

Respondent Details

Information	
Name	Chris Welsh – Chair of LLAN
Organisation (if applicable)	LLAN – NPT Headteachers

Part 1 of the consultation: The draft ALN Code**Chapter 1 - Introduction**

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

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

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

The difference between ‘must’ and ‘should’ is not clear.

Timescales

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

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

Timescales are not manageable within current resources and do not allow for a graduated response, which is key to the accurate identification of need and subsequent appropriate provision. The shortened timescales will also potentially affect the quality of evidence provided.

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

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

The ability to respond and act within given timescales is affected by many outside factors and this is not given consideration in paragraphs 1.33-1.35. Further guidance is therefore needed.

It is also not appropriate to issue an IDP unless all evidence has been received.

Structure of the draft ALN Code

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

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

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

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

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

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

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

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Chapter 2 - Principles of the Code

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

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

The delivery of ALP through the medium of Welsh is going to be challenging and WG need to think about the capacity to deliver as there is a skills shortage within the teaching profession. Ensuring this Code ties in with the new White Paper is also going to be a challenge in terms of the Welsh aspect.

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

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

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

From an idealistic perspective we would agree, although there will be situations where parents do not want to participate and / or do not consent for their child to participate. There are time implications for running and managing these PCP meetings / reviews and ensuring that the views of all parents / carers and the child are sought. Additional resources and time therefore need to be provided to schools in order to fulfil this.

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

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

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

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

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

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

Clarity needed on the role of regional consortia.

Chapter 6 - Advice and information

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

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

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

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

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

7.32(3) in relation to children under compulsory school age does not take in to account the fact that young children can develop significantly over a short period of time. This may lead to the label of ALN being given prematurely because a graduated response hasn't been followed.

Greater clarity/ detail is required on what constitutes '*significantly greater difficulty*'.

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

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

7.19 further guidance needed on what are 'appropriate timescales' for monitoring the learner's progress.

7.35 The phrase 'appropriate educational experiences' is vague and open to interpretation. There also needs to be reference to a specified time period during which the appropriate educational experience needs to have been in place for i.e. two terms. A clear graduated response would be helpful here and would help schools in deciding when the involvement of specialist services is required.

7.46 and 7.50 appear to reference a graduated response; it would be helpful for all parties if a clear graduated response was explicitly set out. Also, in 7.50, it states that when determining whether a person has ALN, the decision should be as a result of evaluating whether the differentiated teaching or standard targeted interventions have been effective. This takes time and does not sit with the proposed timescales.

WG should consider stipulating criteria which LAs / schools must refer to when deciding whether a child has ALN i.e. Should there be 'all wales' benchmarking data / tests which be used when deciding whether a child is performing 'significantly below'?

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

Early Years ALN Lead Officer

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

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

Agree role should be strategic and officers should have the appropriate experience and expertise. However, having had sight of the job description and person specification in one of the regional consultation events, it is clear that there are many operational duties also. This will affect the individual's ability to achieve the strategic objectives outlined.

Duties on schools, FEIs and local authorities

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

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

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

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

A local authority's duty to prepare an IDP for a child under compulsory school age who is not attending a maintained a maintained school

8.28 12 week timescale is unrealistic due to the capacity of specialist services and Health.

A maintained school's duty to prepare an IDP for a pupil

9.24 The timescales of 35 school days is not realistic. This does not allow for:

- sufficient time for a range of assessments and interventions to be undertaken/ implemented

by schools to ensure the correct ALN and ALP is identified

- referrals to specialist services for input/ advice

A clear graduated response is needed.

Referrals from maintained schools to a local authority

9.41 *'The school ought to be able to make the referral within 20 school days from the date on which it is brought to its attention, or otherwise appears to it that the pupil has ALN.'* The Code states that the grounds for referral are that the:

- pupil's ALN may call for ALP that the school would not be reasonable to secure
- it cannot adequately determine the extent or nature of the pupil's ALN; or
- it cannot adequately determine the ALP that is required.

In order for schools to make a decision on the above, intervention and differentiated teaching are likely to be needed in the first instance, with close monitoring over a period of time. Advice from outside agencies is also key. A period of twenty school days does not allow sufficient time for either of these to occur.

9.43 Disagree that *'Occasionally, the grounds for referral under paragraph 9.39 may only emerge later in the process... For example, it might only be when some advice is received from a specialist service that the school realises that the nature of the pupil's ALN is more extensive...'*

It is *very often* the case that grounds for referral emerge after '20 school days'. Furthermore advice from specialist services i.e. an Educational Psychologist is vital in this process, which is why in paragraph 9.46 the Code states schools 'should' consider consulting an educational psychologist'. 20 school days does not allow enough time for effective consultation with an EP or other specialist teacher.

Clear guidance needed on what information schools will be required to submit to the LA is needed.

A Local Authority's duty to decide whether a pupil has of a maintained school has ALN

9.55 *'As part of the process of deciding whether a pupil has ALN, a LA must seek advice from an educational psychologist'*. It would be more beneficial for the requirement or 'must' to be on schools to seek the advice of an EP **before** making the referral to the LA. This would ensure that any referral to the LA is supported with robust evidence and would reduce the likelihood of an inappropriate request being made. This would ensure that LA and school staff are making the best use of the limited time they have.

9.81 The LA timescales are not appropriate unless additional funding/ capacity is available to LAs.

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

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

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

Chapter 13 - Content of an IDP

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

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

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

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

Issue with wording ‘capacity issues’ in section 1A. This needs greater clarity. Are schools expected to comment upon parental capacity? If this is the case, this is going to be a very difficult and sensitive issue to comment upon. If it relates to capacity issues of the child? Who decides?

Section 2c relating to NHS Body, if schools do not have information / feedback from Health, does there need to be a system in place for recording this and flagging up with the DECLO?

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

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

13.3 Bullet point 1 implies that any IDP requires input from outside agencies and professionals. This contradicts what is stated in 9.1, which is that in most cases schools will determine ALN and prepare and maintain IDP.

Also, engaging professionals from Health is challenging and will impact on the proposed timescales for schools and the LA. Clarity is also needed on what constitutes a health or education need. i.e.

mental health.

Transport

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

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

Chapter 15 – Duties on health bodies and other relevant persons

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

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

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

6 weeks is appropriate, although Health colleagues have stated they would be unable to comply, but there is no obligation for Health to fulfil their requirement in the same way as schools and LA. If the 6 week time-scale is unrealistic then this is raising expectations and setting services up to fail. We need greater clarity around the exceptions.

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

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

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

Agree with proposed timescale of 6 weeks, however, it is not appropriate as it is not realistic.

Disagree with the statement *'But the requirement to comply within that 6 week period does not apply*

if it's impractical for the relevant person to do so due to circumstances beyond its control.' Further clarification is needed on what constitutes exceptional circumstances i.e. waiting lists.

Also:

- 15.33 wording 'should' ought to be replaced by 'must'. The template referred to should also be mandatory.
- 15.36 Disagree. If Tribunal orders the revision of an IDP in relation to ALP specified as ALP an NHS body must secure, then they should be required to do so whether they are in agreement or not. The extract '*an NHS body is not required to secure the revised ALP unless it agrees to do so*' should be removed.
- There needs to be clarity regarding relevant treatment or service. Does this include CAMHS? Is Mental Health a Health need?
- Does the LA have the ability to ask the NHS to review provision?

The Designated Education Clinical Lead Officer (“DECLO”)

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

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

The role is very broad and it is expected the DECLO should be strategic as well as operational across different LAs.

Chapter 16 - Review and revision of IDPs

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

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

Overall content and structure clear but issue with some of the content.

16.1 & 16.11 Use of the word 'regularly' and the phrase 'at least annually' is open to interpretation. More emphasis should be placed on a cycle of monitoring which takes places throughout the year.

16.19 – The given timeframes are relatively short if all relevant professionals are to be available to attend the review.

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

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

Timescales are not appropriate due to the demand this will place on the system. The LA should also work within term time days, as communication with the school /FE and families will be necessary in preparing a LA maintained IDP

There also needs to be greater clarity around the exceptions for completing the reviews, including school situations such as absence of key staff. There needs to be strengthening in terms of the responsibility on Health to adhere to these timescales.

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

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

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

Content and structure is clear but timescales are a challenge with existing resources and no additional funding.

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

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

Timescales not appropriate due to capacity/ resource issues and school holidays need to be given consideration as an exception.

Chapter 18 - Meetings about ALN and IDPs

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

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

Chapter 19 – Planning for and supporting transition

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

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

19.24 'should' ought to be replaced by 'must' to strengthen the importance around transition planning.

There are budgetary implications if a pupil moves in to a school with an existing IDP and the school has to review and adopt the IDP with its existing resources. There are current systems in place when movers in with a Statement are alerted in advance which allows for preparation and planning in advance. This will be difficult to manage for school maintained IDPs.

All schools should have a transition key worker but there needs to be resources to fund this.

There needs to be greater clarity around the wording 'well in advance'.

There needs to be guidance around when the transition planning for primary to secondary should begin i.e. year 5.

The level of input from staff required to participate in the transition process will require additional resources.

In a special school which caters for learners up to 19 years of age, specific guidance is needed around when the transition planning should begin, given that Year 9 would not be appropriate.

Chapter 20 - Transferring an IDP

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

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

20.15 It is not clear what the timescale is for Welsh Ministers to make '*their determination*.'

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

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

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

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

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

Chapter 21 - Ceasing to maintain an IDP

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

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

22.26 and 22.29 would appear to contradict 21.5 in relation to ceasing an IDP for pupils who are detained.

The language needs to be far simpler.

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

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

Chapter 22 – Children and young people subject to detention orders

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

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

This chapter is not easy to read and there are contradictions with information that has been provided in previous chapters. For example, chapter 21, paragraph 21.5, bullet point 8, states that a LA can cease to maintain an IDP when the child or young person becomes subject to a detention order, however, in chapter 22, paragraph 22.26 it states that if a detained person had an IDP immediately before beginning of their detention, the home authority must 'keep' the IDP. Paragraph 22.29 also

states the home authority must 'arrange' for appropriate ALP.

The meaning of the terms 'keep' and 'arrange' also require further clarification. .

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

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

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

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

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

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

Chapter 23 - Children and young people in specific circumstances

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

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

23.14- in bullet points 1 and 2 and in 23.15, the phrase 'it might be appropriate' is used. This is vague and lacks criteria.

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

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

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

Schools do not have appropriate funding to support this legislation. Current budgets do not allow for clear and sufficient time allocation, which in turn will mean ALNCoS will be unable to carry out their role and responsibilities effectively. It is also likely that people will be unwilling to take on the role in light of this.

There is also the issue of how schools will be able to fund the training needed.

Chapter 25 - Avoiding and resolving disagreements

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

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

We strongly **disagree** with 25.44 and feel strongly that parents have to demonstrate they have engaged with disagreement resolution arrangements before appealing to Tribunal. It is almost promoting that parents go straight to Appeal, even though it is stipulating that schools and LA have to demonstrate they have tried disagreement resolution processes.

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

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

This is the same question as above.

Chapter 26 - Appeals and applications to the Tribunal

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

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

Would the LA have 4 weeks from the date they receive the case statement or 4 weeks from the date we have been notified of an Appeal?

Also why do parents have 8 weeks to submit and LAs only 4? 4 weeks is too tight a time-scale and does not allow sufficient time for the LA to try to resolve an issue before it goes to Tribunal. All LAs would not want to reach Tribunal and would intend to meet with parents in order to resolve these issues BUT 4 weeks is not long enough, especially when an issue may involve the NHS Body.

Chapter 27 - Case friends for children who lack capacity

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

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

Any other comments

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

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

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

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

See comments under question 44.

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

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

Within section 7a, Parties' obligation to co-operate, it states that 'parties must co-operate with each other for the purposes of progressing the appeal or claim', which it is assumed would include mediation and dispute resolution at a local level. However, paragraph 25.44 of the Code states that '*No inference may be drawn by the Tribunal if the child, child's parents or young person involved in the disagreement has not used the disagreement resolution arrangements*'. These are contradictory.

Also, timescales in the case statement process for parents and LAs differ- this is not fair and just.

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

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

See comments under questions 44 and 48.

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

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

There should be the same timescales for parents and the LA.

The proposed 4 weeks for LAs is not sufficient.

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

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

Timescale is reasonable but not appropriate as it is unrealistic.

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

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

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

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

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

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

Part 3 of the consultation: Draft ALNCo regulations

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

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

Being a registered teacher and having completed the NQT induction period of three terms prescribed in law, does not equip people to perform the role of ALNCo. Initial teacher training needs a greater focus on ALN, there should be further additional high quality training that is provided during the induction period and a mandatory training programme for aspiring ALNCos should be completed before they are able to move on and perform the role. However, the funding implications for schools needs to be considered.

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

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

Agree but again schools need the financial support to allow the ALNCo to carry these tasks out.

Part 4 of the consultation: Looked after children

(a) Proposed regulations to be made

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

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

It is unrealistic for LACE Coordinators to fulfil the role of preparing an IDP, in addition to the other responsibilities. It does not make sense for the schools not to prepare and maintain the IDP for LAC pupils. These pupils should be fully integrated into the school and therefore the school are best placed to maintain the IDP. The role of the LACE Coordinator should then be involved with the most complex LAC pupils.

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

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

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

There should be a one page profile within the mandatory LA template.

(c) Proposed revisions to the Part 6 Code

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

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

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

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

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

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

It is unrealistic for LACE Coordinators to fulfil the role of preparing an IDP, in addition to the other responsibilities. It does not make sense for the schools not to prepare and maintain the IDP for LAC pupils. These pupils should be fully integrated into the school and therefore the school are best placed to maintain the IDP. The role of the LACE Coordinator should then be involved with the most complex LAC pupils.

Part 5 of the consultation: Impact of proposals

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

As a body of Headteachers we have many concerns regarding the impact of the proposed regulations (please refer to questions answered “No”)

Particular concerns around:

- Funding – training, noncontact time, meeting requirements of statements.
- Training of all staff. Particularly ALNCo training.
- Timescales – LA and NHS will not cope and majority of schools will struggle.
- Parents need to engage with the disagreement resolution process.

Schools will find it difficult moving forward to fill the role of ALNCo

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

None

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

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

Question 65 – We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

Respondent Details

Information	
Name	
Organisation (if applicable)	Natspec (Wales)

Part 1 of the consultation: The draft ALN Code**Chapter 1 - Introduction**

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

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

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

The meanings are clear. However, our concern is around how adherence to these stipulations will be monitored? Mindful of the enormous financial constraints that LAs are under, there is a real danger of LAs being pressured into making decisions that potentially limit the life chances of young people with learning difficulties and disabilities. This cost-led as opposed to person-centred commissioning has the potential for gross inequalities across Wales and will rely on the 'elephant in the room' that only the most articulate, robust and resilient parents and carers will challenge the decisions made by LAs. Related issues of access to independent advice and guidance and parents and young people's understanding of the options that should be available to them are paramount here.

Timescales

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

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

The approach to timescales is logical but we are unsure if it can be enforced. As above, our concern is the apparent lack of accountability mechanisms. This relates to both when there are delays in individuals' ALN needs being met and how those causing delays are held accountable. Again, the danger is that only the most informed parents and carers are likely

to challenge such delays that result in children and young peoples' education and training needs being unmet.

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

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

We suggest that the prominence of the word 'promptly' is enhanced here (1.32) to ensure that parents, young people and families get information as soon as possible and to reduce unnecessary stress and anxiety. Moreover, and crucially, that in order for these stipulations to have any bearing, they must be backed up by clear expectations and accountability mechanisms for such times when timescales are unmet.

Structure of the draft ALN Code

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

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

We suggest that the code incorporates too much repetition which is unhelpful.

Chapters 1 to 4 are clear and logical, but other Chapters contain critical information on which the Code is based and need to be earlier in the structure. For example, it would make more sense to place the definitions of ALN and ALP (currently chapter 7) earlier. Similarly, the content of an IDP, currently Chapter 13, is of great interest to parents, young people and families – as well as all professional stakeholders – so should be much earlier in the Code.

Chapters 8 to 12 relating to the duties of LAs, schools and FEIs in different circumstances are not in a logical order. There is a lack of logic and flow relating to the age and stage of children and young people. The current structure fails to recognise the important differences in education and training needs between “children” and “young people” as per the legal definition in paragraph 1.17. For example, Chapter 11 is intended to cover children of compulsory school age, but includes young people on pages 138, 139 and 140.

We therefore believe it would provide far more clarity to families and all organisations, and be much easier to follow if the Code was structured more clearly according to age:

- 1) Children under compulsory school age
- 2) Children of school age
- 3) Young people over compulsory school age in schools, FEIs and other post-16 provision

such as ISPIs.

Each of these three sections could then be subsequently split depending on whether the IDP is being maintained by the LA, the school or the FEI.

We believe it is important that the code has a section specifically for young people, that shows the duties on various bodies, wherever they are educated.

As the code currently stands, mixing young people into the schools' section runs the risk of treating young people inequitably depending on whether they are at a school, FEI, educated elsewhere (e.g. ISPI or home) or NEET.

At present, Chapter 9 and other sections of the Code mix in the term "young people" as though they are under the same legal and regulatory framework as children. Within Chapter 9 the word "pupil" is used throughout. It is unclear as to whether this is about a child, young person, or both. Moreover, paragraphs 11.55 to 11.60 include young people, even though Chapter 11 concerns only children. Also paragraphs 2.20 to 2.23 regarding inclusive education refer to the Act, which concerns children not young people, but then brings in young people and FEIs.

Structuring the Code more clearly according to age and stage would also emphasise to schools that their sixth forms ought to have a distinctly different, post-school ethos and culture, and that children should be offered a wide choice at Year 11 transition, rather than automatically remaining at school. The risk with the current structure, which splits the Chapters by institution and mixes young people / post-16 education into the schools section, is that there will be a growth in provision of school sixth forms and school-based post-19 centres. This has been one of the biggest unintended consequences of the Children and Families Act in England and has meant that cash-strapped LAs have extended their provision and 'kept' young adults in school environments within schools-based paradigms of education. This fails to recognise the particular needs of young people as opposed to children, and that the characteristics of Further Education should be different from schools. i.e. adult and outcome focussed. This is a crucial matter of equality for young people with learning difficulties and disabilities when comparisons are made with the opportunities available for non-disabled peers.

Our proposal would mean that schools and FEIs are in the same chapter for post-compulsory school age education, but the chapter would remain primarily about FEIs and would provide the added benefit of making it clear to schools that young people are different from children. It would also ensure that FEIs are not subject to different duties from schools when it comes to this age group.

Schools already need to refer to Chapters 7, 9, 13, 16, 18, 19, 21 and 24 throughout the code, and FEIs already need to refer to Chapters 7, 10, 16, 18, 19, 20, 21 and 24 so creating a "young people" chapter would fit with the principle of ensuring different institutions were referred to throughout the Code.

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

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

Yes, it is appropriate to focus on functions and processes rather than detailed guidance – however, we believe that there should be more guidance included in Chapters 1 and 2 about the importance of working in partnership across all bodies and organisations, not just those with statutory duties.

In relation to post-16, we are disappointed that Specialist Colleges (ISPIs) are not required to have regard to the Code, even when they are on the approved list under Section 56. Specialist Colleges should be included within the system as an alternative to mainstream FEIs, just as special schools are an alternative to mainstream schools. Excluding specialist providers from the post-16 ALN system is extremely unhelpful for all stakeholders, and it would be more helpful if detailed guidance was included in the Code requiring LAs, FEIs and others to include ISPIs within partnership arrangements and within information, advice and guidance on the ALN system.

Specialist Colleges are not schools, and it is misleading to group ISPIs together with independent schools in paragraph 1.72: they should be presented within the Code as part of the further education system for young people over compulsory school age.

In addition, Natspec continues to oppose the term used in the Act ‘Independent Special Post-16 education institutions’ (ISPIs), on the basis that it is wholly inaccessible to the young people and parents/carers who may need to understand such organisations. The term is also open to misinterpretation. To contextualise:

‘Independent’ Specialist Colleges comprise a range of legal forms. Many of them are charities. The word independent implies that the organisation is privately-owned and profit-driven. It also implies that placements are privately funded. Placements at Welsh Specialist Colleges, like those at mainstream Further Education Colleges are funded with public money.

‘Special’ The word ‘Specialist’ is more descriptive of the education and training offers both in terms of the curriculum and pedagogic approaches employed.

‘Post-16’ This term is concurrently used to describe school 6th form provision. Specialist Colleges are **post-school** environments of **Further Education**

‘Institution’ We believe that this is an outdated term that has negative connotations unhelpful and necessary for parents and carers.

In previous consideration of this nomenclature, Natspec has agreed with Estyn that the term ‘Specialist Further Education College’ be adopted to describe such organisations currently named Independent Specialist Colleges. In agreeing this however, Estyn were clear that the

adoption of this term would require Welsh Government agreement. In the spirit of avoiding unnecessary bureaucracy and confusion for such vulnerable young people and their parents we urge Welsh Government to re-consider the use of the term Independent Special Post-16 institutions and to adopt the term ‘Specialist Further Education Colleges’. Whilst we recognise that the term cannot be changed legally without amendments to the Act itself, it should still be possible for Welsh Government to use the term “Specialist Further Education College” instead of ISPI in policy papers and guidance.

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

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

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

Chapter 2 - Principles of the Code

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

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

We agree that the principles are sound. Whether they are ‘right’ or not is wrapped up in LAs having the resources to uphold them. Natspec is wholly supportive of the principle of inclusive education and quality improvement across mainstream and specialist Further Education environments, our concerns here are how the principles can realistically be manifested in practice. As it currently stands, the code itself is in danger of perpetuating a system where young people with learning difficulties and disabilities live excluded and isolated lives. For example, by inappropriate placements at FEIs if ILS departments are pressured to accept learners with high needs they have little or no prior experience of working with, resulting in placement breakdowns or education and training needs not being adequately met. Or, placements are made at FEIs for 16 hours per week and this is the only time a young person is able to leave a family home and s/he has no opportunity to become independent of parental support and develop adult social relationships.

Fundamentally, the code delivers mixed messages for young people with high needs and their parents/carers on what Post 16 options will be available to them. For the principles to have any bearing in practice, clear stipulations must be made that the assessment of individuals education and training needs are made those by those with the expertise to do so, and not by LA professionals with little or no experience of Post-16 education and

training, and who are under financial pressure not to identify specialist provision as an option.

A rights-based approach must ensure:

- access to relevant assessments and therapeutic support;
- needs-led Post-16 (and post-school) education and training opportunities for young people with learning difficulties and disabilities;
- transparent quality assurance mechanisms for young people and parents/carers to be able to judge the quality of Further Education offered to them.
- parity of opportunity for all young people, and parity of placement tenure between young people with ALN attending FEIs and for those who attend specialist provision (ISPIs),
- that IDPs are not ceased by LAs because of age of the young person or funding, and LAs and FEIs consider the same factors in relation to maintaining plans for young people.
- access to impartial advice and guidance on Post-16 options for young people and their families/carers

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

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

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

Involving and supporting children, their parents and young people must include a duty on professionals to ensure children, young people and their families have access to impartial advice and guidance. The code is very weak here: paragraph 3.4 and subsequent references to involving children and young people needs to be changed from “should” to “must”. If this section is not strengthened, it opens the doors to LAs signposting young people and parents to limited and potentially incomplete information. The implementation and maintenance of a rights-based and person-centred system is unachievable when an inevitable bias towards ‘local’, low cost provision likely to be manifested in the withholding of information on all Post-16 options that are legally available to young people and their families.

Also, in relation to consulting young people, paragraph 3.12 contains conflicting and unclear statements. The statement “views and wishes **should** be ascertained” and the statement “{views and wishes} **must** be taken into account” are incompatible and the first “should” needs to change to “Must”.

There is a real danger that LAs will cease IDPs if FEIs state they are unable to meet a young person’s needs, denying these young people an education that will help them progress and live fulfilled lives. A related issue here is that of the need for guidance on the parameters of education and training for young people, particularly those with high needs. It is imperative that LA officials understand the education and training offers provided by the specialist sector, how they impact on individuals’ life chances, reduce pressure on families and ultimately reduce costs to the public purse. Without clarity for LAs, there is a danger they will assume that further education necessitates the achievement of accredited learning and/or employment outcomes rather than equally valuable non accredited learning programmes, holistic personal development and life skills that provide positive outcomes and improve life chances.

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

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

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

The code places Local Authorities in what will arguably be an impossible position, particularly in relation to ALP for young people with high level, complex or low incidence ALN. Such people who, arguably in regard to the principles of the code and its call for LAs to have due regard to the UNCRC and UNCRPD, will require their ALN to be met by a Specialist Further Education College (ISPI). Without the maintenance of ring-fenced funding for this small but vulnerable group, and clear guidance on what education and training for this group constitutes, then funding-restricted Local Authorities will inevitably feel pressured into ending an IDP. For such a small group of young people (around 300), this would be a completely false economy, as short term savings would be off-set by much greater social care costs in the longer term, and would also be a contravention of the principles of the Code and the right of every individual to education opportunities.

There is a very real danger of assumptions being made that an IDP should end because LA representatives have limited or no expertise in this area. In direct contradiction to the principles of the code, UNCRC and the UNCRPD this will not be because this young person’s education and training needs cannot be met by the Local Authority securing a placement at a Specialist Further Education College (ISPI) but because of the inescapable financial pressures they face. In consideration of ‘discharging the duties in practice’ (4.16), the code includes the caveat that Local Authorities or NHS bodies should use the ‘context’ when deciding how to exercise its functions. We believe that given the structural barriers outlined above whereby LAs are assessors, commissioners and funders of education and training for young people with learning difficulties and disabilities who would benefit from a placement at Specialist Provider that the word

'context' is too weak and that the code requires further guidance from Welsh Government on what aspects of the UNCRC and UNCRPD, Welsh Government believes that it will be acceptable for LAs to not have due regard for. To not do so simply opens the doors for legal challenge and Welsh money that could be used for ensuring the ALN of young people are met instead is spent instead on paying legal fees associated with Tribunals. We believe that a priority for Welsh Government should be on ensuring LAs' ability to adhere to the principles laid out in the code particularly in relation to them having due regard to the UNCRC and UNCRPD.

In relation to the UNCRPD, articles 5, 8, 9, 12, 17,19,21 & 24 are problematised by LAs being placed in the compromised position of being assessors, commissioners and funders of specialist provision placements.

Articles 5 & 9: Young people with learning difficulties and disabilities will be discriminated against in relation to the Post-16 education and training offers available to non-disabled peers. Similarly, young people with more complex ALN, whose IDPs are maintained by the LA, will be discriminated against in relation to those whose plans are maintained by an FEI.

Article 8 & 21: Without access to independent advice and guidance young people and parents will not be aware of the Post -16 options available to them.

Article 12: There are no funding restrictions or considerations about the tenure of placements when FEIs are maintaining the IDP. However, the code advises that LAs maintaining plans for specialist provision have regard to a totally different set of regulations, including taking into account the length of course, leading to limited time for young people in specialist provision.

Articles 17 & 24: The code offers no reassurance that the decisions to cease IDPs by Local Authorities will be made by professionals with the skillsets to decide when a placement at a specialist college (ISPI) should not be considered for a young person with complex ALN.

Article 19: There is danger of the code resulting in LAs placing undue pressure on parents to maintain the care of young adults with learning difficulties and disabilities at home. This will inevitably put continued stress on families and limit individuals' opportunities to learn to live independent lives and reduce their dependency on parents.

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

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

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

We agree with the principle of Review but are concerned that the emphasis on local review and planning does not take into account the equally important need for regional and national planning with regard to more specialist services. This is even more relevant for post-16 services, as catchment areas for further education are not confined to individual local areas. For specialist further education, local planning and review is completely illogical. In relation to Specialist Further Education sector (ISPIs), the review stipulations are weak, there is not enough reference to the need to plan across boundaries, and it appears cost rather than quality-driven.

In relation to 5.11 for example, the implication is that low take up of a service equals inefficiency, and the emphasis is on economic rather than quality considerations. It also restricts LAs to thinking internally, rather than working in partnership across a number of areas to deliver more highly specialist provision more effectively and efficiently.

We believe that there is an inherent lack of ambition for, and understanding of, outcomes associated with Post-16 options for young people with high ALN. Reviews of ALN should include all provision available, not just in the local area, and should also reference the quality of that provision. LAs should include reference to Estyn in their reviews: the quality of education at specialist colleges in Wales is judged by Estyn consistently to be good or excellent. Moreover, access to Estyn full inspection reports and Annual Monitoring Visits reports are fully transparent and accessible on the Estyn website. Unfortunately, it is far more difficult for parents and other stakeholders including Local Authorities to understand the quality of Post-16 ILS provision at FEIs, as FEIs are only inspected every seven years, and until comparatively recently ILS provision may not even have been inspected.

The unintended consequences of planning and reviews having too “local” a focus have been clearly shown following the English SEND reforms. Local Authorities in England have not planned across boundaries and have not understood the economies of scale of using regional specialist provision for further education. They have instead funded social enterprises and organisations allied to existing schools to establish their own Post-16 Specialist Provision. The new providers have little or no experience of the delivery of Post-16 education and training, resulting in a declining picture in overall quality as evidenced by inspection reports – over 90% of new providers were judged “requires improvement” or “inadequate” at their first inspection. Key issues have been a lack of appropriate staff and governance specialism in disability and knowledge of the FE sector. Other factors identified through inspection have been ineffective quality assurance mechanisms, a lack of impartial advice and guidance, poor work-related experiences, poor development of essential skills and inadequate progress recording mechanisms.

Rather than discouraging the small minority of young people with ALN whose ALP is best met by specialist providers, we argue that Local Authorities should be incentivised through the code to seek to establish strategic relations with regional specialist providers so ensuring that the majority of the Authorities young people’s education and training needs can be met locally.

As we have raised in previous consultation responses, Welsh Specialist Further Education Colleges are funded by very comparable mechanisms to FE colleges and by their very nature constitute ‘local’ provision and should be thus be referred to as so. For many young people, their local specialist further education college (ISPI) may be both their most geographically and needs-based appropriate option. To not recognise this provides an unnecessary and further barrier and complication for young people with learning difficulties,

their families/carers and other stakeholders involved in securing ALP including School-based ALNCOs.

We are confused by the terminology “specialist post 16 education providers” in paragraph 5.14 when the term ISPIs has been used elsewhere in the code. If Specialist post-16 education providers is a wider group, then ISPIs should be clearly identified within this term.

Given the above, it is our view that Chapter 5 has an over emphasis on cost-led rather than quality-led commissioning of the education and training of young people with learning difficulties and disabilities and that this is in direction contradiction to the principles and spirit laid out in Chapter 1. It concurrently de-values the aspirations and ambitions that we should have for increasing the life chances of our most vulnerable young people. Without stronger stipulations on who *should* rather than *might* be included involved in reviews and a baseline of expectations/minimum outcomes particularly in relation to Post-16 education and training then the reviews will have limited validity and utility in relation to the promotion of quality-driven outcomes that increase the life chances of young people with learning difficulties and disabilities.

Chapter 6 - Advice and information

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

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

We welcome the stipulation that advice and guidance should be provided free of charge. We also welcome the references to objective and impartial advice and guidance. In order to achieve this, there should be more explicit reference that LAs should include **all** provision in a **comprehensive** manner. There is an opportunity within the Code to require LAs to include all provision both within their immediate area, and outside the local area if the LA expects that provision to be used by children and young people with ALN.

We are concerned that the code is not clearer in relation to the communication of Post-16 education and training options to young people and their families. Post-16 education, by its nature, is not local and many FEIs and ISPIs have catchment areas that are wider than one LA area. Advice and guidance from LAs must therefore include all FEIs and ISPIs that would be appropriate for young people in their area to use.

With reference to our response to question 4 raising concerns on the code structure we believe that these sections of the code should be structured by age and stage of young people, so that it is clearer to parents, families and young people themselves, and also so that schools, LAs and FEIs have the same duties regarding young people wherever they are educated.

This change would not require a major re-structure, as most of Chapter 8, 9 and 11 would remain the same, but it would be much clearer and limited to children of compulsory school age; whereas Chapters 10 and 12 could be linked together or placed next to each other and be limited to young people (but also include young people at schools).

In addition, we recommend that the word “pupil” is removed and replaced by the words “children” or “young people” to make it very clear as to whether or not the person is of

compulsory school age or older.

The code would be strengthened by a stipulation that Post 16 options are considered as a discrete area of any advice and guidance and that LAs have a duty to identify all Post-16 education and training options including those offered by specialist further education colleges (ISPIs).

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

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

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

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

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

We believe that this Chapter of the code fails to highlight the degree of expertise required to protect and promote high quality post 16 education for learners with ALN. We are unclear as to why specialist FE colleges / ISPIs have been omitted from the list in paragraph 7.60? This is one of a number of examples throughout the Code where a greater emphasis on partnership and sharing of expertise would produce far more effective practice if it was written into the Code. There are particular issues relating to the assessment of older teenagers and young adults and appropriate expertise should be explicitly referenced for this age group. ISPIs should also be included in relation to post-16 assessment and supporting FEIs to help them assess and provide for young people in later paragraphs in this section.

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

Early Years ALN Lead Officer

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

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

Duties on schools, FEIs and local authorities

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

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

No. Regarding structure, please see responses to questions 4 & 11.

Regarding content, we have comments on Chapter 10 relating to FEIs as follows:

We are concerned about the effect on the well-being of young people with ALN who are placed in the position of enrolling at an FEI, waiting for the FEI to make a decision about their ALN, and then the FEI deciding that it cannot reasonably secure the ALP, and the young person subsequently being referred by the FEI to the LA. Transition to further education is a stressful and anxious time for all young people, and is even more so for those with ALN and especially those with autism. With a maximum 20 term time days for the FEI to refer, followed by 12 weeks for the LA to take decisions, the young person could be without an education for several months - There should be a smoother and quicker transition for young people who need more specialist provision. This could be achieved by:

- changing the timescale from 20 term time days to make the referral to 15 term time days in paragraph 10.39
- strengthening paragraph 10.39 so that FEIs “MUST” (rather than “should”) refer a young person’s case **promptly** to the LA where there is grounds for referral.
- changing the “Should” to “must” notify the young person in paragraph 10.40
- changing the “should” to “Must” act promptly in paragraph 10.41
- changing the “should” to “must” pass on information in paragraph 10.45
- changing the “should” to “must” for the LA to provide information on timescales in paragraph 10.51 **and** the same for consulting the young person in paragraph 10.56

With reference to 10.54 and the stipulation that LAs seek advice from an education psychologist. We stress the importance of all relevant educational psychologists being required to have a clear understanding of Post-16 education and training options particularly in relation to therapeutic learning opportunities within FEIs and ISPIs.

FEIs will be responsible for assessing, preparing and maintaining IDPs for young people with ALN, some of whom will have complex needs. We are concerned that FEIs / LAs may not have the resources or expertise to do this effectively. There is an opportunity for the Code to encourage greater partnership working between FEIs and ISPIs/specialist colleges,

so that there is a more effective use of resources with regard to young people with more complex needs. Paragraphs 10.5, 10.6 and 10.7 should include reference to FEIs having discussions regarding partnerships or sub-contracting with local specialist colleges so that use of resources are maximised.

Paragraph 10.9 should be amended to include where the young person has expressed a preference for another type of provision, such as another FEI with more specialist support or an ISPI/specialist college.

All the notifications from the FEI to the young person in this chapter should also contain, with the information about the ALN system, information about the FE options for the young person, with details of the specialist support available at FEIs and ISPIs/specialist colleges.

Paragraph 10.22 – FEIs giving the opportunity for the young person to comment on the draft, and considering and acting on concerns, need to be changed to “Must” rather than “should”

Paragraphs 10.32 and 10.72 on ceasing an IDP. It would be helpful to have the reasons given in Chapter 21 listed here, including the reference to a young person reaching the age of 25. We believe that the content of paragraphs relating to maintaining a plan ought to be consistent for any young person over compulsory school age – wherever they are educated. The creation of additional regulations for a very small group of young people (Chapter 12) is illogical and the regulations under Section 46 should reflect the same considerations as those specified in paragraphs 10.32, 10.72, 21.4 and 21.5.

Paragraph 10.67 is not clear, particularly the reference to “the sections...{of Chapter 12} that deal with powers and limitations in respect of placements are also relevant where a local authority is preparing a plan young person who is a student at an FEI in Wales” This does not seem to make grammatical sense; nor does it make clear which sections of Chapter 12 it is referring to.

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

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

We believe the timescales will be challenging for FEIs placing additional pressures at the already pressured start of the academic year. This may result in Reviews being delayed or postponed and inappropriate ALP decisions made that will ultimately result in placement breakdowns.

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

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

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

No. The proposed requirements will mean that young people who are not at a school or FEI are not entitled to further education in the same way as those who are. This is inequitable and discriminatory against those for whom FEIs are not appropriate or where FEIs have decided that they are unable to secure the ALP.

The proposed regulations focus on the term “reasonable needs” for education and training. We believe these regulations should mirror the guidance for FEIs: Welsh Ministers have duties to secure provision for further education under the Learning and Skills Act 2000 and this duty extends to ALL young people, regardless of whether they have ALN or how complex their needs are.

The guidance is unclear. 12.17 states that “young people with ALN **may** need ALP” – this is in direct conflict with the definition of ALN given in the Act and illustrated in the flowchart in Chapter 7 i.e. the legal definition is that someone only has ALN **because** they need ALP (a person has ALN if they have a learning difficulty or disability that calls for ALP).

12.19 asserts that there is no entitlement to continuous education and that LAs need to consider what are reasonable needs for education. Crucially, these statements **are not** made in relation to Chapter 10 / for young people at FEIs. It is inequitable for young people whose needs cannot be met by mainstream colleges to be subject to different considerations than those who have their IDPs maintained by FEIs.

12.22 asserts ‘*The local authority must consider whether there is a **realistic prospect** of the young person achieving **a desired objective** within a reasonable period of time by undertaking a course of education and training*’. Much greater clarity is required for when Post 16 or perhaps more importantly, Post 19 education and training might be necessary. The considerations for a local authority in respect of whether to maintain or cease an IDP for a young person with ALN should be the same as the considerations for FEIs set out in paragraph 21.4.

It is here that the inherent conflict of interest in local authorities having responsibility for assessing, commissioning and funding provision for young people with ALN again comes to the fore. In England, these conflicting functions have led to local authorities focusing on provision rather than need, and commissioning what is affordable rather than what is needed. Many are overwhelmed by the administrative burden of fulfilling all the functions required of them and the lack the resource to do so effectively. In addition, some local authorities are struggling to understand further education for young people with ALN, an area for which they have not traditionally been responsible. Moreover, Local Authorities’ decision-making is often focused on short term outcomes and heavily influenced by budgetary constraints.

Within the Draft Code there is scope for LAs to be at best ambiguous and at worst discriminatory around what can be deemed a ‘realistic prospect’ and what ‘constitutes a ‘desired objective’. In paragraph 12.23, it is not clear who is responsible for determining the objective. We support the fact that objectives can cover a range of long-term aspirations, and this should be emphasised more with LAs having to consider all of these, to avoid

'objectives' being seen as synonymous with accredited learning or employment/work-related outcomes which will be inappropriate to the education and training needs of individuals with high ALN.

The Code could be strengthened with recognition that the pursuit and attainment of formal accredited learning outcomes are not always the most appropriate route for young people with complex needs. For example, a person-centred non-accredited learning pathway with learning goals that are in the best interests of the individual are likely to have far greater impact on individuals' destination goals than a formal qualification which is often reliant on support staff to complete the requirements of the Award necessitated by awarding bodies. Importantly, this should also be included in Chapter 10 as guidance for FEIs.

Paragraph 12.25 reiterates the need for the code to ensure that responsible professionals within Local Authorities understand all the Post 16 options available. That is within FEIs, locally-based specialist provision as well as out of county and indeed out of country provision.

We believe that 12.27 is both disappointing and contradictory. Again, none of these requirements are made for FEIs who are maintaining IDPs for young people at FEIs, and therefore they should not be considerations for young people who are not being educated at an FEI. There are currently **no** funding restrictions for young people with learning difficulties and disabilities attending FEIs. Ceasing a code for an FEI is not dependent on tenure of placement, so it is highly likely that FEI students with ALN will remain at college for more than two years. Even students without ALN often remain at college as they progress through different levels of learning or if they have missed part of their education earlier. The reference to a two-year placement norm is thus inaccurate, misleading and discriminatory, and we argue that this inaccuracy is removed from the code. Moreover, there is a lack of recognition that those people with multiple and complex learning difficulties will by their very nature require additional time to successfully complete programmes of education and training.

The often-profound challenges facing young people with learning difficulties, disabilities and autism who have been highly supported in special schools up the ages of 16 - 19 must be recognised and accommodated within the code. Many of these people, in meeting the increased expectations of further education, require their first academic year to acclimatise to new living environments, ways of learning and an extended curriculum. It is during this time, they acquire the requisite skills of self-reliance to effectively identify and express aspirations for further learning and post-college life choices. They are then best placed to maximise the specialist support available to them. We believe that the code should more explicitly recognise that people with learning difficulties and disabilities require extended periods of time to learn in comparison to those with less severe or no learning difficulties and disabilities. Moreover, that a person-centred approach to the nature and duration of further education programmes is promoted in which young people are not discriminated against by the nature of their ALP.

Additionally, we are concerned that the code has little or no references to the quality and expectations of Post-16 ALP and that this can be perceived as a fundamental lack of ambition for young people with high ALN. This reinforces the importance for young people whose IDPs will be LA maintained that requisite guidance and expertise is in place to ensure the appropriateness of IDP outcomes.

Chapter 13 - Content of an IDP

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

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

Yes the elements are appropriate however we believe that the IDP template is weak in relation to the Learner voice. It would be strengthened by inclusion of details of the child/young person’s preferences and aspirations.

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

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

There is a danger that a focus on the content and nature of the IDP from will detract from the code demonstrating how it will seek to address the issues faced by England in the development of the comparable Education and Health and Care Plans (EHCPs). In particular the code fails to address how it will seek to avoid:

1. inconsistency in process or interpretation of regulations between Local Authorities
2. quality variances at both inter and intra-Local Authority levels
3. poorly written LA or parent-centred rather than person-centred outcomes
4. inconsistencies in the breadth and depth of detail about individual learners
5. post-19 issues
6. lack of joined up working
7. lack of adherence to specified timelines and processes, particularly in relation to Reviews.
8. Local authority personnel not having the requisite skillsets and capacities to undertake their duties.

The code fails to acknowledge any need to make IDPs available in alternative formats. It also fails to provide clear guidance on the structure, length, depth and type of information required.

We are concerned that upon implementation there will be a great variance in the quality, appropriateness and number of IDP outcomes.

[Natspec’s research](#) has identified that one of the key reasons given for the variable quality of EHCPs in England was the knowledge and experience of the person writing it. Sometimes colleges expressed concerns about the skills of the staff completing plans, or their limited contact with the young person - for example feedback from Natspec colleges included that Local Authority staff had “*limited experience of SEN, particularly very complex students*” and “*no education knowledge and no understanding of qualifications or realistic targets*”. Moreover that “*plans are sometimes written by LA staff who have not met the young person or been able to attend Reviews*”

We are concerned that plans written by non-educationalists without consultation will be unrealistic or simply inappropriate.

There is concurrently a danger that important information be omitted from plans meaning that learners may be unable to secure the ALP they require. For example, in relation to support needs. This can have a detrimental impact upon the young person settling into an FEI or ISPI and their achievement of outcomes in the first term. A lack of information can potentially have serious consequences, especially if it relates to safeguarding or behaviour. The same piece of Natspec research referred to above identified that one college had experienced two serious assaults on staff before it came to light that the risk assessment from the school had not been included in the plan.

To avoid such issues in Wales, we argue that education professionals, with experience of post-16 education, should be involved in writing the IDP alongside the proper **and informed** engagement of the young person and their family/carers.

The danger of outcomes being poorly written are hugely significant to the life chances of young people with learning difficulties and disabilities. This remains a huge issue in relation to English EHCPs for young people, particularly because the outcomes form the basis of individuals' learning programmes. It is vital that young people's life chances are not bound by 'postcode' or 'provider' lotteries. In a Welsh context and in relation to the code, there is a clear and unambiguous link here with the role of Estyn in relation to the quality assurance of Post 16 education and training for young people with learning difficulties and disabilities. Quality issues that need to be addressed are consistency in number and nature of outcomes; monitoring and review and the appropriateness of provision in preparing young people for their post-college lives.

Post-16 outcomes should be stretching, aspirational, and updated to reflect adult learning environments. They should also be wholly person-centred, meaningful and achievable, rather than for example being contingent upon the achievement of employment for those for whom this is clearly not an option.

Colleges making provision for those with the most complex needs have many concerns about the impact of the planning process for young people 19+. In England, we have seen that budget pressures have led to LAs trying to avoid educational provision for young people aged 19. Instead such young people are moved into adult services with no recognition of how structured learning programmes can positively impact on individuals' transition to adulthood.

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

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

Yes, although there are some specific sections that require greater clarity. This includes:

13.2: "an IDP is intended to be a flexible document" ... how does this flexibility align with the fact that

there is a mandatory form? Does the flexibility just relate to length or detail of an IDP?
 13.7: it would be clearer if this paragraph was more specific about what can and can't be changed from the mandatory form, rather than the use of the phrase "such as..." or "for example"
 13.30: we believe strongly that the "should" here needs to be changed to "Must". It is imperative that outcomes are aspirational and, for young people moving towards adulthood, include outcomes related to independence, living and health and community as well as any relevant further education and employment where appropriate. IDPs maintained by LAs for young people not attending FEIs or maintained schools should include all these outcomes and be bound by the same guidance as for IDPs maintained by FEIs and schools.
 13.65: the example in the brackets is not inclusive in nature. It would be more inclusive if it were to say "e.g. from school to post-school education"

Transport

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

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

The Learner Travel (Wales) Measure 2008 is clear that travel arrangements should not favour certain types of education and training (Section 9) and includes those aged 16-19; however the LA policies relating to charges and guidance issued to families can vary between LAs. Guidance should be in place to prevent LAs including policies which impose charges based on local authority boundaries, rather than distance or suitability of placement. In England, there have been illogical cases where an LA has imposed charges on post-16 travel arrangements for placements in neighbouring boroughs, even where the proposed placement is closer to the family home than an alternative "in area" provider where transport would be free of charge.

Chapter 15 – Duties on health bodies and other relevant persons

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

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

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

We are hopeful that the Act will provide a basis for an improvement in the way that agencies work together to deliver for children and young people with ALN. Any collaborative framework must ensure that decisions made are done so in the best interests of individual learners and that person-centred educational outcomes guide decision making. The different priorities, resources, knowledge, experience and seniority of stakeholders has the potential to result in gross inequalities within and across Local Authorities. The weight of budgetary constraints and management will inevitably compromise participation and ability for co-

operation from being able to attend relevant meetings to agreeing funds available to support the educational needs of young people with multiple and complex learning difficulties and disabilities. This reinforces the importance of clarity in thresholds of responsibility and that young people and their families are provided with independent and impartial Advocates who can ensure decisions made are done so in full light of the options available to them.

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

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

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

The Designated Education Clinical Lead Officer (“DECLO”)

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

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

Chapter 16 - Review and revision of IDPs

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

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

The structure of Chapter 16 is clear and logical.

The content is unclear in places:

Paragraph 16.3: “...an IDP should be constantly monitored...” The word constantly is not helpful here, particularly when the IDP is being maintained by the LA. ‘Frequently’ might be more accurate.

Paragraph 16.6 – the content of this section could be enhanced by more guidance on the critical transition point between school and post-school/FE education. The paragraph should state more precisely when transition reviews should take place, so that there is enough time for schools and

FEIs/ISPIs to consult with LAs about the needs of young people before they start at college.

Paragraph 16.10 – this should make clear that LAs should consult with any provider that they are likely to use, not just schools and FEIs.

Paragraph 16.21 – it would be helpful if this paragraph could be clearer to avoid different LA interpretations of when they should, and should not, consider a review unnecessary. For example, it could say that reviews will always be necessary if the plan child, child’s parent or young person has given a reason within the request that about circumstances which are NOT considered reasons for declining a review, in order to of this paragraph. We advise that it should be clear to LAs and FEIs that they should NOT decline a request to review based on solely on the age of the young person.

Paragraph 16.30: as commented in our response to questions on Chapter 12, it is inequitable that a very small number of young people are subject to different considerations from their peers at FEIs regarding review of their IDPs.

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

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

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

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

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

It is not clear from the introductory paragraph whether this Chapter relates to children or young people. The first sentence and paragraph only refers to the decision of a maintained school. The second paragraph includes FEIs. The headings in the rest of the chapter only refer to school decisions. If the whole chapter is to include children and young people, then the introductory paragraph and subsequent sub-headings of the chapter should include decisions of both schools and FEIs.

There is also repetition of much of this section in paragraphs 21.20

We understand that the Welsh Government will not be prescribing a quality assurance mechanism for LAs to use in relation to the quality of IDPs that they maintain. We believe that quality assurance mechanisms should be in place for IDPs maintained by the LAs. Given the enormous pressures that Local Authorities are under, it is anticipated that IDPs will be necessarily LA-centred as opposed to person-centred

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

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

Yes, but it should also be made clear what is the case for a local authority reconsidering an FEI IDP?

Chapter 18 - Meetings about ALN and IDPs

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

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

The principles are sound, but the guidance should be more comprehensive.

Although the principles are right and to be supported, there are elements of the Code that actively ignore or contradict these principles. For example, LAs are asked in Chapter 12 to ignore the questions posed in paragraph 18.5 and consider the Section 46 regulations instead.

Chapter 18 would be more inclusive and comprehensive if it also considered children and young people educated somewhere other than a maintained school or FEI. We suggest throughout this Chapter, all references to schools and FEI should be replaced by “school, FEI or other education provider” (e.g. in paragraphs 18.7, 18.17). It would also be helpful and more inclusive to acknowledge that providers such as ISPIs / specialist colleges should be involved in review meetings where the young person is either attending them or requesting their support.

Chapter 19 – Planning for and supporting transition

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

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

In addition to the comments below please note that our response to question 4 in relation to the inequitable treatment of young people in the code is also of key significance here.

There is a clear contradiction in the reference to the negative and considerable consequences of poor transitions (19.5) with the promotion of a system that can be seen to be predicated on placement failure, enormous stress on families and young people’s education and training needs being unmet.

19.9 raises the issue of the importance of ALNCOs having a clear and full understanding of Post-16 further education and training options.

19.11 promotes the notion of a ‘Transition Key Worker’. What reassurances can be offered that such roles will have adequate knowledge and understanding of the young person and ***all*** the Post-16 options available to young people with learning difficulties and disabilities and their families? And, more importantly that young people and families will be made aware of them? This is of particular

pertinence to those whose IDPs are maintained by LAs and who have low incidence or high /more complex ALN.

19.20 given our concerns raised throughout this response on the pressure being placed on LAs we believe that the use of the phrase ‘reasonable needs’ as a determining factor for the maintenance of IDPs is wholly inadequate here and that LAs should be given stronger guidance in the code to ensure adherence to the Learning and Skills Act 2000.

19.60 we question the use of the words and the meaning here on understanding ‘the implications’ of a placement at an ISPI. We suggest this paragraph has an unwarranted negative connotation. The content is also unnecessary because in EVERY case of transition, wherever the eventual placement, the young person and their family need understand and identify the placement, and to be provided with detailed information on the placement.

Chapter 20 - Transferring an IDP

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

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

The introductory paragraphs to the Chapter are not clear.

Paragraph 20.1 states that the Chapter covers all transfers described in the paragraph (from school to school, from school to FEI, from LA to LA)

Paragraph 20.2 states that the Chapter covers transfers from LA to FEI

Paragraph 20.3 states that the Chapter covers transfers from school or FEI to an LA (although it omits the word “Chapter”)

Paragraph 20.4 is completely unclear.

The remainder of the Chapter then deals with each case in turn, but not in the same order as the introductory paragraphs. It also includes reference to transfers where a child becomes looked after – which isn’t mentioned at all in the introductory paragraphs.

We suggest that the Chapter also needs to cover what happens when an IDP transfers from a school to an LA (as with the case of a young person transfers from a school to and ISPI / Specialist college)

Paragraphs 20.20 and 20.21 do not fully explain the circumstances they are describing and are very unclear as to what is meant by “board and lodging” as opposed to educational provision. We recognise that the regulations that these paragraphs refer to (Regulations to be made under section 37(1) of the Act are yet to be published but feel that these paragraphs provide no information to organisations, parents and families as they are currently written.

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

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

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

Much depends on the contents of the proposed regulations under section 37(1) of the Act.

We are concerned that local authorities will make finance-driven decisions to request a FEI to become responsible for maintaining the IDP, rather than uphold their duty to promote and protect the best interests of disabled young people. An LA's reasons for requesting the IDP to transfer to an FEI may not be in the best interests of the young people, and it should be made clear that Welsh Ministers should take a person-centred, rather than a resource driven, approach when coming to a decision.

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

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

These paragraphs do not give enough information to answer the question about the regulations.

Chapter 21 - Ceasing to maintain an IDP

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

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

We believe that all young people regardless of ALN or the nature of the ALP they require should be treated equally in being able to access further education and training to meet their needs.

We believe that the content of paragraphs relating to maintaining or ceasing a plan ought to be consistent for any young person over compulsory school age – wherever they are educated. This would also help to make it clearer the differences between the situation for a child of compulsory school age and that of a young person.

Therefore, paragraphs 21.3 relating to schools and paragraph 21.4 relating to FEIs should be restructured to refer to circumstances for a) children and b) young people. We believe in all cases, it should be added that the decision to cease the IDP **must** only be reached as an outcome of a review (ref Chapter 16 on reviews).

The last bullet point in paragraph 21.4 states that the duty to maintain the IDP ceases to apply if the young person attains the age of 25. Whilst we agree that this needs to be stated, in accordance with the legislation, it implies that the FEI will maintain the IDP up to the age of 25 unless any of the other bullet points apply. We believe the main consideration relating to ceasing IDPs into adulthood is when the young person has achieved their (stretching and aspirational) educational outcomes and there is proper, planned progression and transition to the next stage of their adult lives. Creating an expectation that IDPs will continue until age 25, unless any of the other bullet points in paragraph 21.4 occur, runs the risk of unintended consequences of young people staying in FEIs too long without progressing and limiting resources for others.

Paragraphs 21.10 to 21.13:

The creation of additional regulations for a very small group of young people (Chapter 12) is illogical and inequitable. The regulations under Section 46 should reflect the same considerations as those specified for young people in schools and FEIs, as set out in paras 21.3 and 21.4. We reiterate here that there is no two-year norm for placements at FEIs for young people with learning difficulties and

disabilities and hence the code is factually incorrect in this regard.

We are very concerned that a young person may have ALN, but a local authority deems it is no longer necessary to maintain an IDP not because they don't think the young person has ALN, but because of pressure not to engage Specialist Providers. In other words, that the need for specialist provision will not be deemed reasonable.

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

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

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Chapter 22 – Children and young people subject to detention orders

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

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

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

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

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

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

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

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

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Chapter 23 - Children and young people in specific circumstances

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

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

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

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

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

The ALNCo role is clearly a different and more senior role to that of the SENCo. However, 24.26 conflates the two roles in relation to schools at least.

From our perspective, it is imperative that there is a clear remit that schools-based ALNCOs understand further education and training and the options available to young people. They should also have a responsibility for ensuring that young people are not 'held' in special schools when it may be in their best interests to progress to a FEI or Specialist Further Education College (ISPI).

- There are a lot of "musts" in the Chapter which are a very big responsibility for the ALNCo; therefore it will not be possible for them to teach as well. We suggest that the ALNCo role might be best placed under learning and quality roles, so that the person responsible for transitions has an understanding of the curriculum and personalised programmes
- It will be important for the ALNCo to have an understanding of the legislation and a background in ALN.
- This could be a big resource implication for FEIs, especially the small ones, to appoint the right person at the right level.

Chapter 25 - Avoiding and resolving disagreements

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

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

No. We believe that it is almost impossible for LAs to avoid or resolve disagreements when they are in the conflicted position of having to fund the disputed ALP. Hence they simply cannot be objective in resolving a disagreement.

Paragraphs 25.3 and 25.4 talk about the LA having to “make arrangements” for resolving or avoiding disagreements but it is unclear what those arrangements must be. We believe that LAs should be required to utilise independent mediation panels.

We believe the code needs give a stronger steer on the responsibility of LAs to be liaising with mainstream and specialist providers at an early stage to ensure a clear understanding of children and young people’s education and training needs and how they can best be met.

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

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

We believe that the compromised position that LAs are placed in by this code will make it impossible for them to act impartially.

We also question how adherence to arrangements including the promotion of advice and guidance will be monitored.

Chapter 26 - Appeals and applications to the Tribunal

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

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

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Chapter 27 - Case friends for children who lack capacity

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

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

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Any other comments

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

Our additional comments relate to eight principal areas of inclusive provision, quality of provision, ceasing IDPs, transferring IDPs, transitions, information advice and guidance, local authority ALN planning and funding for specialist placements.

1. Inclusion of specialist provision. We are disappointed that the code promotes an unwelcome and adversarial approach to specialist providers of education and training. Whilst special schools are included as an alternative to mainstream schools, specialist colleges / ISPIs are not seen as an equivalent alternative to FEIs and are excluded from almost every Chapter in the Code. We believe this is at best unhelpful and at worst blatant discrimination against young people with more complex needs for whom FEIs cannot meet ALP needs. This is in direct contradiction to the Learning & Skills Act 2000, the aspirations of the code and its proposed adherence to the UNCRC and UNCRPD. It promotes an inequitable system in relation to the Post-16 education and training opportunities for Welsh young people and disappointingly opens and widens the doors for scarce resources to be drained by legal costs as those parents resilient enough to challenges these inequalities do so. The promotion of an inclusive education agenda should not be used to shroud a reduction in resource and support for education and training opportunities that will increase the life chances of some of our most vulnerable young people. We note that guidance provided in previous versions of the code for LAs when considering a place at a specialist college have been omitted from this latest draft version (i.e. Feb 17 code 13.37).

We believe that the draft code is seeking to deny specialist provision as an option without any communication or any strategic planning as to how this could be achieved. Moreover, that it burdens LAs to do the 'dirty work' of denying young people the ALP they need as they are forced to make LA-centred rather than person-centred decisions. We believe this approach to be discriminatory, unreasonable system that will deny access to further education to those who FEIs are unable to offer ALP. With such a small number of young people who might need this provision, it should be easy to identify, plan for and provide for specialist further education without the unnecessary and completely disproportionate response from LAs that the Code describes.

An Equality and Human Right's Commission's report on the UNCRPD notes the UK's reservation on Article 24 around inclusive education and advises that a move towards high quality inclusive education should include **'a fully-funded strategy, with concrete timelines and measurable goals, to make education more inclusive. The strategy should cover implementation of laws and policies, teacher training, awareness-raising among parents of disabled children, and data collection about where disabled children go to school'**.

We are concerned that the code is seeking to impose a system that will exclude young people whose ALN cannot be met in a FEI from any further education. Moreover, that access to specialist provision will be inequitable across Wales. This is simply unreasonable and unfair.

Having said this, we completely understand the resource issues that are linked with more specialist provision, We are very willing to discuss how to limit this provision to the very small number that actually need and would benefit most from it, in order to avoid escalating costs, but we can only do this when it is described in the Code more positively as a much need provision for a very small but vulnerable group. If the ALN reforms do not make a positive difference for the most vulnerable, it is less likely that they will achieve the aspirations for the wider population.

2. Quality of ALP

While we acknowledge that the role of quality assurance of education and training is outside the remit of this code, we are disappointed in the lack of reference within to need to ensure the promotion of best practice and a need for high quality provision particular in reference to young people with high ALN and in relation to:

- (i) IDP Outcomes;
- (ii) Baseline assessments of education & training needs;
- (iii) Expectations of Post-16 education and training;
- (iv) Post-college destination planning.

