

**Respondent Details**

Information	
<b>Name</b>	Gavin Metheringham
<b>Organisation (if applicable)</b>	Blaenau Gwent Education Directorate

**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?

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

‘Must’ is clear. ‘Should’ and ‘should not’ are open to legal interpretation and a number of ‘should’s should be ‘must’s to ensure adherence.  
 ‘May’ is not specific enough.  
 It is welcome that the Code is mandatory but it would be helpful for clarity as to what is actually mandatory in the code and what is best practice.

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?

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

Firstly we welcome timescales and the moving away from more lengthy timescales. It is in everyone’s interest that things are done promptly.  
 However the following is important to get right and clarity is needed in the Code. When and how does a timescale start? There is concern that the relaxing of the bureaucratic process has also made this woolly. Does an informal conversation trigger a timescale for example? If there is no formality in this process it will be open to

misunderstanding and potential confusion.

In terms of the timescales, seven weeks maybe too short for schools to gather other agency (eg Health) information, which is particularly relevant when the primary area of concern is a health need.

**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	✓	Not sure	<input type="checkbox"/>
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**Supporting comments**

The idea that a half finished document can be issued as a legal IDP is dangerous from a legal perspective.  
Can you have a 'must' followed by an exception? Surely this becomes a 'should'.  
Further detail is required regarding what is 'circumstances beyond the responsible bodies control'. Such as what if a class teacher or ALNCo is off work or has left, is that out of the control of the responsible body? Is that therefore an exception?  
This section really isn't specific enough and doesn't take into account school based realities.

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**

The Code is cumbersome, overly wordy and inconsistent. Sometimes there is not enough detail, sometimes too much.  
Whilst the separation of the chapters and the repetition could be seen as easy to follow the overall structure seems less user friendly than the current Code. In addition there is a real inconsistency in the tone of chapters (from different writers). Some are very clear, others are almost impenetrable.  
Transformation requires buy in and understanding and ease of access and use. It is not an easy thing to achieve but sections need to be re-written in simpler language.

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

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

An important example of the need to gauge content appropriately in in 7.34. You cannot name certain difficulties and not others. The list is not exhaustive. Unless you can have an exhaustive list you should have no list. Our preference would be no list. The definition is clear and processes and criteria will identify need.

There are sections that are simply not clear such as 9.11.

We would suggest reviewing the Code from a Plain English viewpoint.

It is not a workable document for officers, families, children/YP or schools/FEI/Health.

The tone is sometimes overly legalistic.

## 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 – this supports a consistent approach although if PRU management committees have the delegated function they should also maintain the IDP rather than all PRU IDPs being LA IDPs.

## 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 clarity on the focus provided principles. Particularly the focus on inclusive education in 2.20-2.23. In general key principles seem appropriate but there is a lack of emphasis on early intervention with emerging needs. This is where it would be beneficial to reference 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	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

Yes, in agreement that the explanations are appropriate.

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

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

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

It is hard to understand the need for this chapter as all the duties are already in statute. This chapter could therefore be significantly summarised to ensure it is references, or it could be removed.

If it does remain it would be helpful to ensure clarity of 'due regard'.

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

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

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

Yes, in agreement with this with one caveat that it would be good to see an emphasis on regional provision/working/collaboration.

## Chapter 6 - Advice and information

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

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

Yes, and clearly a very important area to get right. The focus on improved LA information

and training etc is welcome. Consistency across the regions and the whole of Wales is important.

There is concern regarding the lack of a requirement to provide independent parental support.

## 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 of 'significant' needs clarifying to avoid needless contestation. It is open to interpretation and needs to be quantifiable. Equally the word 'generally' also needs clarification.

Clarity is also needed around the variety of data and information that could be used to 'prove' significant difference.

The use of a check list is fraught with difficulty. It doesn't offer any specificity of needs and is open to interpretation by anyone which will lead to conflict. This is a checklist which could be treated like a tick list.

The current link in some areas between funding and ALN pupil numbers needs to be broken. LAs would benefit from guidance regarding consistency of funding models.

The flowchart is helpful.

School improvement consortia need to be explicitly not implicitly referenced in the Code, as having a key role to play.

Reference to MAT and EAL/WAL is very helpful.

**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

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Whilst there is some clear and comprehensive information included, there is information and wording that is open to interpretation.

For example:

Some lack of clarity e.g. in 7.57, use of the word 'body' – where does this come from?

7.61 EP "should" consult other psychologists – so would have to justify not doing so.

7.64 would benefit from clarity around meaning of 'specialist services'.

7.69 Can we define 'could'? Or have 'must', 'should' or – maybe best – 'may'.

These need to be clarified and need to be clear enough so as to ensure they are applied consistently across Wales.

The checklist of possible needs is prefaced with 'such as', indicating that it is not meant to be exhaustive, in which case it would be better to not include the list.

It would also be helpful as an LA to be able to put ALP in place to reduce the escalation to a future ALN e.g. not every Flying Start child would have ALN / need an IDP but Flying Start and Families First are named as ALP for under 3s and would be classed as early intervention and prevention but for children with *emerging needs* and not necessarily ALN.

## 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	□	Not sure	□
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### **Supporting comments**

There is so much in this role. It cannot be done by one person if they have other duties and if it is to be done full time then there are budget implications which WG have stated there aren't.

It is very clear there is value in the role and a current need for such development, particularly with regards transition but crucial that the role is undertaken by someone strategic and suitably qualified. Equally there are clear operational responsibilities to the role and therefore recruitment could be an issue. In all likelihood this is a split role for more than one person.

### 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?

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

Firstly on a procedural issue, this question is not well thought out. It neither relates to specifics or is manageable to respond to.

Again the chapter is too wordy (example 9:11) and too open to challenge regarding words such as ‘reasonable’, ‘low incidence’, ‘usually’. One area where improvements could be made is in the use of flowcharts. Used sparingly currently but the response by officers to these has been positive.

The issue of consent and the needs of the child should be paramount but careful liaison is required.

The use of an Educational Psychologist to determine ALN in 9:46 and following seems an inappropriate use of EP time given school involvement and analysis of need. Enough information in most cases should be available. And practically how would this work for EP Services where time allocation is used.

More broadly, the role of the EP and the carrying out of an ‘assessment’ does not appear to be well thought through. This limits EP time to do psychology. In addition the cuts in EP Services underlines the fragility of such a system.

Clarification is also needed regarding dual registration and clearer guidance is needed on notification of ALN need.

Chapter 9 states that it is the maintained school’s duty to decide about an IDP whereas Ch24 says it’s the ALNCo. Consistency would be beneficial.

**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?

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

Once more definitions need clarification. Definitions are too vague and open to interpretation, such as ‘circumstances beyond its control’.

Schools could interpret different from / additional to in different ways as well as querying between what is universal school provision and what requires ALP.

Consistency is required rather than each school/service determining the level of provision. Good practice should be ensured with a consistent approach. This should be written large in the minds of regional services particularly.

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

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

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

Yes

## 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 inclusion of the IPP is helpful. There is a need to ensure that the rationale for a PEP being required is pupil focused. It would be an appropriate time to consider whether for LAC pupils with an IDP two documents are required.  
The focus on intended outcomes is good.

**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**

No, the form is not appropriate. It is not parent/child/YP friendly, or Services friendly. It requires more structure and really isn't based on PCP principles. It has a very formal layout and is messy.  
It doesn't consider the views of the parents with regards ALN and ALP and doesn't celebrate what the child/YP can do/has done.  
The simplicity of the original IDP idea is lost. There is no space given for actions which means using the document for tracking and monitoring purposes is not possible.

No reflection of what is important to, important for.  
Whilst as a LA and a region we will look to shape the template, the current template undermines the culture that WG is trying to create.

**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**

Clear in general however, specifically:  
We do not agree that a pupil who becomes dual registered should automatically become the responsibility of the LA as a LA maintained IDP.

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 checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

Whilst it is important to capture relevant information in the IDP, the use of the word 'might' in 13:74 is a concern. This is open to interpretation and challenge and could have significant funding implications.

Allowing the potential for additional sections to be added to the IDP as a legal document could lead to conflict and legal challenge. The IDP must be clearly defined in terms of content.

## **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**

We are not confident that the timescales are manageable for relevant persons to comply.

Whilst Social Services are mentioned in the Code it would be beneficial for reference to be made more explicitly.

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 timescale seems reasonable as long as this related to actual information share rather than a holding letter approach.

Again, there is concern over wording. ‘Circumstances beyond their control’ is open to interpretation and therefore a decision / IDP could be held up due to waiting lists. It might be helpful to state that IDPs can be issued without certain information to avoid delay with the review process used to capture this at a later date when information is available. However, as stated earlier, issuing a half finished document has risks also.

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**

We welcome the role of the DECLO. It is important that the role is strategic and we welcome the ‘must’s.

However, whilst the role is strategic, this provides no operational link for schools to support the gathering of information and ensuring appropriate ALP is in place. It will therefore be important that all Health professionals have a greater understanding of the role and work of schools.

## Chapter 16 - Review and revision of IDPs

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

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

The chapter provides an explanation of the review and revision processes. It could be more clearly set out to improve clarity but we welcome the inclusion of a flowchart.

There remains concern regarding capacity of all agencies to attend meetings and whilst the reforms are welcome, capacity in Services has remained unchanged (or diminished) which will have an impact on engagement. This will be particularly impactful on those requiring more regular 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	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

The timescales are suitable to review and reissue an IDP. As always the question of the ability for external professionals to provide the necessary evidence could impact on the ability of the process to function most effectively.

## 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	✓
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### Supporting comments

It may have been better to have separated out roles of LA and schools as this is not always clear.

**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?

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

Agree.

## 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?

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

A good chapter that other sections of the Code could benefit from copying in tone and simplicity.  
 The PCP approach is central to these reforms, is in place in most schools and has proved itself to be a useful mechanism for ensuring the valuable input of child/YP and parents. It does require an additional time commitment (at least initially) which will impact on school staff (class teachers and ALNCos) and there are training implications that will need to 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?

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

In 19:1 it sets out the context for this chapter. It does not take account that a child's first setting may be a non-maintained setting. If the chapter is to truly reflect transition it needs to include this aspect also or provide another chapter/section to cover this.

Transition is a statutory process for schools. This chapter contains many 'should's but to ensure that ALN pupils have the appropriate transition needed there should be more 'must's in this chapter.

## 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

Agree – well structured.

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 over the definition, and challengeable nature of the word 'reasonable'.

**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

Agree.

## 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

Yes, particularly as it leans heavily on the ALN Act, although this might make the chapter slightly wordy.

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

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

Agree.

## 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?

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

It is clear however the document is repetitive and whilst it is good for there to be clarity in this area it has resulted in a Code significantly longer and harder to digest than the current Code.

**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?

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

Agree.

**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?

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

Agree.

**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?

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

Agree.

## 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?

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

Agree

## 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?

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

A mixed chapter. The role appears appropriate in terms of the content and the ‘musts’. However, it includes a significant amount of work without specifying the time allowance and the remuneration. The role is too large to do effectively without having appropriately allocated non-teaching time and therefore there is a need for a ‘must’ rather than a ‘should’ in terms of Heads providing time for the role.

SLT involvement needs to be a ‘must’ rather than ‘should’.

On-going professional development opportunities needed to support the change in role and the continued extension of needs met within mainstream schools. Cluster based support is important to ensure all ALNCoS feel supported.

The chapter would benefit from further development of the role of all school staff in the context of ‘traditional’ ALNCo work.

## 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

Parent partnership services have been omitted from this Code. Previously such services were key to resolving issues at an informal level thus reducing the need for formal disagreement. The age range for availability for Disagreement Resolution will have an extended reach for children, young people and their families will potentially expand from 14 years to 23 years (extra 9 years)

LAs can deliver 'in house' informal disagreement resolution but many families will feel that it is not to seek solution but a form of collusion between education providers and the LA. There will be both a resource and monetary cost implication for LA's due to the specific training, knowledge and experience required for a purposeful disagreement resolution to occur to provide 'in house' and independently .

'Policing' an independent Disagreement Resolution Service will be difficult for the LA.

Agree with the information being widely available and in different formats.

**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

In principal yes. Again there will be both a resource and monetary cost implication for LA's due to the specific training, knowledge and experience required for an appropriate advocate working with Children and Young people, particularly with regard to knowledge of ALN. It is not just about understanding the system, it is about being confident in being able to work with rights, roles, responsibilities and reality. It is about being needs led not wants led.

## 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

This is very similar to the current system. It is important to upskill school based staff in dispute resolution to reduce the cases which are referred to the Tribunal. Clarity of all systems and process will support consistency and clarity around the identification of ALN and implementation of ALP. In addition there should be mention of internal LA complaints procedures.

There absolutely needs to be reference made to the alternative Health process for dispute resolution, i.e. Putting Things Right.

## 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

Yes – pleased to see that Case Friends can only be appointed or removed by order of the tribunal.

## 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?

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

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

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

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

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

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

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

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

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

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

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

Yes but would prefer to see a 'within/maximum' period noted.
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**Question 54** – Are the proposed regulations relating to case friends (draft Education Tribunal regulations 61 to 64) appropriate?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

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

Yes, but clarification is needed as professionals have a certain level of unease, particularly with regards the availability of funding to support a changing role.

**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?

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

Yes, but as stated above there needs to be a clearer description and emphasis on the role of every teacher. The ALN Coordinator should co-ordinate. All teachers are teachers of ALN and therefore all teachers should be preparers of IDPs. This is not clear enough, or absent of contradiction enough, in the Code.  
Professional learning standards and time allocation should also be referenced here.

## **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?

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

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## (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?

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

An IDP for a child who is looked after should be exactly the same as an IDP for a child who is not looked after.

Section 1 and all subsections are as equally important for children looked after.

There may be a small amount of duplication in terms of the contact information (Section 1 of Annex A) for the child also being available in the PEP, however having two separate IDPs for LAC and non-LAC has potential to cause confusion not only for professionals but for the child/ young person themselves.

The one page profile is not contained in Annex B. This is as important for a child who is looked after as one who is not. One page profiles for children looked after are valuable resources particularly at the point of transition and/ or changes of school.

In general, the IDP is not PCP based and is not child/YP or family friendly. Significant work has gone into preparing the workforce to be person centred and the Annex B IDP does not provide the appropriate framework to reflect this approach.

## (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?

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

The duty to ensure that a child's ALN is considered and supported is clear throughout the document, however, there are aspects relating to practice which are unclear.

Paragraph 105 – refers to LA's not having to complete a separate PEP and an IDP (for children who have a PEP and an ALN and are of compulsory school age or below and are not a detained person) and instead that LAs in this case would complete a single document. At this time, there is no single document proposed for this purpose. This could be a

potential opportunity to develop a national PEP document.

It is problematic regarding LAC pupils with ALN and LA officers having to secure ALP identified as part of IDP, within areas that are unknown to LA officers. Monitoring of IDPs will cause workload pressures on communication, travelling etc. Pressure on education and social services.

**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**

The approach in Part 6 does explain the changes. The requirements and expectations in practice are less clear as Part 6 refers to the IDP being integrated into the PEP.

Para 37 for example, outlines the requirement for the preparation of a PEP which must include an IDP when the child has ALN

Para 227 specifically relates to the IDP being incorporated within the PEP

However, paragraph 110 outlines that the mandatory content of a PEP must be included as part of the mandatory standard form for an IDP.

**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**

The changes clearly identify that the LACE Coordinator has responsibility for overseeing these arrangements but there isn't clarification as to what this means in practice.

Part 6 does not include a specific section on the LACE Officer role. This should be included.

Para 102 – the LA LACE Coordinator will have a critical role in overseeing the preparation and implementation of PEPs – given that the IDP is to form part of the PEP, the implication is that the LACE coordinator will also fulfil this function for IDPs for children looked after. In

the ALN code it is clear that the LACE Coordinator will oversee the IDPs

There are also training implications for the LACE Coordinator to fulfil these ALN arrangements.

## **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?

Unclear at this 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 Code becoming mandatory will strengthen responsibilities of LAs.

**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?

There are too few skills presently in specialist responses to ALN within the Welsh first language population. No standardised assessments, lack of clear guidance. There is good practice available in EAL and WAL and it would be of benefit to learn from this. WG need to take a lead to make this happen.

