP)

- a) Do you agree that all children and young people with ALN should be entitled to an IDP which sets out their agreed additional learning provision?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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- b) Do you agree that IDPs should replace statutory assessment and statements of SEN, assessments for learners over 16 (under section 140 of the Learning and Skills Act 2000) and non-statutory plans including individual education plans under School Action and School Action Plus?

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

The NASUWT has no principled objection to the introduction of the Individual Development Plan (IDP) but does not believe that the White Paper addressed sufficiently the concerns expressed in the response to the consultations on *Forward in partnership for children and young people with additional needs* (Annex A, Specific Comments – answer provided to question 2 of the consultation response form).

In summary, the NASUWT remains of the view that the introduction of the IDP could:

- increase the workload burdens of the professionals involved;
- lead to the provision of ALN support being treated as a stepped approach;
- see the responsibility for the co-ordination of services falling on schools;
- result in the person-centred methodology becoming workload and resource intensive; and
- prove to be over-ambitious, if the Welsh Government fails to ensure that sufficient resources, including the provision of time and training, is provided.

- c) Do you agree that local authorities should be ultimately responsible for preparing an IDP for children and young people aged 0–25 with ALN and for ensuring that agreed provision set out in the IDP is delivered and reviewed?

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

Although the NASUWT recognises that local authorities should be responsible for preparing the IDP for children and young people up to the age of 25, the Union maintains that this must be set in the context of the Welsh Government being

Legislative proposals for additional learning needs Responses 141-160

ultimately responsible for the provision of sufficient funds to enable local authorities to discharge this responsibility.

The NASUWT notes that currently Welsh Ministers are responsible for the assessment of post-16 learners with LDD who have left or are about to leave schools and for securing specialist post-16 provision where this is necessary.

Transferring the 'ultimate' responsibility to local authorities could be viewed as an abnegation of responsibility by the Welsh Ministers towards some of the most vulnerable young people in Wales.

Question 3 – A new code of practice

- a) Do you agree that a new code of practice on ALN should include mandatory requirements in accordance with which local authorities, schools, further education institutions, local health boards and the tribunal must act?

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

The NASUWT agrees with this proposal and will respond to the consultation on the new statutory Code of Practice on ALN (the Code).

However, the Union is somewhat concerned by the suggestion, in section 1.3, paragraph 3, of the White Paper, that Regulations, in the form of statutory instruments, will be kept to a minimum, possibly restricting these only to the procedures by which the Tribunals will operate.

The NASUWT notes that establishing the mandatory duties under the Code will provide the Welsh Government with the ability to exercise their existing powers of intervention under the School Standards and Organisation (Wales) Act 2013, but suggests that minimising the provisions of the Regulations could impede the ability of other interested parties to make legal challenge where this may be considered necessary.

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- b) Do you agree that the code of practice should set out guidance for any other bodies, such as third sector organisations or other providers of education and training?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Question 4 – Securing provision

Do you agree that further education institutions should be included alongside schools, maintained nurseries and pupil referral units, as institutions that must use their 'best endeavours' to secure the additional learning provision called for in an IDP?

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

The NASUWT agrees with this proposal but maintains that the term 'best endeavours' needs to be fully and unequivocally defined, if it is not to be used as an objective justification for being unable to provide the ALN identified in the IDP.

The Union does not consider the definition referred to in section 1.3, paragraph 6 of the White Paper – 'to do all that they reasonably can' – to be sufficiently rigorous or robust to prevent the denial of provision.

Further, NASUWT maintains that the Welsh Government will need to set out clearly the nature of the provision that is covered by the term 'additional learning provision', and the support that those identified as having ALN other than SEN should be entitled to receive.

Question 5 – Securing specialist provision for young people

Do you agree that local authorities should be responsible for securing specialist education provision for post-16 learners outside of the further education sector where the IDP indicates that this is necessary to meet a young person's ALN?

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

The NASUWT agrees that local authorities should hold this responsibility, but only in the context of the answer given to question 2 (c).

Question 6 – Placement at independent schools

Do you agree that local authorities should be prohibited from placing a child or young person at an independent school which has not been registered to provide the type of additional learning provision identified in their IDP?

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

The NASUWT agrees with this proposal. Indeed, the Union was clear in its response to the consultation on the *Reform of the registration and approval of independent schools in respect of special educational needs* that independent schools should be required to register where they cater for pupils with statements of SEN and pupils with SEN but who are not in receipt of a statement (a copy of the NASUWT response is attached as Annex B).

Question 7 – A multi-agency approach to planning and delivery

- a) Do you agree that local authorities, local health boards and further education institutions should be required to cooperate and share information in assessing, planning and delivering support to meet ALN?

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

The NASUWT agrees with this proposal in the context of the views expressed elsewhere in this response and in Annex A.

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- a) As well as using the code of practice to provide guidance, are there any other ways in which you think multi-agency partnership working could be strengthened?

Supporting comments

The NASUWT maintains that the identification of dedicated and earmarked funding streams and the clear identification of the roles and responsibilities of the partner agencies, possibly through Regulation, will be vital to ensuring that ALN provision is both appropriate and effective.

Question 8 – Supporting looked after children

Do you agree that IDPs should be able to replace or function as personal education plans for children and young people who are looked after by a local authority?

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

The NASUWT sees little merit in moving to a single statutory plan – the IDP – that identifies the entitlements of every child and young person with ALN, if local authority looked-after children and young people continue to be provided with personal education plans.

Question 9 – Resolving disputes at an early stage

- a) Do you agree that local authorities should be required to put in place disagreement resolution arrangements?

Agree	<input type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input checked="" type="checkbox"/>
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Legislative proposals for additional learning needs Responses 141-160

Supporting comments

The NASUWT recognises the merit in this proposal but maintains that the provision of adequate and appropriate funding to cover the cost of setting up and maintaining such arrangements must be forthcoming from the Welsh Government if it is to be adopted and implemented successfully.

The Union maintains that the independence of the disagreement resolution arrangements will be vital, if parties are to be confident in outcomes.

- b) Do you agree that there should be a requirement to use the appropriate local complaints processes prior to appeal to tribunal?

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

The NASUWT agrees with this proposal in the context of the answer given to part (a) of this question.

Question 10 – Extending the right of appeal

Do you agree with our proposals in relation to extending rights of appeal to tribunal (see proposals 19, 20 and 21)?

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

The NASUWT recognises that the proposals in relation to extending the right of appeal to tribunals are entirely reconcilable with the Welsh Government's commitment to recognising the rights of children and young people and their parents and carers.

Legislative proposals for additional learning needs Responses 141-160

Question 11

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

The NASUWT notes the absence in the conclusion of the White Paper of any need for the proposals that will directly affect the professionals at the point of delivery to be workload impact assessed.

The Union is particularly concerned about the role of the Additional Learning Needs Co-ordinator (ALNCO) but maintains that the proposals could impact adversely on other members of the school workforce in respect of workload.

The NASUWT notes that the conclusion of the White Paper lists the positive impact that the proposals should realise, but is disappointed by the apparent lack of ambition, reflected also throughout the White Paper, in identifying that the proposals should enable the Welsh Government to ensure the availability of sufficient funds to meet the needs of children and young people with ALN.

ALN150: Julie Salter

Having read this document the proposals are long overdue. Everything is all very well on paper but when it gets to practice will these actually be carried out?

As you state within your proposal white paper the current system has led to detrimental effects upon a number of children and they have not been allowed to reach their full potential.

***** was finally diagnosed correctly this year at the age of 17 with Aspergers Syndrome and the education system stated all along that he was "speech and language" problems. Thus he has missed out on achieving his full potential during his formative school years.

There is one thing that I would like to highlight: How are you going to stop any incompetencies that occur due to children being misdiagnosed? Also, the earlier a child is diagnosed with an additional learning needs problem the earlier interventions by the education system and parents can be implemented. I am now having to "teach" ***** new techniques for being in the wider world.

ALN151: **Gaynor Cynan-Jones**
Rhondda Cynon Taff County Borough Council

Question 1 – New terminology

- a) Do you agree that a new term, 'additional learning needs', (ALN) should focus on children and young people who need additional and/or different support with learning to allow them to benefit as fully as possible from the education or training available to them?

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

We need a comprehensive list of categories which would be covered by the new term.

- b) Do you agree that the new system should apply to children and young people from birth up to the age of 25? If so, what implications should we consider for the professionals involved in assessing and providing that support?

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

There still needs to be further clarification regarding:-
- Where will funding come from?
- Training for professionals
- IDPs - These plans will need to cover a huge range of need and differentiation and it is difficult to see how this will bring improvements.

Additional comments from RCT Transport Dept
Transport - If agreed - who would be responsible for providing and funding transport? No funding currently available for post 19 transport within the Local Authority. Concerns regarding additional funding pressure that it would place on the Local Authority.

Legislative proposals for additional learning needs Responses 141-160

Question 2 – Individual development plans (IDP)

- a) Do you agree that all children and young people with ALN should be entitled to an IDP which sets out their agreed additional learning provision?

Agree	<input type="checkbox"/>	Disagree	<input checked="" type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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- b) Do you agree that IDPs should replace statutory assessment and statements of SEN, assessments for learners over 16 (under section 140 of the Learning and Skills Act 2000) and non-statutory plans including individual education plans under School Action and School Action Plus?

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

There are concerns that this would be too wide a brief to be covered by one approach and this could devalue arrangements for more complex learners.

Additional comments from RCT Transport Dept

Transport - If agreed - what will IDP contain and will there be a reference to transport arrangements? No funding currently available for Post 19 transport within the Local Authority. Concerns regarding additional funding pressure that it would place on the Local Authority.

- c) Do you agree that local authorities should be ultimately responsible for preparing an IDP for children and young people aged 0–25 with ALN and for ensuring that agreed provision set out in the IDP is delivered and reviewed?

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

There would be concerns that a 'one size fits all' approach is unlikely to be helpful.

Additional Comments from RCT Transport Dept

Transport - If agreed who would be responsible for transport costs post 19? No funding currently available for post 19 transport within the Local Authority. Concerns regarding additional funding pressure that it would place on the Local Authority.

Legislative proposals for additional learning needs Responses 141-160

Question 3 – A new code of practice

- a) Do you agree that a new code of practice on ALN should include mandatory requirements in accordance with which local authorities, schools, further education institutions, local health boards and the tribunal must act?

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

Comments from RCT Transport Dept

Transport - Who would be responsible for transport costs post 19? No funding currently available for post 19 transport within the Local Authority. Concerns regarding additional funding pressure that it would place on the Local Authority.

- b) Do you agree that the code of practice should set out guidance for any other bodies, such as third sector organisations or other providers of education and training?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Question 4 – Securing provision

Do you agree that further education institutions should be included alongside schools, maintained nurseries and pupil referral units, as institutions that must use their 'best endeavours' to secure the additional learning provision called for in an IDP?

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

It would be important to include higher education institutions.

Additional Comments from RCT Transport Dept

Transport - If agreed, there are transport implications. Young people need to be identified early in secondary phase of education and commence travel training, if appropriate. This will ensure that transport is not a barrier in the future and will help to gain confidence to travel independently of a specialist provision (i.e. taxi). This would need to be funded and there are concerns regarding the additional funding pressure that it would place on the Local Authority.

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Question 5 – Securing specialist provision for young people

Do you agree that local authorities should be responsible for securing specialist education provision for post-16 learners outside of the further education sector where the IDP indicates that this is necessary to meet a young person's ALN?

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

Comments from RCT Transport Dept

Transport - If agreed, who would be responsible for transport costs post 19? No funding currently available for post 19 transport within the Local Authority. Concerns regarding additional funding pressure that it would place on the Local Authority.

Question 6 – Placement at independent schools

Do you agree that local authorities should be prohibited from placing a child or young person at an independent school which has not been registered to provide the type of additional learning provision identified in their IDP?

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

Comments from RCT Transport Dept

Transport - If agreed, who would be responsible for transport costs post 19? No funding currently available for post 19 transport within the Local Authority. Concerns regarding additional funding pressure that it would place on the Local Authority.

Question 7 – A multi-agency approach to planning and delivery

- a) Do you agree that local authorities, local health boards and further education institutions should be required to cooperate and share information in assessing, planning and delivering support to meet ALN?

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

There would need to be agreed protocols to cover data security issues.

Additional Comments from RCT Transport Dept

Transport - regular updates or meetings are needed to discuss the transport arrangements for those intending to transfer to FE, so that travel training, if appropriate, can be commenced sooner rather than later.

- b) As well as using the code of practice to provide guidance, are there any other ways in which you think multi-agency partnership working could be strengthened?