3.Ceasing IDPs for young people: We believe that the content of paragraphs relating to maintaining a plan ought to be consistent for any young person over compulsory school age – wherever they are educated. The creation of additional regulations for a very small group of young people (Chapter 12) is illogical. The regulations under Section 46 should reflect the same considerations as those specified for young people in schools and FEIs. We reiterate here that there is no two-year norm for placements at FEIs for young people with learning difficulties and disabilities and hence the code is factually incorrect in this regard.

We are concerned that in situations where FEIs cannot meet individuals' ALN, LAs may be pressured by this code to cease IDPs on false or ill-informed premises resulting in young people with learning difficulties and disabilities being denied further education by the nature of their disabilities.

4.Transfer of IDPs: We believe that a range of safeguarding mechanisms is required to ensure the education and training needs of all Post-16 Welsh learners can be realised. If such measures including:

- (i) the recognition of ISPIs as part of the Post 16 offer, requirements for baseline assessing and progressing measuring;
- (ii) clarity on Post 16 education and training outcomes for people with high ALN;
- (iii) transparent and measurable quality assurance mechanisms on IDP outcomes, Review processes and progress recording;

are not in place then the inescapable financial pressures Local Authorities are under will create and perpetuate an inequitable system that will rely on the resilience and tenacity of parents/carers to impose any element of regulatory control. We believe this is unreasonable and unfair.

5.Transition to post-school education: The code and the proposed regulations are predicated on failure. That is, placement failure at a FEI before specialist provision can be considered. Without a strategic recognition of the specialist sector as part of the Post-16 landscape, inappropriate placements at FEIs will be made. As we have seen in England, the resultant stress and pressure this puts on disabled young people and their families as placements break down is unfair and avoidable. Each LA will inevitably have a small percentage of young people requiring specialist provision and transition to post-school education arrangements for this group should be planned as part of LA wider planning and reviews of ALN. Post-16 transition also requires planning across boundaries between LAs: the emphasis on local review and planning does not take into account the equally important need for regional and national planning with regard to more specialist services.

6.Information, advice and guidance: Throughout the code but particularly in relation to Post 16 education and training offers, Local Authorities are placed in contradictory and compromised positions. We are concerned that this will negatively impact the veracity and utility of information, advice and guidance for young people with complex and low incidence ALN.

7.The LA ALN system / planning for provision: Following English SEND reform, some LAs make one-year-only post-16 placements despite a young person's clear need for a two or three-year programme to achieve their outcomes. This short-termism causes huge and unnecessary anxiety

for young people and families. A recent survey of Natspec colleges revealed that 72% of colleges had one or more returning students where the local authority, at the end of May, had not yet confirmed their ongoing placements for September. We believe that Wales is well-placed to avoid such problems being repeated and look to the final version of the Code to ensure they are avoided.

8.Funding of specialist placements: Natspec advocates that the existing circa £12million per annum held centrally by Welsh Government that funds around 300 placements per annum at Specialist Colleges should be both ring-fenced and held nationally. This will allow for the natural fluctuations in numbers of low incidence high needs young people across Wales who require specialist placements to be accommodated. i.e. one LA may have no such learners one year and five the next.

We believe that the un-ringfenced devolution of funding will place unwarranted pressure on LAs to fulfil their obligations. It will problematise parent/LA relationships and these young people will equally be 'a problem' for already financially stretched LAs. The maintenance of a centrally held fund will free LAs from the inherent conflicts of interests of being responsible for assessing, commissioning and funding placements at specialist colleges. It will also help to ensure that young people with learning difficulties and disabilities are not denied ALP by the nature of their ALN.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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Part 3 of the consultation: Draft ALNCo regulations

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

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

<ul style="list-style-type: none">- We argue here that it is more important for ALNCOs to have experience and expertise in ALN and ALP than it is for them to be qualified teachers. It is also crucial that they have knowledge of FE and understand the college context and what it means to provide further education and adult oriented programmes- Para 24.26 implies the conversion of SENCOs to ALNCOs is only applicable to schools; there is no mention if it is the same for FEIs (Our response to question 41 above is also of relevance here).

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

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

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Part 4 of the consultation: Looked after children

(a) Proposed regulations to be made

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

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

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

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

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

(c) Proposed revisions to the Part 6 Code

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

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

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

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

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

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

Part 5 of the consultation: Impact of proposals

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

- We believe that regulations that will the biggest impact for FEIs and ISPIs are those relating to:
 - Deciding is an IDP is necessary not in a maintained school or FEI – Section 46
 - Timescales for NHS bodies to respond
 - Timescales for compliance with duty to provide information
 - Transfers of IDPs
 - Period of time for making requests
 - Deciding if it is no longer necessary to maintain and IDP for a young person not in school or FEI
 - ALNCo responsibilities
 - Education Tribunal
- We believe the regulations should play a role to enforce better partnerships between specialist providers (schools and colleges) and FEIs to explore options for joint provision
- There needs to be a recognition of the additional resources that will be required for FEIs to carry out assessments and recognition of how long it will take to do an assessment for an IDP – especially where it is decided that the FEI can't meet individuals' ALP. We also believe that Specialist Colleges (ISPIs) on the section 56 list should be included more formally in terms of partnerships with LAs and FEIs, and need to be required to take account of / have

regard for the Code of Practice. For example, where LAs are maintaining an IDP, they need to take account of possibilities to use a section 56 provider in conjunction with a FEI.

Resource implications: devolution of the £12million per annum currently held centrally by Welsh Government to funds around 300 placements per annum at Specialist Colleges is a false economy and will lead to unnecessary expenditure by LAs on a) creating unnecessary new local specialist FE provision and b) mediation and tribunals on disputed decisions which are made due to resource constraints rather than quality considerations.

This £12m fund should be both ring-fenced and held nationally. This will allow for the natural fluctuations in numbers of low incidence high needs young people across Wales who require specialist placements to be accommodated. i.e. one LA may have no such learners one year and five the next.

- The maintenance of a centrally held fund will free LAs from the inherent conflicts of interests of being responsible for assessing, commissioning and funding placements at specialist colleges. It will also help to ensure that young people with learning difficulties and disabilities are not denied ALP by the nature of their ALN.
- Natspec understands the need to protect resources, and is very willing to discuss how to limit this provision to the very small number that actually need and would benefit most from it, in order to avoid escalating costs, but it should be recognised as an important part of the ALN system.

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

No comment

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

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

No comment

Question 65 – We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

No further comments

Respondent Details

Information	
Name	Judith Williams
Organisation (if applicable)	NPTC Group of Colleges

Part 1 of the consultation: The draft ALN Code

Chapter 1 - Introduction

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

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

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

Although when used through the document the term “must “ should be used instead of “may/should”. 'source' used for health, page 3 & 4, ambiguous regarding costs.

Timescales

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

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

Good to have specific timescales
Circumstances beyond control – could be open to interpretation
Could be issues with observations and gathering evidence within this timescale.

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

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

Structure of the draft ALN Code

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

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

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

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

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

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

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

Clarification on 14-16 Agenda in FEI (Junior Apprentice for example programme needs clarification)

Chapter 2 - Principles of the Code

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

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

It is Child/yp centred with identification, transition and collaboration included which is appropriate, however a needs basis rather than a want basis needs to be re-enforced to manage expectations on behalf of parents

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

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

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

Especially 3.29 – 3.32 good that the need for parents/guardians understanding has been included and that understandably they also need support and information as this supports the YP. WG should issue parental guidance and all LAs so that there is a consistent message.

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

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

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

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

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

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

Multi-agency input concern as to timings and cost
Logistics of meeting to review: challenging

Chapter 6 - Advice and information

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

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

LEA to produce a factsheet – Authorities

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

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

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

Significant – refer to sencos

Useful to include ALN ... BESD

Equality act 2010 – referenced by JCQ for exams – consistent approach by all bodies

At first thought there was an explanation of the definition of ALN, then read more and agreed there was not.

What does significantly greater difficulty mean? (7.6)

If the learner has a moderate learning difficulty but does not require ALP as the course set up meets their needs, FEIs would be required to remove a protective plan that YP/parents had fought for. Concerns raised about lack of links to skills, literacy and numeracy. Concerns about increasing number of learners with ALN by including an E3/LI cohort that have plateaued – could be added to 7.10.

Concern over 7.21 – remove examples as it equates to experimental learning with young children. In addition, the definition in 7.21 should not link to the age of the learner, just the learner.

Concerns raised about supporting learner with healthcare needs ending at 18. Loss of CN raised as they provide expertise around transition **out**.

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

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

Could be subjective – issues with self-referrals.

When an assessment from another agency is required. How long is it valid for?

Good range of evidence identified.

Logical sequence to how evidence should be considered.

Logical sequence for gaining additional support and expertise through escalation within FEI through to external agencies.

7.62 confirms the expectation that FEIs should seek specialist input.

Questions about how long the LA have to respond when request is made for advice/support/expertise.

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

Early Years ALN Lead Officer

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

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

Duties on schools, FEIs and local authorities

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

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

HE - need clarification P115-10.26 – as students do enrol on Maths, Eng, science GCSEs while undertaking a HE qual as needed for course (nursing B Science or teaching)
 DP for FDS student LA prepare co-ordinators
 Felt that the general structure was straightforward. The sub-headings help. The language is accessible to those in the field. The introduction at the beginning of the chapter is helpful. It is useful that the table of content directs the reader to the most pertinent areas. Could there be a separate document with case studies/best practice on a sector basis?

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

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

There are certain times of the year when transition events (Reviews/Taster Days) can be difficult to hold – existing staff are delivering and supporting enrolled students and unable to be released to work with future students. Additional funding for the person centred approach - if a YP changes mind moves to another provider after cost of transition.
 Learners do not always know if they're going to college – GCSE results day is crucial to many decisions. Learners are often identified as part of the initial FE screening. 35 days not unreasonable for a learner and volumes of learners identified can be significant. All of this happens in September. There can be settling-in issues. The timing of reviews might be problematic if they are all scheduled at the same time. School reviews typically take place in November, which could be difficult for FEIs to schedule.
 ALP can be very different across different settings, this would trigger a review. 35 days will be challenging, perhaps this should be flexible in the interim/implementation phase. Do not yet understand the full impact of FEIs' workloads.
 12 weeks for local authorities is challenging for learners with complex needs, particularly if health and social services need to be engaged.

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

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

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

'Realistic prospect' – concerned about how they make decisions – would this be too subjective? The person-centred approach is good.
 12.26 could be useful to have a realistic view of a reasonable period. Achieving the balance between young person's views and LA views will be key. Will local FEIs be under pressure to take learners? How will young people know what is available to them?
 12.40 should be must.
 12.48 How does this improve the current situation? How will this work?

Chapter 13 - Content of an IDP

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

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

Useful to be able to adapt if required
Especially working between different Local Authorities

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

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

Availability of a standard form on a national electronic platform is critical for ease of transfer, accessibility and availability of updated information. Standardisation and structure of the form should be considered to ensure parity of information shared especially when FEIs cover more than one LA

The IDP standard form needs to include reference to exam arrangements – age appropriate

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

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

Transport

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

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

Appropriate to include ALN
Transport is a major priority for YP and parents – this should be one of the main discussion points as YP are unable to access provision without LA transport.
Difficult in many rural areas which often leads to exclusion of access to provision post 18

Chapter 15 – Duties on health bodies and other relevant persons

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

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

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

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

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

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

The Designated Education Clinical Lead Officer (“DECLO”)

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

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

Chapter 16 - Review and revision of IDPs

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

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

Additional flow diagram might assist with compliance.
 Timings of reviews could be problematic as with school/ FEI reviews being undertaken within the same time scale.

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

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

One problem could be that the YP will not request a review as they do not want ALP to be reduce. Agencies need to respond quickly.
Data sharing protocols.
Yes, as it must be a person-centred approach, it needs to be done quickly. In reality, if the review is urgent then FEIs will need to respond quickly. The 35 term-time days is appropriate. The provision in section 16.18 allows an exception in certain circumstances.

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

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

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

While the majority of this section is clear and straightforward, there appears to be a good deal of scope for interpretation regarding the ALP for which it is reasonable for a FEI to provide or assess. There are areas included that are considered to be out of scope for FEIs, eg, physiotherapy, SALT, hydrotherapy and educational psychology.

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

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

Chapter 18 - Meetings about ALN and IDPs

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

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

Yes, should be included.
18.5 The purpose of the review is to identify:
Have the needs changed?
Is current provision meeting needs?
Is the plan still applicable and necessary?

The Code needs to be strengthened to ensure that all schools invite a professional to transition reviews who can interpret needs and provide accurate guidance.

Chapter 19 – Planning for and supporting transition

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

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

Vague 25+ note that careers are more than just “useful” - they have important role, will there be a final IDP produced at 25. Year 9/10 staffing issues to ensure transition is effective.

1965 noted that “it may be appropriate to include Careers” whereas their role should be essential at this time especially as the ALN bill aims to deliver an appropriate workforce. Apprenticeships, ACL and HE not included – a number of 21-25 year olds access this provision alongside employment or solely.

Timing:

Need timescales on transferring the information – how long should this be? Need to give a timeline (19.12).

What is ‘good’ time? Needs to be more clearly defined (19.15).

19.56 ‘Should’ needs to be in blue.

19.51 Does a review have to be held in order to seek consent? This is not clear.

19.62 ‘as soon as possible’ – We need a realistic timescale to accommodate this.

19.63 Need to include ‘a reasonable timescale’ to avoid disagreements. Refer to 10.23.

19.71: This statement about the importance of conveying high expectations to young people who have ALN needs to move to beginning of chapter 19 as the first point.

Chapter 20 - Transferring an IDP

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

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

P227 20.12-13 Where LA may request FEI to take over, 20 term days and the involvement of Welsh Government. Will there be a number of these and will it be possible in the timescale. Are FEIs able to say no and for what reasons?

There is lack of clarity over the involvement of careers in transition and the importance of have independent careers advice.

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

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

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

Timeframe for Welsh ministers to determine whether FEI should maintain IDP, request should be in writing but should there be a formal template and plan in place within code.

What would the significant changes be to transfer maintenance from LA to FEI – does this need to be made clear in code?

Is there a time frame for Welsh ministers to determine whether FEI should maintain IDP? States that request must be made in writing but should there be a formal template and plan in place within the code? Some colleges have several ALNCOs covering different campuses etc. 20 term time days may get eaten up quickly.

LA – reasons for transfer mode in uniting? WG – timescales for 20.15 and 20.16. Robust systems to pick up emails.

20.12: before a LA requests to transfer there needs to be an appropriate reason as to why it moves to the FEI and what are the benefits to the learner.

20.15: do we need a timescale for Welsh ministers to respond to the LA referral?

20.16: do we need a timescale i.e. notifying statements of the disagreement with the LA referral.

20.14: very confusing and hard to interpret – can this be made clearer? Do we need a clearer range of exceptions? Staff sickness, inspections, etc. Needs to be put into 4-week timescale perhaps?

Do we need a standard proforma?

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

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

Who ensures that this remains person centred?

P228 loophole that could be used by LAs to close IDPs rather than consider specialist provision.

But what would be the consequences if the “passing-on body” did not act promptly? Needs time-frame. There is also an issue here about the appropriateness of the IDP content

20:19 – enormous loophole that could potentially be used by LAs to close IDPs rather than consider specialist provision to meet young peoples’ education and training needs. Accompanying regulations must provide guidance for LAs on what can be considered reasonable needs for ALP. Highlights the importance of need for impartial advice and guidance for young people of parents.

Chapter 21 - Ceasing to maintain an IDP

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

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

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

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

Chapter 22 – Children and young people subject to detention orders

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

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

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

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

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

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

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

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

Chapter 23 - Children and young people in specific circumstances

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

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

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

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

Yes	✓	No	□	Not sure	□
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Supporting comments

Should they be a member of SMT or an operational role feeding into SMT?
 Lots of musts
 Legal ramifications
 Responsibility
 Co-ordinate
 Why EWC for teaching? – FEI SENCOs are registered only under support but are more than qualified.
 Role is different from SENCo, needs different skills e.g. ability to negotiate with LAs and commissioning skills and understanding. It is a much more senior role, more with access to senior managements. Debate on the table as to whether the ALNCo should be at senior management level or should just influence senior managements. If they are not sitting at senior management level, they won't be able to do the job as well: ALN can't be seen as poor relations of an add-on.
 There are a lot of 'musts' which are a very big responsibility. It won't be possible for them to teach as well.
 Specialist college experience of transitions teams – the ALNCo role might be best placed under learning and quality roles, so that the person responsible for transitions has an understanding of the curriculum and personalised programmes.
 ALNCo roles have to have an understanding of the legislation – sits at management. Need to have an ALN background. Best if they have a good skill set relating to negotiation and influencing. The ALNCo will have to influence the thinking of the organisation – will need to ensure a whole organisation approach. This could be a big resource implication for FEIs, especially the small ones, to appoint the right person at the right level.

Chapter 25 - Avoiding and resolving disagreements

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

Yes	□	No	✓	Not sure	□
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Supporting comments

No, it is almost impossible for the LA to avoid or resolve disagreements when they are in the conflicted position of having to pay for the ALP... they cannot be objective in resolving a disagreement.
 No, there doesn't seem to be many requirements on the LA.
 Legal obligation to be reviewed annually – if there is an IDP that is reviewed annually, the provision is maintained for a year. So, if there needs to be reduction in provision, the parent/young person won't want the review to happen, the provision will just be maintained even if it isn't necessary.
 Paragraphs 25.3 and 25.4 talk about the LA having to 'make arrangements' for resolving or avoiding disagreements, but it is unclear what those arrangements must be.
 LAs need to have independent mediation panels.
 Where is the young person or family voice in the dispute? How much weight does that have?
 Needs to be avoided by much earlier discussion between mainstream and specialist providers and the LA. Has to be a joint understanding about who can do what early on.

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

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

The position of the LA to avoid or resolve disagreements and their negotiating influence when they are in the position of having to pay for ALN. Advocates for LA would not/may not be impartial. ‘as soon as possible’ vague, should be a single point of contact in FEIs. Timescales?

Chapter 26 - Appeals and applications to the Tribunal

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

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

Chapter 27 - Case friends for children who lack capacity

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

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

Any other comments

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Part 3 of the consultation: Draft ALNCo regulations

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

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

FE tutor and experience –they need to have ALN/SENCO knowledge, but not necessarily a SENCO background. They should also have negotiating and influencing skills. Some have suggested a legal background, however if they already have the appropriate ALN knowledge, good communication, problem solving, organisational and listening skills – as well as being person-centred (yp/parents/carers) in their approach - the knowledge of how to work in tribunals may not be an issue.

They also need to have a knowledge of FE – they need to have experience of colleges and understand the college context and what it means to provide further education and adult orientated programmes.

Para 24.26 implies it is only schools; there is no mention if it is the same for FEIs.

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

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

Increased costs. Significant pressure of LAs to meet more complex needs. More pressure of FEIs to meet more complex needs and on all sites. Attendance of formal reviews. Better links with schools and specialist schools. Reviewing IDP. Lecturers or Board. Health more accountable. Legal/tribunal.

Part 4 of the consultation: Looked after children

(a) Proposed regulations to be made

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

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

The LACE Co-ordinator will be a pivotal post and would generally benefit from being a statutory post. If the post is statutory consideration should be given to developing a standardised job description with clearly prescribed qualification requirements as will be implemented for ALENCo posts. The post should also clearly define the role the LACE Co-ordinator will have in the transition of LACs to FEIs.

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

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

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

If a separate standard form used for looked after children there needs to be clarification on how the information contained in the combined Personal Education Plan and the Individual Development Plan is shared and compiled into a single ILP when a looked after child progresses to an FEI. It would be also be beneficial that the LACE Co-ordinator has a responsibility to support the looked after child during their transition to FEI to ensure *comprehensive and rounded support*.

(c) Proposed revisions to the Part 6 Code

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

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

Q.59, 60, 61
Part 4 of the consultation is highly complex. The proposed draft revisions of Part 6 Code and the Code for the 2018 Act do not provide any breadth of information or guidance to support the transition of looked after children to FEIs.

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

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

See response to question 59

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

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

See response to question 59

Part 5 of the consultation: Impact of proposals

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

Positives – collaboration, person-centred, better partnerships
 However, will be challenging for FEIs due to increased number of self-referrals, pressure of LAs to meet needs locally.
 More Health and Social Care expertise needed – child psychologists – a concern that private assessments would be prioritised
 The transition into adulthood can mean a number of changes for YP – their needs will alter
 FEI shortest time to achieve
 2yrs provision noted for programmes of study – this is not always the case as some learners will complete courses at different rates.
 NHS response timescales – safeguarding.
 Deciding no longer need to maintain IDP
 Educational tribunals
 Impact on workloads and the changing from current status (statements & LSPs) to IDPs - time needed for everyone to understand the process.
 Reviews taking place alongside other meetings, for example, would these be child in need reviews or progress meetings - Could be time and cost effective, but could also be time consuming and logistically challenging if there are even more people required to attend the meetings.
 Good practice that lecturers are ALN aware and person-centred and part of the review, but could be concern that lecturers would take on the role of other professionals.

It will encourage colleges, local authorities and bodies to work together. There is a concern about the impact on provider workloads, it is difficult to quantify but will have a sizeable impact on FEIs. Learners are not new to the schools, the sheer volume of learner intake in September each year will make it challenging to FEIs.
 Learners' ALP needs will change when they go to FEIs – IDPs need to change as a result. There is a potential for conflict. Managing expectation of learners and parents, for example, learners may not need the same level of support at FEIs. It will cause an increase in cost and workload. Create pressure for LAs to meet the needs of more complex needs locally, which in turn puts more pressure on FEIs. Hopefully, improved collaboration between LAs, FEIs, Schools and health. Improved formal review process and PCP.
 Contradictions of upholding UN rights with regs that place local authorities in a compromised position of being assessors, commissioners and funders of ALN or ALP. This also applies to person-centred progressed elements of the act.
 Persons qualified to do IDP – review time on initial IDP if no agreement on the content.
 Financial implications – ALNCo/transition officers. More pressure.

Potential negative impact on learners during transition phase. Issues with LA planning and commissioning high needs/low incidence placement – replicating the massive issues in England. Lack of clarity about how health and social care will integrate into FEIs and how it is accessed. Lack of skills and expertise in LAs to plan and maintain IDPs for complex learners. More detail about transition into adulthood as FEIs and ISPIs have the shortest time to achieve a significant transition. Would help to have roles of social care and health defined to support a good transition.

The timescales ones are going to be really challenging.

We think the regulations that will have the biggest impact for FEIs are:

Timescales for NHS bodies to respond

Timescales for compliance with duty to provide information

Transfers of IDPs

Period for making request

Deciding if it is no longer necessary to maintain an IDP for a young person not in school or FEI

ALNCo

Education Tribunal

We need regulations to enforce better partnerships between specialist providers (schools and colleges) and FEIs to get some joint provision experiments or sub-contracting arrangements. There needs to be a recognition of the additional resources that will be required for FEIs to carry out assessments and recognition of how long it will take to do an assessment for IDP – especially where it is decided that the FEI can't take the young person. ISPIs on the section 56 list need to be required to take account of/have regard for the Code of Practice.

Can something be put in there about where LAs are maintaining an IDP, they need to take into account of possibilities to use a section 56 provider in conjunction with an FEI.

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

There would be an impact of the college recruitment process. It will impact geographical tutors – may become more difficult to secure ALP for learners in some areas.

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

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

FEIs have to comply with Welsh Language Standards

There are no adverse effects, but it is not clear whether there will be increased positive effects either. 26.5 provides grounds to appeal, which may force FEIs to consider the need as whether ALP should be provided in Welsh. This in turn could result in funding/resource challenges for FEIs.

Question 65 – We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

The College would like to emphasise the full extent of the operationalisation of the ALN Code is not fully understood from a human and physical resources perspective.

From the Colleges perspective it is fully anticipated there will be significant increase in resource requirements that will be needed to comply with the Code and legislation. That

includes the cost of restructuring support arrangements, the creation of required specialist and more senior posts, the modification of premises and the upskilling of staff.

Respondent Details

Information	
Name	Dr Kirsten Jones
Organisation (if applicable)	Coleg Elidyr

Part 1 of the consultation: The draft ALN Code**Chapter 1 - Introduction**

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

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

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

The meanings are clear. However, our concern is around how adherence to these stipulations will be monitored? Mindful of the enormous financial constraints that LAs are under, there is a real danger of LAs being pressured into making decisions that potentially limit the life chances of young people with learning difficulties and disabilities. This cost-led as opposed to person-centred commissioning has the potential for gross inequalities across Wales and will rely on the 'elephant in the room' that only the most articulate, robust and resilient parents and carers will challenge the decisions made by LAs. Related issues of access to independent advice and guidance and parents and young people's understanding of the options that should be available to them are paramount here.

Timescales

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

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

The approach to timescales is logical but we are unsure if it can be enforced. As above, our concern is the apparent lack of accountability mechanisms. This relates to both when there are delays in individuals' ALN needs being met and how those causing delays are held accountable. Again, the danger is that only the most informed parents and carers are likely

to challenge such delays that result in children and young peoples' education and training needs being unmet.

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

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

We suggest that the prominence of the word 'promptly' is enhanced here (1.32) to ensure that parents, young people and families get information as soon as possible and to reduce unnecessary stress and anxiety. Moreover, and crucially, that in order for these stipulations to have any bearing, they must be backed up by clear expectations and accountability mechanisms for such times when timescales are unmet.

Structure of the draft ALN Code

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

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

We believe that the code incorporates too much repetition which is unhelpful.

Chapters 1 to 4 are clear and logical, but other Chapters contain critical information on which the Code is based and need to be earlier in the structure. For example, it would make more sense to place the definitions of ALN and ALP (currently chapter 7) earlier. Similarly, the content of an IDP, currently Chapter 13, is of great interest to parents, young people and families – as well as all professional stakeholders – so should be much earlier in the Code.

Chapters 8 to 12 relating to the duties of LAs, schools and FEIs in different circumstances are not in a logical order. There is a lack of logic and flow relating to the age and stage of children and young people. The current structure fails to recognise the important differences in education and training needs between “children” and “young people” as per the legal definition in paragraph 1.17. For example, Chapter 11 is intended to cover children of compulsory school age, but includes young people on pages 138, 139 and 140.

We therefore believe it would provide far more clarity to families and all organisations, and be much easier to follow if the Code was structured more clearly according to age:

- 1) Children under compulsory school age
- 2) Children of school age
- 3) Young people over compulsory school age in schools, FEIs and other post-16 provision

such as ISPIs.

Each of these three sections could then be subsequently split depending on whether the IDP is being maintained by the LA, the school or the FEI.

We believe it is important that the code has a section specifically for young people, that shows the duties on various bodies, wherever they are educated.

As the code currently stands, mixing young people into the schools' section runs the risk of treating young people inequitably depending on whether they are at a school, FEI, educated elsewhere (e.g. ISPI or home) or NEET.

At present, Chapter 9 and other sections of the Code mix in the term "young people" as though they are under the same legal and regulatory framework as children. Within Chapter 9 the word "pupil" is used throughout. It is unclear as to whether this is about a child, young person, or both. Moreover, paragraphs 11.55 to 11.60 include young people, even though Chapter 11 concerns only children. Also paragraphs 2.20 to 2.23 regarding inclusive education refer to the Act, which concerns children not young people, but then brings in young people and FEIs.

Structuring the Code more clearly according to age and stage would also emphasise to schools that their sixth forms ought to have a distinctly different, post-school ethos and culture, and that children should be offered a wide choice at Year 11 transition, rather than automatically remaining at school. The risk with the current structure, which splits the Chapters by institution and mixes young people / post-16 education into the schools section, is that there will be a growth in provision of school sixth forms and school-based post-19 centres. This has been one of the biggest unintended consequences of the Children and Families Act in England and has meant that cash-strapped LAs have extended their provision and 'kept' young adults in school environments within schools-based paradigms of education. This fails to recognise the particular needs of young people as opposed to children, and that the characteristics of Further Education should be different from schools. i.e. adult and outcome focussed. This is a crucial matter of equality for young people with learning difficulties and disabilities when comparisons are made with the opportunities available for non-disabled peers.

This proposal would mean that schools and FEIs are in the same chapter for post-compulsory school age education, but the chapter would remain primarily about FEIs and would provide the added benefit of making it clear to schools that young people are different from children. It would also ensure that FEIs are not subject to different duties from schools when it comes to this age group.

Schools already need to refer to Chapters 7, 9, 13, 16, 18, 19, 21 and 24 throughout the code, and FEIs already need to refer to Chapters 7, 10, 16, 18, 19, 20, 21 and 24 so creating a "young people" chapter would fit with the principle of ensuring different institutions were referred to throughout the Code.

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

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

Yes, it is appropriate to focus on functions and processes rather than detailed guidance – however, we believe that there should be more guidance included in Chapters 1 and 2 about the importance of working in partnership across all bodies and organisations, not just those with statutory duties.

In relation to post-16, we are disappointed that Specialist Colleges (ISPIs) are not required to have regard to the Code, even when they are on the approved list under Section 56. Specialist Colleges should be included within the system as an alternative to mainstream FEIs, just as special schools are an alternative to mainstream schools. Excluding specialist providers from the post-16 ALN system is extremely unhelpful for all stakeholders, and it would be more helpful if detailed guidance was included in the Code requiring LAs, FEIs and others to include ISPIs within partnership arrangements and within information, advice and guidance on the ALN system.

Specialist Colleges are not schools, and it is misleading to group ISPIs together with independent schools in paragraph 1.72: they should be presented within the Code as part of the further education system for young people over compulsory school age.

In addition, we continue to oppose the term used in the Act ‘Independent Special Post-16 education institutions’ (ISPIs), on the basis that it is wholly inaccessible to the young people and parents/carers who may need to understand such organisations. The term is also open to misinterpretation. To contextualise:

‘Independent’ Specialist Colleges comprise a range of legal forms. Many of them are charities. The word independent implies that the organisation is privately-owned and profit-driven. It also implies that placements are privately funded. Placements at Welsh Specialist Colleges, like those at mainstream Further Education Colleges are funded with public money.

‘Special’ The word ‘Specialist’ is more descriptive of the education and training offers both in terms of the curriculum and pedagogic approaches employed.

‘Post-16’ This term is concurrently used to describe school 6th form provision. Specialist Colleges are **post-school** environments of **Further Education**

‘Institution’ We believe that this is an outdated term that has negative connotations unhelpful and necessary for parents and carers.

In previous consideration of this nomenclature, we are aware that Natspec has agreed with Estyn that the term ‘Specialist Further Education College’ be adopted to describe such organisations currently named Independent Specialist Colleges. In agreeing this however,

Estyn were clear that the adoption of this term would require Welsh Government agreement. In the spirit of avoiding unnecessary bureaucracy and confusion for such vulnerable young people and their parents we urge Welsh Government to re-consider the use of the term Independent Special Post-16 institutions and to adopt the term ‘Specialist Further Education Colleges’. Whilst we recognise that the term cannot be changed legally without amendments to the Act itself, it should still be possible for Welsh Government to use the term “Specialist Further Education College” instead of ISPI in policy papers and guidance.

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

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

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

Chapter 2 - Principles of the Code

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

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

We agree that the principles are sound. Whether they are ‘right’ or not is wrapped up in LAs having the resources to uphold them. We are wholly supportive of the principle of inclusive education and quality improvement across mainstream and specialist Further Education environments, our concerns here are how the principles can realistically be manifested in practice. As it currently stands, the code itself is in danger of perpetuating a system where young people with learning difficulties and disabilities live excluded and isolated lives. For example, by inappropriate placements at FEIs if ILS departments are pressured to accept learners with high needs they have little or no prior experience of working with, resulting in placement breakdowns or education and training needs not being adequately met. Or, placements are made at FEIs for 16 hours per week and this is the only time a young person is able to leave a family home and s/he has no opportunity to become independent of parental support and develop adult social relationships.

Fundamentally, the code delivers mixed messages for young people with high needs and their parents/carers on what Post 16 options will be available to them. For the principles to have any bearing in practice, clear stipulations must be made that the assessment of individuals education and training needs are made those by those with the expertise to do so, and not by LA professionals with little or no experience of Post-16 education and training, and who are under financial pressure not to identify specialist provision as an option.

A rights-based approach must ensure:

- access to relevant assessments and therapeutic support;
- needs-led Post-16 (and post-school) education and training opportunities for young people with learning difficulties and disabilities;
- transparent quality assurance mechanisms for young people and parents/carers to be able to judge the quality of Further Education offered to them.
- parity of opportunity for all young people, and parity of placement tenure between young people with ALN attending FEIs and for those who attend specialist provision (ISPIs),
- that IDPs are not ceased by LAs because of age of the young person or funding, and LAs and FEIs consider the same factors in relation to maintaining plans for young people.
- access to impartial advice and guidance on Post-16 options for young people and their families/carers

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

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

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

Involving and supporting children, their parents and young people must include a duty on professionals to ensure children, young people and their families have access to impartial advice and guidance. The code is very weak here: paragraph 3.4 and subsequent references to involving children and young people needs to be changed from “should” to “must”. If this section is not strengthened, it opens the doors to LAs signposting young people and parents to limited and potentially incomplete information. The implementation and maintenance of a rights-based and person-centred system is unachievable when an inevitable bias towards ‘local’, low cost provision likely to be manifested in the withholding of information on all Post-16 options that are legally available to young people and their families.

Also, in relation to consulting young people, paragraph 3.12 contains conflicting and unclear statements. The statement “views and wishes **should** be ascertained” and the statement “{views and wishes} **must** be taken into account” are incompatible and the first “should” needs to change to “Must”.

There is a real danger that LAs will cease IDPs if FEIs state they are unable to meet a young person’s needs, denying these young people an education that will help them

progress and live fulfilled lives. A related issue here is that of the need for guidance on the parameters of education and training for young people, particularly those with high needs. It is imperative that LA officials understand the education and training offers provided by the specialist sector, how they impact on individuals' life chances, reduce pressure on families and ultimately reduce costs to the public purse. Without clarity for LAs, there is a danger they will assume that further education necessitates the achievement of accredited learning and/or employment outcomes rather than equally valuable non accredited learning programmes, holistic personal development and life skills that provide positive outcomes and improve life chances.

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

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

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

The code places Local Authorities in what will arguably be an impossible position, particularly in relation to ALP for young people with high level, complex or low incidence ALN. Such people who, arguably in regard to the principles of the code and its call for LAs to have due regard to the UNCRC and UNCRPD, will require their ALN to be met by a Specialist Further Education College (ISPI). Without the maintenance of ring-fenced funding for this small but vulnerable group, and clear guidance on what education and training for this group constitutes, then funding-restricted Local Authorities will inevitably feel pressured into ending an IDP. For such a small group of young people (around 300), this would be a completely false economy, as short term savings would be off-set by much greater social care costs in the longer term, and would also be a contravention of the principles of the Code and the right of every individual to education opportunities.

There is a very real danger of assumptions being made that an IDP should end because LA representatives have limited or no expertise in this area. In direct contradiction to the principles of the code, UNCRC and the UNCRPD this will not be because this young person's education and training needs cannot be met by the Local Authority securing a placement at a Specialist Further Education College (ISPI) but because of the inescapable financial pressures they face. In consideration of 'discharging the duties in practice' (4.16), the code includes the caveat that Local Authorities or NHS bodies should use the 'context' when deciding how to exercise its functions. We believe that given the structural barriers outlined above whereby LAs are assessors, commissioners and funders of education and training for young people with learning difficulties and disabilities who would benefit from a placement at Specialist Provider that the word 'context' is too weak and that the code requires further guidance from Welsh Government on what aspects of the UNCRC and UNCRPD, Welsh Government

believes that it will be acceptable for LAs to not have due regard for. To not do so simply opens the doors for legal challenge and Welsh money that could be used for ensuring the ALN of young people are met instead is spent instead on paying legal fees associated with Tribunals. We believe that a priority for Welsh Government should be on ensuring LAs' ability to adhere to the principles laid out in the code particularly in relation to them having due regard to the UNCRC and UNCRPD.

In relation to the UNCRPD, articles 5, 8, 9, 12, 17,19,21 & 24 are problematised by LAs being placed in the compromised position of being assessors, commissioners and funders of specialist provision placements.

Articles 5 & 9: Young people with learning difficulties and disabilities will be discriminated against in relation to the Post-16 education and training offers available to non-disabled peers. Similarly, young people with more complex ALN, whose IDPs are maintained by the LA, will be discriminated against in relation to those whose plans are maintained by an FEI.

Article 8 & 21: Without access to independent advice and guidance young people and parents will not be aware of the Post -16 options available to them.

Article 12: There are no funding restrictions or considerations about the tenure of placements when FEIs are maintaining the IDP. However, the code advises that LAs maintaining plans for specialist provision have regard to a totally different set of regulations, including taking into account the length of course, leading to limited time for young people in specialist provision.

Articles 17 & 24: The code offers no reassurance that the decisions to cease IDPs by Local Authorities will be made by professionals with the skillsets to decide when a placement at a specialist college (ISPI) should not be considered for a young person with complex ALN.

Article 19: There is danger of the code resulting in LAs placing undue pressure on parents to maintain the care of young adults with learning difficulties and disabilities at home. This will inevitably put continued stress on families and limit individuals' opportunities to learn to live independent lives and reduce their dependency on parents.

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

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

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

We agree with the principle of Review but are concerned that the emphasis on local review and planning does not take into account the equally important need for regional

and national planning with regard to more specialist services. This is even more relevant for post-16 services, as catchment areas for further education are not confined to individual local areas. For specialist further education, local planning and review is completely illogical. In relation to Specialist Further Education sector (ISPIs), the review stipulations are weak, there is not enough reference to the need to plan across boundaries, and it appears cost rather than quality-driven.

In relation to 5.11 for example, the implication is that low take up of a service equals inefficiency, and the emphasis is on economic rather than quality considerations. It also restricts LAs to thinking internally, rather than working in partnership across a number of areas to deliver more highly specialist provision more effectively and efficiently.

We believe that there is an inherent lack of ambition for, and understanding of, outcomes associated with Post-16 options for young people with high ALN. Reviews of ALN should include all provision available, not just in the local area, and should also reference the quality of that provision. LAs should include reference to Estyn in their reviews: the quality of education at specialist colleges in Wales is judged by Estyn consistently to be good or excellent. Moreover, access to Estyn full inspection reports and Annual Monitoring Visits reports are fully transparent and accessible on the Estyn website. Unfortunately, it is far more difficult for parents and other stakeholders including Local Authorities to understand the quality of Post-16 ILS provision at FEIs, as FEIs are only inspected every seven years, and until comparatively recently ILS provision may not even have been inspected.

The unintended consequences of planning and reviews having too “local” a focus have been clearly shown following the English SEND reforms. Local Authorities in England have not planned across boundaries and have not understood the economies of scale of using regional specialist provision for further education. They have instead funded social enterprises and organisations allied to existing schools to establish their own Post-16 Specialist Provision. The new providers have little or no experience of the delivery of Post-16 education and training, resulting in a declining picture in overall quality as evidenced by inspection reports – over 90% of new providers were judged “requires improvement” or “inadequate” at their first inspection. Key issues have been a lack of appropriate staff and governance specialism in disability and knowledge of the FE sector. Other factors identified through inspection have been ineffective quality assurance mechanisms, a lack of impartial advice and guidance, poor work-related experiences, poor development of essential skills and inadequate progress recording mechanisms.

Rather than discouraging the small minority of young people with ALN whose ALP is best met by specialist providers, we argue that Local Authorities should be incentivised through the code to seek to establish strategic relations with regional specialist providers so ensuring that the majority of the Authorities young people’s education and training needs can be met locally.

As we have raised in previous consultation responses, Welsh Specialist Further Education Colleges are funded by very comparable mechanisms to FE colleges and by their very nature constitute ‘local’ provision and should be thus be referred to as so. For many young people, their local specialist further education college (ISPI) may be both their most geographically and needs-based appropriate option. To not recognise this provides an unnecessary and further barrier and complication for young people with learning difficulties, their families/carers and other stakeholders involved in securing ALP including School-based ALNCOs.

We are confused by the terminology “specialist post 16 education providers” in paragraph

5.14 when the term ISPIs has been used elsewhere in the code. If Specialist post-16 education providers is a wider group, then ISPIs should be clearly identified within this term.

Given the above, it is our view that Chapter 5 has an over emphasis on cost-led rather than quality-led commissioning of the education and training of young people with learning difficulties and disabilities and that this is in direction contradiction to the principles and spirit laid out in Chapter 1. It concurrently de-values the aspirations and ambitions that we should have for increasing the life chances of our most vulnerable young people. Without stronger stipulations on who *should* rather than *might* be included involved in reviews and a baseline of expectations/minimum outcomes particularly in relation to Post-16 education and training then the reviews will have limited validity and utility in relation to the promotion of quality-driven outcomes that increase the life chances of young people with learning difficulties and disabilities.

Chapter 6 - Advice and information

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

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

We welcome the stipulation that advice and guidance should be provided free of charge. We also welcome the references to objective and impartial advice and guidance. In order to achieve this, there should be more explicit reference that LAs should include **all** provision in a **comprehensive** manner. There is an opportunity within the Code to require LAs to include all provision both within their immediate area, and outside the local area if the LA expects that provision to be used by children and young people with ALN.

We are concerned that the code is not clearer in relation to the communication of Post-16 education and training options to young people and their families. Post-16 education, by its nature, is not local and many FEIs and ISPIs have catchment areas that are wider than one LA area. Advice and guidance from LAs must therefore include all FEIs and ISPIs that would be appropriate for young people in their area to use.

With reference to our response to question 4 raising concerns on the code structure we believe that these sections of the code should be structured by age and stage of young people, so that it is clearer to parents, families and young people themselves, and also so that schools, LAs and FEIs have the same duties regarding young people wherever they are educated.

This change would not require a major re-structure, as most of Chapter 8, 9 and 11 would remain the same, but it would be much clearer and limited to children of compulsory school age; whereas Chapters 10 and 12 could be linked together or placed next to each other and be limited to young people (but also include young people at schools).

In addition, we recommend that the word “pupil” is removed and replaced by the words “children” or “young people” to make it very clear as to whether or not the person is of compulsory school age or older.

The code would be strengthened by a stipulation that Post 16 options are considered as a discrete area of any advice and guidance and that LAs have a duty to identify all Post-16 education and training options including those offered by specialist further education

colleges (ISPIs).

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

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

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

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

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

We believe that this Chapter of the code fails to highlight the degree of expertise required to protect and promote high quality post 16 education for learners with ALN. We are unclear as to why specialist FE colleges / ISPIs have been omitted from the list in paragraph 7.60? This is one of a number of examples throughout the Code where a greater emphasis on partnership and sharing of expertise would produce far more effective practice if it was written into the Code. There are particular issues relating to the assessment of older teenagers and young adults and appropriate expertise should be explicitly referenced for this age group. ISPIs should also be included in relation to post-16 assessment and supporting FEIs to help them assess and provide for young people in later paragraphs in this section.

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

Early Years ALN Lead Officer

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

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

Duties on schools, FEIs and local authorities

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

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

No. Regarding structure, please see responses to questions 4 & 11.

Regarding content, we have comments on Chapter 10 relating to FEIs as follows:

We are concerned about the effect on the well-being of young people with ALN who are placed in the position of enrolling at an FEI, waiting for the FEI to make a decision about their ALN, and then the FEI deciding that it cannot reasonably secure the ALP, and the young person subsequently being referred by the FEI to the LA. Transition to further education is a stressful and anxious time for all young people, and is even more so for those with ALN and especially those with autism. With a maximum 20 term time days for the FEI to refer, followed by 12 weeks for the LA to take decisions, the young person could be without an education for several months - There should be a smoother and quicker transition for young people who need more specialist provision. This could be achieved by:

- changing the timescale from 20 term time days to make the referral to 15 term time days in paragraph 10.39
- strengthening paragraph 10.39 so that FEIs “MUST” (rather than “should”) refer a young person’s case **promptly** to the LA where there is grounds for referral.
- changing the “Should” to “must” notify the young person in paragraph 10.40
- changing the “should” to “Must” act promptly in paragraph 10.41
- changing the “should” to “must” pass on information in paragraph 10.45
- changing the “should” to “must” for the LA to provide information on timescales in paragraph 10.51 **and** the same for consulting the young person in paragraph 10.56

With reference to 10.54 and the stipulation that LAs seek advice from an education psychologist. We stress the importance of all relevant educational psychologists being required to have a clear understanding of Post-16 education and training options particularly in relation to therapeutic learning opportunities within FEIs and ISPIs.

FEIs will be responsible for assessing, preparing and maintaining IDPs for young people with ALN, some of whom will have complex needs. We are concerned that FEIs / LAs may not have the resources or expertise to do this effectively. There is an opportunity for the Code to encourage greater partnership working between FEIs and ISPIs/specialist colleges, so that there is a more effective use of resources with regard to young people with more complex needs. Paragraphs 10.5, 10.6 and 10.7 should include reference to FEIs having discussions regarding partnerships or sub-contracting with local specialist colleges so that use of resources are maximised.

Paragraph 10.9 should be amended to include where the young person has expressed a preference for another type of provision, such as another FEI with more specialist support or

an ISPI/specialist college.

All the notifications from the FEI to the young person in this chapter should also contain, with the information about the ALN system, information about the FE options for the young person, with details of the specialist support available at FEIs and ISPIs/specialist colleges.

Paragraph 10.22 – FEIs giving the opportunity for the young person to comment on the draft, and considering and acting on concerns, need to be changed to “Must” rather than “should”

Paragraphs 10.32 and 10.72 on ceasing an IDP. It would be helpful to have the reasons given in Chapter 21 listed here, including the reference to a young person reaching the age of 25. We believe that the content of paragraphs relating to maintaining a plan ought to be consistent for any young person over compulsory school age – wherever they are educated. The creation of additional regulations for a very small group of young people (Chapter 12) is illogical and the regulations under Section 46 should reflect the same considerations as those specified in paragraphs 10.32, 10.72, 21.4 and 21.5.

Paragraph 10.67 is not clear, particularly the reference to “the sections...{of Chapter 12} that deal with powers and limitations in respect of placements are also relevant where a local authority is preparing a plan young person who is a student at an FEI in Wales” This does not seem to make grammatical sense; nor does it make clear which sections of Chapter 12 it is referring to.

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

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

We believe the timescales will be challenging for FEIs placing additional pressures at the already pressured start of the academic year. This may result in Reviews being delayed or postponed and inappropriate ALP decisions made that will ultimately result in placement breakdowns.

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

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

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

No. The proposed requirements will mean that young people who are not at a school or FEI are not entitled to further education in the same way as those who are. This is inequitable and discriminatory against those for whom FEIs are not appropriate or where FEIs have decided that they are unable to secure the ALP.

The proposed regulations focus on the term “reasonable needs” for education and training. We believe these regulations should mirror the guidance for FEIs: Welsh Ministers have duties to secure provision for further education under the Learning and Skills Act 2000 and this duty extends to ALL young people, regardless of whether they have ALN or how complex their needs are.

The guidance is unclear. 12.17 states that “young people with ALN **may** need ALP” – this is in direct conflict with the definition of ALN given in the Act and illustrated in the flowchart in Chapter 7 i.e. the legal definition is that someone only has ALN **because** they need ALP (a person has ALN if they have a learning difficulty or disability that calls for ALP).

12.19 asserts that there is no entitlement to continuous education and that LAs need to consider what are reasonable needs for education. Crucially, these statements **are not** made in relation to Chapter 10 / for young people at FEIs. It is inequitable for young people whose needs cannot be met by mainstream colleges to be subject to different considerations than those who have their IDPs maintained by FEIs.

12.22 asserts ‘*The local authority must consider whether there is a **realistic prospect** of the young person achieving **a desired objective** within a reasonable period of time by undertaking a course of education and training*’. Much greater clarity is required for when Post 16 or perhaps more importantly, Post 19 education and training might be necessary. The considerations for a local authority in respect of whether to maintain or cease an IDP for a young person with ALN should be the same as the considerations for FEIs set out in paragraph 21.4.

It is here that the inherent conflict of interest in local authorities having responsibility for assessing, commissioning and funding provision for young people with ALN again comes to the fore. In England, these conflicting functions have led to local authorities focusing on provision rather than need, and commissioning what is affordable rather than what is needed. Many are overwhelmed by the administrative burden of fulfilling all the functions required of them and the lack the resource to do so effectively. In addition, some local authorities are struggling to understand further education for young people with ALN, an area for which they have not traditionally been responsible. Moreover, Local Authorities’ decision-making is often focused on short term outcomes and heavily influenced by budgetary constraints.

Within the Draft Code there is scope for LAs to be at best ambiguous and at worst discriminatory around what can be deemed a ‘realistic prospect’ and what ‘constitutes a ‘desired objective’. In paragraph 12.23, it is not clear who is responsible for determining the objective. We support the fact that objectives can cover a range of long-term aspirations, and this should be emphasised more with LAs having to consider all of these, to avoid ‘objectives’ being seen as synonymous with accredited learning or employment/work-related outcomes which will be inappropriate to the education and training needs of individuals with high ALN.

The Code could be strengthened with recognition that the pursuit and attainment of formal accredited learning outcomes are not always the most appropriate route for young people with complex needs. For example, a person-centred non-accredited learning pathway with learning goals that are in the best interests of the individual are likely to have far greater

impact on individuals' destination goals than a formal qualification which is often reliant on support staff to complete the requirements of the Award necessitated by awarding bodies. Importantly, this should also be included in Chapter 10 as guidance for FEIs.

Paragraph 12.25 reiterates the need for the code to ensure that responsible professionals within Local Authorities understand all the Post 16 options available. That is within FEIs, locally-based specialist provision as well as out of county and indeed out of country provision.

We believe that 12.27 is both disappointing and contradictory. Again, none of these requirements are made for FEIs who are maintaining IDPs for young people at FEIs, and therefore they should not be considerations for young people who are not being educated at an FEI. There are currently **no** funding restrictions for young people with learning difficulties and disabilities attending FEIs. Ceasing a code for an FEI is not dependent on tenure of placement, so it is highly likely that FEI students with ALN will remain at college for more than two years. Even students without ALN often remain at college as they progress through different levels of learning or if they have missed part of their education earlier. The reference to a two-year placement norm is thus inaccurate, misleading and discriminatory, and we argue that this inaccuracy is removed from the code. Moreover, there is a lack of recognition that those people with multiple and complex learning difficulties will by their very nature require additional time to successfully complete programmes of education and training.

The often-profound challenges facing young people with learning difficulties, disabilities and autism who have been highly supported in special schools up the ages of 16 - 19 must be recognised and accommodated within the code. Many of these people, in meeting the increased expectations of further education, require their first academic year to acclimatise to new living environments, ways of learning and an extended curriculum. It is during this time, they acquire the requisite skills of self-reliance to effectively identify and express aspirations for further learning and post-college life choices. They are then best placed to maximise the specialist support available to them. We believe that the code should more explicitly recognise that people with learning difficulties and disabilities require extended periods of time to learn in comparison to those with less severe or no learning difficulties and disabilities. Moreover, that a person-centred approach to the nature and duration of further education programmes is promoted in which young people are not discriminated against by the nature of their ALP.

Additionally, we are concerned that the code has little or no references to the quality and expectations of Post-16 ALP and that this can be perceived as a fundamental lack of ambition for young people with high ALN. This reinforces the importance for young people whose IDPs will be LA maintained that requisite guidance and expertise is in place to ensure the appropriateness of IDP outcomes.

Chapter 13 - Content of an IDP

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

Yes	✓	No	☐	Not sure	☐
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Supporting comments

Yes the elements are appropriate however we believe that the IDP template is weak in

relation to the Learner voice. It would be strengthened by inclusion of details of the child/young person's preferences and aspirations.

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

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

There is a danger that a focus on the content and nature of the IDP form will detract from the code demonstrating how it will seek to address the issues faced by England in the development of the comparable Education, Health and Care Plans (EHCPs). In particular the code fails to address how it will seek to avoid:

9. inconsistency in process or interpretation of regulations between Local Authorities
10. quality variances at both inter and intra-Local Authority levels
11. poorly written LA or parent-centred rather than person-centred outcomes
12. inconsistencies in the breadth and depth of detail about individual learners
13. post-19 issues
14. lack of joined up working
15. lack of adherence to specified timelines and processes, particularly in relation to Reviews.
16. Local authority personnel not having the requisite skillsets and capacities to undertake their duties.

The code fails to acknowledge any need to make IDPs available in alternative formats. It also fails to provide clear guidance on the structure, length, depth and type of information required.

We are concerned that upon implementation there will be a great variance in the quality, appropriateness and number of IDP outcomes.

[Natspec's research](#) has identified that one of the key reasons given for the variable quality of EHCPs in England was the knowledge and experience of the person writing it. Sometimes colleges expressed concerns about the skills of the staff completing plans, or their limited contact with the young person - for example feedback from Natspec colleges included that Local Authority staff had "*limited experience of SEN, particularly very complex students*" and "*no education knowledge and no understanding of qualifications or realistic targets*". Moreover that "*plans are sometimes written by LA staff who have not met the young person or been able to attend Reviews*"

We are concerned that plans written by non-educationalists without consultation will be unrealistic or simply inappropriate.

There is concurrently a danger that important information be omitted from plans meaning that learners may be unable to secure the ALP they require. For example, in relation to support needs. This can have a detrimental impact upon the young person settling into an FEI or ISPI and their achievement of outcomes in the first term. A lack of information can potentially have serious consequences, especially if it relates to safeguarding or behaviour.

The same piece of Natspec research referred to above identified that one college had experienced two serious assaults on staff before it came to light that the risk assessment from the school had not been included in the plan.

To avoid such issues in Wales, we argue that education professionals, with experience of post-16 education, should be involved in writing the IDP alongside the proper **and informed** engagement of the young person and their family/carers.

The danger of outcomes being poorly written are hugely significant to the life chances of young people with learning difficulties and disabilities. This remains a huge issue in relation to English EHCPs for young people, particularly because the outcomes form the basis of individuals' learning programmes. It is vital that young people's life chances are not bound by 'postcode' or 'provider' lotteries. In a Welsh context and in relation to the code, there is a clear and unambiguous link here with the role of Estyn in relation to the quality assurance of Post 16 education and training for young people with learning difficulties and disabilities. Quality issues that need to be addressed are consistency in number and nature of outcomes; monitoring and review and the appropriateness of provision in preparing young people for their post-college lives.

Post-16 outcomes should be stretching, aspirational, and updated to reflect adult learning environments. They should also be wholly person-centred, meaningful and achievable, rather than for example being contingent upon the achievement of employment for those for whom this is clearly not an option.

Colleges making provision for those with the most complex needs have many concerns about the impact of the planning process for young people 19+. In England, we have seen that budget pressures have led to LAs trying to avoid educational provision for young people aged 19. Instead such young people are moved into adult services with no recognition of how structured learning programmes can positively impact on individuals' transition to adulthood.

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

Yes	✓	No	☐	Not sure	☐
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Supporting comments

Yes, although there are some specific sections that require greater clarity. This includes:

13.2: "an IDP is intended to be a flexible document" ... how does this flexibility align with the fact that there is a mandatory form? Does the flexibility just relate to length or detail of an IDP?

13.7: it would be clearer if this paragraph was more specific about what can and can't be changed from the mandatory form, rather than the use of the phrase "such as..." or "for example"

13.30: we believe strongly that the "should" here needs to be changed to "Must". It is imperative that outcomes are aspirational and, for young people moving towards adulthood, include outcomes related to independence, living and health and community as well as any relevant further education and employment where appropriate. IDPs maintained by LAs for young people not attending FEIs or maintained schools should include all these outcomes and be bound by the same guidance as for

IDPs maintained by FEIs and schools.

13.65: the example in the brackets is not inclusive in nature. It would be more inclusive if it were to say “e.g. from school to post-school education”

Transport

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

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

The Learner Travel (Wales) Measure 2008 is clear that travel arrangements should not favour certain types of education and training (Section 9) and includes those aged 16-19; however the LA policies relating to charges and guidance issued to families can vary between LAs. Guidance should be in place to prevent LAs including policies which impose charges based on local authority boundaries, rather than distance or suitability of placement. In England, there have been illogical cases where an LA has imposed charges on post-16 travel arrangements for placements in neighbouring boroughs, even where the proposed placement is closer to the family home than an alternative “in area” provider where transport would be free of charge.

Chapter 15 – Duties on health bodies and other relevant persons

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

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

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

We are hopeful that the Act will provide a basis for an improvement in the way that agencies work together to deliver for children and young people with ALN. Any collaborative framework must ensure that decisions made are done so in the best interests of individual learners and that person-centred educational outcomes guide decision making. The different priorities, resources, knowledge, experience and seniority of stakeholders has the potential to result in gross inequalities within and across Local Authorities. The weight of budgetary constraints and management will inevitably compromise participation and ability for co-operation from being able to attend relevant meetings to agreeing funds available to support the educational needs of young people with multiple and complex learning difficulties and disabilities. This reinforces the importance of clarity in thresholds of responsibility and that young people and their families are provided with independent and impartial Advocates who can ensure decisions made are done so in full light of the options available to them.

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

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

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

The Designated Education Clinical Lead Officer (“DECLO”)

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

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

Chapter 16 - Review and revision of IDPs

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

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

The structure of Chapter 16 is clear and logical.

The content is unclear in places:

Paragraph 16.3: “...an IDP should be constantly monitored...” The word constantly is not helpful here, particularly when the IDP is being maintained by the LA. ‘Frequently’ might be more accurate.

Paragraph 16.6 – the content of this section could be enhanced by more guidance on the critical transition point between school and post-school/FE education. The paragraph should state more precisely when transition reviews should take place, so that there is enough time for schools and FEIs/ISPIs to consult with LAs about the needs of young people before they start at college.

Paragraph 16.10 – this should make clear that LAs should consult with any provider that they are likely to use, not just schools and FEIs.

Paragraph 16.21 – it would be helpful if this paragraph could be clearer to avoid different LA interpretations of when they should, and should not, consider a review unnecessary. For example, it could say that reviews will always be necessary if the plan child, child’s parent or young person has given a reason within the request that about circumstances which are NOT considered reasons for

declining a review, in order to of this paragraph. We advise that it should be clear to LAs and FEIs that they should NOT decline a request to review based on solely on the age of the young person.

Paragraph 16.30: as commented in our response to questions on Chapter 12, it is inequitable that a very small number of young people are subject to different considerations from their peers at FEIs regarding review of their IDPs.

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

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

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

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

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

It is not clear from the introductory paragraph whether this Chapter relates to children or young people. The first sentence and paragraph only refers to the decision of a maintained school. The second paragraph includes FEIs. The headings in the rest of the chapter only refer to school decisions. If the whole chapter is to include children and young people, then the introductory paragraph and subsequent sub-headings of the chapter should include decisions of both schools and FEIs.

There is also repetition of much of this section in paragraphs 21.20

We understand that the Welsh Government will not be prescribing a quality assurance mechanism for LAs to use in relation to the quality of IDPs that they maintain. We believe that quality assurance mechanisms should be in place for IDPs maintained by the LAs. Given the enormous pressures that Local Authorities are under, it is anticipated that IDPs will be necessarily LA-centred as opposed to person-centred

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

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

Yes, but it should also be made clear what is the case for a local authority reconsidering an FEI IDP?

Chapter 18 - Meetings about ALN and IDPs

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

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

The principles are sound, but the guidance should be more comprehensive.

Although the principles are right and to be supported, there are elements of the Code that actively ignore or contradict these principles. For example, LAs are asked in Chapter 12 to ignore the questions posed in paragraph 18.5 and consider the Section 46 regulations instead.

Chapter 18 would be more inclusive and comprehensive if it also considered children and young people educated somewhere other than a maintained school or FEI. We suggest throughout this Chapter, all references to schools and FEI should be replaced by “school, FEI or other education provider” (e.g. in paragraphs 18.7, 18.17). It would also be helpful and more inclusive to acknowledge that providers such as ISPIs / specialist colleges should be involved in review meetings where the young person is either attending them or requesting their support.

Chapter 19 – Planning for and supporting transition

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

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

In addition to the comments below please note that our response to question 4 in relation to the inequitable treatment of young people in the code is also of key significance here.

There is a clear contradiction in the reference to the negative and considerable consequences of poor transitions (19.5) with the promotion of a system that can be seen to be predicated on placement failure, enormous stress on families and young people’s education and training needs being unmet.