**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	
<b>Name</b>	Denise Inger
<b>Organisation (if applicable)</b>	SNAP Cymru

**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**

**Is it clear?**

The definition is clear, but we have found that the way they are used throughout the document has been somewhat confusing in part. The explanation as to how they apply is not clear. The Draft Code reiterates the act in a repetitive, inaccessible and manner. The use of exception clauses is also confusing

The stated purpose of this code is about the exercise of functions under the Act, the Welsh Government has clearly stated that this is not a Code of Practice. Therefore, in order to achieve the stated aims this document must limit itself to Must and Should, Must NOT and SHOULD NOT. Therefore all MAY/MAY NOT paragraphs should properly reside in a practice guidance document.

**SHOULD/SHOULD NOT**

The question we pose here is:

- On what basis will the exceptional circumstance s be considered? There is no example here of what an exceptional circumstance would be
- How will the justifications/exceptional circumstances for departing from the measures be monitored?

It is in the areas of SHOULD under which conflict and referral to arbitration will be invoked

leading to a greater measure of challenge. The examples given immediately take the SHOULD to a high level of challenge

### **Are the terms helpful as used?**

Both the structure and content are not clear. The readings of this have caused confusion amongst high level groups with a good understanding of the Act.

For every MUST as we go through the document, the word has a substantial area of dis-application. The dis-application process **has no mechanism to be reported or audited**. The use of the word “unless”, could cause frustration and conflict as would the use of the wording “exceptional circumstances” which could be open to dispute.

With so many exceptions the ‘musts’ are effectively ‘shoulds’. The “should” and the “may” confuse people rather than clarify the statute in the act.

The requirement to constantly cross reference is confusing, time consuming and irritating.

### **SHOULD/SHOULD NOT**

The question we pose here is:

- On what basis will the exceptional circumstances be considered? There is no example here of what an exceptional circumstance would be
- How will the justifications/exceptional circumstances for departing from the measures be monitored?

It is in the areas of SHOULD under which conflict and referral to arbitration will be invoked leading to a greater measure of challenge. The examples given immediately take the SHOULD to a high level of challenge

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For every MUST as we go through the document, the word has a substantial area of dis-application. The dis-application process **has no mechanism to be reported or audited**. The use of the word “unless”, could cause frustration and conflict as would the use of the wording “exceptional circumstances” which could be open to dispute.

With so many exceptions the ‘musts’ may effectively become ‘shoulds’.

The “should” and the “may” confuse people rather than clarify the act.

## Glossary

**We understand there are strict guidelines on what can be included in the glossary, but are not sure what these are. We feel the following should be added to the glossary if possible:**

**Disagreement resolution:** e.g. Has the meaning in Ch 4 s.68 of the Act – a statutory responsibility on LA to make arrangements for the provision of independent disagreement resolution to provide a non -adversarial way of resolving disagreements between parents or young people and bodies responsible for providing education. This is available whether the child or young person has an IDP or not

**‘All reasonable steps’.** e.g. All reasonable steps is a high threshold. Taking all reasonable steps means doing everything they can to meet the child or young person’s ALN. It is a proactive duty that requires the appropriate authority to enquire and ensure that the EY’s Settings, school or college is actually making the ALP that children and young people require. The all reasonable steps duty can require schools or other settings to obtain specialist help, such as advisory support or educational psychologists.

## 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	✓	Not sure	
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### Supporting comments

- We agree with the principle of having timescales
- There is no definition of the start of the process of when an individual may bring a concern to the attention of the setting, school or FEI for them to consider ‘making a decision’, to ‘request a review’ or for a concern to be ‘brought to their attention’.
- In our experience the dialogue regarding parents and settings concerns regarding a child or young person (CYP) can continue for some time before the CYP is identified as having ALN. This is particularly the case when a CYP may have had support through differentiation and a gradual increase in support or whilst settings are waiting

to see the outcome of a particular school intervention. Deciding when a timeline starts can be difficult. Will parents'/YP's and others concerns be recorded with a starting date?

- There is no concept of a central register of the start of IDP processes that can be checked as there is with the current SEN system. There needs to be a means of recording initial concerns and request- these are often through informal meetings, parent's evenings phone calls etc.

### **Exceptions to timescales**

- **The repeated use of exceptions to timelines is highly concerning.**

For all stated timescales, taken from the Act, there are exceptions that will cause distress and confusion and distrust. i.e. 'circumstances beyond the responsible body's control' or 'impractical to do so'- etc

- From a family and CYP perspective the shorter timescales will give them a perception that things will indeed happen within more appropriate and prompt time period
- However our professional colleagues are highly concerned that they cannot meet these timescales and that many are unrealistic considering the capacity pressures they experience
- Different professional groups work under their own definition of timescales, priorities, and KPIs  
E.g. in health a 6 week response time is classed as an 'emergency response' and their idea of a response to a non-emergency will be to provide an acknowledgement and basic generic advice followed by an agreement to assess at a later date. We understand there is a 14 week referral to treatment target in the NHS. However many CYP are waiting considerably longer for appointments and assessments. Whilst there is a recommendation to finalise documents without outstanding advice, this will impact on appeal and 'stays'
- The example of an exception - of a child not being available is a highly irregular occurrence. The unavailability of professionals *is a far more common reason for* timescales slipping- and a major reason for parents having to chase decisions - this is not a practice guide. Therefore should examples be given? If they are to occur they should cover the range of the most common examples.
- The IDP timescales allow that it may be produced without reports that are needed. This leaves parents and young people adrift and without the means of redress if these reports are a long time in coming. It is not clear at what point the family should

ask for LA to reconsider etc. there is no concept of draft and then a finalised IDP

### **Promptly**

- The use of 'promptly' is that it must happen when it can happen. This is not an area that will give confidence  
For example the child might need an educational report and the person is not in post. If the LA takes a months to fill that post will that be available to challenge? Or when children are out of school and awaiting placements, or when waiting months to see an EP

### **Provision to consider a plan or a decision**

The timescales don't make provision for:

- A period of consideration **of a draft IDP** so that a parent can consider whether the IDP meets the needs of the CYP. This is recommended for Young people. Despite the collaborative nature of the IDP process, many parents and YP often want to consider the plan with other trusted sources of advice to consider its appropriateness.
- That the IDP template will be a difficult read for some parents and young people.
- That there is a duty to keep the Parent and Young Person involved, however in some instances the onus appears to be to keep them informed with no reference to a duty at that point to involve them.

### **List of all Timescales to be added in the introduction**

Whilst we take the point that to include templates for all notifications would increase the size of the code, we would urge you to add an 'at a glance list of all timescales'. e.g.

- LA to prepare IDP - 7 weeks
- FIE to prepare IDP - 35 term time days
- LA to Revise an IDP - 7 weeks
- FEI to revise and IDP - 35 terms time days
- Continue to maintain- immediate
- LA duty to assess ALN - 12 weeks
- Where ALN admitted – 12 weeks inclusive of above
- Schools assessment – 35 school days
- LA reconsideration of school decision -7 weeks
- Cease to maintain a statement- 4 weeks reconsideration following notification of intention

Also where there are charts – please always add timescales – this supports everyone concerned

A central flow chart with overview of whole process would be useful.

## Notifications

**1.42** In relation to young people, the duties and requirements in the Act and Code do not extend to providing notifications to parents.

- **Parents will not be provided with notifications post 16**  
Parents have made SNAP Cymru aware that guidance on how to involve a parental or other advocate needs to be provided to FEI
- Whilst notifications are referred to at each relevant section, **for clarity and ease of use, a list of all points at which a notification letter must be provided would be really useful.**
- **‘Notifications at a glance’ list-**  
i.e.
  - (a) section (?) (duty to decide);
  - (b) section (?) ( Reconsideration );
  - (d) section (?) (review);
  - (e) section (?) (Cease to maintain consideration);
  - (f) section (?) (Cease to maintain and right of reconsideration); etc.....

Etc.....

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

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

- **The timescales are based within the Act and every exception undermines what is law**
- We welcome the timescales, however there are far too many opportunities for children and young to slip through the net with the use of the wording “exceptional circumstance” or ‘impractical to do so.
- The repeated use of these exceptions to timelines throughout the Code is highly concerning and will not build confidence for parents, young people or professionals.
- For all stated timescales, taken from the Act, there are exceptions that will cause

distress and confusion and distrust. i.e. 'circumstances beyond the responsible body's control' or 'impractical to do so'- these are open to wide interpretation- i.e. staff sickness/availability/parents told their child's needs aren't as significant as others/lack of capacity and provision/lack of Welsh language assessment etc....

### 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 paragraphs cross reference other paragraphs and chapters and necessitate 'jumping around the chapter' and the document which leads to confusion and lack of clarity

The whole document is not written in a user friendly accessible style. Even relatively simple concepts are written in dense text with convoluted sentences. It does not appear to comply with government's own plain English statement in Chapter 1.

The needs of the CYP are not at the forefront within the 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**

Both the structure and content lack clarity

The use of shorter sentences and stand-alone chapters would make it clearer even if this makes the whole document longer

The size of the document could be reduced by removing all **MAY?MAY NOT** points into a guidance document

Regulations comply with the conditions set out under the Act, they naturally provide a lot more detail about an Act and are obviously consistent with the purpose and intent of the Act

– However they **should make it easier make it easier for people to interpret the Act.**

**Unfortunately, the way the regulations as set out or proposed in this draft code do not make it easier. The Act itself and separate regulation on ALNCO and the Tribunal are easier to read and much more accessible.**

This gives the impression it's written for lawyers and will only serve to alienate school staff

and others who have responsibility within the code. We are concerned that it will not be referred to and will be replaced by local policy and guidance documents that may reflect local systems rather than the law.

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**

Regulations to be made under paragraph 15 of Schedule 1 to the Education Act 1996 providing for the delegation of a local authority's functions in connection with a PRU to the PRU's management committee -

PRU's are maintained by the LA - The Funding of PRU's is the responsibility of the LA – Do PRUs have a delegated ALN budget in the same way as maintained schools?

We're unsure whether the proposals to use regulations to delegate functions to PRU management Committee in the same way as School Governing bodies is appropriate. The duty to secure and maintain appropriate provision for pupils who have ALN and the ALP of pupils attending their PRU with a view to meeting their needs effectively should probably rest with the LA with the management committee having to make their best endeavours to support the LA

These are some of the most vulnerable children and young people in society in a similar way to 'looked after children' or those with 'complex needs' we are unsure but generally feel that the responsibility and preparation of IDPs for this group should rest with the LA much in the same way as for Looked after children or those with dual – registration

Admissions of pupils is the responsibility of the LA - the LA is responsible for their placement.

The PRU management committee and staff do have to have regard to the Code and any statutory guidance set out in the Code in meeting the needs of pupils who have ALN and follow 'all reasonable steps' to support the LA in providing for these CYP's.

This proposal seeks to turn PRUs into schools, neglecting to acknowledge that most of these children have been or would be excluded from school, which has significant implications that are not within the remit of this act. Moreover we should not lose sight that PRU placements are often sold as a short term measure with a view to reintegrate back to their mainstream school.

We do not agree with the management committee taking on the duties as with schools we think the LA should maintain a responsibilities for all children with ALN needing ALP placed in a stand-alone Unit as EOTAS

## 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

**Fully support the principles, however the Code should more strongly reinforce the practice of these, e.g.**

#### **Rights based approach**

Support this fully but this is not prominent within the text of the document

#### **Early identification intervention and effective transition planning**

Support this but there is a weakening in transition planning for those with the most complex of needs – previous regulations under the 96 Act specified Transition reviews and attendees including timelines for notification letters etc

2.14 – there is an end date for review this will lessen the good practice to review IEP 2-3 times a year this may **result in just a review once a year**. This conflates ALN provision with statutory requirements and short term planning and reviewing may be lost

#### **Bilingual system**

A bilingual system where all reasonable steps are taken to deliver ALP in Welsh for children and young people who require support through the medium of Welsh, with scope for increasing the delivery of ALP in Welsh over time.”

There is **no dedicated chapter** within the Code to how Welsh-medium ALN services should be provided. The approach appears to be one of seeking to integrate guidance in this regard into the respective chapters.

#### **Collaboration**

Support this but this is not prominent within the text of the document

Where has the concept of partnership with young people and families gone?

#### **Inclusive education**

We support that children educated in mainstream schools should not be segregated unless this is shown to be the only option in the child’s 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?

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

There is a pervading weakness, without an appropriate PCP process, this could be a paper exercise.

The duties to help publicise and inform are clear – however, where is the duty to have a full ‘person centred planning process’ in order to ascertain the views, wishes and feelings of the child, parent and/or young person?

There is no requirement for short term planning for learning and progress. There is minimal mention of learning outcomes and the wellbeing targets necessary

There is one paragraph about person centred practice and this is given as being “one way” of informing and involving parents and /or young people. This leaves schools and colleges able to choose another way as the duty to put the child and family front and centre. These “other ways” should also be exemplified to give an expectation that the process should be fully inclusive and participative to be considered adequate. Perhaps the words ‘as inclusive and participative as – or better than’ could be utilised.

PCP 3.21 Incredible dilution of the original concept. The use of ‘as good as or better than’ might improve this paragraph. The whole premise upon which the change from statements was proposed was to ensure that PCP was statutory. This is likely to result in many families and professionals dismayed and disillusioned in engagement with Authority.

There is a recognition of the Importance of support and information for Parent and CYP – However there are no suggestions or examples as to what this could be. We have to ask, where is this coming from? Will this be in the practice guidance document?

We are concerned of the lack of acceptance that many parents and professionals and young people themselves have confidence in and a need for independent impartial, non-judgmental advice and support. Somewhere away from Authority where they can access support- particularly when they feel anxious about their child’s current and future needs. Currently third sector organisations spend many hours with families and young people to prepare them to have confidence to participate in planning and decision making that affects them.

Many parents / carers have been disengaged from school since their childhood and these vulnerable families require high levels of support to engage. They will be further disadvantaged and have even less confidence.

The parental communication and support needs are recognised but the expectation that these parents and / or young people can fare well from internal school / EY or FEI is misguided. Even the best of them may not have the skills, expertise, capacity or resources.

3.10 Issue around home educated children. How are they going to be engaged by the LA ?

While there is reference to other legislation there is minimal reference to the Equality Act and no elements of working together to plan and make decisions.

## 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

- We welcome the expectations on discharging duties in relation to the UNCRC and UNCRPD but feel strongly in addition to the list of legal obligations the Equality Act should be referenced.
- There is a significant overlap between children and young people with ALN and those with disabilities and many such children and young people are covered by both ALN legislation and equality legislation.

## 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

- We welcome this chapter – Keeping ALP under review is a continuous process and local authorities should link their activity to action taken in pursuit of wider strategic duties- but would like to see the publication of these reviews or plans. Welcome the recommended list of others that could be involved in reviews.
- In the previous Code Governing Bodies of schools were required to prepare annual **SEN policy and SEN Report to parents**. This would outline their arrangements for the admission and detailing the implementation of the SEN policy including the delivery of SEN provision a review of their provision. Why is this missing from here? There appears to be no requirement to publish an ALN information report

Schools/FEI's have a duty to publish an additional learning needs report, which must be made available to for parents and the public. If this is linked to other regulations or policy- can it be added here? Could be added to their website. Useful for families to consider when choosing settings as part of the prospectus etc.

- **A section on Monitoring the Implementation of the Code/regulations is different and should be added including the following:**

- The role of the LA
- The role of Estyn
- The role the Welsh Minister

This is particularly relevant since it's the implementation of the Act/Code that is critical

- **The funding of ALN to individual maintained settings and FEI's should be transparent** both in amount and in expectations of what this is designed to achieve- families are constantly being sent back and forth when LAs and settings dispute who should pay for ALP. A simple leaflet would clarify explanations for families

## 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?

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

Gaining information is a positive coping strategy; information facilitates the processes of appraisal and adjustment. It is empowering for parents and young people enabling parents to support their child and judge what would maximise their child's future potential. This gives parents more control whilst also enabling them to access further support outside school. Informed parents are more confident and more able to make appropriate choices for their children and are less likely to be in disagreement or conflict with schools and LA. Informing and enabling young people is empowering and helps build resilience.