Supporting comments

Clear agreements and guidance about information sharing, which includes Health Boards

Question 8 – Supporting looked after children

Do you agree that IDPs should be able to replace or function as personal education plans for children and young people who are looked after by a local authority?

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

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Question 9 – Resolving disputes at an early stage

- a) Do you agree that local authorities should be required to put in place disagreement resolution arrangements?

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

As a compulsory element to any arrangements.

Additional Comments from RCT Transport Dept

Transport - If transport will not be provided inform parents before placement is agreed.

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- b) Do you agree that there should be a requirement to use the appropriate local complaints processes prior to appeal to tribunal?

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

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Question 10 – Extending the right of appeal

Do you agree with our proposals in relation to extending rights of appeal to tribunal (see proposals 19, 20 and 21)?

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

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Question 11

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

There are concerns about definitions, and some lack of clarity about how some of the proposals can be implemented effectively.
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Responses to consultations may be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here: ☐

ALN152: **Catrin Edwards**
 Sense Cymru

Question 1 – New terminology

- a) Do you agree that a new term, ‘additional learning needs’,(ALN) should focus on children and young people who need additional and/or different support with learning to allow them to benefit as fully as possible from the education or training available to them?

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

The White Paper states that learners captured by the definition of ALN will include all of those currently regarded as having SEN, as well as encompassing young people up to the age of 25 who are currently said to have LDD. **This must include all children and young people with multi-sensory impairments.**

Deafblindness is a combination of both sight and hearing difficulties. We will use the term multi-sensory impairment (MSI) for children or young people who are deafblind throughout our response. People who are deafblind often experience problems with communication, access to information and mobility; children and young people face extra difficulties in their development as a result of MSI. A small number of children in Wales are completely deaf and blind, but most have some residual sight and/or hearing. Many have additional challenges, such as medical conditions or other physical impairments. In addition, many have impairments of the other senses; for example, problems with balance, taste or smell.

Sense’s toolkit for children’s services – Reaching Out – describes the impact of MSI: “Lack of useful hearing and/or vision from birth impacts considerably on a child’s ability to acquire language, communication and independence skills. Deafblind children are acutely deprived of sensory information and accidental learning. This combined disability restricts the child’s ability to make sense of the environment and will profoundly affect their ability to learn. Children with MSI may be very slow to learn to use their residual senses, because it is much harder to learn to understand, discriminate and use sensory information that is partial and/or distorted. This does not necessarily mean that these children have a cognitive impairment, but rather that it is a very slow process for them to learn to generalise from poor auditory and visual information and smell and touch.”

MSI is a very low incidence condition. Research commissioned by Sense estimates that there are just over 200 children with MSI in Wales [Robertson J and Emerson E, Estimating the Number of People with Co-Occurring Vision and Hearing Impairments in the UK, 2010]. We believe that MSI is currently underestimated by Welsh Government and local government data; for example, Pupil Level Annual School Census data for 2010-2011 records 94 pupils with MSI in Wales: 40 with no statement, 24 whose major need is MSI and who have a statement, and 30 on School Action or School Action Plus.

Because of its low incidence, the additional learning needs of children and young people with MSI can be misunderstood, even by health, education or social service professionals. We also have anecdotal evidence that the needs of children with MSI are recorded inaccurately in their statements (e.g. 'severe learning difficulty' instead of 'Multi-Sensory Impairment'). Parents consulted by Sense Cymru in south Wales voiced concerns about understanding of MSI:

"The school doesn't understand my child's condition. School reports have even acknowledged they don't understand my child's speech all the time."

"The headteacher at the school...thought our child just had learning difficulties. Our child was harming themselves at school. They were unstimulated there. It was a babysitting service."

"Getting the local authority to recognise what MSI means was a struggle."

While Sense Cymru supports the change of terminology to 'Additional Learning Needs', we regret that the terminology has been narrowed from the previous proposal of 'Additional Needs'. We do, however, **welcome that the new term will reflect provision from a range of services beyond education that will enable a child or young person to access learning. It is essential that the needs of children and young people with MSI are considered holistically.** The potential effect of MSI is significant and children and young people will typically require access to:

Education support:

The introduction of mandatory qualifications for teachers of children with MSI, visual impairment (VI) and hearing impairment (HI) was a specific acknowledgement that such impairments create unique challenges to learning which can only be addressed by specialist knowledge and understanding. For this reason, children with MSI will require access to specialist teachers.

At present, due to the limited number of qualified MSI teachers employed in schools and local authorities, many deafblind children do not receive support from an appropriately qualified specialist teacher. The Welsh Government supported the establishment of three Regional MSI services (based in north Wales, south west Wales and Gwent) to provide specialist MSI teacher input where it was not available 'in house'. However, not every local authority currently buys-in to the available services. **Sense believes further developments in regional MSI services is a sensible way to ensure access to specialists in a cost-efficient way and recommends work should be undertaken with existing regional MSI services to improve local authority provision and to encourage the spread of good practice across Wales.**

Due to the low incidence nature of MSI, an ALNCO is unlikely to come into regular contact with children with these disabilities. For this reason, it is also important that they know how to access specialist MSI, HI and VI teachers, as appropriate.

Where a child is identified as being MSI, consideration should be given to the involvement of VI and HI teachers as well as those with an MSI specialism. Due to the nature of impairments of this type, MSI, VI and HI teachers often need to work in interdisciplinary and multidisciplinary ways to successfully assess and make provision for the child.

Specialist one-to-one support:

One-to-one support can help children with MSI to access mainstream social and leisure activities. There are two main types of one to one support: [Intervenors | Sense](#) and [Communicator-guides | Sense](#):

The majority of deafblind children will require an intervenor, who plays a role in supporting the child's development. An intervenor provides one-to-one support to congenitally deafblind children or adults, enabling the individual's social and personal development, encouraging their independence and facilitating their communication with the world around them. Intervenor support can be provided in the person's home, in their local community, in an educational or vocational setting, or across several settings. Some children, particularly those who acquire deafblindness at an older age, will require the support of a communicator-guide, who will assist with communication and mobility in everyday activities.

Social care support:

Deafblind children/young people and their families should receive support from the social workers based in local authority children with disabilities teams. These teams provide a range of social care support for the child and their family including: practical assistance in the home; support in acquiring useful technology; help to access recreational and educational facilities outside the home; travel and other assistance; home adaptations and facilities and access to short breaks.

Health support:

Deafblind children also receive support from a range of health professionals, depending on the nature of their impairments. This will often include professionals working in audiology and ophthalmology teams and Speech and Language Therapists. Physiotherapists and Occupational Therapists can carry out sensory integration assessments. Paediatricians are also often involved with overseeing medical care and coordinating input from a range of health professionals.

For children and young people with MSI, meeting learning outcomes will depend on that child or young person having the right support across education, health and social care. We would like to see this reflected in any legal definition of 'additional learning needs'.

- b) Do you agree that the new system should apply to children and young people from birth up to the age of 25? If so, what implications should we consider for the professionals involved in assessing and providing that support?

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

We support the proposal that the new system should apply to children and young people from birth up to the age of 25.

Due to a lack of access to sensory information, deafblind children have a greater challenge to understand and learn about the world around them and can experience significant developmental delay from a very early age. The provision of early intervention, in the form of specialist communication and mobility support for congenitally deafblind/MSI children (from birth or onset of diagnosis), is vitally important to help children access future social and educational opportunities.

We therefore welcome that the Code of Practice will provide guidance to professionals on the early identification of children with ALN, including those below compulsory school age. Preschool provision is often provided by health and third sector organisations; it is therefore crucial that guidance is provided to all organisations – both in the maintained and independent sectors – on the early identification of children with MSI. Reference is made in the White Paper to the need to ensure that all agencies and professionals from health and early years' provision should be supported to work closely with others in identifying children who need extra support. Whilst we support this proposal we believe further clarity is needed with regards the duties on services in these settings. The recently passed Children and Families Act in England places a duty on health services to inform the relevant local authority if a child under compulsory school age may have ALN. A similar duty would strengthen the provision of ALN support for children in the pre-school age group in Wales.

We also welcome that the new system will extend up to the age of 25. Children and young people can experience serious difficulties in the transition period and need support to manage the changes in their life and when leaving school. Sense Cymru's 'Being me!' project aims to improve the experience of transition into adult life for MSI young people between the ages of 14-25 living in south-east Wales. The project helps clients to prepare and plan for the move from school to adult services so they experience well-planned transition, which is sensitive to their needs and aspirations. It is imperative that young people transitioning from school are able to access appropriate, specialist support and that this support is set out clearly in their IDP.

Implications for professionals:

Effective planning is needed to accurately anticipate the numbers of young people reaching the upper age limits. Improved identification of children and young people with MSI would help resolve this situation. The Welsh Government should avoid the situation in England where official statistics say there are no young people with MSI in the 19-25 age group, which is clearly incorrect. As part of their duty to collaborate, local authorities, health and education agencies should share data on the identification rates of children and young people with MSI to enable better planning and provision.

Likewise, there are implications with regards the inclusion of children of pre-school age, particularly children aged 0-2, whose learning is unlikely to happen in a formal educational setting. For it to be a truly 0-25 system the legislation must set out how professionals from amongst health and care will also contribute to the identification and provision of learning for

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this age group.

We welcome the inclusion of a module on ALN within the Masters in Educational Practice Programme, raising teachers' awareness of ALN more broadly. However, we consider that greater steps need to be taken to increase awareness of low incidence conditions, such as MSI, among professionals. Key clinical, social service and education staff should be aware that MSI exists and how to ensure that appropriate provision is set in place within the IDP. Parents at a Sense Cymru consultation in October 2012 raised the issue of professionals' awareness of MSI:

"There's a problem with adapting the curriculum. My child's in a mainstream school and is learning phonics. But my child is also deafblind and receiving speech and language therapy. Sometimes my child can't physically say or hear the sounds they're asking him to do, particularly if my child's hearing aids aren't in. One time my child was put on time out for 'being disruptive' but it was because he couldn't hear the sounds the teachers were asking him to say."

"The average nurse does not understand deafblindness in children or adults. My child used to go berserk with some of the nurses because they'd put lines into my child's arm when they were not wearing their glasses and hearing aids."

Question 2 – Individual development plans (IDP)

- a) Do you agree that all children and young people with ALN should be entitled to an IDP which sets out their agreed additional learning provision?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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- a) Do you agree that IDPs should replace statutory assessment and statements of SEN, assessments for learners over 16 (under section 140 of the Learning and Skills Act 2000) and non-statutory plans including individual education plans under School Action and School Action Plus?

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

Sense Cymru agrees in principle to the proposal to replace statutory assessments and statements of SEN, assessments for learners over 16 and non-statutory plans with IDPs and that all children and young people with ALN should be entitled to an IDP.

However, we believe that it is essential for all young people with MSI to have a statutory entitlement to support and that reform to ALN provision should ensure that MSI is defined as a 'significant need' at the very least.

Children with MSI currently have statutory rights from Welsh Deafblind Guidance

[National Assembly for Wales Circular No.10/01, 31 August 2001] that entitles them to be identified and contacted by their local authority, to specialist assessments and to appropriate services. Each child with MSI has distinct needs that can only be met through the provision of specialist support in education, health and social care. We propose that all children who are identified as having MSI should be entitled to an IDP to ensure that the appropriate services and interventions are put in place to ensure a child can develop, attain and achieve.

At a Sense Cymru consultation event in north Wales parents voiced concerns about the IDP model:

“Even with a statement at the moment the services seem reluctant to quantify or specify what my child is entitled to.”

Parents consulted also said they would like to see the following issues included in the IDP:

Information on behaviour patterns of their children: *“In the IDP I’d like health and education to have more information on behavioural aspects, which are rarely covered at the moment. Some staff are good at picking them up and others not. For example, they need to understand that my child will sometimes smile and nod even if they have not understood something.”*

Clarity about roles and responsibilities: *“The IDP will need time limits and ensure accountability and ownership of all the tasks.”*

Facts about their child’s condition: *“The IDP will need the facts about the child’s disabilities. It should say ‘Johnny is deafblind – he has a combination of sight and hearing difficulties’ and then list those difficulties. It can’t just have the ‘nice’ bits about preferences, likes and dislikes and so on.”*

Given the crucial role of the IDP, we would like further information about its anticipated format and content. Sense Cymru would be happy to work with Welsh Government to develop these proposals.

- b) Do you agree that local authorities should be ultimately responsible for preparing an IDP for children and young people aged 0–25 with ALN and for ensuring that agreed provision set out in the IDP is delivered and reviewed?

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

We welcome the focus this White Paper brings to the importance of multi-agency working in meeting the needs of children and young people with ALN. However, it is vital that one agency is held accountable for the preparation and implementation of the IDP. We are in agreement that this responsibility should lie with the local authority.