19.9 raises the issue of the importance of ALNCOs having a clear and full understanding of Post-16 further education and training options.

19.11 promotes the notion of a ‘Transition Key Worker’. What reassurances can be offered that such roles will have adequate knowledge and understanding of the young person and **all** the Post-16 options available to young people with learning difficulties and disabilities and their families? And, more importantly that young people and families will be made aware of them? This is of particular pertinence to those whose IDPs are maintained by LAs and who have low incidence or high /more complex ALN.

19.20 given our concerns raised throughout this response on the pressure being placed on LAs we believe that the use of the phrase ‘reasonable needs’ as a determining factor for the maintenance of IDPs is wholly inadequate here and that LAs should be given stronger guidance in the code to ensure adherence to the Learning and Skills Act 2000.

19.60 we question the use of the words and the meaning here on understanding ‘the implications’ of a placement at an ISPI. We suggest this paragraph has an unwarranted negative connotation. The content is also unnecessary because in EVERY case of transition, wherever the eventual placement, the young person and their family need understand and identify the placement, and to be provided with detailed information on the placement.

Chapter 20 - Transferring an IDP

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

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

The introductory paragraphs to the Chapter are not clear.

Paragraph 20.1 states that the Chapter covers all transfers described in the paragraph (from school to school, from school to FEI, from LA to LA)

Paragraph 20.2 states that the Chapter covers transfers from LA to FEI

Paragraph 20.3 states that the Chapter covers transfers from school or FEI to an LA (although it omits the word “Chapter”)

Paragraph 20.4 is completely unclear.

The remainder of the Chapter then deals with each case in turn, but not in the same order as the introductory paragraphs. It also includes reference to transfers where a child becomes looked after – which isn’t mentioned at all in the introductory paragraphs.

We suggest that the Chapter also needs to cover what happens when an IDP transfers from a school to an LA (as with the case of a young person transfers from a school to and ISPI / Specialist college)

Paragraphs 20.20 and 20.21 do not fully explain the circumstances they are describing and are very unclear as to what is meant by “board and lodging” as opposed to educational provision. We recognise that the regulations that these paragraphs refer to (Regulations to be made under section 37(1) of the Act are yet to be published but feel that these paragraphs provide no information to organisations, parents and families as they are currently written.

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

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

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

Much depends on the contents of the proposed regulations under section 37(1) of the Act.

We are concerned that local authorities will make finance-driven decisions to request a FEI to become responsible for maintaining the IDP, rather than uphold their duty to promote and protect the best interests of disabled young people. An LA’s reasons for requesting the IDP to transfer to an FEI may not be in the best interests of the young people, and it should be made clear that Welsh Ministers should take a person-centred, rather than a resource driven, approach when coming to a decision.

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

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

These paragraphs do not give enough information to answer the question about the regulations.

Chapter 21 - Ceasing to maintain an IDP

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

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

We believe that all young people regardless of ALN or the nature of the ALP they require should be treated equally in being able to access further education and training to meet their needs.

We believe that the content of paragraphs relating to maintaining or ceasing a plan ought to be consistent for any young person over compulsory school age – wherever they are educated. This would also help to make it clearer the differences between the situation for a child of compulsory school age and that of a young person.

Therefore, paragraphs 21.3 relating to schools and paragraph 21.4 relating to FEIs should be restructured to refer to circumstances for a) children and b) young people. We believe in all cases, it should be added that the decision to cease the IDP **must** only be reached as an outcome of a review (ref Chapter 16 on reviews).

The last bullet point in paragraph 21.4 states that the duty to maintain the IDP ceases to apply if the young person attains the age of 25. Whilst we agree that this needs to be stated, in accordance with the legislation, it implies that the FEI will maintain the IDP up to the age of 25 unless any of the other bullet points apply. We believe the main consideration relating to ceasing IDPs into adulthood is when the young person has achieved their (stretching and aspirational) educational outcomes and there is proper, planned progression and transition to the next stage of their adult lives. Creating an expectation that IDPs will continue until age 25, unless any of the other bullet points in paragraph 21.4 occur, runs the risk of unintended consequences of young people staying in FEIs too long without progressing and limiting resources for others.

Paragraphs 21.10 to 21.13:

The creation of additional regulations for a very small group of young people (Chapter 12) is illogical and inequitable. The regulations under Section 46 should reflect the same considerations as those specified for young people in schools and FEIs, as set out in paras 21.3 and 21.4. We reiterate here that there is no two-year norm for placements at FEIs for young people with learning difficulties and disabilities and hence the code is factually incorrect in this regard.

We are very concerned that a young person may have ALN, but a local authority deems it is no longer necessary to maintain an IDP not because they don't think the young person has ALN, but because of pressure not to engage Specialist Providers. In other words, that the need for specialist provision will not be deemed reasonable.

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

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

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Chapter 22 – Children and young people subject to detention orders

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

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

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

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

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

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

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

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

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Chapter 23 - Children and young people in specific circumstances

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

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

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

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

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

The ALNCo role is clearly a different and more senior role to that of the SENCo. However, 24.26 conflates the two roles in relation to schools at least.

From our perspective, it is imperative that there is a clear remit that schools-based ALNCOs understand further education and training and the options available to young people. They should also have a responsibility for ensuring that young people are not 'held' in special schools when it may be in their best interests to progress to a FEI or Specialist Further Education College (ISPI).

- There are a lot of “musts” in the Chapter which are a very big responsibility for the ALNCo; therefore it will not be possible for them to teach as well. We suggest that the ALNCo role might be best placed under learning and quality roles, so that the person responsible for transitions has an understanding of the curriculum and personalised programmes
- It will be important for the ALNCo to have an understanding of the legislation and a background in ALN.
- This could be a big resource implication for FEIs, especially the small ones, to appoint the right person at the right level.

Chapter 25 - Avoiding and resolving disagreements

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

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

No. We believe that it is almost impossible for LAs to avoid or resolve disagreements when they are in the conflicted position of having to fund the disputed ALP. Hence they simply cannot be objective in resolving a disagreement.

Paragraphs 25.3 and 25.4 talk about the LA having to “make arrangements” for resolving or avoiding disagreements but it is unclear what those arrangements must be. We believe that LAs should be required to utilise independent mediation panels.

We believe the code needs give a stronger steer on the responsibility of LAs to be liaising with mainstream and specialist providers at an early stage to ensure a clear understanding of children and young people’s education and training needs and how they can best be met.

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

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

We believe that the compromised position that LAs are placed in by this code will make it impossible for them to act impartially.

We also question how adherence to arrangements including the promotion of advice and guidance will be monitored.

Chapter 26 - Appeals and applications to the Tribunal

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

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

Chapter 27 - Case friends for children who lack capacity

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

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

Any other comments

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

Our additional comments relate to eight principal areas of inclusive provision, quality of provision, ceasing IDPs, transferring IDPs, transitions, information advice and guidance, local authority ALN planning and funding for specialist placements.

1. Inclusion of specialist provision. We are disappointed that the code promotes an unwelcome and adversarial approach to specialist providers of education and training. Whilst special schools are included as an alternative to mainstream schools, specialist colleges / ISPIs are not seen as an equivalent alternative to FEIs and are excluded from almost every Chapter in the Code. We believe

this is at best unhelpful and at worst blatant discrimination against young people with more complex needs for whom FEIs cannot meet ALP needs. This is in direct contradiction to the Learning & Skills Act 2000, the aspirations of the code and its proposed adherence to the UNCRC and UNCRPD. It promotes an inequitable system in relation to the Post-16 education and training opportunities for Welsh young people and disappointingly opens and widens the doors for scarce resources to be drained by legal costs as those parents resilient enough to challenges these inequalities do so. The promotion of an inclusive education agenda should not be used to shroud a reduction in resource and support for education and training opportunities that will increase the life chances of some of our most vulnerable young people. We note that guidance provided in previous versions of the code for LAs when considering a place at a specialist college have been omitted from this latest draft version (i.e. Feb 17 code 13.37).

We believe that the draft code is seeking to deny specialist provision as an option without any communication or any strategic planning as to how this could be achieved. Moreover, that it burdens LAs to do the 'dirty work' of denying young people the ALP they need as they are forced to make LA-centred rather than person-centred decisions. We believe this approach to be discriminatory, unreasonable system that will deny access to further education to those who FEIs are unable to offer ALP. With such a small number of young people who might need this provision, it should be easy to identify, plan for and provide for specialist further education without the unnecessary and completely disproportionate response from LAs that the Code describes.

An Equality and Human Right's Commission's report on the UNCRPD notes the UK's reservation on Article 24 around inclusive education and advises that a move towards high quality inclusive education should include **'a fully-funded strategy, with concrete timelines and measurable goals, to make education more inclusive. The strategy should cover implementation of laws and policies, teacher training, awareness-raising among parents of disabled children, and data collection about where disabled children go to school'**.

We are concerned that the code is seeking to impose a system that will exclude young people whose ALN cannot be met in a FEI from any further education. Moreover, that access to specialist provision will be inequitable across Wales. This is simply unreasonable and unfair.

Having said this, we completely understand the resource issues that are linked with more specialist provision, We are very willing to discuss how to limit this provision to the very small number that actually need and would benefit most from it, in order to avoid escalating costs, but we can only do this when it is described in the Code more positively as a much need provision for a very small but vulnerable group. If the ALN reforms do not make a positive difference for the most vulnerable, it is less likely that they will achieve the aspirations for the wider population.

2. Quality of ALP

While we acknowledge that the role of quality assurance of education and training is outside the remit of this code, we are disappointed in the lack of reference within to need to ensure the promotion of best practice and a need for high quality provision particular in reference to young people with high ALN and in relation to:

- (v) IDP Outcomes;
- (vi) Baseline assessments of education & training needs;
- (vii) Expectations of Post-16 education and training;
- (viii) Post-college destination planning.

3.Ceasing IDPs for young people: We believe that the content of paragraphs relating to maintaining a plan ought to be consistent for any young person over compulsory school age – wherever they are educated. The creation of additional regulations for a very small group of young people (Chapter 12) is illogical. The regulations under Section 46 should reflect the same considerations as those specified for young people in schools and FEIs. We reiterate here that there is no two-year norm for placements at FEIs for young people with learning difficulties and disabilities

and hence the code is factually incorrect in this regard.

We are concerned that in situations where FEIs cannot meet individuals' ALN, LAs may be pressured by this code to cease IDPs on false or ill-informed premises resulting in young people with learning difficulties and disabilities being denied further education by the nature of their disabilities.

4.Transfer of IDPs: We believe that a range of safeguarding mechanisms is required to ensure the education and training needs of all Post-16 Welsh learners can be realised. If such measures including:

- (iv) the recognition of ISPIs as part of the Post 16 offer, requirements for baseline assessing and progressing measuring;
- (v) clarity on Post 16 education and training outcomes for people with high ALN;
- (vi) transparent and measurable quality assurance mechanisms on IDP outcomes, Review processes and progress recording;

are not in place then the inescapable financial pressures Local Authorities are under will create and perpetuate an inequitable system that will rely on the resilience and tenacity of parents/carers to impose any element of regulatory control. We believe this is unreasonable and unfair.

5.Transition to post-school education: The code and the proposed regulations are predicated on failure. That is, placement failure at a FEI before specialist provision can be considered. Without a strategic recognition of the specialist sector as part of the Post-16 landscape, inappropriate placements at FEIs will be made. As we have seen in England, the resultant stress and pressure this puts on disabled young people and their families as placements break down is unfair and avoidable. Each LA will inevitably have a small percentage of young people requiring specialist provision and transition to post-school education arrangements for this group should be planned as part of LA wider planning and reviews of ALN. Post-16 transition also requires planning across boundaries between LAs: the emphasis on local review and planning does not take into account the equally important need for regional and national planning with regard to more specialist services.

6.Information, advice and guidance: Throughout the code but particularly in relation to Post 16 education and training offers, Local Authorities are placed in contradictory and compromised positions. We are concerned that this will negatively impact the veracity and utility of information, advice and guidance for young people with complex and low incidence ALN.

7.The LA ALN system / planning for provision: Following English SEND reform, some LAs make one-year-only post-16 placements despite a young person's clear need for a two or three-year programme to achieve their outcomes. This short-termism causes huge and unnecessary anxiety for young people and families. A recent survey of Natspec colleges revealed that 72% of colleges had one or more returning students where the local authority, at the end of May, had not yet confirmed their ongoing placements for September. We believe that Wales is well-placed to avoid such problems being repeated and look to the final version of the Code to ensure they are avoided.

8.Funding of specialist placements: Like Natspec we advocate that the existing circa £12million per annum held centrally by Welsh Government that funds around 300 placements per annum at Specialist Colleges should be both ring-fenced and held nationally. This will allow for the natural fluctuations in numbers of low incidence high needs young people across Wales who require specialist placements to be accommodated. i.e. one LA may have no such learners one year and five the next.

We believe that the un-ringfenced devolution of funding will place unwarranted pressure on LAs to fulfil their obligations. It will problematise parent/LA relationships and these young people will equally be 'a problem' for already financially stretched LAs. The maintenance of a centrally held fund will free LAs from the inherent conflicts of interests of being responsible for assessing, commissioning and funding placements at specialist colleges. It will also help to ensure that young people with learning difficulties and disabilities are not denied ALP by the nature of their ALN.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Part 4 of the consultation: Looked after children

(a) Proposed regulations to be made

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

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

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

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

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

(c) Proposed revisions to the Part 6 Code

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

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

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

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

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

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

Part 5 of the consultation: Impact of proposals

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

- We believe that regulations that will the biggest impact for FEIs and ISPIs are those relating to:
 - Deciding is an IDP is necessary not in a maintained school or FEI – Section 46
 - Timescales for NHS bodies to respond
 - Timescales for compliance with duty to provide information
 - Transfers of IDPs
 - Period of time for making requests
 - Deciding if it is no longer necessary to maintain and IDP for a young person not in school or FEI
 - ALNCo responsibilities
 - Education Tribunal
- We believe the regulations should play a role to enforce better partnerships between specialist providers (schools and colleges) and FEIs to explore options for joint provision
- There needs to be a recognition of the additional resources that will be required for FEIs to carry out assessments and recognition of how long it will take to do an assessment for an IDP – especially where it is decided that the FEI can't meet individuals' ALP. We also believe that Specialist Colleges (ISPIs) on the section 56 list should be included more formally in terms of partnerships with LAs and FEIs, and need to be required to take account of / have

regard for the Code of Practice. For example, where LAs are maintaining an IDP, they need to take account of possibilities to use a section 56 provider in conjunction with a FEI.

Resource implications: devolution of the £12million per annum currently held centrally by Welsh Government to funds around 300 placements per annum at Specialist Colleges is a false economy and will lead to unnecessary expenditure by LAs on a) creating unnecessary new local specialist FE provision and b) mediation and tribunals on disputed decisions which are made due to resource constraints rather than quality considerations.

This £12m fund should be both ring-fenced and held nationally. This will allow for the natural fluctuations in numbers of low incidence high needs young people across Wales who require specialist placements to be accommodated. i.e. one LA may have no such learners one year and five the next.

- The maintenance of a centrally held fund will free LAs from the inherent conflicts of interests of being responsible for assessing, commissioning and funding placements at specialist colleges. It will also help to ensure that young people with learning difficulties and disabilities are not denied ALP by the nature of their ALN.
- We understand the need to protect resources, and is very willing to discuss how to limit this provision to the very small number that actually need and would benefit most from it, in order to avoid escalating costs, but it should be recognised as an important part of the ALN system.

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

No comment

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

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

No comment

Question 65 – We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

No further comments

Respondent Details

Information	
Name	Aled Evans
Organisation (if applicable)	Neath Port Talbot Local Education Authority in consultation with colleagues from wider service areas.

Part 1 of the consultation: The draft ALN Code

Chapter 1 - Introduction

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

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

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

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Timescales

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

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

<p>While we fully support prompt decision making for parents, children and young people, we disagree with the timescales proposed, as they are unrealistic with existing resources. See detailed comments below under question 16.</p>
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Question 3 – Is the general exception which applies in the case of timescales, as described in paragraphs 1.33-1.35 of the draft ALN Code, appropriate?

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

<p>1.33 Disagree that an IDP can be issued even if some outstanding evidence is yet to be received. This could lead to a document that is not in the best interests of the child and create additional work for LA and school staff, as they would be expected to continually review and revise the IDP, as and when further evidence is provided. This would mean there is a lack of continuity within the</p>

assessment process and could be unhelpful in terms of decision making. This could also be misleading and confusing for parents.

1.34 Greater clarity needed on what is a 'general exception' and school holidays should be referenced here.

Structure of the draft ALN Code

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

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

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

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

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

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

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

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Chapter 2 - Principles of the Code

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

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

We agree with the principles, however, schools and LAs require the appropriate funding/ resources to deliver.

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

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

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

The idea of greater involvement of parents and children in any decisions related to the child's ALN is welcomed, as is the emphasis on the starting point being '*to understand the communication requirements and preferences of the child or young person*'. However, clarity around the following would be required:

3.12 Who decides if it is not appropriate for the child to attend the meeting where a decision is being made - head/ALNCO/parents? What if there is disagreement i.e. school feel the child should be involved but parents do not?

3.22 What happens when parents do not wish to be involved and do not engage in the process i.e. non-attendance at meetings or reluctance to complete person centred paperwork? Do schools just continue the process without them and obtain parental signature /consent for this?

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

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

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

This links well with the recent Rights Respecting Schools programme by the UNCRC.

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

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

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

Agree overall that duties on LAs to keep ALP under review are appropriate, however, clarity needed on the role of regional consortia.

Responsibility for ALN does not sit with regional consortia, it is therefore essential that the LA and consortia work in close collaboration. Given that expertise and legal accountability sits within the LA, the LA should, in discussion with Challenge Advisors, take the lead in this area.

Chapter 6 - Advice and information

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

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

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

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

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

The two step definition is welcomed. However, 7.32(3) in relation to children under compulsory school age is confusing and does not take in to account the fact that young children can develop significantly over a short period of time. It would be very helpful if a graduated response would be explicitly referenced. Greater clarity/ detail is required on what constitutes '*significantly greater difficulty*' and it would be helpful if 7.20 was included within this section.

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

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

7.19 'Appropriate timescales' for monitoring the learner's progress requires clarification i.e. two terms.

7.35 The phrase 'appropriate educational experiences' requires greater clarity as it is open to interpretation. There also needs to be reference to a specified time period during which the appropriate educational experience needs to have been in place for i.e. two terms. A clear graduated response would be helpful here and would also assist schools in determining when specialist services should become involved to support in the identification of ALN and the ALP required.

7.46 and 7.50 appear to reference a graduated response; it would be helpful for all parties if a clear graduated response was set out. Also, in regards to 7.50, in determining whether a person has ALN, it states that this should be as a result of determining whether the differentiated teaching or standard

targeted interventions have been effective. This takes time and does not sit with the proposed timescales.

7.59 The phrase '*identified lack of expertise*' is open to interpretation and not helpful. It would have greater clarity if the wording in 7.62 in regards to the role of the ALNCo, is incorporated here.

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

Early Years ALN Lead Officer

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

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

We agree with the principle that the role is a strategic one and officers have the appropriate experience and expertise. However, having had sight of the proposed job description and person specification, the ALNLO cannot fulfil the strategic objectives, as well as work at an operational level.

Duties on schools, FEIs and local authorities

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

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

Structure and content clear, see below comments relating to FEIs:

10:11 – Input from outside agencies will further dilute the services that are available to schools now. Whilst this support should be available to students at FEIs, this wouldn't be cost neutral unless the level of availability remains as it is at present. In this instance, there would be a substantial impact on schools as resources become dispersed even more widely than they are at present.

10.54 – As above, would this EP be provided by the Local Authority or by the FEI? This will further impact on EP availability for schools if it needs to be taken from current resources.

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

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

A local authority's duty to prepare an IDP for a child under compulsory school age who is not attending a maintained a maintained school

8.28 12 week timescale unrealistic due to the capacity of Health and other specialist services i.e. EPS. Also, it does not allow for effective collaboration and communication between the LA and parents.

A maintained school's duty to prepare an IDP for a pupil

9.24 The timescales for schools of 35 days is not realistic. It does not give appropriate time for a range of assessments and interventions to be undertaken/ implemented by schools to ensure the correct ALN and ALP is identified, or for schools to access specialist services for input/ advice to assist in this. The lack of graduated response in this Code is unhelpful.

Referrals from maintained schools to a local authority

9.41 *'The school ought to be able to make the referral within 20 school days from the date on which it is brought to its attention, or otherwise appears to it that the pupil has ALN.'* The Code states that the grounds for referral are that the:

- pupil's ALN may call for ALP that the school would not be reasonable to secure
- it cannot adequately determine the extent or nature of the pupil's ALN; or
- it cannot adequately determine the ALP that is required.

In order for schools to make a decision on these grounds, intervention and different teaching and learning approaches are likely to be needed in the first instance, with close monitoring over a period of time to see how the child/ young person responds. Advice from outside agencies is also key in the decision making process. A period of twenty school days is not sufficient to allow either of these to occur.

9.43 Disagree that *'Occasionally, the grounds for referral under paragraph 9.39 may only emerge later in the process... For example, it might only be when some advice is received from a specialist service that the school realises that the nature of the pupil's ALN is more extensive...'* It is very often the case that grounds for referral emerge after '20 school days'. Furthermore advice from specialist services i.e. an Educational Psychologist is vital in this process, which is why in paragraph 9.46 the Code states schools 'should' consider consulting an educational psychologist'. 20 school days does not allow enough time for effective consultation with an EP or other specialist teacher, particularly when current capacity of the existing services is considered and in light of the additional requirements the Act and Code places upon them.

9.44 This section is misleading and schools may interpret this as justification for referring a case on to the LA. Instead, it may be more appropriate to include this information as part of 9.45 for LAs to consider when developing a set of principles.

9.45 If LAs are requested to publish a set of principles relating to whether a school or LA secure the ALP, this will result in local criteria which is not consistent across regions and there is a real danger of there not being an equitable offer.

A Local Authority's duty to decide whether a pupil has of a maintained school has ALN

9.55 *'As part of the process of deciding whether a pupil has ALN, a LA must seek advice from an educational psychologist'*. It would be more beneficial for the requirement or 'must' to be on schools to seek the advice of an EP before making the referral to the LA. The LA would then be better informed in its decision making. Furthermore, if the EP has already been consulted and has provided advice/ a report to school, they should not be required to do so again.

9.81 The LA timescales are not appropriate unless additional funding/ capacity is available to LAs. In

order to make the proposed timescales more manageable the LA maintained IDP process needs to be clarified to avoid duplication of task. For example, if schools submit evidence which includes up to date information/ reports from the relevant professionals involved, then additional advice should not be sought again as part of the process.

Additional comment: Tendering and procurement of transport takes time to secure. These timescales may be unrealistic.

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

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

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

Guidance is unclear and open to interpretation. How will this sit with pending WG guidance on engaging and monitoring EHE pupils?

Chapter 13 - Content of an IDP

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

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

Agree with mandatory content, but see comments/ concerns below:

13.3 – Whilst it would be ideal that the content of IDPs is co-created by agencies working together, it is likely to be difficult to coordinate the involvement of key professionals within the timeframes specified.

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

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

Agree with mandatory standard form overall but feel the title to ‘1A.12 Capacity Issues’ should be amended.

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

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

13.3 Bullet point 1 implies that any IDP requires input from outside agencies and professionals. This contradicts what is stated in 9.1, which is that in most cases schools will determine ALN and prepare and maintain IDP.

Also, engaging professionals from Health can prove problematic and could well impact on the proposed timescales for schools and the LA. Furthermore, clarity is also needed on what constitutes a health or education need i.e. mental health.

Transport

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

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

See proposed amendments in red:

*13.74 those preparing or maintaining IDPs for children or young people ~~might find it helpful to~~ **must** record in an additional section of the IDP any arrangements for the child's or young person's travel between their home and the education institution. This may be particularly helpful in some cases, for example, if it informs the delivery of Additional Learning Provision (ALP).*

*13.76 where a LA is preparing or reviewing an IDP for a child or young person and considering where a child or young person is to be educated, or as part of planning for transition, the travel arrangements for the child or young person to get any proposed school or other institution might need to be considered. If the question arises as to whether a LA will make travel arrangements under the Learner Travel Wales Measure for the child or young person to get to a place of education, the LA preparing or reviewing the IDP ~~should~~ **must** raise the matter with the relevant transport officers from the LA concerned and invite them to discuss **their eligibility and** options available.*

Chapter 15 – Duties on health bodies and other relevant persons

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

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

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

Agree with proposed timescale of 6 weeks, however, disagree with the statement ‘*But the requirement to comply within that 6 week period does not apply if its impractical for the relevant person to do so due to circumstances beyond its control.*’ Further clarification is needed on what would constitute exceptional circumstances. It is clear that the current capacity of Health Bodies is not sufficient and waiting times and delivery of services is a recognised issue. If ‘*circumstances beyond their control*’ does not include waiting lists or staffing issues, then this needs to be made explicit within the Code, as it is with the LA in Chpt 1. Non-compliance with the 6 week timescale would have a detrimental impact on the LA meeting their requirement of issuing an IDP within 12 weeks. Although the Code states in paragraph 1.33 that an IDP can be issued whilst waiting for advice, as outlined in the response to question 3, it is strongly felt that this should **not** be the case.

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

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

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

See comments above to question 22. Again, further clarification required on ‘exception’.

The Designated Education Clinical Lead Officer (“DECLO”)

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

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

15.41 & 15.42 – replace ‘should’ with ‘must’ Agree that the DECLO role is strategic and officers have experience and expertise, but this needs to be strengthened.

Chapter 16 - Review and revision of IDPs

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

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

Overall content and structure clear but issue with some of the content.

16.1 & 16.11 – The use of the word ‘regularly’ and ‘at least annually’ is open to interpretation, greater emphasis should be placed on a cycle of monitoring which takes places throughout the year. Within the current framework IDPs are monitored at least termly, and are viewed as working documents which inform planning of a differentiated curriculum and provision according to progress made.

16.3 ‘In practice, the efficacy of an IDP **should** be constantly monitored by the body responsible for maintaining it’, whereas LA officers should be required to attend annual reviews or emergency reviews, in addition to providing support and guidance throughout the year, the day to day monitoring of the IDP has to be the responsibility of the setting.

16.19 – The given timeframes are relatively short if all relevant professionals are to be available to attend the review.

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

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

Timescales not appropriate and must be recognised as a challenge due to the demand this will place on the system. The LA should also work within term time days, as communication with the school /FE and families will be necessary in preparing an LA maintained IDP

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

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

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

Content and structure is clear but timescales are a challenge given LAs will be working with current resources which are based on a 26 week timescale (see below).

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

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

Timescales not appropriate due to capacity/ resource issues and school holidays need to be given consideration as an exception.

Chapter 18 - Meetings about ALN and IDPs

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

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

Welcome emphasis on consistency and a person-centred approach.

Chapter 19 – Planning for and supporting transition

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

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

19.7 and 19.8 – replace ‘should’ with ‘must’

19.21 to 19.24 – replace ‘should’ with ‘must’

Phrases such as ‘well in advance’ and ‘in good time’ lack the specificity needed to ensure schools undertake transition planning in a timely manner.

Chapter 20 - Transferring an IDP

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

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

21.6 It is not clear what the timescale is for Welsh Ministers to make ‘*their determination*.’

20.12 Where the LA believes ‘it would be reasonable’ – use of the word ‘reasonable requires clarity there needs to be reference to progress/exit criteria/needs can be met etc.

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

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

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

See above comment.

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

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

Chapter 21 - Ceasing to maintain an IDP

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

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

Content and structure is clear to understand.

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

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

Chapter 22 – Children and young people subject to detention orders

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

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

22.2 states that ‘Duties on schools, FEIs and local authorities under the ACT cease to apply whilst a child or young person is a detained person’ however, 22.27 states ‘LA must keep the IDP whilst the person is detained’ and 22.29 ‘the LA...must arrange for “appropriate ALP” to be provided to the detained person’. This is unclear, are the LA responsible whilst a young person is detained, or not?

22.15: guidance required as to what constitutes ‘it is unlikely that the person will have reasonable needs for education or training’. In the WG regional consultation event workshop, concerns were raised by a range of stakeholders as to what is recognised as ‘reasonable need for education and training’. The criteria for education at the workshop for FE at that time included social and emotional areas of need and what could be regarded as social care needs. Most young people will be within the 16-25 age range on release, there needs to be clear guidance as to the definition of ‘education or

training and what would not be regarded as educational needs.

22.26-32: Further clarification required on the terms *'to keep an IDP'*, *'maintain'*, and in terms of ALP *'arrange'* and *'secure'* i.e. 22.32 *' This is why the duty is to arrange appropriate ALP rather than secure ALP'*

22.33: Reviews not required. Education will be provided within the detained person's setting. Surely the setting should have responsibility for reviewing progress against the ALP and providing a progress report. What is the purpose of an IDP if this is the case, and how can the home authority decide the next course of action if there is no up to date information on progress against the IDP?

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

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

22.25 *'The home authority must make the decision on ALN, the decision on whether the IDP will be necessary and prepare the plan and give a copy of the plan promptly.'* It will be difficult to determine the appropriate ALP required upon a young person's release, depending on when the IDP is being prepared and when their release is scheduled. Surely it would be better to prepare the IDP in a timely manner prior to their release so the information is accurate and up to date?

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

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

Further clarification on whether mental health is to be regarded as an ALN. It is regarded as a disability according to the Equality Act. 7.34 of Code does not identify mental health as an ALN, therefore ALN is as described in p.55 of draft Code – over and above any mental health issues?

22.58 Further clarification on what constitutes *'reasonable needs for education or training'*.

22.62 Must be provided in Welsh, should read *'take all reasonable steps'* which would be consistent with 22.31.

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

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

Chapter 23 - Children and young people in specific circumstances

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

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

Guidance is unclear and lacks specificity.

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

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

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

Agree overall with the duties and responsibilities outlined. However, WG need to consider there is a difference between the role of primary and secondary ALNCo. For example, paragraph 24.16 is applicable for secondary colleagues, but within a primary setting the class teacher is often better placed to do this.

Agree that ALNCoS should be registered teachers but disagree that 24.26 is appropriate. This will create a playing field that is not level.

In terms of being '*highly qualified*' (24.3), being a registered teacher (24.24) and having completed the NQT induction period of three terms prescribed in law (24.25), does not equip people to perform the role of ALNCo. Initial teacher training needs a greater focus on ALN, there should be further additional high quality training that is provided during the induction period and a mandatory training programme for aspiring ALNCoS should be completed before they are able to move on and perform the role. They should also be appointed a mentor/ buddy during their first year in post.

24.5 Replace 'should' with 'must'. It is also not enough to say there should be '*clear and sufficient time allocation*', as this is open to interpretation and depends on the discretion of the Head Teacher. There should be a quantifiable amount of time that relates to numbers on the school roll.

24.7 Replace 'should' with 'must'. In order to perform the role effectively, membership of the Senior Leadership Team is vital.

Chapter 25 - Avoiding and resolving disagreements

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

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

Disagree with 25.44, which states that '*No inference may be drawn by the Tribunal if the child, child's parents or young person involved in the disagreement has not used the disagreement resolution arrangements*'. There should be a requirement on parents to participate in trying to resolve the dispute at a local level before proceeding to tribunal. There is a real danger of parents lodging an appeal before alerting the LA, particularly when the issue is with the school and not the LA. The LA may not be aware of any dispute and whilst the LA would expect schools to engage in dispute resolution, it does not always have control over this. Stronger wording is needed to encourage parents to engage in mediation, rather than resort to legal action as a first port of call.

Question 43 – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of the provision of independent advocacy services appropriate?

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

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Chapter 26 - Appeals and applications to the Tribunal

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

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

The Code states in 26.15 that '*The respondent FEI or local authority must submit their case statement in response to the appeal within 4 weeks of being served a copy of the appellant's or claimant's case statement by the Tribunal*', however, the regulations 19(4) states '*The case statement period for a respondent local authority or FEI governing body is in an appeal is a period of 4 weeks commencing on the date on which notice is given.*' There appears to be a contradiction here and clarification is needed.

Also, 4 weeks to submit a case statement is a very narrow window and if the LA has to do so without receiving the appellant's case statement first, then the document may not be fit for purpose, in that it does not address all the issues it needs to.

Chapter 27 - Case friends for children who lack capacity

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

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

Any other comments

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

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

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

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

See comments from Q.44

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

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

7.A 'Parties must co-operate with each other for the purpose of progressing the claim', it is assumed this process must include dispute resolution at a local level. However, 25.44 in the Code states 'no inference may be drawn by the Tribunal if the child, child's parents or young person involved in the disagreement has not used disagreement resolution arrangements'.

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

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

See response for Q 44 and Q 48

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

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

Parents are given 8 weeks to prepare and submit while the LA is given a timescale of 4 weeks. The timescales should be the same for both parties.

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

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

Feedback from consultation with Health colleagues has indicated that a six week timescale is not feasible.

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

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

This will be dependent on number of tribunals an LA may have within the new framework.

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

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

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

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

Part 3 of the consultation: Draft ALNCo regulations

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

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

Agree that ALNCo should be a qualified teacher, but disagree that a person i.e. a HLTA may be designated as ALNCo if they were in post as SENCo prior to regulations coming in to force. It would not be fair to expect them to assume the responsibilities attached to the role as outlined in chapter 24 of the draft Code. It is also highly unlikely that they would form part of the Senior Leadership Team.

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

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

Agree with tasks but suggest following amendments:

5 (g) Replacing 'school teachers' with 'school staff'.

5 (h) Remove requirement to train learning support workers and amend (i) to read 'contribute to in-service training for school **staff**'

Part 4 of the consultation: Looked after children

(a) Proposed regulations to be made

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

Yes	✓	No	□	Not sure	□
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Supporting comments

- Agree the LACE Coordinator should remain a statutory role. Suggest that clarification of the role and responsibilities (job description) and greater consistency of the role across Wales would be beneficial. A Welsh Government Guidance of minimum expectations of the LACE Coordinator role to include ALNET and Part 6 2014 Act. Acknowledge the ‘specialist nature’ of the LACE Coordinator’s role in understanding and linking Corporate Parent and Education Department knowledge of responsibilities. Concern regarding the job description currently being stretched by the increasing demands of the ALNET together with the LACPDG responsibilities. In some LAs this role may require one member of staff, while in others it may require a specialist team in order to complete all duties.
- A separate chapter for the LACE Coordinator would further strengthen the role of the LACE Coordinator similar to that of the ALNLO and DECLO. And strengthen their ability to influence senior managers/leaders.
- 9.51 (a) Further clarity needed – currently being interpreted differently. xxx (Regional ALNET Transformation Lead) was of the opinion that the LACE Coordinator role was that of overseeing and not the doing/writing of IDPs and also to hold LAs to account if children are placed out of authority without first ensuring their ALN can be met (ratified also by xxxx). xxxx (WG - Head of Supporting Achievement and Safeguarding) was of the opinion that the LACE Coordinator role would be integral to the ALN processes set up for all pupils within LAs to advocate and oversee they meet the needs of LAC.
- Suggestion that LACE Coordinators will require National training.

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

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

Yes	□	No	✓	Not sure	□
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Supporting comments

Do not agree that there should be a separate standard form for looked after pupils. It will be more straight forward for all (children, carers, parents and staff) if the IDP is one document for all. It will be easier for ALNCoS in school to have one document for all pupils – especially if a pupil with ALN becomes looked after, or ceases to be looked after. It would be useful for the One Page Profile to be included within the IDP for all pupils (including those looked after) – especially for those LAs where the SW completes the PEP.

The PEP should be incorporated into the IDP.

(c) Proposed revisions to the Part 6 Code

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

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

- Needs strengthening to describe and clarify the need (must) for LAs to plan for education needs to be met, prior to placement or immediately after, if child is placed in an emergency.
- 110 – needs clarification as to which LA has responsibility.
- 140 – reinforce careful consideration prior to placement.
- 227/228 - IDP should be given to any receiving school.
- 233 point 4 – IDP must be given to carer.

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

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

The IDP safeguards the ALN of those looked after.

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

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

Part 6 has the opportunity to redefine the role of the LACE Coordinator. Suggest that clarification of the role and responsibilities (job description) and greater consistency of the role across Wales would be beneficial. A Welsh Government Guidance of minimum expectations of the LACE Coordinator role to include ALNET and Part 6 2014 Act. Acknowledge the 'specialist nature' of the LACE Coordinator's role in understanding and linking Corporate Parent and Education Department knowledge of responsibilities. Concern regarding the job description currently being stretched by the increasing demands of the ALNET together with the LACPDG responsibilities. In some LAs this role may require one member of staff, while in others it may require a specialist team in order to complete all duties.

Part 5 of the consultation: Impact of proposals

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

It is hoped that the proposed regulations will raise the profile and understanding of ALN across settings and will set out clear expectations for these settings to undertake appropriate training in order to ensure that children and young people's needs are met.

The proposed regulations will without doubt put additional pressure on LA resources, if additional and sustained funding from WG is not provided to implement the Code. The responsibility on the LA is increased, resulting in the LA being held to account for provision in settings over which it has no control i.e. FEIs and Early Years settings.

The emphasis on multi-agency working is welcomed, as is a person centred approach to planning in which the pupil is fully engaged. However, the Code does not go far enough in relation to specific duties on Health and other services and the wording with regards to these responsibilities are often ambiguous and open to interpretation.

The responsibility on the LA to decide on transference of duties to schools and FEIs, whilst the intended purpose is to facilitate and strengthen relationships and planning for children and young people, has the potential to create a more adversarial system, which would not be beneficial to our children with ALN or their families. Unless these issues are resolved, there is danger of unintended consequences.

The proposal to run two legal systems concurrently for three years with differing timescales will also cause significant challenge and a system which is not equitable during this period of time.

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

The proposals within the Code should further promote the Welsh language and will ensure that pupils with ALN will have their needs met through the medium of Welsh. However, it remains a challenge to recruit Welsh speaking staff with the appropriate experience and specialist knowledge and/or qualifications within the South Wales area.

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

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

Question 65 – We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

The wording of the questions has in many cases been quite narrow. We have attempted to formulate a response which captures wider and significant issues within each chapter and request that these comments will also be taken into consideration.

Respondent Details

Information	
Name	Dr Alison Stroud
Organisation (if applicable)	Royal College of Speech and Language Therapists in Wales

Part 1 of the consultation: The draft ALN Code

Chapter 1 - Introduction

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

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

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

This is valuable in making it explicit where statutory duties lie.

Timescales

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

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

We believe the description is very wordy with the brackets making it more complicated than necessary. It would be extremely helpful to have visual representations of key timescales for compliance.

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

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

It is apparent that 'promptly' means quicker than the timescale given but this is vague. It is understood that this may depend on individual situations and timescales being set. We have included further detailed comments on timescales, which are expressed in response to question 22.

Structure of the draft ALN Code

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

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

It is crucial that the code is easy to read in order for it to be interpreted consistently by practitioners and families. The code in its current form is long and unwieldy. This is perhaps inevitable given the breadth of the code but we believe that it may be helpful for officials to consider additional presentation options to ensure the code is as accessible as possible. Additions such as the flowcharts are very welcome. We would particularly welcome visual representation of timescales. Please see below further detailed comments from members.

- 1.18 – the last sentence is long and difficult to understand
- 1.19 – does this mean though that there has to be adherence to English legislation?
- 1.24 – this seems clear in principle
- 1.25 – the abbreviation IPSI needs full wording
- 1.43 – comment about the code being ‘unworkably long’ is already true.
- 1.45 – this outlines the need to read the ‘implementation guides’ as well.
- 1.47 – references to Part 2 indicates that it is a requirement to read Part 2 of the Act.
- 1.50 – what are ‘proper facilities’ and ‘reasonable facilities’?
- 1.54 – it is unclear where the cut off point is for local authorities being responsible for ‘the most complex and/or severe needs’. The end bracket is missing at the end of the sentence.
- 1.65 – ‘All teaching practitioners must undertake regular professional learning in relation to ALN’ and ‘learning requirements must be identified’ would be appropriate.
- 1.74 – implies that you have to read all of the code as well as the specific chapters about the relevant matters so why are the chapters divided that way to include repetition?
- 1.86 – does chapter 12 make it clear who these young people are?
- 1.91 – refers to ‘a pupil or student’ where elsewhere it is ‘child or young person’.
- 1.92 – ‘IDP review meetings or meetings to decide whether a child ... has ALN or not’ should this read ‘review meetings and meetings to decide ...’

Glossary –

- 1.102 – ‘definitions of terms used in the Act are included’ rather than ‘incorporated within this glossary’.
- 1.103 – ALNCo – ‘co-ordinating additional learning provision’ does this include writing IDPs in schools and FEIs? Who has ‘responsibility’ for this? Who signs it?
“Local authority” – when talking about whether ‘he or she is in the area’ does this mean ‘lives in’ or ‘educated in’?
‘Early Years’ should be defined for the purposes of the code. It is currently different in various places in the Code – eg. “under compulsory school age” but should be defined consistently as ‘under compulsory school age and not the responsibility of a governing body of a school’.
It would be help if ‘referral’ and ‘request for treatment’ could be clarified within the code –

ideally within the glossary section.

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

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

We believe that the code needs to fully reflect the transformational nature of the legislation. We are concerned that the code, as stands, doesn’t clarify the functions and processes to support an effective interface between key agencies for children with wide-ranging ALN.

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

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

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

Chapter 2 - Principles of the Code

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

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

We would welcome a stronger focus on person centred practice within this chapter as a key principle of the legislation. Please see below further detailed comments from members.

The inclusion of ‘places a duty on a person exercising functions under Part 2 of the Act’ (paragraph 2.5) implies that the reader of the code needs to read the Act or just put ‘Part 2 of the Act’ in the footnote rather than in the body of the code.

2.8 – it is positive that the code emphasises the need for information and engaging with and treating pupils with ALN and parent/carers as partners in order to identify and provide to meet their needs. This is comparable with the principle of co-production within Prudent Healthcare.

2.10 – ‘considering, intending to make’ – what does this mean?

2.14 – ‘Identifying ALN at an early stage and delivering appropriate interventions may also prevent the need for future more costly and less effective interventions.’

Acknowledgement of the importance of early intervention (also in chapter 3) is in keeping with the evidence base for early language development.

2.18 – inclusion of ‘evidence-based approaches’ in the bullet points which are outcome-focused.

2.24 – NHS will consider the clinical need of ALP in any language

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

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

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

We welcome the focus of the code on greater involvement of children and young people but given that the legislation extends the age-range up to 25, believe this section needs to have a much stronger focus on involving young adults linking to relevant legislation such as the Mental Capacity Act and the Mental Health Measure and to link with legal principles around consent. Further detailed points from members may be found below.

3.7 – ‘may be nonetheless’ – replaced with ‘is’

3.9 – ‘information about communication’ meaning ‘how they communicate and how to communicate with them’ will need to be recorded in the IDP.

3.10 – line 8 ‘support a particular child’ – ‘particular’ is not necessary.

3.17 – reference to ‘a person’ where in other places ‘a child or young person’ is used.

3.25 – the first sentence is very long and difficult to understand.

3.26 – the first bullet point refers to ‘particular parents’, ‘particular’ is unnecessary.

3.26 – the first bullet point, second line refers to ‘the decision the body is making’ – is the body a team or group?

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

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

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

Whilst it is essential that the code has regard to the UNCRC and UNCRPD, we believe that given that the legislation extends the age-range up to 25, the code should also include references to wider legislation covering adults such as the Human Rights and Equalities Acts. Further detailed points from members on this section may be found below.

4.1 – this is not written in ‘plain English’

4.3 – ‘the UNCRC provides: states’ – both words not required.

4.6 – what does this mean?

4.7 – Can ‘is required to’ be replaced with ‘must’ rather than it being in brackets afterwards?

4.7 – the 3rd bullet point is not clear

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

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

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

Please see below detailed comments from members.

5.15 – ‘bodies and persons’ is very formal – ‘people/roles’ instead?

It is positive that NHS bodies are included in reviewing ALP. Also the partnership working in 5.22.

Chapter 6 - Advice and information

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

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

This chapter requires significant revision. There is a great deal of repetition within this chapter and it could be tightened and be more innovative in approach. Please see below more detailed comments from members.

6.1 – ‘have regard to the principle’ – too formal language

6.8 – ‘factual’ but in 6.10 ‘clear and accurate’. Are these the same?

Is 6.14 a repetition of 6.8?

Is 6.19 a repetition of the meaning of 6.8 but using different words?

6.22 unnecessary repetition within the point

6.25 The first 2 bullet points can be combined by using ‘website and/or prospectus’. The 3rd point is repetition from elsewhere.

8.17b repeats some information where readers should be referred to Chapter 6.

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

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

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

Please see detailed comments from members below.

7.1 – inclusion of the word ‘usually’ is very important. This is required to ensure that a graduated response is followed. This appears to contradict the flow chart, eg. p.72 where it is indicated that whenever there is a ‘call for ALP’ then the child has ALN and an IDP needs

to be devised. Is this the case? 7.10 states that differentiated teaching is not ALP but where is this distinction? It is positive that a differentiated approach does not constitute ALN. 7.3 and 7.9 – is it necessary to include the whole of the definition from the Act, including point 5?

Section beginning with 7.13 – are these children under compulsory school aged who are not the responsibility of a governing body of a school?

7.15 can be added onto the end of 7.13 by stating ‘This difference reflects the fact that children are under 3 ...’

7.16 – is it appropriate to use the example of ‘parent and child groups’ rather than ‘mother and baby groups’?

7.17 Can ‘is determined by the definitions set out in the sections 2 and 3 of the Act’ be omitted?

7.19 – beginning – Is this part of the graduated response – prior to considering ALN? This is useful if it is but it needs to be stated as such.

7.19 - end of the point is unnecessary.

7.25 – are the ‘wider issues’ referred to at the end of the paragraph ‘ALN’?

7.27 – this should refer to **all** the languages they are exposed to, not just the ones they ‘speak’. They may understand languages spoken at home and in settings but not ‘speak’ them.

7.29 is clear.

7.53 and 7.61 references ‘medical advice’. This is a narrow reflection on the role of NHS bodies.

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

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

Please see detailed comments from members below.

7.34 and 7.35 – some of these include ‘significant’ but others don’t, eg. the last point on page 62 and none at the top of page 63 include ‘significant’.

7.34:

4th bullet point ‘significant delays in language functioning’ – change ‘delays’ to ‘difficulties’ in line with Royal College of Speech and Language Therapist terminology where ‘language delay’ is no longer used.

5th bullet point ‘impaired social interaction or communication or a ...’ – change the underlined to ‘communication; a significantly restricted ...’

7.35 - Final bullet point – this should refer to ‘speech, language, communication and/or interaction difficulties ...’.

7.38 – FPP can aid identification of ALN and help in **understanding the progress** – may not be ‘developmental’.

7.41 – 3rd bullet point ‘fails to close, or widens’. Is ‘or widens’ necessary?

7.54 – refers to ‘person’s needs’ rather than ‘children and young people’s needs’
 7.61 – This is an appropriate list of information/engagement needed.
 7.64 – 1st and 2nd bullet points – need to be clear that differentiating the curriculum and strategies are not necessarily (or even definitely) ALP for ALN.
 Pages 72 and 73 – needs to clarify ALP is not the entirety of the graduated response required to be made by settings. What constitutes ‘graduated response’ and no ALN and ALP?

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

Early Years ALN Lead Officer

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

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

There are many different aspects of the ALNLO role. For this reason, it may be difficult to ensure that those delivering the role have the appropriate level of training to deliver the requirements of the role. There are challenges in terms of making recommendations about the level of training required in terms of SLC and SLCN. While 8.42 does state that the role is strategic, it seems that the experience and expertise required implies some operational work, and 8.46 also implies this. The suggested responsibilities (8.45) include some where the person has to have had an educational delivery role. Is it possible that the role (strategic and operational) could be delivered by more than 1 person (with an overall named lead)?

Duties on schools, FEIs and local authorities

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

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

We are aware that the formatting varies between the chapters (see 8.5 and 9.3) which we believe may need to be reconsidered. Please see below detailed comments from members.

8.9 – Professionals from Health Bodies will need a clear summary of the individual’s ALN before they can identify a treatment or service which is likely to be of benefit. The outcome of seeking advice from an Educational Psychologist (for children under compulsory school and not the responsibility of a school governing body and LA prepared IDPs) should be provided to the Health professional in order for them to know the individual’s ALN and identify effective intervention.

The stipulation for NHS bodies to provide intervention which is 'likely to be of benefit' is not stipulated in the same way for schools, LAs and FEIs. We are interested in why this is the case and elaborate on this further in our response to question 22.

8.28 – IDP needs to be shared with other agencies involved and included in the ALP. How do drafts get shared and how is the IDP finalised? Clarification is also needed around this in relation to 9.24 and 9.76.)

9.2 – do 'low incidence' needs have to have an IDP prepared by the LA? What constitutes 'low incidence'? With the appropriate advice provided from the relevant agencies, could this be done by a maintained school as long as they have the correct advice and they are able to secure the ALP? If the school are not able to secure the ALP or adequately determine the ALP, this is covered in 9.19.

It is clear that responsibility for identification of ALN and completion of IDPs sits with schools and LAs (for school aged children).

SLTs are concerned about how the code will be delivered practically within FEIs. Much of our model of working with schools depends on a universal and targeted approach. This would be very difficult to achieve within the FEI infrastructure which depends on a sessional lecturer model. We believe therapies input to FEIs needs to be carefully considered at a strategic level as services will have little capacity to work in a targeted way with every individual coming through the system and evidence suggests an approach which does not focus on environmental changes will not be effective. It may be helpful to consider the model created for schools following WG funded pilots in this regard. We would be happy to discuss this further.

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

Yes	✓	No	☐	Not sure	☐
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Supporting comments

Please cross-reference these comments with our response to question 22.

We believe it is appropriate for a child or young person to have an IDP prepared within the timescales given e.g. half a term.

9.44 How is 'reasonably arranged and accessed by the school' measured? Concern that depending on the advice from SLT, the IDP could transfer between the school and the LA (and 9.45 last bullet point).

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

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

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

Chapter 13 - Content of an IDP

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

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

The focus on expected outcomes of ALP as the starting point of the description of ALP is positive.

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

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

As with all ALP, it will be important for the intended outcome to be stated (eg 2C for Health Bodies) but also how the ALP relates to the intended outcome (in the rationale section, 2C.7). It is only where there is a very clear, strong correlation between these **and** a strong evidence base to support this, that there is indication that therapy may be appropriate to deliver.

It would be helpful to reference 15.33 next to the Annex C form.

It needs to be reiterated that this is mandatory content rather than a mandatory form to ensure the content and purpose is paramount rather than the form.

Members also wish to clarify that ALP includes the provision of communication equipment.

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

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

Chapter 13, paragraph 13.54 indicates the summary of the discussion taken as part of the preparation and revision of an IDP. Given that not all those involved may be able to attend PCP meetings (although a written report should be issued), it will be important to determine how decisions about the priorities for the IDP are made and what happens after this. A report written before a PCP meeting may not necessarily reflect the discussion/decisions made. How will this be managed?

13.40 2B.6 – End review – should it be stated that this should never be more than 12 months from the date of the IDP (or is it the review?), but is more likely to be far less than that timespan (in line with predicted change).

15.42 Under the suggestions of the DECLO role, the Code states that health professionals ‘should provide in writing their advice and evidence in advance of the meeting’ (the IDP meeting) (p.183). This will be in advance of the PCP discussion about what is important to and for the child or young person. Following this discussion, priorities may change.

Transport

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

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

Chapter 15 – Duties on health bodies and other relevant persons

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

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

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

We have two main areas of concern relating to chapter 15, where we believe it may be helpful to have further clarification, namely usage of the term ‘likely to benefit’ and timescales.

‘Likely to benefit’

Point 1.66 states that *‘NHS bodies have a direct role in providing Additional Learning Provision (ALP) in instances where that ALP is a treatment or service normally provided by*

the NHS and likely to be of benefit in addressing a child or young person's ALN.' This point is also raised in 8.23, 8.33, 9.22 and 9.75. We believe clarity is required around the term 'likely to benefit' as we are concerned that this may be open to interpretation in many different ways and be a source of dispute between families and key partners.

Prudent health care for health services in Wales ensures a health economic, value based healthcare system. This requires health professionals to base their decisions on the need for intervention on clinical need not on likely benefit. By 'clinical need', we mean the ability to affect positive change outcomes for a patient balanced with the resource/cost. 'Likely Benefit' in health culture also means a health economic judgement where the cost benefit is analysed. Formal structures such as NICE guidance judge the cost benefit of the treatment to include the cost of the health gain. Health economics ensures that health spend does the most good to the most people given that health boards commission for populations not just individuals.

Point 9.75 states, '*Where, following a referral to an NHS body, the body identifies relevant treatment or service likely to be of benefit in addressing the pupil's ALN, the local authority must describe the treatment or service in the IDP, specifying that it is ALP to be secured by the NHS body*'. The addition of the word 'relevant' has significant meaning and indicates a treatment or service which is appropriate to the individual's needs and normally provided by the health service in Wales, as judged by a balance of benefit and cost. This would be in line with clinical pathways and evidence based approaches, which is key in terms of delivering intended outcomes. To aid clarity, we are of the view that the term 'relevant' should consistently be included in other statements about the treatment or services NHS bodies are required to provide e.g point 1.66 and 8.23. We would also welcome consideration of the insertion of the phrase 'evidence-based' which would provide further clarification. We believe that these changes would be consistent with duties on schools, Further Education Institutions and Local Authorities who can consider the efficient use of resources when deciding on the Additional Learning Provision (7.69).

Timescales

We believe that six weeks is an appropriate timescale if the child or young person is known to services. However we have a number of concerns about how workable this timescale would be in relation to a child or young person who is not known to services at the time of referral. Services currently adhere to priority targets (referral to treatment timescales of 14 weeks). We wish to flag up that there will be times where NHS bodies are not able to meet the timescales suggested and will therefore be 'exceptional situations' due to the requirements on the NHS to provide services to the population and to meet targets as reported to Welsh Government. Failure to meet these targets could potentially contradict the principle of prudent healthcare to 'care for those with the greatest need first'. We believe consideration should be given to this key issue. It is important to emphasise however, that the IDP can include information about how a child's speech, language and communication needs are going to be addressed prior to information being obtained from a Speech and Language Therapist.

It will be important for those preparing IDPs to include information about meeting speech, language and communication needs possibly prior to individual information for a child or young person from a Speech and Language Therapist. Depending on whether the child or young person is already known to Health Board departments or not, it may take longer than the stated timescales (and these are defined in the exceptions).

Please also see below more detailed comments from members.

15.7 'Incompatible with their own duties'. Is this the situation if a referral does not meet the referral criteria? This also acknowledges that NHS services have other demands such as Referral to Treatment (RTT) targets which have to be met.

15.12 'due to circumstances beyond their control' (rather than 'its')

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

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

Yes	✓	No	☐	Not sure	☐
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Supporting comments

Please see below detailed comments from members which we believe may be helpful to be read in conjunction with our response to question 22. The timescale stated in 15.12 may result in an indication from a health body that a child is waiting for assessment or that a referral has been accepted/rejected. Health Boards have priority targets (currently 14 weeks wait for assessment and treatment) which need to be adhered to and therefore this may result in a circumstance 'beyond its control', that is, waiting times across the service meaning that the timescale is not met. It is very important that lessons are learned from SEND in England where RCSLT have published a report revealing that SLTs have an obligation to respond to EHC Plans, reducing the capacity to support other children who require services but do not have EHC Plans.

15.14 is very long to describe the possibilities.

15.20 Is this the same wording as in the Act? It reads like legislation but should the Code provide more information that the Act/be easier to read?

15.24 refers to 'ALP as something they would normally provide as part of the health service in Wales'. This is different from/contradictory to 'likely to be of benefit' (at the beginning of 15.25 although the wording from 15.24 is then repeated in 15.25). What is normally provided would be in line with other principles of the NHS (for the population) and where

there is a clinical pathway, should be evidence based which is very important regarding the intended outcomes. 15.28 returns to 'likely to be of benefit'. (Same points for paragraphs 8.23, 8.33, 9.22, 9.75 as referenced in response to question 22) and the wording in 15.46 is different again when describing the DECLO role, 'enabling health professional to input into the preparation of IDPs and the securing of ALP by – making evidence-based recommendations on effective interventions' (p.184). Again, this is different from and more of an accurate description than 'likely to be of benefit'.

'other staff' (5th line of 15.24) should be changed to 'education staff'.

15.25 The referrer to an NHS body should be the person who is asking for the assistance. If a child is in school then it would be the school (class teacher or ALNCO, person closest to the child with responsibility) who makes the referral. We believe it is very important that people who work with children and young people who feel that the child (and they) would benefit from information from a Speech and Language Therapist are able to refer to the relevant service in a Local Health Board. The table on page 180 of the code (after 15.25) currently indicates that only Local Authorities are able to refer to Health Services. The profession has an open referral system and does not support this restriction. The title before the box should also read 'Who can refer a matter to an NHS body?'

15.28 If the NHS body does not think there is a relevant treatment or service then we would not assess a child or young person again.

In recommending services in Welsh this would be in collaboration with parents / guardians and complying with the active offer of Welsh provision.

15.29 Instead of the wording "of the treatment" should say "about the treatment or service required"

15.31 We recommend change word "referral" to "request for information"

15.34 We believe this may need to be considered within the restrictions of current capacity arrangements. Currently children are discharged and information about this is fed into the annual review. Members are concerned it would take a lot of time to arrange a review of IDP and attend it before discharging, time potentially that other children who require input could be receiving.

15.36 It is appropriate that the NHS body is not required to provide ALP as directed by the Tribunal unless it agrees to do so. We would welcome clarification as to whether this applies to recommendations made by independent therapists.

It is positive that the code enables NHS bodies to request a review of the IDP at any time and that any request to remove or amend the NHS bodies' ALP must be done.

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

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

We are of the view that the document should focus on key function, expectations and competencies as otherwise the likelihood of appointment will be significantly reduced. It must also allow for the different structures in health boards as each will have to make modifications of authority and reporting lines. IT developments will be key.

Members in North Wales in particular have expressed a number of concerns about the viability of the DECLO role due to the workload and geography of the health board area, requiring engagement with six Local Authorities. Members have also called for clarification about the DECLO's role in deciding on interventions that may be of benefit and how this will align with uni-professional knowledge.

Chapter 16 - Review and revision of IDPs

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

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

16.12 – We appreciate that it may be difficult to recommend how often IDPs should be reviewed. However, a 12 month period appears arbitrary and does not fit with a Malconess care aims nor person centred planning approach and could lead to continuation of a statementing approach.

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

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

Please see detailed comments from members.

16.9 – Therapy plans can be changed at least 3 times a year, ie. intended outcomes changing every term. This system seems to be based on annual intended outcomes. Would it be the Health Professional's responsibility to ask ALNCo for IDP review at the start of every therapy plan?

16.22 Would an NHS body have to request a review of an IDP prior to discharge from the service if the child/young person has an IDP? How will this work in practice?

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

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

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

We would wish to avoid a situation whereby families experience significant delays and conflict due to lack of clarity about whom is responsible for maintaining an IDP, depending on the provision described by NHS bodies.

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

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

See comments above.

Chapter 18 - Meetings about ALN and IDPs

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

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

The guidance is useful but the principles aren't clearly stated. It appears that the underlying principles for meetings are similar to the principles underpinning the whole act. If this is so then we believe this should be stated and guidance provided as to how these may be applied in practice meetings.

Members have expressed many concerns about the ability to attend IDP meetings due to capacity. We would welcome further detail on contributing paperwork "in advance" to ensure appropriate notice periods are observed and also on how such written contributions will be used in the process. There is current good practice by schools which set meetings in September for the academic year which could be considered.

Chapter 19 – Planning for and supporting transition

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

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

19.10 – should read 'must' rather than should.

Chapter 20 - Transferring an IDP

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

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

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

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

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

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

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

Chapter 21 - Ceasing to maintain an IDP

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

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

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

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

Chapter 22 – Children and young people subject to detention orders

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

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

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

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

Research has shown that ensuring appropriate education, training and employment are available to children and young people during their detention and upon release help reduce the risk of re-offending.