- **Families require more than leaflets/directories and websites**  
Information is empowering with explanation and transparency; reliable information helps build trust and helps avoid disagreements to prevent conflict arising. Whilst it is important to ensure that a range of information is widely and easily available through various media, **families' main need is for the support of trusted and supportive individuals** who are well informed, able to help parents understand what they need to know at any particular stage in their child's development and, where necessary, to interpret the information that they are given. Face to face, or specialist advice is hardly touched on and Key working is not mentioned. Will this form part of the guidance document?
- **Capacity and expertise to deliver this support**  
The content of information, though crucial, **is only part of the story**. It is the involvement of the parent in the process of discussion and engagement about their child through ongoing dialogue and support that creates confidence. EY's Settings and Schools also need support to engage

with and understand info, or on times the help of others to support the engagement of families.

- **6.6** Advice and info should **enable YP and families to challenge decisions** through exercising their rights. Advice and support that is provided internally is not done so **at 'arm's length' as recommended in the Lamb Report (2009)**. We can find no precedent where a member of the LA has acted against another member/department of a local authority. This will diminish the rights or impoverished and other vulnerable groups

Families in Wales will be at a disadvantage, families and young people in the rest of the UK have access to Government funded National Helplines and the provision of additional support from an independent source

- **6.9** we welcome list of standards expected of external providers of information and advice but feel strongly that these should be used to measure the quality and expertise/skills for services **provided internally in the same way**

### **Quality Assured Services**

- All WG advice and information services **must be externally quality assured with the exception of Education.**

***Access to quality assured advice services are seen as central by Welsh Government in giving everyone a fair and equal chance in life.***

With reference to the above, Welsh Government (WG) in 2015, after the advice services review, set out options for developing quality standards for **Information and Advice Providers in Wales**. At this time WG said 'The provision of information, advice and guidance services in Wales is a key component of both the Welsh Government's Tackling Poverty Action Plan 2012- 2016, and the Strategic Equality Plan 2012-2016. Access to these services is seen as central in giving everyone a fair and equal chance in life. ***As such, the Welsh Government is committed to strengthening information, advice and guidance services, with the aim of helping people to understand and exercise their rights and make informed decisions about their lives.***

As a funder of organisations providing free and independent information and advice services, the Welsh Government has a particular interest in ensuring that the organisations it funds are effectively managed; that the information and advice provided by them is up to date and that staff providing front-line advice services have the necessary skills and competencies to provide the best advice possible to clients'.

The Welsh Government's Advice Services Review Report confirmed both the importance of advice and a growing need for services.

If advice services are to be delivered 'in- house, it's critical they should be held to the same high standards and be externally audited.

Information is only perceived as impartial if you get information at the right time from someone you trust.

We are concerned that Disabled parents are not well considered, neither are parents that work and that 'Face to face contact centres' as suggested only work in urban areas.

**6:16** the concept that LAs **should** consider arranging for written information is welcomed and we hope a guidance document will support and empower this to happen for all learners 0-25 .

**25.23**

We welcome that there is an expectation that the young people and parents will have a support and a means to understand and participate as well as challenge the decisions taken

**Parent Responses....**

**COMMENTS:**

“Is the information and advice going to come from independent sources or provided by schools, settings and LEA led staff and if so will it be a postcode lottery as to how supportive school are as to where you get the advice”.

“ Information arrangements will be outlined differently and selectively if led by LAs. We are worried that we will not receive accurate information about what the law says. We don't get it from them now”

“Potentially we could have 22 different ways of receiving information some will be good and some not so good, this is not equitable. Why can't this be centralised? It needs to be same for all regardless where you live this surely is the point of the code?”

“Schools will only provide you with *options they can afford as they have to pay for it* so will they be restricted as to what my child will get?”

“If provided by local authority they are only telling us parents what they will provide rather than all information and legal rights and expectations?”

“LA information is guided by their policy and not the law- they often put their policy before accurate advice and even confuse their schools.”

## **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?

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

- **The definition of ALN** in the 2018 Act **retains essentially the same definition** as currently for SEN and the Welsh Government's intention is that all of the approximately 100,000 pupils

- currently identified as having SEN will have an IDP and receive the corresponding provision.
- **The definition should therefore not result in any ‘raising of the bar’ for ALN or any reduction in the number of pupils supported.**
- **Definition of ALP**
- ‘education or training provision that is ‘additional to, or different from ‘that made generally for others of the same age in mainstream schools, FEIs or nursery education’.
- **More able and talented**
- It is good that it is recognised that a child has ability on one area they may need support in others we are really concerned that the talented group may not have their needs understood and met if their achievements are only measured against the average
- **We believe the guidance document to support good practice in implementing the Code should define the set of principles which local authorities should use when deciding whether they, as opposed to a school, take responsibility for an IDP.** (In making this recommendation we acknowledge that such an all-Wales set of principles would need to take into account that local authorities have different arrangements for delegating SEN/ALN funding.

**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?

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

- The draft ALN code lacks clarity and is verbose, repetitive and overly complex.
- Much of this section is practice advice rather than statutory guidance and some of it interpretation of the Act. It is somewhat repetitive and would benefit from being summarised if it is still to be included in the Code.
- Aspirational rather than realistic lists are provided, whilst this may be considered admirable it also raises expectations particularly of parents which cannot be met by schools or LAs.
- There is inconsistency in terminology particularly in the use of child or young person. 7.49 uses the term ‘learner’, ‘child’, ‘person’ and ‘child and young person’. The Code should use ‘child or young person’ consistently as that is the more accurate term.

### Evidence identifying whether a child or young person may have ALN

- An example of lack of clarity is in 7.35, second bullet point which does not seem to conform to the definition of ALN provided in 7.6. The definition in 7.6 is a comparison ‘... significantly greater difficulty in learning than the majority of others of the same age.’ The example provided in 7.35 second bullet is an example of an individual not achieving expected levels ‘... or those expected of the individual themselves, which result in poor attainment.’ This appears to say that if a child is not making the progress expected of them and has poor attainment for them regardless of the child or young person’s level of attainment they have ALN. This needs to be clarified and/or expressed in an unambiguous way.

### Multi-agency working

- 7.57 is an impressive but perhaps an aspirational list and it might be helpful to state this.
- In 7.59 the statement ‘If there is an identified lack of expertise amongst staff in a mainstream school or FEI, then the school or FEI **should** consider seeking external advice to support the

process of deciding whether the person has ALN.’ appears to be incongruent with the definition of ALP in figure 2, page 57 which states ‘Additional learning provision for a person aged three or over means provision that is additional to, or different from that made generally for others of the same age in a mainstream maintained school/FEI/nursery education.’ Therefore it is not an ‘if’ more likely to ‘when’ as the ALP definition suggests that there is unlikely to be expertise in the school as it ‘is additional to, or different from that made generally for others of the same age in a mainstream school’. This needs to be amended or clarified as it appears to be an unrealistic expectation of mainstream school staff.

- In 7.60 there is no recognition that there may be a cost implication in seeking support from an external agency, whilst many agencies cited in the list may provide support free at the point of delivery some may levy a charge or there may be a quota and the setting will have to prioritise.

#### Flow Charts

- Flow charts are helpful and probably more helpful than the narrative in the chapter.

## 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 ALNCO 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	□	Not sure	□
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#### Supporting comments

- Very welcome- significant variation in the provision and funding within EY’s. A mapping activity will be required to look at all provision in LA is essential. Children in the same settings currently *can miss out* – where there is Flying start money – certain children can access ALN support and have access to services whilst others miss out.
- Much of the expertise and support has been developed by third Sector organisation, such as MYM

### 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	✓	Not sure	□
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#### Supporting comments

The provision for local authorities to establish a set of principles, which they will use to decide whether a school or the authority should have responsibility for an IDP, will end up with significant variation in practice across each local authority. This is contrary to the original aims for transformation – to remove the post code lottery for provision.

A consistent approach may be achieved if the Code itself defines the set of principles local authorities should use when deciding whether they, as opposed to a school, take responsibility for an IDP.

**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**

- The Code clearly sets timescales for undertaking assessments and preparing IDPs, however the Code should show the timescales more clearly, and visually show the applicable time scales, for example in a diagram, table or flowchart. Clear, easy to access information on the timescales is required.
- The aspirations of setting shorter timescales for the new ALN system, compared with the SEN system at present are certainly welcome but only if they can be consistently relied upon.
- If a CYP's needs /barriers to learning are already known or understood, then the timescales maybe appropriate. If not, the timescales maybe completely inappropriate as it will not give enough time to collate all the advice needed nor to put in a place the provision needed. If the shorter timescale set is not realistic and deliverable, we may find 'the exceptions' being used more excessively resulting in greater conflict between families and professionals and the LA
- The IDP is a statutory instrument. What is being proposed here will either drive: *CYP with ALN not being identified*, or schools producing *IDP's for too many CYP's* whose needs could be met without the need for an IDP and hugely increasing the workload of the ALNCO and teaching staff
- It seems almost a certainty that CYP's, families and schools will be caught by the permissions allowed by the Code to 'stall'. Stalled for want of an **Educational Psychologist (commencing at para 8.9 but repeated)**. Where will the expanded EP workforce come from?
- Stalled by the universal '**exceptions clause**' (**para 8.16b but repeated**) which will, in practice, create long, incomprehensible delays.
- **Para 16.23 is the gift let out clause for the NHS.** In England **the lack of purchase** over the NHS has been **a serious restriction on the effectiveness** of the 2014 Act.
- The transition from existing Statements to EHCPs was a gigantic challenge in England. On the day that a Statement ceased to have any legal effect there were over 10,000 that had not been transferred. Scores, perhaps hundreds of EHCPs, most were not worth the paper they were written on. All they did, indeed almost all they purported to do, was secure an existing school placement. They have been hopelessly unfit to generate long term planning, which, if opportunity is to really extend to 25, is very, very important.
- The reason is simple, writing an EHCP or an IDP is difficult, it requires a wide platform of skills and knowledge to do really well, or even to do well enough.
- Therefore we are very concerned about the three year implementation period

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?

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

Young people who are not at a school or in an FEI are entitled and in many cases more in need for the LA to maintain an IDP than those who are able to maintain a school or FE college placement. It would be discriminatory to make this provision for them if a suitable alternative is available to help them reach their potential and make a successful transition to adulthood. We should not underestimate the cost benefits, monetary, through higher levels of independence, better health and well-being – raised confidence and self-esteem, more opportunities to join the world of work and contribute to society. Surely the Act did not intend to limit the life chances of the most vulnerable learners? They will surely be protected within the term ‘reasonable need’ for education and training. This is another area for disagreement and conflict and again a clear conflict of interest arises t conflict of interest where LAs have the responsibility to assess and make provision.

It must be recognised that many ALN learners, e.g. those with complex difficulties, language development delay, autism learning difficulties are at a developmental and situational disadvantage needing more time to gain the resilience to find and follow their aspirations. These are the young people that will fail to reach their optimum independence to take the life chances open to them. We must ensure that the Code makes it clear that there should be no discrimination in them accessing provision to meet their needs.

## 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?

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

The IDP is a transactional rather than transformational document. The mandatory document focuses on what will be provided by others rather than focussing on the additional support and possible specialist support needed to enable access to the curriculum and to ensure that learning takes place and progress made. The whole document needs more clarity and more prompts and reference to the optional elements. There is a concern that the Code states that additional plans can be added to the IDP – therefore not making it one unified document.

The structure of the IDP is mandatory and may help to ensure parity across all authorities in Wales and possibly remove some of the risk of a postcode lottery.

The IDP is an all or nothing response – the graduated response, although needing improvement, was effective in identifying needs and setting a pathway or plan for progress in learning.

Making the IDP a statutory document, could be a disincentive to identifying ALN. This could well lead to a failure to identify a child's ALN, resulting in higher levels of unmet need, anxious and frustrated parents needing informal disagreement resolution and where this fails support to prepare for and access tribunal.

What happens at this early stage where there is confusion regarding what is Health ALP and what is Education? Who will inform and give explanation to families where the timescales have been unacceptable and continue to ensure understanding? Evidence to date is that LA and school personnel will not or are not able to support families or young people to challenge or complain about matters concerning the Local Authority or schools, which is understandable.

#### Specifics

- There needs to be a separate box for the child / parent carers views and not only in the OPP section which is non-mandatory
- Colour coding may make things difficult if things are not able to be printed in colour
- The code does not acknowledge the need to make IDPs available in alternative formats.
- (2.c) separate form that health fills in and sends without necessarily having any recognition of the rest of the document or involvement in developing a cohesive and holistic plan.
- There should be a box to set out any transport to be provided 2.E
- Disapplication from the curriculum needs to be included as do any specific reasonable adjustments for internal or external examinations.
- Section 2B: The box 'intended outcome' is not clear, since the document focuses on what others will provide is that the outcome for the provider? Either that or the intended outcome could just state 'enable improved access to the curriculum'. If it is specific learning and progress targets then it should say that.
- An IDP can be part of a different plan or include a different plan? (13.5)
- LAC plans should be included
- The IDP, a legal statutory document will require a level of legal scrutiny. Is this an additional cost not recognised to date?
- SNAP recognises that schools are likely to be put in a difficult situation with regards to the legal checking of the IDP content.
- Are teaching staff in a position to write legally binding documents
- Who will be able to give information on all choices available? Who will provide information for the learner who cannot access local college provision
- Who will offer alternatives when local college placements break down?

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

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

SNAP Cymru welcomes that the Code provides a mandatory IDP template, a mandatory template for LAC IDP, and also a non-mandatory template for NHS contribution to IDP.

However, we call on the Welsh Government to consider if the templates could be strengthened by the additional information

We believe there is particular merit in requiring health bodies to include detail of any support that is likely to be of benefit but they are unable or unwilling to fund, as well as an explanation why they have decided not to offer any provision

The IDP needs to have child and family views at the heart of the document- rather than a section for a One page profile – which is not mandatory. We recommend a separate box for the views wishes and aspiration of the child, young person and their family, even if they differ!.

We welcome the form with key numbered boxes in sequence, however we are concerned that many LA's think they can change the template in significant ways.

To improve the IDP template to contain the following:

- include contact details or relevant staff;
- Prevent against the use of vague descriptions of provision entitlements;
- Some guidance within the template itself in particular to **be specific and detailed**
- Make obvious that the text boxes are expandable and users of the template can include as much content as necessary.
- Be specific that there can be more ALP added
- The addition of a box for Transport
- The addition of a box for external examinations and any accommodations needed and any disapplication from the curriculum

13.33 May be necessary to set interim tracked/assessed targets - There is no place for these in the IDP - Very concerned where this to be recorded and where the tracking will be monitored  
The IDP is trying to conflate the statement and the IEP very difficult to achieve with short and long term targets under a statutory process

The necessity to have bold and red areas to signify appealable sections, will need to be very clear- this may be inaccessible for some YP and families may. (not to be printed in Black and white)

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

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

Not really, we have an IDP which in part is mandatory and whilst we accept the need for flexibility we remain concerned that without PCP the IDP will also be transactional rather than transformational. The IDP must be focused on the learner in their unique circumstances, considering their holistic needs and aspirations for their future. This is important at all key stages and becomes more relevant as the child moves through key stages and when they become young adults

## 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

The Code makes reference to the Learner Travel WALES measure 2008 - this however only covers those aged up to **19 and the code covers those aged up to 25**. What happens to transport obligations past 19? Again we should not discriminate and ensure equality in access to relevant post 19 education or training for those requiring further time.

We recommend that there should be a specific section in IDP's to include travel arrangements which is far more concrete, with definitive references to transport and that the final version incorporates any enhancements arising from the forthcoming consultation on the revised Learner Travel guidance. ( Not sure when this review will take place)

Whilst Transport is a discretionary element - it is based on the Equality Act and the Local authority will have a duty to assess transport needs. The Local authority can also make discretionary transport arrangements post 16.

If a child cannot walk to the nearest school because of a disability or has a learning difficulty – the LA must provide despite an IDP being maintained by school through the provision of reasonable adjustments.

Where a local authority have no obligation to provide transport and an IDP is being made by the school or FEI, what should be considered? Who will be responsible for these reasonable adjustments- will the LA try and defer this to the school or college?