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The White Paper raises concerns about the current 'local interpretation' of the existing SEN Code of Practice resulting in variation and inconsistency of approach across local authorities. As such, there will need to be clearer guidance for local authorities on the preparation, delivery and review of the IDP to ensure that this system is implemented consistently across Wales.

An example of current inconsistencies between local authorities in Wales is local services' approaches to MSI. In 2013 Sense Cymru placed Freedom of Information requests to determine **the definitions local education authorities use to identify and record MSI. There was considerable variation between local authorities: some used Welsh Government quality standards or Department of Education definitions whilst 2 local authorities reported having no definition at all. Identifying MSI is a crucial first step in ensuring that a child or young person's IDP sets out the appropriate additional learning provision needed to meet their ALN.**

This issue has further implications with regards the production of the IDP by local authorities, namely:

The portability of the IDP: further clarity is needed regarding the ability of an IDP produced by one local authority to move with the child or young person should that individual move home and/or school. The onus should be on the local authorities involved to ensure that children, young people and their families are not subjected to further assessments as they move, unless the child or young person's needs have changed significantly.

Current regional provision of MSI services: each local authority in Wales is responsible for ensuring adequate MSI provision yet with the low incidence of the condition it is not always practical for each local authority to commission support independently. Local authorities have therefore been encouraged to work on a regional basis and, as referred to above, there are examples of effective joint regional working and commissioning of services within north Wales, south west Wales and Gwent.

IDPs produced by local authorities will therefore need to be produced in formats accessible to, and functional for, other local authorities if both of these issues are to be overcome.

Sense Cymru therefore calls on Welsh Government to consider the following recommendations to facilitate effective IDP production by local authorities:

- **Standardised and official definitions of MSI should be adopted by local authorities for the purposes of identifying MSI.**
- **There should be a standardised practice for recording MSI on the IDP.**

Question 3 – A new code of practice

- a) Do you agree that a new code of practice on ALN should include mandatory requirements in accordance with which local authorities, schools, further education institutions, local health boards and the tribunal must act?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Legislative proposals for additional learning needs Responses 141-160

Supporting comments

Sense Cymru is in agreement that there should be clear mandatory requirements placed upon local authorities, schools, further education institutions and health boards within the Code of Practice to ensure consistency and quality of service across Wales. We would welcome the opportunity to work with Welsh Government on the wider details of the Code of Practice.

Sense Cymru would like to draw attention to the statutory guidance NAFWC 10/2001 – Social Care for deafblind children and adults, which sets out the duties local authorities have to identify and specially assess deafblind children. Reference should be made to this statutory guidance or its equivalent in the new Social Services and Wellbeing (Wales) Act, in the Code of Practice.

The Code of Practice will set out detailed mandatory requirements in relation to the minimum requirements for information that must be included in the IDP. This must include the necessity to record sensory impairment as an additional need, even where it is not sufficient to be recorded as a primary or secondary need.

It is crucial that the Code of Practice acknowledges the importance of involving third sector organisations and other providers of education and training in the planning and implementation of ALN provision. As such, we agree that the Code of Practice should provide guidance to these bodies and should include mandatory requirements of them when they are funded to provide statutory services. (Please also see our response to question 7 in relation to the importance of mandatory requirements within the Code of Practice to ensure effective multi-agency working.)

- b) Do you agree that the code of practice should set out guidance for any other bodies, such as third sector organisations or other providers of education and training?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Question 4 – Securing provision

Do you agree that further education institutions should be included alongside schools, maintained nurseries and pupil referral units, as institutions that must use their 'best endeavours' to secure the additional learning provision called for in an IDP?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Legislative proposals for additional learning needs Responses 141-160

Supporting comments

Given that the proposed framework will support children and young people from 0-25 it is appropriate that all education institutions engaging pupils within this age bracket should be required to adhere to the same principles. As such, Sense Cymru supports the proposal to include further education institutions alongside schools, maintained nurseries and pupil referral units as institutions that must use their 'best endeavours' to secure additional learning provision called for in an IDP.

However, the term 'best endeavours', with reference to all institutions, will require clarification. As it currently stands, there is little consensus on the interpretation of this term in practice. Differing interpretations will inevitably lead to variation, which has implications for ensuring a consistent approach to provision for children and young people with ALN.

Question 5 – Securing specialist provision for young people

Do you agree that local authorities should be responsible for securing specialist education provision for post-16 learners outside of the further education sector where the IDP indicates that this is necessary to meet a young person's ALN?

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

We are in agreement that local authorities should be responsible for securing specialist education provision for post-16 learners outside of the further education sector. Many young people with MSI have complex ALNs which may mean that further education is inappropriate for them. Sense Cymru believes that every young person with MSI should be enabled to receive further education or training, should they choose this, and that additional learning provision set out in the IDP should not be limited to the further education setting. Successful examples of such provision, such as Sense Cymru's aforementioned 'Being me!' project, are testament to the importance of learning opportunities for young people with ALN outside formal education institutions.

Question 6 – Placement at independent schools

Do you agree that local authorities should be prohibited from placing a child or young person at an independent school which has not been registered to provide the type of additional learning provision identified in their IDP?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Legislative proposals for additional learning needs Responses 141-160

Supporting comments

Sense Cymru believes that children and young people with MSI should be placed in a school that is able to meet their needs, including in terms of appropriately trained staff, curriculum access and the physical environment.

We would like further clarity on how this proposal will relate to proposed placements in specialist schools in England. As there is no specialist provision in Wales for MSI children and young people, some access provision in England. We therefore seek assurance that schools outside Wales are also included in this registration.

Question 7 – A multi-agency approach to planning and delivery

- a) Do you agree that local authorities, local health boards and further education institutions should be required to cooperate and share information in assessing, planning and delivering support to meet ALN?

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

Parents of children and young people with MSI who were consulted by Sense Cymru agreed that there needs to be new measures to ensure multi-agency working. Parents and grandparents from south Wales said:

"We had to do all the co-ordinating ourselves. The school has had no contact with health apart from with the speech and language therapist."

"It's co-ordination that's completely absent. Each department is not interested in what the other departments are doing."

"Nowhere in law is there any reference to co-ordination. Surely there could be a checklist of agencies that may need to be involved."

"It's like pieces of a jigsaw. Gradually things are put together but they're not sharing and the school is often out of the loop."

As children and young people with MSI have such complex needs, it is not uncommon to receive input from up to 30 specialists across health, education and social care. For this reason, the issue of better coordinated assessments and support is extremely important for many of the families supported by Sense. Children and young people with MSI and their families would particularly benefit from the careful co-ordination of the IDP assessment process to minimise disruption and the use of a 'tell us once' approach, wherever possible. Where many professionals are involved there is real value in an approach which promotes the use of face-to-face multi-disciplinary meetings – both in relation to ensuring that the assessment is holistic and in the potential to

design packages of support in a more timely way.

Effective multi-agency working should be a mandatory requirement on local authorities, local health boards and education institutions. The following duties are currently in place and should be adopted or adapted:

- Social Services and Well-being (Wales) Act 2014 – requiring the local authority to make arrangements to co-operate with its partners and ensure the integration of care and support in order to improve the well-being of children and young people.
- Children and Families (Wales) Measure 2010 – statutory duty of co-operation between local authorities, health and other partners.
- Section 322 of Education Act 1996 - a duty on health to comply with local education authority requests.
- NAFWC 10/2001 – Social Care for deafblind children and adults – statutory guidance which sets out the duties local authorities have to identify and specially assess deafblind children.

A new system encompassing all of these requirements would bring consistency across Wales and clarity for those agencies involved.

Reference has already been made to the current regional provision of MSI services in north Wales, south west Wales and Gwent. Sense Cymru believes that greater collaboration between local areas and the promotion of regional working could help local professionals to plan, commission and deliver the best possible services for children and young people with MSI. Whilst this White Paper proposes that there is a mandatory requirement for local authorities, health boards and education authorities to work together, it says little about the importance of joint working across local authority boundaries. **Currently, not all local authorities have bought-in to the current regional MSI provision arrangements and it is possible that not all local authorities are able to meet their responsibility to children and young people with MSI. We therefore ask that the Bill encourage collaboration between local authorities on a regional basis to secure the best outcomes for children with MSI.** Regional provision and commissioning would have the further benefit of securing the best value for money for commissioners.

- b) As well as using the code of practice to provide guidance, are there any other ways in which you think multi-agency partnership working could be strengthened?

Supporting comments

We welcome the Welsh Government's commitment to using person-centred planning techniques to help ensure that the child or young person and their family are able to take as active a role as possible in decision making about their AL provision. In this sense, the child or young person and their family should be considered as 'agents' within the multi-agency partnership. The IDP process in particular should put the MSI child or young person and

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their family at the heart of additional learning provision planning. Parents, carers and young people must be given the opportunity to be fully involved in the assessment process and encouraged and supported, if necessary, to make their contribution. Guidance with regards the effective and meaningful involvement of children, young people and their families in the IDP process is therefore to be welcomed.

Despite revoking the proposal to implement Provision Pathways for all ALNs, the White Paper continues to acknowledge the merit of such pathways in relation to learners with specific hearing or visual impairments. Provision Pathways in these contexts can offer clearly defined roles, responsibilities and minimum standards for service provision. Given the low incidence of MSI and the need for specialist provision, a similar pathway for MSI would help guide practitioners working in partnership to identify and implement good service provision. Sense Cymru is keen to work with Welsh Government to develop an MSI Provision Pathway and would welcome further discussion on this issue.

Question 8 – Supporting looked after children

Do you agree that IDPs should be able to replace or function as personal education plans for children and young people who are looked after by a local authority?

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

We welcome the intention to streamline the education planning process for looked after children and young people through the replacement of personal education plans with IDPs, where appropriate. Local authorities should minimise the number of assessment processes for children and young people and avoid duplication by operating a 'tell us once' approach when possible.

Question 9 – Resolving disputes at an early stage

- a) Do you agree that local authorities should be required to put in place disagreement resolution arrangements?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Legislative proposals for additional learning needs Responses 141-160

Supporting comments

We agree with this proposal. To ensure a consistent disagreement resolution system across Wales, the Code of Practice should set out requirements and parameters to which all local authorities' disagreement resolution arrangements must adhere. Timeframes within which disagreements must be resolved or progressed to the appeals Tribunal should be among such requirements.

- b) Do you agree that there should be a requirement to use the appropriate local complaints processes prior to appeal to tribunal?

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

We agree in principle that parents and children should follow the appropriate local complaints process before this complaint is escalated to the appeals Tribunal. In the majority of cases this will result in a faster and more efficient complaints procedure as well as avoiding the emotional turmoil incurred by complainants undertaking a full appeals process.

However, we do see merit in being able to take a case directly to Tribunal when there has been a clear breach of legal obligations. In such cases, following the local complaints procedure will lead to unnecessary delays and as such, we suggest that the Code of Practice set out where complaints should be taken directly to Tribunal, bypassing the local complaints procedure.

Question 10 – Extending the right of appeal

Do you agree with our proposals in relation to extending rights of appeal to tribunal (see proposals 19, 20 and 21)?

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

Extending the right to appeal to all children and young people who will be entitled to an IDP under the proposed unified legislative framework is an essential component in ensuring equity for all.

Legislative proposals for additional learning needs Responses 141-160

Question 11

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.

Sense Cymru is a member of the Third Sector Additional Needs Alliance (TSANA) and also supports the Alliance's response to the consultation.

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

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ALN153: ANONYMOUS

Question 1 – New terminology

- a) Do you agree that a new term, 'additional learning needs', (ALN) should focus on children and young people who need additional and/or different support with learning to allow them to benefit as fully as possible from the education or training available to them?

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

This new terminology is less stigmatising.
The term 'additional learning needs' will need to be clearly specified and agreed

- b) Do you agree that the new system should apply to children and young people from birth up to the age of 25? If so, what implications should we consider for the professionals involved in assessing and providing that support?

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

Speech and Language Therapists currently see children from birth onwards if required. Early intervention is critical however there could be implications for adult services or learning disability services with the increase in age range. It is therefore essential that a clear definition of ALN is established. SLT concentrates on functional impact not on impairment so it will be critical that others have a clear understanding of this.

The need to provide services for individuals up to the age of 25 will have implications as there are currently gaps in service which will need to be catered for, e.g. SLT for young people with hearing impairments or specific language impairments.

It would need to be made clear which would have responsibility for providing for young people.

We would hope that this would improve the transition process for young people from children's to adults' services by more joint working.