Would an IDP be maintained where appropriate when the child or young person is detained eg. youth offending institute/secure children's home?

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

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

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

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

Given the wide range of variable factors affecting detained children and young people, acting promptly is reasonable.

Chapter 23 - Children and young people in specific circumstances

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

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

Given the age-range of the legislation, we believe this section should also include those aged up to 25 years old and detained within prisons.

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

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

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

It is vitally important for all teachers to have received training on child development and language development as part of core, initial teacher education/PGCE.

Chapter 25 - Avoiding and resolving disagreements

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

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

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

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

Chapter 26 - Appeals and applications to the Tribunal

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

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

p.288 the final section of the flowchart needs to be changed - the appeal process. If the process is to go through all the 3 stages described at the bottom, they can go in 1 box, certainly the final 2 can be combined. 'tribunal will hear the case and will notify the parties of their decision'.

Chapter 27 - Case friends for children who lack capacity

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

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

Information about accessing services would be useful.

Any other comments

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

Please see below detailed comments from members.

Chapter 8, paragraph 8.28, also 9.24, 9.79 and 9.96. No description is given of the need for the organisations preparing the IDP to circulate it to the agencies included in it. Is this required? Chapter 13, paragraph 13.44 indicates that the health body has to be content with the ALP they are providing prior to the IDP being finalised but not how this finalisation occurs.

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

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

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

We still are of the view that it would be useful to consider the composition of the tribunal to ensure that there is clinical expertise available.

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

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

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

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

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

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

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

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 52 – Are the timescales relating to compliance with Education Tribunal orders appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 53 – Is the approach to extensions to timescales (regulation 66 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 54 – Are the proposed regulations relating to case friends (draft Education Tribunal regulations 61 to 64) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Part 3 of the consultation: Draft ALNCo regulations

Question 55 – Are the prescribed qualifications to be an ALNCo set out in the draft ALNCo regulations appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 56 – Do you agree with the tasks that ALNCoS must carry out or arrange to carry out as set out in the draft ALNCo regulations?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Part 4 of the consultation: Looked after children

(a) Proposed regulations to be made

Question 57 – Do you agree that the Looked after Children in Education (LACE) Co-ordinator should be a statutory role?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

(b) Chapter 14 of the draft ALN Code – Content of an IDP for a looked after child

Question 58 – Do you agree that there should be a separate standard form for looked after children and is the proposed standard form, together with the guidance and requirements related to it, appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

(c) Proposed revisions to the Part 6 Code

Question 59 – Do the draft revisions to the Part 6 Code provide a clear explanation of the duties on local authorities in relation to their social services functions for looked after children with ALN and what these duties mean in practice?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 60 – Overall, do you agree with the approach taken in the draft revised Part 6 Code to explaining the legislative changes, including the integration of personal education plans (PEPs) and IDPs and the mandatory content of PEPs? Are the requirements and expectations and what these mean in practice clearly explained?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 61 – Do the changes that have been made to the Part 6 code clearly explain the role of the LACE Co-ordinator in overseeing the ALN arrangements for looked after children and what this means in practice?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Respondent Details

Information	
Name	Respondent requested anonymity
Organisation (if applicable)	

Part 1 of the consultation: The draft ALN Code

Chapter 1 - Introduction

The meaning of 'must', 'must not', 'may', 'should' and 'should not' in the ALN Code

Question 1 – Is the explanation in paragraphs 1.10 -1.16 of the draft ALN Code of the use and meaning of the different terms 'must', 'must not', 'may', 'should' and 'should not' clear?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

We believe that the should is a confusing factor. The Tribunal user group agreed with the should being unclear, we feel it should be a must or a discretionary. There is also a question around how clear this for parents/carers too and what reasons professionals could use for not carrying out a 'should'.

Nurseries 'should' help in the process. A should, you could choose not to with reasons, but we feel that this should be a must.

Timescales

Question 2 – Do you agree with the general approach to the timescales for compliance with duties (that is, to act promptly and in any event within a fixed period), as explained in paragraphs 1.31 – 1.32 of the draft ALN Code?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

There is a feeling that the 12 and 7 week period for Local Authorities is unreasonable and that there should be a single principle across the process, that it is a term time only process.

August – an Educational Psychologist would not be able to assess or work with a pupil in a school. There is a feeling that some exceptions as any school holidays would be appropriate to give a reasonable amount of time for consideration and any Local Authority involvement.

Health timescales – we would like further clarity around what is required within the 6 weeks from Health? There is concern around the timescales for Health in getting the information to the LA promptly and in turn causing some duplication if the LA issues and IDP and then has to reissue it

when the health advice is received.

There is a right to appeal an IDP, which may have been prepared before health information is collated. An IDP would be updated when Health information is received which can then be challenges again, so potentially for two tribunal actions.

Question 3 – Is the general exception which applies in the case of timescales, as described in paragraphs 1.33-1.35 of the draft ALN Code, appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

We feel that these are currently suitable, but feel that this will develop through case law moving forward. A joint understanding of these exceptions with Health would be beneficial moving forward.

Structure of the draft ALN Code

Question 4 – Is the structure of the draft ALN Code and the separation of the chapters appropriate, clear and easy to follow?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

There was originally a LAC chapter and having this removed has made it harder to follow in terms of responsibility for LAC children. The Code is otherwise well structured.

Question 5 – Is the draft ALN Code’s focus on describing and explaining the functions and processes appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Pupil referral units (PRUs) - Proposed regulations to be made under Paragraph 15 of Schedule 1 to the Education Act 1996

Question 6 – Do you agree with the proposal to use regulations to delegate functions from a local authority to a Management Committee of a PRU?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

We do not agree with this as the Management Committee of a PRU do not have the powers of a Governing Body in the main and as such delegating such a large, statutory responsibility could be deemed as unmanageable as the PRU will not have the wider supporting powers to implement the requirement of the Act.

Chapter 2 - Principles of the Code

Question 7 – Are the principles set out in Chapter 2 of the draft ALN Code the right ones?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

We feel that the early identification and bilingual offering are two very strong features of this Code and the Act.

Chapter 3 - Involving and supporting children, their parents and young people

Question 8 – Is the explanation of the duties relating to involving and supporting children, their parents and young people provided in Chapter 3 of the draft ALN Code appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

3.22 – who would provide this support? Further clarity here is needed. 3.23 is very heavily worded but unclear in what it actually means and how LAs/other agencies can access support for parents/carers other than current providers such as SNAP Cymru.

Chapter 4 - Duties on local authorities and NHS bodies to have regard to the UNCRC and the UNCRPD

Question 9 – Is Chapter 4 of the draft ALN Code clear about what is expected of local authorities and NHS bodies when discharging their duties to have due regard to the United Nations Convention on the Rights of the Child (UNCRC) and United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 5 - Duty to keep additional learning provision (ALP) under review

Question 10 – Is the guidance provided in Chapter 5 of the draft ALN Code in relation to the duties to keep ALP under review appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

We feel that LAs keeping more specialist provision under review is a very positive thing to ensure that we are able to best meet the needs of all children and young people.

We believe that it would be harder to audit the ALP of all schools, will there be a requirement to publish a provision map or offering? This will make audit and reviewing ALP more systematic for LAs and clearer to parents/carers and other stakeholders.

Chapter 6 - Advice and information

Question 11 – Is the guidance provided in Chapter 6 of the draft ALN Code in relation to making arrangements to provide advice and information about ALN and the ALN system appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 7 - The definition of ALN and ALP, identifying ALN and deciding upon the ALP required

Question 12 – Is this explanation of the definition of ALN provided in paragraphs 7.4 – 7.32 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	✓
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Supporting comments

We would welcome further clarity with regard to the definition of ‘disability’ (Figure 1 beneath section 7.2) and how the Code sits with reference to the Equalities Act. We would also welcome a glossary/appendix of key definitions that are used throughout the Code.

With reference to the early years (particularly 0-3) element of identifying ALN and determining ALP, we would welcome further clarity around who determines this and how this can be determined.

With regard to 0-3 aged children, who is responsible for identifying and determining ALN and ALP where there may be equipment required. Further clarity is required in terms of the role of Health Services and the role of Education Services here.

We would also like clarity around what education is at the 0-3 age level which is essential to look at who the Code would impact upon and also how to determine ALP if ALN is identified.

Question 13 – Does Chapter 7 of the draft ALN Code provide a clear and comprehensive explanation of the evidence on which decisions about ALN and ALP should be based, the sources from which this evidence might be collated, and the way in which it should be considered?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The Local Authority does not believe that the list of examples is required at 7.34 and that many children and young people may have deficiencies in working memory, for example, and that such lists could lead to narrowly written IDPs rather than more holistic ones that focus on the entire child or young person. A deficiency in working memory does not necessarily mean an additional learning need.

We feel that further clarity/quantification around terms such as ‘significant’ is required as this could be interpreted in many different ways by varying stakeholders. We would like further clarification around the timescales for the ‘longer period’ reference in section 7.20.

With regard to 7.35, we feel that ‘creative development’ should be removed or further clarified as this can mean a wide array of things and has the potential to look at ‘talent’ rather than ‘ability’. Reference in section 7.35 regarding levels ‘those expected of the individual themselves’ requires clarity around expectations, cognitive ability etc.

Chapters 8 to 12 – Duties on schools, FEIs and local authorities

Early Years ALN Lead Officer

Question 14 – Is the guidance on the role, experience and expertise of the Early Years ALNLO set out in paragraphs 8.40 - 8.47 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have the appropriate experience and expertise to meet the expectations of the role)?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The role is clear, however, further detail around the requirements on Local Authorities at the 0-3 level and to those who do not attend non-maintained settings is required to help ensure that the role has the most positive impact possible.

We believe having a strategic role to coordinate EY ALN is a very positive step and will support children well as the move from pre-school settings and others into schools.

Duties on schools, FEIs and local authorities

Question 15 – Is the structure and content of Chapters 8 to 12 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

9.5 – Who provides the consent to determine if there is ALN if a family member other than the parent/guardian refers? Can the school inform the parent who made them aware of potential ALN? Are there GDPR implications? Would wording to state ‘legally responsible person’ rather than ‘other family member’ be clearer?

Question 16 – Are the timescales for decisions by schools, FEIs and local authorities on ALN and preparing an IDP as set out in Chapters 8-12 appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

We believe that the timescales should be term time ones so that as much involvement with the child as possible can take place.

We would also like further detail around the 7 and 12 week processes. On a 7 week reconsideration, is the LA only reconsidering the information that the school used or will they be required to undertake further assessment or investigation? If this is the case, the 12 and 7 week processes become the same thing. Clarity would be beneficial here.

Deciding whether it is ‘necessary’ for a local authority to prepare and maintain an IDP for a young person not at a maintained school or FEI - Proposed regulations to be made under Section 46 of the 2018 Act

Question 17 – Are the proposed requirements and guidance in paragraphs 12.22 – 12.51 of the draft ALN Code on when it is necessary for a local authority to maintain an IDP for a young person not at a school or FEI in Wales appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 13 - Content of an IDP

Question 18 – Are the elements of the mandatory content of an IDP which are required by the ALN Code, appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

We believe that these are appropriate, but believe that exemplar guidance/best practice to share with schools/LAs/FEIs etc around completing to a high standard would be very beneficial.

Question 19 – Is the proposed mandatory standard form for an IDP (included at Annex A of the draft ALN Code) appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

We believe that this should encompass the LAC elements also so that there is one form to be used for all CYP.

Question 20 – Is the guidance in Chapter 13 of the draft ALN Code clear?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Transport

Question 21 – Is the guidance on transport in paragraphs 13.74 - 13.76 of the draft ALN Code appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

1.68 – the further clarification around disabilities and learning difficulties for people who are not of compulsory schools age is a positive one to increase support.

Chapter 15 – Duties on health bodies and other relevant persons

Statutory requests by local authorities to relevant persons for information or other help - Proposed regulations to be made under Section 65(5) of the 2018 Act

Question 22 – Is the proposed timescale and exceptions for relevant persons to comply with a local authority request for information or other help (under section 65 of the 2018 Act) appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

There is a current challenge around timescales for some agencies currently which will become more of a challenge in view of the shorter timescales proposed by the Code. Agencies will require support to ensure that they are able to work within the new timescales to ensure that the CYP gets the best provision and offering possible.

ALP to be secured by NHS bodies - Proposed regulations to be made under Section 21(10) of the 2018 Act

Question 23 – Is the proposed period and exception within which an NHS body must inform others of the outcome of a referral to it (under section 20 of the 2018 Act) to identify whether there is a relevant treatment or service, appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The Designated Education Clinical Lead Officer (“DECLO”)

Question 24 – Is the guidance on the role, experience and expertise of the DECLO set out in paragraphs 15.37 – 15.53 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have appropriate experience and expertise)?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 16 - Review and revision of IDPs

Question 25 – Is the content and structure of Chapter 16 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 26 – Is the proposed period and exception for completing reviews in response to a request from a child, their parent, a young person or an NHS body (set out in paragraph 16.18 of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 17 – Local authority reconsiderations and taking over responsibility for an IDP

Question 27 – Is the content and structure of Chapter 17 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

This is clear, we think a detailed flow diagram showing the implementation of the processes would be very beneficial here for schools/providers and the LA to support decision making and process mapping of support systems to support the implementation of the Code and Act.

Question 28 – Is the proposed period and exception for a local authority reconsidering a school IDP (set out in paragraph 17.20 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

We would like further clarity around the difference between a consideration and a reconsideration. With regard to a consideration, the process would be better to be based on school weeks rather than calendar weeks. In regard to a reconsideration, does the LA just look again at the evidence school used, or do they have to do further investigation. If the latter, does a reconsideration become a consideration and should it be a 12 week period rather than a 7 week one?

Chapter 18 - Meetings about ALN and IDPs

Question 29 – Are the principles and the guidance provided in Chapter 18 of the draft ALN Code on meetings about ALN and IDPs appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 19 – Planning for and supporting transition

Question 30 – Is the guidance in Chapter 19 of the draft ALN Code on supporting children and young people to make effective transitions appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 20 - Transferring an IDP

Question 31 – Is the content and structure of Chapter 20 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Transfers of IDPs - Proposed regulations to be made under Section 36(3) of the 2018 Act and Section 37 of the 2018 Act

Question 32 – Are the requirements that are intended to be included in regulations in relation to requests to transfer an IDP to an FEI (as described in paragraphs 20.12 - 20.17 of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 33 – Are the arrangements that are intended to be included in regulations in relation to all other transfers (as described in paragraphs 20.18 – 20.21 of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Chapter 21 - Ceasing to maintain an IDP

Question 34 – Is the content and structure of Chapter 21 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 35 – Is the period of time for making a reconsideration request (described at 21.18 of the draft ALN Code), appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

We would like further clarity around the difference between a consideration and a reconsideration. With regard to a consideration, the process would be better to be based on school weeks rather than calendar weeks. In regard to a reconsideration, does the LA just look again at the evidence school used, or do they have to do further investigation. If the latter, does a reconsideration become a consideration and should it be a 12 week period rather than a 7 week one?

Chapter 22 – Children and young people subject to detention orders

Question 36 – Is the content and structure of Chapter 22 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 37 – Are the proposals for the regulations in relation to deciding whether it will be necessary to maintain an IDP for a detained child or young person upon their release appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 38 – Are the proposals for the regulations in relation to children or young people who are subject to a detention order and detained in hospital under Part 3 of the Mental Health Act 1983 (as described in paragraphs 22.45 – 22.74 of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 39 – Are the timescale requirements to act “promptly” in relation to decisions about ALN and preparing IDPs for children and young people subject to detention orders (as set out in Chapter 22) appropriate, rather than also having a requirement to comply within a fixed period subject to an exception or exceptions?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 23 - Children and young people in specific circumstances

Question 40 – Is the guidance in Chapter 23 of the draft ALN Code on children and young people in specific circumstances appropriate?

Yes	<input type="checkbox"/>	No	✓	Not sure	<input type="checkbox"/>
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Supporting comments

On the whole these are appropriate. We believe further clarification around Elective Home Education is required, and that this is considered in the context of the new Statutory Guidance on EHE coming from the Welsh Government shortly. We read the Code as any child not educated at school can present themselves to LA and if they meet threshold LA should maintain the IDP, which will also include provision to meet objectives. There is also a clear steer that parents should not be asked to pay for additional learning provision, which will then mean that somebody will be responsible for the provision. This would be difficult to deliver in the context of EHE in some circumstances and does not consider should a pupil fall behind or develop ALN as a result of the provision provided at home which has occurred in some circumstances.

Chapter 24 - Role of the Additional Learning Needs Co-ordinator (ALNCo)

Question 41 – Is the information set out in Chapter 24 of the draft ALN Code about the role and responsibilities of the ALNCo appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

24.5 – the ‘should’ should be replaced by ‘must’ here
 24.5 – we would like clarification around the time allowed for the ALNCo through best practice guidelines or equivalent and how this could be calculated to support smaller and larger schools in getting this right.
 24.6 – work for schools to carry out in terms of being confident that the ALNCo role will focus on ALN rather than the wider remit that some ALNcos (15 groups) that they may carry out currently.

24.7 – should therefore either form part of the Senior Leadership Team or **must** (Add must) have a clear line of communication (We feel this would give clearer clarity, but also flexibility in staffing structures for schools of differing sizes).

Chapter 25 - Avoiding and resolving disagreements

Question 42 – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

We believe a national model for resolving disagreements would support Local Authorities, families and CYP in accessing equitable support wherever they live in Wales.

Question 43 – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Chapter 26 - Appeals and applications to the Tribunal

Question 44 – Is the information about appeals and the appeals process set out in Chapter 26 of the draft ALN Code appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

We would like Health to have been governed by the Code in the same way that Education are. We feel that two escalation processes, one for Health and one for Education will cause confusion for parents/carers and CYP.

Chapter 27 - Case friends for children who lack capacity

Question 45 – Is the information about case friends, including the duties on the Tribunal to appoint and remove case friends, clearly explained in the Chapter 27 of the draft ALN Code?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Any other comments

Question 46 – Please provide any other comments that you would like to make on the draft ALN Code. Where your comments relate to a specific chapter or paragraph within the draft ALN Code, please indicate this in your response.

Please see the submission at the end of this response for other comments on the Code.

Part 2 of the consultation: Draft Education Tribunal for Wales regulations

Question 47 – Overall, do the draft Education Tribunal regulations provide clear processes and procedures relating to appeals and claims to the Education Tribunal?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 48 – Overall, will the processes and procedures outlined in the draft Education Tribunal regulations enable the Education Tribunal to deal with cases fairly and justly?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 49 – Is the proposed case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 50 – Are the proposed timescales for each party in the case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) reasonable?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 51 – Is the 6 week timescale within which NHS bodies must report to the Education Tribunal in response to a recommendation (regulation 65 of the draft Education Tribunal regulations) appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

This is appropriate, however, there is a disparity around the requirements on Health Services and those on Education. We believe that the same escalation arrangements should be in place for all involved with the process.

Question 52 – Are the timescales relating to compliance with Education Tribunal orders appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	✓
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Supporting comments

We believe that timescales should be considered in the context of term time rather than calendar time throughout the Code to ensure that we are able to work with educational providers to deliver our functions.

Question 53 – Is the approach to extensions to timescales (regulation 66 of the draft Education Tribunal regulations) appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 54 – Are the proposed regulations relating to case friends (draft Education Tribunal regulations 61 to 64) appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Part 3 of the consultation: Draft ALNCo regulations

Question 55 – Are the prescribed qualifications to be an ALNCo set out in the draft ALNCo regulations appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

We agree with these and believe the new approach around training and working with the workforce will have a more positive impact than a prescriptive list of requirements.

Question 56 – Do you agree with the tasks that ALNCo must carry out or arrange to carry out as set out in the draft ALNCo regulations?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

In the main we agree with these, but raise reference to the following points:

24.3 – Suggest changing “ALNCOs should be highly qualified” to “ALNCOs must be highly qualified”. It was agreed that a specific qualification should not be prescribed. It was approved of including “should have expertise in dealing with a broad spectrum of ALN”.

24.5 – Suggest changing “The head of the education setting should ensure that the ALNCo is supported in this way” to “The head of the education setting must ensure that the ALNCo is supported in this way”. It was felt that this would provide greater clarity to Heads, Governing Bodies, and ALNCo.

24.7 – Feel that greater clarification is required to ensure that there is effective communication between ALNCo and SLT. Suggest altar second sentence to “The role is a strategic one within the education setting and should therefore, either form part of the senior leadership team **or** must have a clear line of communication to the senior leadership team.”

24.13 – Felt that the wording is ambiguous. It needs to make clear that the “person [who] has been designated to coordinate the actions” can also be “responsible for preparing [the IDP]”. This statement could be read as the ALNCo is still responsible, which could be seen to conflict with the 24.12. It may help to add an example at the end “e.g. Head of Year”.

24.13 – The ‘person’ should be a qualified teacher.

24.15 – There is concern that “ALNCo to liaise with these services” is unworkable in larger schools, but may be better described as “ALNCo to collate with these services”. This ensures the involvement of the ALNCo, but acknowledges that it may be impossible for the designated ALNCo to undertake all of the liaison.

24.16 – Similar to above, particularly in larger schools, it may not be practical for the ALNCo to undertake all of the liaison themselves, so suggest a change of wording to “ALNCo must

ensure effective liaison with and provide...”. This also recognises the leadership role of the ALNCo.

24.20 – Felt that learning support workers should not be providing administrative support, but working with pupils, therefore suggest removing “both practical and administrative” to form “and will offer support to the ALNCo”.

24.24 – This does not state that the ALNCo must be present in a teacher’s role, but merely registered with EWC as a teacher. Given the level of professional responsibility, suggesting change to “The ALNCo in a school must be employed as a school teacher”. This covers the requirement for them to be registered as a teacher, but also ensure that appropriate weighting is given to the role.

Section 24.5 – Could recommendations be made to what “clear and sufficient time” looks like ? SENCOs feel that examples of good practice with this regard would be useful. Alternatively, that it be included in Supplementary Guidance.

Part 4 of the consultation: Looked after children

(a) Proposed regulations to be made

Question 57 – Do you agree that the Looked after Children in Education (LACE) Co-ordinator should be a statutory role?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

We believe that this should be a statutory role to ensure that core duties are carried out in a consistent way across Local Authorities but that there should be some flexibility based on local needs and trends. We also feel that formal qualifications relating to social work or education are essential for this role.

(b) Chapter 14 of the draft ALN Code – Content of an IDP for a looked after child

Question 58 – Do you agree that there should be a separate standard form for looked after children and is the proposed standard form, together with the guidance and requirements related to it, appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

We do not believe that a separate form is necessary for LAC pupils as they don't want to feel different and don't need to be separate. Some LAC pupils do go in and out of the care system and having separate IDPs would make these moves less consistent and more difficult.

A single IDP with direct reference to the PEP would be the most appropriate way for this aspect to function in a meaningful manner. A single PEP that can be used for part 6 CASP and also a PEP would be clearer and easier to use, this would allow all agencies involved to feed into the document.

(c) Proposed revisions to the Part 6 Code

Question 59 – Do the draft revisions to the Part 6 Code provide a clear explanation of the duties on local authorities in relation to their social services functions for looked after children with ALN and what these duties mean in practice?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Real clarity is required around who reviews the IDP. The role of the IRO as part of the CASP? Is there duplication in the review process and how easy is it to combine LAC reviews and IDP reviews, are the timescales the same? It may not be appropriate for some birth parents to be involved in reviewing an IDP and as such the Code needs to make it clear that LAs can exercise over-riding PR if it deems this to be in the CYP best interest.

Question 60 – Overall, do you agree with the approach taken in the draft revised Part 6 Code to explaining the legislative changes, including the integration of personal education plans (PEPs) and IDPs and the mandatory content of PEPs? Are the requirements and expectations and what these mean in practice clearly explained?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

One PEP document is requires for IDP and Part 6 CASP, without duplication that all parties can contribute to irrelevant of which ICT/data record system people have access to.

Question 61 – Do the changes that have been made to the Part 6 code clearly explain the role of the LACE Co-ordinator in overseeing the ALN arrangements for looked after children and what this means in practice?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The changes will increase the workload of the LACE Coordinator. Why are low level IDPs for LAC pupils automatically LA responsibility, this automatically makes these pupils different and avoids a graduated response to need.

The LA could have overriding responsibility but would need to delegate responsibility (with negotiations) to schools. The LACE Coordinator role needs to be an ALN experienced teacher to be able to do this effectively.

Part 5 of the consultation: Impact of proposals

Question 62 – What impacts do you think there will be as a result of the proposed regulations?

There will be a positive impact on children and young people if the regulations are implemented. We believe that further clarity is required as per our above comments to really ensure that the system is one that is enduring for a generation.

Question 63 – What impact do you think the proposals in the draft ALN Code and proposed regulations would have on the Welsh language?

We believe that the Code really strengthens opportunities and an equitable offering for both Welsh and English medium provision.

Question 64 – How do you think the proposals in the draft ALN Code and proposed regulations could be formulated or changed so as to have:

- i) positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?;
- ii) no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?

We believe that the Code really strengthens opportunities and an equitable offering for both Welsh and English medium provision.

Question 65 – We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

Educational Psychology Service

Positives that we recognise in the code:

- Promotes an inclusive education system.
- The views, wishes and feelings of the child, child's parents are central to the planning and provision of support – and taking their views meaningfully.
- It is a whole setting/school approach – not just the ALNCO.
- The need to understand the child's strengths and potential is important.
- Considering the child's ambitions and aspirations is important.
- Promoting inclusion.
- Early Identification, intervention being recognised as important.
- Recognising and including the rights of the child are important.
- Acknowledging and stressing the important of a bilingual service.

- That code promotes the communication needs of the child and family supporting these to ensure they are included.

Concerns regarding the code:

Early Years are a concern for the EPS around additional input from EPS at a younger age and capacity. Succinct procedures and clearer multi-agency working will be required at early years to best support children pre-school entry. There is a clear preventative function which we think is a very strong feature.

9.46 – We query where this should this be an EP or an ‘appropriate LA Officer’? What is the consultation model? How will this be recorded? Would an appropriate LA Officer be more workable, for a pupil who has HI/VI for example, Sensory Support may be more relevant than an EP initially.

16-25 role for the EPS, what will the pressure be on the service? Assessment toolkits for assessments are different for post-16? How do we work with the colleges across the region and what will the access criteria be?

That current LA workforce, and with particular reference to EPS, will be inadequate to meet the statutory responsibilities in relation to:

- meeting the statutory timelines.
- The increase age range 0-25 year olds
- The demand for school level IDP work
- Increased workload from LA based IDPs (for example EOTAS, dual registered, LAC etc.)
- Developing local criteria and thresholds
- Bilingual system (2.2 e. 2.24 onwards) – staffing, resources. From EP perspective links to shortage of welsh speaking EPs and links to concerns around training which is significantly impacting on recruitment in North Wales.

The code lacks clarity regarding which IDPs will be held by the LA versus school and what constitutes complex ALN. We would welcome greater clarity re what constitutes complex ALN and what LA held IDPs will look like.

Both LA and school based timelines should be based on actual school days.

SENCOs should be teachers and on the SLT

Concerns around para 24.25 and how that will work in practice – lacks clarity

Clarification required around who can start the clock ticking about consideration of ALN and clarification around parental consent in relation to this. – this needs to be formalised.

Tailored education (2.20) – pressure on resources and funding. Schools want to be able to do this now and main barrier is not having the money or staff to support it. Also raises a training issue for all school staff and issues around initial teacher training to ensure staff are equipped to deliver an education tailored to each child’s educational needs.

When the code says there is an expectation it can be done quicker than timeline set out (2.15) – is this fair? Does this not set an expectation of parents for it to be done quicker and

therefore if it takes the timeline this would be seen as a failure? Will this not work against positive working relationships with parents? And unrealistic to be any quicker with the current workforce we have. Does this leave an opening to legal challenge?

Training implication around inclusion and differentiation for teachers – all understanding what this is and how to do this.

(3.23/3.24) What is the duty? And who is it towards? Is 3.23 referring to the duty of the parent to support their child in the same way it is the duty of professionals or is it referring to the duty of professionals to support the parent in supporting their child. This needs clarity. If it is the duty of the professionals it needs clarity on what is expected.

Disagreement Resolution and Tribunal Appeals

There is an increase in the number of points where resolution of appeals can be made and there is a danger that the resources will be disproportionately deployed in defending decisions made rather than person centred resolution.

Resourcing

Concern that fulfilling the Bill will not be cost neutral and believe that current calculations both in workforce and training resources required are underestimates to deliver the welcomed preventative system.

Person centred planning and review requires **time** for preparation and coordination to ensure an effective collaborative planning process.

An inclusive approach requires that **everyone** participates, receives training and support to build capacity to identify and meet ALN and works together to achieve this.

Behaviour Support/Inclusion Services

If CYP are being supported in colleges now until 16, what will this look like in the future, who will fund this support? More of a team around the child role for these CYP moving post-16.

Chapter 23 – holding of the IDP

- If dual registered, the LA becomes responsible. How does this work for short term placements? What about permanently on roll in the PRU? We have pupils who access part time placements in the PRU for up to 10 weeks, passing responsibility of these IDPs to the LA would be impractical, when would they revert back to the school? This could be a risk to the child's ALP as there will be a disruption in continuity and supported transition back into the mainstream.
- When the Code says dual registered will have LA maintained IDPs – 'dual main' or 'dual subsidiary' or 'both'. If it was just 'main' that would make more sense, although we believe registration codes are changing this year.
- EOTAS – determination of the LA, Alternative Provision – LA would be required to determine if any ALN. How will schools support the LA in developing the IDPs as the schools will know these CYP well through their referral processes?

What impact will the Code have on Elective Home Education? How will LA services be

expected to support pupils if parents/carers elect to educate at home and in turn not to access the services from the LA that the pupil may need?

Is there work ongoing to match the requirements of the ALN Act and Code to the new Elective Home Education statutory guidance that is being developed by WG to ensure a consistent approach?

23.6 –Is home tuition classed as EOTAS for the Code and Act? EOTAS?

If a pupil is accessing a PRU in another Local Authority with which we have an SLA, does responsibility for the child transfer to the Management Committee to the new PRU or does it remain with the home Local Authority?

Early Years

There is a feel that earlier identification is going to be central and that clear structures and systems will support children. When the LA is made aware of potential ALN. What is the definition of ALN at a 0-3 level? What is education 0-3? (This really requires clarity as it is an area that is new to the system and we believe will be much wider than the current referrals that come to the LA from the Health Service. What is the equipment requirement from education in a 0-3 context for sensory services? Toddler Groups, is this education? How will we filter ALN etc? What about children attending multiple activities, toddler groups, language and play, breakfast club, can all three identify? What impact will this have on the transport budget? The Early Years budget is only a certain size, how will this be impacted by children with ALN at a 0-3 level. We require a national definition of what ALN is at a 0-3 level and where children would be educated. We believe that a named person at each setting is required as a link between the setting and the LA Lead Officer.

Clarity around mother and toddler groups as these are not in the Act, but an example in the Code as parents can request the LA consider. Much more clarity is needed here to ensure that we are identifying ALN appropriately and at the right stage and that we are able to direct resources correctly to support our younger children.

Page 57 : Figure 2 point(3) it states what 'nursery education' is, but it's not clear if non maintained settings which are funded are included under this section. By reading it some might think they are and some not.

Page 58 : 7.16 – it states ALP for those under 3 can take many forms Might include mother and toddler group. This can take place in an educational setting or elsewhere. Would the L.A need to create ALP for all settings attended (and resource the provision) mother and toddler, playgroup and childcare .Children can attend multiple settings, which will impact from a financial and workforce perspective.

Page 72 : The flowchart – does it need some examples- what is significantly greater ? And again is talks about educational provision of any kind, we need examples here.

Page 80 : 8.28 – it says once an IDP has been prepared by the authority it must be shared with the parents. There is no mention of sharing with settings which will be vital to ensure multi-agency working and approaches.

Page 261 – role of ALNCo's – no mention of settings having one – do they need one or have a designated worker within the setting to monitor progress and failure in progress ?

Page 75 8.3 where a child receives nursery education funded by the local authority at a non-maintained provider the provider **should** help the local authority in the exercise of its function (should be must as can't do it without) Is it possible to include a list (if there are to be any) of valid reasons why the provider wouldn't be responsible for helping the LA in the exercise of its functions?

At pre-school, what is the definition of Education for 0-3 year olds?

Page 77 8.9 does it matter at what stage in the process an Educational Psychologist is involved, will this vary case to case?

Individual Development Plans

How will we ensure consistency across the LA? What will the requirement be on schools to moderate their IDPs?. We would welcome guidance around these and what will could look like.

Independent Sector

We feel strongly that the Independent Sector should be duty bound by the Code and the Act.

Independent School IDPs would be decided and issued by the LA, but decisions can then be challenged through tribunal. How will schools be directed to carry out IDP requirements if they are not duty bound by the Code and Act?

How will the Code and the Act support LAs in quality assuring the provision in terms of how public money is being well spent?

- How do we tighten independent requirements?
- What do SLAs and quality assurance around these provisions look like?
- How do we ensure that post 16 is appropriate in the independent sector?

If a CYP accesses specialist mental health provision and is placed by Health in a non-maintained provision, such as Priory, is this provision duty bound by the Code and Act as these are some of the most vulnerable CYP accessing support.

Headlines from School Senior Leadership Team listening groups:

24.3 – Suggest changing “ALNCOs should be highly qualified” to “ALNCOs must be highly qualified”. It was agreed that a specific qualification should not be prescribed. It was approved of including “should have expertise in dealing with a broad spectrum of ALN”.

24.5 – Suggest changing “The head of the education setting should ensure that the ALNCo is supported in this way” to “The head of the education setting must ensure that the ALNCO is supported in this way”. It was felt that this would provide greater clarity to Heads, Governing Bodies, and ALNCo.

24.7 – Feel that greater clarification is required to ensure that there is effective communication between ALNCo and SLT. Suggest altar second sentence to “The role is a

strategic one within the education setting and should therefore, either form part of the senior leadership team **or must** have a clear line of communication to the senior leadership team.”

24.13 – Felt that the wording is ambiguous. It needs to make clear that the “person [who] has been designated to coordinate the actions” can also be “responsible for preparing [the IDP]”. This statement could be read as the ALNCo is still responsible, which could be seen to conflict with the 24.12. It may help to add an example at the end “e.g. Head of Year”.

24.13 – The ‘person’ should be a qualified teacher.

24.15 – There is concern that “ALNCo to liaise with these services” is unworkable in larger schools, but may be better described as “ALNCo to collate with these services”. This ensures the involvement of the ALNCo, but acknowledges that it may be impossible for the designated ALNCo to undertake all of the liaison.

24.16 – Similar to above, particularly in larger schools, it may not be practical for the ALNCo to undertake all of the liaison themselves, so suggest a change of wording to “ALNCo must ensure effective liaison with and provide...”. This also recognises the leadership role of the ALNCo.

24.20 – Felt that learning support workers should not be providing administrative support, but working with pupils, therefore suggest removing “both practical and administrative” to form “and will offer support to the ALNCo”.

24.24 – This does not state that the ALNCo must be present in a teacher’s role, but merely registered with EWC as a teacher. Given the level of professional responsibility, suggesting change to “The ALNCo in a school must be employed as a school teacher”. This covers the requirement for them to be registered as a teacher, but also ensure that appropriate weighting is given to the role.

Section 24.5 – Could recommendations be made to what “clear and sufficient time” looks like ? SENCOs feel that examples of good practice with this regard would be useful. Alternatively, that it be included in Supplementary Guidance.

Throughout the code: GDPR implications need clarification.

ALN Team

If a pupil accesses a Language Unit or Resource Provision in another Local Authority, is the home or new Local Authority responsible for this IDP, if it goes to the school and then is escalated to the LA, which LA is it escalated to, the home or host?

Feedback from Legal Services

Q.2 Do you agree with the general approach to the timescales for compliance with duties (that is, to act promptly and in any event within a fixed period), as explained in paragraphs 1.31 – 1.32 of the draft ALN Code?

In principle set timescales will assist with case management and ensure that delays are reduced, for the benefit of all parties.

Are the days referred to in the timescales are calendar days or working days within the

school calendar/county school timetable, as the draft Education Tribunal for Wales regulations 2019 (regulation 19(2) for example) only refers to 'weeks'

Unclear what happens when the Health Board (HB) do not comply with their duties to provide information within a fixed period, in circumstances where this will have an impact on the Local Authority's (LA) ability to comply with the timescale.

Q.3 Is the general exception which applies in the case of timescales, as described in paragraphs 1.33 – 1.35 of the draft ALN Code, appropriate?

The wording of paragraph 1.35 appears to limit the exception to very narrow circumstances; *“The exception only applies where it has not been possible within the fixed time period to complete the action due to ‘circumstances beyond the responsible body’s control’. This is to allow for exceptional situations, such as where a child or young person is unavailable for a substantial period due to illness, absence from the country or some other reason, such that it is impossible to gather evidence (e.g. through observations or clinical or other assessments) at a time that would enable it to comply with the fixed time period.”*

What about unavailability of staff and pupils during school holidays, e.g. summer holidays. Would this be captured by 'circumstances beyond the reasonable body's control'?

Clarifying what is meant by 'days' or 'weeks' as outlined above may address this uncertainty

Paragraph 26.13 does state: *“There are no exceptions to the timescales set out in the regulations. However a local authority or FEI concerned may apply to the Tribunal for an extension to a timescale. The local authority or FEI should set out in its application the reasons for requesting an extension. The Tribunal may extend a timescale at its discretion if it considers it fair and just to do so.”*

The requirement to apply for this extension on each and every occasion where the timescale falls across a school holiday does place an additional and unnecessary requirement on the LA, which could be dealt with by specific reference in the Code.

Chapter 9

Q.16 Are the timescales for decisions by schools, FEIs and local authorities on ALN and preparing an IDP as set out in Chapters 8-12 appropriate?

The timescales are likely to be challenging for LAs due to the availability of relevant parties in school holidays and also due to the delays often experienced when waiting for information from the Health Board (HB).

Where the HB do not comply with their duties to provide information within a fixed period, in circumstances where this will have an impact on the LA's ability to comply with the timescale. For example, the proposed 12 week timescales for preparation of an IDP

includes a 6 week fixed period for the HB to return their information. When their response is not received within that 6 week fixed period, the LA will be hugely disadvantaged by either a) being left with less time to respond in cases where we are awaiting HB information/reports, or b) not having the necessary information to compile our plan comprehensively.

Paragraph 1.15 of the draft Code states, *“Failure of a relevant person to comply with any of the requirements imposed by the Code or by the Act or regulations made under it or other legislation, could, depending upon the circumstances, result in a decision being overturned by the Tribunal, a complaint to the Welsh Ministers, the exercise of local authority or Welsh Ministers’ intervention powers, a complaint to the Public Services Ombudsman or a successful judicial review claim.”* What process is proposed for ensuring compliance by parties (such as the HB) with the timescales?

It is suggested that reporting non-compliance to Welsh Ministers as outlined above places a further burden on an already stretched LA and does not tackle the immediate problem unless a process is in place for ensuring compliance by the HB.

The LAs would welcome a clear system for not only reporting any non-compliance quickly and easily, but also to incorporate ‘next steps’ that would be taken by SENTW/ Welsh Government to ensure compliance. This might be a warning system with sanctions in place for persistent non-compliance without exceptional reasons, OR to place the onus on the HB to confirm they have complied with their duties and to explain why they have not, if not. It seems unfair to place the burden of chasing other parties on the LA, when in reality, the LA has no power to enforce compliance.

Q.22 Is the proposed timescale and exceptions for relevant persons to comply with a local authority request for information or other help (under section 65 of the 2018 Act) appropriate?

Paragraph 15.12 states that the HB ‘must’ comply with the timescale, and the footnote explains that this will be provided in a regulation made under s.16(5) of The Act. What and when will regulations be drafted to deal with non-compliance? It is difficult to provide meaningful comments at this stage in reference to a regulation that is not yet published, other than to say it is important to include a method to ensure compliance.

At the end of paragraph 15.12 it states: *“But the requirement to comply within that 6 week period does not apply if it is impractical for the relevant person to do so due to circumstances beyond its control.”* Clarification is need on what could be classed as “circumstances beyond their control” together with a requirement for the relevant person to specify what those circumstances are rather than simply state a delay was for “reasons beyond its control”.

Again, a sanction for non-compliance should be included which is not putting the burden on an LA to report a non-compliance further. If the HB have a duty to comply, they should have

to state why they have not and it should not be for the LA to have to take action to ensure a public body complies with its obligations, unless they are obligations for the LA.

Chapter 26

Q.44 Is the information about appeals and the appeals process set out in Chapter 26 of the draft ALN Code appropriate?

Paragraph 26.8, in setting out the powers of the Tribunal, does not refer to a power of stay.

Paragraph 26.12 states: *“At any point during Tribunal proceedings, any party to the proceedings may apply for a stay in proceedings to consider alternative dispute resolution or settlement. All proceedings, including timescales, would be paused if the stay is approved and would recommence at the end of the stay period as specified by the Tribunal.”*

The LAs would welcome clarification on whether the power to stay proceedings will be available to the Tribunal.

In cases where there are multiple proceedings/procedures/investigations running in tandem, it would be most advantageous for the Tribunal to have the power to stay the appeal to await the outcome of the other concurrent matter(s).

Should there be “or any other reason” inserted in paragraph 26.12 to allow the Tribunal greater power to exercise their judgment over Staying proceedings.

Other comments

Regulation 31(c) makes provision for a joint expert but it is unclear who should pay for this – clarification is needed on who bears this cost in all scenarios.

More flowcharts could be inserted to enable users to understand the “gist” of the Code prior to drilling down into the detail, as required.

Throughout clarity on what “days” or “weeks” refers to – calendar days, school days, working days etc...

Where does Dispute Resolution feature in the Code – could it be a sensible option to require ADR prior to lodging a claim and to have a box on any appeal / claim form (as in other Court processes e.g. Early conciliation through ACAS prior to lodging an Employment Tribunal Claim) where you have to declare that you have attempted to conciliate before the Appeal / Claim is accepted.

DoSENTW still have the power to make Practice Directions? If not, why has this changed? PDs are an important part of Case Management to ensure that a matter is moved effectively through the system, rather than languishing in delays.

Chapter 27 – if a child lacks capacity, how do you get their views? if no capacity, is it an application for a case friend? A flowchart to outline this would be useful.

The situation where a LA must make an IDP even if the HB have failed to provide information would give the parents a right of appeal. If the HB provide information at a later date, which means the IDP is reviewed and then an updated IDP is issued means this gives rise to a further right of appeal. This puts an unnecessary burden on an LA for a HB failure which is unfair. Practically, a power for the Tribunal to consolidate proceedings and to sanction the HB would be appropriate.

Respondent Details

Information	
Name	Allison Williams, Chief Executive
Organisation (if applicable)	Bwrdd Iechyd Prifysgol Cwm Taf University Health Board

Part 1 of the consultation: The draft ALN Code

Chapter 1 - Introduction

The meaning of 'must', 'must not', 'may', 'should' and 'should not' in the ALN Code

Question 1 – Is the explanation in paragraphs 1.10 -1.16 of the draft ALN Code of the use and meaning of the different terms 'must', 'must not', 'may', 'should' and 'should not' clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

This is valuable in making it explicit where statutory duties lie. The clarity is valuable.

Timescales

Question 2 – Do you agree with the general approach to the timescales for compliance with duties (that is, to act promptly and in any event within a fixed period), as explained in paragraphs 1.31 – 1.32 of the draft ALN Code?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

It is agreed in principle that we agree with the general approach to the compliance with timescales and the principle that timescales are required.

The wording in the draft Code appears over complicated and is unnecessarily wordy.

Question 3 – Is the general exception which applies in the case of timescales, as described in paragraphs 1.33-1.35 of the draft ALN Code, appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

1.33 It is apparent that 'promptly' means quicker than the timescale given but this is vague and will create inequity in delivery.

1.34 "impractical" This requires clearer definition. It will create inequity. What are considered to be acceptable "impractical" reasons for not complying? These need to be defined.

1.35 "circumstances beyond its control" "some other reason" require further clarification. From a

Health perspective would these constitute staffing/resource shortages/ capacity issues/waiting list times? This is open to interpretation which will cause conflict and challenge. More detailed definition is required.

Structure of the draft ALN Code

Question 4 – Is the structure of the draft ALN Code and the separation of the chapters appropriate, clear and easy to follow?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The chapters are not clear or easy to follow.

It is apparent that you have to read all of the code as well as the specific chapters about the relevant matters in order to gain full understanding.
By splitting the chapters and giving the impression that they are “stand alone” the full content and requirements of the Code may be missed/misinterpreted by those who do not read or refer to the whole Code.

In addition to reading the Code there is reference to a number of implementation guidelines and other Acts. The amount of cross referencing required in general appears unworkable.
Many sections of the Code read as if they are The Act and still appear to require interpretation by the reader. This will cause inequity and conflict as any discrepancy in interpretation will constitute a discrepancy in delivery and conflict between those interpreting the Code.

The length of the Code is unworkable. Each point is very wordy. Some points appear to be there for description purposes and do not have a functional requirement to be in the Code. Making the points more specific, less wordy and only including them if they are necessary in describing how to implement the ACT would assist the practical implementation of the Code.

Are the Introductions in each chapter required? These appear to be taken from the Act and are unnecessarily wordy.

As a general comment it may be more effective to try to provide/detail the information required via a visual means e.g. through the use of diagrams/ pathways etc. where appropriate. This may help with clarity and be easier to understand.

Question 5 – Is the draft ALN Code’s focus on describing and explaining the functions and processes appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

In general it is considered that many descriptions aren’t specific enough and will as a consequence be interpreted differently. There appear to be many “get out clauses” which will be interpreted differently. The paragraph which is frequently used to describe Health’s requirements in deciding whether ALP is required/to be provided is “identifies a service or treatment likely to be of benefit” This is considered to be too vague and does not relate to the clinical requirements of the Child or Young Person. This needs to be clarified in clinical terms. “Likely” is very vague and open to interpretation.

Pupil referral units (PRUs) - Proposed regulations to be made under Paragraph 15 of Schedule 1 to the Education Act 1996

Question 6 – Do you agree with the proposal to use regulations to delegate functions from a local authority to a Management Committee of a PRU?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

n/r

Chapter 2 - Principles of the Code

Question 7 – Are the principles set out in Chapter 2 of the draft ALN Code the right ones?

Yes	✓	No	☐	Not sure	☐
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Supporting comments

Yes in theory the principles of the Code are correct.

Much of the wording in this Chapter feels as though it may not be required in a Code and should sit in the Act only.

A rights based approach

It's confusing that when you read chapter 2 to obtain information on the principles of the code you are then directed to another chapter, namely chapter 4. Is there any point in having chapter 2 if the principles are all covered in other chapters?

Participation

Again you also need to read chapter 3.

Information and advice, Advocacy and Case Friends

Again you need to read another chapter, Chapter 4, so is this just duplication?

Early Identification

Again you need to read/refer to more chapters

2.14 – ‘Identifying ALN at an early stage and delivering appropriate interventions may also prevent the need for future more costly and less effective interventions’. Acknowledgement of the importance of early intervention is welcomed as in many Health disciplines early interventions are evidence based and essential for prevention of more entrenched difficulties at a later stage. There are however significant resource implications here.

2.15 This is very wordy. “Impractical for the body to comply” and “provision for exceptions” need to be clearly defined.

Collaboration

2.18 Although these principles are welcomed detail around how is required. The funding and resource implications/requirements to provide this must also be recognised in order for this to be practically achievable.

A bilingual system

2.24 – In relation to ‘A bilingual system’ the Health Board welcomes the principle. It however, is important that the Code is clear that Health will consider the “clinical need” of ALP in Welsh. This is of particular relevance to the Speech and Language Therapy service where the clinical delivery of a service in a specific language is of clinical significance not only a language choice. It must also be specified that this will have implications on resources and workforce plans with a shortage of Health professional, particularly Therapy Professional who are able to speak Welsh. It also states that “reasonable steps” to secure ALP in Welsh must be taken. Clarification of what constitutes a “reasonable step” is required as this is open to interpretation and therefore dispute.

Chapter 3 - Involving and supporting children, their parents and young people

Question 8 – Is the explanation of the duties relating to involving and supporting children, their parents and young people provided in Chapter 3 of the draft ALN Code appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

3.7 – More detail is required about how Capacity is determined and when it's considered that a child or young person lacks capacity. Who will undertake this assessment/provide this information to those involved in the process? The phrase 'may be nonetheless' has a negative connotation and should be replaced with 'is'

3.9 – 'information about communication' meaning 'how they communicate and how to communicate with them' it should state in this point that this will be recorded in the IDP. There also needs to be clarity about who is suitably qualified and therefore responsible for giving the advice in relation to "understanding the communication requirements and preferences of the child, child's parent or young person". This could imply that a communication assessment is required for the Parents? Who would undertake that? What are the resourcing implications of that?

Throughout this section there are a number of references to a "particular parent" or "particular child" This can read with negative connotations. If the reference/meaning is to the fact that additional support will be required and therefore available for some Parents/Children, then this needs to be clear.

We welcome the involvement of children in making decisions in relation to their ALN, but have concerns that for children with complex communication difficulties there may not be the skills in the workforce to ensure effective participation. Children with communication difficulties are likely to be able to exert less influence in these decisions, and therefore benefit less from this aspect of the code. The communication difficulties will act as a disadvantage to the child in accessing education, but also in participation in the PCP and IDP process. The current workforce do not universally have the skills to mitigate against this, particularly in mainstream schools.

This also applies for parents of children, who themselves have communication difficulties. These difficulties can be subtle and not identified and act as a barrier to participation. The incidence of speech and language difficulties and written language difficulties for parents of children with communication difficulties is high.

With some ambiguity around definition of ALN, parents who are most confident and articulate may continue to be the ones who receive the most services for their children.

Chapter 4 - Duties on local authorities and NHS bodies to have regard to the UNCRC and the UNCRPD

Question 9 – Is Chapter 4 of the draft ALN Code clear about what is expected of local authorities and NHS bodies when discharging their duties to have due regard to the United Nations Convention on the Rights of the Child (UNCRC) and United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Is the introduction required in this detail? It is difficult to read and understand and feels as if this should remain in the ACT not the Code.

This is a particularly complicated chapter to read. It informs you what you have to pay due regard to and refers you to many other forms of Guidance and Conventions. This chapter needs to be simplified/made more specific.

Chapter 5 - Duty to keep additional learning provision (ALP) under review

Question 10 – Is the guidance provided in Chapter 5 of the draft ALN Code in relation to the duties to keep ALP under review appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

In general the principle that ALP will be kept under review is positive.

5.1-5.6 Does this also include the NHS? Is this also in relation to NHS ALP? If this is considered to be insufficient what “power” does the Local Authority have in raising this or in securing it? It is clear that the NHS only provides what is “usually available” so what happens if this isn’t considered to be sufficient following review of ALP provision?

5.23 “Local authorities should be proactive about identifying opportunities to share resources with other LA’s” – how will this work in practice? Who will police the collaborative working is happening and ensure equity for all children across LA’s?

5.24 “Developing capacity to offer packages of education, health and social care support which can enable more children to be taught locally rather than in out of area placements” – There are significant resource implications here for Health. Will the local authority be funding these additional Health packages, particularly where the package delivered by Health personnel is to meet an educational need e.g. speech and language Therapy/Occupational Therapy?

Chapter 6 - Advice and information

Question 11 – Is the guidance provided in Chapter 6 of the draft ALN Code in relation to making arrangements to provide advice and information about ALN and the ALN system appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

This chapter appears to be repetitive and uses slightly different language in the various points which should be the same.

With many parents/guardians who have poor literacy skills it is important that information is in 'plain English' with the option of a face to face explanation or discussion if needed.

Chapter 7 - The definition of ALN and ALP, identifying ALN and deciding upon the ALP required

Question 12 – Is this explanation of the definition of ALN provided in paragraphs 7.4 – 7.32 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

7.1 – inclusion of the word 'usually' is very important. This is required to ensure that a graduated response is followed. This appears to contradict the flow chart, e.g. p.72 where it is indicated that whenever there is a 'call for ALP' then the child has ALN and an IDP needs to be devised. Is this the case? 7.10 states that differentiated teaching is not ALP but where is this distinction? It is positive that a differentiated approach does not constitute ALN. Specific guidance around this is required. "Unless specific circumstances apply" – There also needs to be clear guidance as to what these specific circumstances are. This is open to interpretation which will cause misunderstanding and potential conflict.

7.6 How is "significantly" defined? Who will determine if the child has a "significantly greater difficulty"? Will we potentially end up with 'cut off' points e.g. 13 months under chronological age on reading tests constitutes a "significantly greater difficulty" but 12 months under doesn't?

7.10 "goes beyond that generally made available" – This is going to create variation from school to school or LA to LA as to the requirement of ALP. Different levels of support are provided in different schools. A general lack of differentiated Teaching/Universal programmes will increase the need for IDPs to specify the ALP required. Potentially a post code lottery?

7.13 At what age do you make this decision and who makes this decision. Clarity is required.

7.19 "set appropriate timescales" – What are these timescales? It is anticipated that a Parents and Teachers definition of an appropriate timescale may vary if this isn't specified? Graduated response is required and is appropriate but more guidance on the length of a graduated response and what constitutes graduated response before it moves to "the next stage" is required.

7.20 "persist for a longer period" – What is this longer period? This will cause variation in the definition of need.

7.21 This point is unnecessary. It doesn't aid the reader in understanding what is meant by "significantly greater difficulty in learning than the majority of others of the same age". This needs to be clarified and expressly defined/described.

7.25 Are the 'wider issues' referred to at the end of the paragraph, 'ALN'? What is meant by "wider issues"?

7.27 It is vitally important to understand the linguistic profile of a child/young person. It is vitally important to understand the child's language acquisition in their languages and whether the child is developing language typical of a child learning an additional language or whether there is atypical language development which may indicate ALN. Where there is reference to "an assessment should be made" who is considered appropriate/adequately qualified to undertake this assessment. There are potential resource and staffing implications here particularly in relation to Welsh language.

Lines of responsibility are not clear for children who are not yet in an educational setting, beyond identification. While the EY ALNCO will coordinate an IDP for the child, will they be expected to write it or will, for example, a Health Visitor take that role. Clarity is required.

If a child is born with a syndrome where it is anticipated that the child will have ALN as a consequence, it is unclear when health are required to notify the LA about the potential ALN. Would this be at birth? At what point would an IDP be written?

Question 13 – Does Chapter 7 of the draft ALN Code provide a clear and comprehensive explanation of the evidence on which decisions about ALN and ALP should be based, the sources from which this evidence might be collated, and the way in which it should be considered?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

7.34 and 7.35 There needs to be consistency throughout these sections with the use of the term "significant". Why is significant required for some of the presenting difficulties but not all? How is this decision made? Why are some presenting difficulties considered to require a significant level of delay/discrepancy and others not?

7.34:

- 4th bullet point 'significant delays in language functioning' – change 'delays' to 'difficulties' in line with Royal College of Speech and Language Therapist terminology where 'language delay' is no longer used.

- 5th bullet point. The words "or a" should be removed and just replaced with "a" ;

It is possible that this will be considered to be an exhaustive list of the types of difficulties that are required/the child should present with to have ALN. This is not child led or person centred. Some children e.g. with co-ordination difficulties will have ALN others also with co-ordination difficulties will not have ALN. This lead may be misleading and runs the risk of becoming a check-list. It is recommended that this list is removed from the Code.

7.35:

- Final bullet point – this should refer to 'speech, language, communication and/or interaction difficulties ...'.

7.42 This point appears to override the actual definition. This is incredibly vague and open to interpretation.

7.46 "progress not adequate" – needs to be defined. Whilst it is generally accepted that Teachers and other Professionals working with the children/Young People may have a common understanding/agreement of what constitutes "progress not adequate" it is very likely that a Parents definition of this will be different and therefore cause conflict.

7.55 "there may be no need to include other professionals" – This statement is true. It is then however contradicted within the same point "although their advice may be helpful" which may result

in unnecessary referrals to Health and the expectation that Education settings would be 'doing the best for the child' by requesting this information. This will have resource and capacity issues for Health and potentially cause conflict between Education and Health where referrals of this nature are refused.

7.59 "If there is an identified lack of expertise amongst the staff,.... seeking external advice" – This puts unnecessary pressure on Health. It is not acceptable that Health may need to make up for the lack of expertise within the Teaching staff. Staff should have a requirement for a level of expertise/proficiency they must achieve. Health does not have the capacity or resource to make up for a lack of education staff required expertise.

7.64:

1st and 2nd bullet points – need to be clear that differentiating the curriculum and strategies are not necessarily (or even definitely) ALP for ALN.

Pages 72 and 73: Where does the graduated response sit?

Early intervention is essential to prevent the need for future more costly effective interventions. There is wide acknowledgement that there are gaps in early interventions services available. How is the ALN act/code addressing this?

Chapters 8 to 12 – Duties on schools, FEIs and local authorities

Early Years ALN Lead Officer

Question 14 – Is the guidance on the role, experience and expertise of the Early Years ALNLO set out in paragraphs 8.40 - 8.47 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have the appropriate experience and expertise to meet the expectations of the role)?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Although this section clearly specifies that the role of the Early Years ALNLO is strategic many of the descriptions of the role read as operational. It is recognised that all of these duties are required to be undertaken. The strategic role is vitally important in ensuring the infrastructure is in place. There is then also operational delivery required.

In order to ensure the post holder has the correct skills to deliver the strategic component of the post it would be more suitable for this post to be divided into two or to mandate 2 posts; one being the Early Years ALN Lead Officer and the other being the Early Years ALN operational manager. This would clearly distinguish the two components of the required post and ensure the right person with the right skills is employed to undertake the required roles. As with the DECLO role the number of hours required to undertake the post should be based on the number of children in the LA with 1 day per x amount of early years children. It is felt that an Early Years ALN Team is required.

Duties on schools, FEIs and local authorities

Question 15 – Is the structure and content of Chapters 8 to 12 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

As with previous chapters the document is considered to be too wordy.

8.9 – Professionals from Health Bodies will need a clear summary of the individual's ALN before they can identify a treatment or service which is likely to be of benefit and in determining how the child should best be assessed and by whom. The outcome of seeking advice from an Educational Psychologist (for children under compulsory school and not the responsibility of a school governing body and LA prepared IDPs) should be provided to the Health professional in order for them to know the individual's ALN and identify effective intervention.

The stipulation for NHS bodies to provide intervention which is 'likely to be of benefit' is not stipulated in the same way for schools, LAs and FEIs. Why is this?

The transformation work which is due to be undertaken will need to include removing barriers to efficient communication between schools, LAs, FEIs and NHS bodies, otherwise the processes involved in implementing the Code will be excessively cumbersome. Electronic communication will need to be maximised.

8.23 "Treatment or service likely to be of benefit in addressing the child's ALN" – Further clarification of this definition is required. The removal of the term "likely" is advised. The insertion of the term "clinical" before "benefit" is advised.

Clarification is also required in the ACT/Code as to what is considered to be an Educational need and what a Health need is. This is relevant in terms of funding resources e.g. do Speech and Language Therapists/Occupational Therapists address an Education or Health need and therefore should there be funding arrangements in place between the LA/NHS to address this? How would this be translated into the Code?

8.28 – IDP needs to be shared with other agencies involved and included in the ALP. How do drafts get shared and how is the IDP finalised? (Also clarification needed around this in 9.24 and 9.76).

8.45 Point 4-Is this not the DECLOs role?

9.2 – do 'low incidence' needs have to have an IDP prepared by the LA? What constitutes 'low incidence'? What evidence is there that these will be more complex or severe, and require an IDP prepared by the LA? With the appropriate advice provided from the relevant agencies, could this be done by a maintained school as long as they have the correct advice and they are able to secure the ALP? If the schools are not able to secure the ALP or adequately determine the ALP, this is covered in 9.19.

9.10 Is there a specific age above which a child can "not consent"? What are the procedures around capacity to ensure they are doing this in an informed manner and with capacity?