### **USE OF EDUCATIONAL PSYCHOLOGISTS TIME**

SNAP notes that EP's are already under a strain to meet the demand in schools. Children and young people have to wait several terms to be seen.

It would be beneficial if alternative professionals were made reference to EP's would need to act on priority - complex situations / cases

Threshold within the code is too broad to access the input of EP's – there could be other professionals that can give advice.

### **MEDICAL NEEDS:**

6 weeks is not enough time for this

## 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?

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

- Different professional groups work under their own definition of timescales, priorities, and KPIs

e.g. in health a 6 week response time is classed as an emergency response and their idea of a response to a non-emergency will be to provide an acknowledgement and basic generic advice followed by an agreement to assess at a later date. Whilst there is a recommendation to finalise documents without outstanding advice, this will impact on appeal and 'stays'. Will the DECLO and EYs Lead LA etc be recording and reviewing these 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?

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

No, Health and Social Service often work to different timescales and have varying definitions and KPI's. Their timescales have different definitions- e.g. a six week response in Health may be an acknowledgement of request and whether the child is known to them. This will not be an assessment time or appointment time. 6 weeks may be an emergency timescale in Health.

This needs to be reconsidered with input from Health- there are likely to be exceptions everywhere despite the 'promptly' duty.

The Designated Education Clinical Lead Officer (“DECLO”)

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

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

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## Chapter 16 - Review and revision of IDPs

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

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

We welcome the acknowledgement that the IDP should be constantly monitored and assessed by the body responsible for maintaining it and it should conduct reviews as often as required by the circumstances. (16.3) But are concerned that since the duty is to only review annually – this may be the case because of internal capacity pressures

We are concerned that monitoring and assessed is an internal task and not one completed with parents.

‘An earlier, unscheduled review will often be appropriate where there has been a **significant change in circumstances or new information has come to light**. *Is a child failing to achieve targets or outcome’s a Significant change? Will guidance be given on this matter?*

Will there be a guaranteed review when outstanding health or EP information is received? This should be the case – as this would trigger a reconsideration of the IDP at the school level or LA

### **Requests for reviews from children, their parents and young people**

We welcome (16.17) school, FEI or local authority who are required to maintain an IDP for a child or young person must review the IDP if a request is made to it by the child, the child’s parent or young person, unless it considers a review to be unnecessary.

However, the clause ‘**unless it considers a review to be unnecessary.**’ **Or that no new evidence has been received is very subjective.**

(16.21) Does give factors to help decide whether a review is unnecessary – these factors are also relevant in deciding to hold a review i.e. whether there ‘has been a change in circumstances which might affect the plan’, or ‘whether new evidence or information has come to light which might affect the plan’ Parents views are critical here

Parents would also like to a review put in place where ALP has been included in the IDP, but not implemented.

We are concerned regarding the requests for **reviews from NHS bodies**. Where a Health authority request ALP is removed, this should of course instigate a review with the family and a formal notification with opportunity for address should be sent. Justification for the removal should be clear.

Families must also be given information on the Health Complaints process and timescale for redress.

**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?

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

It is good that a timescale is included. This will prevent conflict. The current code does not have timescales other than for Annual Reviews and guidance that IEPs are reviewed 2/3 times annually.

We are concerned that the ‘get out clause’ will be used often, as it will be difficult to review within this timescale unless it is not too complicated.

We are concerned that NHS bodies will not be able to meet these timescales as they work within different time imperatives

Throughout the Code

All included flow charts – all need to have the time elements added.

We are concerned that Reviews are annual - IEP’s whilst not always reviewed in collaboration with families, were recommended to be reviewed 2/3 times each year. An annual review does not encourage review throughout the year, demand pressure may mean schools and LAs only review the IDP on the statutory date. How will shorter-term targets be reflected in this process?

**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?

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

- The needs of the CYP are not at the forefront in the chapter as within the whole document. Chapter 17 does not promote collaboration it is a control model where the school/LA/FEI keep control of the IDP process and do not have a duty to collaborative and co-construct or ensure participation. The focus is on informing parents and YP about what is happening.
- Worrying phrases such as '**unless there are circumstances beyond its control**' are used throughout.
- (17.13) This provides children, their parents and young people with a means of challenging and (17.12) requesting reconsideration of school decisions and the content of the IDP put in place for them by the school and is welcomed.
- The chapter also covers the requests 'to take over IDP maintained by setting's', where they feel it's not reasonable for them to continue to maintain. This could be a very contentious area.
- **We are very concerned that thresholds for reconsideration will be devised by each LA. These could be different in each LA and could act as barriers to reconsidering decisions and ultimately to appropriate provision or the opportunity to appeal. Local thresholds should be guides for schools but not barriers for parents to request reconsiderations**

There should be quality assurance in place in relation to measuring and monitoring the quality of IDPs. LAs and schools are under enormous pressure, young people and parents would have more confidence if PCP was consistently delivered, co production and transparency would help achieve this

- There is a potential for conflict between schools/FEIs and LAs here – clearer guidance would be helpful

**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?

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

Communication with parents will be essential. Any extensions needed should be explained and discussed.

Any extension should be recorded with reason for extension. All timelines for appeal must be amended accordingly

## 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

This is practice guidance and not statutory guidance.- **should be removed**  
 As the Act dictates - there is no statutory demand on schools to invite feedback and views from parent and child only “should” – this is very hard to challenge.

Does this chapter recognise the needs of the family, especially those who are vulnerable?

Parental and child rights are not indicated in this chapter

18.20 – Is this a realistic target to create – there may be needs for follow up meetings? Does an IDP need to be written straight away?

There are too many assumptions in this chapter – parents want time to think about things.

Document is not written in a user friendly style – this document is not in plain English?  
 Points are not in a logical order.

Format of meetings and parental support should be at the very forefront of this chapter – ensuring parents are signposted to trusted impartial advice.

Paragraphs cross reference other paragraphs and chapters. Needs of children and YP are not at the forefront of that chapter.

No duty to collaborate – focus is primarily informing families and children and YP.

18.15 – this is not partnership working – parents should not be INFORMED of a decision, they should be involved in it.

## 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

The Code identifies that 'poor transitions = less successful outcomes (19.5) However the Code's response to transition is disappointing in particular for CYP with more complex needs.

There are very few 'Musts' throughout the chapter which is peppered with 'should's'. The majority of musts where they do exist, are for the CYP consenting or not to the ID continuing into post 16 education. Another Consent para is in 19.48 but does not demonstrate how it will align with Mental Health Capacity Act

Transitions should be handled by a '**Designated Coordinator of IDPs**' such as an early years ALNCO designated by the LA- Is this another role to be appointed?

We feel this is a weakening of the regulation

We are very concerned about looked after Children Post 16- the LA will no longer have a duty to maintain their IDP- hugely concerning for these vulnerable YP. Given that a high % of LAC also have ALN it is imperative that this vulnerable group of learners have impartial advice and support and that skilled and knowledgeable professionals able to present a full choice of providers are available to them from 14+ planning at least. We need to be clear here that it would be discriminatory not to provide the full range of options available.

There is no indication that a specific accurate demand profile has been completed in Wales. Wales must expect an expansion in demand for those expecting access to FE, especially in specialist colleges. 299 children currently in WG FE funded places - this is likely to rise considerably due to 0-25 age range. As the code allows the LA to be the sole provider of information this could ultimately lead to restriction of information.

Very few LA's understand the funding required for transfers to FE. Where is the funding going to come from to maintain IDP's? If the funding is to be delegated to general LA funds how will these be ring-fenced for funding post compulsory IDP's?

We are very concerned about the LA duty to 'decide, **based on the child's reasonable needs** and in accordance with regulations, whether it is necessary for the local authority to maintain the plan to meet their needs once the child becomes a young person' - **what is reasonable? - What is a reasonable prospect of achieving and outcome? This depends on many complex factors.** Could be seen as preventing a young person from accessing education or qualifications. It must provide an equitable basis – all matters that are relevant should be considered

It's not obvious within the chapter that the college has to provide the avoidance and resolution of disagreement (DRS). There is mention of leaflets and information and advocacy –but not DRS

Increased demand on adult social services. - No comparisons with social care budgets? Is this a shift from care to training? Are FEI's even institutions that can or want to deliver this?

Schools are very unaware how FE education works? – Further support with transition. The transition sections of the code are weak, and the Act provides more should than musts, who will oversee the implementation of his Act in FEI's?

Students with ALN transferring into FE – often information hasn't been shared. Full-time place is the lower threshold **540hrs per year**. – This **isn't 5 days a week. Around 3 days a week**. This triggers a care crisis where students are left with part time placements, having been in a full-time placement in school, leaving them vulnerable.

There is a considerable risk is that all suspected **ALN will be referred to the LA** – colleges are not subject to any **rules regarding exclusion** – this could lead to increased exclusion from college – **where they will cite lack of progress – which is unchallengeable**.

Colleges need a **robust ALN code – FEI's can be taken to tribunal. How will they learn to work with and support young people with this?** This will be referred to the LA by the college - if the college are having to create IDP's – this could lead to a culture of non-identification of need.

16.23 – Lack of involvement from health.

Writing an IDP is difficult, it requires a large amount of skill and knowledge.- we are concerned that they will not be written for all those that require them.

An IDP is lost if the **FEI isn't identified in year 11** – it will then cease the day the student walks out of school what factors will reinstate this?

CAMHS and Health transitions are not dealt with in the code.

Transitions should be implemented by a designated co-ordinator of IDP's. Planning should start two years in advance. From school if pupil goes into a non-maintained placement – the LA have to manage the IDP.

Transition workshops are recommended during school holidays (19.44) so who will provide these?

We are only aware of one FEI who deliver this for Young people with Autism - its ad hoc at best and has financial implications

Planning for post 19 – starts in year 9. – the new Bill stated aim set out in the discussion about the principles of the Code (see Chapter 2), to ensure smooth transitions and provide continuity of support when a child or young person is due to move into, between or out of

different phases of education, settings or services, relevant bodies with responsibilities for preparing, reconsidering and maintaining IDPs should plan for these changes well in advance.

20.8 – Pupils may find it challenging to transfer mid- year – since there is a cut –off date of late September.

20.12 – it would appear from this statement that most of the children with IDP's will remain under the care of the LA. Currently FEI's use the funding system and get funding for young people with ALN – at least 11,500 per student.

20.22 – this could lead to more dual placements.

Disappointed that in (19.3) mental health/CAMHS/ and Health transitions are dealt with elsewhere in other guidance and NOT in this Code

Meetings about these transitions must include YP and parents (19.22) However there is no duty post 16 to keep a parent informed.

(19.35) Says consideration should also be given to staff skills and whether training may be needed – such as in the use of particular sign or symbol systems of communication. Will this be recorded in the IDP – presumably in the section on transfer? Not clear- what expectation is there for funding?

Planning for post 19 to start in year 9 (19.47) Code only says ..... **Will need to start well in advance of the end of compulsory education. It is expected that schools and local authorities** will start planning for this transition as part of the IDP review from at least year 9 onwards. No must's relies on expectations

**19.54** suggests Careers Wales will be the key player in advice giving for 'those at risk of becoming NEET'- however there is no requirement for their involvement –individuals who are most likely to become NEET are very likely not to consent to a plan.

Expectation is that FEI staff will be invited to year 11 school reviews (or year 9 or 10 if complex needs arise) where a placement in FEI likely or may be considered. (19.56)

**19.60** refers to information for parents on post 16 placement in independent sector- **Who is going to provide this information?** LA's?

19.62 Review to be conducted ASAP after FEI enrolment to reconsider or reconfigure ALP. – Does this mean an IDP that was planned prior to transfer can be amended completely?- concerns arise that ALP will be amended to what's available rather than what's needed.

## 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

Not clear at all

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

LA to LA clear. It states that it must happen.

#### Chapter 20/ Transfers:

A move (of school or LA) transfers the IDP (20.1) but only applies to maintained sector of schools or FEIs, and only if enrolled before end of September (20.8)- what about mid-year transfers- will a YP be without ALP for the remaining time? What about specialist colleges?

LAC- this transfers the IDP to the LA that has Care, ditto care leavers duties (20.11) But no duty to continue to maintain the IDP by a LA beyond 16. Equality Act may consider a LAC with ALN still requires the LA to maintain the ALP

**LAs maintaining an IDP may request that an FEI take it over but cannot require this** - If FEI agrees to take IDP over that happens on the day of the agreement or day FEI notifies the LA of take over.

FEI has 20 term time days to decide this. **This must be done Early.**

If FEI declines then LA can refer this to the Welsh Ministers to adjudicate. LA must refer **within 4 weeks** of the FEI decision. – **No timing for Welsh Ministers decision.** SNAP Cymru has worked with several families where the decision to fund a learning and skills plan has had to be adjudicated by the Minister. On several occasions this has taken months to decide. It is particularly important that a decision is made as quickly as possible so appropriate planning and transition can take place or alternative found

Welsh Ministers can force the FEI to maintain the IDP but only after 'taking representations' (20.15)

Where dual registration placement occurs then the LA is forced to take over the IDP from either the school or the FEI that is maintaining the IDP (20.22).

**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**

20.18 and 20.19 are clear

20.20 (a) and (b) is very unclear and needs to be re-written. cannot decide on appropriateness from the sections as written

## Chapter 21 - Ceasing to maintain an IDP

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

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

### 21.14 Notification to take a decision that an IDP should be ceased

- We welcome that the body **must notify** the: CYP, Parent, Reviewing Officer, etc of the intention to make a decision. And that they should then **allow sufficient time for those people to consider the matter and give their views on and that this should** occur through the normal review process.
- Clarity about the timescale for **sufficient time**- must be set out in Regulations. i.e *1 months' notice*
- The time limit for responding should be **outlined in the notification letter**
- What is meant by the term '**Ceasing to maintain an IDP**' should be written in clear Welsh or English – In our experience the term can be misunderstood by families

E.g Families have already been sent letters from LAs ceasing to maintain a statement and giving an IDP instead. The parents were unaware that the IDP did not hold the same legal entitlement as the statement at this time and were unaware of the terminology

## 21.18 Limitation on ceasing to maintain plans to allow reconsideration and/ or appeal

Following the decision that a CYP no longer has ALN and an IDP will be ceased:

- We welcome these proposed regulations on **4 week timescales** – however for this to be fair and transparent - a parent or young person must be clearly notified of:
  - the opportunity for the reconsideration of the decision by the LA
  - the **time limit must be clear in the notification letter**- we are concerned that many parents misunderstand this.
  - There must be sufficient evidence to show that the CYP’s needs have changed

## 21.16 notification letter For Young people

- in the case of FEI and local authority decisions, information about the right to appeal to the Education Tribunal against the decision- time limits and opportunities for Disagreement **resolution should be clear and explicit.**
- **1.42** In relation to young people, the duties and requirements in the Act and Code do not extend to **providing notifications to parents.** – This is particularly **concerning here** the young person may be lacking in capacity, or vulnerable in other ways. Many young people will not see the consequences of removing entitlement. There needs to be clear guidance on assessing capability and appointing a parental or other advocate to support.
- We are extremely concerned regarding the experience of YP in English FEI’s and the very high numbers of YP that have been **excluded, ‘turfed’ or ‘off-rolled’**. These young people often disappear in the system and become NEET or worse usually because they’re deemed as, **‘not making progress’**. There are no exclusions regulations in the Post-compulsory sector and the only remedy if a YP has a disability is to bring a claim of discrimination to the County Court. The evidence currently available for the likelihood for this to happen is highly unlikely.
- The decision of whether a YP has a **‘reasonable need for education or training’** and when **an IDP is necessary** to meet them is **very subjective and unclear.** FEIs have extremely limited budgets for the high and growing number of YP with ALN decisions to cease to maintain IDP’s are likely to conflict with the expectations of families which have been raised by the Act.

**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

The **month** is appropriate although we would like to see the possibility of extending this, if the family or Young person is seeking to use disagreement resolution services

We are very concerned about the number of children who may lose entitlement since there appears to be a huge variation in how professionals see the thresholds for having an IDP.

