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Consultation Document

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

Date of issue: **6 July 2015**

Action required: Responses by **18 December 2015**

Draft Additional Learning Needs and Education Tribunal (Wales) Bill

- Overview** This consultation seeks the views of stakeholders on the Welsh Government's draft Additional Learning Needs and Education Tribunal (Wales) Bill. The draft Bill sets out proposals for a new legislative system for supporting children and young people aged 0–25 who have additional learning needs. The new system would replace the existing legislation surrounding special educational needs and the assessment of children and young people with learning difficulties and/or disabilities in post-16 education and training.
- How to respond** Responses to this consultation should be e-mailed/posted to the address below to arrive by **18 December 2015** at the latest.
- Further information and related documents** Large print, Braille and alternate language versions of this document are available on request.
The consultation documents can be accessed from the Welsh Government's website at www.gov.wales/consultations
- Contact details** For further information:
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Data protection

How the views and information you give us will be used

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

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Foreword by the Minister for Education and Skills

Qualified For Life sets out our plans for all learners to benefit from excellent teaching and learning. It outlines our vision that all learners in Wales should enjoy teaching that inspires them to succeed in an education community that works cooperatively and aspires to be great, where the potential of every child and young person is actively developed.

Our current system for supporting children and young people with special educational needs is based on a model introduced more than 30 years ago that is no longer fit for purpose. The evidence points to an assessment process which is inefficient, bureaucratic and costly, as well as insufficiently child-centred or user-friendly. Furthermore, there is in-built inequity in relation to the statutory protection given to learners with different levels of need and there is no continuity in the support given to learners in schools and those in further education.

The proposals for reform set out in our 2014 White Paper, titled *Legislative Proposals for Additional Learning Needs*, sought to address these issues. They found strong support amongst those working with learners who responded to the White Paper and since then we have been developing the detailed legislative proposals to underpin a new system of support for learners with additional learning needs.

We have now completed that work and a draft Bill has been produced which captures our proposals and creates a new legislative framework.

If we are to deliver real change and real improvement for children and young people with additional learning needs, it is vital that we design change with the profession and do not impose it upon them. I want more than legislative compliance. Professionals working in our schools must embrace the needs of learners in a more holistic way, not just within the confines of what is legally required.

To achieve that, our plans for additional learning needs legislation need the fullest possible debate and discussion to ensure that the reforms are owned by the profession. With this ownership in place, I think we will be far more successful in making the reforms work for learners.

To this end, I am publishing a draft of the Additional Learning Needs and Education Tribunal (Wales) Bill to allow stakeholders inside and outside the profession to comment on and respond to the detailed legislative proposals before they are introduced to the formal Assembly scrutiny process. Feedback from stakeholders will inform further work on finalising the Bill prior to its introduction to the National Assembly. I would like this to happen as early as possible in the next Assembly Term.

I welcome your views.

A handwritten signature in cursive script, appearing to read 'Huw Lewis', written in a light grey or blue ink.

Huw Lewis AM
Minister for Education and Skills

Introduction – what is the consultation about?

The Welsh Government is consulting on a draft Bill that proposes a new statutory framework for supporting children and young people with additional learning needs (ALN). This will replace existing legislation surrounding special educational needs (SEN) and the assessment of children and young people with learning difficulties and/or disabilities (LDD) in post-16 education and training.

This consultation document seeks your views on whether the draft Bill delivers the policy intent as set out in the draft Explanatory Memorandum. It should therefore be read in conjunction with the draft Bill as well as the draft Explanatory Memorandum, draft Explanatory Notes and accompanying impact assessments which are also being published.

In addition, the Welsh Government will be publishing an initial draft of a proposed ALN Code in autumn 2015 in order to support the consultation and, in line with its previous commitment, to provide an early draft ALN Code to members of the National Assembly's Children, Young People and Education Committee within the same timeframe. The Code, when operational, will be a vital document for all those engaged with ALN. Those considering responding to this consultation may therefore wish to consider the contents of that draft Code before responding.

The Welsh Government is confident that the draft Bill presents a robust and coherent legislative framework within which the planning and provision of support to children and young people with ALN might take place in the future. It has been developed on the basis of extensive engagement and consultation with stakeholders over a very long period of time, and contains a great deal which is innovative and has the potential to secure significant benefits for learners.

However, we recognise that it might be beneficial to place more detail on the face of the Bill around looked after children. We intend to do so once relevant secondary legislation arising from the Social Services and Well-being (Wales) Act 2014 has been finalised.

The Welsh Government intends to ensure that the views of children and young people are captured as part of this consultation by arranging bespoke engagement events for them during the autumn.

Context – our educational reform agenda

The successful implementation of the draft Bill will depend fundamentally on the workforce, their skills and capacity. Consequently, our proposed reform of the system for supporting children and young people with additional learning needs cannot be seen in isolation. It is part and parcel of our much wider reform agenda, which is relevant when considering the proposed provisions.

Qualified for Life set out a vision for an education system where every child and person benefits from excellent teaching and learning and where their potential is actively developed. Wales is on a journey to fully inclusive education; our improvement challenge is about every child in every classroom. The reform of ALN is a key element of that journey; it, along with reform of the curriculum and workforce development, will collectively deliver a system that supports all learners to achieve their full potential through a fully inclusive approach.

The vision articulated by Professor Graham Donaldson in his review *Successful Futures*¹, published in February 2015, makes clear that inclusion should be at the heart of the new curriculum and assessment arrangements. This sets out firm foundations for a new approach to curriculum and assessment that is genuinely and fully inclusive, with all children and young people making progress along the same continuum, regardless of any ALN they may have. Such an approach recognises the importance of learner-centred approaches and teacher assessment that supports the learning needs of all learners.

The Welsh Government's *New Deal for the Education Workforce*², announced in March 2015, sets out our plans for supporting the professional development of those working in schools. This has been designed to support teachers, leaders and support staff with their professional development throughout their careers, and includes a focus on increasing the capability of teachers and schools to better meet the learning needs of all learners, including those with ALN.

In addition to the New Deal, the *Teaching Tomorrow's Teachers*³ report produced by Professor John Furlong, makes clear that the need for reforming initial teacher training in Wales is 'undeniable' if we are to raise standards and deliver our ambitious reform programme.

The success of our reforms requires the workforce to embrace the new child and young person centred ethos which is the very cornerstone of what it is that we are trying to do. With this in mind, ahead of legislation, we are undertaking work to help support workforce capacity building and development in order to better meet the needs of all learners including those

¹ <http://gov.wales/topics/educationandskills/schoolshome/curriculuminwales/curriculum-for-wales/?lang=en>

² <http://gov.wales/about/cabinet/cabinetstatements/2015/newdealeducation/?lang=en>

³ <http://gov.wales/topics/educationandskills/publications/wagreviews/teaching-tomorrows-teachers/?lang=en>

with SEN/LDD. We recently published a report titled *An Assessment of SEN Workforce Development Requirements*⁴ and are now working with local authorities to develop the support required to meet the workforce development needs identified within it.

We are also developing resources to support the consistent use of person-centred-practice (PCP) with children and young people with SEN, and are working with local government to agree the best approach to embedding PCP, which would support smooth implementation of the proposed planning process set out in the draft Bill.

⁴ <http://gov.wales/topics/educationandskills/publications/reports/an-assessment-of-special-educational-needs-workforce-development-requirements/?lang=en>