9.44 How is 'reasonably arranged and accessed by the school' measured? Concern that depending on the advice from Health or even the requirement of advice from Health, the IDP could transfer between the school and the LA (and 9.45 last bullet point).

ALN in relation to FEI is not clear. It appears that for over 18s each child might fall under the code for up to 2 years while in a FEI under the age of 25. The 0-25 principle of the code is therefore deceptive as it doesn't span the age 0-25 in its entirety?

There is also significant concern about the lack of Health services available to meet the needs of those young people age 18+. Service development is going to be required by Health in order to provide these services. As the introduction and the implementation of the Act is considered to be cost neutral how are these services going to be developed?

Question 16 – Are the timescales for decisions by schools, FEIs and local authorities on ALN and preparing an IDP as set out in Chapters 8-12 appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

At the consultation event education staff repeatedly expressed the opinion that they would be unable to make these decisions without advice from NHS services. This needs clarifying – the school or LA should be able to make these decisions without specialist assessment. Specialist assessment should be reserved for providing additional information about already identified ALN and ALPs. The pressure placed on Health if they are required to provide assessments for the majority of children on the decision making around whether a child has ALN will be unmanageable with significant delays then occurring for those children who do require Health input to address their ALN.

There are general concerns about the ability of Health to meet the timescales. Health already have timescales in place for RTT of 14 weeks set by WG. There is therefore a different timescale for ALN. This causes inequity. There will be capacity issues.

What are the consequences for responsible bodies if the timescales are not adhered to?

In the situation where relevant staff are not available to provide specialist health assessment, would there be an acceptance that privately sourced assessment would be used? Who would fund this?

Deciding whether it is ‘necessary’ for a local authority to prepare and maintain an IDP for a young person not at a maintained school or FEI - Proposed regulations to be made under Section 46 of the 2018 Act

Question 17 – Are the proposed requirements and guidance in paragraphs 12.22 – 12.51 of the draft ALN Code on when it is necessary for a local authority to maintain an IDP for a young person not at a school or FEI in Wales appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

n/r

Chapter 13 - Content of an IDP

Question 18 – Are the elements of the mandatory content of an IDP which are required by the ALN Code, appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

The focus on expected outcomes of ALP as the starting point of the description of ALP is positive. It is considered positive that there are mandatory elements.
More advice and clarification is required in relation to how Health will input to the IDP.
Will this be electronic? It is felt that the Code should specify how this is to happen i.e. mandate the format for sharing of the IDP information.

There is currently poor definition of what should be included in the IDP for a child under 3 years old. Provision for children who are under 3 currently varies considerably from one area to the next.

There needs to be more clarity around when and whose responsibility it is to complete IDP's for preschool children.

Question 19 – Is the proposed mandatory standard form for an IDP (included at Annex A of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

As with all ALP, it will be important for the intended outcome to be stated (e.g. 2C for Health Bodies) but also how the ALP relates to the intended outcome (in the rationale section, 2C.7). It is only where there is a very clear, strong correlation between these **and** strong evidence base to support this, that there is indication that therapy may be appropriate to deliver.

It is welcomed that the format (not the mandatory content) can be adapted to meet the needs of the child/YP.

Clearer guidance is required in relation to how Health are going to contribute/provide the information for the IDP. At present it appears that this is down to local negotiation and development of local agreements. This will cause differences across Wales. Should this process be mandated? Adequate resourcing and funding will be required.

IT systems need to be considered.

Question 20 – Is the guidance in Chapter 13 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

13.12 changes kept up to date - How will this be shared with Health?

13.14, 1A.7 At what age can the YP refuse to have their Parent named (and therefore be involved in the preparation of and have access to the content of the IDP) on the IDP? Will there be a test of capacity before this is allowed?

13.15 - Do these points relate only to the Child/YP or to their Parents also?

Section 2A: Description of the child or young person's ALN. Does Health contribute directly to this section? If so, how? Is a template for Health required specifically for this section?

13.45 2C.3 It should read that ALP will be provided in Welsh by Speech and Language Therapists if there is a clinical need for the ALP to be provided in Welsh.

13.37 This is a welcomed point and it is acknowledged that different ALP will be required to be provided by Health to meet the needs of a child dependent upon the type of Educational facility they attend e.g. mainstream with support vs special school. It would be beneficial to know the school placement before the ALP to be provided by Health is specified as this will vary for the child depending on the type of school placement.

13.54 This indicates the summary of the discussion taken as part of the preparation and revision of an IDP. Given that not all those involved may be able to attend PCP meetings (although a written report should be issued), it will be important to determine how decisions about the priorities for the IDP are made and what happens after this. A report written before a PCP meeting may not necessarily reflect the discussion/decisions made. How is this managed? Without attending the meetings the Health professionals involved with the child will not have learnt about the child's strengths and weaknesses, and what is important to them. Without appropriate timelines for

receiving this information/ recommendations the Health professional may not reflect important points of discussions from PCP and IDP meetings.

15.42 Under the suggestions of the DECLO role, the Code states that health professionals ‘should provide in writing their advice and evidence in advance of the meeting’ (the IDP meeting) (p.183). This will be in advance of the PCP discussion about what is important to and for the child or young person. Following this discussion, priorities may change. This point also states “to enable the appropriate health professional to attend the IDP meetings where possible” This is giving an unrealistic impression of the availability of Health Staff to attend the IDP meetings. Capacity issues will not allow for Health to be present in the vast majority of meetings. This doesn’t appear to be the message conveyed in the Code which is making Education and Parents believe that relevant representatives from Health will be present in the majority of the IDP meetings. The Code needs to reflect the fact that Health are unlikely to be present. The format for a successful IDP meeting and the preparation of the IDP documentation currently requires people present at the meetings. The system will fall down when it becomes apparent that individuals involved with providing ALP to the child can’t be present at the meeting.

Transport

Question 21 – Is the guidance on transport in paragraphs 13.74 - 13.76 of the draft ALN Code appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

n/r

Chapter 15 – Duties on health bodies and other relevant persons

Statutory requests by local authorities to relevant persons for information or other help - Proposed regulations to be made under Section 65(5) of the 2018 Act

Question 22 – Is the proposed timescale and exceptions for relevant persons to comply with a local authority request for information or other help (under section 65 of the 2018 Act) appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

It will be important for those preparing IDPs to include information about meeting speech, language and communication needs possibly prior to individual information for a child or young person from a Speech and Language Therapist. Depending on whether the child or young person is already known to Health Board departments or not, it may take longer than the stated timescales (and these are defined in the exceptions).

15.7 ‘Incompatible with their own duties’. Is this the situation if a referral does not meet the referral criteria? This also acknowledges that NHS services have other demands such as Referral to Treatment (RTT) targets which have to be met. The differences in the RTT and ALN timescales needs to be addressed as this is going to cause inequity and confusion. We would welcome the premise of short timescales to ensure that children’s needs are identified and met within a defined time frame. However, within finite NHS resources the timeframes offered would be challenging to meet, and there is risk that work directed by the Code ALN would take precedence over children with greater clinical need,. An example might be a child with a language difficulty as

part of a general learning difficulty would have a low need for specialist help, but would need to be seen and information provided to the school or LA within a 6 week period. However a child with a significant dysphagia affecting their health would have the WG 14 week timeframe for referral to treatment, and where resources were poor may have to wait longer than 6 weeks for assessment and treatment.

15.9 It states that the duty only applies when the LA makes the request however it then says that schools and FEIs may still make requests for information. This is confusing for those involved. Clarity is required. This point appears to be describing good practice but without sufficient resource and staffing this is not achievable. This implies that 'good practice' is being set as an expected standard but it is already acknowledged that Health will not be able to comply with this.

15.10 an unintended consequence of this point is that the LA may have to be responsible for more IDPs than it necessarily needs to due to the limited availability of Health to respond to all requests for schools or FEIs (which is not mandated).

Those preparing IDPs should include information about how communication needs have been met, prior to involvement of specialist therapy services.

15.12 At times quality might be compromised by the 6-week timeframe. For example assessment of a child with complex communication needs, might require assessment on more than one occasion, and in more than one setting, and the capacity to achieve this within a short fixed timeframe may be lacking. This might be particularly difficult to achieve during school holidays.

The phrase 'beyond its control' is not clear when applied to timescales. Would NHS bodies working within their own clinical priorities be classed as a reason to breach timescales?

Timescales for responses for requests for support from NHS bodies do not align with the WG target of 14 weeks, which may lead to a two tier system related to legislation rather than clinical need.

Currently Cwm Taf UHB SLT service children who are looked after or from a travelling family are prioritised, and again this might be compromised due to lack of capacity to meet the ALN code.

ALP to be secured by NHS bodies - Proposed regulations to be made under Section 21(10) of the 2018 Act

Question 23 – Is the proposed period and exception within which an NHS body must inform others of the outcome of a referral to it (under section 20 of the 2018 Act) to identify whether there is a relevant treatment or service, appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The timescale stated in 15.12 may result in an indication from a health body that a child is waiting for assessment or that a referral has been accepted/rejected. Health Boards have priority targets (currently 14 weeks wait for assessment and treatment) which need to be adhered to and therefore this may result in a circumstance 'beyond its control', that is, waiting times across the service that the timescale is not met.

15.20 Is this the same wording as in the Act? It reads like legislation but should the Code provide more information that the Act/be easier to read/understand?

15.22 5th bullet point "reports as required" – Clarification is required in relation to 'required by who?' How often? This will have resource implications for Health.

15.24 refers to 'ALP is something they would normally provide as part of the health service in Wales'. This is different from/contradictory to 'likely to be of benefit' (at the beginning of 15.25 although the

wording from 15.24 is then repeated in 15.25). What is normally provided would be in line with other principles of the NHS (for the population) and where there is a clinical pathway, should be evidence based which is very important regarding the intended outcomes.

15.28 returns to 'likely to be of benefit'. (Same points for paragraphs 8.23, 8.33, 9.22, 9.75). There is a lack of clarity around what would be the responsibility of schools to deliver, vs what should be provided by NHS bodies. This could lead to duplication or children not receiving services from either organisation. For example, for the Picture Exchange Communication System (which is a commercially available package) some schools or LAs work independently without SLT support to deliver, whilst others have not invested in the training. It would be helpful if there were clarity around the type of interventions that schools are expected to deliver for communication, with differentiation for special schools, as this would define the NHS SLT role better determining what is a need to be provided for by Health.

1.66 includes both 'normally provided by the NHS and likely to be of benefit' (p.13). Is there a case to say 'likely to be of clinical benefit' as this would ensure that the decision is based on the identification of a clinical need and benefit to the intervention?

The phrase 'likely to be of benefit' is not used in relation to any of the interventions carried out by other settings (including schools, LAs, FEIs) – why is this? While Schools, LAs and FEIs can consider efficient use of resources when deciding ALP the same is not true of NHS bodies. Why?

It is appropriate to add 'relevant' to the description of any interventions to be considered/carried out, also 'evidence-based'.

15.25 The referrer to an NHS body should be the person who is asking for the assistance. If a child is in school then it would be the school (class teacher or ALNCO, person closest to the child with responsibility) to makes the referral.

Health will potentially have a lack of capacity and be dealing with multiple referral routes to respond to all requests from all schools for information.

15.36 It is appropriate that the NHS body is not required to provide ALP as directed by the Tribunal unless it agrees to do so.

Experience of tribunals locally suggests that they are based on parents 'wants' rather than clinical needs, and result in delivering ineffective provision over long periods of time. Tribunals do not take into account the losses the child incurs from this process – loss of time in the classroom and seeing themselves as in need of support for difficulties that are not likely to change with intervention.

It is positive that the code enables NHS bodies to request a review of the IDP at any time and that any request to remove or amend the NHS bodies' ALP must be done.

However, at times Health input (ALP required to meet the plans) change frequently dependent upon clinical need) plans regularly, maybe several times a term, for example where a child is making rapid progress. Would it be necessary to call an IDP meeting for each change?

The Designated Education Clinical Lead Officer (“DECLO”)

Question 24 – Is the guidance on the role, experience and expertise of the DECLO set out in paragraphs 15.37 – 15.53 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have appropriate experience and expertise)?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

The DECLO role should have a uniform job description and a set number of hours proportional to population to ensure that sufficient resource at a high enough level is allocated. In line with the comments made in relation to the Early Years ALN Lead Officer post it is also acknowledged that the

description of the DECLO role describes a role that contains both a strategic (which is vitally important) and operational element. Should consideration be given to this being two posts: one of which is a strategic role (The DECLO) and the other to carry out many of the operational roles required by the DECLO.
The role is considered to be cost neutral. It is not clear how this post will be cost neutral?

Chapter 16 - Review and revision of IDPs

Question 25 – Is the content and structure of Chapter 16 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

There are a number of references to the Act and other guidance. This becomes confusing and complicated. It is unnecessarily wordy e.g. 16.1 could literally say “the IDP must be reviewed and revised at least annually” If this principle was applied to all of the Code it would be much shorter and easier to read without losing its actual content.

Question 26 – Is the proposed period and exception for completing reviews in response to a request from a child, their parent, a young person or an NHS body (set out in paragraph 16.18 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

16.3 It must be acknowledged that this will have resource/capacity implications for Health services.
16.9 – Therapy plans can be changed at least 3 times a year, i.e. intended outcomes changing every term. This system seems to be based on annual intended outcomes. Would it be the Health Professional’s responsibility to ask ALNCo for IDP review at the start of every therapy plan?
The Code implies that any time NHS provision is recommended to be changed, a full review of the IDP is required. ALP in the current IDP format is very specific and so may need to be changed with every new set of targets. That is potentially a large administrative burden on schools and clinical services alike in the current form.

16.10 Would Health also be notified?

16.22 Would an NHS body have to request a review of an IDP prior to discharge from the service if the child/young person has an IDP? In particular how does this work when the child/YP has been discharged as they have failed to attend appointments? WG guidance states that children are automatically discharged if they fail to attend agreed appointments. How will this work in practice?

It has to be recognised that there are generally a lack of Health services for post 18 which will be able to contribute to IDPs.

Chapter 17 – Local authority reconsiderations and taking over responsibility for an IDP

Question 27 – Is the content and structure of Chapter 17 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 28 – Is the proposed period and exception for a local authority reconsidering a school IDP (set out in paragraph 17.20 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 18 - Meetings about ALN and IDPs

Question 29 – Are the principles and the guidance provided in Chapter 18 of the draft ALN Code on meetings about ALN and IDPs appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

There appears to be a misconception amongst Education staff and Parents that Health staff will be able to attend IDP meetings/reviews for all children it's involved with. Whilst this would be ideal we doubt that there would be the capacity to achieve this routinely
 The Code must clearly state that this is not required. There is a small amount of documentation in the Code relating to the fact that reports can be sent in the Health member of staff's absence but the general implication still appears to be that Health Staff should be in the IDP Meetings/reviews. This general principle needs to change/be clarified.
 There are significant capacity issues in clinical staff attending all of the IDP/PCP meetings and without the significant development of services this is not possible.
 Further guidance is required in terms of logistics. How will Health be notified of the meetings, in what advanced timescale, by what means etc?

Chapter 19 – Planning for and supporting transition

Question 30 – Is the guidance in Chapter 19 of the draft ALN Code on supporting children and young people to make effective transitions appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

As with previous chapters there are multiple references to other materials and other chapters. Many of the points appear to be for description purposes only. The chapter appears unnecessarily wordy.
 As with previous chapters there is a reference/implication that Health professionals will attend these transition meetings. The capacity of Health staff to be able to attend the transition meetings is limited.
 19.44 The suggestion of having transition workshops during school holidays is a welcomed idea as it will allow children to “practice” activities in a safe environment without the children being present.

Chapter 20 - Transferring an IDP

Question 31 – Is the content and structure of Chapter 20 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Transfers of IDPs - Proposed regulations to be made under Section 36(3) of the 2018 Act and Section 37 of the 2018 Act

Question 32 – Are the requirements that are intended to be included in regulations in relation to requests to transfer an IDP to an FEI (as described in paragraphs 20.12 - 20.17 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 33 – Are the arrangements that are intended to be included in regulations in relation to all other transfers (as described in paragraphs 20.18 – 20.21 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

What are the implications for the Health Board where a child/YP is transferred into the area with an IDP with ALP specified in it to be provided by a specific Health service/profession? Is the “new area health board” responsible for providing this ALP even if they didn’t specify it?
More detail about Health’s role in this area is required.

Chapter 21 - Ceasing to maintain an IDP

Question 34 – Is the content and structure of Chapter 21 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 35 – Is the period of time for making a reconsideration request (described at 21.18 of the draft ALN Code), appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Understanding these time frames is complicated. They need to be written in plain English.

Chapter 22 – Children and young people subject to detention orders

Question 36 – Is the content and structure of Chapter 22 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

n/r

Question 37 – Are the proposals for the regulations in relation to deciding whether it will be necessary to maintain an IDP for a detained child or young person upon their release appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Research has shown that ensuring appropriate education, training and employment are available to children and young people during their detention and upon release help reduce the risk of re-offending.

Would an IDP be maintained where appropriate when the child or young person is detained e.g. youth offending institute/secure children's home? What would Health responsibility be in this instance? ALP provided by Health, in particular Health Therapies e.g. Speech and language therapy, Occupational Therapy, Physiotherapy aren't mentioned? These services do not currently exist for these services. There would be commissioning considerations/requirements if ALP of this nature was required.

Question 38 – Are the proposals for the regulations in relation to children or young people who are subject to a detention order and detained in hospital under Part 3 of the Mental Health Act 1983 (as described in paragraphs 22.45 – 22.74 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 39 – Are the timescale requirements to act “promptly” in relation to decisions about ALN and preparing IDPs for children and young people subject to detention orders (as set out in Chapter 22) appropriate, rather than also having a requirement to comply within a fixed period subject to an exception or exceptions?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Given the wide range of variable factors affecting detained children and young people, acting promptly is reasonable.

Chapter 23 - Children and young people in specific circumstances

Question 40 – Is the guidance in Chapter 23 of the draft ALN Code on children and young people in specific circumstances appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

n/r

Chapter 24 - Role of the Additional Learning Needs Co-ordinator (ALNCo)

Question 41 – Is the information set out in Chapter 24 of the draft ALN Code about the role and responsibilities of the ALNCo appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

24.2 It is recommended for clarity/equity purposes that the size of a school or number of children in a school with ALN is specified to determine the amount of ALNCo time required e.g. full time.

24.3 “should” recommend change to “must”?

24.4 This point is very welcomed.

It is very welcomed that this role is considered to have strategic responsibilities as well as the operational aspects of being responsible for the IDP'S.

24.26 Does this point need to be re-worded to ensure that it is clear the existing SENCO can take on the role of the ALNCo but that it will be the new role that they will be stepping into and not continuing in their current role but calling themselves an ALNCo rather than a SENCO. This is of particular relevance to those SENCOs who are currently the Head or Deputy Head Teacher also or who have a very high teaching commitment. Possibly stipulating the amount of ALNCO time required per number of children/percentage of the children with ALN will help to clarify this.

Chapter 25 - Avoiding and resolving disagreements

Question 42 – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

It is clear that there are many benefits of participating in dispute resolution. It is however unclear what happens if a family/child/Young Person refuses to participate in any dispute resolution? It is clear that this doesn't stop their right of appeal to the Tribunal but recent experience of Tribunal where families have not been prepared to participate in dispute resolution prior to attending Tribunal is that the Tribunal then informally enforces and requires the LA/Health/Family to participate in dispute resolution as part of the Tribunal but without a proper infrastructure to allow for the mediation and dispute resolution required to happen correctly protecting all involved.

Question 43 – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

25.41 This point needs to be strengthened to embed the principle that Putting Things Right is used for complaints and concerns about Health related issues.
It is possible that concerns/complaints in relation to ALN and ALP that are considered to be an Education need will be directed here unnecessarily.

Chapter 26 - Appeals and applications to the Tribunal

Question 44 – Is the information about appeals and the appeals process set out in Chapter 26 of the draft ALN Code appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

26.7 How is this application made? What evidence is required?
26.10 If a child brings their own appeal and are then considered to lack capacity to understand and are then allocated a case friend would the case friend seek Legal advice (employ a solicitor/Barrister) on behalf of the child? If yes who pays for this?
In all the Tribunals I have attended Parents have had legal representation both on the day and throughout the process that they have themselves paid for. By the child who lacks capacity 'bringing the case' does this mean legal fees will be covered for the child who has no income/means?

It is not clear how long Health Bodies have to prepare information for Tribunal. Does this sit within the 4 week timescale that the LA has if the LA require advice from Health Bodies or will the Tribunal directly request information from Health Bodies as required within a specified time period. What is this time period? 4 weeks? Specific detail/clarification for Health required.

Page 288: Could timescales be added to this visual flow chart? Could this flow chart also be extended to include the decision and the timescale of the decisions being implemented rather than this being in writing at the bottom?

Chapter 27 - Case friends for children who lack capacity

Question 45 – Is the information about case friends, including the duties on the Tribunal to appoint and remove case friends, clearly explained in the Chapter 27 of the draft ALN Code?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

The language in this section is considered to be vague. Clarity is required.

Clarity is required in regards to who and how capacity will be tested for. Will testing be different at different ages? Clarity is required around this.

The lack of clarity around how and why capacity is determined potentially leaves the system open to criticism and challenge.

Information about accessing services would be useful.

Who will the Case Friends be? What knowledge, training and experience is required to be a case friend?

How is the actual decision made re capacity? What is the 'test' What about children who have communication difficulties? How will they be 'tested' for capacity? Who would undertake that assessment? It is mentioned that Teachers may undertake this but do they have the skills and knowledge required? It states that NHS Bodies may assess capacity. Who in the NHS will be responsible for this and able to comply within very short timescales? There are capacity and resourcing implications here.

What happens if a case friend isn't available?

If there isn't a family member available and an Advocate is provided by the Authority (27.33) who pays for this?

Who pays for the Case Friends DBS?

Any other comments

Question 46 – Please provide any other comments that you would like to make on the draft ALN Code. Where your comments relate to a specific chapter or paragraph within the draft ALN Code, please indicate this in your response.

Improving access to specialist advice and support is required, for example to services such as therapies, sensory support, support for children/YP with ASD or those with social and mental health needs. The availability of these services is already at capacity or not available – how will this improve with the introduction of the new code?

Teacher training needs to be considered further. ALN should be firmly embedded into Teacher training. Understanding child development should be firmly embedded into Teacher training. This is required for the workforce of the future to have the skills required to implement the ACT/Code and transform the ALN system.

Part 2 of the consultation: Draft Education Tribunal for Wales regulations

Question 47 – Overall, do the draft Education Tribunal regulations provide clear processes and procedures relating to appeals and claims to the Education Tribunal?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

It is considered potentially challenging and confusing that complaints can follow both the Education Tribunal and Putting Things Right, potentially at the same time. This will cause added pressure to Health Professionals and Health Bodies who will potentially need to participate in both processes.

Question 48 – Overall, will the processes and procedures outlined in the draft Education Tribunal regulations enable the Education Tribunal to deal with cases fairly and justly?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Further information regarding the way in which Tribunal will consider/evaluate the validity of "Private"

and “NHS” evidence provided for Tribunal.

Question 49 – Is the proposed case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 50 – Are the proposed timescales for each party in the case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) reasonable?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

4 weeks appears a limited amount of time for the LA to submit the evidence.

Question 51 – Is the 6 week timescale within which NHS bodies must report to the Education Tribunal in response to a recommendation (regulation 65 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

6 weeks is a short timescale. There may be a number of circumstances where adherence to a 6 week timescale is not possible. This will have resource and Capacity implications for Health Bodies.

Question 52 – Are the timescales relating to compliance with Education Tribunal orders appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 53 – Is the approach to extensions to timescales (regulation 66 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 54 – Are the proposed regulations relating to case friends (draft Education Tribunal regulations 61 to 64) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Part 3 of the consultation: Draft ALNCo regulations

Question 55 – Are the prescribed qualifications to be an ALNCo set out in the draft ALNCo regulations appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

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Question 56 – Do you agree with the tasks that ALNCo must carry out or arrange to carry out as set out in the draft ALNCo regulations?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

The level of seniority the post should hold (where it sits in the school management structure) would be welcomed in establishing this as a post, and as long as the seniority is allocated at the appropriate level, will give the ALNCo role the authority/credibility it requires.
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Part 4 of the consultation: Looked after children

(a) Proposed regulations to be made

Question 57 – Do you agree that the Looked after Children in Education (LACE) Co-ordinator should be a statutory role?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

n/r

(b) Chapter 14 of the draft ALN Code – Content of an IDP for a looked after child

Question 58 – Do you agree that there should be a separate standard form for looked after children and is the proposed standard form, together with the guidance and requirements related to it, appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

This will potentially cause confusion and will require Health professionals to be familiar with a number of forms. There is a potential for confusion.
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(c) Proposed revisions to the Part 6 Code

Question 59 – Do the draft revisions to the Part 6 Code provide a clear explanation of the duties on local authorities in relation to their social services functions for looked after children with ALN and what these duties mean in practice?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

n/r

Question 60 – Overall, do you agree with the approach taken in the draft revised Part 6 Code to explaining the legislative changes, including the integration of personal education plans (PEPs) and IDPs and the mandatory content of PEPs? Are the requirements and expectations and what these mean in practice clearly explained?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

n/r

Question 61 – Do the changes that have been made to the Part 6 code clearly explain the role of the LACE Co-ordinator in overseeing the ALN arrangements for looked after children and what this means in practice?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

n/r

Part 5 of the consultation: Impact of proposals

Question 62 – What impacts do you think there will be as a result of the proposed regulations?

It is hoped that the Act and Code will have positive impacts for those children and young people with ALN and will transform the way in which they learn/receive the additional support they require.

In relation to Health there is likely to be the impact of a discrepancy/inequity in the services provided for children with ALN who require ALP from Health and those with medical needs but no ALN. Aligning timescales will resolve this. Additional capacity would be required.

It is considered that there will be an increased demand on services within Health. The number of children with IDPs that will require input from Health will increase (as this will now be statutory) and therefore the resource and capacity implications for Health must be considered. It is also anticipated that more schools will seek advice/support for Health in identifying ALN and requesting the provision of ALP.

There will be an increase in the amount of “administrative” work (including clinical administrative work) that Health Professional will need to undertake.

There will however be a number of positive impacts for the children and Young People. The fact that it is clearly stated and accepted that ALN is now every Teachers responsibility is a very positive one

and must result in positive outcome for the students.

There are a lack of post age 18 services in Health to meet the requirements of the young people requiring IDPs and ALP from Health. The services and availability of the suitably qualified practitioners aren't currently available. The exact requirement/impact of the post 18 age group is currently not known for certain.

Question 63 – What impact do you think the proposals in the draft ALN Code and proposed regulations would have on the Welsh language?

The Code clearly puts the Welsh language on an equal footing to the English language.

It is likely that the requirement for NHS services in Welsh will increase.

It is likely that the challenge to the LA over the lack of specialist educational placements/provision in the medium of Welsh will increase.

It is likely that the challenge to Health Board over the lack of specialist Health ALP in the medium of Welsh will increase

Question 64 – How do you think the proposals in the draft ALN Code and proposed regulations could be formulated or changed so as to have:

- i) positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?;
- ii) no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?

The Code as it is currently written allows positive opportunities for people to use Welsh and treats it no less favourably than English with no adverse effects.

The difficulty here however is not in the way Welsh Language has been mandated in the Code but is in the actual ability of services to deliver what is mandated in the Code. There's a significant lack of Welsh speaking Health professionals, particularly those who are specialists or are involved with the delivery of services to low incidence/high complexity/need children and young people. The requirement of the Allied Health Professional/Medical staff to speak Welsh fluently is integral to the health service (ALP) being provided in Welsh on an equal footing to English and requires a workforce that can speak Welsh not just access an interpreter. This is of particular relevance for Speech and Language Therapists who are actually providing a service for speech/language needs. This Welsh speaking workforce currently does not exist.

Question 65 – We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

Respondent Details

Information	
Name	Respondent requested anonymity
Organisation (if applicable)	

Part 1 of the consultation: The draft ALN Code

Chapter 1 - Introduction

The meaning of 'must', 'must not', 'may', 'should' and 'should not' in the ALN Code

Question 1 – Is the explanation in paragraphs 1.10 -1.16 of the draft ALN Code of the use and meaning of the different terms 'must', 'must not', 'may', 'should' and 'should not' clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Within the draft ALN Code this section is quite clear in its intent but there is scope for interpretation for the 'may' and 'should' references throughout the Code.

Although the strengthening of the draft Code is welcomed as an improvement from the guidance of the current Code, the amount of 'must' etc references throughout the document without the funding, support mechanisms and external agency support available for schools and Local Authorities (LAs) are of great concern.

Timescales

Question 2 – Do you agree with the general approach to the timescales for compliance with duties (that is, to act promptly and in any event within a fixed period), as explained in paragraphs 1.31 – 1.32 of the draft ALN Code?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Any school or LA would want to, and does, act promptly in order to provide the appropriate support for any child or young person (CYP) in their care, therefore the suggestion from this wording that this does not take place currently is rather harsh.

The decrease in time from 26 weeks to 7 is good in theory but in practical terms to gather assessments, reports, paperwork from health, parents, other LAs/schools etc is not always easy. In addition, the CYP who 'appears' on a school's doorstep on the first day of term with no previous paperwork (this happens on a regular basis) and present with ALN will need time to settle and for the school to start gathering evidence to pinpoint the particular ALP required.

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Question 3 – Is the general exception which applies in the case of timescales, as described in paragraphs 1.33-1.35 of the draft ALN Code, appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Taking the comments from above into consideration, there would likely be an exception in every case that required health or social care colleagues to be involved. The current average waiting time for initial assessment within health and social care services exceeds the 7 week proposal. Therefore schools are unlikely to be able to gather evidence required to decide whether they are able to provide the ALP for the CYP or whether it needs to be sent to the LA for consideration within this proposed time limit.

If this is the section where exceptions are to be discussed, there needs to be further examples of what an acceptable time limit might be and the consequences of not meeting the proposed time limits.

Structure of the draft ALN Code

Question 4 – Is the structure of the draft ALN Code and the separation of the chapters appropriate, clear and easy to follow?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The general size of the document is concerning and a number of the paragraphs contain unnecessary information or explanation. The document is not user friendly and although chapter headings seem to be a reasonable description of their contents, the order in which they have been collated is confusing. An example of this is the mixing up of chapters where information required by schools is followed by duties and requirements by LAs and health bodies before returning to information required by schools on IDPs and meetings. FEI provision and pre school provision is also inserted in the middle of this and there does not seem to be any natural flow to the draft document.

Question 5 – Is the draft ALN Code’s focus on describing and explaining the functions and processes appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The descriptions of the functions and processes are numerous throughout the draft document although given the added emphasis of ‘must’ and ‘should’ also throughout the draft document, these need to be substantiated with how they can be undertaken without extra staffing, budget, training etc.

Pupil referral units (PRUs) - Proposed regulations to be made under Paragraph 15 of Schedule 1 to the Education Act 1996

Question 6 – Do you agree with the proposal to use regulations to delegate functions from a local authority to a Management Committee of a PRU?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The Management Committee is able to undertake these duties.

Chapter 2 - Principles of the Code

Question 7 – Are the principles set out in Chapter 2 of the draft ALN Code the right ones?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	✓
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Supporting comments

The principles are very sound in essence but the draft code does not then allow for (especially) the early identification, intervention and effective transition planning to be put into operation. This draft code does not have a graduated response to ALN which is a fundamental flaw of the changes. By having the current graduated approach there is the opportunity for referral to other agencies for advice, assessment, support and therapies if required, monitoring of progress and provision of interventions to ensure a full picture of the CYP is obtained. By having to make a decision within a short time period without any supporting evidence or input from other agencies will cause many problems through the reluctance of schools and LAs to make uninformed decisions. Coupled with the strengthened rights of appeal for parents and carers, this may lead to a substantial increase in appeals, breakdown in relationships and trust between schools and parents and vast amounts of time and money being wasted on unnecessary hearings, all due to a hurried, uninformed system which does not support a graduated response.

Chapter 3 - Involving and supporting children, their parents and young people

Question 8 – Is the explanation of the duties relating to involving and supporting children, their parents and young people provided in Chapter 3 of the draft ALN Code appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

This is a definite strength of the last ten plus years of working towards this draft code with the emphasis of a person centred approach and the involvement of all parties. It is unfortunate that more reference is not made to person centred practice (PCP) throughout the draft document as this should be at the heart of every chapter. The reference to this in 3.21 which suggests that this is 'one way of supportingto participateetc' is very disappointing for instance as it suggests that this is an optional way of working?

If all parents/carers and associated agencies of the CYP used PCP effectively, the system of identification and appropriate support would work well. However, a lack of engagement or unrealistic expectations or restrictions in budgets and availability of resources can easily change the course of action for the CYP and a school or LA struggling to meet the duties outlined in this draft code.

Chapter 4 - Duties on local authorities and NHS bodies to have regard to the UNCRC and the UNCRPD

Question 9 – Is Chapter 4 of the draft ALN Code clear about what is expected of local authorities and NHS bodies when discharging their duties to have due regard to the United Nations Convention on the Rights of the Child (UNCRC) and United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The information is clear about the expectations on LAs but the placing of this information as a chapter in the document is not required and would be better as an appendix.

Chapter 5 - Duty to keep additional learning provision (ALP) under review

Question 10 – Is the guidance provided in Chapter 5 of the draft ALN Code in relation to the duties to keep ALP under review appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

This chapter is another that seems to be misplaced in the document as it is relating to LA strategic issues rather than being of benefit to schools. The content is appropriate but needs to be further refined e.g. to provide more timeframes and the expected role of the regional consortia within this strategic work.

The actions in this chapter that 'should' be taken as part of a review are reasonable and would be the normal practice of all LAs. However, the 'must' duties may be more difficult to fulfil due to availability, budgets and opportunity across the whole of Wales. Advice from WG may need to be sought in a number of instances around LA issues.

Chapter 6 - Advice and information

Question 11 – Is the guidance provided in Chapter 6 of the draft ALN Code in relation to making arrangements to provide advice and information about ALN and the ALN system appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

This is appropriate and it is hoped that all Transformational Project Leads have identified that this is a need across the whole of Wales so that individuals are not devoting time and energy in producing their own documents.

There is a need for an all Wales user friendly document providing the generic advice and information which can then be added to with local and individual information as required.

Chapter 7 - The definition of ALN and ALP, identifying ALN and deciding upon the ALP required

Question 12 – Is this explanation of the definition of ALN provided in paragraphs 7.4 – 7.32 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	✓	Not sure	<input type="checkbox"/>
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Supporting comments

The definition, although based on the current definition, is still open to tremendous interpretation. There will be a continuation of disputes between health and education as to what constitutes health/educational responsibility for intervention, therapy and equipment/resources. An example of this is that currently health expect education to purchase all equipment for pupils with mobility issues as they need a particular piece of equipment ‘in order to access learning’ in the classroom. Whilst education would not disagree that equipment is required and would not deny any CYP any equipment, the fact that health do not consider that they have any responsibility in providing this equipment for this CYP is difficult to understand. The continuation of the definition as it stands will continue the above practice when there is an opportunity for change and a shared responsibility to take place.

Question 13 – Does Chapter 7 of the draft ALN Code provide a clear and comprehensive explanation of the evidence on which decisions about ALN and ALP should be based, the sources from which this evidence might be collated, and the way in which it should be considered?

Yes	<input type="checkbox"/>	No	✓	Not sure	<input type="checkbox"/>
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Supporting comments

The key questions in 7.4 - 7.6 are, and have always been, very subjective and open to many interpretations. The responsibilities placed on schools due to medical issues has increased substantially over the past few years with the definitions at 7.3 being used. An example of this is that a CYP can be deemed to have a need for ALP due to the time lost out of lessons when checking blood sugar levels for diabetes. The medical responsibilities placed on schools has also put a strain on staffing as two support staff have to be involved in the checking as above, which also takes staff away from supporting CYP. None of this type of scenario seems to be taken into consideration when generic descriptors of ALN are used.

Chapters 8 to 12 – Duties on schools, FEIs and local authorities

Early Years ALN Lead Officer

Question 14 – Is the guidance on the role, experience and expertise of the Early Years ALNLO set out in paragraphs 8.40 - 8.47 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have the appropriate experience and expertise to meet the expectations of the role)?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

In theory the designation of an officer for this is to be welcomed. The challenge for LAs will be to appoint an officer for this role in light of a reducing workforce in the LAs. To ensure that the role and duties are performed thoroughly and consistently this needs to be a dedicated officer but the temptation will be to add the duties set out in the draft code to an existing member of staff within the LA.

Duties on schools, FEIs and local authorities

Question 15 – Is the structure and content of Chapters 8 to 12 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

As previously discussed, the sequencing of chapters needs to be considered as the information contained within chapter 8 – 12 covers different ages and provisions as well as different provider responsibilities e.g. school/FEI/LAs but is not in any coherent order. None of the chapters are user friendly and are quite difficult to read due to their repetitive nature and constant references to other documents. The suggestion is that there needs to be consistency between LAs although there is no suggestion as to how this should be achieved and there needs to be a regional agreement on delegation of funding and criteria of ALN and ALP, however, there are a number of barriers to this happening. The education for CYP up to the age of 25 years has and continues, to mislead parents and carers. An explanation of exactly what this means for CYP should be explicit and in bold at the start of chapter 12 so that the expectation that CYP will continue in education until 25 years rather than 19 years is made clear.

Question 16 – Are the timescales for decisions by schools, FEIs and local authorities on ALN and preparing an IDP as set out in Chapters 8-12 appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

As above

Deciding whether it is 'necessary' for a local authority to prepare and maintain an IDP for a young person not at a maintained school or FEI - Proposed regulations to be made under Section 46 of the 2018 Act

Question 17 – Are the proposed requirements and guidance in paragraphs 12.22 – 12.51 of the draft ALN Code on when it is necessary for a local authority to maintain an IDP for a young person not at a school or FEI in Wales appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The responsibility for extended provision being transferred to the LAs will cause a number of uncertainties for LAs. The perceived future claim on provision compared to the proposed budget to be transferred from WG to LAs does not correlate and even if regional agreements and provision can be agreed will not be sufficient across Wales.
Expectation of provision by parents and carers from the information within these chapters will be heightened at the same time as WG absolve responsibility for the CYP who need the ALP.

Chapter 13 - Content of an IDP

Question 18 – Are the elements of the mandatory content of an IDP which are required by the ALN Code, appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The mandatory content proposed is similar to the current Statement and more.
Whilst it is recognised that recent, relevant, informative information is important to help decisions to be made about the ALP for the CYP, to expect an even more detailed IDP to be produced for a CYP, by a school in an even shorter timeframe than afforded to the LA presently to produce a Statement, may be proposing an unrealistic workload for ALNCOs.

Question 19 – Is the proposed mandatory standard form for an IDP (included at Annex A of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

As above, the standard form proposed in Annex A may not be a realistic format to expect schools to complete for all CYP.
This is connected to the concern that there is no graduated approach as discussed previously and therefore as the proposals stand there is either the option of nothing (apart from normal differentiation) or a mandatory IDP for a CYP.
N.B. When schools were first requested to pilot changes to IDP formats, a number of changes were suggested including a graduated response in the form of recognition of 'universal provisions' leading to 'targeted provisions' and on to the use of an IDP if required for CYP with complex needs. The tremendously wide ranging PCP work which followed this, used the one page profile as the basis for capturing the 'emerging' ALN needs for most CYP, with user friendly target/review sheets used to capture information regarding further needs as they were identified. This has worked well and is

within the workload ability of ALNCOs whilst still ensuring that any CYP identified as needing ALP receives appropriate intervention.

Schools or LAs cannot be expected to complete this format for all ALN CYP. Some ALNCOs are classroom teachers with little release time and despite the proposals in this code to be discussed further below that ALNCOs should have time allowed, it is not possible within the current school budgets and with the number of CYP who are currently (and rightly) identified with ALN.

Question 20 – Is the guidance in Chapter 13 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Although there is some suggestion in the draft code that some sections can have N/A put in them, this needs to be very clear in the code so that there is no expectation by anyone (including tribunal) that every section should be completed.

Generally all of the information is contained in the chapter but as noted previously, there is a lot of references to other chapters etc and repetition which does not make the chapter an easy one to read.

Transport

Question 21 – Is the guidance on transport in paragraphs 13.74 - 13.76 of the draft ALN Code appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

This is appropriate for LAs as they work with the transport officers on a regular basis. However, for schools this may not be within their remit or experience and a fuller explanation regarding the LA transport officer involvement might be useful for schools.

Chapter 15 – Duties on health bodies and other relevant persons

Statutory requests by local authorities to relevant persons for information or other help - Proposed regulations to be made under Section 65(5) of the 2018 Act

Question 22 – Is the proposed timescale and exceptions for relevant persons to comply with a local authority request for information or other help (under section 65 of the 2018 Act) appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

As a LA preparing a Statement currently, the greatest delay is involved with health. Therefore the timescale reduction is of great concern.

ALP to be secured by NHS bodies - Proposed regulations to be made under Section 21(10) of the 2018 Act

Question 23 – Is the proposed period and exception within which an NHS body must inform others of the outcome of a referral to it (under section 20 of the 2018 Act) to identify whether there is a relevant treatment or service, appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

As above.
 It is essential that the NHS body engages with parents and carers to ensure full understanding of their role is shared.
 15.36 has a number of implications for education now and will continue to do so when there is disagreement of ALP between the NHS and parents/carers. A number of tribunal rulings due to this section of the Act causes a problem for education in having to engage and employ a private therapy due to the NHS refusal to provide the ALP. The notion of this change being cost neutral cannot be the case if education have to fund a health board responsibility.

The Designated Education Clinical Lead Officer (“DECLO”)

Question 24 – Is the guidance on the role, experience and expertise of the DECLO set out in paragraphs 15.37 – 15.53 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have appropriate experience and expertise)?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

As for the proposed role of the EY ALNLO, this needs to be a dedicated officer and not added to an already full role of an existing officer.

Chapter 16 - Review and revision of IDPs

Question 25 – Is the content and structure of Chapter 16 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

As noted previously, there is a lot of information contained in the chapter which is unnecessary.

Question 26 – Is the proposed period and exception for completing reviews in response to a request from a child, their parent, a young person or an NHS body (set out in paragraph 16.18 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

This does not propose any changes to what is expected.
 If schools have the option of a lesser detailed IDP as suggested above (Q19), the ALP would be monitored and reviewed on a more regular basis than annually.

Chapter 17 – Local authority reconsiderations and taking over responsibility for an IDP

Question 27 – Is the content and structure of Chapter 17 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

The information required (although repetitive) is all contained within the chapter. However, without a more comprehensive definition of ALN there will be an escalation of appeals due to the schools' perception that they are unable to meet the needs of their CYP and requesting that the LA adopts the IDP.

Local criteria for school versus LA IDP will need to be considered!

Question 28 – Is the proposed period and exception for a local authority reconsidering a school IDP (set out in paragraph 17.20 of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The timeframe is appropriate.

Chapter 18 - Meetings about ALN and IDPs

Question 29 – Are the principles and the guidance provided in Chapter 18 of the draft ALN Code on meetings about ALN and IDPs appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

This information is misplaced in the draft document as already noted previously.

Chapter 19 – Planning for and supporting transition

Question 30 – Is the guidance in Chapter 19 of the draft ALN Code on supporting children and young people to make effective transitions appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

There needs to be discussions with colleagues in the admissions department (at WG level) for this to be successful. Transition between key stages works well when adequate notice is given and placement confirmed so that CYP can be prepared well in advance of their move. If confirmation of placement cannot be given in a timely manner this hinders successful transitions and is out of the control of the school or ALN department.

(As this draft code is intended for professionals, some of the language and information provided in this chapter reads as rather condescending)

Chapter 20 - Transferring an IDP

Question 31 – Is the content and structure of Chapter 20 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

As previously noted re. references and word count.

Transfers of IDPs - Proposed regulations to be made under Section 36(3) of the 2018 Act and Section 37 of the 2018 Act

Question 32 – Are the requirements that are intended to be included in regulations in relation to requests to transfer an IDP to an FEI (as described in paragraphs 20.12 - 20.17 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

It is hoped that the FEI would be able to take responsibility of the ALP on the IDP for all CYP as now. There should be no change in this responsibility.

There seems to be a disparity in the pathway of decisions with appeals at school age going via dispute resolution to a hearing whereas a request at FEI goes straight to Welsh Minister level?

There is no timeframe for the Welsh Minister to provide a decision by in the draft code and this may need to be added in for clarity.

Question 33 – Are the arrangements that are intended to be included in regulations in relation to all other transfers (as described in paragraphs 20.18 – 20.21 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

This could be made clearer with an example of a possible scenario for those who have not had to experience this situation previously.

Chapter 21 - Ceasing to maintain an IDP

Question 34 – Is the content and structure of Chapter 21 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Comments as previously.

If there was a graduated approach as discussed earlier, there would be a much better provision pathway for CYP so that there would not be the ceasing of the IDP to nothing but IDP to a one page profile containing information about the reduced current lower level of need.

Question 35 – Is the period of time for making a reconsideration request (described at 21.18 of the draft ALN Code), appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

As this decision should be part of a PCP review meeting there should be no problems if full engagement has been made.

Chapter 22 – Children and young people subject to detention orders

Question 36 – Is the content and structure of Chapter 22 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 37 – Are the proposals for the regulations in relation to deciding whether it will be necessary to maintain an IDP for a detained child or young person upon their release appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 38 – Are the proposals for the regulations in relation to children or young people who are subject to a detention order and detained in hospital under Part 3 of the Mental Health Act 1983 (as described in paragraphs 22.45 – 22.74 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 39 – Are the timescale requirements to act “promptly” in relation to decisions about ALN and preparing IDPs for children and young people subject to detention orders

(as set out in Chapter 22) appropriate, rather than also having a requirement to comply within a fixed period subject to an exception or exceptions?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 23 - Children and young people in specific circumstances

Question 40 – Is the guidance in Chapter 23 of the draft ALN Code on children and young people in specific circumstances appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 24 - Role of the Additional Learning Needs Co-ordinator (ALNCo)

Question 41 – Is the information set out in Chapter 24 of the draft ALN Code about the role and responsibilities of the ALNCo appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The information is appropriate but there is general concern from schools regarding fulfilling the functions appropriately with reduced budgets and greater workloads.

Chapter 25 - Avoiding and resolving disagreements

Question 42 – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

It is the aim of all LAs to have a mutual agreement for all ALN issues. This chapter describes some of the work which already takes place and therefore is appropriate.

Question 43 – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The requirements are of concern in respect of the availability of appropriate services and the cost element of providing for dispute resolution, advocacy services and legal support if a tribunal hearing is called.

Chapter 26 - Appeals and applications to the Tribunal

Question 44 – Is the information about appeals and the appeals process set out in Chapter 26 of the draft ALN Code appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

The information is appropriate but there needs to be assurances that hearings in the future are fair and unbiased.

Chapter 27 - Case friends for children who lack capacity

Question 45 – Is the information about case friends, including the duties on the Tribunal to appoint and remove case friends, clearly explained in the Chapter 27 of the draft ALN Code?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Any other comments

Question 46 – Please provide any other comments that you would like to make on the draft ALN Code. Where your comments relate to a specific chapter or paragraph within the draft ALN Code, please indicate this in your response.

Part 2 of the consultation: Draft Education Tribunal for Wales regulations

Question 47 – Overall, do the draft Education Tribunal regulations provide clear processes and procedures relating to appeals and claims to the Education Tribunal?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 48 – Overall, will the processes and procedures outlined in the draft Education Tribunal regulations enable the Education Tribunal to deal with cases fairly and justly?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 49 – Is the proposed case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 50 – Are the proposed timescales for each party in the case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) reasonable?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 51 – Is the 6 week timescale within which NHS bodies must report to the Education Tribunal in response to a recommendation (regulation 65 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 52 – Are the timescales relating to compliance with Education Tribunal orders appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 53 – Is the approach to extensions to timescales (regulation 66 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 54 – Are the proposed regulations relating to case friends (draft Education Tribunal regulations 61 to 64) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Part 3 of the consultation: Draft ALNCo regulations

Question 55 – Are the prescribed qualifications to be an ALNCo set out in the draft ALNCo regulations appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The qualifications are appropriate but there are general concerns by schools regarding recruitment and retention of ALNCOs. There may be a temptation by schools to use the 'clear line of communication to the senior leadership team' part of the role description so that the ALNCO will still have a teaching role due to staff numbers and budgets.

This role should also not be seen as a 'stepping stone' to leadership as it requires a wide range of responsibilities.

Question 56 – Do you agree with the tasks that ALNCOs must carry out or arrange to carry out as set out in the draft ALNCo regulations?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Many skilled and experienced ALNCOs cover most of the tasks proposed already. The strategic role required may prove to be a difficulty for many schools however and will take the alternative as described above.

Reference to 'sufficient time' will be open to interpretation and needs to be quantified further.

Part 4 of the consultation: Looked after children

(a) Proposed regulations to be made

Question 57 – Do you agree that the Looked after Children in Education (LACE) Co-ordinator should be a statutory role?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

(b) Chapter 14 of the draft ALN Code – Content of an IDP for a looked after child

Question 58 – Do you agree that there should be a separate standard form for looked after children and is the proposed standard form, together with the guidance and requirements related to it, appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

(c) Proposed revisions to the Part 6 Code

Question 59 – Do the draft revisions to the Part 6 Code provide a clear explanation of the duties on local authorities in relation to their social services functions for looked after children with ALN and what these duties mean in practice?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 60 – Overall, do you agree with the approach taken in the draft revised Part 6 Code to explaining the legislative changes, including the integration of personal education plans (PEPs) and IDPs and the mandatory content of PEPs? Are the requirements and expectations and what these mean in practice clearly explained?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 61 – Do the changes that have been made to the Part 6 code clearly explain the role of the LACE Co-ordinator in overseeing the ALN arrangements for looked after children and what this means in practice?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Part 5 of the consultation: Impact of proposals

Question 62 – What impacts do you think there will be as a result of the proposed regulations?

A number of suggestions and concerns have been captured in the above supporting comments.

There is a general concern regarding the funding of the changes and the lack of capacity with schools and the LA, due to a reduction in staffing over a number of years and falling budgets.

The desired impact of closer working relationships and multi agency decision making will only be met if agreement can be made between leaders and heads of departments and boards to share resources and be prepared to take responsibility where required. Furthermore, agreement on realistic targets for intervention and sharing of information between health and education is vital.

Local criteria and funding arrangements will continue but numbers of CYP identified for the mandatory IDP will fall due to the workload and statutory implications for schools. This will need to be monitored closely and not be taken by WG that there is a decrease in need and therefore decrease in funding to LAs.

ALN leaders and their WG colleagues involved with PLASC data will need to discuss the implications of the ALN Act on numbers and categories of CYP identified with ALN.

Question 63 – What impact do you think the proposals in the draft ALN Code and proposed regulations would have on the Welsh language?

The implications arise around the lack of availability of staff, therapists, EPs and other professionals required to deliver the ALN Code.

Question 64 – How do you think the proposals in the draft ALN Code and proposed regulations could be formulated or changed so as to have:

- i) positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?;
- ii) no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?

Question 65 – We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

Respondent Details

Information	
Name	Respondent requested anonymity
Organisation (if applicable)	

Comments on the draft Additional Learning Needs Code (December, 2018 version)

Last week I attended an information disseminating meeting 'Additional Learning Needs Transformation'.

I am a retired teacher who has seen and experienced Special Education from numerous perspectives. From my teenage years, I have wanted to understand why children might fail and how that could be overcome. At one stage in the mid 1990's I was fortunate to be part of a team in a Secondary School. This was overseen by a skilled, highly motivated group. All were fully trained teachers, and the outcomes were marvellous. Confidence boosted all round and one pupil eventually got his Phd in Engineering ...so please keep in the **support** at UNIVERSITY level. For every child that was 'Statemented in that year', there were often others in the class who needed input.

Twenty years on, with a grandchild who has issues, I can make comparison. There seems to be even more fog and lack of understanding in senior staff, teaching staff and in the ancillaries which seem to have flooded in since that time. There must, of course, be some excellent work done where there are inspired, trained and motivated teachers and helpers, but a clear approach with structure seems a rarity.

Early, **skilled** intervention is essential. Screening, and early **skilled** input from the earliest years can literally pay off in the long run. I've known many that simple hearing or sight tests in the early years would have made a huge difference, let alone screening for Specific Learning Difficulties. Throughout, the PARENTS' concerns, the most valuable source of information, have too frequently been disregarded. The loss of confidence engendered through poor support sets the affected children up for an expectation of failure and the dreaded bullying finds an easy way in. The endless stream of excluded fifteen year olds, I taught off-site could have been vastly reduced with early, skilled intervention. This would also have reduced in-class disruption which, as we all know, robs other children of educational experience.

All of the above paragraphs (upon which I am **happy to expand in a visit to you**) underline the absolute importance of an ALANCo in any school; they are pivotal to success. Effective early intervention can also be an economy. They need to be highly trained, experienced and motivated. As such, an ALANCo **deserves to have status as Senior Staff**.

Training of teachers-it would be good to see a module on the ubiquitous 'Dyslexia' as well as an overview of other Additional Learning Needs in **all** teacher training courses with the opportunity for **those inspired and committed** to go on and specialise. Training of both teachers **and** Assistants is essential.

Head-hunting **experienced and effective ALN practitioners** would be a good investment: it is one area where quality experience and mileage in education can be of great benefit.

Circulation of known effective ALN practitioners to areas of concern would be good....as would winking out those who have been stuck in one school without career development . Headteachers, in particular, need at least insight of how differing ALNeeds affect pupils in their care.

The Code and my observations and recommendations are all very fine and worthy. Whether all this filters down to the point of use is another thing.

Respondent Details

Information	
Name	Nichola Jones
Organisation (if applicable)	Pembrokeshire County Council

Part 1 of the consultation: The draft ALN Code

Chapter 1 - Introduction

The meaning of 'must', 'must not', 'may', 'should' and 'should not' in the ALN Code

Question 1 – Is the explanation in paragraphs 1.10 -1.16 of the draft ALN Code of the use and meaning of the different terms 'must', 'must not', 'may', 'should' and 'should not' clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

The explanations of the different terms would benefit from an example of each being provided as the difference between a regulatory duty 'must', a permissive power 'may' and a statutory 'should' could be clearer.

Timescales

Question 2 – Do you agree with the general approach to the timescales for compliance with duties (that is, to act promptly and in any event within a fixed period), as explained in paragraphs 1.31 – 1.32 of the draft ALN Code?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Agree with the principle of the approach but dependent on actual timescales.

Question 3 – Is the general exception which applies in the case of timescales, as described in paragraphs 1.33-1.35 of the draft ALN Code, appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Structure of the draft ALN Code

Question 4 – Is the structure of the draft ALN Code and the separation of the chapters appropriate, clear and easy to follow?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 5 – Is the draft ALN Code's focus on describing and explaining the functions and processes appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Pupil referral units (PRUs) - Proposed regulations to be made under Paragraph 15 of Schedule 1 to the Education Act 1996

Question 6 – Do you agree with the proposal to use regulations to delegate functions from a local authority to a Management Committee of a PRU?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 2 - Principles of the Code

Question 7 – Are the principles set out in Chapter 2 of the draft ALN Code the right ones?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

<p>Positive to see Early identification, intervention and effective transition planning identified as a principle.</p>

Chapter 3 - Involving and supporting children, their parents and young people

Question 8 – Is the explanation of the duties relating to involving and supporting children, their parents and young people provided in Chapter 3 of the draft ALN Code appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

However further comments would be welcome in relation to using person-centred practice. More emphasis could be made around adopting a flexible approach driven by the child or young person.

Chapter 4 - Duties on local authorities and NHS bodies to have regard to the UNCRC and the UNCRPD

Question 9 – Is Chapter 4 of the draft ALN Code clear about what is expected of local authorities and NHS bodies when discharging their duties to have due regard to the United Nations Convention on the Rights of the Child (UNCRC) and United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 5 - Duty to keep additional learning provision (ALP) under review

Question 10 – Is the guidance provided in Chapter 5 of the draft ALN Code in relation to the duties to keep ALP under review appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 6 - Advice and information

Question 11 – Is the guidance provided in Chapter 6 of the draft ALN Code in relation to making arrangements to provide advice and information about ALN and the ALN system appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Great to read that a local disagreement resolution to be sought.

Chapter 7 - The definition of ALN and ALP, identifying ALN and deciding upon the ALP required

Question 12 – Is this explanation of the definition of ALN provided in paragraphs 7.4 – 7.32 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	✓	Not sure	<input type="checkbox"/>
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Supporting comments

The definition needs to be further clarified as the process and procedures for identification and review will put greater pressure on school workload and resources. There needs to be a greater exemplification of what “significantly greater difficulty” refers to. Schools will find it difficult to work in the way stated in the code with the numbers of learners currently identified as ALN. Many schools provide “universal provision” and there is no reference to this, only some reference to differentiated teaching. In order for parents to understand there will need to be greater exemplification of what sort of needs constitute significantly greater difficult

The flow chart needs to clear – it seems to imply on P73 that the child can have a significantly greater difficulty and /or a disability but does not have ALN.

7.60 – governors are included in the list – needs to be clear what their role is. ALNCo will need to be quite skilled.

Question 13 – Does Chapter 7 of the draft ALN Code provide a clear and comprehensive explanation of the evidence on which decisions about ALN and ALP should be based, the sources from which this evidence might be collated, and the way in which it should be considered?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	✓
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Supporting comments

The list of agencies who can be involved is lengthy, and may lead parents to believe that schools will have to involve many or all on the list! Parents can provide evidence and will sometimes provide external reports by professionals, it should be made clear that whilst they can specify information that may lead to the child being identified as ALN , they should not be specifying the nature of the provision as this can lead to difficulties with what can be

provided through the school and LA resources.

7.39 refers to NC level descriptors but these will be replaced in the new curriculum – so there will need to be reference to this.

7.60 - It should be made clear here that schools should be able to seek advice and intervention from professionals to develop the schools universal provision – eg speech therapy training such as ELKLAN, support for groups of pupils - to enable schools to provide interventions for groups of children, so that only those pupils with significantly greater difficulty require an IDP.

Chapters 8 to 12 – Duties on schools, FEIs and local authorities

Early Years ALN Lead Officer

Question 14 – Is the guidance on the role, experience and expertise of the Early Years ALNLO set out in paragraphs 8.40 - 8.47 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have the appropriate experience and expertise to meet the expectations of the role)?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Yes it is clear what the expectations are, though it is extremely rare if an individual has full understanding of the non-maintained sector. No clear guidance on the qualification of the EYLO.

Duties on schools, FEIs and local authorities

Question 15 – Is the structure and content of Chapters 8 to 12 of the draft ALN Code clear?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Clearly set out, follows same format, though repetitive from one chapter to the next. 9.44; 45 – it is for LA's to set own criteria publish a set of principles – this is likely to lead to inconsistencies across WALES.

Question 16 – Are the timescales for decisions by schools, FEIs and local authorities on ALN and preparing an IDP as set out in Chapters 8-12 appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Thirty Five days is likely to be too short for schools if they need to involve other agencies due to the capacity and availability of this advice. It will all depend on the number of pupils to fall under this Code.

Also if a child does not consent initially, but then changes their mind, does the 35 days start again from the date of their consent? The child also has to be given a draft and comment on it so this may delay further the IDP being completed in the timescale if the child does not agree with it.

Deciding whether it is ‘necessary’ for a local authority to prepare and maintain an IDP for a young person not at a maintained school or FEI - Proposed regulations to be made under Section 46 of the 2018 Act

Question 17 – Are the proposed requirements and guidance in paragraphs 12.22 – 12.51 of the draft ALN Code on when it is necessary for a local authority to maintain an IDP for a young person not at a school or FEI in Wales appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

12.30 mentions maybe, must – grammatically unclear.
 Fails to consider what happens if deemed not ‘reasonable’
 Will be necessary to consider measures of achievement of objective

Chapter 13 - Content of an IDP

Question 18 – Are the elements of the mandatory content of an IDP which are required by the ALN Code, appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

This will depend on identification of ALN and how the guidance is interpreted. If this is now going to be relevant to children previously at SA then the process and content is likely to be too onerous for schools. In this instance the mandatory requirements of the Act – description of ALN and ALP will be more manageable. A One page profile and ALP will be mainly what is required.