Also with each LA being urged to develop thresholds for reconsidering school based decisions, there could be children and young people loosing ALP dependent on their LA policy and thresholds and not their needs

**Critical that parents are made aware of timescales – a failure to make them aware should mean that timescales are extended.**

## 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**

## Chapter 23 - Children and young people in specific circumstances

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

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

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

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

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

The role is varied, time-consuming and highly demanding. It requires ever-increasing levels of knowledge and working practice, alongside the ability to lead within a challenging school environment. It also requires the support of the head teacher and the governing body to be truly effective

### **Not a single Role**

The regulations begin by saying that they ‘do not interfere with the Governing Bodies ability to confer further duties’ recent research of SENCOS in England showed that **92% of SENCOs hold other roles as well – the majority have teaching commitments and approximately a third are also Safeguarding leads, Designated Teachers for Looked After Children and/or EAL-Co-ordinators**  
A SENCO has never been just a SENCO and many other responsibilities are likely to

be juggled alongside it, which could help to explain why less than a third of SENCOs feel their role is understood by colleagues and that 74% frequently feel frustrated by the lack of time they have to enact the role.

- **There is no national mandatory time allocation for SENCO**

Time to be able to complete the role is a significant variable across the country, the role of the SENCO in practice varies considerably depending on the size, phase and socio-economic profile of the school.

There is clear systematic inequality which does need rectifying and the consequences of this on children's outcomes are likely to be significant.

**The regulations and code suggest the ALNCo will require clear and sufficient time and dedicated time away from teaching and other roles. 24.5**

The regulations suggest an ALNCO will *monitor effectiveness, prepare and review, maintain and write records*. Legal paperwork and daily admin tasks consumes the most time and keeps ALNCOs away from fulfilling other aspects of the role, such as working with teachers in their school to help improve outcomes for children and young people.

- 70% of SENCOs responding to a national survey said they don't have enough time to complete the demands of the role. Almost three-quarters (74%) said they frequently feel frustrated by the lack of time allotted and half said they spent the equivalent of a whole extra day, unpaid, (meaning a six-day week) on SENCO tasks, largely because they have to squeeze it in with other expectations outside the role. 95% of SENCOs think that they should have legally protected time to enable them to fulfil the demands of the role.
- Nearly half of all primary SENCOs (47%) and over a third of secondary SENCOs (36%) said that they had two days or less per week to focus on the role.

<https://specialneedsjungle.com/wp-content/uploads/2018/11/lts-about-time-SENCO-Workload-Report-FINAL-2018.pdf>

Whilst SNAP Cymru welcome the emphasis on roles and functions – without instruction by the Welsh Government on dedicated time away from teaching for the roles the discrepancy from what is imagine and the reality will be enormous and put considerable strain on this important role.

**SNAP Cymru urges the Welsh Government to outline duties for protected time for SENCOs to fulfil the demands of the role.**

## Strategic Role

- The Code says the role is a strategic one within the education setting and should therefore, either **form part of the senior leadership team or have a clear line of communication** to the senior leadership team **(24.7)**

*The ALNCO has an important role to play with the head teacher and governing body, in determining the strategic development of ALN policy and provision in the school. This is not SNAP Cymru's experience of the SENCOs we interact with. 'Securing ALP', 'Deploying staff' – 'making decisions on resources' and deciding on budgets' is almost impossible if ALNCOs are not part of the senior management's team.*

It is our experience that SENCO's are either not in a sufficiently senior enough position or part of leadership teams which means they don't have much influence over whole school policy or budget.

- Less than half (46%) of all SENCOs felt that their role was understood by senior leaders, however for SENCOs in secondary settings this figure decreased to **26%**.
- Or are head Teachers and have extremely little time to carry out the role as described.

### Advising, Supporting and training other staff

Advising staff re- differentiation, supporting and training TAs/LSAs teaching staff; helping ensure that: "All teachers are educators of children and young people with ALN"  
When is this critical role to happen? The system will only work when all teachers are confident to be teachers of ALN

Clear and sufficient time is also required to allow ALNCOs enough time to reflect and evaluate on the effectiveness of the ALP in their school. This figure decreases for secondary ALNCOs making it very difficult for real reflection and evaluation to happen in their settings.

- **A minimum time requirement must be decided on and described clearly as part of this statutory role**
- **Senior leaders review the ALNCO role in terms of time and support and ensure the role is part of the senior leadership team.**

## 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

The requirements in this chapter do not achieve the overarching objectives of the Act, including the creation of a fair and transparent system for providing information and advice and for resolving disagreements.

**The independence of persons helping to resolve disagreements is critical for the fair just and transparent implementation of this Act.**

**25.34.** A local authority is ‘a party’ to the disagreement and therefore *it is difficult to see how they can be independent* in the eyes of parents and young people. Section 69(3) is explicit in its requirement:

(3) In making arrangements under this section, a local authority must have regard to the principle that any service provided under the arrangements **must be independent of any person who is –**

**(a) the subject of an appeal to the Tribunal, or**

**(b) Involved in investigating or adjudicating on such an appeal.**

An accepted understanding of an independent person or body:

‘Someone or something that is free from the influence or control of another’. An Independent person in any definition means persons ‘who are not connected with the company or organisation not dependent on or affiliated with a larger or controlling entity.’

For example; an ‘independent person’ as part of a ‘standards committees’ the 2011 Localism Act;

‘Someone *who is not* (or who has not been in the previous relevant five years) *a member, co-opted member or officer of the authority.*’

Paragraph 25.36 of the draft Code deals with the independence of persons helping to resolve disagreements, and sets out the way in which “independent person” should be interpreted for the purposes of s.68(3) of the Act.

The current interpretation in the draft Code for consultation is not appropriate or sufficient, and we would urge the WG to impose additional requirements (in accordance with the power to do so in s.4(5)(a) of the Act

**SNAP Cymru feels the following should be added to 25.34 for clarity:**

**“The arrangements, while commissioned by it, should be independent of the local authority**

That councils would use internal disagreement services may well be cause for further, not less, conflict between parents, schools and LA’s, involving serious conflicts of interest issues, with the assessor, provider and funder carrying out the independent disagreement resolution function.

SNAP Cymru believe that effective independent services, as well as resolving disagreements can also help restore or improve the relationship between parents and the local authority or school and is a cost effective means of reducing conflict and stress.

### **Disagreement Resolution Services (DRS)**

SNAP Cymru feels:

1. There must be no conflict of interest when delivering information, advice and disagreement services.
2. Local authority officers have, in the past, demonstrated that they confuse their council’s policies and procedures with law
3. Avoidance of and disagreement resolution services should be provided wholly independently, by specialist, quality assured organisations.
4. Providers must be properly funded to meet demand. A funding formula should be agreed with the WG and all Local Authorities. If this cannot be achieved, WG should fund services centrally. 25.15
5. As per WG’s own policies, advice services, which include avoidance of disagreements and disagreement resolution services, must be quality assured. Those providing avoidance of disagreements and disagreement resolution must hold an externally audited quality assurance mark and be working towards WG’s information and advice quality framework for Wales (IAQF).

The avoidance of disagreements and disagreement resolution is so much more than the activities **described in Chapter 25**: advice on the rights of a child, child’s parent or young person needing support; support to unpick difficulties and plan a way forward with all other people involved; face to face meetings to work out what to do next; support to attend and contribute to meetings; ongoing support if problems are difficult to solve. Support to engage and reengage and see the value of their participation

Working with their third sector partners, understanding and helping to deal with these additional matters is a vital element of avoidance work – helping families with the ‘other stuff which is in the way’ helps them to become receptive to resolving the educational issues their children are having.

Some of the best work is empowering families, professionals and others by helping them to communicate, and understand systems. An example of this is giving time to help families prepare for a meeting. By working with families to plan and prepare, unpicking, clarifying and challenging issues, considering options and focusing and developing questions. . This helps to increase confidence empowering them to attend the meeting alone, invariably with more positive outcomes and improved communication. ***This is true avoidance work. It takes skills, patience and time.***

### **Quality Assured Services**

Independent organisations currently providing bilingual information, advice, avoidance and disagreement resolution work in education in Wales have invested heavily in staff training, building excellent infrastructures and IT resources in order to achieve the highest industry standards.

Being quality assured not only gives credibility and assurance, it helps to ensure staff are well trained and qualified in order to provide trusted and dependable advice, support and where necessary disagreement resolution services, and that the organisation has robust policies and procedures in place.

Parents indicate that they highly value independent support at times of disagreement. **The code needs to make it plain that what SHOULD happen in Wales is of no less robustness than in other countries in the UK**

### **Chapter 25 - The involvement of health bodies in avoiding and resolving disagreement arrangements**

We are extremely concerned that parents may have to follow two separate paths for disagreement resolution and appeal/complaint section and therefore welcome the guidance in **25.37 – 2.43 to encourage a “one stop shop” or single route for disagreement resolution**

**25.37** Health provision which educates a child or young person must be treated as additional learning provision, rather than health provision, and can then be considered by the Tribunal.

**25.43** In certain circumstances, both the arrangements made by the local authority to resolve disagreements and the Putting Things Right process may be followed for the same dispute. - Parents often require advice and support in this area where judgments can be subjective and the access to appeal or to bring an action is time limited. Who will provide this?

Previous case law has been clear in this area and may have a bearing if the ALNET is tested.

**e.g. R V LANCASHIRE COUNTY COUNCIL EX PARTE M [1989] 2 FLR 279**

*The judgement included this comment:*

*“To teach an adult who has lost his larynx because of cancer might be considered as treatment rather than education. But to teach a child who has never been able to communicate by language, whether because of some chromosomal disorder ... or because of social cause ... seems to us just as much educational provision as to teach a child to communicate in writing.”*

Many LAs continue to tell parents that speech therapy belongs under the heading ‘non-educational provision’. They still tell parents that this is because speech therapists are employed by health authorities. However, the Lancashire judgement specifically rejected this argument. It is the child’s need for therapy which is of key importance.

e.g.

**B V ISLE OF WIGHT COUNCIL [1997] ELR 279**

“All that anyone can do when judging whether a ‘provision’ is educational or ‘non-educational’ is to recognise that there is an obvious spectrum from the clearly educational (in the ordinary sense of that word) at one end to the clearly medical at the other, take all the relevant facts into account, apply common sense and do one’s best.”

By putting it this way, the judge was establishing criteria for making a decision on occupational therapy and physiotherapy very similar to the criteria set out in the Lancashire judgement on speech therapy -- that is, it all depends on the nature of the needs of the individual child.

**DC & DC v Hertfordshire County Council (SEN) [2016] UKUT 0379 (AAC):** Therapies which train a child or young person to manage anxiety (such as cognitive behavioural therapy or mindfulness) can be considered special educational provision, but general psychological support to address mental health problems is unlikely to be educational as it does not involve instruction or training.

**East Sussex County Council v TW [2016] UKUT 528:** The First-tier Tribunal has the power to order any changes to educational provision in an EHC plan – it can add to the provision, amend it or remove it. Health and social care provision which educates or trains is ‘deemed’ to be special educational provision, and the First-tier Tribunal can order it to be moved to Section F

Decisions such as the above, are complex and the worry is that similar concerns raised by parents will be pushed to two separate silos with both bodies trying to relieve themselves of the duty.

### **25.3 – 25.43**

..... *DECLO should make arrangements to allow a single point of contact to attempt resolution. Where advocacy or support for the child, young person or family member is required, this should also be undertaken **by a single individual**.*

SNAP Cymru agree that **there should be a single point for accessing and receiving** DRS, however, the paragraph contradicts **section 25.55(a)** where advocacy is to be made available to Children and Young people and Case friends only **and not to families**

Families was removed from the original Advocacy section. The inference to be taken, is that that for a parent to receive advocacy where required, they would have to register as the child's 'case friend' in the case of the child having capacity issues. Will parents be required to register formally with the tribunal? This is not clear.

Many families whilst having capacity in certain areas, require significant specialist support to engage in dispute resolution effectively, they often lack confidence and feel there is a considerable imbalance in the power relationship.

Many families may have low achievement or have had poor school experiences and don't understand the importance of their involvement;

Parents with disabilities including poor mental health may find it extremely difficult to understand and engage effectively and the absence of trust affects the ability of a parent or family to engage effectively.

We would like to see that disagreements between children young people, parents and local authorities and health is considered holistically.

LAs should make known to parents and young people the possibility of resolving disagreements across education, health and social care through disagreement resolution.

Leaflets and websites should encourage joint consideration of concerns rather than forcing parents into separate complaints processes when it may not be clear whether a provision is regarded as health or ALP.

### **Parents views**

"There needs to be a specialist service provider to provide DRS service not a bolt onto an LEA provision shared between LEA's"

“My LEA parent liaison officer told me she can’t help me complain, go to tribunal with me, or help me with the case statement she can only provide advice”

“All Inclusion Leads are very quick to say the responsibility for implementing this Bill rests with departments across their local authorities - how can anyone in the local authority provide disagreement resolution if the dispute is with the local authority- it doesn’t make sense.

“25.18/25.19 – these are very laudable intentions – however how can this be achieved if the information is given to the parent from the same source as that providing the ALP? The potential for genuine conflict of interest is high here, and the potential for perceived conflict of interest is very high.”

**Independent Advocacy:** clear guidelines as to ALN legislation and about reality of situation – expert advice and assistance it needs to be quality assured with specialist extensive knowledge why is this not reflected?

Independent advocates need to have expert advice with quality assured guarantees. There is no mention of advocacy for families

### Parents views

There is no intention to provide advocacy for parents. Why can’t parents have independent advocacy especially if they have learning difficulties, need support for DRS it should be for families not just children.

If employed by LEA how can they support a family to take a tribunal or DRS with LEA if they are paid by them?

Advocacy for ALL parents, child, young person please!

How can they get away without providing impartial/independent advice givers?  
I thought this was about us participating and being given the support to do so.

**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	✓	Not sure	<input type="checkbox"/>
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### Supporting comments

Duplicate of the above – please see previous response

## 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

#### Parents Response

The section has to be read and cross referenced to the other chapters. The flow charts could be much improved and don't add significantly, as they are presented, to the understanding of the process – timescales are required on charts

## 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

We would like to respond when there is more information regarding the link with the Mental Health Capacity Act

## 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.

Thank you for the opportunity of providing our view which is based on significant experience of working with children , young people, families and professionals

## **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?

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

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

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

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

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

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

This will ensure the appeal is concluded as 'promptly' as possible in the interest of the child or young person. The local authorities will have shorter time than the parents, but will have all the information on which their decisions were based available to them.

The timescales are appropriate

**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**

**There is discretion for the Extension of time 66.**—(1) Subject to paragraph (2), *the President may, on application of a party or on the President's own initiative, direct that a period of time in these Regulations or a direction made under them is extended.* (2) *The President may only extend a period of time in accordance with paragraph (1) if the President considers it **fair and just to do so.***

*However, as mention in response to question 42, we are extremely concerned that parents may have to follow two separate paths for disagreement resolution and appeal/complaint section that despite the guidance in **25.37 – 2.43** to encourage a “one stop shop” or single route for disagreement resolution there will be concerns.*

We feel Health provision which educates a child or young person must be treated as additional learning provision, rather than health provision, and therefore could be considered by the Tribunal.

Despite this many LA’s continue to tell parents that speech therapy belongs under the heading ‘non-educational provision’. They still tell parents that this is because speech therapists are employed by health authorities. The ACT states that medical provision will only be put into the IDP if the health authority agrees it. How will this stand against other acts such as those which have been mentioned previously?

Decisions such as the above, are complex and the worry is that similar concerns raised by parents will be ignored or pushed to two separate silos with both bodies trying to relieve themselves of the duty.

The Tribunal will need to ‘stay’ appeals where the outcome of different processes has not been received prior to the tribunal. This may really delay and back up hearings and lead to a delay in the child receiving the appropriate ALP

SNAP Cymru acknowledges the legal position regarding tribunal and Health, and the Tribunal not having remit to direct health bodies, but we believe the Code should give clearer guidance about the relationship between the two appeal processes to help ensure that families receive suitable information and advice so they can make an informed decision on which to use.

It is not clear from the detail of the Code whether the eight-week period which families have to submit an appeal to the Tribunal, under the draft Education Tribunal for Wales Regulations 2019, runs concurrently or consecutively with any complaint a family has made through the NHS process. The Committee strongly believes this should be consecutive rather than concurrent, and that the Code should clarify this.