Question 2 – Individual development plans (IDP)

- a) Do you agree that all children and young people with ALN should be entitled to an IDP which sets out their agreed additional learning provision?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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- b) Do you agree that IDPs should replace statutory assessment and statements of SEN, assessments for learners over 16 (under section 140 of the Learning and Skills Act 2000) and non-statutory plans including individual education plans under School Action and School Action Plus?

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

IDPs would need to be written in a way that reflects a child's changing needs as currently the statementing process can result in inflexible provision which is hard to change. Parents and teachers often feel that what is written in a statement is 'set in stone'. It is often difficult to get amendments accepted at annual review. SLTs work in 'episodes of care' which last for a maximum of 6 months before being reviewed.

As SLTs are health professionals we are obliged to decide on targets based on health needs rather than learning needs. Not all children requiring SLT input will have 'additional learning needs'. There is concern that those children's needs will be marginalised as there will be more focus on those with ALN. Joint planning meetings and MDT liaison will require a large time commitment which may not always be justified.

There could be an increase in professional time depending on how IDPs are monitored and who manages the process.

- c) Do you agree that local authorities should be ultimately responsible for preparing an IDP for children and young people aged 0–25 with ALN and for ensuring that agreed provision set out in the IDP is delivered and reviewed?

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

Currently, not all provision needed is able to be provided by the local authorities. Would this ever be possible and what would the implications be if it was? Where would that leave the vast number of health professionals who currently input to a development plan.

The LA should be ultimately responsible but work in partnership.

Different agencies have different processes and protocols as well as differing priorities.

It must be made clear who has the legal responsibility to provide SLT services for children and young people who have been identified as requiring SLT as an educational need.

Question 3 – A new code of practice

- a) Do you agree that a new code of practice on ALN should include mandatory requirements in accordance with which local authorities, schools, further education institutions, local health boards and the tribunal must act?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Legislative proposals for additional learning needs Responses 141-160

Supporting comments

These mandatory requirements would need to be specified and agreed. Joined up working is essential to meet the needs of a child. Input for a child needs to be evidenced base. Health Boards need to be on board and agree to these mandatory requirements.

The need for joint working and mediation in circumstances of disagreement must be enforced as the current system of tribunals can be devisive, stressful and damaging to working relationships.

- b) Do you agree that the code of practice should set out guidance for any other bodies, such as third sector organisations or other providers of education and training?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Question 4 – Securing provision

Do you agree that further education institutions should be included alongside schools, maintained nurseries and pupil referral units, as institutions that must use their 'best endeavours' to secure the additional learning provision called for in an IDP?

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

Services need to reflect the fact that individuals with ALN continue to learn past the age of 19.

What is the definition of "best endeavours"? Who will determine whether organisations have used their best endeavours and what will happen if they have been deemed not to have done so?

Question 5 – Securing specialist provision for young people

Do you agree that local authorities should be responsible for securing specialist education provision for post-16 learners outside of the further education sector where the IDP indicates that this is necessary to meet a young person's ALN?

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

The local authority must provide creative and flexible solutions for those individuals who are past statutory school age.

This should be in consultation with all partners

Question 6 – Placement at independent schools

Do you agree that local authorities should be prohibited from placing a child or young person at an independent school which has not been registered to provide the type of additional learning provision identified in their IDP?

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

Local authorities have a duty to ensure that an individual's needs are clearly identified, that service providers can meet those needs and that they are meeting those needs.

Question 7 – A multi-agency approach to planning and delivery

- a) Do you agree that local authorities, local health boards and further education institutions should be required to cooperate and share information in assessing, planning and delivering support to meet ALN?

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

This should happen in theory but there are practical barriers which will need to be considered.

Joint working with people from different agencies is difficult to organise and time consuming to execute. This may result in delays in producing a plan and in the delivery of services.

We do not have the IT infrastructure in order to share information or to enable this to happen efficiently. Sharing of information usually happens in face-to-face meetings on school premises. There will be cost implications.

We do not have access to large meeting rooms on a readily available basis.

There may be an impact on waiting times.

There will be implications for training. Who will fund this?

The users of different services have different needs therefore services have different priorities.

Legislative proposals for additional learning needs Responses 141-160

Again, the local health board would have to agree to this co-operation and information sharing as this would have to be necessary for person-centred planning.

- b) As well as using the code of practice to provide guidance, are there any other ways in which you think multi-agency partnership working could be strengthened?

Supporting comments

There are many areas of good practice already. Speech & Language Therapists have been working towards more joint working with education in the last few years. Shared training and joint pathways have led to a greater understanding of different roles and responsibilities and a shared 'language'. The fact that many schools carry out speech and language work at universal and targeted levels is very positive but needs to be built on and be equitable and effective. Work on the 'graduated response' in education and the 'levels of intervention' in health has led to a decrease in referrals to SLT and an increase in educational professionals understanding their role in the development of communication skills for children in their care.

There could be a single pathway for referrals for education and health for children with speech, language and communication needs to avoid duplication and ensure joined up services.

In the area of speech, language and communication, the education work force (teachers and teaching assistants) could develop competencies (externally accredited) and SLTs should be involved in their training. There should be training at undergraduate and postgraduate level for teachers.

Greater investment in shared IT systems would be required for effective working together.

Question 8 – Supporting looked after children

Do you agree that IDPs should be able to replace or function as personal education plans for children and young people who are looked after by a local authority?

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

This would avoid duplication and confusion as they should serve the same function.

Legislative proposals for additional learning needs Responses 141-160

Question 9 – Resolving disputes at an early stage

- a) Do you agree that local authorities should be required to put in place disagreement resolution arrangements?

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

Yes, there should be a legal obligation to do so as disputes result in parents and professionals feeling as if they are on 'different sides'. This is not conducive to continued working relationships.

It is vital that any assessments include looking at the child or young person in their current provision and consider the child or young person's functional skills (and not be solely impairment based) before making recommendations about alternative provisions.

There needs to be work done to reduce the differing clinical views between NHS and independent allied health professionals.

- b) Do you agree that there should be a requirement to use the appropriate local complaints processes prior to appeal to tribunal?

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

Multi-agency meetings and mediation sessions would be a less contentious and devisive system of settling agreements than a complaints procedure. Differences of opinion are not necessarily the same as a complaint. Shared understanding and compromise are more important than 'independent rulings'.

Question 10 – Extending the right of appeal

Do you agree with our proposals in relation to extending rights of appeal to tribunal (see proposals 19, 20 and 21)?

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

Regarding the decision not to put an IDP in place, this will depend on the definition of ALN.

What would be legitimate reasons for refusing a review, ie. only 4 weeks since the last review, evidence of change or no change of need?

Legislative proposals for additional learning needs Responses 141-160

Question 10 – Extending the right of appeal

Do you agree with our proposals in relation to extending rights of appeal to tribunal (see proposals 19, 20 and 21)?

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

Regarding the decision not to put an IDP in place, this will depend on the definition of ALN.
What would be legitimate reasons for refusing a review, ie. only 4 weeks since the last review, evidence of change or no change of need?

Question 11

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

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

ALN154: ANONYMOUS

Question 1 – New terminology

- a) Do you agree that a new term, 'additional learning needs', (ALN) should focus on children and young people who need additional and/or different support with learning to allow them to benefit as fully as possible from the education or training available to them?

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

Yes I think this change in terminology will benefit children and young people who have an understanding that they require additional support but will allow them to access support without the stigma that the term 'special needs' now invokes.

- b) Do you agree that the new system should apply to children and young people from birth up to the age of 25? If so, what implications should we consider for the professionals involved in assessing and providing that support?

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

Yes, I strongly believe that young people need continuity of support through to further education/training. At present the support available at transition stage especially is extremely poor. Information about opportunities for young people are not well advertised and often parents can feel overwhelmed at the prospect of having a young person leaving school who can achieve with support- but having nowhere to turn for that support. Links need to be made with external training and educational providers and less reliance should be on local colleges who are already at capacity in terms of supporting people with additional learning needs who may not be best supported in this environment. Young people should also have choice and should feel inspired to choose not pushed into the limited opportunities that are available to them.

Question 2 – Individual development plans (IDP)

- a) Do you agree that all children and young people with ALN should be entitled to an IDP which sets out their agreed additional learning provision?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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- b) Do you agree that IDPs should replace statutory assessment and statements of SEN, assessments for learners over 16 (under section 140 of the Learning and Skills Act 2000) and non-statutory plans including individual education plans under School Action and School Action Plus?

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

Yes all children should have an individual plan. The issue is with providing adequate and consistent support in order to deliver on that plan. Because services do not work together, because they are under pressure from cuts,

they foster a situation where parents and care givers feel they have to fight for every progression in their child's education. Because services are under pressure there are often long delays between assessment and delivery of support and a definite lack of communication with parents. Communication undertaken is often apologetic- 'sorry we do not have the capacity to help/ sorry we can only reply by letter' which is not reassuring. High turnover of teaching support means there is little time for a child to get to know and build trust with staff before funding is cut or posts are lost. Children with ALN, specifically ASD need trust and familiarity in order to learn and grow. This is not understood and it reflects in the support available.

- c) Do you agree that local authorities should be ultimately responsible for preparing an IDP for children and young people aged 0–25 with ALN and for ensuring that agreed provision set out in the IDP is delivered and reviewed?

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

One body needs to take responsibility. Right now there is a general confusion about who is responsible for what- mainly among professionals. As the parent of a child recently diagnosed with ASD I have been shocked at the dismissive attitude with which I have been treated by my local CAMs team. I sought help for my son's anxiety within school and was advised that I needed to seek an assessment to guarantee he had the support he needed. I agreed, was given very brief details about what would happen and then heard nothing back. I had no dialogue with the CAMs Team and resorted to visiting to ask for an update. I was then called back ten minutes later and told over the phone that my son had already been given a positive diagnosis of ASD. It seems I was the last to know. There was no one for me to speak to at that time and I received a letter days later which said unless I already had a follow up appointment we would not hear from them again. Thankfully I did have a follow up visit but to no avail- I was told there they didn't want to see us again anyway, if I wanted support that could be sought at another panel. My husband, my son and I left feeling almost dismissed and wondering why we had entered into the process at all. I want decision makers to understand that as a parent this can be your most vulnerable time. All you want is to ensure that your child can achieve their potential and that they are safe and happy. To be dismissed without adequate signposting is a huge failure. If one body took responsibility I would hope that these failings could be addressed and that there would be processes of support in place. Most importantly professionals would recognise the need to explain the process to parents, to keep them updated and to actively involve them, where appropriate, in creating a plan for their child. I think if I had sold someone a car I would have had more responsibility to the buyer than I believe these professionals felt they had for my son.

Legislative proposals for additional learning needs Responses 141-160

Question 3 – A new code of practice

- a) Do you agree that a new code of practice on ALN should include mandatory requirements in accordance with which local authorities, schools, further education institutions, local health boards and the tribunal must act?

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

At present the current system is abysmal and no one is monitoring performance. There are so many complaints about the system that it is evident it is not working. I have even been told by professionals that because the system does not work mistakes are being made. A new code of practice should be implemented as soon as possible.

- b) Do you agree that the code of practice should set out guidance for any other bodies, such as third sector organisations or other providers of education and training?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Question 4 – Securing provision

Do you agree that further education institutions should be included alongside schools, maintained nurseries and pupil referral units, as institutions that must use their 'best endeavours' to secure the additional learning provision called for in an IDP?

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

Yes, but 'best endeavours' is very vague and simply not good enough. There should be clear markers for performance and establishments who do not meet these targets should not educate young people with ALN. They are not equipped for the task.

Question 5 – Securing specialist provision for young people

Do you agree that local authorities should be responsible for securing specialist education provision for post-16 learners outside of the further education sector where the IDP indicates that this is necessary to meet a young person's ALN?

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

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Question 6 – Placement at independent schools

Do you agree that local authorities should be prohibited from placing a child or young person at an independent school which has not been registered to provide the type of additional learning provision identified in their IDP?

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

I would be appalled to think a young person would be placed with an establishment who couldn't meet their needs anyway.

Question 7 – A multi-agency approach to planning and delivery

- a) Do you agree that local authorities, local health boards and further education institutions should be required to cooperate and share information in assessing, planning and delivering support to meet ALN?

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

Currently this does not happen. There is a serious lack of communication or joint working. Perhaps services which are this important warrant the employment of a 'making the connections officer'.

- b) As well as using the code of practice to provide guidance, are there any other ways in which you think multi-agency partnership working could be strengthened?

Supporting comments

I think communication is key. I think all services should have shared responsibility for signposting and for making information about support easily accessible and available to parents and care givers. For me, I think the third sector should be more involved because they have front-line experience of support services in every locality and there are a resource which is evidently being underused.

Legislative proposals for additional learning needs Responses 141-160

Question 8 – Supporting looked after children

Do you agree that IDPs should be able to replace or function as personal education plans for children and young people who are looked after by a local authority?