Yes the elements are mainly appropriate for most complex but a few sections will not be applicable so schools should be able to remove (not include) for these children, rather than having to write N/A. There should also be guidance on the sort of additions that LA’s could make to the IDP so that there is consistency across Wales.

Question 19 – Is the proposed mandatory standard form for an IDP (included at Annex A of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

1. Useful to have standard sections for consistency but schools should be able to produce in a more child friendly format, so that only the sections pertinent are included.
 2. 2c.3 will be constant repetition so unless it is required for some aspects and not others in the ALP's then it could go in the Part 2 as one statement – Should ALP be provided in welsh
 3. Similarly to have to write organisation and contact details all the time, will often be repetition – eg if the school is the main deliverer.
 4.
 5.

Question 20 – Is the guidance in Chapter 13 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

There needs clearer guidance for some aspects.

Transport

Question 21 – Is the guidance on transport in paragraphs 13.74 - 13.76 of the draft ALN Code appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 15 – Duties on health bodies and other relevant persons

Statutory requests by local authorities to relevant persons for information or other help - Proposed regulations to be made under Section 65(5) of the 2018 Act

Question 22 – Is the proposed timescale and exceptions for relevant persons to comply with a local authority request for information or other help (under section 65 of the 2018 Act) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

This is open to interpretation 6 weeks – but the requirement to comply within that 6 week period does not apply if impractical for the relevant person to do so due to circumstance beyond its control.

ALP to be secured by NHS bodies - Proposed regulations to be made under Section 21(10) of the 2018 Act

Question 23 – Is the proposed period and exception within which an NHS body must inform others of the outcome of a referral to it (under section 20 of the 2018 Act) to identify whether there is a relevant treatment or service, appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Too open 15.31.
But this requirement to do so within that six week period does not apply if it is impractical for the NHS body to do so due to circumstance beyond its control.

The Designated Education Clinical Lead Officer (“DECLO”)

Question 24 – Is the guidance on the role, experience and expertise of the DECLO set out in paragraphs 15.37 – 15.53 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have appropriate experience and expertise)?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

DECLO all “**Should**” not “**must**” with the exception fo 15.37 – 15.39 where “**must**” is used – referring to ... must designate a DECLO,must be a registered medical practitioner and... must be suitably qualified and experienced.

Chapter 16 - Review and revision of IDPs

Question 25 – Is the content and structure of Chapter 16 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Very clear and easier to process.

Question 26 – Is the proposed period and exception for completing reviews in response to a request from a child, their parent, a young person or an NHS body (set out in paragraph 16.18 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Recruitment restraints within the local health board to provide reports will see pressure being placed on timelines being met.

Chapter 17 – Local authority reconsiderations and taking over responsibility for an IDP

Question 27 – Is the content and structure of Chapter 17 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 28 – Is the proposed period and exception for a local authority reconsidering a school IDP (set out in paragraph 17.20 of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

However challenge may take place over what constitutes ‘circumstances beyond its control’ – Local Authorities will benefit from some leeway here as this element of the code may result in an increase in demand for LA’s to become involved which could have resource implications.

Chapter 18 - Meetings about ALN and IDPs

Question 29 – Are the principles and the guidance provided in Chapter 18 of the draft ALN Code on meetings about ALN and IDPs appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

‘Should’s’ need to change to ‘must’ to be clear to all.

Chapter 19 – Planning for and supporting transition

Question 30 – Is the guidance in Chapter 19 of the draft ALN Code on supporting children and young people to make effective transitions appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

This chapter is extremely clear and sets out steps that are appropriate to children and young people.

Chapter 20 - Transferring an IDP

Question 31 – Is the content and structure of Chapter 20 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Transfers of IDPs - Proposed regulations to be made under Section 36(3) of the 2018 Act and Section 37 of the 2018 Act

Question 32 – Are the requirements that are intended to be included in regulations in relation to requests to transfer an IDP to an FEI (as described in paragraphs 20.12 - 20.17 of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Concern is raised on the timescales this will take on if FEI fails to agree to become responsible for IDP.

Question 33 – Are the arrangements that are intended to be included in regulations in relation to all other transfers (as described in paragraphs 20.18 – 20.21 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

ALnco will not have time to refer to the Act. This needs including in the Code.

Chapter 21 - Ceasing to maintain an IDP

Question 34 – Is the content and structure of Chapter 21 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Clear for all aspects.

Question 35 – Is the period of time for making a reconsideration request (described at 21.18 of the draft ALN Code), appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

This needs to be detailed in the code, as no one will refer to the act.

Chapter 22 – Children and young people subject to detention orders

Question 36 – Is the content and structure of Chapter 22 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 37 – Are the proposals for the regulations in relation to deciding whether it will be necessary to maintain an IDP for a detained child or young person upon their release appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 38 – Are the proposals for the regulations in relation to children or young people who are subject to a detention order and detained in hospital under Part 3 of the Mental Health Act 1983 (as described in paragraphs 22.45 – 22.74 of the draft ALN Code) appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 39 – Are the timescale requirements to act “promptly” in relation to decisions about ALN and preparing IDPs for children and young people subject to detention orders (as set out in Chapter 22) appropriate, rather than also having a requirement to comply within a fixed period subject to an exception or exceptions?

Yes	✓	No	<input type="checkbox"/>	Not sure	✓
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Supporting comments

Chapter 23 - Children and young people in specific circumstances

Question 40 – Is the guidance in Chapter 23 of the draft ALN Code on children and young people in specific circumstances appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 24 - Role of the Additional Learning Needs Co-ordinator (ALNCo)

Question 41 – Is the information set out in Chapter 24 of the draft ALN Code about the role and responsibilities of the ALNCo appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Yes this information is appropriate- however there is no reference to an Early Years (0 to 3) ALNCo role. Does this align to National Minimum Standards?

Chapter 25 - Avoiding and resolving disagreements

Question 42 – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

The information in the code is clear, however it would be helpful for the Code to include a requirement for a tiered response to concerns – for example, a requirement to engage in disagreement resolution, independent advocacy before Tribunal.

Question 43 – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

As above- duplication of question 42

Chapter 26 - Appeals and applications to the Tribunal

Question 44 – Is the information about appeals and the appeals process set out in Chapter 26 of the draft ALN Code appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Yes the information is set out appropriately

Chapter 27 - Case friends for children who lack capacity

Question 45 – Is the information about case friends, including the duties on the Tribunal to appoint and remove case friends, clearly explained in the Chapter 27 of the draft ALN Code?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

This section is lengthy and possibly too cumbersome. It would be helpful to have a definition of 'lacking capacity' within the Code itself as this decision has a significant effect on responsibilities schools/ LA's.

Any other comments

Question 46 – Please provide any other comments that you would like to make on the draft ALN Code. Where your comments relate to a specific chapter or paragraph within the draft ALN Code, please indicate this in your response.

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Part 2 of the consultation: Draft Education Tribunal for Wales regulations

Question 47 – Overall, do the draft Education Tribunal regulations provide clear processes and procedures relating to appeals and claims to the Education Tribunal?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 48 – Overall, will the processes and procedures outlined in the draft Education Tribunal regulations enable the Education Tribunal to deal with cases fairly and justly?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 49 – Is the proposed case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 50 – Are the proposed timescales for each party in the case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) reasonable?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 51 – Is the 6 week timescale within which NHS bodies must report to the Education Tribunal in response to a recommendation (regulation 65 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 52 – Are the timescales relating to compliance with Education Tribunal orders appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 53 – Is the approach to extensions to timescales (regulation 66 of the draft Education Tribunal regulations) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 54 – Are the proposed regulations relating to case friends (draft Education Tribunal regulations 61 to 64) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Part 3 of the consultation: Draft ALNCo regulations

Question 55 – Are the prescribed qualifications to be an ALNCo set out in the draft ALNCo regulations appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 56 – Do you agree with the tasks that ALNCo must carry out or arrange to carry out as set out in the draft ALNCo regulations?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Part 4 of the consultation: Looked after children

(a) Proposed regulations to be made

Question 57 – Do you agree that the Looked after Children in Education (LACE) Co-ordinator should be a statutory role?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

(b) Chapter 14 of the draft ALN Code – Content of an IDP for a looked after child

Question 58 – Do you agree that there should be a separate standard form for looked after children and is the proposed standard form, together with the guidance and requirements related to it, appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

(c) Proposed revisions to the Part 6 Code

Question 59 – Do the draft revisions to the Part 6 Code provide a clear explanation of the duties on local authorities in relation to their social services functions for looked after children with ALN and what these duties mean in practice?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 60 – Overall, do you agree with the approach taken in the draft revised Part 6 Code to explaining the legislative changes, including the integration of personal education plans (PEPs) and IDPs and the mandatory content of PEPs? Are the requirements and expectations and what these mean in practice clearly explained?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 61 – Do the changes that have been made to the Part 6 code clearly explain the role of the LACE Co-ordinator in overseeing the ALN arrangements for looked after children and what this means in practice?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Part 5 of the consultation: Impact of proposals

Question 62 – What impacts do you think there will be as a result of the proposed regulations?

Considerable funding issues for the local authority in meeting its new statutory duties for 0 – 5 age range (pre-school) especially the role of the Early Years Lead Officer which doesn't currently exist as well as the post 16 new responsibilities under the new duties which will have implications in relation to the funding arrangements for specialist placements and the impact this will have on shrinking budgets within local authorities. Further work needs to be done by the Welsh Government to undertake an analysis of the funding implications and assurance given that we won't be held to account for new duties without the ring fenced funding to ensure we are in a position to deliver the expected changes.

Impact will be felt by all those working with children with ALN. E.g.:

- **Placing the child and parent as central contributors will force a culture change for a number of schools and professionals.**
- **Implication of timeframes for Health will be significant as the Code's timeframes are much shorter than those currently in place for Health's own code of practice.**
- **Setting the parameters for when an IDP becomes a Local Authority administered document will impact on schools. Schools are going to have to take on admin roles currently undertaken by the LA and roles linked to disagreement resolution.**
- **Impact, especially in the implementation period, on ALNCo time for PCP work.**

Question 63 – What impact do you think the proposals in the draft ALN Code and proposed regulations would have on the Welsh language?

The Code is clear around the need to ensure provision is available through the medium of Welsh. We welcome this and have been developing our provision accordingly. However, Wales lacks specialist experts in the field that support the development of specialised resources – investment in linking with Welsh Universities and the identification of professionals across Wales who would be in a position to take this forward would be beneficial.

Question 64 – How do you think the proposals in the draft ALN Code and proposed regulations could be formulated or changed so as to have:

- i) **positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?;**
- ii) **no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?**

- i) The code states the need for suitable provision in a way that current SEN legislation does not. However, as noted above, it does not take account of the lack of specialised resources available through the medium of Welsh, such as assessment materials. Without investment in the development of such resources at a national level, it is difficult to see how there can be parity between the two languages.**
- ii) The proposals strengthen the right of people to have the opportunity to use the Welsh language.**

Question 65 – We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

Respondent Details

Information	
Name	Sarah Ellis
Organisation (if applicable)	Caerphilly County Borough Council

Part 1 of the consultation: The draft ALN Code**Chapter 1 - Introduction**

The meaning of 'must', 'must not', 'may', 'should' and 'should not' in the ALN Code

Question 1 – Is the explanation in paragraphs 1.10 -1.16 of the draft ALN Code of the use and meaning of the different terms 'must', 'must not', 'may', 'should' and 'should not' clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

The explanations 1.10 – 1.16 are clear however this is open to interpretation and may be too wordy for some parents to access.
 The difference between must and should needs to be even more clearly stated as this has not stood up to challenge in tribunal previously.
 There is a concern that expectations would not be clear.
 There is concern regarding how this links to the Equalities Act.

Timescales

Question 2 – Do you agree with the general approach to the timescales for compliance with duties (that is, to act promptly and in any event within a fixed period), as explained in paragraphs 1.31 – 1.32 of the draft ALN Code?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Broadly there is an agreement that an approach outlining timescales is correct however the timescales are unrealistic for schools and LAs for example:

- where EP assessment is felt to be necessary or is a requirement there may be a delay in obtaining this given service demands
- where information from health is delayed or not available until the last moment leaving schools little time to complete an IDP
- in large schools where a large number of IDPs may need to be written

- in very small schools which can not afford to release the ALNCo for substantial periods
- where other agencies input is required
- where families commission private reports

Working days may be a more appropriate way of counting the time as these take into account weekends and school holidays and the numbers then would be more precise. It might be helpful to indicate a reasonable timescale for which information should be received and a timescale for producing the IDP after all information is received (20 working days after all information received).

There is concern that plans are produced in a comprehensive fashion (in line with the mandatory framework) and that these can be open to legal challenge. The timescales would not allow for this to happen. There is unlikely to be sufficient workforce to meet the demand.

There is no indication that there is funding available to support the development of this system.

There is recognition of the time needed by the ALNCO and teachers to complete this work however this depends entirely on the leadership of the school prioritising this over other areas.

Question 3 – Is the general exception which applies in the case of timescales, as described in paragraphs 1.33-1.35 of the draft ALN Code, appropriate?

Yes		No		Not sure	x
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Supporting comments

Expectation is too narrow

The term 'impractical' is not precise – neither is 'circumstances beyond the responsible body's control. This could lead to confrontations between parents/child and schools/LEA where expectations and interpretations do not match.

Structure of the draft ALN Code

Question 4 – Is the structure of the draft ALN Code and the separation of the chapters appropriate, clear and easy to follow?

Yes	✓	No	□	Not sure	□
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Supporting comments

But.....

The contents are clearly set out. However the work within those chapters is confusing with the cross referencing, duplication and contradiction

Question 5 – Is the draft ALN Code’s focus on describing and explaining the functions and processes appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

It is appropriate to focus on functions and processes however a lot of what is contained in the Code is not precise and is open to interpretation.
Significant implications in this area.

Pupil referral units (PRUs) - Proposed regulations to be made under Paragraph 15 of Schedule 1 to the Education Act 1996

Question 6 – Do you agree with the proposal to use regulations to delegate functions from a local authority to a Management Committee of a PRU?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Agree that the principal that the management committee undertake the same role as the governing body of a maintained school in implementing and managing the IDP however it is usually LAs that place pupils in the settings via a panel and it is the sending school that has the information to complete an IDP. Section 1.56. and 1.57

Transfer of information is crucial in this respect

Chapter 2 - Principles of the Code

Question 7 – Are the principles set out in Chapter 2 of the draft ALN Code the right ones?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The principles are agreed but the cost, time, training requirements, funding, workload implications mean that they may not always be deliverable.
Public expectations are being raised without the duty to ensure that this is deliverable.
There is also no mention that professionals have valid opinions and will seek to place the needs of the child at the centre of the process even if this sometimes means disagreeing

with others or that sometimes the wishes of the child may not be in the best interests of the child.(need some guidance on when it is ok to acknowledge wishes but make decisions based on what others deem to be best interests).

Chapter 3 - Involving and supporting children, their parents and young people

Question 8 – Is the explanation of the duties relating to involving and supporting children, their parents and young people provided in Chapter 3 of the draft ALN Code appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

- Schools need guidance to include pupils with ALN – (felt that this would need to be addressed via LA – through training).
- IDP Children’s copy – child’s capacity impacts on this
- Parental capacity – very difficult for schools / professionals to comment on this.
- “best interests” – rather than child’s wishes
- Right/views of parents may not in the best interests
- Open to interpretation
- (7:10) contradicts – needs to be clear
- Difference between schools / thresholds – very subjective

Chapter 4 - Duties on local authorities and NHS bodies to have regard to the UNCRC and the UNCRPD

Question 9 – Is Chapter 4 of the draft ALN Code clear about what is expected of local authorities and NHS bodies when discharging their duties to have due regard to the United Nations Convention on the Rights of the Child (UNCRC) and United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The language used is difficult, repetitive, with a requirement to have 'due regard' to the relevant rights and Conventions, leaving it open to interpretation

Chapter 5 - Duty to keep additional learning provision (ALP) under review

Question 10 – Is the guidance provided in Chapter 5 of the draft ALN Code in relation to the duties to keep ALP under review appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The guidance is appropriate however no regard is give to the fact that securing appropriate ALP will be subject to funding, efficient use of resource and a range of other factors beyond the LA control which can limit the ALP available.

Chapter 6 - Advice and information

Question 11 – Is the guidance provided in Chapter 6 of the draft ALN Code in relation to making arrangements to provide advice and information about ALN and the ALN system appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The guidance on providing advice and the type of advice is appropriate. However there is nothing about the advice being kept under review and up to date. This would also incur a cost

Chapter 7 - The definition of ALN and ALP, identifying ALN and deciding upon the ALP required

Question 12 – Is this explanation of the definition of ALN provided in paragraphs 7.4 – 7.32 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Again the language is difficult as what is a ‘significantly greater difficulty in learning than the majority of others of the same age’ can be interpreted by others differently depending on the ability range in the class/school and socio economic area/location. Sometimes interventions in one school could be a booster group but in another be ‘additional to and different from.’ Also who decides when progress is not ‘adequate’ 7.46 Whilst it is clear that classroom differentiation is not ALP if every pupil who attends an out of class literacy intervention for half a term needs an IDP then we will have more IDPS than can be reasonable managed by a school given the mandatory content. The need for this group could be a one page profile and clear targets for improvement rather than the much longer IDP format.

Question 13 – Does Chapter 7 of the draft ALN Code provide a clear and comprehensive explanation of the evidence on which decisions about ALN and ALP should be based, the sources from which this evidence might be collated, and the way in which it should be considered?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

733 to 7.41 are reasonably clear however the language used within the later part of the chapter is not specific enough in many instances. This will lead to confusion and different expectations between parents, schools and LEA/Health
 e.g section 7.42, 7.43, use of the words “not adequate” or “less than expected” in relation to progress. It is still, unclear whether intervention groups constitute ALP or not (section 7.46 implies not but within chapter 6 it is unclear).

Chapters 8 to 12 – Duties on schools, FEIs and local authorities

Early Years ALN Lead Officer

Question 14 – Is the guidance on the role, experience and expertise of the Early Years ALNLO set out in paragraphs 8.40 - 8.47 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have the appropriate experience and expertise to meet the expectations of the role)?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Most of chapter 8 is open to interpretation. The EPS read this as meaning any child raised at a meeting at the local children’s centre would need to go through there whole process of determining if they had ALN requiring ALP. How would this work in terms of obtaining parental consent? it is also worrying that all IDPS for this age group would LA IDP’s with no suggestion of how they would transfer to school based IDPS . In contrast our early years lead read it as only those pupils who might require a very high level of support within non maintained settings and those who would most probably go on to attend specialist provision would require an IDP. Guidance on ALNLCO role is generally clear.

Duties on schools, FEIs and local authorities

Question 15 – Is the structure and content of Chapters 8 to 12 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The language and duplication of information does not make the Code an easy to read or understand document – it is not user friendly. There are also a number of items referred to in the chapters that are very concerning and will have an implication on staff, training, staff with experience and expertise, cost/funding and timeframes to complete requirements for the schools and LA.

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Question 16 – Are the timescales for decisions by schools, FEIs and local authorities on ALN and preparing an IDP as set out in Chapters 8-12 appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

No the timescales are far too short. For school staff it would be difficult even if the staff had experience and expertise in identifying ALN and a knowledge of suitable provisions/resources. Co-ordinating meetings with multi-agency staff is challenging, due to staff availability. Most staff in schools are full time class teachers – the requirement is that they have however it is unclear how this would be supported in schools along with all their other duties.

The requirement of an EP to support identifying ALN and writing an IDP for Early Years, schools, FEI will place pressure on EP Services. This minimises the expertise of EPS as they have more to offer and would not wish their role to be solely an assessment service.

Where other services are required to assess and support a pupil to establish an ALN the timeframe may be very difficult due to a lack of staffing/resources. The writing of an IDP will then become meaningless within this timeframe almost a tick box exercise until reports are available and meaningful IDP is then written.

Query: Would pupils/students who are eligible under JQC criteria for exam access arrangements all have to have IDPs? As they would need arrangements that are additional too and different from other pupils.

Deciding whether it is 'necessary' for a local authority to prepare and maintain an IDP for a young person not at a maintained school or FEI - Proposed regulations to be made under Section 46 of the 2018 Act

Question 17 – Are the proposed requirements and guidance in paragraphs 12.22 – 12.51 of the draft ALN Code on when it is necessary for a local authority to maintain an IDP for a young person not at a school or FEI in Wales appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Again the language used is not user friendly so it is hard to read. Significant implication for LA services in terms of capacity to work with post 16. The process sounds very bureaucratic It will be dependant on a range of suitable vocational training courses being available and costs especially if 'boarding' is required.

Chapter 13 - Content of an IDP

Question 18 – Are the elements of the mandatory content of an IDP which are required by the ALN Code, appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

- **The document loses the person centred approach**
- Email addresses of parents- GPDR issues and security sharing information
- Who determines capacity? How?
- Is it appropriate for children/young people to receive written information relating to a lack of capacity of their parents?
- No stipulations about when parents would/wouldn't be involved in developing one page profile
- Who will be responsible for creating one page profile?
- 13.30: unclear if we are to state the child's views or professionals' targets
- 13.36: would Health input be directed by LA?
- 13.38-13.39- no specificity regarding who dictates this.
- Lots of rationales and reasons why- this will be such a big, unusable document. Impracticable.
- 13.53- so much accountability, no trust within the LAs. Power given directly to pupils and parents to detriment. This is going to end in lots of tribunals. No protection given to professionals.
- 13.55- to what end?! This is not always appropriate, does not direct to what extent and whose records this refers to.
- Decision making regarding parents capacity is a concern

Question 19 – Is the proposed mandatory standard form for an IDP (included at Annex A of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

- Agree with the notion of a standardised form
- Elements are appropriate but some sections could lead to difficulties such as 'rationale for ALP' could lead to disagreements between parents/schools/LA
- 13.44: person responsible to for preparing the IDP must ensure health body able to offer an ALP before finalising the IDP – difficult to adhere to timelines whilst waiting for agreements.
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Question 20 – Is the guidance in Chapter 13 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

See reply for question 18. It is clear but not necessarily manageable
 13:27) confusion ALN/ALP
 The need to revise IDP and secure ALP
 Impact on ALNCo – workload not manageable
 Impact on teacher workload
 Not clear the right amount of detail needed

Transport

Question 21 – Is the guidance on transport in paragraphs 13.74 - 13.76 of the draft ALN Code appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The information preceding this question is more detailed and clearer than the information in the Code. Reference to other documents should be summarised directly within the code for clarity and ease of finding the appropriate information.

Chapter 15 – Duties on health bodies and other relevant persons

Statutory requests by local authorities to relevant persons for information or other help - Proposed regulations to be made under Section 65(5) of the 2018 Act

Question 22 – Is the proposed timescale and exceptions for relevant persons to comply with a local authority request for information or other help (under section 65 of the 2018 Act) appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Concerns that the NHS will be able to comply with his timescale.
 NHS and LA need to marry their criteria.
 15.7 is unclear.
 15.9- unclear the extent to which an LA can step in and request information.

15.12- terminology (“the purpose of exercising a function”)...this needs to be accessible and understood

15.18-19- whilst early identification is helpful, health colleagues often relay to school and parents that those diagnosed with, e.g. ASD, require specialist provision, 1:1 and a statement. There is a need for health colleagues to have training relating to education systems. There is concern that this will heighten parents’ worries, by telling them that they need provision.

15.31- VAGUE. What is the point of this deadline, everything is outside of a professional’s control

15.10 Consideration to timescales – unclear whether additional time available if LA taking responsibility for IDP after a school has begun the process.

ALP to be secured by NHS bodies - Proposed regulations to be made under Section 21(10) of the 2018 Act

Question 23 – Is the proposed period and exception within which an NHS body must inform others of the outcome of a referral to it (under section 20 of the 2018 Act) to identify whether there is a relevant treatment or service, appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Who is responsible for holding NHs body accountable? ‘Promptly’ has different meanings to different people. Vague language- things are always impractical and will therefore always meet exceptions.

The Designated Education Clinical Lead Officer (“DECLO”)

Question 24 – Is the guidance on the role, experience and expertise of the DECLO set out in paragraphs 15.37 – 15.53 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have appropriate experience and expertise)?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Clear, however there is only a fleeting reference to working in partnership with education. It is crucial that this role has a clear and in depth knowledge of education and LA systems to avoid inappropriate promises to parents and understanding thresholds and criteria. It is a huge role that is probably unmanageable.

Chapter 16 - Review and revision of IDPs

Question 25 – Is the content and structure of Chapter 16 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

But have concerns in relation to
16.12- “must first be given to the child”- the child does not always understand what is best for them given their needs.

16.18- Vague “beyond its control”.

Question 26 – Is the proposed period and exception for completing reviews in response to a request from a child, their parent, a young person or an NHS body (set out in paragraph 16.18 of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

However it would be helpful to provide guidance on the reasons for an interim review ie a significant change in the pupils needs, or a substantial change in provision (as opposed to changing a target) currently have parents requesting interim statutory reviews every term despite no change in pupils needs.

Workload demands and timescales make this a concern.

Chapter 17 – Local authority reconsiderations and taking over responsibility for an IDP

Question 27 – Is the content and structure of Chapter 17 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Not clear around LA cross boarder
Limited information around arrangements
limited criteria will make things difficult for LAs
Concern re availability of all ALPs in Welsh

Question 28 – Is the proposed period and exception for a local authority reconsidering a school IDP (set out in paragraph 17.20 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

No graduated response to support decision making. Woolly criteria.
Timescales may be difficult to meet

Chapter 18 - Meetings about ALN and IDPs

Question 29 – Are the principles and the guidance provided in Chapter 18 of the draft ALN Code on meetings about ALN and IDPs appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Principles of a PCP approach are agreed.
18.8- “sufficient notice”- minimum time should be stated.
18.20- when?
18.24- significant increase in work load for teachers/ ALNCoS
18.34- who is IDP co-ordinator
If the ALNCo is required to attend every IDP meeting (as co-ordinator) may be difficult without sufficient protected time.

Chapter 19 – Planning for and supporting transition

Question 30 – Is the guidance in Chapter 19 of the draft ALN Code on supporting children and young people to make effective transitions appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The guidance is clear but ... term ‘should’ may convey different meanings to different groups leading to confusion for some parents. (Agencies ‘should’ work together)

- No issues
- It is noted that the code appears to have removed the duty of Careers Wales around

transition to College

- Transition to college a huge amount of work – implication for adult services and concern about how this will be addressed

Chapter 20 - Transferring an IDP

Question 31 – Is the content and structure of Chapter 20 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Transfers of IDPs - Proposed regulations to be made under Section 36(3) of the 2018 Act and Section 37 of the 2018 Act

Question 32 – Are the requirements that are intended to be included in regulations in relation to requests to transfer an IDP to an FEI (as described in paragraphs 20.12 - 20.17 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

LA and FEI need to be aware of resources/ALP available at FEI. IDP needs to be realistic and reflect what the young person is able to access at the FEI.

Timescales could be difficult to meet if young person hasn't decided on a placement at FEI.

Question 33 – Are the arrangements that are intended to be included in regulations in relation to all other transfers (as described in paragraphs 20.18 – 20.21 of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 21 - Ceasing to maintain an IDP

Question 34 – Is the content and structure of Chapter 21 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Contradictory in parts
Timescales not sufficient

Question 35 – Is the period of time for making a reconsideration request (described at 21.18 of the draft ALN Code), appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 22 – Children and young people subject to detention orders

Question 36 – Is the content and structure of Chapter 22 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 37 – Are the proposals for the regulations in relation to deciding whether it will be necessary to maintain an IDP for a detained child or young person upon their release appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 38 – Are the proposals for the regulations in relation to children or young people who are subject to a detention order and detained in hospital under Part 3 of the Mental Health Act 1983 (as described in paragraphs 22.45 – 22.74 of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

But the term promptly not helpful

Question 39 – Are the timescale requirements to act “promptly” in relation to decisions about ALN and preparing IDPs for children and young people subject to detention orders (as set out in Chapter 22) appropriate, rather than also having a requirement to comply within a fixed period subject to an exception or exceptions?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

However concerns regarding capacity to comply

Chapter 23 - Children and young people in specific circumstances

Question 40 – Is the guidance in Chapter 23 of the draft ALN Code on children and young people in specific circumstances appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	✓
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Supporting comments

Overall the language was quite vague in this section and put more responsibility on the LA.

Chapter 24 - Role of the Additional Learning Needs Co-ordinator (ALNCo)

Question 41 – Is the information set out in Chapter 24 of the draft ALN Code about the role and responsibilities of the ALNCo appropriate?

Yes	<input type="checkbox"/>	No	✓	Not sure	<input type="checkbox"/>
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Supporting comments

Information is clear but not appropriate / workable.

ALNCOs should have sufficient time and resource; it did not specify the appropriate amount. Not having protected time to complete the ALNCo role is something commonly raised by ALNCOs.

ALNCOs require appropriate skills and training but it is not clear what this looks like. There is recognition of the need for ALNCOs to have a strategic role within SLT but this is then softened to stating a line of communication, leaving scope for interpretation of the legislation.

It stated that information should be shared with parents on a regular basis, this was quite vague and potentially placed an increased pressure on ALNCOs, in regards to time and

workload.

There did not seem to be much direction, especially for ALNCOs in FEI.

Concern about resourcing

Concern about ALNCO's who are not teachers

Extensive and possible unmanageable role

Schools did not consider a cluster model sharing an ALNCO would work

Concern about attracting people to the role

Concerns about wellbeing of staff

Chapter 25 - Avoiding and resolving disagreements

Question 42 – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Again there is a lack of clarity around what is meant by 'LA must make arrangements for avoiding and resolving disagreements', who will provide such a response and how this is funded by LA's.

Point 25.14. recognises that that older children may want to access arrangements separate from parents and that LAs must facilitate this. There is no specification around what ages are captured in the term 'older children'. This requirement would require upskilling of professionals within LAs and specific policies for post 16 provision and potentially younger cohorts, should the term 'older children' be interpreted as referring to secondary age pupils also.

25.35 stipulates that independent persons helping to resolve disagreements will need a range of experience, knowledge and qualifications but there is no clarification on who is best placed to assume these roles.

We questioned the appropriateness of section 25.37 & 25.38 relating to involvement of health bodies due to them remaining detached from the process. The DECLO can make a decision on whether the NHS should be involved in disagreements which presents a caveat to their involvement.

Question 43 – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

We felt that this section was appropriate, but again, it was quite vague. It did not state who was responsible for resolving agreements, it just noted the LA, it did not state who, which could possibly cause role confusion. However besides this, we felt this section was appropriate.

Chapter 26 - Appeals and applications to the Tribunal

Question 44 – Is the information about appeals and the appeals process set out in Chapter 26 of the draft ALN Code appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter is clear but there are concerns about the process. Guidance is required in terms of Health and the requirement to comply with decisions made by the Tribunal.

Chapter 27 - Case friends for children who lack capacity

Question 45 – Is the information about case friends, including the duties on the Tribunal to appoint and remove case friends, clearly explained in the Chapter 27 of the draft ALN Code?

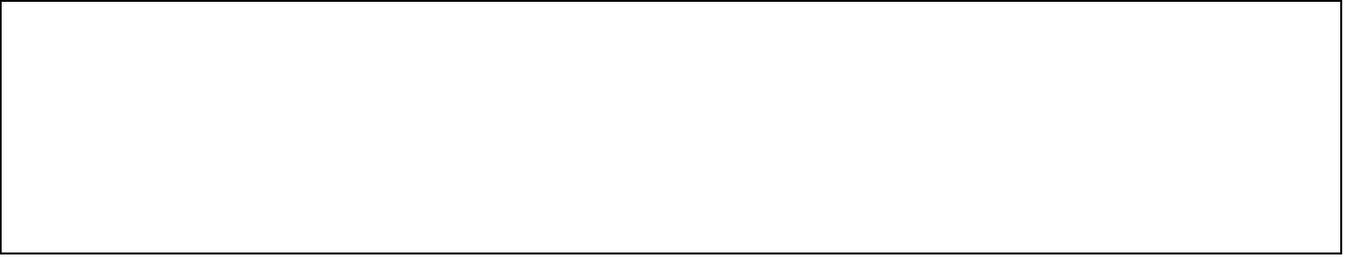
Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question as to how schools would assess capacity , how confident they may feel in doing this and whether they would be the most appropriate party to assume this role

Any other comments

Question 46 – Please provide any other comments that you would like to make on the draft ALN Code. Where your comments relate to a specific chapter or paragraph within the draft ALN Code, please indicate this in your response.



Part 2 of the consultation: Draft Education Tribunal for Wales regulations

Question 47 – Overall, do the draft Education Tribunal regulations provide clear processes and procedures relating to appeals and claims to the Education Tribunal?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 48 – Overall, will the processes and procedures outlined in the draft Education Tribunal regulations enable the Education Tribunal to deal with cases fairly and justly?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

If the above is clear then it could be assumed that this allows for just and fair dealing however this would not be reflected in experiences.

Question 49 – Is the proposed case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The case statement process appears to be in logical sequence

Question 50 – Are the proposed timescales for each party in the case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) reasonable?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

It could be queried that 4 weeks for the defendant to respond is not long enough, especially if the response will require the gathering of views from therapies, health or local views. Given that we will be working in a broader field (further education) it may also be appropriate for the timescale for response to be longer.

Question 51 – Is the 6 week timescale within which NHS bodies must report to the Education Tribunal in response to a recommendation (regulation 65 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 52 – Are the timescales relating to compliance with Education Tribunal orders appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Are there any exceptions ?

Question 53 – Is the approach to extensions to timescales (regulation 66 of the draft Education Tribunal regulations) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

No. There need to be clear regulations on how an extension may be granted and the criteria for this. The tribunal process should have clear timelines and be tied to clear timescales, thresholds and criteria.

Question 54 – Are the proposed regulations relating to case friends (draft Education Tribunal regulations 61 to 64) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Yes, the proposed regulations relating to case friends (Tribunal regulations 61-64) seem appropriate.

Part 3 of the consultation: Draft ALNCo regulations

Question 55 – Are the prescribed qualifications to be an ALNCo set out in the draft ALNCo regulations appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

More clarity is required and experience should be taken into account
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Question 56 – Do you agree with the tasks that ALNCo's must carry out or arrange to carry out as set out in the draft ALNCo regulations?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The range of tasks is perceived to be unmanageable in the current context of ALNCo's having additional roles.

Part 4 of the consultation: Looked after children

(a) Proposed regulations to be made

Question 57 – Do you agree that the Looked after Children in Education (LACE) Co-ordinator should be a statutory role?

Yes	✓	No	☐	Not sure	☐
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Supporting comments

Additional comments:

Within schools it is not clear who should co-ordinate the ALP for LAC children as it falls between CP designate and ALNCo .

It is not reasonable to expect that all LAC children with an ALN have an LA managed IPD particularly in the context of the changes to the belongings regulations.

If the Code stipulates an LA managed plan it is unclear how that expectation can be changed and the responsibility shifted to the school (as indicated in discussion with WG at consultation event).

There is a significant workforce implication and training need for social care colleagues.

Only the most severe and complex pupils with ALN would require an IDP.

(b) Chapter 14 of the draft ALN Code – Content of an IDP for a looked after child

Question 58 – Do you agree that there should be a separate standard form for looked after children and is the proposed standard form, together with the guidance and requirements related to it, appropriate?

Yes	☐	No	✓	Not sure	☐
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Supporting comments

No. This is unnecessarily complex.

(c) Proposed revisions to the Part 6 Code

Question 59 – Do the draft revisions to the Part 6 Code provide a clear explanation of the duties on local authorities in relation to their social services functions for looked after children with ALN and what these duties mean in practice?

Yes	✓	No	☐	Not sure	☐
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Supporting comments

However the changes require consideration in terms of how services work together and where the responsibilities lie

Question 60 – Overall, do you agree with the approach taken in the draft revised Part 6 Code to explaining the legislative changes, including the integration of personal education plans (PEPs) and IDPs and the mandatory content of PEPs? Are the requirements and expectations and what these mean in practice clearly explained?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

However there a significant implications for practice and no funding to support workforce development and training

Question 61 – Do the changes that have been made to the Part 6 code clearly explain the role of the LACE Co-ordinator in overseeing the ALN arrangements for looked after children and what this means in practice?

Yes	<input type="checkbox"/>	No	✓	Not sure	<input type="checkbox"/>
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Supporting comments

There is clear information in 'making a difference' however this will need updating

Part 5 of the consultation: Impact of proposals

Question 62 – What impacts do you think there will be as a result of the proposed regulations?

- Financial implications linked to workforce development and duties on LA to secure provision
- Increased potential for appeals to tribunal will have a workforce and financial implication – intention was to produce a less adversarial and more focused system
- Statutory implications mean that many ALNCOs may not want the role.

Question 63 – What impact do you think the proposals in the draft ALN Code and proposed regulations would have on the Welsh language?

Highlights funding needed for Welsh language and the little resources that are available. Does not provide the ability to make things better- setting LAs to fail. Availability of Welsh speakers/ translators in LA limit accessibility to the language. The Code does not address this, merely adds further pressure with no means of providing what is set out. Ensuring provision available in Welsh not always reasonable in terms of costs and efficient use of resources.

Limited Welsh medium assessments make identifying needs and monitoring progress difficult.

Question 64 – How do you think the proposals in the draft ALN Code and proposed regulations could be formulated or changed so as to have:

- i) positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?;
- ii) no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?

The way the code is formulated does not contravene the need for Welsh language to be treated favourably however in practical and financial terms this will not be possible to deliver this in primarily English speaking areas.

Question 65 – We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

The code is difficult to read and not user friendly.
The consultation doesn't ask the right questions.

Respondent Details

Information	
Name	Anonymous
Organisation (if applicable)	

Part 1 of the consultation: The draft ALN Code**Chapter 1 - Introduction**

The meaning of 'must', 'must not', 'may', 'should' and 'should not' in the ALN Code

Question 1 – Is the explanation in paragraphs 1.10 -1.16 of the draft ALN Code of the use and meaning of the different terms 'must', 'must not', 'may', 'should' and 'should not' clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

<p>Must=legal Must not=illegal may =authorised to should =should do it unless there's a justified reason not to do it</p> <p>should not=Shouldn't do it unless a justified reason to do it</p>
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Timescales

Question 2 – Do you agree with the general approach to the timescales for compliance with duties (that is, to act promptly and in any event within a fixed period), as explained in paragraphs 1.31 – 1.32 of the draft ALN Code?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

<p>Theoretically of course it's sensible to act promptly</p>

Question 3 – Is the general exception which applies in the case of timescales, as described in paragraphs 1.33-1.35 of the draft ALN Code, appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

<p>For ALNCo or manager of STF, you can only act as "promptly" as your timetable allows, e.g. teaching commitments etc, which may impact on the speed of response/producing</p>
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paperwork “promptly”. Also the ability to liaise with other professionals is currently very difficult as in the light of facing their own pressures/cuts etc.they no longer attend annual review meetings, provide reports or work directly with children as frequently as they once did. The ability to act “promptly” to support many children simultaneously is, in our view, severely compromised at present –and the word “promptly” is too vague.

Structure of the draft ALN Code

Question 4 – Is the structure of the draft ALN Code and the separation of the chapters appropriate, clear and easy to follow?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

I am sure it is clear to the people who wrote it, but for busy professionals, even if we are ALN specialists, it is very hard to trawl through the whole document and we don’t need it all. Easy Read provision is great, but doesn’t provide the detail we need to access. It is probably as good as it can be for such a complex document.

Question 5 – Is the draft ALN Code’s focus on describing and explaining the functions and processes appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Pupil referral units (PRUs) - Proposed regulations to be made under Paragraph 15 of Schedule 1 to the Education Act 1996

Question 6 – Do you agree with the proposal to use regulations to delegate functions from a local authority to a Management Committee of a PRU?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Don’t know enough about this issue to comment

Chapter 2 - Principles of the Code

Question 7 – Are the principles set out in Chapter 2 of the draft ALN Code the right ones?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Yes, particularly early identification. However, am worried that “inclusive education” will just come to mean mainstream at any cost, whereas a truly inclusive education means accessing in the best place, time and way for each individual and that may mean specialist provision will always be the best option for that child.

Chapter 3 - Involving and supporting children, their parents and young people

Question 8 – Is the explanation of the duties relating to involving and supporting children, their parents and young people provided in Chapter 3 of the draft ALN Code appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Yes, in principal very appropriate, but from perspective of busy ALNCo or STF manager often very difficult to implement in practice due to time constraints/levels of staffing/ teaching commitments of ALNCoS and STF managers, reluctance of multidisciplinary team/parents and sometimes secondary age pupils to attend the review meetings.

Chapter 4 - Duties on local authorities and NHS bodies to have regard to the UNCRC and the UNCRPD

Question 9 – Is Chapter 4 of the draft ALN Code clear about what is expected of local authorities and NHS bodies when discharging their duties to have due regard to the United Nations Convention on the Rights of the Child (UNCRC) and United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 5 - Duty to keep additional learning provision (ALP) under review

Question 10 – Is the guidance provided in Chapter 5 of the draft ALN Code in relation to the duties to keep ALP under review appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Important for Local Authorities to keep ALP under review, but the methods of doing so seem to require the schools to take on enormous responsibility which was once the responsibility

of the local authority. The ALNCo will struggle to meet the increased responsibility to keep ALP under review and meet the requirements when outside agencies and professionals decline invitations to attend or contribute to review meetings in the light of increased pressures on their services, e.g the Ed.Psych not attending annual reviews any more.

Chapter 6 - Advice and information

Question 11 – Is the guidance provided in Chapter 6 of the draft ALN Code in relation to making arrangements to provide advice and information about ALN and the ALN system appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 7 - The definition of ALN and ALP, identifying ALN and deciding upon the ALP required

Question 12 – Is this explanation of the definition of ALN provided in paragraphs 7.4 – 7.32 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	✓	Not sure	<input type="checkbox"/>
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Supporting comments

7.3 We really object to the use of the term “hinders” in relation to the disability itself –this kind of negative terminology is outdated and we should be referring to “barriers to participation” for the individual

7.6 *Guidance is needed as to what “significantly greater” difficulty in learning means. How is this quantified and by whom? We have great concerns around the whole area of the ALNCo making decisions about who “has” and “doesn’t have” ALN. As an experienced ALN teachers (32 and 37 years in the profession respectively) we would worry about taking on this, let alone the pressure on new ALNcos who might not have any experience to make these calls.

7.9 .4 Info around ALP for the under 3s is totally unclear. It only refers to “educational provision of any kind”, whereas in the past children had access to stepping Stones, portage workers etc. Vital that babies, toddlers with disabilities or emerging diagnoses are identified quickly and get the correct early intervention prior to starting school.

7.10 “generally made available” –sweeping statement, totally unclear. “goes beyond that generally made available” is too vague. “ALP can take many forms” is VERY woolly use of language.

7.12 If you are identifying a child as having ALN based on a need for ALP as your criteria, you need to be much more prescriptive about the different types of ALP.

7.13 What “slightly different test” will determine whether a child has a learning difficulty or disability?! It is also not always possible to know, when a child is 2 years of age, what that child may be able to achieve at 4 years of age (e.g emergent neurodevelopmental difficulties or an as yet undiagnosed disability). Some children have a learning difficulty (or difficulties)

and a disability.

7.18 “which do not, or do not yet amount to ALN” At what point does a debilitating illness become ALN? (e.g) we have worked with pupils with Ehlers Danlos Syndrome who rapidly deteriorate to the point where they cannot write)...

7.20 –Sentence too long/unclear.

7.22 reword to say “If their disability is a barrier to making use of.....”

Question 13 – Does Chapter 7 of the draft ALN Code provide a clear and comprehensive explanation of the evidence on which decisions about ALN and ALP should be based, the sources from which this evidence might be collated, and the way in which it should be considered?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Chapters 8 to 12 – Duties on schools, FEIs and local authorities

Early Years ALN Lead Officer

Question 14 – Is the guidance on the role, experience and expertise of the Early Years ALNLO set out in paragraphs 8.40 - 8.47 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have the appropriate experience and expertise to meet the expectations of the role)?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Duties on schools, FEIs and local authorities

Question 15 – Is the structure and content of Chapters 8 to 12 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 16 – Are the timescales for decisions by schools, FEIs and local authorities on ALN and preparing an IDP as set out in Chapters 8-12 appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Deciding whether it is ‘necessary’ for a local authority to prepare and maintain an IDP for a young person not at a maintained school or FEI - Proposed regulations to be made under Section 46 of the 2018 Act

Question 17 – Are the proposed requirements and guidance in paragraphs 12.22 – 12.51 of the draft ALN Code on when it is necessary for a local authority to maintain an IDP for a young person not at a school or FEI in Wales appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 13 - Content of an IDP

Question 18 – Are the elements of the mandatory content of an IDP which are required by the ALN Code, appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 19 – Is the proposed mandatory standard form for an IDP (included at Annex A of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 20 – Is the guidance in Chapter 13 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Transport

Question 21 – Is the guidance on transport in paragraphs 13.74 - 13.76 of the draft ALN Code appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Chapter 15 – Duties on health bodies and other relevant persons

Statutory requests by local authorities to relevant persons for information or other help - Proposed regulations to be made under Section 65(5) of the 2018 Act

Question 22 – Is the proposed timescale and exceptions for relevant persons to comply with a local authority request for information or other help (under section 65 of the 2018 Act) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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ALP to be secured by NHS bodies - Proposed regulations to be made under Section 21(10) of the 2018 Act

Question 23 – Is the proposed period and exception within which an NHS body must inform others of the outcome of a referral to it (under section 20 of the 2018 Act) to identify whether there is a relevant treatment or service, appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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The Designated Education Clinical Lead Officer (“DECLO”)

Question 24 – Is the guidance on the role, experience and expertise of the DECLO set out in paragraphs 15.37 – 15.53 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have appropriate experience and expertise)?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 16 - Review and revision of IDPs

Question 25 – Is the content and structure of Chapter 16 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 26 – Is the proposed period and exception for completing reviews in response to a request from a child, their parent, a young person or an NHS body (set out in paragraph 16.18 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 17 – Local authority reconsiderations and taking over responsibility for an IDP

Question 27 – Is the content and structure of Chapter 17 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 28 – Is the proposed period and exception for a local authority reconsidering a school IDP (set out in paragraph 17.20 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 18 - Meetings about ALN and IDPs

Question 29 – Are the principles and the guidance provided in Chapter 18 of the draft ALN Code on meetings about ALN and IDPs appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 19 – Planning for and supporting transition

Question 30 – Is the guidance in Chapter 19 of the draft ALN Code on supporting children and young people to make effective transitions appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 20 - Transferring an IDP

Question 31 – Is the content and structure of Chapter 20 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Transfers of IDPs - Proposed regulations to be made under Section 36(3) of the 2018 Act and Section 37 of the 2018 Act

Question 32 – Are the requirements that are intended to be included in regulations in relation to requests to transfer an IDP to an FEI (as described in paragraphs 20.12 - 20.17 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 33 – Are the arrangements that are intended to be included in regulations in relation to all other transfers (as described in paragraphs 20.18 – 20.21 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 21 - Ceasing to maintain an IDP

Question 34 – Is the content and structure of Chapter 21 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 35 – Is the period of time for making a reconsideration request (described at 21.18 of the draft ALN Code), appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 22 – Children and young people subject to detention orders

Question 36 – Is the content and structure of Chapter 22 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 37 – Are the proposals for the regulations in relation to deciding whether it will be necessary to maintain an IDP for a detained child or young person upon their release appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 38 – Are the proposals for the regulations in relation to children or young people who are subject to a detention order and detained in hospital under Part 3 of the Mental Health Act 1983 (as described in paragraphs 22.45 – 22.74 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 39 – Are the timescale requirements to act “promptly” in relation to decisions about ALN and preparing IDPs for children and young people subject to detention orders (as set out in Chapter 22) appropriate, rather than also having a requirement to comply within a fixed period subject to an exception or exceptions?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 23 - Children and young people in specific circumstances

Question 40 – Is the guidance in Chapter 23 of the draft ALN Code on children and young people in specific circumstances appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 24 - Role of the Additional Learning Needs Co-ordinator (ALNCo)

Question 41 – Is the information set out in Chapter 24 of the draft ALN Code about the role and responsibilities of the ALNCo appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 25 - Avoiding and resolving disagreements

Question 42 – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 43 – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 26 - Appeals and applications to the Tribunal

Question 44 – Is the information about appeals and the appeals process set out in Chapter 26 of the draft ALN Code appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 27 - Case friends for children who lack capacity

Question 45 – Is the information about case friends, including the duties on the Tribunal to appoint and remove case friends, clearly explained in the Chapter 27 of the draft ALN Code?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Any other comments

Question 46 – Please provide any other comments that you would like to make on the draft ALN Code. Where your comments relate to a specific chapter or paragraph within the draft ALN Code, please indicate this in your response.

Part 2 of the consultation: Draft Education Tribunal for Wales regulations

Question 47 – Overall, do the draft Education Tribunal regulations provide clear processes and procedures relating to appeals and claims to the Education Tribunal?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 48 – Overall, will the processes and procedures outlined in the draft Education Tribunal regulations enable the Education Tribunal to deal with cases fairly and justly?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 49 – Is the proposed case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 50 – Are the proposed timescales for each party in the case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) reasonable?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 51 – Is the 6 week timescale within which NHS bodies must report to the Education Tribunal in response to a recommendation (regulation 65 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 52 – Are the timescales relating to compliance with Education Tribunal orders appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 53 – Is the approach to extensions to timescales (regulation 66 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 54 – Are the proposed regulations relating to case friends (draft Education Tribunal regulations 61 to 64) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Part 3 of the consultation: Draft ALNCo regulations

Question 55 – Are the prescribed qualifications to be an ALNCo set out in the draft ALNCo regulations appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 56 – Do you agree with the tasks that ALNCoS must carry out or arrange to carry out as set out in the draft ALNCo regulations?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Part 4 of the consultation: Looked after children

(a) Proposed regulations to be made

Question 57 – Do you agree that the Looked after Children in Education (LACE) Co-ordinator should be a statutory role?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

(b) Chapter 14 of the draft ALN Code – Content of an IDP for a looked after child

Question 58 – Do you agree that there should be a separate standard form for looked after children and is the proposed standard form, together with the guidance and requirements related to it, appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

(c) Proposed revisions to the Part 6 Code

Question 59 – Do the draft revisions to the Part 6 Code provide a clear explanation of the duties on local authorities in relation to their social services functions for looked after children with ALN and what these duties mean in practice?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 60 – Overall, do you agree with the approach taken in the draft revised Part 6 Code to explaining the legislative changes, including the integration of personal education plans (PEPs) and IDPs and the mandatory content of PEPs? Are the requirements and expectations and what these mean in practice clearly explained?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 61 – Do the changes that have been made to the Part 6 code clearly explain the role of the LACE Co-ordinator in overseeing the ALN arrangements for looked after children and what this means in practice?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Part 5 of the consultation: Impact of proposals

Question 62 – What impacts do you think there will be as a result of the proposed regulations?

Question 63 – What impact do you think the proposals in the draft ALN Code and proposed regulations would have on the Welsh language?

Question 64 – How do you think the proposals in the draft ALN Code and proposed regulations could be formulated or changed so as to have:

- i) positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?;
- ii) no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?

Question 65 – We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

Respondent Details

Information	
Name	Catherine M. Lewis, Children in Wales
Organisation (if applicable)	on behalf of TSANA

General Comments

The Code isn't easy to read and some of the language is inaccessible. A stated aim of the Code was for practitioners to be able to go straight to the sections that apply directly to them, however, this is made more difficult by the cross referencing.

TSANA suggests flow charts highlighting time frames are required for clarity. The draft Code places many more responsibilities on governing bodies than they have under the previous Code. Governors are volunteers, and this draft code may be difficult for them to use as the duties are scattered throughout the document.

TSANA is concerned that there are not more references in the draft Code to the Equality Act 2010

TSANA is extremely concerned that there is a lack of reference to careers advice within the Code. We believe that this draft Code represents a backward step i.e. the code no longer requires careers advisors to be invited to the year 9 review

Reporting mechanism

While TSANA understands that the document must account for truly exceptional cases not being able to meet timeframes, it is imperative that this is regarded as the rare exception and that the clause is not open to misinterpretation and abuse. For this reason, we consider that the description of the exception could be made more robust. We would also welcome a level of monitoring around the frequency with which this exception is utilised.

Transport

During the scrutiny of the bill, the Welsh Government committed to review statutory guidance on transport for learners with additional needs. TSANA is disappointed that this has not yet happened. It is vital that clear duties are placed on local authorities to provide transport where a learner has to travel in order to access provision that meets their needs. Current guidance is particularly weak around post 16 transport.

Given the crucial role that transport can play where a learner attends a specialist placement, we would wish to see a distinct section on travel within the IDP template. This would ensure that, wherever applicable, discussions around transport would take place as part of the wider IDP process. It is entirely appropriate that transport provisions be discussed alongside considerations of which placement a learner should attend.

Chapter 1 Introduction

TSANA recommends that there is more explicit reference to parental choice in the Code. We are also concerned that no duty is placed on the FEI to provide notifications to parents (1.42) good practice would suggest that this occurs, unless a young person with capacity to consent specifically requests otherwise.

We also recommend that A definition of what is meant by “all reasonable steps” (1.55) should be given and included in the glossary as well as examples of what this means in practice.

Chapter 2 Principles of the Code

2.25 recommends that the sufficiency of Welsh language provision is reviewed every 5 years but TSANA believe that 2 years would be appropriate and necessary

Chapter 5 Duty to keep additional learning provision under review

TSANA feels this chapter is very positive and a step forward. However 5.13 states that a LA *may* consider setting up transparency groups. TSANA recommends that this is a **must**.

Differentiated teaching is first mentioned in the Code in Chapter 5. TSANA is keen to ensure that this does not present a grey area as to when an IDP is required. It is imperative that it be categorically clear that any child meeting the definition of ALN is entitled to an IDP.

Chapter 6 Advice and Information

TSANA is aware that, at present, local authorities provide their own information to families on the Statementing process. This information is frequently poor in quality. As such, TSANA would welcome quality assurance in this regard. We would also welcome the availability of national family-friendly information on the IDP process from the Welsh Government that would also include information about provision of information to support complaints about health TSANA strongly believes that advice should be free at the point of delivery but feel that this Code will lead to the setting up of commercial advice companies.

Chapter 7 Identifying Additional Learning Needs

7.47 states that consideration will need to be given to whether there are reasons for underperformance other than ALN and if so whether there are alternative and more appropriate ways to support the child’s access to learning, such as referral to an education psychologist – TSANA is aware of schools being unable to refer to education psychologist if their allocated funding in relation to education psychology has been spent. This is unacceptable and a children’s rights issue.

Chapter 8 Duties on Local Authorities in relation to children under compulsory school age

TSANA welcomes the introduction of an Early Years ALN Lead Officer. We are, however, concerned about capacity issues should the local authority delegate just one officer to cover the whole of the authority. We would also prefer that assessments for ALN at early years focus on the child’s development and needs at that age as well as projecting what needs they would have if they were of compulsory school age. TSANA also recommends that the officer receives appropriate training which must include basic awareness of specific

disabilities. In addition, we recommend that the Code specifies that the officer works with disability specialists as well as those agencies named at 8.44.

Chapter 9 Duties on Maintained Schools and Local Authorities

TSANA is concerned that we have already heard frontline professionals suggesting that, due to capacity, they will only be providing learners with more complex needs with an IDP. This goes against the ethos of the Code and Act. It is imperative that the Welsh Government sends a clear message that IDPs must be available to any learner who meets the definition of ALN under the Act.

Anecdotally TSANA understands that some LA have said IDP are not required in special school because the full provision is already in place. However children in special schools often underachieve and TSANA believes that an IDP based on the child's needs and aspirations, should be in place. TSANA believes that tension points are going to arise around the transfer of the IDP from school to the Local Authority especially as 9.45 states that each LA can determine the principle for transferring an IDP from school to the LA. TSANA is concerned that this paragraph could present a post code lottery in accessing provision.

Chapter 10 Duties on FEIs and Local Authorities in relation to young people at an FEI

TSANA welcomed the ethos of the Additional Learning Needs and Education Tribunal Wales Act of having support plans from 0-25 years of age. However, in practice, we are increasingly concerned that the reforms will not be effective for the post-16 age range. This is a massive change for FEIs and more guidance is required to ensure that there is a consistency of approach.

We also remain concerned about the need for more guidance around preparing a young learner for transition out of education. Clarity is also required to ensure a smooth IDP process for learners who are returning to education after a break and for those where decisions around whether or not they may/would like to attend a specialist placement are being taken. We wish to ensure that tensions around whether a learner's education can be funded/met by an FEI or a Local authority do not have a negative impact for the learner, their human rights or the chance to fulfil their potential.

TSANA is very concerned by the approach the Welsh Government has taken around only funding specialist FE placements for two years. This appears to disregard the fact that many learners with ALN will require additional time to reach their potential. Furthermore, it represents inequality in that these learners would not have the freedom available to other learners without ALN to choose or change the direction of their study, or to re-sit courses where life events have impacted on their education. This is unfair and amounts to inequality of opportunity.

Funding for colleges post 16 is being transferred from WG to Local Government as part of the Revenue Support Grant without being ring fenced. TSANA is concerned that the Welsh Government hasn't created a formula to support this as they had previously stated they would.

Chapter 13 Content of an IDP

TSANA is pleased to see that there is a statutory template for an IDP and is pleased to see many points that we have raised have been taken on board within the template (for

example, a section on transition). However, we still feel that further, fundamental improvements are required. In particular, as TSANA has always said, it is important that the new IDP avoids the difficulties with the current Statement around vagueness and provides a clear outline and detail (e.g. frequency and session duration) of ALP. The template within the current Code does not achieve this and requires much more detail in this regard.

TSANA believes that a section on transport is required to ensure that, wherever this is applicable to a placement, these discussions are appropriately held within the IDP process.

We would also welcome a section on equipment. Furthermore, the inclusion of prompts throughout the template would help to guide and assist quality plans.

Annex C for Health Professionals

TSANA is concerned that the form at Annex C for NHS professionals to use when providing input for the IDP process is insufficient. Anecdotally, we have heard that NHS employers feel unable to write anything on the form that they are unable to fund.

Health professionals such as audiologists may be able to provide some advice to education staff working with children, but the form does not provide a space **for** advisory information; only for outlining health ALP that the health board will be able to fund and provide.

In addition, the form does not provide an opportunity for the health professional to, should they decide that NHS support is not required for the learner, the reasons for this decision.

TSANA is concerned that we have seen a document outlining when an IDP case may be referred from education to health for learners with ASD. We are concerned by concept of developing a set of restrictions on the referral process. It is imperative that education professionals feel able to refer cases wherever it may be appropriate to do so.

Chapter 19 Planning for and supporting transition

TSANA considers this chapter to be very weak. We would welcome much more detailed guidance to ensure that vulnerable learners are supported during these key points in their education journey, especially around transition to adulthood.

Chapter 24 Role of the Additional Learning Needs Coordinators (ALNCo)

TSANA agrees that the ALNCo should form part of the senior leadership team and have sufficient time and resources to undertake responsibilities effectively, including time away from teaching. We are, however, disappointed that the Code does not go further in prescribing the required qualifications and experience of Additional Learning Needs Coordinators (ALNCo). (Previous iterations had said that ALNCo would be expected to undertake a Masters Level qualification but this has now been dropped.) TSANA feels that the workload, expectations and responsibilities of the ALNCo are onerous and is concerned about capacity issues. We therefore suggest that a formula or mechanism be introduced to determine when a school requires more than one ALNCo.

Chapter 25 Avoiding and Resolving Disagreements

The Code suggests that local authorities can provide disagreement resolution services. TSANA believes that it is a basic principle that this should be independent of the parties. We are aware that England says that disagreement resolution cannot be provided internally and enquire why Wales has.