There is no detail of who will support provide advocacy for families having to pursue complaints through both processes.

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

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

The timescales seem reasonable i. e. 7 weeks/ 35 days etc.....

The local authority or FEI governing body must perform the actions within the time period specified in paragraph (2). (2) In the case of an order— for example to:

‘prepare an individual development plan’, - it must ‘prepare and give a copy of the individual development plan to the child, child’s parent or young person within 7 weeks’;

**However, all of the examples provided omit the duty to secure and implement the ALP**

**The time limits are for preparation, and review only not for ensuring the ALP is in place for the Child or YP.**

**How will the implementation be overseen? Both by the LA/FEI’s or School Governing bodies.**

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

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

**26.13** the code says:

**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 regulations Part D Miscellaneous Extension of time 66.state **that the parties can request extensions.**

This is not just the just the prerogative of the LA or FEI governing body- the appellant can *a/so* request this discretion. This should be added to the codes **example at 26.13**. If not added the paragraph suggests a bias towards LAs and FEIs.

2019 No. (W. ) EDUCATION, WALES Draft Education Tribunal for Wales Regulations 2019 Alternative dispute resolution 8.—(1)

The President or the tribunal panel must, **where appropriate, bring to the attention of the parties the availability of any alternative procedure for the resolution of the dispute.**

(2) If the parties wish to use the alternative dispute resolution procedure the President or the tribunal panel may, provided that it is compatible with the overriding objective of these Regulations, **stay the appeal or the claim**

Where the decision in an appeal before the Tribunal is likely to be affected by the outcome of another issue pending - for example a complaint to the '**Putting things right process**', The President of the tribunal or a Vice-President **may stay and appeal** on its own initiative to await the outcome of the complaint or disagreement resolution process.

Whilst this makes perfect sense, particularly regarding health elements of ALN provision, we are very concerned regarding the possible following outcomes:

- Two routes of complaint will cause parents to appeal first and then complain or use disagreement resolution services
- There is likely be an increase in appeals that are 'stayed' and the delay will have an impact on the length of time a decision regarding the child's ALP will be made through possible backing up of hearings

**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**

This whole area is confusing and will be open to further regulations being made. In Wales - A child is a person who is aged under 18 -[View Section 3. Social Services and Well-being \(Wales\) Act 2014](#) .

Whilst we firmly believe that Young people should be supported to become independent, there is an extra consideration for a young person who is **aged 16 or 17**. These persons are still children in law and their parents retain parental responsibility.

The decisions about capacity are difficult –and have the potential for disagreement. In particular where a school or FEI or LA is making that decision independently of a parent.

The code is not clear regarding ‘capacity’ and lacks mention of the Mental Health Capacity Act.

In other parts of the UK In cases where a person lacks Mental Health Capacity to make a particular decision that decision will be taken by a representative on their behalf. The representative will be a deputy appointed by the Court of Protection, or a person who has a lasting or enduring power of attorney for the person. In the case of a young person who does not have such a representative, the decision will be taken by the young person’s parent. It is also likely that where a young person does have a representative, that representative will be the young person’s parent. Therefore in most cases, where a young person lacks capacity, decisions will be taken on their behalf by their parent.” (Sen Code of Practice/Annex/Page 273)

We are concerned that in Wales this difference could end up being considered by the courts

This whole area needs further clarification. A young person will often ask a family member or friend to support them in any way they wish, including, for example, receiving correspondence on their behalf, and filling in forms, attending meetings, making telephone calls and helping them to make decisions. Local authorities and other agencies working with young people should work flexibly to accommodate these arrangements.

### **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?

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

The only prescribed qualifications are: a school teacher; or (b) a special educational needs co-ordinator within the school immediately prior to the coming into force of these Regulations.

The draft regulations associated with the ALN Act do not appear to prescribe what ALN-specific experience or training a qualified teacher must have to become an ALNCo – this is also unclear from the content of the Code. Welsh Government may wish to include details in the guidance of the type of training that would meet the requirements, but emphasise these would not be exhaustive or exclusive.

**ALNCOS need to be part of the Senior management Team.**

This is welcomed because they need a seat at the table when **curriculum and funding decisions are made**, not least because of the bearing that might have on additional learning needs provision.

Specialist provision in a school needs to be **considered in relation to planning, staffing arrangements**. One critical role that a special educational needs co-ordinator has in a school involves teaching assistants and volunteers and supporting the professional development of other teachers so they all become teachers of ALN. Having that role on the leadership team is vital.

The skills that an ALN co-ordinator requires—leadership skills, communication skills, and the ability to delegate their work—to carry out their role effectively are fostered in a leadership team and are appropriate to being part of that leadership team.

It is also crucial to have authority within the school and in working with LA's Health Boards etc

It is vital that someone has the authority of being on the leadership team with the skills that come with being part of the school's leadership.

A relationship exists between the quality of the special needs co-ordinator, the performance of the school and the quality of the special needs education provided, and the importance of improving special needs education in schools.

Therefore we propose that:

- A minimum time requirement algorithm must be decided on and described as part of this statutory role

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

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

The role is varied, time-consuming and often highly demanding.

Not a single Role

**The regulations and code suggest the ALNCo will require clear and sufficient time and dedicated time away from teaching and other roles. 24.5**

Whilst SNAP Cymru welcome the emphasis on roles and functions – without description by the Welsh Government on dedicated time away from teaching for the roles the discrepancy from what is imagine and the reality could be enormous and put considerable strain on this important role.

SNAP Cymru urges the Welsh Government to outline duties and protected time for ALNCOs to fulfil the demands of the role.

### Strategic Role

- The Code says the role is a strategic one within the education setting and **should** therefore, either form part of the senior leadership team or have a clear line of communication to the senior leadership team (24.7)

## **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

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

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

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

### **(c) Proposed revisions to the Part 6 Code**

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

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

Code confirms the Act's definition of a 'child' as anyone not over compulsory school age and a 'young person' as someone over compulsory school age but under the age of 25.

The Code explains that the definition of a looked after child under the ALN Act is narrower than under the Social Services and Well-being (Wales) Act 2014. This could cause real confusion

Where a looked after child with an IDP becomes a young person, i.e. they exceed compulsory school age, the local authority must continue to maintain the IDP – not because they are looked after (section 19) but because they are a young person with ALN (section 14). Only if they have ALN that requires ALP. These are extremely vulnerable times for 16-25 year old learners- we are very concerned re- 'Off- rolling@ exclusions and this cohort becoming NEET.

The Code and possible guidance to be written should take the opportunity of reducing NEET as the cost both personal and public is too great.

**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

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

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

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## **Part 5 of the consultation: Impact of proposals**

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

It will no longer be statutory for schools to have an SEN policy.

The regulations to be placed on ALNCo's may be detrimental to the recruitment and retaining of skilled staff.

The Act gives information about future regulations that may be made. We cannot comment on these. We understand these will come out for consultation once written. There are also so many regulations included in the current draft code that's it's difficult to respond to all of these- it was far easier to respond to those separate regulations on ALNCo's and Tribunal

Regulations on 'capacity' may conflict with existing Mental Health Cap or separate legislation on parental responsibility and the description of 'child'

Regulations on supporting LAC beyond 16 in the Code contradict those in other legislation and guidance

The regulations proposed on transition are weaker than in previous regulations

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

A greater emphasis on the language and provision which is welcomed.

The pressure demand this will encourage will hopefully highlight the necessity of constant review of sufficiency.

The WG should into the development and availability of reliable Welsh Language assessment tools

Cross-county working needs to be encouraged to share Welsh Language resources

The provision of information advice, advocacy and Dis Res must be highlighted

Workforce planning is essential as is the incentives to recruit Welsh Speakers in areas such as Educational Psychology

**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	
<b>Name</b>	Donna Lewis
<b>Organisation (if applicable)</b>	Torfaen ALN Team

**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?

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

The terms must/ must not are clear.

The use of Should/Should not is also an entitlement and its use in many cases in the code is like the must definition unless we are able to justify reasons why we are not able to comply with the code. There needs to be a clearer sections on the exceptions/justifications for not following the should/should not duties.

May term, agreed with as it is authorised under code to do something set out in act.

It is felt terms ‘significant’ ‘reasonable’ ‘promptly’ ‘exceptional’ are open to interpretation and more specificity and quantifiable measures are needed to ensure clarity of identification and equity of ALP across Wales further guidance for this terminology would be beneficial. This could be where regional collaboration on definitions and processes are used to provide consistency in applying the Code.

## 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**

Again the word promptly is open to interpretation and there should be clear timescales for completion of duties in all circumstances as it would lead to different interpretations and rules in different areas. E.g. does fixed period of 35 days stop when a body is unable to be compliant and restart when the body is able to comply again e.g. awaiting a key piece of information that needs to be secured to write the IDP.

Schools have 7 weeks to gather information this could prove difficult when information from other agencies is required. Schools/LA should not be held accountable for missing information and reports from other agencies what recourse is there for 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 code should give examples that would be acceptable for a body to use when applying the general exceptions. At present the only circumstances given are in relation to the child and young person. There are no school/LA other agencies exceptions.

There will be circumstances where ALP can be described in general terms but where reports and information are missing the IDP would not be able to be specific and lack specific information.

## 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**

In initial draft there was a separate LAC chapter which was much easier to navigate as there are very specific duties to follow rather than it being throughout the document and difficult to find the correct information.

Much of the chapter content in terms of process is identical for early years, schools, LA and college so could be condensed as it repetitive.

The code is long and difficult to read so if we want all educational professionals to be involved and part of it needs to be accessible to a wide range of professionals.

There is no chapter in relation to social care duties as there is for health and tie in with Social care part 6 review.

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

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

It needs to be as clear, consistent and prescriptive as possible to ensure consistency across Wales.

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?

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

There are already key LA representatives on the management committees and LA are responsible for placement of pupils at PRU.

We are in agreement as there are references in primary legislation to governing bodies in relation to PRUs should be read as referring to the local authority in the case of the PRU . Therefore, in the case of pupils at PRUs, the duties in the 2018 Act placed on governing bodies of schools would be for the local authority to discharge as they manage the PRU

The duties on the LA to write IDPS for PRU pupils should be dependent on their registration status as in some cases where pupils are dual registered or receiving short term provision it would be more appropriate for the school the pupil is on roll at to manage the IDP.

## Chapter 2 - Principles of the Code

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

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

Key principles seems appropriate, however there is insufficient emphasis on early intervention for children who might have emerging needs and that early intervention may reduce the need for later ALN identification and additional learning provision. It would be better in this section, and then later as relevant, to ensure the graduated response is embedded and that children may have requirements for interventions and support if there for pupils who do not meet the threshold for ALN and therefore an IDP.

The participation element of children, young people is paramount however the use of personal centred thinking and planning is mentioned rarely in the code and should be emphasised throughout the document.

## 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?

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

The use of PCP in this chapter needs strengthening as a key system for engaging with pupils

Also the templates and processes are very formal and do not lend themselves well to parental or child friendly use. The easy read documents do not give a full understanding of the system and code and can be misleading e.g. entitlement to post 16 education.

## 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**

This should already be part of LA self-evaluations and strategic planning for ALN services where capacity of LA and school to meet need of pupils is identified.

A key element is the reviewing of arrangements that governing bodies have in place as part of their ALN offer to schools and impact of the delegated expenditure of ALN funding to schools and changing pupil needs.

There is no reference to the role of regional consortia in supporting the LA to assess quality of teaching and learning. There should be reference to the LA and consortia joint working arrangements as part of commissioned services to better link the ALN and school improvement agenda.

Stronger links with health and safety and buildings/services re reasonable adjustments for students with ALN.

Stronger links required with Social Care / health re information and planning.

## Chapter 6 - Advice and information

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

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

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

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

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

There needs to be greater clarity around the term 'significantly greater difficulty' when determining a pupils ALN as this is open to interpretation and will lead to differences in determining pupils with ALN. The terminology used through the document is not consistent and in places uses terms like complex and severe but significant in other places.

The terminology prevents/ hinders is also problematic as some of the examples given in the equality act do not necessarily fit with need for ALP or ALN definitions when using the terminology of significant need. This will need to be consistent to stop misinterpretation as not all pupils with a disability would have ALN or have a requirement for ALP.

Chapter 7 page 64 references that in not all circumstances would you not write and IDP. What instances would this be if you have decided a pupils has ALN and requires ALP?

Where does a pupil's health care plan fit in to this plan?

There is no link to current PLASC ALN codes and definitions.

The definition for early years learners need to be clearer as there is a big difference between a pupil who has child development concerns and with appropriate early intervention can make progress and a pupil with a lifelong condition that will need support to access education.

The definition states that Early years pupils would only have an IDP where in a non-maintained LA funded setting and the pupil would meet criteria for ALN and require ALP when school age. However the chapter also mentions mother and baby groups and other Early years education settings that the LA do fund via an SLA. Does this mean we would have to put education provision in place if a pupil is in a setting other than a non-maintained funded setting this needs clarity/consistency on the definition of education provision for early year's providers?

The current ALN definition includes ALP that is additional to, or different from, that made for other pupils this needs to be strengthened as does not clearly show the individuality or significant nature of need and resource for pupils with more complex needs as opposed to pupils receiving small group or non-specific interventions currently those pupils identified as school action would access.

There needs to be more emphasis on a graduated response and early interventions at whole school level to support pupils that need lower level interventions and support to prevent them becoming persistent and requiring ALP.

There also needs to be attention drawn to how whole school inclusive practices will support the graduated response. School improvement consortia need to be referenced in the Code, as having a key role to play

**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?

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

Instead of a generalised list of need that is not comprehensive why are we not using the existing primary need/PLASC categories as a basis where the level of complex/significant need can be determined. As each individual area would have a benchmark at which the definition in chapter 7 can be applied can be applied e.g. ASD and a matrix that would be non ALN and early intervention support versus more significant and complex needs on the spectrum that would require ALP.

Section 7:35 indicates that support and interventions should be in place prior to decision about ALN being made however there is no graduated response or reference to types of support and provisions which schools should make available for learners as part of their universal support and provision, this varies significantly from school to school . It mentions good quality teaching and learning which a cornerstone is but not information on what would be appropriate for schools to provide as evidence if there is no graduated response or process prior to the code.

Concerns about the need for Educational Psychology involvement at each stage to make the determination of ALN. Currently no individual is a decision maker or gatekeeper and this places huge accountability on the Eps services. This leads to significant capacity issues if EPS have to be consulted and give a view at each stage. It is already difficult to recruit Eps especially those who are welsh speaking and the number of training places is small for the expected growth in work that this will create. This will lead to less early intervention work being doen and move to statutory only services to cover the requirements of the Act and ensure Las are compliant.

Where schools do not consider they can secure the additional learning provision (ALP) to meet needs they can **refer to the LA** to take responsibility for the plan and secure provision. The boundary between school and LA IDPs needs to be made clearer as in one section it mention more severe and complex but this is not consistent throughout

Assessment provided by all agencies need to focus on support/provision requirements.

There should be Regional /national clarity of all **systems and process** will support consistency around the identification of ALN and implementation of 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	✓	No	☐	Not sure	☐
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### **Supporting comments**

The role is a large and challenging role as requires strategic direction to ensure statutory duties are met, to offer expertise on ALN and balancing with operational elements of LA duties who write and prepare the IDPs. The mix of strategic and operation duties would be better suited to a team/ range of officers providing the requirements with a strategic lead.

There should be mandatory training /experience for this role the same as ALNCO role.

Need clarity on what is the definition of early years education and/or training for a child aged 0-3 as in parts of document it mentions non maintained settings and in other mother and toddler groups.

Early Years - where a child is under compulsory school age and may have an ALN the LA must determine whether this is the case and must seek educational psychology (EP) advice. Thereafter the LA must secure provision and maintain the individual development plan again this will need to be clarified as if the pupil is not attending a non-maintained setting would the LA be responsible for securing provision in another setting when that setting may not be able to offer appropriate education for the pupils. This would place increased pressure on the services and capacity of EPS if a requirement for all assessments to be made.

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?

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

However it is very repetitive and could be condensed as the structure is the same across the chapters.