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

If this enables all their needs to be met.

Question 9 – Resolving disputes at an early stage

- a) Do you agree that local authorities should be required to put in place disagreement resolution arrangements?

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

Yes.

- b) Do you agree that there should be a requirement to use the appropriate local complaints processes prior to appeal to tribunal?

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

Yea, but I do believe that more support could be given to complainants to understand their rights and the process they are involved in.

Question 10 – Extending the right of appeal

Do you agree with our proposals in relation to extending rights of appeal to tribunal (see proposals 19, 20 and 21)?

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

Question 11

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.

Primarily my concern centres on the inaccessibility of services and the fact that services do not work together. You may approach health to help your child but when a diagnosis is made there is no strong link with education services. Children are put through various assessments without adequate explanation and parents are ill informed. There is no service directory for localised support and as a family you can often feel very isolated. We should be striving to help children and young people, working together as a partnership.

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

ALN155:

Dr Paul Myres

Royal College of General Practitioners

Response to the White Paper - Legislative proposals for additional learning needs

The Royal College of General Practitioners (RCGP) is the largest membership organisation in the United Kingdom solely for GPs. It aims to encourage and maintain the highest standards of general medical practice and to act as the 'voice' of GPs on issues concerned with education, training, research, and clinical standards. Founded in 1952, the RCGP has over 49,000 members, 1,915 in Wales, who are committed to improving patient care, developing their own skills and promoting general practice as a discipline.

The Royal College of General Practitioners in Wales (RCGP Wales) welcomes the opportunity to respond to this consultation.

RCGP Wales welcomes the changes in the legislative process as set out by Welsh Government in the White Paper. GPs generally are not core to the processes involved or covered by the Paper, but may get involved when assessments / care / support does not appear to be optimum.

Unifying the systems and mechanisms across Wales will be helpful, particularly criteria and standards, which vary from one Local Authority to another.

As highlighted in the Paper we are aware that delays in the current process can cause anxiety for children, and their families and carers. Some times these delays are due, as is stated, to a lack of a formal clinical diagnosis, or the fact that assumptions are made about need based on diagnosis alone.

The move to a needs based assessment and linking IDPs reviews to assessments, particularly health reviews as outlined under section 2, are covered by Proposal 10. Ensuring children and young people and their families and carers are involved in the process as per Proposal 9 is welcomed.

Section 2.2 mentions looked-after children. Sadly looked-after children are often moved frequently, and their health needs may be neglected as a result. They may not be re registered with a local GP when they move, and GP records can be slow to follow the patient. This can mean that their needs are not recognised early. There does not appear to be a solution in the document.

We would welcome Proposal 11 and the suggestion of Guidelines for health professionals. GPs are integral to the care of children and young peoples' general health, and it helps if other professionals can highlight concerns to GPs. Sadly as GPs workloads are currently heavy, taking on additional tasks may be difficult. We do, however, welcome the easing of multi-agency/ multidisciplinary working and communication, as set out in Proposal 13.

Finally we support the proposals in 18-21 that cover facilitation of disagreement and appeals mechanisms, as this can also cause anxiety for families.

RCGP Wales is happy for this response to be made public.

ALN156: Elaine Owen
Betsi Cadwallader University Health Board

Question 1 – New terminology

- a) Do you agree that a new term, 'additional learning needs', (ALN) should focus on children and young people who need additional and/or different support with learning to allow them to benefit as fully as possible from the education or training available to them?

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

Whatever name is chosen will quickly become stigmatised as have all previous

names for this population.

- b) Do you agree that the new system should apply to children and young people from birth up to the age of 25? If so, what implications should we consider for the professionals involved in assessing and providing that support?

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

There will need to be an increase in physiotherapy resource for 16-25 year olds who have a 'physical disability but no learning disability' as there has only been a dedicated physiotherapy service for post 16 year old who have a 'physical disability and a learning disability'. The non learning disabled congenital disability patients have not had a dedicated service and this has lead to no service or one that understands little about their rare conditions and how to assess and manage these conditions.

Question 2 – Individual development plans (IDP)

- a) Do you agree that all children and young people with ALN should be entitled to an IDP which sets out their agreed additional learning provision?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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- b) Do you agree that IDPs should replace statutory assessment and statements of SEN, assessments for learners over 16 (under section 140 of the Learning and Skills Act 2000) and non-statutory plans including individual education plans under School Action and School Action Plus?

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

The White paper indicates a very large change and for the current 3% of statemented children it looks like it might be very destabilising and will mean that they lose their right to some provisions, especially if Health do make the changes that will be required to support Education in the funding that Education will be seeking, eg joint funding of school assistants, which currently legislatively is an Education Authority Duty, being in Part A of the Statement.

I think the 3% who are currently statemented should remain safeguarded by a Statement until it is known that the system works adequately for the other 19% of children with SEN in Wales.

- c) Do you agree that local authorities should be ultimately responsible for preparing an IDP for children and young people aged 0–25 with ALN and for ensuring that agreed provision set out in the IDP is delivered and reviewed?

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

This seems logical as a) it's about provision in schools and b) Education authorities are very experienced in managing the current system. However, some of the provisions required will need to be provided by Health, so it needs to be stated in the legislation that Health also have to provide for the child's assessed needs and clear definitions as to what constitutes Educational and Health needs to be clearly defined, so that time and resources are not spent debating this in each area/ school etc. Health has always been very poor in accepting that they have a responsibility to provide for assessed need, locally and nationally so there needs to be some statement about the need for them to actively engage with local authorities and also make health provisions.

Question 3 – A new code of practice

- a) Do you agree that a new code of practice on ALN should include mandatory requirements in accordance with which local authorities, schools, further education institutions, local health boards and the tribunal must act?

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

Definitely. Some of the provisions required will need to be provided by Health, so it needs to be stated in the legislation that Health has to provide for the child's assessed needs. There need to be clear definitions as to what constitutes Educational and Health needs, so that time and resources are not spent debating this in each area/ school etc. Health has always been very poor in accepting that they have a responsibility to provide for assessed need, locally and nationally, so there needs to be some statement about the need for them to actively engage with local authorities and also make health provisions.

Legislative proposals for additional learning needs Responses 141-160

- b) Do you agree that the code of practice should set out guidance for any other bodies, such as third sector organisations or other providers of education and training?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Question 4 – Securing provision

Do you agree that further education institutions should be included alongside schools, maintained nurseries and pupil referral units, as institutions that must use their 'best endeavours' to secure the additional learning provision called for in an IDP?

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

But 'best endeavours' is not a measurable concept so how can their compliance with this be assessed? It is a phrase that will waste more resources and time debating whether it has occurred. The legislation should state that assessed needs are met. That will be cheaper use of resources in the long run and use resources in a way that have direct and better effect on children's outcomes, rather than resources being spent debating who or what will happen.

Question 5 – Securing specialist provision for young people

Do you agree that local authorities should be responsible for securing specialist education provision for post-16 learners outside of the further education sector where the IDP indicates that this is necessary to meet a young person's ALN?

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

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Question 6 – Placement at independent schools

Do you agree that local authorities should be prohibited from placing a child or young person at an independent school which has not been registered to provide the type of additional learning provision identified in their IDP?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Legislative proposals for additional learning needs Responses 141-160

Supporting comments

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Question 7 – A multi-agency approach to planning and delivery

- a) Do you agree that local authorities, local health boards and further education institutions should be required to cooperate and share information in assessing, planning and delivering support to meet ALN?

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

definitely. Some of the provisions required will need to be provided by Health, so it needs to be stated in the legislation that Health has to provide for the child's assessed needs. There need to be clear definitions as to what constitutes Educational and Health needs, so that time and resources are not spent debating this in each area/ school etc. Health has always been very poor in accepting that they have a responsibility to provide for assessed need, locally and nationally, so there needs to be some statement about the need for them to actively engage with local authorities and also make health provisions.

- b) As well as using the code of practice to provide guidance, are there any other ways in which you think multi-agency partnership working could be strengthened?

Supporting comments

Clear definitions of every term used in the Code of Practice
Clear definitions as to what constitutes Educational and Health needs, so that time and resources are not spent debating this in each area/ school etc.

Question 8 – Supporting looked after children

Do you agree that IDPs should be able to replace or function as personal education plans for children and young people who are looked after by a local authority?

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

Do not have enough knowledge in this area to comment

Legislative proposals for additional learning needs Responses 141-160

Question 9 – Resolving disputes at an early stage

- a) Do you agree that local authorities should be required to put in place disagreement resolution arrangements?

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

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- b) Do you agree that there should be a requirement to use the appropriate local complaints processes prior to appeal to tribunal?

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

Local complaints procedures are often disengenuous, creating unnecessary anger and frustration for parents and children. Tribunal procedures are more robust . Valueable time in a childs childhood will be lost in a 2 step procedure.

Question 10 – Extending the right of appeal

Do you agree with our proposals in relation to extending rights of appeal to tribunal (see proposals 19, 20 and 21)?

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

Post 18 year olds have always 'dropped of a cliff' at a tme when they are very vulnerable in all respects and especailly in terms of their mental health and also often in terms of family support.

Question 11

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.

Statistical Analysis and Specifics

The White paper lacks statistical analysis of both the envisaged total need and how provision will be made. It also is not specific enough.

This was a criticism of the original proposals some 2 years ago. These criticisms came from Local Authorities, Health, Third Sectors, Parents. There seems to have been little change in the amount of statistical analysis and only a bit more 'meat on the bone' regards specifics. I think it is essential that the 'Maths' is done with clarity and detail for any proposals.

Numbers of children and therapy resources

Stated in the White Paper is that 22% of children in Wales have Special Educational Needs (SEN) and but that 2.7% of children have a Statement. The original legislation for Statementing only envisaged that 3% of children would receive a Statement ie the children with the most need, so numbers are as expected. There will always be a boundary for provision, with disputes around the boundary set. Moving the boundary is unlikely to change the level of disputes.

The work for therapists around any child who is Statemented is high as there are legal reports to write and these have to be updated annually as well as Annual Review of Statement multiagency meetings to attend. If this level of multiagency coordination is going to be increased to very much greater numbers of children there will be an implication for therapy resources. Already we are not able to commit the time that children, families and schools need for Statemented children and other children, for example we often cannot attend Annual Review Meetings or other Multidisciplinary / Multiagency reviews or review children as frequently as their needs require. A calculation of the paediatric physiotherapy resource required needs to be undertaken.

Boundaries of Educational and Health Provision

When the Statementing system was set up there were many debates/disputes between Local Authorities and Health as to who was going to provide for the

special needs identified. In our area agreements were made at a relatively early stage between Local Authority and Health, which largely resolved the problems and made things work well for children and families. We were congratulated by the Welsh Government for the cooperative systems we had developed. Nevertheless there have been ongoing disputes between some schools and health, as some schools would not comply with the agreements made by the Local Authority. This has been disruptive to children's welfare and a waste of valuable scarce therapy resource, which has then affected the ability to deliver to not only the child in question but all children on the caseload. In the proposed system I see nothing that clarifies the boundaries of provision. This is urgently needed as most Therapy Services are chronically under-established for workload and the needs of disabled children, in my experience of 35 years are only very rarely a priority for funding by Health Service Managers, in fact to the contrary I would say that paediatric disability services are still very much 'Cinderella services'. If WAG are serious about improving the situation for children they need to adequately fund therapy services and ring fence paediatric funds so that it can't be taken from children's services. In the 'white paper' it looks like as there will be no legal duty at all on authorities to provide for needs identified, as it is stated that they just have to make their 'best endeavour'. I can see disputes between schools, Local Authorities and Health deteriorating, especially as the local authorities have already expressed a view that health would need to contribute more to children's provision and Health will definitely not do that. Huge amounts of valuable time will be wasted in dispute.

Legal Duty to provide for identified additional needs

In the current legislation there is a legal duty to provide needs identified in Part a. The legal duty to provide anything seems to have been removed in the new proposals. It is stated that Local Authorities will have to make their 'best endeavour's to provide, which is not measurable or accountable and will leave everyone in a less clear situation. This will cause stress to parents and all staff involved in providing for children.

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

ALN157: Lucy Proctor
Royal National College for the Blind

Question 1 – New terminology

- a) Do you agree that a new term, 'additional learning needs', (ALN) should focus on children and young people who need additional and/or different support with learning to allow them to benefit as fully as possible from the education or training available to them?

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

Language has power, and in our experience using the wrong terminology can exclude people. Many of our students, all of whom have a visual impairment, do not self-identify as having special educational needs. Additional learning needs is a useful concept as it is more neutral and more inclusive. It could encompass a wide cross section of young people, from those who simply need

the right working medium in able to fully access their education, to those with more profound and specialist requirements.