Chapter 26 Appeals and Applications to the Education Tribunal for Wales

It is imperative that the appeals process is clear and easy for families to understand. We have always been concerned about a dual system of tribunal/Putting Things Right and the draft code does little to allay our concerns that this will be confusing. We are anxious that families may be encouraged to take the Putting Things Right approach to complaints regarding health provision, which will have ramifications on the timeframes for lodging a future appeal.

Chapter 27 Case friends for children who lack capacity

TSANA would welcome further guidance and information around mental capacity within the Code. We do understand that an ongoing review of the UK wide law on mental capacity presents difficulties in this regard, but nevertheless felt it important to raise this point.

Conclusion

TSANA believes that the principles behind the transformation agenda are positive. We do however consider that a degree of monitoring and evaluation will be required to ensure the effective implementation of the new Code.

TSANA would also welcome further information and assurances from the Welsh Government on how this could best be achieved. We would particularly welcome an emphasis within the structure of Estyn inspections.

TSANA looks forward to continuing to work with the Welsh Government so that the shared goal of an ALN system that works for children and young people with ALN and their parents can be achieved.

Respondent Details

Information	
Name	Samuel Stone
Organisation (if applicable)	National Autistic Society Cymru

Introduction

Our charity welcomes the opportunity to respond to the Draft Additional Learning Needs Code for Wales.

Autistic children and young people may need additional help and support with education. Some will need highly-specialised education, others will follow a more mainstream path. The most recent figures available from the Pupil Level Annual School Census shows 7655 autistic pupils currently receiving support through the existing graduated response system. Of these, 4258 have a statement of special educational needs. This means that one third of all pupils with statements are autistic¹.

We know that the current system isn't working for autistic pupils. Autistic pupils have lodged more appeals to the Education Tribunal than those with any other condition over recent years, an 86% increase between 2012 and 2016 (21 in 2012/13, 28 in 2013/14, 32 in 2014/15 and 39 in 2015/16)². The test of the Additional Learning Needs and Education Tribunal (Wales) Act, along with this Code, will be in whether it leads to a reduction in these alarming figures, with more autistic pupils getting the education they need and deserve.

Our charity provides an Education Advice Line, which has seen over 100% growth in the number of enquiries received in the last five years (63 in 2013/14 to 152 in 2017/18). This has been a valuable resource, along with information from our Tribunal Support Service and our Transition Support Service, in forming this response.

Our charity welcomes that, as part of this ongoing transformation of ALN support, the Welsh Government has produced an evidence assessment of interventions for autistic children and

¹ The Pupil Level Annual School Census (PLASC) 2018, Welsh Government

² Annual reports, SENTW <http://sentw.gov.wales/about/annual-reports-sentw/?lang=en>

young people³. We were glad to have been consulted on this and would now like to see this built on further to equip teachers and other school staff with the practical training and skills they need to better understand and support autistic pupils throughout Wales.

We also note the supplementary inspection guidance⁴ produced by Estyn on Autism Spectrum Disorder. We were pleased to have helped inform this guidance and hope that it will be utilised effectively to ensure that best practice in supporting autistic pupils is adopted more widely.

General comments

The inclusion within the Code of an IDP template is extremely welcome and we are glad that the views of our charity, as well as those of the wider third sector were taken into account in this instance.

We would also like to take this opportunity to once again reiterate existing issues that may hamper the impact that the wider ALN reform will have on autistic pupils. Firstly, it is our view that the provision of support through work-based learning could make a significant difference and help to achieve the wider aims of the Act and Code. This route can be key for autistic pupils who, with the right support, can gain invaluable work experience and skills that can prepare them for long-term employment.

We also believe that in light of the Welsh Government commitment to create a 'fully inclusive education system where all learners are inspired, motivated and supported to reach their potential,'⁵ it is crucial to ensure specific provision is included within the Code or wider transformation agenda to include specific training on awareness and understanding of autism within initial teacher training or CPD. We note that in his response⁶ to the Health,

³ Rapid Evidence Assessment of the Effectiveness of Educational Interventions to Support Children and Young People with Autistic Spectrum Disorder, Welsh Government, <https://gov.wales/docs/caecd/research/2018/180515-assessment-effectiveness-educational-interventions-support-children-autistic-spectrum-disorder-en.pdf>

⁴ Supplementary Guidance: Autism Spectrum Disorder, Estyn <https://www.estyn.gov.wales/sites/default/files/documents/Supplementary%20guidance%20-%20ASD.pdf>

⁵ Draft ALN Code for Wales, Welsh Government, https://gov.wales/sites/default/files/consultations/2018-12/draft-additional-learning-needs-code-for-wales_0.pdf

⁶ Letter from the Minister for Health and Social Services to the Chair of the Health, Social Care and Sport Committee, <http://senedd.assembly.wales/documents/s84843/Response%20by%20the%20Minister%20for%20Health%20and%20Social%20Services%20to%20the%20Health%20Social%20Care%20and%20Sport%20Committ.pdf>

Social Care and Sport committee report on the Autism (Wales) Bill⁷, the Minister for Health and Social Services accepted their recommendation that:

‘it should be mandatory for all school staff (particularly teachers and teaching assistants) to receive training in awareness and understanding of ASD, during their initial teacher training and as part of their continuing professional development’.

We look forward to further detail on how the Welsh Government intends to implement this and our charity would be happy to provide any further support necessary. Our Act Now report⁸ found that parents’ levels of satisfaction with school staff were highest with classroom assistants (61%) and special educational needs co-ordinators (56%). The survey that informed this report found that over a quarter of parents were not satisfied with how well teachers understand how to support their child.

Our charity believes that to ensure the Act and Code are consistent with the wider vision of the transformation programme for a ‘unified, equitable and non-adversarial system’⁹, the Education Tribunal should have powers to direct health bodies so that, children, young people and parents don’t face the prospect of two simultaneous complaints procedures should they disagree with decisions made to determine ALN and ALP by both Local Authorities and health bodies. It would also be useful to see further detail about disagreement resolution and the role of advocacy services in relation to complaints about health bodies.

A stated aim of the Code was for practitioners to be able to go straight to the sections that apply directly to them, however, this is made difficult by the cross referencing. The overall style and structure may make it difficult for professionals to understand and administer their duties in a practical way. **We recommend that each chapter sets out a summary of the duties provided for by the Act and Code and gives detailed examples of how these may be carried out in practice.** Throughout this response, we will highlight particular instances where improvements could be made, however, it is our view that the document taken in its entirety is not clear and practical enough to be used effectively.

⁷ Autism (Wales) Bill Committee Stage 1 Report, <http://www.assembly.wales/laid%20documents/cr-ld11949/cr-ld11949-e.pdf>

⁸ Act Now, National Autistic Society Cymru. <https://www.autism.org.uk/get-involved/campaign/wales/act%20now.aspx>

⁹ Draft ALN Code for Wales, Welsh Government, https://gov.wales/sites/default/files/consultations/2018-12/draft-additional-learning-needs-code-for-wales_0.pdf

To further ensure that professionals have a wider understanding of their responsibilities and how these can be implemented practically, we would like to see the Code include more explicit reference to other relevant policy and legislation. The Welsh Government's Autistic Spectrum Disorder Strategic Action Plan¹⁰, Delivery Plan¹¹ and draft Code of Practice on the Delivery of Autism Services¹² set out a range of policy initiatives in relation to the support available for autistic children and adults in Wales. **Specifically, it would be useful to see reference to the role of the National Autism Development team in supporting schools through training and advice. It would also be helpful to see further detail on how duties contained within the Code of Practice on the Delivery of Autism Services will work alongside duties in this Code.** For example, the Code of Practice on the Delivery of Autism Services includes a duty to involve autistic people in the planning and delivery of autism services. The ALN Act and Code impose a duty that Local Authorities must keep ALP under review. We would like to see specific detail within this Code that reflects the duty to involve autistic people when reviewing ALP, as well as further explanation and guidance where other duties may similarly correspond.

We also believes that far more practical instruction on compliance with duties in the Equality Act (2010) should be included within the Code. This is particularly in light of concerning numbers of pupils with SEN currently excluded from education¹³ and the recent ruling of the Upper Tribunal in a case in which our charity intervened¹⁴. We note, that as a result of this ruling, the Minister for Education has committed to:

*'consider revising the guidance further, to ensure that any advice provided to schools and local authorities is compliant with the spirit as well as the letter of the law, when and where appropriate.'*¹⁵

It is our view that the Code provides an opportunity to provide clear and consistent guidance to schools and Local Authorities in their legal obligations to autistic pupils to ensure that

¹⁰ Autistic Spectrum Disorder Strategic Action Plan, Welsh Government, <https://gov.wales/docs/dhss/publications/161205asd-strategic-en.pdf>

¹¹ Autistic Spectrum Disorder Updated Delivery Plan 2018-2021, Welsh Government, <https://gov.wales/docs/dhss/publications/autistic-spectrum-disorder-updated-delivery-plan-2018-2021.pdf>

¹² Draft Code of Practice on the Delivery of Autism Services, Welsh Government, <https://beta.gov.wales/sites/default/files/consultations/2018-11/Consultation%20document.pdf>

¹³ In 2016/17, 10,709 permanent and fixed-term exclusions, of a total of 15,834, were of pupils with SEN, Pupils' Exclusion Record, Welsh Government: <https://gov.wales/statistics-and-research/permanent-fixed-term-exclusions-from-schools/?lang=en>

¹⁴ School exclusion of autistic boy unlawful, judge rules, BBC News, <https://www.bbc.co.uk/news/education-45182213>

¹⁵ Minister for Education response to WAQ 77074/5/6/7 <http://www.assembly.wales/written%20questions%20documents/information%20further%20to%20written%20assembly%20questions%2077074-77077/180830-77074%2077075%2077076%2077077-e.pdf>

necessary reasonable adjustments are made for autistic pupils and exclusions occur only as a last resort.

We further note the UK Government's call for evidence as part of a review into school exclusions in England. We await the conclusions of the Timpson review¹⁶, and would urge the Welsh Government, where appropriate, to consider the implications of this report and whether or not any lessons can be learned for Wales.

Before implementation of the new ALN system in Wales, it will be important to ensure that other related Welsh Government guidance, for example, *Exclusion from Schools and Pupil Referral Units*¹⁷, are fully updated to reflect the Act and Code.

As a member of the Third Sector Additional Needs Alliance (TSANA) we also support its written submission.

Chapters 1-2 Introduction and Principles

We welcome a chapter within the Code that supports the interpretation of key terms and explains the strength of the duties and guidance provided. The Code would, however, benefit from further detail and examples that aid the interpretation of some of the provisions. This is particularly the case in relation to paragraph 1.35 and similar exceptions which apply to other bodies, for example Health Boards, throughout the Code. **We recommend that where the Code makes provision that allows for exemptions from the guidance and duties, the circumstances in which this would be appropriate are more clearly defined and illustrated with practical examples.**

We welcome reinforcement that, until 2023, the current SEN system will still have legal force. Members and supporters have told us that, in some instances, schools and Local Authorities have used the development of the new ALN system as an excuse to depart from their existing duties, particularly around statutory assessments. This has caused significant uncertainty and stress. **We recommend that the Welsh Government monitors the application of the existing SEN code to ensure that all pupils are receiving the correct**

¹⁶ School exclusions review: terms of reference, UK Government, <https://www.gov.uk/government/publications/school-exclusions-review-terms-of-reference>

¹⁷ Exclusion from Schools and Pupil Referral Units, Welsh Government, <https://gov.wales/sites/default/files/publications/2018-03/exclusion-from-schools-and-pupil-referral-units.pdf>

level of support they require and aren't denied a statutory assessment as a result of upcoming reforms.

Furthermore, due to the length of time these reforms have taken to progress, we have seen elements of the changes being utilised by schools and colleges before they have been fully developed. Recent Welsh Government research¹⁸ found that 'some schools believe they are already using IDPs even though there is not yet a national template'. Similarly, many schools will already have an ALNCo, despite many aspects of this role yet to be developed. It is essential that Local Authorities, schools and FEIs have a clear understanding of their statutory responsibilities under the legislation, especially where attempts to adapt to the new system in advance of the formal implementation have taken place.

We would also recommend that the example used in paragraph 1.33 is changed, as while in some occasional instances, it may be possible for an IDP to be finalised during a meeting to discuss needs, best practice (as set out in paragraphs 8.27 or 9.23) suggest that children, young people and parents should be given an opportunity to consider it further or make comments. This may be more appropriately done away from the professionals involved so as to take necessary time to understand the IDP and seek advice where needed.

We welcome the principles of the Code and wider ALN reforms as described in Chapter two. As set out above, autistic children and young people continue to face significant challenges in the education system in Wales. It is clear that reform is needed and the success of the Code will be determined by its ability to provide clear, succinct and practical guidance that leads to these principles being delivered in practice.

Chapter 3 Involving and supporting children, their parents and young people

The views and wishes of autistic children and young people and those of their parents and carers are crucial. The Code's aim to help ensure that these voices are heard is laudable. It is not clear, however, how the bodies under a duty to involve children, young people and families will do this in practice and to what extent they must have regard to views expressed.

¹⁸ Research to establish a baseline of the special educational needs system in Wales, Welsh Government, <https://gov.wales/docs/caecd/research/2019/190228-research-to-establish-a-baseline-of-the-special-educational-needs-system-in-wales-en.pdf>

It is clear that such bodies must seek the views of children, young people and parents and they must encourage participation in the process. It is less clear the weight to which they must give these views alongside other considerations, notably, resource and funding.

Parents and carers in particular will often know their child better than anyone else and will have a crucial insight and understanding vital to an effective decision making process. In 2017/18, our Education Advice Line reported that over 25% of queries related to instances where a child or their parents felt not listened to.

To this end, where decisions are made that differ from the wishes of a child, young person or parents, it is unclear how a school, FEI or Local Authority can demonstrate that it actively considered these views. **We recommend that the Code is clear not only that the views of children, young people and parents are sought, but how they are considered and acted upon.**

Chapter 4 Duties on Local Authorities and NHS bodies to have regard to the UNCRC and UNCRDP

Our charity welcomes the reference to the UNCRC and UNCRDP and we note paragraph 4.2 which suggests the principles of the Conventions are given effect in the Act and Code. It may be the case, however, given that paragraph 4.6 states that local authorities and NHS bodies are not required to give specific consideration to the Conventions when a function is exercised, it will be difficult to understand the extent to which the aims and ambitions of these Conventions will be realised in practice. **As such, we would like to see further guidance or duties to ensure those exercising functions under this Act and Code are able to evidence their due regard to these Conventions.**

Chapter 5 Duty to keep additional learning provision under review

Keeping the range and capacity of ALP under review is welcome. To ensure that this review is as effective as possible, **we recommend that a formal evaluation of ALP capacity and demand is regularly undertaken with a national reporting framework, to include a review of provision for autistic pupils.** This is important as while local provision is a matter for Local Authorities, a national reporting framework would allow Welsh Government to identify workforce gaps in key professions or provision that requires action nationally. **This review information should also be made public.**

The need for this review is also backed-up by Welsh Government research¹⁹ on the current SEN system, which notes:

“LAs reported shifts in terms of demand for types of SEP, with more SEP needed currently in some regions that is suitable for young children, for children and young people with BESD, particularly for girls with BESD in one region, and for children and young people with autism.”

Chapter 6 Advice and Information

Paragraph 6.8 describes the information on ALN that Local Authorities are to make available. **We recommend that the Code is amended to reflect that information must be factual.**

Much of the advice and information, particularly on the entitlements of children, young people and parents under the Act and Code, will be the same across Wales. Whilst allowing for different Local Authorities to outline their own sources and mechanisms for providing information and advice, **we recommend that these form part of Wales-wide templates which includes clear and accessible information on the on the entitlements of children, young people and parents under the Act and Code.**

Chapter 7 The definition of ALN and ALP, identifying ALN and deciding upon the ALP required

How ALN is defined and identified is absolutely central to an ALN system that works for autistic people. It's important that decisions are made in a consistent and transparent way. In our view, the Code is not clear enough on the process by which a decision is made, the evidence that needs to be taken into account or how progress is measured.

Whilst we note, as per paragraph 7.10, that a differentiated teaching approach is a general provision for most pupils, further clarity is needed to determine how progress is monitored against such an approach, how this is evidenced and at what point a determination of ALN may need to be made.

It is our view that decisions about ALN should be made only after a clear and transparent assessment of a pupils needs and that the nature of this assessment, the

¹⁹ Research to establish a baseline of the special educational needs system in Wales, Welsh Government, <https://gov.wales/docs/caecd/research/2019/190228-research-to-establish-a-baseline-of-the-special-educational-needs-system-in-wales-en.pdf>

considerations that need to be made and the evidence required are outlined in the Code.

This is important because many autistic children and young people may, to some extent, appear to keep pace with the educational attainment of their peers. This may be while also experiencing other difficulties, for example, social difficulties. However, it may be the case that they have unrecognised potential to achieve far more academically than their difficulties in other areas may suggest. The Code, as referenced in paragraph 7.6, may well identify those with a ‘significantly greater difficulty in learning’, but may not identify those who can keep pace with their peers, but not meet their full potential.

The Act and Code replace the current graduated response and statutory assessment process with a single decision. One benefit of the current system is that the graduated response provides a clear evidence base for the escalation of intervention.

There may also be too significant a reliance on classroom teachers to differentiate their approach, where currently there may be extra support provided through the graduated response mechanisms. This could be further exacerbated by resource and funding constraints due to an increase in statutory provision.

The flow charts included in Chapter seven have potential to helpfully illustrate the decision making process, however we don’t currently feel that they include sufficient detail to support practitioners to make an assessment of whether a pupil has ALN.

Paragraph 7.34 is a non-exhaustive list of the difficulties that pupils may face. **We would urge that further information about the difficulties faced by autistic pupils is included here, in particular, in relation to sensory processing and the effects of sensory sensitivities, including hypersensitivity or hyposensitivity to sights, sounds, smells, tastes, touch, balance and body awareness.** These issues are often not understood but can have a significant impact on an autistic pupil’s education if not fully considered.

We welcome the reference to the Integrated Autism Service (IAS) in paragraph 7.61 and agree that this service has the potential to be a helpful source of advice for staff from schools, FEIs and Local Authorities. The exact remit of this service may need to be clarified

as paragraph 7.61 relates to a determination of ALN or ALP required for a particular child. The extent to which the IAS has a role to play in these decisions and subsequent support for an autistic pupil is not clear from their service specifications. **We would also welcome explicit reference to neurodevelopmental teams within this section on multi-agency working as they play a key role in autism assessment and diagnosis of children and young people in Wales.**

Further to the above, an example of good practice in this regard is evident from our charity's work as part of the Autism Stakeholder Group in Pembrokeshire. In this area, there are significant delays in accessing autism assessment and diagnosis, compounded by workforce issues and an increase in referrals to the neurodevelopmental team. We have supported the collaborative working between the Local Authority and neurodevelopmental team to improve the quality of referrals by utilising the expertise of professionals within the Local Authority. It is also anticipated that this will reduce the length of time that children and young people wait for a referral to be made and ensure that support is in place while they wait for assessment.

Chapters 8 - 12 Duties on Schools, FEIs and local authorities

As mentioned in our comments on chapter one, we believe that there isn't sufficient guidance to help schools, FEIs or Local Authorities interpret the exemptions that are repeated through these chapters, in regards to 'circumstances beyond its control'. Without further detail, we don't feel the duties are strong enough to have the desired impact.

In relation to timescales, we note the period of 35 school days or term days for schools and FEIs respectively to determine ALN and prepare an IDP. Whilst we welcome the inclusion of these timescales, our view is that the length of time taken to determine ALN is too long, and **recommend an initial decision-making timescale of ten school days or term time days for schools and FEIs respectively is considered, to come to a decision on whether or not a child or young person has ALN, followed by the remaining 25 days to prepare the IDP, if required.** This period of time could be particularly stressful for autistic pupils and their parents, and we feel that should it be determined that a pupil does not have ALN, then 35 days is too long to wait. A quicker decision making process would reduce anxiety during this time, and where necessary, allow for quicker access to dispute mechanisms.

We similarly note the 12 weeks' timescale for Local Authorities, or seven weeks in the event of a reconsideration. **We would recommend an equivalent revision to these timescales to reflect the points above.** This would also have the effect of expediting a school's decision whether to make a referral to a Local Authority, for example, in paragraph 9.41.

It would be helpful to include flow charts that clearly illustrate the different timescales for decisions and how they interact with each other, for example, beginning at the point that the possibility a pupil may have ALN is brought to a school's attention, through to potential referrals to Local Authorities or health bodies, and ending with the final decisions and routes into dispute resolution or appeal.

We welcome the duties on Local Authorities to seek input from educational psychologists in determining ALN. We would like to see a stronger emphasis on schools and FEIs seeking input from educational psychologists in determining ALN too, but recognise wider workforce issues in this profession, particularly through the medium of Welsh.

The level of detail set out in relation to consideration or decision notifications is helpful. **We would recommend an exploration of notification templates, to aid consistency in implementing the new system across Wales.**

It is our view that more detail is needed, particularly in paragraph 9.44, to help determine who is responsible for securing ALP. Much of the considerations outlined are subjective and based around what each body would consider 'reasonable'. In our view, this could likely lead to disagreements between schools and Local Authorities, particularly around resource and funding. There is also no detail at the process for resolving such disagreements between schools and Local Authorities.

We would also welcome provision in the Code that makes clear that budget alone cannot be used to as a reason not to provide specific ALP and that other considerations must be taken into account.

We believe that a nationally determined set of principles to outline who should secure ALP would provide more clarity and consistency and **recommend that paragraph 9.45 be amended to reflect this.**

We would also seek further detail in paragraph 9.49 to outline what represents a ‘material’ change. This could be done in chapter one, as this phrase is used throughout the document and a clear explanation is key to interpreting the provisions within Code.

Where a Local Authority has a duty to determine ALN, it must designate a co-ordinating officer, as set out in paragraph 9.51. **We recommend that the responsible person is suitably qualified to do this and has received training in autism.**

We welcome the approach taken, for example, in paragraphs 9.53 and 9.54, whereby an approach to notify a Local Authority that a child or young person may have ALN can come from anyone involved in their care and support. **We would however seek to strengthen the role of social services and other relevant agencies, including the integrated autism service, to ensure that where it is brought to their attention that a child or young person may have ALN, they have a duty to inform the appropriate person within the school, FEI or Local Authority.** This is in keeping with the spirit of the duties outlined in the Draft Code of Practice on the Delivery of Autism Services²⁰

We recognise the shift in regards to placements at Independent Specialist Post-16 Institutions from decisions made by Welsh Ministers to those now to be made by Local Authorities. As outlined in the Welsh Government ALN FAQs publication²¹, funding for this will be provided to Local Authorities through the RSG. **We would urge that, at least for an initial period, this funding be ring-fenced to ensure a smooth transition.** This will allow for consistency in decision making to be monitored and ensure that pupils who need such a placement aren’t disadvantaged during this transition.

To ensure that parents of young people play an appropriate role, **we would like to see clear guidance included within the Code, in particular when providing notification of considerations or decisions,** for example, under provisions set out in paragraph 10.6.

We are not clear why the duty in paragraph 12.9, that when considering whether a young person has ALN, a Local Authority must *consider* seeking advice from an educational psychologist, whereas it’s duty to children is that it must seek this advice. This has the

²⁰ Draft Code of Practice on the Delivery of Autism Services, Welsh Government, <https://beta.gov.wales/sites/default/files/consultations/2018-11/Consultation%20document.pdf>

²¹ The Additional Learning Needs (ALN) Transformation Programme Frequently Asked Questions (FAQs), welsh Government, https://beta.gov.wales/sites/default/files/publications/2019-02/aln-frequently-asked-questions-2_0.pdf

potential to disadvantage young people and, as such, **we recommend the Code be amended to ensure equity between children and young people in this regard.**

The Code details the process through which a Local Authority will determine ALN and ALP for young people not in School or FEIs. We welcome the inclusion of this group of young people, who are not as visible within the current SEN system. **It is our view that, to ensure this group of young people receive effective support, more clarity is needed to help Local Authorities determine what could be considered ‘reasonable needs for education and training’ for this specific group.** For example, ahead of transition out of education, more focussed consideration of employment or independent living skills may be needed to support autistic young people. It is not clear if such needs will be considered.

Similarly, paragraph 12.20 inappropriately links a determination of whether or not to prepare an IDP with the availability of provision in a local area. It is our view that if ALN is identified, then Local Authorities should take all necessary steps to secure the ALP required. As written, an unintended consequence of this could be that Local Authorities are disincentivised to develop appropriate provision as the availability of this provision could result in an increase in their statutory responsibilities to maintain IDPs. In addition, the dispute resolution services and rights of appeal are not clearly set out for this group of young people.

Chapter 13 – Content of IDP

We very much welcome the inclusion of a template IDP. This is crucial to ensure consistency and portability. Our Educational Advice Line reports that in 2017/18, nearly half of queries related to non-provision of support outlined in an education plan. This is a huge concern within the current system and we hope that moving to a clear and detailed, statutory IDP for all children and young people with ALN will help to address this issue.

Paragraph 13.2 denotes the IDP as a ‘flexible’ document. Whilst this may indeed refer to ensuring that IDPs relate specifically to the circumstances of each individual child or young person, we feel that that describing the IDP as flexible document is unhelpful and could cause confusion. The IDP is not, for example, flexible in the way it can be delivered – it is a legally binding, statutory plan. **We recommend the Code be amended to reflect this distinction clearly.**

Section 1A.10 of the IDP should contain details of the language and means of communication and the means of engagement with the child or young person. **We would recommend that further information is provided to reflect some of the specific requirements that autistic children and young people may have, in particular around the physical environment and sensory sensitivities.**

We welcome advice and guidance on best practice when preparing IDPs, for example that set out in paragraph 13.38. It will be very difficult to set this out in the required detail within the Code and will rely heavily on the training provided ahead of implementation of the new ALN system. **We recommend that training in preparing IDPs is developed ahead of implementation of the new system and is produced alongside autistic children, young people and parents.**

In relation to transport provision, the Code doesn't go far enough in ensuring that this is appropriately considered as part of a pupils ALP. For many autistic pupils, their travel to and from school or college can have a fundamental impact on their learning. **We recommend that consideration of transport provision be fully integrated into IDPs due to the fundamental role it can play in the ALP that many autistic pupils require.**

Chapter 15 Duties on Health bodies and other relevant persons

We acknowledge the significant role that health bodies can play in the determination of ALN and ALP. In our view, where necessary, health bodies should be equal partners in the delivery of services and support to autistic children and young people. To ensure that this is the case, the duties on health bodies within the Act and Code must be strengthened.

As referred to above in respect of schools, FEIs and Local Authorities making determinations relating to ALN or ALP, we note that there is no clear assessment process that allows for these decisions to be made in an open and transparent way. **We recommend that, in relation to health bodies, a clear assessment process is in place to support them in their duty to determine if there is a relevant treatment or service for a child or young person with ALN.**

We would welcome more parity between Local Authorities and health bodies and feel that equivalent duties to monitor the services and provision available to children and young people with ALN, specifically those with autism, would be a welcome improvement.

We welcome the clarity that health bodies must comply with a request for help or information, for example in paragraph 15.7, however, **the exception in instances where this request would be ‘incompatible’ or have an ‘adverse effect’ needs further explanation to ensure there is clarity on all sides as to when this may apply.**

Further weight could be given to requests from schools and FEIs to health bodies for help or information. As currently written, illustrated for example by paragraph 15.10, there is no specific duty on health bodies to respond to requests from schools or FEIs, who would then need to raise the matter with the responsible Local Authority. It is only at this point that a health body’s statutory duty to comply can be triggered. This seems overly bureaucratic and could contribute to delays in determinations of ALN or ALP.

We welcome a timeframe by which a health body must comply with a request, as set out in paragraph 15.12. **We recommend that further clarity is provided around how this timeframe interacts with other timeframes in practice**, for example, if a Local Authority is reconsidering a schools decision of ALN, it has seven weeks to do so. If the Local Authority requests information or help from a health body to assist it make a determination, the health body has six weeks to comply. How do these two timeframes, and others, co-exist within the new system?

We welcome the provisions detailed setting out the role of health bodies in determining ALN in respect of children under compulsory school age, and in particular welcome the duty on health bodies to bring to the attention of a local authority that a child may have ALN. **We believe that duty should apply to children and young people of all ages.** Whilst early intervention is key, autistic children and young people with may not have some of their needs identified until after they start school. It may also be the case that autistic children and young people display very different behaviour at home as compared with school, in which case it could be health bodies that first identify their needs. This is further exacerbated in some parts of Wales by considerable waiting lists for autism assessment services. These assessments, whether they are followed by a diagnosis or not, can be a crucial source of information about a child or young person’s needs and those undertaking these assessments, where appropriate and with the necessary permission, should share this information with the Local Authorities responsible for providing ALP.

As a voluntary organisation covered by the provision detailed in paragraph 15.20, we welcome the recognition that the third sector can play a key role in supporting children with ALN and their families. We know that inappropriate signposting to the third sector can occasionally take place and this can add to the anxiety face by those seeking help and support. **We recommend therefore that this advice is reinforced with a detailed mapping exercise so that health bodies are fully of aware of the information, advice and support services provided by the voluntary sector in their area.**

We recognise that there may be cause, in some instances, for health professionals to delegate the delivery certain ALP, referenced in paragraph 15.24. However, the Code doesn't make clear or provide more information about when this may be appropriate or to whom delivery of such ALP could be delegated. **We would like to see safeguards in place to ensure that where a health body identifies a relevant treatment or service, this is delivered by someone appropriately qualified.**

We note that paragraph 15.34 doesn't clearly set out the justification needed for a health body to remove ALP secured by it. Whilst we do recognise that the needs of a child or young person may change, this provision allows a health board to unilaterally make a decision with which the body maintaining the IDP must comply. **We recommend that a clear framework is provided which sets out specific circumstances in which a health body can remove the ALP it has secured without the agreement of the body maintaining the IDP, the child or young person and parents.**

We welcome the principle of the DECLO role to play a key part in delivery of a health body's functions under the Act and Code. **We would like to see more detail on the qualifications needed to undertake the role, including their knowledge and experience of autism, and a clearer description of what the role involves.** Further to duties that state the DECLO needs to be a registered professional that the Local Health Board deems 'suitably' qualified, there are no further specific duties that provide the level of detail required to fully understand the responsibilities of the role.

Furthermore, the lack of detail in respect of the DECLO role will lead to significant variation across Wales, and while we welcome the provision outlined in paragraph 15.45, to ensure best practice is shared, **we would recommend that a more formal network is established to ensure clarity and consistency.**

Paragraph 15.47 outlines some of the professionals within the Local Health Board that the DECLO should work with when undertaking their role. **We would like to see neurodevelopmental teams and staff within the integrated autism service explicitly mentioned here due to their roles in assessment, diagnosis and support of autistic children and young people.**

We note the guidance to DECLOs in respect of how they measure and monitor the compliance and quality of activity undertaken in the delivery of ALP. **We would recommend that this includes specific data collection detailing the support provided in respect of autistic pupils, as well as mandatory monitoring and reporting procedures.** This would be in line with the duties on Local Authorities to keep their ALP under review and ensure oversight of provision and support throughout the whole system. **We would also like to see this information made public.**

Chapters 16-17 Review and revision of IDPs and Local Authority reconsiderations and taking over responsibility of and IDP.

We welcome the clarity provided around the timeframe within which an annual review needs to take place. In particular, we welcome the clear and practical example provided in paragraph 16.15 which illustrates how this duty is to be implemented. We would like to see further examples throughout the Code such as this that demonstrate how the guidance and duties can be effectively put into practice.

We welcome the right of a child, young person or parent to request a review, however, as the Code currently sets out in paragraph 16.17, the rights of children, young people and parents are considerably weaker than that of schools, FEIs, Local Authorities and health bodies. If a child, young person or parent requests a review to an IDP, this will only happen with the agreement of the body maintaining that IDP. There are no such conditions attached to a request to review and IDP from a school, FEI, Local Authority or health body. **We recommend that should a review be requested by any party, there is a clear decision-making process which sets out the conditions under which this would be appropriate.** There needs to be a clear set of considerations that a the body maintaining an IDP must take into account before deciding whether or not a review requested by a child, young person or parent is unnecessary. This will enable decisions to be made mutually, in the interests of the individual.

We once again welcome the inclusion of flow charts to visually explain the review process, however, further to the above, **we would like to see these amended to include more detail explaining how a School, FEI or Local Authority is expected to determine whether a review is necessary or not.**

Paragraphs 16.33 sets out how a Local Authority may consider reviewing a plans in relation to social care and education simultaneously. We share this ambition and welcome that the Code allows for this. However, we are not convinced that there is sufficient guidance or duties to ensure that this is done in practice, where appropriate. **We recommend that the roles and responsibilities of ALNCoS, Local Authority co-ordinators and social care teams, and how they interact, are set out more clearly to demonstrate how this could work.**

Combining assessments and reviews could reduce the stress and anxiety faced by autistic children, young people and their families during these situations.

We seek further clarity on the process through which a school or FEI requests a Local Authority to take over responsibility of an IDP and how this interacts with a request made by a child, young person or parent. Specifically, if a school or FEI makes a request which is subsequently denied, can a parent, child or young person appeal that decision to the Tribunal or would they have to have made the initial request? Is a child or young person and their parents able to make a joint request along with their school or FEI that a Local Authority takes over maintenance of an IDP, and how must the Local Authority respond? Such instances seem to be in keeping with the unified, equitable and non-adversarial spirit of the Act and Code and yet there is no provision for such request to be made jointly by those involved in the support of a child or young person with ALN.

We note the guidance provided in paragraph 17.33, namely that a Local Authority should decide whether or not to take over responsibility of an IDP within seven weeks, but feel that this is not as strong as its duty to reconsider a decision in seven weeks or make a decision on ALN in 12 weeks. It's not clear why this is only issued as guidance whereas other timeframes are enforced by stronger duties. **We would like to see this amended to reflect that this decision must be made within seven weeks.**

To aid the Code in meeting its objective to help deliver an equitable ALN system, we would urge that it includes more information about the processes and timeframes within which information is shared between schools, FEIs or Local Authorities and children, young people and parents, ahead of meetings about ALN or ALP. This is currently reflected in paragraph 9.13 in the existing SEN Code of Practice²² and **we would like to see this developed further in this Code, to ensure that all relevant information is shared with all parties involved in sufficient time ahead of meetings.**

Chapter 18 Meetings about ALN and IDPs

We recognise that information and advice about holding meetings about ALN and IDPs can be a helpful resource for professionals responsible. However, much of the duties and guidance contained within this chapter are already considered elsewhere in the Code. As such, it is our view that a best practice guide on holding such meetings be developed alongside the Code as opposed to contained within it.

We would also seek further detailed information in such guidance on the role the communication ahead of a meeting, as well as the environment in which the meeting is held, can play in these meetings and how factors can affect the engagement and participation of autistic children, young people and parents. We would be happy to contribute to the development of this.

Chapter 19 Planning for and supporting transition

Autistic children and young people can find transition very difficult. This could be changing year groups, moving schools or going to college or university.

We welcome the recognition in the Code of the various transitions that a child or young person will make throughout their education and that these can be challenging experiences. Despite the difficulties autistic children and young people currently face, the Code as written does very little to improve transition planning. **We would like to see duties on Local Authorities and relevant partners that set out clearly their responsibilities in ensuring that ahead of a transition, adequate and informed planning takes place, the necessary professionals are involved and the views and wishes of children, young people and their parents are fully considered.**

²² SEN Code of Practice for Wales, Welsh Government,
<https://learning.gov.wales/docs/learningwales/publications/131016-sen-code-of-practice-for-wales-en.pdf>

In some instances, this Code could be interpreted as weaker on duties regarding transition planning than the current SEN Code of Practice for Wales. For example, in that Code, paragraphs 9.58-9.59²³ place clear duties to ensure the involvement of social services within transition planning.

A key transition for many autistic young people is the transition out of compulsory education. Many of our members and supporters report this transition as a 'cliff-edge' where the support and services they are used to suddenly disappear.

Our Transition Support Service provides advice and information on the transition to adulthood. We received 171 enquiries in 2017/18, of which:

- 63% reported no transition planning arrangements in place;
- 31% reported concerns about independent living; and
- 26% reported concerns about employment.

We welcome the fact that the Act provides for young people up to the age of 25, **but would like to see far more detail included to reflect the social care, employment and housing needs of young autistic adults who will benefit from longer-term planning and preparation ahead of such a significant transition.**

We would urge that paragraph 19.47 is strengthened to include clearer guidance that provides for transition planning to have begun by year 9. We would also like to see the role of Careers Wales strengthened in paragraphs 19.54-19.56 due to their expertise in supporting young people at risk of becoming not in education, employment or training (NEET). It is not clear how the existing, statutory role played by Careers Wales in Learning and Skills plans will be replaced in the new system.

Chapter 20-21 Transferring and IDP and Ceasing to maintain an IDP

We welcome the detail provided setting out the process by which the duty to maintain an IDP transfers to another body. **However, the provision set out in paragraph 20.20 needs further detail to outline the specific circumstances in which a Local Authority may determine that it is no longer 'practicable' to maintain a student's place at a given**

²³ SEN Code of Practice for Wales, Welsh Government, <https://learning.gov.wales/docs/learningwales/publications/131016-sen-code-of-practice-for-wales-en.pdf>

institution, and what consideration need to be made in this regard. Furthermore, we would seek further detail on the role the child, young person and parents will play in making this determination.

On a decision to cease to maintain an IDP, we believe that the length of time a child, young person or parent has to challenge a school and request reconsideration by the Local Authority is not adequate. As written, this timeframe is four weeks, however **it is our view that, a longer timeframe may be needed to allow for sufficient time to access information and advice from relevant professionals, as well take into account school holidays.**

Chapter 24 Role of the Additional Learning Needs Co-ordinator (ALNCo)

We welcome the formalisation of the ALNCo role. These professionals will be key in raising the profile of issues relating to ALN among leadership teams and the wider workforce. However, there is not a clear set of standards that outline the level of knowledge, skills and experience an ALNCo must have in regards to ALN, including autism. This would be a welcome inclusion.

We note that the Welsh Government, in partnership with the WLGA and Public Health Wales has developed the National Autism Training Framework for Wales²⁴ and would like to see how such a framework could be considered in underpinning the role of the ALNCo.

Chapter 25 Avoiding and resolving disagreements

We welcome the focus on avoiding and resolving disagreements, but feel that if this is to be achieved, and if children, young people and parents are to have faith that these services are working in their interests, then **it is important that they are independent of all parties involved in the dispute.**

Chapter 26 Appeals and applications to the Tribunal

We welcome the clarity provided in this chapter, particularly concerning the issues that can be brought to the Education Tribunal, the orders it can make and the timeframes within which Local Authorities or FEIs must comply.

²⁴ National Autism Training Framework for Wales, ASDInfo Wales, <https://www.asdinfowales.co.uk/resource/Training-Framework-digital-eng.pdf>

Some of the timeframes set out, for example in paragraph 26.16, correspond with earlier, comparable timeframes in which Local Authorities or FEIs need to make decisions. However, given that by the stage an issue is brought to the Tribunal, much more information will be known and significant time would already have passed, **it is our view that action, as a result of orders by the Tribunal, could be taken sooner.**

Conclusion

We welcome the opportunity to contribute to this consultation.

The principles behind the transformation are sound, and reflect many of the important changes we would like to see. Where improvements are needed to ensure that these principles are delivered in practice, we hope that the Welsh Government will consider our suggestions in the constructive manner in which they are intended.

It will also be important to ensure that the implementation of the Code is carefully and regularly monitored by the Welsh Government to ensure that it works in the interests of autistic children, young people and their parents.

Respondent Details

Information	
Name	
Organisation (if applicable)	Children in Wales

Introduction

Children in Wales welcomes the opportunity to respond to the Draft Additional Learning Needs Code for Wales which has been informed by an electronic online survey of members. As a member of the Third Sector Additional Needs Alliance (TSANA) we also support its written submission.

General comments

The inclusion within the Code of an IDP template is extremely welcome and we are glad that the views of Children in Wales, as well as those of the wider third-sector were taken into account in this instance.

The Code isn't easy to read and some of the language is inaccessible. A stated aim of the Code was for practitioners to be able to go straight to the sections that apply directly to them, however, this is made more difficult by the cross referencing.

The Code places more responsibilities on Governing bodies than the previous Code. Governors are volunteers, and the Code may be difficult for them to use as duties are scattered throughout the document.

Children in Wales is extremely concerned about the lack of reference to careers advice within the Code. We believe that this represents a backward step i.e. the code no longer requires careers advisors to be invited to the year 9 review.

We are concerned that the Education Tribunal has no powers to direct health bodies and that, children, young people and parents could face the prospect of two simultaneous complaints procedures should they disagree with decisions made to determine ALN and ALP by both Local Authorities and health bodies. There is also no detail about disagreement resolution and the role of advocacy services in relation to complaints about health bodies.

Children in Wales recommends that more practical instruction on compliance with duties in the Equality Act (2010) should be included within the Code. Clear and consistent guidance to schools and Local Authorities in respect of their legal obligations to disabled pupils / students will ensure that reasonable adjustments are made and that exclusions occur only as a last resort.

We believe that a degree of monitoring and evaluation will be required to ensure the effective implementation of the new Code. We would welcome further information and

assurances from the Welsh Government on how this could best be achieved and an emphasis on ALN within the structure of Estyn inspections.

Further Education

Children in Wales welcomes the ethos of the Additional Learning Needs and Education Tribunal Wales Act of having support plans from 0-25 years of age. More guidance is required 1) for FEI to ensure consistency of approach and 2) around preparing a young learner for transition out of education. Clarity is also required to ensure a smooth IDP process for learners who are returning to education after a break. Children in Wales is concerned that the reforms will not be effective for the post-16 age range and recommend more guidance is provided for FEI to ensure a consistent approach. We also believe funding specialist FE placements for only two years is not long enough to enable some learners to achieve their potential.

Funding for colleges post 16 is being transferred from WG to Local Government as part of the Revenue Support Grant without being ring fenced. Children in Wales is concerned that the Welsh Government hasn't created a formulae to support this as they had previously stated they would.

Chapter 1 Introduction

The Code would benefit from further guidance that will help with the interpretation of some of the provisions. This is particularly the case in relation to 1.35 and similar exceptions which apply to other bodies throughout the Code. While Children in Wales understands that the Code must account for exceptional cases not being able to meet timeframes, it is imperative that this is regarded as a rare exception. We therefore recommend that the description of the exception be made more robust and welcome monitoring of the frequency with which an exception is utilised.

Children in Wales welcomes the glossary within the Chapter. We suggest that a definition of what is meant by "all reasonable steps" (1.55) is included in the glossary and examples are provided of what this means in practice.

Children in Wales recommends that there is more explicit reference to parental choice in the Code and are specially concerned that no duty is placed on the FEI to provide notifications to parents (1.42). Good practice would suggest that this occurs, unless a young person with capacity to consent requests otherwise.

Chapter 2 – Principles of the Code

Children in Wales welcomes the principles of the Code. We specifically welcome the principle that the Code is underpinned by a rights based approach and participation. Also welcomed is the duty in 2.5 that a person exercising functions under the Act must have regards to the views, wishes and feelings of the child and the child's parents or the young person. Several practitioners have asked us what this means in practice and Children in Wales would be happy to provide examples of how views, wishes and feelings can be ascertained.

Children in Wales welcomes the clause that local authorities, schools, FEIs and NHS bodies must consider whether the ALP should be provided to the child or young person in Welsh

(2.24) but recommend that the sufficiency of Welsh language provision is reviewed every two years and not every five years as stated in 2.25.

Chapter 3 Involving and supporting children, their parents and young people

Children in Wales welcomes the focus within this chapter on the participation of children and young people. We recommend that The Children and Young People's National Participation Standards are referenced in the Code. These identify the key issues that all workers should be aware of when working with children and young people in Wales. They are:-

- Information – this must be easy for children and young people to understand and make an informed decision
- Choice – children and young people have the right to choose to be involved in and work on things that are important to them
- No discrimination - children and young people are all different and you have the right to be treated fairly
- Respect – children and young people have the right to have a say. Their opinions are important and must be respected.
- Children and young people will get something out of it - they have the right to learn and be the best they can be
- Feedback – children and young people have the right to know what difference their involvement has made
- Working better - those who make decisions that affect children and young people should put children's rights at the centre of everything they do.

The standards were funded and ratified by the Welsh Government and are underpinned by the UNCRC and the Well-being of Future Generations (Wales) Act 2015 which puts the involvement of children at the heart of improving their well-being. The full version of the standards are available here: [participationstandards_poster_9](#)

The standards have been adapted to make them more accessible for disabled children and young people under the name of [Having a voice, having a choice](#)

Chapter 4 Duties on Local Authorities and NHS bodies to have regard to the United Nations Convention on the Rights of the Child (UNCRC) and the United Nations Convention on the Rights of Persons with Disabilities. (UNCRPD)

Children in Wales welcomes this chapter but would like to see further detail outlining how the articles of the UNCRC and the UNCRPD are given effect in the Code through specific duties and guidance.

Chapter 5 Duty to keep additional learning provision under review

Children in Wales feels this chapter is very positive and a step forward. To ensure a review is effective, we recommend that a formal evaluation of ALP capacity and demand is regularly undertaken and a national reporting framework is used to record the review. This

is because although local provision is a matter for Local Authorities, a national reporting framework would allow Welsh Government to identify workforce gaps in key professions or provision that requires action nationally. 5.13 states that a LA *may* consider setting up transparency groups. Children in Wales recommends that this is made a **must**.

Chapter 6 Advice and Information

Children in Wales is aware that local authorities currently provide their own information to families on the Statementing process which is, on the whole, very poor in quality. We therefore urge the Welsh Government to provide national family-friendly information on the IDP process, which not only highlights the rights of children, young people and parents but also allows for local authorities to include information on their own mechanisms for providing information and advice.

Chapter 7 The definition of ALN and ALP, identifying ALN and deciding upon the ALP required

How ALN is defined and identified is central to an ALN system. It is also important that decisions are made in a consistent and transparent way. In our view, the Code is not clear enough on the process by which a decision is made, the evidence that needs to be taken into account or how progress is measured.

7.10 refers to differentiated teaching. Children in Wales welcomes the statement that “such differentiated teaching does not, itself, constitute ALP.” Differentiated teaching is a general provision for most pupils but further clarity is needed to determine how progress is monitored and evidenced and at what point a determination of ALN may need to be made. Children in Wales believes it is imperative that it be clear that any child meeting the definition of ALN is entitled to an IDP.

The flow charts included in Chapter seven have potential to illustrate the decision making process. We don't, however, feel that they include sufficient detail to support practitioners to make an assessment of whether a pupil has ALN.

Children in Wales welcomes the reference in 7.22 to children and young people who have a disability as defined by the Equality Act 2010. We would however welcome a reference to reasonable adjustments under the Act in this section.

7.47 states that consideration will need to be given to whether there are reasons for underperformance other than ALN and if so whether there are alternative and more appropriate ways to support the child's access to learning, such as referral to an education psychologist. Children in Wales is aware of schools being unable to refer to education psychologist if their allocated funding in relation to this service has been spent. This is unacceptable and a children's rights issue.

Children in Wales welcomes reference in 7.48 that other factors contribute to poor academic performance such asor wider social and family challenges. We recommend that a

sentence is included which prompts schools to work closely with social services, if a child is known to them, so that the full extent of the social and family challenges is understood and a multi-agency approach to overcoming the impact on learning is undertaken.

Chapters 8 - 12 Duties on Schools, FEIs and local authorities

As mentioned in our comments on chapter one, Children in Wales believes that there is insufficient guidance to help schools, FEIs or Local Authorities interpret the exemptions with regards to 'circumstances beyond its control'. Without further detail, these duties are not strong enough to have the desired impact.

We recommends that flow charts are included in the Code which clearly illustrate the different timescales for decisions and how they interact with each other. These could begin at the point that a pupil may have ALN is brought to a school's attention, through to potential referrals to Local Authorities or health bodies, and ending with the final decisions and routes into dispute resolution or appeal.

Children in Wales welcomes the introduction of an Early Years ALN Lead Officer. We are concerned about capacity issues should the local authority delegate just one officer to cover the whole of the authority. Children in Wales also believes that assessments for ALN in the early years should be made at their current age as well as projecting what needs they will have if they were of compulsory school age. We recommend that the officer receives appropriate training which must include basic awareness of specific disabilities. In addition, we recommend that the Code specifies that the officer works with the third sector and specialists in disability as well as those agencies named at 8.44.

More detail is required, particularly in paragraph 9.44, to help determine who is responsible for securing ALP. Many of the considerations outlined are subjective and based around what each body would consider 'reasonable'. In our view, this could likely lead to disagreements between schools and Local Authorities, particularly around resource and funding. There is also no detail at the process for resolving such disagreements between schools and Local Authorities. We do however welcome the statement in the Code that makes clear that budget alone cannot be used to as a reason not to provide specific ALP and that other considerations **must** be taken into account.

Children in Wales believes that tension points are going to arise around the transfer of the IDP from school to the Local Authority especially as 9.45 states that each LA can determine the principle for transferring an IDP from school to the LA. We therefore recommend that each LA should provide a document which should state the type of provision funded by their LA. A nationally determined set of principles to outline who should secure ALP would result in more clarity and consistency. We therefore recommend that 9.45 be amended to reflect this.

Children in Wales welcomes the approach taken in paragraphs 9.53 and 9.54, whereby anyone involved in the child / young person's care and support can notify a Local Authority that a child or young person may have ALN. We would however like to strengthen the role of social services to ensure that where it is brought to their attention that a child or young

person may have ALN, they have a duty to inform the appropriate person within the school, FEI or Local Authority.

The Code details the process through which a Local Authority will determine ALN and ALP for young people not in School or FEIs. We welcome the inclusion of this group of young people, who are not as visible within the current SEN system. To ensure this group of young people receive effective support, more clarity is needed to help Local Authorities determine what could be considered 'reasonable needs for education and training' for this specific group of children and young people.

Children in Wales is concerned that paragraph 12.20 inappropriately links a determination of whether or not to prepare an IDP with the availability of provision in a local area. It is our view that if ALN is identified, then Local Authorities should take all necessary steps to secure the ALP required. As written, an unintended consequence of this could be that Local Authorities are disincentivised to develop appropriate provision as the availability of this provision could result in an increase in their statutory responsibilities to maintain IDPs.

Chapter 13 – Content of IDP

One local authority member of Children in Wales has told us that the IDP as it stands is nothing better than a statement. They add that all the benefits of Person Centred Planning have been lost in the legal process. We do however welcome a statutory template for an IDP and is pleased to see that many points that we have raised have been taken on board within the template (for example, a section on transition). However, we still feel that further improvements are required. In particular it is important that the new IDP avoids the difficulties with the current Statement around vagueness and provides a clear outline and detail (e.g. frequency and session duration) of ALP.

Children in Wales welcomes advice and guidance on best practice when preparing IDPs, for example that set out in paragraph 13.38. It will be very difficult to set this out in the required detail within the Code and will rely heavily on the training provided ahead of implementation of the new ALN system. We therefore recommend that training in preparing IDPs is developed ahead of implementation of the new system and is produced alongside children, young people and parents.

Children in Wales is disappointed that transport is included in non-mandatory content for an IDP 13.74- 13.76. We believe that a section on transport is required to ensure that, wherever this is applicable to a placement, these discussions are appropriately held within the IDP process. We would also welcome a section on equipment. Furthermore, the inclusion of prompts throughout the template would help to guide and assist quality plans.

Children in Wales is has heard frontline professionals suggesting that, due to capacity, they will only be providing learners with more complex needs with an IDP and that those learners on School Action will be transferred to a watch list instead of being given an IDP. This goes against the ethos of the Code and Act. It is imperative that the Welsh Government sends a clear message that IDPs must be available to any learner who meets the definition of ALN under the Act.

Annex C for Health Professionals

Children in Wales is concerned that the form at Annex C for NHS professionals to use when providing input for the IDP process is insufficient. Anecdotally, we have heard that NHS employers feel unable to write anything on the form that they are unable to fund.

Health professionals, such as speech and language professionals, may be able to provide some advice to education staff working with children, but the form does not provide a space for advisory information; only for outlining health ALP that the health board will be able to fund and provide. In addition, the form does not provide an opportunity for the health professional to, should they decide that NHS support is not required for the learner, the reasons for this decision.

Children in Wales has seen a document outlining when an IDP case may be referred from education to health for learners with ASD. We are concerned by concept of developing a set of restrictions on the referral process. It is imperative that education professionals feel able to refer cases wherever it may be appropriate to do so.

Chapter 15 Duties on Health bodies and other relevant persons

Children in Wales acknowledges the significant role that health bodies can play in the determination of ALN and ALP. Health bodies should be equal partners in the delivery of services and provision of support to children and young people with ALN and disabilities and we are concerned that the duties on health bodies within the Act and Code are not strong enough to achieve this.

We welcome that as detailed in 15.7 health bodies must comply with a request for help or information.15.7. However the exception where this request would be ‘incompatible’ or have an ‘adverse effect’ needs further explanation. This will ensure there is clarity on all sides as to when this may apply.

Children in Wales recognises that there may be occasion, in some instances, for health professionals to delegate the delivery certain ALP, referenced in 15.24 and are aware that this has been a bone of contention with schools for many years – e.g with regards to delegation of speech and language therapy. We are concerned that the Code doesn’t make clear or provide more information about when this may be appropriate or to whom delivery of such ALP could be delegated. We would like to see safeguards in place to ensure that where a health body identifies a relevant treatment or service, this is delivered by someone appropriately qualified.

We are concerned that 15.34 doesn’t clearly set out the justification required for health body to remove an ALP secured by it. We recommend that a clear framework is provided which sets out the specific circumstances when health can remove the provision without the agreement of the body maintaining the IDP, the child or young person and parents.

Children in Wales welcomes the principle of the DECLO role. We would like to see more detail on the qualifications needed to perform the role and a clearer description of what the role involves. Lack of detail in respect of the DECLO role could lead to significant variation across Wales, and while we welcome the provision outlined in 15.45, to ensure best

practice is shared, we would recommend that a more formal network is established to ensure clarity and consistency.

It is imperative that an appeals process for health as well as local government is clear and easy for families to understand. We have always been concerned about a dual system of tribunal/Putting Things Right and the draft code does little to allay our concerns that this will be confusing. We are anxious that families may be encouraged to take the Putting Things Right approach to complaints regarding health provision, which will have ramifications on the timeframes for lodging a future appeal.

Chapters 16-17 Review and revision of IDPs and Local Authority reconsiderations and taking over responsibility of and IDP.

Children in Wales welcomes the clarity provided around the timeframe within which an annual review needs to take place and would like to see further examples throughout the Code such as this. We welcome the inclusion of flow charts to visually explain the review process and would like to see these amended to include detail explaining how a School, FEI or Local Authority is expected to determine whether a review is necessary or not.

We welcome the provision in 16.33 which sets out how a Local Authority may consider reviewing a plans in relation to social care and education simultaneously. However there is insufficient guidance to enable this to be carried out in practice. Children in Wales therefore recommends that the roles and responsibilities of ALN Cos, Local Authority co-ordinators and social care teams, and how they interact, are set out more clearly to demonstrate how this can work in practice.

Children in Wales would also like the process through which a school or FEI requests a Local Authority to take over responsibility over an IDP to be clearer.

Chapter 18 Meetings about ALN and IDPs

Children in Wales welcomes the good practice principles for all ALN meetings in this chapter specifically the use of person centred practice headings in 18.5. We also welcome the details about conducting a review meeting and the coordinating meetings for children and young people with multiple plans.

Chapter 19 Planning for and supporting transition

Children in Wales considers the section of the Code on transition to be generally weak. We would welcome more detailed guidance to ensure that vulnerable learners are supported during these key points in their education journey.

A key transition for young people with ALN is the transition to adulthood. This is often thought of as a 'cliff-edge' where the support and services they are used to suddenly disappear. Children in Wales would like this section to be substantially rewritten to provide more detail to reflect the social care, employment and housing needs of young people with

ALN who will benefit from longer-term planning and preparation ahead of such a significant transition. We are also very concerned that learning from Welsh Government funded programmes such as the transition key worker pilots which were set up to develop transition key working in Wales for disabled young people, or those with complex needs in 2008.

Chapter 20-21 Transferring and IDP and Ceasing to maintain an IDP

Children in Wales read with interest 20.14 to 20.17 which details the steps that must be taken if the FEI does not agree to the request by a LA to maintain an IDP. We note that there is no timescale for Ministers to make a decision and query what happens to the young person in the meantime.

Children in Wales welcomes the detail provided which sets out the process by which the duty to maintain an IDP transfers to another body. We feel that the provision set out in 20.20 needs further detail to outline the specific circumstances in which a Local Authority may determine that it is no longer 'practicable' to maintain a student's place at a given institution, and what consideration need to be made in this regard. Furthermore, we would seek further detail on the role the child, young person and parents will play in making this determination.

Chapter 24 Role of the Additional Learning Needs Co-ordinator (ALNCo)

Children in Wales agrees that the ALNCo should form part of the senior leadership team and have sufficient time and resources to undertake responsibilities effectively, including time away from teaching. We are, however, disappointed that the Code does not go further in prescribing the required qualifications and experience of Additional Learning Needs Co-ordinators (ALNCos). (Previous iterations had said that ALNCo would be expected to undertake a Masters Level qualification but this has now been dropped.)

Children in Wales feels that the workload, expectations and responsibilities of the ALNCo are onerous and is concerned about capacity issues. One local authority member of Children in Wales has pointed out that the new role has more responsibility and they have already seen ALNCOs resigning having seen the draft code. We therefore suggest that a formula or mechanism be introduced to determine when a school requires more than one ALNCo.

Chapter 25 Avoiding and resolving disagreements

Children in Wales welcomes the focus on avoiding and resolving disagreements, but feel that if this is to be achieved, and if children, young people and parents are to have faith that these services are working in their interests, then it is important that they are independent of all parties involved in the dispute. The Code suggests that local authorities can provide disagreement resolution services. Children in Wales believes that it is a basic principle that disagreement resolution should be independent of the parties. We are aware that England says that disagreement resolution cannot be provided internally and enquire why Wales has.

Chapter 26 Appeals and applications to the Tribunal

Children in Wales welcomes the clarity provided in this chapter concerning the issues that can be brought to the Education Tribunal, the orders it can make and the timeframes within which Local Authorities or FEIs must comply.

We are, however, concerned at some of the timeframes in particular those set out in 26.16. These timeframes correspond with earlier, comparable timeframes in which Local Authorities or FEIs need to make decisions. However by the stage an issue is brought to tribunal, more information will be known and significant time would already have passed. We therefore believe that Tribunal orders could be taken sooner.

Part 4 of the consultation: Looked after children

The Consultation recognises that the LACE coordinator was historically a statutory role. Proposed amendments to the 2015 Regulations under the 2014 Code will reinstate this, providing an enhanced status for their role and function, with reinforced accountability mechanisms.

There will be a need to review and refresh current guidance for education professionals, which sets out the role and responsibilities of the LACE coordinator, as currently outlined in [Making a Difference](#) (Nov 2017) which also makes reference to the role of SENCo and other pre 2018 Act changes.

There is also a requirement to strengthen Part 6 of CoP for the 2014 Act (our comments in this respect are within our response to Q61)

Children in Wales agrees that the IDP for LAC should be incorporated within their PEP to ensure that there is one holistic plan for their education needs. Because of the desire to avoid duplication of information and potential overlap of content between the IDP LAC and the PEP, we understand why the Code is proposing a different form to that for non-LAC ALN pupils.

However, as there is no national mandatory PEP in use throughout Wales, any overlap of content can only be considered as being 'potential', with the real risk that some information may not be included in either the IDP LAC or the PEP. We note that the Code (14.12) states that much of the information in the standard form (Annex A) is 'expected' to be contained in the PEP. Again, this is no guarantee that in every case it will be

We support the view that the WG should introduce a **universal PEP model** for use by every local authority in Wales, aware as we are of the long standing support for this amongst LACE Coordinators. This would ensure consistency; would reduce the risk of any gaps emerging and would aid transferability between schools and local authority areas should there be any school moves.