Concerns about the phrase ‘brought to the attention of’ a body that a pupil may have ALN within all chapters. This need to be a more formal process to ensure clear timescales and enquires are dealt with in timescales. There needs to be specific information required to raise a concern from a professional and could be confused with someone seeking an advice and information from other professionals.

9.46 / 9.55 – Use of an EP to determine whether an ALN is present when referred to the LA seems unnecessary, as the school based information and professional judgement given the skills and expertise of the role should be appropriate to make a decision.

Specifying what seems to be over reliance on EP assessment means that they will have far less capacity to undertake the vital role of early intervention. Also austerity and pressure on central services- having to recruit additional EP time is not feasible in the current climate of local government.

**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?

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

Timescales for completion of an IDP are a concern as in order to ensure a robust and comprehensive plan is in place advice from all agencies involved will be necessary to set appropriate targets and secure ALP. There are already difficulties with the current system getting timely advice and support from outside agencies particularly health. This is especially concerning where the advice/support and interventions is required for the IDP.

1A section ten of the chapter provides limited examples of resources to use as only ASD info wales personal profile and IPP mentioned. There could be links to the ESTYN thematic report and WG toolkits in this section.

The timescales put additional pressure on already diminished services and raise staff capacity issues especially where this is no additional funding for Las for staffing to cover the new roles and expectations of the code. The LA have far larger roles and responsibilities under this code and are required to make more judgements or review the decisions of other upon request this is not sustainable or possible without addition injection of resources and funding especially given the rise in number likely to be seen as the age range is extended.

A clear focus should be on good teaching and learning and universal services that support the majority of pupils and interventions. The system needs to be consistent across Wales and especially within Consortia areas that provision can be equitable across schools and Las under the same ethos of the current code. A focus needs to be on the schools and LAS service offer and a continuum of provision being provided at each step depending on the pupil's complexity of need.

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

Needs to be clearer about rights to education to 25 as easy read document for pupils/parents does not explain this in the same way as the main code and this will lead to disagreements with pupils and parents about entitlements to provision for post 16 pupils as is currently misleading.

Staff knowledge and capacity for assessing requirements at post 16 needs a wales wide assessment to extend the capacity. There needs to be clarity on the use of Careers Wales and their existing expertise in post 16 pupils with ALN under the current arrangements. We could loose the involvement of a very experienced group of staff if their role is not explicit..

The section on the 'Reasonable period expected to achieve desired outcomes' needs to be strengthen especially in light of the ongoing judicial review at post on entitlement to education and appropriate length and outcomes of college course.

For children post 16 **FEIs** can ask the LA to take over the responsibility for the IDP LAs will be responsible for determining **specialist college placements** from 2021. We will require significant further guidance, training and support to fulfil this duty.

Where a **young person is not** in FE or a maintained school the LA has responsibility to decide if there is an ALN, involve an EP and there must be a designated person responsible for coordinating the resulting actions (EHE)

The role of **social services** in relation to young people post 16 and up to the age of 25 need to be clarified.

## 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?

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

It is very important to have a standardised form that is the same to ensure consistency of information especially where young people move and transfer schools or across LAS.

Strongly agree that there is 1 key plan for LAC pupils to combine the PEP and IDP.

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

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

**The IDP template** very bureaucratic and prescriptive -loses/diminishes the PCP approach and is not Parent or pupil friendly. The proposed system is potentially adversarial and there are more points for disagreement.

There needs to be consistency in its purpose as in parts of the chapter it states a working document but in other sections about changes being made throughout the year. However if changes are made to the IDP as a legal document it will be subject to challenge and therefore the full procedures for altering the IDP would have to be followed. This would be unmanageable for a school/LA as some provision/interventions are short term.

Section 16.2 – clarity is required on the term ‘significant changes/information’ required for a review to be undertaken examples would be beneficial. New assessments or advice would not always be required where there have been no substantial changes to a pupils needs so would EP advice always be necessary of the original advice is appropriate should read may not must. There should be appropriate timescales for when a review can be asked for like the current code.

The NHS can ask for an IDP to be reviewed to secure or remove/change as support from other agencies e.g. speech and language is not long term.

As the IDP could be in place for a year there is no place for the long term overarching targets versus the short term targets as in the current system the statement of SEN has the long term targets then the IEP has the short term smart targets updated regularly . The current IDP does not reflect the short, medium and long term planning.

Section 13.35 the disapplication of pupils needs further guidance as pupils with ALN should not be disapplied or stopped from accessing subjects or testing unless assessed as appropriate e.g. new to English learners.

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

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

Capacity of the child – will there be further chapters information about judging capacity to ensure consistency and particularly who assesses this capacity and what information is required . The content section of IDP needs to have parameters not simply an open text box.

Section 2D - The name of school – all IDPs should have name of school/provision responsible for providing the ALP not just LA maintained IDPs as they are the responsible body for securing provision.

## 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 updated Learner Travel Measure document will need to be considered to fully answer this question - will it change the discretionary power we currently have when deciding when transport is appropriate?

There will be impact on costs of transport for post 19 learners who have disabilities/learning difficulties This should be linked to definitions in chapter 7 if pupil has ALN needs/ALP

## **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**

However there are concerns about whether this is achievable for NHS services due to waiting lists and systems in some areas particularly CAMHS service. The reasons for exception need to be well defined and tightened as the information may be a significant component of the information required for an IDP.

There should also be relevant sections for social care as although mentioned they are not mentioned in terms of information as this would be significant for LAC and pupils on care and support.

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 duty should apply to ALL requests from schools as they will hold the majority of IDPs as otherwise LA will need to become involved this would have detrimental impact on timescales and writing of IDPs. Information provided by services needs to be meaningful and provide advice and support not just a letter for appoint, met ect.

If timescales are not complied with the school may not be able to define ALN/ALP required if information is not provided. Where it is escalated to the LA to be involved this would place pressure on LA services especially where there may be no need for an LA IDP and the involvement is to access information. Overall it will take longer for plans to be put in place as would take a further 6 weeks to comply with the LA request which in most cases would take it over the 35 day time period.

We currently have difficulties receiving the relevant information for assessment in timescales now and this is a lower number of requests than under the new system.

Current issues if pupils/parents do not attend appointments then get put back on waiting lists or taken off and need to be re referred this would have a significant impact on the whole system, and delay for creating on IDP.

## 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)?

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

Clarity needed around the DECLO role and the duties expected of health bodies within the Code. The role needs to be strategic but also encompass a team /systems approach to dealing with requirement of the code as a senior strategic officer would not have time to deal with all requirements.

The links between the role and other agencies are not clear and the system requires a key person to contact in departments to ensure information is able to be gathered timely.

## 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

Section 16.6 – what constitutes significant changes or new information to impact on ALN/AIP. Must be clear what would constitute a need for a review.

No reference to PCP approaches in reviews section.

Strongly agree that the IDP review should be incorporated into a LAC review as an essential part of the care plan.

Flowchart CH19:7 – states that the process would normally include conducting a review. Under what circumstances would a review meeting not need to be held?

Concerns about all parties being able to attend reviews and provide meaningful information to support 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 type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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### Supporting comments

The term Severe and complex has to be a consistent description throughout as document and part of the definition in chapter 7 as currently misleading and may not reflect parents/pupils understanding of need for a review.

Pupils with severe and complex needs are more likely to need updates from health other professionals. The same concerns previously about complying with timescales to be able to update change ALP for a review.

## 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?

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

Significant concerns that decisions made by schools are not appealable to tribunal or parents re able to appeal them to another body other than LA. If statutory documents are being written they should have the same procedures for appeal for all responsible bodies so should have the same accountabilities.

This is likely to lead to a considerable conflict arising between schools/LA where decisions are being challenged and direction of schools to complete planning be there needs to be clear boundaries for where the LA should take over.

The term used it would 'no longer be reasonable for them to secure ALP' needs clarification and examples e.g. Schools and LA need to have a consistent understanding of what constitutes a school v LA IDP.

The bureaucracy around the link of **funding** and numbers of children /young people identified as having an ALN needs rather than looking at needs fo pupils and school based v LA provision need to be tightened.

Statement in section 17.26 'Capable of fully meeting needs of child, is open to interpretation especially where issues have arisen relationship breakdowns with parents and lead to request for LA to be involved where not necessary.

**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?

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

Clear examples/ structure required for process for asking an LA to reconsider a decision made by the school as questions professional judgements of schools. Could happen in instances where relationships have broken down between school and Parents.

Timescales could be an issue where further outside agency information is required for LA to make a full reconsideration. – needs to be stated in Code as in consultation document.

## 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

Yes – clear use of PCP strategies in the chapter.

Ensure that the correct people attend meetings who would be able to give information and contribute to plan. Issues of capacity to attend reviews of professionals as in small LAS would be same staff/personnel attending.

A great deal of admin time is required before and after the reviews to ensure timely information is given .

## 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

Transition for school moves already strong and in place but needs strengthening for early years and post 16 transition particularly concerns about GDPR and information sharing and requirements for Information sharing protocols between parties.

Key links with the admissions code and review of IDP in new setting. There will be difficulties where a pupil has moved into area and LA do not have similar ALP/provision. Update code to reflect that situation.

Key for placements (social care) and parents to have consideration when planning a move where pupils requires specialist ALP in line with section19.29

Key issue for secondary schools and FEI where multiple learners with plans have to be reviewed in September to update the plan for the new provision. Could be unmanageable and difficult where the school do not know the pupil well enough and they have not settled into provision to know what working/not working.

## Chapter 20 - Transferring an IDP

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

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

There should be a time limit to the LA maintaining and IDP for pupils who cease to be LAC e.g. if adopted, special guardianship especially in another LA should set a timescale to transfer as per any other pupil.

Section 20.11 contradicts with 21.6 B which states that the IDP can then be transferred to a school/ FEI – needs to be consistent.

### 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

Clarity on the term reasonable when securing provision.

**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

Clear timescales for notice given for transfer of IDP especially where LA IDP and the pupil requires non- maintained provisions/specialist schools in area as takes time to transfer and often pupil already in area - LA notified asap on decision to transfer made

## 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**

If a review has taken place and information is provided to all parties as part of the recommendations to make decision recorded.

## 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**

Specialist provision may not be available or to be able to be sourced if at a specialist setting is required and documented within the IDP especially where pupils are far away from home LA or in England links.

**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**

As above

**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**

This will be dependent on a specific case circumstances and assessments/ clinical decision making to inform education planning.

## 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**

Section 23.17 required more information on duties of LA around EHE pupils as parents have responsibility to provide education and meet needs under the Education Act and responsible for costs. What duties in this circumstance do LAs have to provide provision where parents home educate and pupils do not attend regulated education provisions?

Have links been made with draft statutory guidance on EHE ?

## 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

Pressure on schools budgets to have non -teaching ALNCoS who are on SLT or links to it. Role needs to have the required status and support to enable fulfilment of role

Training and support for current ALNCoS to develop these skills and be ready for implementation of Act paramount. This could cause issues for schools with succession planning given the additional complexities of the role and training requirements.

The role is clear and contains many statutory duties for the role.

Clear role on tracking and monitoring of interventions and focus on the provision and what impact it will have on pupils and the need for review so will stop situations where provision is not changed and amended to focus on the new skills and learning we want pupils to have and focus on independence.

This is based on schools and needs information for the requirements for early year's settings and FEI who also have significant roles in this code in providing support and guidance.

24.15 where learners require external agency support as part of their ALP it may not be possible due to the external agencies to secure that provision as not available or pupil is on a waiting list . Would the accountability transfer to the agency rather than the school or LA as the ALP may not be able to be sourced locally or come at a high costs that is not feasible.

## 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

Existing contracts and requirements already in place on a regional level

Importance of upskilling school based staff in **dispute resolution** to reduce the cases which are referred to the 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?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

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

Part of legislation - similar to current processes but includes more areas for appeals/disagreement.

There needs to be a clear pathway to the health dispute resolution pathway and mention of school and LA complaints procedures.

Focus should be on early intervention in disputes and disagreement resolution at each stage before the disagreement is passed on to the next stage e.g. school to LA, LA to 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?

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

Section 27:8 what formal assessments /means to make a decision about capacity exist? This should be standardised an evidence based when making a fundamental decision Information required.

What would be the process for making that determination

Concerns about requirements and existing knowledge qualifications for a case friend there should be standards/expectations as we have for advocacy services.

## 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.

Increase workload for schools and LA when no additional resources are being provided is a significant concern, particularly when considered against existing pressures and continuing austerity.

Many more points for disagreement and break in relationships than in current code

Does not define assessments required and there are too many opportunities to pushback decisions to LA - There should be clearly described accountability for all who are writing statutory plans and making decisions.

Does not focus sufficiently on being proactive or early intervention. Concern that focus will shift to pupils with complex needs rather than early interventions.

Effective use of public funds need to be considered when request for alternatives to education and provision requested by parents and other departments in relation to high cost placements and requirements for ALn especially when post 16

Standardised assessments/ in Welsh - needs further developments as there is currently a lack of suitable materials.

Should be more closely reflect the original intention to be less bureaucratic and more child focused.

## **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**

Yes - However need to be clear on the requirements upon NHS bodies in relation to ALN in relation to appeals . Tribunal can ask but are not able to enforce recommendations.

**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?

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

The focus should remain fair and just to all parties.

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

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

Agree process would be able to focus on points of disagreement and enable points to look at disagreement resolution. The 8 week timescale remains appropriate

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

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

4 weeks for LA to write statement is shorter than current but the feature that the parent's statement will be available will give an equal footing all parties so the focus can be on points of disagreement rather than the whole situation.

Key focus needs to be on disagreement resolution at all stages.

Out of time claims should have a specific time frame or reasonable reasons it is acceptable to accept claims outside of timescales.

**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?

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

Same as for other requests as in code so consistent.

**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**

Note that there may always be exceptions especially where specialist service are required to be commissioned.

**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**

As above

**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**

Case friends outside of the family – regulations required. What evidence will be required to support the suitability to act as a case friend?

Case friends from groups/organisations - expectations/requirements of group to be independent should have similar requirements as advocacy services.

### **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**

We would expect the training and qualifications on ALNCOs to be consistent regardless the same opportunities and training as new ALNCOs to ensure same standards and expertise is in

**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?

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

Will have an impact on existing ALNCOs roles and that of smaller schools. There should be more focus on a whole school approach with the ALNCO at the centre and all teachers and staff being teachers of ALN as the current national curriculum and code state. There needs to be a clear definition in roles between strategic and operational duties.

Concerns raised around recruitment and retention of **ALNCOs**. In a few schools, this is a role given to a member of staff or as an “add on” as part of a SLT role. How do we encourage people to apply for these posts and then ensure they are upskilled and experienced within the role and remain in post? The role appears to include significant amount of work for the ALNCO without specifying the time allowance and the remuneration. ‘Should’ around SLT role and release time – this needs to be a ‘must’.

## **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?

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

Making a difference WG document sets out minimum expectations for the role but would need to be updated in light of the elements of the code which place requirements on LACE coordinator. Should also include minimum qualifications and experience of LACE in the same way as ALNCO role to ensure standardised practise as currently the role differs across LAs and can sit in different directorates. To fulfil these requirements the role would need to be in education.

Role of **LACES** coordinator needs to be a statutory role. We need to consider qualifications and experience required as the current WG Job description given new requirements in ACT on the role.

The needs to also consider the role of the LAC designated teacher in schools working with the ALNCO or the roles would become disjointed.

Issues will arise where LAC pupils live and are educated out of the area as under current belongings regulations the LA where the pupil lives in responsible for securing the ALP. This will be difficult where the pupil is far away from the home LA securing ALP and specialist placements would still need to be secured via the LA processes so there needs to be clear

methods of cross LA working and efficient use of already stretched resources or LA staff will be all travelling across the country to undertake assessments.

## **(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?

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

Yes – needs to have consistency of approach due to movement of young people across counties and allow all information to be in one place the PEP and IDP combined will provide a core document.

There should be clear and consistent roles for social care and education to complete the PEP and ensure it is a meaningful document. Needs to be taken into consideration when a pupil is moving placements.

## **(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?

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

Important section to be highlighted is 100 which states the requirement on stability of education especially where placement break down and change suddenly. It is good that the emphasis is maintained on corporate parent LA to maintain placements as pupils should move only in exceptional circumstances and is vital to maintain stability as too many pupil are moved in KS4 resulting in time missing.