- b) Do you agree that the new system should apply to children and young people from birth up to the age of 25? If so, what implications should we consider for the professionals involved in assessing and providing that support?

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

Many young people with a visual impairment require additional time to complete their studies. This is particularly often the case where they have a late onset condition which develops in their teens, a pre-existing condition which deteriorates at this age or a visual impairment which has developed as a side effect of another condition such as a brain tumour or an accident. A system which is flexible enough to respond to such changes in circumstances and which allows for additional time where needed would help to reduce stress for both the young person and their family. Equally, having a consistent system in place from birth, or from the point where the condition first becomes apparent, should help to ensure that the right support is in place at each stage of the young person's journey.

In the case of young people with a visual impairment, factors to consider include the potential for the young person's needs to change significantly during this period of time. Many of our students report their secondary school experience as having been particularly challenging. As different teaching methods are introduced, the need for independent study increases and both curricular and extracurricular activities become more challenging, young people with a visual impairment often start to feel estranged from their peers and begin to be excluded from the full range of activities which are available to others. This can lead to a reduction in social confidence, to personal isolation and a downturn in wellbeing, and to a failure to achieve potential. Professionals assessing young people need to be alert to the particular risks that a failure to identify the right level of support create at this age.

In addition, this is a crucial age for young people to start developing the independence and living skills to thrive in higher education, the world of work and outside the family home. Assessors will need to ensure that provision is made to offer young people with a visual impairment sufficient opportunities to develop and truly embed these skills to ensure they can achieve their full potential beyond school. When the focus is purely on academic or vocational outcomes and / or inclusion within a mainstream school setting, the young person can find themselves ill-equipped for transition to the world of work, higher education and independent living.

Question 2 – Individual development plans (IDP)

- a) Do you agree that all children and young people with ALN should be entitled to an IDP which sets out their agreed additional learning provision?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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- b) Do you agree that IDPs should replace statutory assessment and statements of SEN, assessments for learners over 16 (under section 140 of the Learning and Skills Act 2000) and non-statutory plans including individual education plans under School Action and School Action Plus?

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

Although getting the quality of the IDP right and ensuring there is sufficient flexibility in the system for it to be rapidly amended should a young person's circumstances or needs change will both be critical, the principle of a single plan is a sound one. It should help to ensure that all agencies engaged with the young person work together more effectively and will give greater clarity to them and their families. As with the proposed change to ALN, the change in language is also a positive one which will help to remove barriers at all level, increase inclusion and ensure that young people identify more closely with the plan.

- c) Do you agree that local authorities should be ultimately responsible for preparing an IDP for children and young people aged 0–25 with ALN and for ensuring that agreed provision set out in the IDP is delivered and reviewed?

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

Yes, but with some provisos. It will be important to ensure that there is no conflict of interest between the authority responsible for preparing and funding the IDP and the best interests of the young person. The provision which is identified as best suiting the young person's needs and wishes should be commissioned, not that which best suits the commissioning authority.

Question 3 – A new code of practice

- a) Do you agree that a new code of practice on ALN should include mandatory requirements in accordance with which local authorities, schools, further education institutions, local health boards and the tribunal must act?

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

A consistent code of practice across all authorities and stakeholders will help to ensure equality of approach in different parts of Wales and reduce the risk of a postcode lottery of provision emerging. Even the best intentioned legislation can be weakened by poor implementation and clear mandatory requirements will mean that every young person with ALN can have confidence in the system.

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- b) Do you agree that the code of practice should set out guidance for any other bodies, such as third sector organisations or other providers of education and training?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Question 4 – Securing provision

Do you agree that further education institutions should be included alongside schools, maintained nurseries and pupil referral units, as institutions that must use their 'best endeavours' to secure the additional learning provision called for in an IDP?

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

Treating further education institutions separately from provision for younger students can lead to confusion within the system and make transitions unnecessarily complicated. It can also mean that the needs of people aged 16 and over are not properly considered in planning. This is a critical age for young people with ALN and there is no reason why the standard of compliance should reduce at this stage. Equally, the process for selecting an FE provider to be named in the IDP should reflect the holistic needs of the young person in addition to their educational needs as they begin to transition into adulthood. At this age it is not enough to ensure inclusion within the college itself,

attention must be given to ensuring that the young person is best equipped to reach their full potential post-education. There must be recognition that for some young people their local college's 'best endeavours' will not be enough and that alternative provision will be required.

Question 5 – Securing specialist provision for young people

Do you agree that local authorities should be responsible for securing specialist education provision for post-16 learners outside of the further education sector where the IDP indicates that this is necessary to meet a young person's ALN?

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

While some young people with ALN will thrive in standard mainstream provision and others will cope admirably once appropriate adjustments have been made, for some young people with a visual impairment a period of time at a specialist provider is essential to their future wellbeing. A specialist college such as RNC provides a 24 learning environment where the student receives training in mobility, independent living skills and assistive technology as part of their timetable and is then able to embed this knowledge through daily practice on and off campus with the full support not only of staff but of their peers. This is a deeply empowering experience which enables the students to learn from each other.

The expectation at RNC is that with support the young person will progress to independent study and will participate in meaningful work experience placements. They live in a hall of residence initially but can progress to self-catering and / or living within a shared house during their time here. From the outset they are introduced to the importance of daily skills such as preparing simple meals, housekeeping, laundry, good independent timekeeping and household budgeting. Being able to benefit from this type of training and support while also pursuing the qualifications which will help them achieve their personal goals is an essential part of the transition to adulthood for many young people with a visual impairment, and significantly increases their chances of succeeding at university, in the workplace and living independently. Many of our students report that their time at RNC was their first real opportunity to start to understand themselves as an individual, as their visual impairment no longer made them different to their peers. This leads to greater social confidence and emotional maturity.

While specialist provision is not right for everybody, where a young person expresses a clear preference for such an option and it is clear that attending a

college such as RNC will enable them to achieve their personal and academic goals, local authorities should then agree to the provider being named in the IDP and commission a place accordingly.

Question 6 – Placement at independent schools

Do you agree that local authorities should be prohibited from placing a child or young person at an independent school which has not been registered to provide the type of additional learning provision identified in their IDP?

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

While many young people with ALN have secondary conditions and associated symptoms, the minimum they should be able to expect is that the provider they attend is able to meet the needs of their primary condition with expertise and confidence.

Question 7 – A multi-agency approach to planning and delivery

- a) Do you agree that local authorities, local health boards and further education institutions should be required to cooperate and share information in assessing, planning and delivering support to meet ALN?

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

Although this level of cooperation can be difficult to achieve, despite the best intentions of the agencies concerned, there is no doubt that a joined-up approach works best for the young person. It means that their full range of needs is taken in to account during the decision making process, and, when well managed, reduces both bureaucracy and the likelihood of important aspects of the young person's needs being overlooked. The breakdown of communication between agencies is a common frustration for young people and their families and can significantly increase both stress and the likelihood of an adversarial relationship developing.

- b) As well as using the code of practice to provide guidance, are there any other ways in which you think multi-agency partnership working could be strengthened?

Supporting comments

Giving greater thought to how agencies communicate with young people and their parents would be an advantage. The system can feel overwhelming in scope and complexity and minimising the need for repetition and for meeting with multiple contacts would be a real support for young people and their families. Many do not cope well with bureaucratic language or restrictive approaches or struggle to be available at appropriate times. Comparatively simple steps such as ensuring that representatives of multiple agencies attend a single meeting, or that young people can be communicated with through their preferred medium (such as by text message rather than a letter) would all improve engagement and reduce the likelihood of relationships between families and agencies becoming problematic.

Question 8 – Supporting looked after children

Do you agree that IDPs should be able to replace or function as personal education plans for children and young people who are looked after by a local authority?

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

Question 9 – Resolving disputes at an early stage

- a) Do you agree that local authorities should be required to put in place disagreement resolution arrangements?

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

It is hoped that the proposed changes to the system will reduce the occasions

where situations become adversarial. Allowing for the fact that there will still be occasions where this does happen, the earlier a resolution can be found, and the lower the level at which this can happen, the better. The longer a dispute runs the higher the cost, not only in financial terms but in the time of all involved (including the young person themselves) and the stress for all involved. While local authorities should work with young people and families to resolve issues as early as possible, the arrangements for this must be neutral and at arms length from the authority itself. If the perception (or the reality) is that those attempting to facilitate a resolution are too closely connected to one of the parties it may be harder for their findings to be accepted, which may lead to no real reduction in the cases which go to tribunal.

- b) Do you agree that there should be a requirement to use the appropriate local complaints processes prior to appeal to tribunal?

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

The local complaints process will need to be, and be seen to be, independent and to follow clear timelines to ensure that cases do not become drawn out at this stage. However subject to this, it would be better for all parties if an agreement could be reached locally and quickly without the need for tribunal. The outcome of a local complaints process should not then be allowed to influence the right to take a case to tribunal, or for it to be heard without giving undue weight to the local findings.

Legislative proposals for additional learning needs Responses 141-160

Question 10 – Extending the right of appeal

Do you agree with our proposals in relation to extending rights of appeal to tribunal (see proposals 19, 20 and 21)?

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

Extending the right of appeal beyond the age of 16 is particularly welcome as it will mean that the same processes are followed throughout the ALN system. It can be challenging for young people and their families to understand the bureaucracy involved when the system changes depending on age, and equally this can complicate things unnecessarily for professionals working within the field. Simplifying the process so all young people with ALN have the same rights

and follow the same procedures will be a positive step.

Question 11

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

We welcome this refreshing and forward thinking White Paper which addresses many of the concerns we hear from young people and their families. The system outlined would appear to be more flexible, designed to recognise and respect the differences between young people and to respond to their individual needs. We also welcome the proposal to include mandatory requirements to ensure consistent and robust implementation of the legislation and create a transparent and fair system for all.

While at this stage the proposals are at a high level and we would be keen to see the details of what is intended, this appears to be an approach which is aspirational for young people while being realistic about the need for robust guidance, including mandatory elements, to ensure compliance from different agencies.

We would be keen to get a better understanding of any anticipated implications for funding of placements if local authorities are to be responsible for securing specialist provision when this is indicated in the IDP.

Although based just over the border in Hereford a large proportion of our students come from Wales each year and we are aware that the need for support is greater. We would be keen to participate in any discussions about how we could extend our own work within Wales (as opposed to in Hereford) through outreach activities and through offering support to mainstream providers in order to increase the range and quality of options available to young people.

We would also welcome the opportunity to provide assistance during the next stages of the legislation. Many of our students hold strong views about the current system based on their own experiences. We could hold focus groups with them and with their families to provide detailed insight from the perspective of those with a visual impairment.

Our staff have decades of experience in working within a variety of systems and again would welcome the opportunity to share their insights and understanding of this field.

The Paper makes reference to the need for training for professionals and others working in this field. ALN is a very broad field and we would welcome any moves to improve the training and support available to those involved. As specialist in visual impairment we can offer a wide range of training for

professionals ranging from professional development days which focus on specific aspects such as the range and impact of assistive technology through to a full accredited Certificate in Higher Education for those working with people who have a visual impairment.

We, and others in the sector, look forward to supporting the drafting of this legislation over the coming months.

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

ALN158: Karen Allen
Betsi Cadwallader University Health Board

Question 1 – New terminology

- a) Do you agree that a new term, 'additional learning needs', (ALN) should focus on children and young people who need additional and/or different support with learning to allow them to benefit as fully as possible from the education or training available to them?

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

Whilst agreeing that the term ALN will focus on C&YP who need additional and/or different support with learning, we must not overlook the Health and Social Care needs along with the wider benefits that education and training provide.

Legislative proposals for additional learning needs Responses 141-160

The term is more inclusive. We welcome the opportunity to include multi agency partners. Particularly important for post 16. There is evidence that this is already being used in North Wales across most localities.

As the term is broader, it makes need for a more specific description of needs.

Why not include more able/talented children and EAL?

We would like to have further consultation about how the changes and transition period will be funded.

- b) Do you agree that the new system should apply to children and young people from birth up to the age of 25? If so, what implications should we consider for the professionals involved in assessing and providing that support?

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

Extending the age range will provide parents, carers and the C&YP with a seamless pathway as they grow older.

Preschool children requiring assessment and support will rely on many Health professionals initiating this. It is essential that Health and Local Authority professions are given statutory guidance on how this should work to ensure clarity about responsibilities and include budgetary responsibilities throughout the age ranges. It is therefore crucial that the Minister for Education & Skills and the Health Minister demonstrate joint support and enable the current systems to be adapted. Speech and Language Therapy provision in relation to ultimate and prime responsibility for provision to C&YP should not become a hindrance in provision of the services required.