Should there still be no appetite within the WG for an all-Wales PEP model as we have advocated above, we would suggest that LAC do not have a separate IDP form, but that the content of this form (Annex B) is included as a distinct section as part of the standard IDP form (Annex A). This is not our preferred option however.

58(ii) The style and presentation of the form in Annex B is not considered to be child friendly or age appropriate. We would wish to see some examples of a child-friendly IDP form for both primary and secondary school pupils produced, which local authorities could utilise or adapt accordingly. Such a form could be designed with young people and professionals who have experience of working with and for LAC with ALN. Children in Wales would be keen to support the development of this with WG.

We are content that the draft revision to the Part 6 Code provide a clear explanation of the duties on local authorities in relation to their social services functions for looked after children with ALN and what these duties mean in practice. We would, however, wish to see read across between Part 6 and the ALN Code.

Children in Wales agrees with the approach taken in the draft revised Part 6 Code to explaining the legislative changes, including the integration of personal education plans (PEPs) and IDPs and the mandatory content of PEPs. We are happy that the requirements and expectations and what these mean in practice are clearly explained but recommend that additional guidance in respect of partnership working between schools and local authorities should however form part of any review of 'Making a Difference'.

In practice, consideration will need to be given to the level of knowledge and understanding a Designated Teacher has in respect of ALN. The LACE coordinator will be required to work collaboratively with the school to ensure that this knowledge and understanding is in place, either through training and/or joint working within the school with other teachers.

Point 109 – We believe that this section could be strengthened if the WG were to move forward and develop a national all-wales PEP.

Children in Wales don't feel that the changes made to the Part 6 code clearly explain the role of the LACE Coordinator in overseeing the ALN arrangements for looked after children and what this means in practice and recommend that this be further strengthened.

We would suggest that Point 109 begins by setting out the statutory '**Role and Functions of the LACE Coordinator**', which draws upon the detail presently provided within the 'Making a Difference' guidance. As an example of how Point 109/Part 6 could be substantially improved, Section 4 of Part 6 (Points 373 – 380) sets out the role and function of the Independent Reviewing Officer (IRO). This outlines clearly and concisely, who they are, what their responsibilities are and their key role as part of the professional network which supports LAC. We believe that LACE coordinators should also have a substantive section within Part 6 akin to IROs.

Conclusion

Children in Wales believes the principles behind the transformation are sound, and reflect many of the changes we would recommend. We look forward to continuing to work with the Welsh Government so that the shared goal of an ALN system that works for children and young people with ALN and their parents can be achieved.

Respondent Details

Information	
Name	Susan A Jones MBE
Organisation (if applicable)	

Part 1 of the consultation: The draft ALN Code**Chapter 1 - Introduction**

The meaning of 'must', 'must not', 'may', 'should' and 'should not' in the ALN Code

Question 1 – Is the explanation in paragraphs 1.10 -1.16 of the draft ALN Code of the use and meaning of the different terms 'must', 'must not', 'may', 'should' and 'should not' clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Timescales

Question 2 – Do you agree with the general approach to the timescales for compliance with duties (that is, to act promptly and in any event within a fixed period), as explained in paragraphs 1.31 – 1.32 of the draft ALN Code?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 3 – Is the general exception which applies in the case of timescales, as described in paragraphs 1.33-1.35 of the draft ALN Code, appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Structure of the draft ALN Code

Question 4 – Is the structure of the draft ALN Code and the separation of the chapters appropriate, clear and easy to follow?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 5 – Is the draft ALN Code’s focus on describing and explaining the functions and processes appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

This needs to be focused and specific and best practice and professional guidance is not appropriate in this document as it is duties and processes that need to be clear.

Pupil referral units (PRUs) - Proposed regulations to be made under Paragraph 15 of Schedule 1 to the Education Act 1996

Question 6 – Do you agree with the proposal to use regulations to delegate functions from a local authority to a Management Committee of a PRU?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Strongly agree as this keeps decisions nearer where the pupil is placed and provides a more equitable approach for them.

Chapter 2 - Principles of the Code

Question 7 – Are the principles set out in Chapter 2 of the draft ALN Code the right ones?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

This is particularly clear on children & young peoples’ rights

Chapter 3 - Involving and supporting children, their parents and young people

Question 8 – Is the explanation of the duties relating to involving and supporting children, their parents and young people provided in Chapter 3 of the draft ALN Code appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 4 - Duties on local authorities and NHS bodies to have regard to the UNCRC and the UNCRPD

Question 9 – Is Chapter 4 of the draft ALN Code clear about what is expected of local authorities and NHS bodies when discharging their duties to have due regard to the United Nations Convention on the Rights of the Child (UNCRC) and United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Yes, this is very clear

Chapter 5 - Duty to keep additional learning provision (ALP) under review

Question 10 – Is the guidance provided in Chapter 5 of the draft ALN Code in relation to the duties to keep ALP under review appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 6 - Advice and information

Question 11 – Is the guidance provided in Chapter 6 of the draft ALN Code in relation to making arrangements to provide advice and information about ALN and the ALN system appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 7 - The definition of ALN and ALP, identifying ALN and deciding upon the ALP required

Question 12 – Is this explanation of the definition of ALN provided in paragraphs 7.4 – 7.32 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

This is very clear in regard to how it applies to children < 3 years old so highlights the role of the Health Visitor to recognise and advise LAs in advance when a suspected ALN has been identified via assessments carried out under the Healthy Child Wales Programme. Also addresses when a temporary issue is identified and notes that not all c&yp with a disability also have an ALN and that chronic health conditions do not always result in an ALN

Question 13 – Does Chapter 7 of the draft ALN Code provide a clear and comprehensive explanation of the evidence on which decisions about ALN and ALP should be based, the sources from which this evidence might be collated, and the way in which it should be considered?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

7.33 -7.69: Yes because it highlights when differentiated learning is what a pupil requires for support rather than 'labelling' as ALN. Also identifies the possible need for health advice on specific conditions/disabilities. Clearly describes need to link all involved from the outset providing a list of 'possibly involved' as guidance.

7.65: Re: Data Protection Law could signpost to WASPI Accord to ensure this is not a reason for failure to share info as GDPR can be a 'red herring' as it concerns agencies but provided their Privacy Notices are in line with the guidance it is not a block to sharing information

Chapters 8 to 12 – Duties on schools, FEIs and local authorities

Early Years ALN Lead Officer

Question 14 – Is the guidance on the role, experience and expertise of the Early Years ALNLO set out in paragraphs 8.40 - 8.47 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have the appropriate experience and expertise to meet the expectations of the role)?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Duties on schools, FEIs and local authorities

Question 15 – Is the structure and content of Chapters 8 to 12 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 16 – Are the timescales for decisions by schools, FEIs and local authorities on ALN and preparing an IDP as set out in Chapters 8-12 appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Deciding whether it is ‘necessary’ for a local authority to prepare and maintain an IDP for a young person not at a maintained school or FEI - Proposed regulations to be made under Section 46 of the 2018 Act

Question 17 – Are the proposed requirements and guidance in paragraphs 12.22 – 12.51 of the draft ALN Code on when it is necessary for a local authority to maintain an IDP for a young person not at a school or FEI in Wales appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 13 - Content of an IDP

Question 18 – Are the elements of the mandatory content of an IDP which are required by the ALN Code, appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Yes, point 13.44 is reassuring in that it states the body responsible for the preparing the IDP ‘MUST’ ensure health is content with the description in an ALP before it is finalised

Question 19 – Is the proposed mandatory standard form for an IDP (included at Annex A of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Yes, point 13.44 is reassuring in that it states the body responsible for the preparing the IDP 'MUST' ensure health is content with the description in an ALP before it is finalised
There needs to be a national solution agreed via WCCIS regarding IT systems and 'read across' to WCCIS being an expectation of all agencies data systems

Question 20 – Is the guidance in Chapter 13 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Yes it is clear but it needs to be noted that regarding transition; the ages at which this takes place for young people in need of ongoing health input vary according to the speciality area in health providing their care.

As an IDP is up to age 25 (as appropriate) the HB DECLO will need to consider these issues at their senior strategic level.

Transport

Question 21 – Is the guidance on transport in paragraphs 13.74 - 13.76 of the draft ALN Code appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 15 – Duties on health bodies and other relevant persons

Statutory requests by local authorities to relevant persons for information or other help - Proposed regulations to be made under Section 65(5) of the 2018 Act

Question 22 – Is the proposed timescale and exceptions for relevant persons to comply with a local authority request for information or other help (under section 65 of the 2018 Act) appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

No not as current resources stand, to set a time limit of 6 weeks is totally unrealistic.

The time taken to gather all relevant information, make a decision and put input in place as necessary/appropriate means this timescale sets HBs (and particularly therapies departments) up to fail as it raises expectations and will result in complaints from parents and young people.

Current waiting lists for many services also impact on a HBs ability to adhere to this timeline. Of particular concern are national Neurodevelopmental Disorder Service's increasing waiting lists (due to increased demand) and resources for these and therapy services notably, but not limited to, Speech & Language therapy.

ALP to be secured by NHS bodies - Proposed regulations to be made under Section 21(10) of the 2018 Act

Question 23 – Is the proposed period and exception within which an NHS body must inform others of the outcome of a referral to it (under section 20 of the 2018 Act) to identify whether there is a relevant treatment or service, appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

As above for Q 22

The Designated Education Clinical Lead Officer (“DECLO”)

Question 24 – Is the guidance on the role, experience and expertise of the DECLO set out in paragraphs 15.37 – 15.53 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have appropriate experience and expertise)?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The guidance is clear but to expect this to be an ‘add on’ to a current senior role and responsibilities is unrealistic if the role is to be manageable and effective in meeting expectations and rights of children, young people & families. An IT infrastructure fit for purpose that allows for a 2 way flow of info by linking all relevant systems will be essential (as in Q 19 response above). DECLOs will also need training workshops with the regional Transformation Leads and a peer support mechanism which could be set via these workshops.

Chapter 16 - Review and revision of IDPs

Question 25 – Is the content and structure of Chapter 16 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 26 – Is the proposed period and exception for completing reviews in response to a request from a child, their parent, a young person or an NHS body (set out in paragraph 16.18 of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Yes but it will have to be clearly advised to children, young people & parents when the 35 term time days are impacted by school holidays e.g. an additional 2 weeks (10 term time days) at Easter break

Chapter 17 – Local authority reconsiderations and taking over responsibility for an IDP

Question 27 – Is the content and structure of Chapter 17 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 28 – Is the proposed period and exception for a local authority reconsidering a school IDP (set out in paragraph 17.20 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 18 - Meetings about ALN and IDPs

Question 29 – Are the principles and the guidance provided in Chapter 18 of the draft ALN Code on meetings about ALN and IDPs appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Providing guidance about a standardised approach supports the ‘portability’ of an IDP and essentially ensures that when a learner changes school or address to a new LA area the process will be at least very similar and promote confidence in the process for pupils and parents.

Chapter 19 – Planning for and supporting transition

Question 30 – Is the guidance in Chapter 19 of the draft ALN Code on supporting children and young people to make effective transitions appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The guidance is appropriate but due to the variable ages of transition to adult services for specific chronic conditions across health this will be something the DECLO will need to keep in focus and they may be able to influence within HBs to better meet children and young people’s rights which a Children’s Charter (where in place) will support.

Chapter 20 - Transferring an IDP

Question 31 – Is the content and structure of Chapter 20 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Transfers of IDPs - Proposed regulations to be made under Section 36(3) of the 2018 Act and Section 37 of the 2018 Act

Question 32 – Are the requirements that are intended to be included in regulations in relation to requests to transfer an IDP to an FEI (as described in paragraphs 20.12 - 20.17 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 33 – Are the arrangements that are intended to be included in regulations in relation to all other transfers (as described in paragraphs 20.18 – 20.21 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 21 - Ceasing to maintain an IDP

Question 34 – Is the content and structure of Chapter 21 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 35 – Is the period of time for making a reconsideration request (described at 21.18 of the draft ALN Code), appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 22 – Children and young people subject to detention orders

Question 36 – Is the content and structure of Chapter 22 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 37 – Are the proposals for the regulations in relation to deciding whether it will be necessary to maintain an IDP for a detained child or young person upon their release appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 38 – Are the proposals for the regulations in relation to children or young people who are subject to a detention order and detained in hospital under Part 3 of the Mental Health Act 1983 (as described in paragraphs 22.45 – 22.74 of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 39 – Are the timescale requirements to act “promptly” in relation to decisions about ALN and preparing IDPs for children and young people subject to detention orders (as set out in Chapter 22) appropriate, rather than also having a requirement to comply within a fixed period subject to an exception or exceptions?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 23 - Children and young people in specific circumstances

Question 40 – Is the guidance in Chapter 23 of the draft ALN Code on children and young people in specific circumstances appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 24 - Role of the Additional Learning Needs Co-ordinator (ALNCo)

Question 41 – Is the information set out in Chapter 24 of the draft ALN Code about the role and responsibilities of the ALNCo appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 25 - Avoiding and resolving disagreements

Question 42 – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Yes, it appears to be

Question 43 – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 26 - Appeals and applications to the Tribunal

Question 44 – Is the information about appeals and the appeals process set out in Chapter 26 of the draft ALN Code appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 27 - Case friends for children who lack capacity

Question 45 – Is the information about case friends, including the duties on the Tribunal to appoint and remove case friends, clearly explained in the Chapter 27 of the draft ALN Code?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Any other comments

Question 46 – Please provide any other comments that you would like to make on the draft ALN Code. Where your comments relate to a specific chapter or paragraph within the draft ALN Code, please indicate this in your response.

The need for additional resources to support implementation to ensure the ALN Act achieves what it set out to cannot be overstated and failure to do so will result in more complaints and will mean we fail to meet children and young people's rights and needs.
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Part 2 of the consultation: Draft Education Tribunal for Wales regulations

Question 47 – Overall, do the draft Education Tribunal regulations provide clear processes and procedures relating to appeals and claims to the Education Tribunal?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 48 – Overall, will the processes and procedures outlined in the draft Education Tribunal regulations enable the Education Tribunal to deal with cases fairly and justly?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 49 – Is the proposed case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 50 – Are the proposed timescales for each party in the case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) reasonable?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 51 – Is the 6 week timescale within which NHS bodies must report to the Education Tribunal in response to a recommendation (regulation 65 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 52 – Are the timescales relating to compliance with Education Tribunal orders appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 53 – Is the approach to extensions to timescales (regulation 66 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 54 – Are the proposed regulations relating to case friends (draft Education Tribunal regulations 61 to 64) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Part 3 of the consultation: Draft ALNCo regulations

Question 55 – Are the prescribed qualifications to be an ALNCo set out in the draft ALNCo regulations appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 56 – Do you agree with the tasks that ALNCoS must carry out or arrange to carry out as set out in the draft ALNCo regulations?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Part 4 of the consultation: Looked after children

(a) Proposed regulations to be made

Question 57 – Do you agree that the Looked after Children in Education (LACE) Co-ordinator should be a statutory role?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Yes. It is essential that Looked After Children with an ALN have a plan that is linked to their PEP and the LACE role needs to be a statutory requirement to ensure equity of provision and focus across Wales. This will also ensure that if a child is no longer LAC Status their ALN IDP will have had expert scrutiny

(b) Chapter 14 of the draft ALN Code – Content of an IDP for a looked after child

Question 58 – Do you agree that there should be a separate standard form for looked after children and is the proposed standard form, together with the guidance and requirements related to it, appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

If there are separate forms what happens if the child ceases to be 'looked after' status, the

label of having ever been LAC could continue through to age 25. Guidance is needed on content if a child/young person ceases to be LAC

(c) Proposed revisions to the Part 6 Code

Question 59 – Do the draft revisions to the Part 6 Code provide a clear explanation of the duties on local authorities in relation to their social services functions for looked after children with ALN and what these duties mean in practice?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 60 – Overall, do you agree with the approach taken in the draft revised Part 6 Code to explaining the legislative changes, including the integration of personal education plans (PEPs) and IDPs and the mandatory content of PEPs? Are the requirements and expectations and what these mean in practice clearly explained?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Yes overall with the caveat as described above in Q 58

Question 61 – Do the changes that have been made to the Part 6 code clearly explain the role of the LACE Co-ordinator in overseeing the ALN arrangements for looked after children and what this means in practice?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Part 5 of the consultation: Impact of proposals

Question 62 – What impacts do you think there will be as a result of the proposed regulations?

Question 63 – What impact do you think the proposals in the draft ALN Code and proposed regulations would have on the Welsh language?

Question 64 – How do you think the proposals in the draft ALN Code and proposed regulations could be formulated or changed so as to have:

- i) positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?;
- ii) no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?

Question 65 – We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

Respondent Details

Information	
Name	Michelle Hatcher
Organisation (if applicable)	Inclusion Service Bridgend County Borough Council

Part 1 of the consultation: The draft ALN Code**Chapter 1 - Introduction**

The meaning of 'must', 'must not', 'may', 'should' and 'should not' in the ALN Code

Question 1 – Is the explanation in paragraphs 1.10 -1.16 of the draft ALN Code of the use and meaning of the different terms 'must', 'must not', 'may', 'should' and 'should not' clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Yes we feel that the use and the meaning of the different terms are clear

Timescales

Question 2 – Do you agree with the general approach to the timescales for compliance with duties (that is, to act promptly and in any event within a fixed period), as explained in paragraphs 1.31 – 1.32 of the draft ALN Code?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

- All concerned would support the principles of early identification and prompt support.
- However, the timescale set out in the Code will be extremely challenging to deliver, particularly in more complex cases and with the extended age range.
- It will also be challenging to meet a 7 week deadline when referrals by schools and parents are made to LAs.
- The Code should provide flowcharts for easy and accurate reference of processes and associated timescales. This will prevent confusion for stakeholders and will remove the possibility of various interpretations of processes and timescales. A Code of Practice to support the Code would be welcome.
- The inconsistencies between the 12 week timescale for LAs and the 14 week timescale for 'Putting it Right' for NHS queries is untenable.

Terms in general were clear with good footnotes.

The term 'may' is ambiguous

It is important that time frames are brought forward when circumstances demand this, e.g. transition. Use of the word promptly covers this.

Question 3 – Is the general exception which applies in the case of timescales, as described in paragraphs 1.33-1.35 of the draft ALN Code, appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

- The provision of one exception, whilst simpler, raised concern that the LA would have to complete an IDP, a legal document, without the relevant information. Particularly in the cases when appeals are made; it is unreasonable to expect LAs to defend decisions in such circumstances.
- 1.37 refers to other exceptions being detailed within footnotes of the Code, however these footnotes cannot be found.

The wording below is unclear and open to confusion. It is worded in a negative way – see below:

For the avoidance of doubt, when preparing an IDP, it will not be 'impractical' to finalise and give a copy of the IDP within the fixed time period if the additional learning provision (ALP) can be described.

It could be rewritten as:

For the avoidance of doubt, when preparing an IDP, it may be 'impractical' to finalise and give a copy of the IDP within the fixed time period if the additional learning provision (ALP) cannot be described.

What does 'to do the thing', mean? This needs to be clarified or reworded.

Structure of the draft ALN Code

Question 4 – Is the structure of the draft ALN Code and the separation of the chapters appropriate, clear and easy to follow?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Yes we agree

Question 5 – Is the draft ALN Code’s focus on describing and explaining the functions and processes appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The focus describing and explaining the functions and processes is appropriate and clear

Pupil referral units (PRUs) - Proposed regulations to be made under Paragraph 15 of Schedule 1 to the Education Act 1996

Question 6 – Do you agree with the proposal to use regulations to delegate functions from a local authority to a Management Committee of a PRU?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Yes, we would agree. However, a number of pupils who attend PRUs are dual registered and therefore these delegated functions would not apply. This needs to be made clear, exceptions made in these cases where functions are still delegated to the management committee of the PRU with dual registered pupils.

Chapter 2 - Principles of the Code

Question 7 – Are the principles set out in Chapter 2 of the draft ALN Code the right ones?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	✓
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Supporting comments

Within the section:

‘Early identification, intervention and effective transition planning’

There should be recognition of a graduated response to the identification of need and provision. Otherwise the highest level of provision will be awarded without empowering children and young people at an earlier stage of the process. Furthermore, it may encourage schools to defer to the LA at an earlier stage in the process than is necessary without trialling strategies, interventions and support as part of a graduated response. Early identification of ALN needs to be based on reliable evidence after following robust process, rather than rushing to conclusions based on superficial information about needs.

Chapter 3 - Involving and supporting children, their parents and young people

Question 8 – Is the explanation of the duties relating to involving and supporting children, their parents and young people provided in Chapter 3 of the draft ALN Code appropriate?

Yes	✓	No	☐	Not sure	☐
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Supporting comments

3.4 – This should be changed from ‘should’ to ‘must’

3.6 – Would schools and health understand the terms included in this point. i.e. would they know that interveners, interpreters, lip speakers etc need to be booked for meetings etc?

3.7 – so is this saying that a child who is not able to be aware of their rights needs an advocate? What does the term ‘lacks capacity’ exactly mean does it mean cognitively or due to the age of the pupil? This needs to be placed in the Glossary.

3.8 – should again is ambiguous. (‘Should’ and ‘Must’ should be in the glossary) i.e. if the child needs an interpreter should they book one or must they book one. This is a vital statement with two different meanings.

3.16 – this is open to interpretation of it being optional to allow the child to use their chosen form of communication. Legally this is considered a right of the child.

3.18 – using the glossary definition of young person being over the age of 5. This is concerning as from a sensory/complex medical it can be vital for the young person to have interventions.

Also if the decision the young child makes goes against what is written in policy for the local authority then what happens then?

In addition what if this declining of support has a detrimental effect for the child’s health, access to curriculum or their mental health and well-being.

3.20 – to be included in the sentence for access purposes – ‘for any written communication to be available in an alternative format e.g. enlarged print, Braille’

3.28 – parental information and advice needs to be given in an accessible format and appropriate manner.

3.32 – Going back to a previous point. A young person is over the age of 5 in your glossary of terms. Then in this point it is effectively saying that a young person from 5 years onwards can make their own decisions and potentially not involve their parents?

Chapter 4 - Duties on local authorities and NHS bodies to have regard to the UNCRC and the UNCRPD

Question 9 – Is Chapter 4 of the draft ALN Code clear about what is expected of local authorities and NHS bodies when discharging their duties to have due regard to the United Nations Convention on the Rights of the Child (UNCRC) and United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)?

Yes	✓	No	☐	Not sure	☐
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Supporting comments

The term 'discharging' could be considered a misleading term. Discharging could be interpreted as signing off the child from the service rather than actions from LA's and Health. 'Discharging' needs to be in the glossary of terms.

Teachers and Health need to have specific training on the UNCRC and UNCRDP specifically in teacher training and health training. This needs to be delivered by legal as the connotations of errors can easily lead to tribunal.

In the PCP training this needs to be stated implicitly about listening to the views of the child and their views being given equal weight as some schools are not aware of this.

It should state here that they need

NHS need to have training in what this entails specifically – this is new to most people who work in education and health.

Chapter 5 - Duty to keep additional learning provision (ALP) under review

Question 10 – Is the guidance provided in Chapter 5 of the draft ALN Code in relation to the duties to keep ALP under review appropriate?

Yes	✓	No	□	Not sure	□
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Supporting comments

Introduction – Clearly states the local authority's role and responsibilities.

Conducting a review – Sections 5.7 – 5.19 contain clear guidance as to how to conduct a review and provide information such as what the intention of a review is.

Outcomes following review of ALP – Detailed information is outlined in relation to arrangements made for learners' ALP.

To improve clarity additional details could be added in relation to 'what is deemed insufficient' and the header on page 44 amended to reflect chapter 5.

Specific reference should be made for the qualification of 'Mandatory Qualified Teacher of the Deaf, VI and MSI.'

This is the correct wording not specialist teachers of learners with hearing impaired or visual impaired. The MQTOD, VI, MSI - needs to be in the glossary. If you want leave in the wording specialist teachers of learners. We need this defined as a teacher with a mandatory qualification.

Chapter 6 - Advice and information

Question 11 – Is the guidance provided in Chapter 6 of the draft ALN Code in relation to making arrangements to provide advice and information about ALN and the ALN system appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Very thorough explanation regarding advice and information. On completion of the chapter the reader had a clear grasp of the information provided within the guidance.

Chapter 7 - The definition of ALN and ALP, identifying ALN and deciding upon the ALP required

Question 12 – Is this explanation of the definition of ALN provided in paragraphs 7.4 – 7.32 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	✓	Not sure	<input type="checkbox"/>
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Supporting comments

There are inconsistencies between schools around the term ‘significantly greater difficulties’. Some define it as a standardised score of below 85 and others below 80. There needs to be consistency.

- Who will diagnose ‘significant difficulties’? Will they be based on national tests, teacher assessments or through assessment from a specialist teacher or EP?
- Would school staff with a level 7 SEN qualification who complete exam access arrangements be able to determine ‘significantly greater difficulties’? If yes, what will happen in primary schools as most ALNCOs in primary schools do not have the specific Level 7 SEN qualification and there is no mandatory SEN qualification/training planned.
- Will assessments be specified for consistency?
- Do pupils need to have a significant difficulty in ALL areas or in specific areas to be considered as having an ALN?
- How long do pupils need to demonstrate that they have a ‘significantly greater difficulty’?
- The term ‘majority’ also needs clarification as it is currently open to challenge; ‘Significantly greater difficulties in learning than the *majority* of others the same age’. The term ‘majority’ will differ depending on schools, clusters, catchments etc. Cohorts vary in ability.

It is not specific enough with categories – what is the code classifying as a hearing impairment.

What does 'have a significant effect on their everyday lives' actually mean?

Question 13 – Does Chapter 7 of the draft ALN Code provide a clear and comprehensive explanation of the evidence on which decisions about ALN and ALP should be based, the sources from which this evidence might be collated, and the way in which it should be considered?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Similar to the responses above in question 12 there needs to be clarification on

- Timescales- how long do the pupils need to display these difficulties?
- The difficulties outlined in 7.34 are often co-occurring and they are related to a number of other circumstances that are not always as a result of a learning difficulty. **Who** will then determine/ diagnose whether these pupils have significantly greater difficulties: e.g. CAMHS, EPS, specialist teachers, ALNCo?

12 week time scale is a huge responsibility and heavy role for the ALNCo.

Chapters 8 to 12 – Duties on schools, FEIs and local authorities

Early Years ALN Lead Officer

Question 14 – Is the guidance on the role, experience and expertise of the Early Years ALNLO set out in paragraphs 8.40 - 8.47 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have the appropriate experience and expertise to meet the expectations of the role)?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Educational Psychologists (Early Years) from Bridgend have contributed to the response provided by the ALN Transformation Early Years Working Group and reiterate the points submitted by the group and restated below:

- The wording in the code of practice should reflect that the role of the EY ALNLO will be to advise the Local Authority. The EY ALNLO needs to have confidence that the right decision is being made by the team below them. The objectives stated are Local Authority objectives but the ALNLO needs to have the expertise to fulfil them
- There will be Cross directorate implications regarding funding and different Authorities will want the ALNLO to be positioned within Childrens Services and some within Education services. The EY ALNLO role is strategic and needs to link with both education and children's services

- The teams the EY ALNLO manages can perform the functions stated in the code. The working group discussed whether the ALNLO would need to have specific experience or whether they manage a team of people who have experience. The code should state that the EY ALNLO has a responsibility to ensure that the functions are completed. The wording in the code could be changed to 'awareness of' and 'systems in place'
- The word 'should' indicates that the statement is desirable and not essential in terms of a job description. The group discussed whether Local Authorities should be allowed to have a say in what should take place within their organisations or whether the wording should be 'must'. A job description could include the wording 'working towards' or 'equivalent experience' of a masters
- The group agreed all 'shoulds' should remain as 'shoulds' in the experience, expertise and responsibilities sections
- The group discussed the differences in each Local Authority. Many Local Authorities do not have operational on the ground staff
- The EY ALNLO role as detailed in the Code is a large role and there is the possibility that this will be encompassed into someone's existing role. There could be a team of two (strategic and operational)
- The Code states that the EY ALNLO will need to answer the telephone to settings, provide advice which will require them to have specific ALN Early Years knowledge and experience. This could include signposting to
- The use of the word 'providing' is misleading and possibly should be changed to 'managing'
- In last section (promoting early identification and promotion) the wording needs to include 'ensuring there is collaboration between settings and schools to ensure they are engaging'
- There needs to be further clarity around the definition of the role regarding strategic and operational responsibilities. The responsibilities should be split into sections in the Code. This would make the role clearer
- There needs to be clarity on whether the EY ALNLO is doing or delegating. Section 8.74 states the strategic responsibilities so the rest are assumed as operational
- For capacity building, what is stated is not possible. The role is a midway between a training role and a strategic role. The role would feed up and feed down, it will not work as a on the ground role
- If the role is strategic (oversight of budgets etc.) then section 8.45 needs to be reworded to possibly state 'responsible for ensuring that...'
- The code needs to include that the EY ALNLO will be liaising with the DECLO – the three statutory roles need to liaise with each other
- The Code only mentions transition into school but it should mention a whole range of things which need to be collaborated on
- The Code does not state anything about mediation or dispute resolution training. The EY ALNLO will need to have an understanding of the rights of appeal which will form major part of the role
- The EY ALNLO will need the ability to liaise with all levels of the organisation and have the ability to negotiate

- The EY ALNLO should have experience of early years and ALN. They will also need knowledge or experience of working with children in schools because of transition. The EY ALNLO will possibly need to have challenging conversations with parents etc. They will need systems management, change management experience, experience of leading multi-agency discussions including health, third sector and the ability to inform future objectives of the council. The EY ALNLO will need to have experience in managing teams and performance management
- The EY ALNLO should ensure the early years providers have a contact line for guidance but would not be expected to man the line
- P5.14 – needs clarification on who is being talked about – ALNCOs, health professionals etc.
- The EY ALNLO will need sound knowledge of multi-agency working and aligning processes

Duties on schools, FEIs and local authorities

Question 15 – Is the structure and content of Chapters 8 to 12 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

- Whilst each chapter deals with a different category and is intended to enable schools, FEIs and LAs to identify quickly the specific duties to them. This is open to interpretation and the Code should provide flowcharts to ensure consistency with processes and timescales. There is also reference to the contents of communication for parents.
- It would be helpful to have a Code of Practice, to support the Code, to ensure consistency across Wales, which could include process maps, proforma letters and leaflets.

Question 16 – Are the timescales for decisions by schools, FEIs and local authorities on ALN and preparing an IDP as set out in Chapters 8-12 appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

- The 12 week process to determine if a child has ALN and to prepare an IDP will be difficult to meet. In this time advice has to be sought, decisions made, which is likely to be a panel process for many LAs. In the spirit of the act, there should be time to allow for disagreement resolution. This will be difficult to achieve with little time between the issue of a draft IDP for consideration and finalising within 12 weeks. Sufficient time for effective dispute resolution would reduce the number of appeals to

tribunal.

- Significant clarification is required in respect of referrals to the LA. It is considered that LAs will see a significant increase in number of referrals
- The 7 week timescale to reconsider a schools decision is based on the fact that schools would provide the LA with information obtained and therefore would not require a 12 period. However, if there is the need to obtain further information e.g. health, the code refers to the NHS having 6 weeks to respond to LA referrals. This timeframe leaves little time for dispute resolution, which is highly likely to be required if there have been school based issues that have necessitated the referral.
- There is no duty placed upon the NHS to respond to school requests for information this is likely to result in increased referrals to the LAs
- The duty placed on LAs that they must seek EP advice is considered untenable

Deciding whether it is 'necessary' for a local authority to prepare and maintain an IDP for a young person not at a maintained school or FEI - Proposed regulations to be made under Section 46 of the 2018 Act

Question 17 – Are the proposed requirements and guidance in paragraphs 12.22 – 12.51 of the draft ALN Code on when it is necessary for a local authority to maintain an IDP for a young person not at a school or FEI in Wales appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Concerns regarding the use of the term 'reasonable' (12.37).

Are the proposed requirements and guidance in paragraphs 12-22 to 12-51 of the draft code.....appropriate?

No because it does not make clear WHO these young people are/may be and WHERE they are-does it mean private schools, or NEETS , or over 19 and not in education but under 25? If they are NOT in education then why would they need an IDP???

Chapter 12 Specific Feedback

- The first part 12.1 indicates that ALN decisions are made not by the private schools but by the LA. *Does this mean that private schools don't have to do what maintained schools do!?*
- 12.3 Where a local authority has a duty to decide whether a young person has ALN, it **must**:

(a) designate a person to be responsible for coordinating the actions required

to make that decision and, if an IDP is subsequently required, to be

responsible for preparing it; *Who would do this-LA employee, school employee?*

Chapter 13 - Content of an IDP

Question 18 – Are the elements of the mandatory content of an IDP which are required by the ALN Code, appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The content is comprehensive and provides sufficient detail as to the requirements of an IDP.

Question 19 – Is the proposed mandatory standard form for an IDP (included at Annex A of the draft ALN Code) appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The proposed IDP is appropriate, however the gender categorisation in certain circumstances could cause discrepancies with the data if only male and female options are available. The code doesn't indicate that gender of choice can be stated.

The mandatory form has one column for a review/end date. It was considered that this should be separated. This would ensure that all ALPs made are subject to review to consider effectiveness and if provision has achieved its objectives.

Question 20 – Is the guidance in Chapter 13 of the draft ALN Code clear?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Each section of the form is coded. Useful guidance for each coded section except gender (see Q. 19 above).

Transport

Question 21 – Is the guidance on transport in paragraphs 13.74 - 13.76 of the draft ALN Code appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Transport can be a cause for parental anxiety. Including it in the IDP is useful.

Chapter 15 – Duties on health bodies and other relevant persons

Statutory requests by local authorities to relevant persons for information or other help - Proposed regulations to be made under Section 65(5) of the 2018 Act

Question 22 – Is the proposed timescale and exceptions for relevant persons to comply with a local authority request for information or other help (under section 65 of the 2018 Act) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

- There needs a statement somewhere in Chapter 15 about GDPR and reference to consent to share information
- Clarity is required about the use of the two sections, 65 and 20. It was understood that section 65 is the request for advice. It was considered that the LA, to comply with the timescales, would need to request under section 65 and refer under section 20 at the same time in order to obtain the necessary information to complete the IDP. This would provide the pupils medical needs together with intended provision to meet those needs.
- The 6 week compliance time in a 7 or 12 week timeframe is ambitious as Health cannot meet current timescales and very often do not provide by the 26 week deadline to issue a final statement
- Concern that the requirement to provide information does not apply if it is 'impractical for the relevant person to do so due to circumstances beyond its control'. What circumstance would apply? This needs clarity to avoid potential conflict.

ALP to be secured by NHS bodies - Proposed regulations to be made under Section 21(10) of the 2018 Act

Question 23 – Is the proposed period and exception within which an NHS body must inform others of the outcome of a referral to it (under section 20 of the 2018 Act) to identify whether there is a relevant treatment or service, appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

This needs to be added to the code – and needs to be more specific rather than what is currently there.

15.22 (bullet point 3) – where appropriate needs to be added to this. It is quite a sweeping statement as it would not always be appropriate

From an education point of view the capacity of staff from the NHS needs to be increased in order to fulfil this support. Historically we have had NHS representatives attending review meetings.

15.24 – There is no responsibility aligned to either health or education. However, it is more likely that education would pick up the short falls of failure to provide a service.

The Designated Education Clinical Lead Officer (“DECLO”)

Question 24 – Is the guidance on the role, experience and expertise of the DECLO set out in paragraphs 15.37 – 15.53 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have appropriate experience and expertise)?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

This is obviously a new role so difficult to say if the guidance is accurate.

Chapter 16 - Review and revision of IDPs

Question 25 – Is the content and structure of Chapter 16 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	✓	Not sure	<input type="checkbox"/>
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Supporting comments

The information regarding compliance with timescales in the Code would be better reiterated in 16.19 (preferably in flow diagram or chart form). Currently this vital information is referenced in a footnote, which is not sufficient considering the impact that this information will have on the review and revision of IDPs.

Question 26 – Is the proposed period and exception for completing reviews in response to a request from a child, their parent, a young person or an NHS body (set out in paragraph 16.18 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	✓	Not sure	<input type="checkbox"/>
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Supporting comments

16.18 - The 7 week timeframe in relation to the proposed period for the local authority to complete a review in response to a child, child’s parent or young person or an NHS body’s request, is contrary to the PCP approach as it does not specify, as in the case for schools and FEIs, that these should be 35 term time days.

Chapter 17 – Local authority reconsiderations and taking over responsibility for an IDP

Question 27 – Is the content and structure of Chapter 17 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Introduction is wordy and needed reading a few times for clarity (17.1 and 17.2).
Paragraphs 17.3 onwards are more concise so the process is easier to follow.

Would it be helpful to understand process for non-maintained schools? A paragraph for maintained and non-maintained as an introduction.

Some reference should be made to when a pupil can request revisions – ensuring the child’s voice and taking into consideration their age and capacity to contribute.

Question 28 – Is the proposed period and exception for a local authority reconsidering a school IDP (set out in paragraph 17.20 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

The 7 week period applies to both situations of making revisions to an IDP or not.

Should there be more time if revision/s are agreed as a revised plan would be required? (17.17). It is helpful that there is a caveat ‘a copy of revised IDP within 7 week period does not apply if it is impractical for the local authority to do so due to circumstances beyond its control’ (17.20).

It would be helpful to have some examples of the types of circumstances that would apply.

Chapter 18 - Meetings about ALN and IDPs

Question 29 – Are the principles and the guidance provided in Chapter 18 of the draft ALN Code on meetings about ALN and IDPs appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

- 18.8 - There are no timeframes set out in relation to reviewing an IDP e.g. it states that invitations to professionals should be in writing and be made “as soon as possible”. This could result in extremely late submissions to the review and the possibility that they could even be overlooked

- 18.12 – This appears to indicate that there is an option as to when and how professionals can supply written advice for the review meeting – “Where professionals have supplied advice in advance of the meeting....”. In the current Code of Practice, the paperwork for an annual review should be received by the school 2 weeks prior to the review date which provides sufficient time for the information to be circulated to all parties. In order to ensure that all attendees including the CYP, can be well informed, prepared and as engaged as possible in the process, having prior sight of the documents would seem vital. Particularly as 18.16 stresses the importance of the child, child’s parent or the young person participating as fully.
- 18.23 – Here, it states that the school, FEI or local authority should indicate if at the review there will be a focus upon transition. However, there is no guidance in this chapter regarding specific times when this is crucial. For example, the current Code of Practice is clear in stating that in the year 5 review, transition to key stage 3 must be included.
- 18.24 – (See note on 18.8 above) – before a review meeting a report should be given to the child, child’s parent or young person on their progress. Again, there is a lack of timeframes as to when this should be given. It is unlikely that receiving this information a few minutes prior to the review will be considered as sufficient. Also, it seems that only the school report should be provided. It would be preferable to include all of the advices received

Chapter 19 – Planning for and supporting transition

Question 30 – Is the guidance in Chapter 19 of the draft ALN Code on supporting children and young people to make effective transitions appropriate?

Yes	✓	No	☐	Not sure	☐
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Supporting comments

It is all very well having a guidance for successful transition but the services need to be available and funded to support this. i.e. CHAMS, Social Workers etc.
Detailed guidance
Who is going to provide transition visits/support in school holidays when teachers, school based and support staff are on leave?

Chapter 20 - Transferring an IDP

Question 31 – Is the content and structure of Chapter 20 of the draft ALN Code clear?

Yes	✓	No	☐	Not sure	☐
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Supporting comments

No comment

Transfers of IDPs - Proposed regulations to be made under Section 36(3) of the 2018 Act and Section 37 of the 2018 Act

Question 32 – Are the requirements that are intended to be included in regulations in relation to requests to transfer an IDP to an FEI (as described in paragraphs 20.12 - 20.17 of the draft ALN Code) appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

No comment

Question 33 – Are the arrangements that are intended to be included in regulations in relation to all other transfers (as described in paragraphs 20.18 – 20.21 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	✓
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Supporting comments

Due regard to regulations around PRU Management Committee rather than LA (Qn 6) as some PRUs dual register with schools.

Chapter 21 - Ceasing to maintain an IDP

Question 34 – Is the content and structure of Chapter 21 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	✓
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Supporting comments

21.20 has implications for training and capacity of school staff.

21.11 has significant staffing implications for LA officers including capacity and timescales

Question 35 – Is the period of time for making a reconsideration request (described at 21.18 of the draft ALN Code), appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	✓
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Supporting comments

21.22/21.23 4 weeks is too short a timescale for the LA to respond and reconsider parental requests particularly when EPs should be consulted by the school.

Capacity issues for LA officers.

Chapter 22 – Children and young people subject to detention orders

Question 36 – Is the content and structure of Chapter 22 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Given the complexity and nature of the content discussed within this chapter the information has been conveyed as clearly as possible. Reference to specific sections within the Mental Health Act 1983 and ALN Code supported understanding and clarity.

Question 37 – Are the proposals for the regulations in relation to deciding whether it will be necessary to maintain an IDP for a detained child or young person upon their release appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

It is clear that a detained person will need an IDP on release so that a transition plan can be clearly identified. The draft IDP must also be discussed with the detained person and parent. On release, if the person is being looked after by another Authority, the IDP must be transferred to this Authority. Moreover, if the person is a young person, they may not consent to the IDP being maintained

Question 38 – Are the proposals for the regulations in relation to children or young people who are subject to a detention order and detained in hospital under Part 3 of the Mental Health Act 1983 (as described in paragraphs 22.45 – 22.74 of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

If an IDP was not being maintained before detention in hospital, the Authority must decide whether or not the child or young person has ALN. However, if the young person being detained does not consent, the IDP cannot be prepared/maintained. If an IDP is developed, a copy must be given to the parent or the young person. Where the local authority has prepared an IDP, it must maintain the IDP and secure the ALP described in it. Furthermore, if a child or young person had an IDP prior to being detained, the relevant LA must maintain the IDP.

Question 39 – Are the timescale requirements to act “promptly” in relation to decisions about ALN and preparing IDPs for children and young people subject to detention orders

(as set out in Chapter 22) appropriate, rather than also having a requirement to comply within a fixed period subject to an exception or exceptions?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Promptly is an ambiguous comment and can be interpreted differently by different settings, professionals, LA's.

Chapter 23 - Children and young people in specific circumstances

Question 40 – Is the guidance in Chapter 23 of the draft ALN Code on children and young people in specific circumstances appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

There are a number of ambiguities in relation to the transfer of IDP should a person become EOTAS but still remain as a registered pupil in a LA School.

The school can request for the IDP to be transferred to the LA but the timescales for this are not indicated. There is clarity in relation to EOTAS pupils not attending a PRU as the responsibility of decisions around ALN (unless an exception applies) must lie with the local authority.

Chapter 24 - Role of the Additional Learning Needs Co-ordinator (ALNCo)

Question 41 – Is the information set out in Chapter 24 of the draft ALN Code about the role and responsibilities of the ALNCo appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Clear expectation of what is and is not expected of the ALNCo are set out in this chapter. The role and responsibilities can be completed effectively with the proviso that adequate mandatory non-contact time is allocated.

Chapter 25 - Avoiding and resolving disagreements

Question 42 – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

25.12 – There will limited staff training and it would be very difficult for the LA to ensure that school staff remain impartial as they may be integral to the process

25.15 – Very difficult in light of funding cuts that are impacting schools directly and the LA

25.19 - Difficult when there are differences of opinion/breakdown of trust and see first point about impartiality (4th bullet point).

25.34 – There would be capacity issues if the independent service is required in all or most cases and to guarantee the independent person has no prior involvement with the CYP or the family.

25.44 - Seems unreasonable that there no expectation for parents/YP to access dispute resolution before appealing to Tribunal.

Question 43 – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

This question is exactly the same as Question 42. However, in response to Question 43 in the consultation document about independent advocacy services, the only comment is in relation to the capacity of an independent advocacy service given that all or most may choose to access it.

Chapter 26 - Appeals and applications to the Tribunal

Question 44 – Is the information about appeals and the appeals process set out in Chapter 26 of the draft ALN Code appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

- 26.5 It does not state that there should be a graduated response and that the parent or CYP should take advantage of disagreement resolution, rather than immediately instigating appeal
- 26.6 a) Has it been identified that the local authority has to provide/fund the ALP for a detained person during the period of detention?
b) There is lack of clarity in the wording; “A detained person or the parent of a

detained person who is a child” – is the “detained person” a “detained young person”? Otherwise the inference is that this is an adult

- 26.8 There is no reference in the decisions the tribunal can make regarding ALP as this is a matter about which an appeal can be made (26.5). There is a lack of clarity in what constitutes a school IDP and what distinguishes it from an IDP held by the local authority. Therefore with regards to ALP, what guidance is there around the decisions the tribunal make about ALP being provided by a school versus the local authority. Currently this is explicit by the very nature that a statement is in place
- 26.9 (point 3) This is unclear as to how this applies to LAC pupils and whether the home authority prepares the IDP or if this obligation applies to the local authority in which they are detained under the “Belonging Rule”
- 26.15 The response time of 4 weeks within which the local authority must submit their case statement in response to the appeal is wholly insufficient and should align with the current timeframe which is 30 working days (6 weeks). But also 4 weeks is unclear as to whether this refers to 20 working days
- 26.16 a) all the timeframes in relation to the local authority are contrary to the PCP approach as they do not specify term time days
b) No exceptions are stated within the timeframes e.g. the CYP is on holiday or hospitalised
- 26.17 As above
- 26.18 It states 14 days – are these working days?
- 26.19 This is additional bureaucracy and clear exceptions should be explicitly stated in the Code
- The Code has expanded the matters that can be referred and together with the extended age range will lead to an increased number of tribunals.
- The reduced time to prepare case statements and how effective disagreement resolution can take place within the process is ambiguous, particularly with LAs anticipating an increased workload.
- The flow chart provided in the current draft is inadequate and requires comprehensive updating.
- The development of the Tribunal dealing with paper appeals needs clarification and inclusion in a flowchart.

Chapter 27 - Case friends for children who lack capacity

Question 45 – Is the information about case friends, including the duties on the Tribunal to appoint and remove case friends, clearly explained in the Chapter 27 of the draft ALN Code?

Yes	<input type="checkbox"/>	No	✓	Not sure	<input type="checkbox"/>
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Supporting comments

- There needs to be greater clarity as to the difference between a case friend and advocate.

- Clarification is needed about whether a young person has capacity and what this means in terms of decision making.
- Greater clarity as to why a case friend can't be appointed if a parent is making an appeal. What if parents lack capacity?
- Clarity is needed with regards the needs of children who are looked after or detained as to whether they will have access to a case friend.
- Clarification is required as to whether a young person may disagree with their parents and request a case friend.
- Further clarity in respect of the measure used and the supporting information that will be required to determine if a child lacks capacity

Any other comments

Question 46 – Please provide any other comments that you would like to make on the draft ALN Code. Where your comments relate to a specific chapter or paragraph within the draft ALN Code, please indicate this in your response.

+ Define the qualification that is required for specialist teachers for HI, VI and MSI – this could be done in the glossary – stating that this specialist teacher needs to have a mandatory qualification in sensory impairment (HI, VI or MSI)

+ Not an easily accessible document. Still open to interpretation. It needs to be summarised into a smaller document especially when it comes to providing information to parents and those not so familiar with terminology and processes involved

Part 2 of the consultation: Draft Education Tribunal for Wales regulations

Question 47 – Overall, do the draft Education Tribunal regulations provide clear processes and procedures relating to appeals and claims to the Education Tribunal?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

No comment

Question 48 – Overall, will the processes and procedures outlined in the draft Education Tribunal regulations enable the Education Tribunal to deal with cases fairly and justly?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

It remains in favour of parents and not the LA, therefore is not going to be less adversarial. It needs to be unbiased.

Question 49 – Is the proposed case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

No comment

Question 50 – Are the proposed timescales for each party in the case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) reasonable?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

No comment

Question 51 – Is the 6 week timescale within which NHS bodies must report to the Education Tribunal in response to a recommendation (regulation 65 of the draft Education Tribunal regulations) appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

This is a positive move

Question 52 – Are the timescales relating to compliance with Education Tribunal orders appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

No comments

Question 53 – Is the approach to extensions to timescales (regulation 66 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	✓
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Supporting comments

The timescale is too tight for the LA to prepare documentation.
Yes, in the past a Tribunal will rarely grant an extension from a request from the LA but nearly always grant an extension from parents.

Question 54 – Are the proposed regulations relating to case friends (draft Education Tribunal regulations 61 to 64) appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

No comment

Part 3 of the consultation: Draft ALNCo regulations

Question 55 – Are the prescribed qualifications to be an ALNCo set out in the draft ALNCo regulations appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Qualifications are appropriate, however a commitment to complete additional ALN CPD should be essential. All new to role ALNCoS should be required to complete training such as an online CPD programme leading to a recognised award/qualification as has been a requirement in England since 2008. Existing ALNCoS would also benefit from officially recognised opportunities for support, for example, via online e-learning modules or professional learning communities. The current induction period referred to on page 265, footnote 17 does not appear to be ALN specific.

Question 56 – Do you agree with the tasks that ALNCoS must carry out or arrange to carry out as set out in the draft ALNCo regulations?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

All tasks are clearly set out and are appropriate to the role of an ALNCo, however it is unrealistic to expect ALNCoS to complete them in a timely manner if sufficient mandatory non-contact time is not allocated.

Part 4 of the consultation: Looked after children

(a) Proposed regulations to be made

Question 57 – Do you agree that the Looked after Children in Education (LACE) Co-ordinator should be a statutory role?

Yes	<input type="checkbox"/>	No	✓	Not sure	<input type="checkbox"/>
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Supporting comments

The LACE role was always a statutory role and needs to be reinstated as one again – I believe it was removed at some point unintentionally when recent legislation was passed. *I think it would be wrong to alter the current idea that the ALN provision should be a universal system and schools support all their pupils equally but with LAC having the PEP and LAC reviews and an IRO as an additional safety net tier to support children who may be more mobile and therefore can slip through the net. Suggesting in any way that the LA and LACE should be responsible for LAC children's ALN and IDPs will make it hard to ask schools to be responsible and will potentially make our most vulnerable children subject to a lesser level of IDP provision.*

LACE officers are often not teachers and I don't know of any that are Educational psychologists and few will have been ALNCOs so to pass this on to LACE coordinators to be responsible for will:

- 1. vastly increase their workload*
- 2. lead to less qualified people making ALN decisions for LAC*
- 3. those people will know and see the child less well and less often than even in cases where the child is new to the ALNCO of the school.*

In some LAs the PEPS are done by children's services and in some by education – Welsh Gov have not been able to agree an all Wales PEP format despite there being pretty much universal demand for one unified form.

LAC children move frequently and so if the LAC coordinator were to be required to coordinate and manage their IDP as well as a PEP this would mean both educational expertise that would span elements of an ALNCO and EP role but also would mean linking in with out of county school changes frequently. I would be concerned that by making LAC children have a different system and taking responsibility away from schools that this would lead to more delay in children getting correct support – currently the LAC role is more about join up and ensuring that the schools ensure that all the LAC children receive what all other children do despite moving frequently.

Not all LAs have virtual schools and so the LAC role would not have the ease of access to information that might be envisaged they won't know or see the child whereas schools staff will. What would a reasonable case load be ?

The mechanism of the PEP is the existing and suitable one to offer an extra tier of focus and protection to all LAC children to ensure that the normal universal mechanism of support are

in place, this doesn't need for any particularly educational qualification just the capacity to advocate and coordinate in the child's best interests.

PEP is for all LAC

IDP is for ALN

The two are discreet and should not be combined.

Not all LAC have ALN

ALN with an IDP may start off not as LAC and may later become LAC and then may cease to be LAC

You just need the IDP form which has a simple question is the child LAC – if so attached PEP

And a simple question on the PEP – does the child have an IDP – if so attach the IDP

The key guidance below also sets out clearly what the LACE role is that VG team carry out for the LA. The role is variable across the LAs in Wales as for instance in some LAs it is via children's service not Education that PEPs are sent out. The Children's services remit of the IRO independent reviewing officers also encompasses us so for instance we would be challenged by them if we did not attend LAC reviews when needed.

The Welsh Government guide for all school designated LAC leads:

<http://learning.gov.wales/resources/browse-all/making-a-difference-a-guide-for-the-designated-person-for-looked-after-children-in-schools/?lang=en>

(b) Chapter 14 of the draft ALN Code – Content of an IDP for a looked after child

Question 58 – Do you agree that there should be a separate standard form for looked after children and is the proposed standard form, together with the guidance and requirements related to it, appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

- Looked after children should have an IDP the same as that of other children with ALN.
- A One Page Profile should be provided for children looked after.
- If IDPs for children looked after are maintained by the LA, an unexpected consequence may be that schools take less responsibility for LAC children and there will be less focus. On a similar note, if the IDP is maintained by the LA for all LAC children, irrespective of the complexity of ALN, how can this be a flexible working document that the school take ownership of?
- As above, by having a different IDP for looked after children might encourage schools to think that they are less responsible for maintaining the IDP.
- Who is responsible for the IDP, the IRO or LACE Co-ordinator?

- Should the IDP review feeds into the PEP/care plan review?

(c) Proposed revisions to the Part 6 Code

Question 59 – Do the draft revisions to the Part 6 Code provide a clear explanation of the duties on local authorities in relation to their social services functions for looked after children with ALN and what these duties mean in practice?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Yes it does provide an explanation.

Page 23- change the following: “The IDP is a document that contains a description of the child’s ALN and a description of the additional learning provision which the person’s learning difficulty or disability ~~calls for~~.requires.”

- Page 23- Change “information about academic progress, achievements and any **ALN** special educational needs including details of any ~~statement~~ **ALP**”
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-
- Page 50 “Children with ALN frequently involve extra expense and require special equipment, and it should be made clear to carers of children with ALN how this additional expense is going to be covered and who will provide and maintain any equipment.”
-
- We do not feel that the word frequently should be used here now that 22% of children will be identified with an ALN (and therefore have an IDP). This statement above relates to those 2.7% who have statements. The term should now be ‘may’ rather than frequently.

Question 60 – Overall, do you agree with the approach taken in the draft revised Part 6 Code to explaining the legislative changes, including the integration of personal education plans (PEPs) and IDPs and the mandatory content of PEPs? Are the requirements and expectations and what these mean in practice clearly explained?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

- Yes overall we agree.
- It is not clear when IDP/PEP would be separate and when not separate.

Question 61 – Do the changes that have been made to the Part 6 code clearly explain the role of the LACE Co-ordinator in overseeing the ALN arrangements for looked after children and what this means in practice?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The LACE role was always a statutory role and needs to be reinstated as one again – I believe it was removed at some point unintentionally when recent legislation was passed. *I think it would be wrong to alter the current idea that the ALN provision should be a universal system and schools support all their pupils equally but with LAC having the PEP and LAC reviews and an IRO as an additional safety net tier to support children who may be more mobile and therefore can slip through the net. Suggesting in any way that the LA and LACE should be responsible for LAC children’s ALN and IDPs will make it hard to ask schools to be responsible and will potentially make our most vulnerable children subject to a lesser level of IDP provision.*

LACE officers are often not teachers and I don’t know of any that are Educational psychologists and few will have been ALNCoS so to pass this on to LACE coordinators to be responsible for will:

- 1. vastly increase their workload*
- 2. lead to less qualified people making ALN decisions for LAC*
- 3. those people will know and see the child less well and less often than even in cases where the child is new to the ALNCO of the school.*

In some LAs the PEPS are done by children’s services and in some by education – Welsh Gov have not been able to agree an all Wales PEP format despite there being pretty much universal demand for one unified form.

LAC children move frequently and so if the LAC coordinator were to be required to coordinate and manage their IDP as well as a PEP this would mean both educational expertise that would span elements of an ALNCo and EP role but also would mean linking in with out of county school changes frequently. I would be concerned that by making LAC children have a different system and taking responsibility away from schools that this would lead to more delay in children getting correct support – currently the LAC role is more about join up and ensuring that the schools ensure that all the LAC children receive what all other children do despite moving frequently.

Not all LAs have virtual schools and so the LAC role would not have the ease of access to information that might be envisaged they won’t know or see the child whereas schools staff will. What would a reasonable case load be ?

The mechanism of the PEP is the existing and suitable one to offer an extra tier of focus and protection to all LAC children to ensure that the normal universal mechanism of support are in place, this doesn’t need for any particularly educational qualification just the capacity to advocate and coordinate in the child’s best interests.

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You just need the IDP form which has a simple question is the child LAC – if so attached PEP

And a simple question on the PEP – does the child have an IDP – if so attach the IDP

The key guidance below also sets out clearly what the LACE role is that VG team carry out for the LA. The role is variable across the LAs in Wales as for instance in some LAs it is via children's service not Education that PEPs are sent out. The Children's services remit of the IRO independent reviewing officers also encompasses us so for instance we would be challenged by them if we did not attend LAC reviews when needed.

The Welsh Government guide for all school designated LAC leads:

<http://learning.gov.wales/resources/browse-all/making-a-difference-a-guide-for-the-designated-person-for-looked-after-children-in-schools/?lang=en>

Part 5 of the consultation: Impact of proposals

Question 62 – What impacts do you think there will be as a result of the proposed regulations?

Capacity to effectively complete the role would depend upon the mandatory non-contact time allocated to ALNCos.

Regarding Part 6 Code impact (LAC)

There are no comments on the preamble.

General comments:

- Timeframes (1:36) and exceptions. There are concerns that if there are exceptions to the timeframe, but the IDP is completed with information missing from a body that has not provided it within the timeframe, that this would not provide the fullest picture of a LAC child.
- Regarding the LACE Co-ordinator. What does 'coordinating the IDP' mean in practice?
- Impact assessment LACE Co-ordinator: It is a good idea to have a mandatory LACE Co-ordinator. A person with the most relevant skills would need to be identified. Should this person be a qualified teacher, what skill set is needed? The role would be far greater than it is now as the LACE Co-ordinator will need to co-ordinate the IDPs for far more children than those previously identified (those needing statements). What are the training implications?
- The LACE Co-ordinator should link with the designated LACE teacher (co-ordinator) in schools. There is no mention of this role in the CoP. Who is the identified person to liaise with in school?
- Delegation of funding to PRU's management board (23.12): While this is a good idea, it does not account for the fact some PRUs work on the basis of dual registration. The CoP suggests that all dual registered IDPs becomes local authority IDP, presumably for all children, including LAC. It is not clear whether children looked after by the LA should have a local authority IDP if they attend a PRU where the functions are delegated to the management board. Do LAC children become exceptional cases where the IDP is not delegated to the PRU management board? This needs to be specified.
- If IDPs for children looked after are maintained by the LA, an unexpected consequence may be that schools take less responsibility for LAC children and there will be less focus. On a similar note, if the IDP is maintained by the LA for all LAC children, irrespective of the complexity of ALN, how can this be a flexible working document that the school take ownership of?
- EPs were unsure whether the IDP should be incorporated within the PEP or the other

way around?

- See page 18 (CoP) (point 80). The list of those who are provided a copy of the Part 6 Care and Support Plan must include the LACE Co-ordinator as the PEP incorporates the IDP.
- What is the role of a Case Friend for children looked after?
- We are unsure whether the LA only maintains an IDP for a child looked after or whether they also prepare the IDP?

Question 63 – What impact do you think the proposals in the draft ALN Code and proposed regulations would have on the Welsh language?

The following should be considered:

- The ability for the authority to provide staff that are specialists in their field and are also able to communicate appropriately through the medium of Welsh will be a challenge when conducting formal meeting. If parents and schools have clearly stated their language preference in line with the Welsh Language Standards this would need to be adhered to.
- There will be a cost implication in the translation of IDPs.
- Currently there are insufficient formal assessments available through the medium of Welsh to appropriately assess ALN needs.

Question 64 – How do you think the proposals in the draft ALN Code and proposed regulations could be formulated or changed so as to have:

- i) positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?;
- ii) no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?

A positive effect could be the opportunity within the Code to encourage collaborative working, this collaboration between Welsh-medium schools and members of the local authorities could be held annually on a similar basis to the WJEC ALN conferences.

Question 65 – We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.