However it raises significant concerns for staff capacity. If not funded we fear it would lead to a dilution of services generally.

We agree with this applying from birth, as this should promote early intervention.

Issues of concern include availability of funding and resources, and the challenges of ensuring that the multi agency partnerships work and are resourced to work.

There will be challenges post 16, in terms of managing transition to and support in FE.

The child-centred approach is welcomed.

There is a vital role for a key worker.

Advocacy and the role of parental involvement are important.

Detail in the Code of Practice will be key to its overall success.

Legislative proposals for additional learning needs Responses 141-160

Some concerns over the IDP process include:-

- Finance.
- Impact on Educational Psychologists, if required to administer.
- It is important not to waste resources or dilute services.
- Lacks legal status of the current statement and may enable some parties to avoid their responsibilities as it is not specific enough.
- Training needs and roll out is a crucial phase in the introduction of a new Code of Practice.
- Post 19 provisions is unclear, and there is concern regarding the ability of local F.E. colleges meeting needs with fewer resources available.
- 0 – 5 inconsistency in provision of funding.
- Potential to be a postcode lottery due to differing interpretations.

IDP needs to be flexible, in terms of who can complete and lead planning.

Multi agency working is vital to success and must be assured.

Question 2 – Individual development plans (IDP)

- a) Do you agree that all children and young people with ALN should be entitled to an IDP which sets out their agreed additional learning provision?

Agree	X	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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- b) Do you agree that IDPs should replace statutory assessment and statements of SEN, assessments for learners over 16 (under section 140 of the Learning and Skills Act 2000) and non-statutory plans including individual education plans under School Action and School Action Plus?

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

This would ensure equal access for all C&YP. It is important to ensure that relevant Health professionals are part of the 'core' team and that Health needs are outlined as part of the IDP.

There will be a range of needs identified in IDPs and there would need to be a tiered system to access different levels of service using the IDPs and which uses the outcomes as evidence for the need for greater levels of support. IDPs will therefore need to be adapted according to age.

Legislative proposals for additional learning needs Responses 141-160

The sample IDP seen was not SMART enough and seemed to lack substance and did not include monitoring and evaluation.

The detail of the Code of Practice and guidance on IDPs will need further developing.

Requires awareness of the need for systems that talk to each other with ability to share information in place.

Language choice would need to be included in the detail.

Concerns that the IDP process will be time consuming especially for visiting professionals to all of the schools and other locations children are placed in .

Questions have been raised in relation to ability of the IDP to address the safety needs of the child and others around them, including safety in social settings.

There is a requirement for this to be accessible to non verbal C&YP.

Needing to be mindful of the needs of vulnerable parents to ensure they are able to fully participate.

Clarity around parental responsibility and definitions of who this is which may change over time, is important.

Clarification required of who will hold the IDP and who will have access to it and how they will access this.

- c) Do you agree that local authorities should be ultimately responsible for preparing an IDP for children and young people aged 0–25 with ALN and for ensuring that agreed provision set out in the IDP is delivered and reviewed?

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

Although LAs would be ultimately responsible there would need to be a range of delegated responsibilities that include others involved in allocating resources to the IDPs e.g. Health professionals. There would need to be a mandatory Board of identified people to ensure MDT and user representation.

A template to ensure consistency may be useful and this may need to be centrally administered.

Cross border issues need to be addressed at the start.

We would welcome further consultation on the detail of the Code of Practice.

Legislative proposals for additional learning needs Responses 141-160

Question 3 – A new code of practice

- a) Do you agree that a new code of practice on ALN should include mandatory requirements in accordance with which local authorities, schools, further education institutions, local health boards and the tribunal must act?

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

This will make responsibilities clear and demonstrates shared ownership.

Funding remains an area for consideration and requires further consultation between services, service users with relevant Ministers enabling people to do this.

It needs to be mandatory otherwise different authorities may interpret it differently.

Must include explicit reference to engaging Social Services and third sector provision.

It is important to be realistic should there be a clash between the ideology of child centred planning and the reality of budget constraints and pressures between funding streams.

This identifies significant multi agency training needs.

Need business case, risk assessment management and mitigation measures.

HE also needs inclusion as only FE is mentioned. The process does not follow through to HE, where there is a different process.

The process does not join up with Welsh language medium education

Clarity is required in terms of meaning of duty of care, identify all organisations that should be involved.

Requirement to...

- Identify all the relevant bodies
- Clear definitions
- 0-5 provision must be included and should be provides with guidance to nurseries, crèche and child-minders.
- Definition of education and training, this should be mandatory – not merely ‘considered’.
- Health and wellbeing links need to be clearly included in the Code of Practice.
- Whilst we welcome the inclusion of 3rd sector organisations, the system should not depend on 3rd sector involvement to provide support for vulnerable children (and parents).
- The current tribunal process uses media not suitable to the needs of vulnerable parents and children.
- The use of the word “guidance” makes this open to interpretation.

Legislative proposals for additional learning needs Responses 141-160

- This system may put more pressure on front-line staff.

b) Do you agree that the code of practice should set out guidance for any other bodies, such as third sector organisations or other providers of education and training?

Agree	X	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Question 4 – Securing provision

Do you agree that further education institutions should be included alongside schools, maintained nurseries and pupil referral units, as institutions that must use their ‘best endeavours’ to secure the additional learning provision called for in an IDP?

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

In order to enable this to happen, transition arrangements, timescales and expectations must be in place and involve all relevant contributors to the IDP. Evidence of outcomes from previous IDPs must be available and shared.

The statement “best endeavours” is too vague and difficult to quantify and is open to different interpretation and ultimately budget arrangements.

Funding needs to be available for this on a person centred basis. It needs to be properly funded to provide resources, as currently there would be insufficient staff capacity therefore requiring a budget analysis.

HE needs to be included so that the process is joined up and seamless.

Not all LA’s have FE facilities in their area, so there is a need to have cross border agreements and cross border co-operation with England.

Question 5 – Securing specialist provision for young people

Do you agree that local authorities should be responsible for securing specialist education provision for post-16 learners outside of the further education sector where the IDP indicates that this is necessary to meet a young person’s ALN?

Agree	X	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Legislative proposals for additional learning needs Responses 141-160

Supporting comments

This is necessary to ensure continuity of communications and support to enable the YP to succeed.

Funding and resources are crucial. There needs to be a multidisciplinary approach to capturing the needs of the child, and the costs of securing appropriate provision considered.

'Best endeavour' must be clearly defined.

Additional issues include:-

- Agree for planning purposes if additional specialist provision can be accessed locally.
- Is employment training to be included in this development?
- Safeguarding for young people aged 18 to 25.

Question 6 – Placement at independent schools

Do you agree that local authorities should be prohibited from placing a child or young person at an independent school which has not been registered to provide the type of additional learning provision identified in their IDP?

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

This would be done in the best interests of the C&YP and following reviews of the child's IDP which evidences the outcomes of the services provided. The use of the IDP should be needs-led and not relate to the location of the C&YP.

There would need to be a transition period allowing the independent schools to meet the criteria and register and would be beneficial if registration process is made easy.

IDPs should continue whilst the C&YP are in the independent school.

We would agree with this due to the financial implications and the huge range of independent schools now available.

Need to ensure that the same safeguarding is in place for pupils who are placed outside Wales.

There would also need to be a protocol with Ofsted.

Legislative proposals for additional learning needs Responses 141-160

Question 7 – A multi-agency approach to planning and delivery

- a) Do you agree that local authorities, local health boards and further education institutions should be required to cooperate and share information in assessing, planning and delivering support to meet ALN?

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

This process should apply for all children

SSD/EDU/Health systems don't speak to each other. There needs to be 1 web-based 'live' tool to do this contemporaneously.

There also needs to be a mandatory shared protocol for information sharing and consent procedures, as often this is an obstacle and it will reduce duplication.

Diagnosis – if there is a diagnosis then it should be noted and included. There is a danger that people assume needs from a diagnosis whereas every child should be considered as an individual with a very individual set of needs.

Concerns expressed that IDP is a planning tool and not an assessment process. The assessment process has not been defined and clarified.

The importance of fully engaging parental and C&YP must not be lost.

The lead agency needs to be identified, or a lead person, otherwise the system will not be effective if this is not a requirement.

- b) As well as using the code of practice to provide guidance, are there any other ways in which you think multi-agency partnership working could be strengthened?

Supporting comments

A statutory requirement for an MDT group is required in order to work together and share information about the C&YP and their needs.

Clear information about what can and cannot be shared across agencies.

There should be shared documentation and templates ensuring all areas of requirement are covered.

It would be helpful to see the Code of Practice as this is not available yet.

The use of the term "guidance" is open to misinterpretation and we feel it should be

Legislative proposals for additional learning needs Responses 141-160

mandatory.

A lead person would strengthen the partnership working.

Areas to include:

- Strengthening Transitions.
- EY/Pre-school to Primary school.
- Primary School to Secondary.
- Secondary to FE.
- Out of Education to Adulthood.

The Code of Practice needs to be statutory.

There would need to be adequate funding to assist agencies in delivering extra duties i.e. extending services to 25 years.

Question 8 – Supporting looked after children

Do you agree that IDPs should be able to replace or function as personal education plans for children and young people who are looked after by a local authority?

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

For ease of documentation and safeguarding so everything is in 1 place and there is no confusion over responsibilities.

Do not agree with all LAC being fully assessed. Would recommend robust screening tools available as an alternative with guidance for further assessment.

Documents need to be SMART and target focused and information should not be diluted.

There is a need for an identified lead agency/person.

Question 9 – Resolving disputes at an early stage

- a) Do you agree that local authorities should be required to put in place disagreement resolution arrangements?

Agree	X	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Legislative proposals for additional learning needs Responses 141-160

Supporting comments

To allow for quick local resolution without the emotional, time consuming and costly tribunal for many cases.

This process would need to be independent and the panel would be able to review advice if there were conflicting views from private professionals.

There must be independent advocacy for C&YP.

Dialogue and working in partnership is essential to make the process work.

It is uncertain how the needs of post 16's be met.

The process already exists in places in North Wales, usually local resolution with an Education officer first, and most disputes resolved. Moderation panels consider all assessment evidence. Currently Education officers are able to influence the moderation decision and they hold the budget.

IDP will be multi agency plan, therefore in order for it to be successful the people sitting around the table will need to have control of decision making and resource allocation.

- c) Do you agree that there should be a requirement to use the appropriate local complaints processes prior to appeal to tribunal?

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

There needs to be a link between LA dispute resolution and the NHS complaints process.

- Needs independence/ chair person.
- Uncertainty where FE and 3rd Sector sit in this proposal.
- Needs to be clarity of process in terms of escalating.
- Should be focused on early, local resolution at the lowest level.
- This should build on the process currently in place across North Wales.

Question 10 – Extending the right of appeal

Do you agree with our proposals in relation to extending rights of appeal to tribunal (see proposals 19, 20 and 21)?

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

This ensures robust decisions using all available evidence.

Question 11

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

- i) Medical advice should always be sought whether indicated or not.
- ii) There will be a range of needs and provision identified in an IDP. There should be a tiered approach to provision that professionals, C&YP, parents and carers are expected to implement before accessing a range of interventions
- iii) The voluntary sector should be part of core service assessment & provision process. C&YP, parents /carers should be signposted to appropriate 3rd sector support.
- iv) The responsibility for the funding of AAC and Health equipment / aids should be clarified. The C&YP should be able to access the same aid in all environments regardless of where the funding comes from. C&YP in North Wales need equal access to communication aids as those in South Wales. Timely access is necessary for the C&YP.
- v) Currently, assessments from independent practitioners can contradict those of the local services. These are not always robust assessments looking at the C&YP holistically over a lengthy time period and in a variety of environments. The need for parents/carers to seek independent assessments should be minimised with local resolution and evidence accrued.
- vi) C&YP transferring from another part of the UK with a statement in to Wales may have recommendations that the local services may or may not be able to provide or agree with. IDP reviews would therefore be necessary within the first term or 12 weeks of transferring.
- vii) Children under 5 need to be reviewed regularly.
- viii) Transition to 25 years – although this may work well in Education, other support services change at 18 years e.g. Health, Continuing Care, CAMHS, Adult MH/LD. In this document (WG) refers to “Continuing Health Care” – this is adults. Children should be “Continuing Care”
- ix) What are the plans for looked after children who have been placed out of county?
- x) Has this document gone to CSSIW and Estyn for comments?
- xi) Where additional needs are or may be evident at or pre birth will Midwives and Health Visitors lead the IDP?

Legislative proposals for additional learning needs Responses 141-160

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

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ALN159: Claire Bradford

Question 1 – New terminology

- a) Do you agree that a new term, 'additional learning needs', (ALN) should focus on children and young people who need additional and/or different support with learning to allow them to benefit as fully as possible from the education or training available to them?

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

I agree with one term for up to 25s, although the definition of ALN appears to be changing with this white paper and that may also lead to confusion. At present, the term 'Additional Learning Needs' includes learners with EAL, the more able and talented, Gypsy and Traveller children, young carers, the recently bereaved, refugees etc, whose circumstances may impact on their

education, but they do not have a learning difficulty as such. This consultation document states that these groups will not now be classified as having an Additional Learning Need - what will they be classified as? What support will be available for them if and when they need it? The use of one holistic term for all learners up to 25 is a good idea for consistency - but not if several groups of learners are excluded from it. I do think that the definition of ALN should stay as it is, but be extended to older learners, rather than completely redefined, to ensure that all learners receive the support that they need, when they need it.

- b) Do you agree that the new system should apply to children and young people from birth up to the age of 25? If so, what implications should we consider for the professionals involved in assessing and providing that support?

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

I like the suggestions of guidance for professionals - it might be good to list who should be responsible for instigating particular procedures (as a teacher I do not want to tread on the toes of the education psychologist or any other professional, but more importantly do not wish a child to go without support they are entitled to).

Legislative proposals for additional learning needs Responses 141-160

Question 2 – Individual development plans (IDP)

- a) Do you agree that all children and young people with ALN should be entitled to an IDP which sets out their agreed additional learning provision?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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- b) Do you agree that IDPs should replace statutory assessment and statements of SEN, assessments for learners over 16 (under section 140 of the Learning and Skills Act 2000) and non-statutory plans including individual education plans under School Action and School Action Plus?

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

As the white paper states, I think this would leader to more consistency across

the country and a fairer system of support for learners.

- c) Do you agree that local authorities should be ultimately responsible for preparing an IDP for children and young people aged 0–25 with ALN and for ensuring that agreed provision set out in the IDP is delivered and reviewed?

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

They should be responsible for monitoring it, and ensuring that provision is delivered; but LAs may not be best placed to prepare the IDPs - I think in most instances this should be up to the class teacher/lecturer and ALNCo, in conjunction with any outside support agencies.

Question 3 – A new code of practice

- a) Do you agree that a new code of practice on ALN should include mandatory requirements in accordance with which local authorities, schools, further education institutions, local health boards and the tribunal must act?

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

To ensure that no child is left unsupported, especially where cuts in resources and the introduction of banding to rate educational institutions could mean that some children with ALN are shifted around and ignored in favour of concentrating on those who will make the statistics look better.

Legislative proposals for additional learning needs Responses 141-160

- b) Do you agree that the code of practice should set out guidance for any other bodies, such as third sector organisations or other providers of education and training?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Question 4 – Securing provision

Do you agree that further education institutions should be included alongside schools, maintained nurseries and pupil referral units, as institutions that must use their 'best endeavours' to secure the additional learning provision called for in an IDP?

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

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Question 5 – Securing specialist provision for young people

Do you agree that local authorities should be responsible for securing specialist education provision for post-16 learners outside of the further education sector where the IDP indicates that this is necessary to meet a young person's ALN?

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

In conjunction with the FE institution - they may wish to secure this themselves, then the LA should monitor it and be ultimately responsible for the provision.
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Question 6 – Placement at independent schools

Do you agree that local authorities should be prohibited from placing a child or young person at an independent school which has not been registered to provide the type of additional learning provision identified in their IDP?

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

If a local authority has responsibility for placing a child, then they should act in the child's best interests. That said, the registration process should be as simple as possible, so that if a child has a very specific need that a school can provide for and they just haven't done the paperwork, this can be done swiftly so that the child does not lose out.

Question 7 – A multi-agency approach to planning and delivery

- a) Do you agree that local authorities, local health boards and further education institutions should be required to cooperate and share information in assessing, planning and delivering support to meet ALN?

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

- b) As well as using the code of practice to provide guidance, are there any other ways in which you think multi-agency partnership working could be strengthened?

Supporting comments

No, if the guidance is well put together, it should be very useful.

Question 8 – Supporting looked after children

Do you agree that IDPs should be able to replace or function as personal education plans for children and young people who are looked after by a local authority?

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

Where there is overlap, it makes sense.

Question 9 – Resolving disputes at an early stage

- a) Do you agree that local authorities should be required to put in place disagreement resolution arrangements?

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

- b) Do you agree that there should be a requirement to use the appropriate local complaints processes prior to appeal to tribunal?

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

So long as these are not too long-winded, so that where a learner or parent has a genuine complaint, they are not exhausted by the process.

Question 10 – Extending the right of appeal

Do you agree with our proposals in relation to extending rights of appeal to tribunal (see proposals 19, 20 and 21)?

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

Yes, but if an appeal is rejected, the parent should have to demonstrate a change in circumstances before appealing again. (For example, there could be instances of demanding parents insisting that their child has dyslexia etc, and constantly appealing for support, when no actual learning need has been identified.)

Question 11

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

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

ALN160: **Dr Alison Stroud**
Royal College of Speech & Language Therapists

Question 1 – New terminology

- a) Do you agree that a new term, 'additional learning needs', (ALN) should focus on children and young people who need additional and/or different support with learning to allow them to benefit as fully as possible from the education or training available to them?

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

The RCSLT welcomes the proposed change as it recognises a wider spectrum of additional needs. We note that the consultation does not provide a precise definition of 'additional learning needs' and that the new process of considering whether someone has an ALN will involve the child, young person, their parents and relevant agencies including education, social services or health and

others as appropriate working together in a person-centred approach. Around, 19% of SLTs' caseloads are children who are statemented. Therefore the RCSLT seeks to ensure that Speech and Language Therapists are included as an integral part of the new assessment process of considering whether a child or young person requires an IDP where appropriate. Appropriacy must be based on reducing the risk of impact and harm from an impairment

- b) Do you agree that the new system should apply to children and young people from birth up to the age of 25? If so, what implications should we consider for the professionals involved in assessing and providing that support?

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

We agree in principle that the new system should apply to children and young people up to the age of 25. However, we have concerns that a broader definition of ALN and an extension to 25 in terms of entitlement could lead to resources being spread too thinly to the detriment of those who would benefit most and therefore have greatest need. Furthermore, we are concerned that those with less severe impairments but in whom greatest cost effective and efficient outcomes can be made, also risk losing out if resources are not allocated according to evidence base. Additional funding may be required to provide for young adults as well as additional training of staff as a different skill set is needed for working with young adults.

RCSLT recommend a financial impact assessment.

Question 2 – Individual development plans (IDP)

- a) Do you agree that all children and young people with ALN should be entitled to an IDP which sets out their agreed additional learning provision?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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- b) Do you agree that IDPs should replace statutory assessment and statements of SEN, assessments for learners over 16 (under section 140 of the Learning and Skills Act 2000) and non-statutory plans including individual education plans under School Action and School Action Plus?

Supporting comments

We welcome the principle of a collaborative multi-agency plan to replace statements. However, we are concerned about the impact of IDPs on service capacity as there may be an increase in demand for SLT input, which may or may not have effectiveness or efficiency. We also welcome clarification in the new consultation of the local authorities' statutory duty for preparing and implementing an IDP to ensure there is accountability for the delivery of ALN provision. We would seek assurance that local authorities will consult appropriately with health professionals and other agencies in their determination of the need for and IDP and in decisions on whether IDP's should be maintained for individuals. We would expect speech and language therapists to be involved in such decisions where a child or young person has speech, language or communications difficulty and/or feeding and swallowing difficulty (dysphagia) .

- c) Do you agree that local authorities should be ultimately responsible for preparing an IDP for children and young people aged 0–25 with ALN and for ensuring that agreed provision set out in the IDP is delivered and reviewed?

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

Again, we welcome the clarification of clear accountability and reiterate our view that Speech and Language Therapists should play a specific role in determining the need for an IDP where a child or young person has speech, language and communication difficulty and/or dysphagia (feeding and swallowing difficulty) which may be detrimental to their learning needs. The provision should be delivered using a universal targetted and specialist model in order to deliver an effective and efficient support to the need. The speech and language therapist would advise on appropriate delivery for an IDP for such children to manage the risk of harm or impact.

Question 3 – A new code of practice

- a) Do you agree that a new code of practice on ALN should include mandatory requirements in accordance with which local authorities, schools, further education institutions, local health boards and the tribunal must act?

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

We support the need for mandatory requirements for local authorities, schools, further education institutions, local health boards and tribunals to work collaboratively and share information in assessing and planning to meet the additional learning needs of children and young people. However care must be exercised with view to other legislation concerning healthcare which is not subject to mandatory delivery but is based on health economic evaluation.

We believe that mandatory requirements must be specific and agreed between agencies with due regard to other legislation. We welcome the requirement for the Code of Practice to provide guidance to professionals on early identification of children with ALN including those below compulsory school age particularly deprived children with Flying Start entitlements. The consultation recognises the key role played by health visitors and paediatricians in providing clinical assessment of needs and in identifying early developmental problems. Speech and Language Therapists (SLTs) are best placed to provide clinical diagnosis and assessment of speech, language and communication difficulty which would help identify children needing additional support and the delivery of that support.

- b) Do you agree that the code of practice should set out guidance for any other bodies, such as third sector organisations or other providers of education and training?

Agree	<input checked="" type="checkbox"/>	Disagree	<input type="checkbox"/>	Neither agree nor disagree	<input type="checkbox"/>
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Legislative proposals for additional learning needs Responses 141-160

Question 4 – Securing provision

Do you agree that further education institutions should be included alongside schools, maintained nurseries and pupil referral units, as institutions that must use their 'best endeavours' to secure the additional learning provision called for in an IDP?

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

We believe the terminology 'best endeavours' is open to interpretation and may lead to inconsistencies across Wales in securing additional learning provision. We would wish the legislation to set out clearly the duties and responsibilities of all institutions.

Question 5 – Securing specialist provision for young people

Do you agree that local authorities should be responsible for securing specialist education provision for post-16 learners outside of the further education sector where the IDP indicates that this is necessary to meet a young person's ALN?

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

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Question 6 – Placement at independent schools

Do you agree that local authorities should be prohibited from placing a child or young person at an independent school which has not been registered to provide the type of additional learning provision identified in their IDP?

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

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Legislative proposals for additional learning needs Responses 141-160

Question 7 – A multi-agency approach to planning and delivery

- a) Do you agree that local authorities, local health boards and further education institutions should be required to cooperate and share information in assessing, planning and delivering support to meet ALN?

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

We strongly agree. ICT systems for sharing information are often incompatible between agencies and improved communication, sharing information protocols between health and local government will need to be agreed guidance on

multi-disciplinary working needs to be set in place to ensure person-centred planning is effective.

- b) As well as using the code of practice to provide guidance, are there any other ways in which you think multi-agency partnership working could be strengthened?

Supporting comments

We would support a single pathway for referrals for education and health for some aspects of service in children's Speech and Language Therapy to avoid duplication and to ensure joined up services. Shared IT systems would support this. Each agency has its' own standards and priorities which may conflict with partner agency working. However, It is pleasing to recognise that a great deal of good practice is already in place in terms of multi-disciplinary practice as well as shared training leading to a consistent approach and mutual understanding of a child's needs. We believe examples of best practice across Wales should be identified and form part of the guidance.

Question 8 – Supporting looked after children

Do you agree that IDPs should be able to replace or function as personal education plans for children and young people who are looked after by a local authority?

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

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Legislative proposals for additional learning needs Responses 141-160

Question 9 – Resolving disputes at an early stage

- a) Do you agree that local authorities should be required to put in place disagreement resolution arrangements?

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

It is inevitable that there will be differences of professional opinion in some cases in terms of meeting the needs of the child or young person. We strongly advocate a process that would help to resolve such differences between professions and not leave parents feeling they must negotiate for themselves.

- b) Do you agree that there should be a requirement to use the appropriate local complaints processes prior to appeal to tribunal?

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

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Question 10 – Extending the right of appeal

Do you agree with our proposals in relation to extending rights of appeal to tribunal (see proposals 19, 20 and 21)?

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

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Question 11

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

We note that the new consultation does not say that ALN reform will be cost neutral. However, it does refer to significant financial resources already allocated to support children and young people with SEN. We remain concerned that the broader definition of Additional Learning Needs and extension of provision to the age of 25 will mean resources will need to be spread across a greater number of children and young people and believe that a thorough financial impact assessment is essential.

We welcome proposals to strengthen multi-agency working if it leads to a seamless care pathways supporting children with complex additional needs through to adulthood.

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