Will have a significant impact on the LACE role in coordination of planning especially where there are larger numbers of Lac pupils and pupils living across the UK. Pressure around capacity. There is no LA funding for support of LAC pupils the funding goes to the consortia and schools so this should be looked at as PDG could provide additional support for LAC pupils.

Section 177 exclusion provision currently in exclusions from schools circular states provision of permanent exclusion is in place after 15<sup>th</sup> day – will the exclusions from school and PRU

circular to be updated to reflect this?

Agree with 118 as too often pupils are moved in key stage 4 which leads to decrease in options available of schools being able to meet subject choices. Too often it is about transport costs rather than consistency and best interests of the child.

CPPCR regulations must make appropriate arrangements for education and training prior to placement should have strong emphasis on engagement with the new LA as often pupils are placed prior to consultation about appropriate provision and pupils have already left their previous placement-

**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**

Changes to **Belonging Regulations**-In relation to LAC there is a mandatory framework for a statutory education plan which will form part of the Personal Education Plan (PEP) - a mandatory template will be developed. Where a LAC pupil may have an ALN the LA must determine whether this is the case and must seek advice from an EP. The LA must then determine provision and maintain the plan.

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

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

No – need to look at JD and roles of LACE and place in LA working with ALN team

No links to PDG grant or role of regional consortia as they have roles under the grant and LACES in the regional LACE JD

Role of Designated Teachers need updating in line with PEP/IDP changing to support LACE where pupil has less complex ALN and provision is school based. The focus on the LACE monitoring provision in schools and ensuring the schools are securing ALP.

## **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?

**Would increase the roles and responsibilities of LAs to provide resources and support via the medium of Welsh.**

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

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

The issue of bilingualism needs to be seen in the wider context of Bilingualism in Education and developments in the curriculum. Especially when planning for new Welsh medium provision and as part of LA WESP plans.

There are too few skills presently in specialist responses to ALN within the Welsh first language population. No standardised assessments, lack of clear guidance. This could be addressed through learning from EAL and WAL practitioners

So join up- and WG need to take a lead to make this happen.

**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 mention of a graduated response

Success depends on quality of teaching and learning within schools and links with the consortia on school improvement. The role of the consortia within this transformed system of high expectations and aspirations for all pupils is somehow missing from this Code, or only fleetingly mentioned. If the majority of pupils with

ALN requiring ALP will be in mainstream schools then the Code should put expectations onto school improvement services as well. It is implicit, especially within Chapter 7 but needs to be *explicit*

The consultation does not ask any questions about the funding and resource implications of complying with the Act and adhering to the Code of Practice. Strategic dialogue would seem to indicate that no additional funding is going to be made available. This is not an acceptable arrangement given new roles required and additional capacity of teams. As one possible consequence could see current funding having to be diverted to meet additional ALN costs. We would strongly suggest that a funding and resource review of the introduction of the Code be undertaken prior to the Code's implementation.

**Respondent Details**

Information	
<b>Name</b>	Jane Alexander
<b>Organisation (if applicable)</b>	CWLWM Partnership

**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?

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

The explanations are clear for ‘Must’, ‘Must Not’ and ‘May’. With regards to ‘Should’ and ‘Should Not’, it is not clear who will be assessing whether reasons for not doing so are justified and will this only be raised during appeal? Will there be capacity to assess every case and ensure that things are being done fairly?  
The footnotes are a very useful reference.

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?

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

The approach is transparent and puts children at the centre of the process while setting out clear expectations.  
There needs to be consistency with clear timescales. It is good as it means that in theory all children and families should benefit from the same process and timescales and enables clarity on what to expect.  
Consideration should be given to reducing the timescales for very young children (0-3) as 12 weeks is a long time at this age and we know that Early Intervention and Prevention should be a key consideration.

There also needs to be clarification on what determines 'exceptions' so that they are not used unless it is exceptional circumstances beyond control.

In terms of the trigger point – what/who determines a trigger point?

Clarification is needed from the main bodies involved as to whether timescales are realistic and there are sufficient, appropriately trained professionals to feed into this multi-agency process. It is also important that there is a balance between being prompt and the quality of decision making within the process.

If timescales prove unattainable across the board, will this be looked at in relation to budget allocations, support offered, changes to processes? At what point will the number of timescales (with a number of different cases) missed cause concern about flaws to the system/capacity?

**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?

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

Who decides that the exception applies and who will be monitoring applications for exceptions – e.g. if the same issue keeps arising, will this be noticed? Will that be part of the role of the Early Years ALN Officer / DECLO?

Will there be a penalty if an exception is claimed but it did not meet the criteria for an exception? It is important to get through consultation with the right people re: question 2 as it will lead to decisions being deferred.

If the exception applies, there should then be a further clear timescale along with a process to inform the parents/child/involved parties. The term 'promptly' does not give bodies (or families/children) clear enough knowledge about when things will take place we would reiterate that the 12 weeks for children aged 0-3 would not be considered prompt and that this age group be named a specific group that would need prompt action taken

If the exception is likely to be needed (e.g. if a LA gets to week 10/11 and it is clear that deadline is unlikely to be met) there should be clear information/rules about when and how this information is communicated to all interested parties (the family, the child, the school) – if a deadline date is arriving there will be expectations attached to that, and the extension should be communicated to interested parties in a timely and sensitive manner.

We would like to see assurances that accessing Welsh translation or services in Welsh are not used as reasons for exceptions

## 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?

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

The contents and division of chapters is clear and easy to understand, it is clear which chapters are relevant and to whom.  
Cross overs have been clearly identified  
Several practitioners who read the document in Welsh have fed back to one-member organisation that the language of the document is unwieldy and can be difficult to use as a quick reference due to information being in several places eg. Information relating to Early Years and Welsh Language

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

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

The focus on describing and explaining the functions and processes is appropriate. However, it would be useful to have an accompanying resource with case studies, which could be updated as required providing clear examples, particularly to demonstrate how elements of the Code come together in set examples.  
There does lack clarity of function and processes particularly for the Early Years sector as this code now extends children under compulsory school age particularly 0-3 there is very little guidance or clarity in how the code will function within the private or voluntary sector  
In terms of Welsh speakers the information provided is inadequate. It is not clear to the professional how they should go about assessing, meeting and providing services in Welsh. These issues are not identified under the information about the functions of the Early Years ALN Co-ordinator nor are they in chapter 11.  
It would be useful to have a dedicated chapter for dealing with the provision of Welsh language and bilingual services.

## 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?

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

Yes – if the PRU Management Committee has the appropriate knowledge and qualifications to make these decisions. It should make things more efficient time wise and would give greater possibility of the timescales being met.

## Chapter 2 - Principles of the Code

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

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

Yes we agree with all the principles and the 5 key elements set out in 2.2 are easy to follow. In particular taking heed of the UN Convention on the Rights of the Child and putting the child, as well as their family – at the centre of the approach – is very important. Their empowerment through focussing on possibilities rather than problems is important to the wellbeing of these children and young people.

The general principles are the right ones providing they are embedded throughout the code this is not always the case as in Early Intervention and Prevention, there is not enough detail on how a local Authority should ensure that children under compulsory school age are supported.

## 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

It is clear what must and should be done and keeps to the ethos of the Principles of the Code ‘ a rights based approach’.

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

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

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

It is clear what is expected and it is good to see that the duties and expectations with regard to UNCRC and UNCRPD have been written into the code

## 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

The guidance is clear and ensures that the evolving needs of the child are kept under review and can be changed to meet needs.

There is not a voice for the children under compulsory school age and not accessing Foundation Phase Nursery, where is the support for children with ALN attending Early Years and Childcare settings

## 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

It is important that other parties who are involved in the child's development are also aware of the plan where possible, while giving due regard to GDPR. For example, an Out of School Childcare Club, whilst not providing education, might be well placed to offer their knowledge about the child when the IDP is being developed, and would also benefit from knowing about the IDP – it could be that the needs identified by the school also need to be taken into consideration by the club to facilitate the child's engagement/involvement. Likewise, early years, childcare and play settings have expertise and knowledge that would be essential in forming plans for children and supporting families

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

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

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

Cwlwm feels the focus here on education for under 3's is not appropriate. For any children of this age it would be childcare provision rather than funded education provision that they are accessing. Childcare can be accessed at a range of different settings, including home-based childcare (childminder or nanny on the CIW voluntary approval scheme), Playgroups, Day Nurseries or Cylch Meithrin. A mother and baby group would never be classed as either educational or childcare provision as the parent is there with the child. These groups are generally referred to as Toddler Groups or Parent/carers and Toddler groups. Regulated childcare definitions are clearly defined in legislation and this is what needs to be referred to here

The definitions should be geared towards emerging diagnosis, it is not realistic to know that a 2-year-old will have difficulties as a 5-year-old. We should be looking at definitions that look at a child's needs now not in a few years' time, where is the Early Intervention and Prevention?

The term educational provision can cause confusion as this is not a term ordinarily used for childcare settings unless the setting is a non-maintained foundation phase provider or a flying start setting.

This would mean that childcare settings outside of this category would not be considered as options for ALP

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

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

The language used when referring to children under compulsory school age is based around education and not always compatible with the Early Years and Childcare sector, this has been an issue that we have commented on in previous consultations particularly where Local Authorities have favoured focusing ALN support in Flying Start and Funded Education settings Cwlwm believes that further clarification is required to define what this means in relation to children aged 0-3 where the definitions and use of terminology between care and education are more blurred to avoid varying interpretations of this for children before the compulsory education age.

There is ongoing work in the early years sector looking at a more joined up approach between 'Early Childhood Education and Care (ECEC)' and this is gaining strength. The principles of this work need to be considered in the content of the Code to ensure that it is fit for purpose.

7.60 includes reference to various agencies that could be involved in identifying and supporting children with ALN which included; *providers of non-maintained nursery education and their umbrella organisations*; Cwlwm strongly feels that 'childcare providers and their umbrella organisations' needs to be added to this list.

The flow chart at the end of Chapter 7 '*does the child below compulsory school age have ALN*' is, to us, much easier to read than that first section of Chapter 7 and we would suggest the flow charts come earlier in the chapters where they are used.

The flow chart also uses language which is not compatible with 0-3 and does not account for emerging difficulties or the value of Early Intervention and Prevention, a child under the age of three

may well have emerging difficulties identified which if supported may negate the need for support when attending mainstream education

Cwlwm would also like to raise the point around curriculum changes in coming years in Wales which are likely to lead to less clear definitions between stages and less clear transition points which need to be considered to future proof the Act and associated Code.

## 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 checked="" type="checkbox"/>
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#### **Supporting comments**

It is clear that this role is a strategic one. However, this means that each Local Authority could have a different way of interpreting its duties for children under compulsory school age. This may result in the continuity of different systems of guidance and support in all 22 counties. Whilst the majority of the overview suggests the role is strategic, the reference to the ALNLO providing advice and guidance verbally within settings could be misinterpreted?

### 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 checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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#### **Supporting comments**

The Draft Additional Learning Needs Code sets out the duty of Local Authorities to favour mainstream maintained education. As this description is within a section specifically for children below compulsory school age Cwlwm believes that further clarification is required to define what this means in relation to children aged 0-3 where the definitions and use of terminology between care and education are more blurred to avoid varying interpretations of this for children before the compulsory education age.

Cwlwm advocates for parental choice and a child-centered approach, which treats the child as an individual, ensuring that support is identified and given on a needs basis. Cwlwm advocates that all Local Authorities would have processes in place that support children in these age groups whether through ANRS schemes or training and resources for childcare practitioners.

**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?

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

Timescales are important, and it is imperative that plans are put in place as quickly as possible to try to ensure as little disruption as possible to the child and their education - from the current timescales, the timescales here seem a step in the right direction.

12 weeks still sounds like a long time for children/families to have to wait in cases where, Local Authorities are the responsible body. 35 school days is also a long time if the trigger point happens at some point in the summer term followed by 7 weeks of the summer holidays. This means that the decisions would not then happen until the autumn term. Will there be guidance with regard to this? – What would happen during this time if the school could not cope with the child – would they have to be temporarily suspended or have their hours reduced?

If there are issues with meeting these timescales, presumably there would be steps taken at a strategic level to resolve issues?

Cwlwm strongly believe that clear timescales need to be in place and that these need to be set around the best interests of children and their families rather than being influenced by current issues which we are aware of can impact the time it takes to prepare a plan. We are aware of issues that have been raised at the consultation events that can impact on the development of a plan but do feel that these should be clearly set in line with a national vision and be consistent.

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?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

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

In chapter 13 1A.12 (before 13.17) Cwlwm query the use of the term 'capacity issues'. Is there a more widely used and inclusive term that works for the sector? If this is a person-centred approach, then the child and parents would be involved in preparing this document, terminology such as 'capacity issues' is very demeaning, (medical model rather the social model of disability).

We understand that section 1C should be flexible to what is important to the individual, and that a good one-page profile can take many forms. It would be extremely beneficial if there were a link to some further guidance / examples of one-page profiles and supporting resources however understand that this may need to be separate to the Code in an associated best practice guidance document.

13.48-13.49 suggests that a maintained school must be named, then in contrast 13.53 does then add that this section can be marked not applicable. If the child is 3 years or below would this section be marked N/A? It may be clearer to say (if applicable) earlier on in this section, as the emphasis on the term must in 13.48 may be misleading. This section needs to be clearer.

13.64 should this also include details of childcare settings/childminder other provision attended

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

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

It needs to be clear if this form is mandatory or if it is the information contained within it that is. Would the person responsible for completing the IDP (e.g. ALNCo) have sufficient time to complete it (i.e. non teaching hours) – notice that the wording relating to schools/head teachers giving them time for their duties is a 'should' not a must.

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

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

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

Cwlwm believe that transport arrangements to support children with an IDP to access childcare settings and non-maintained education providers need to be considered in this section of the Code. The focus needs to include care alongside education so that for example children could access their transport entitlements to go from education to Out of school Clubs and early years and childcare settings in line with previous comments.

## Chapter 15 – Duties on health bodies and other relevant persons

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

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

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

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

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

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

It would depend how in depth an assessment needed to be made. Currently waiting times are often longer than this period

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

Yes, it will be important to have a strategic role. However, it will also be important to know the structure of staffing underneath this role, particularly who the point of contact will be for ALNCos.

## Chapter 16 - Review and revision of IDPs

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

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

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

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

Having 12 weeks for initial preparation and 7 weeks to review is adequate. We agree that under circumstances that may affect the time scale, it can be flexible.

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

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

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

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

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

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## Chapter 18 - Meetings about ALN and IDPs

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

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

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## Chapter 19 – Planning for and supporting transition

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

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

In line with previous comments the focus on educational provision in 19.1 needs amending given that children under the age of three (or four for those accessing funded education provision in a non-maintained setting) will be accessing Early Years and Childcare provision and both need to be referenced.

In section 19.3 Cwlwm query the higher importance of transitions within an education setting. The importance of transitions in the early years into childcare provision should not be overlooked and seen as any less important. We would suggest that 19.3 is amended with the example removed. Cwlwm also query the 'year1' written against the 'compulsory education' bullet in the Code in this section. Compulsory education in Wales is from the school term following the child's fifth birthday which is usually within the reception school year.

Transition is an important consideration when planning childcare which is sensitive to the emotional needs of babies, young children, and children with additional learning needs. Potentially a child could be under the care of several types of childcare settings such as Flying Start or a Day Nursery, they could also be accessing a wide range of services such as portage or physiotherapy. There needs to be a consistent approach to supporting a child to transition between services not just in between key stages of education.

## 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**

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

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

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

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## **Chapter 21 - Ceasing to maintain an IDP**

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

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

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

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

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## **Chapter 22 – Children and young people subject to detention orders**

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

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

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

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

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

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

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

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

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**Chapter 23 - Children and young people in specific circumstances**

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

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

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

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

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

This role clearly sits within Education however there has been no clarity over the Role of an ALNCO/ SENCO within registered childcare settings. Under current legislation as stated in the National Minimum Standards, Registered Childcare setting should have a named SENCO/ALNCO who must follow the current Code of Practice. Non-maintained Education providers are not identified and would fall under the EYALNLO but this is in contradiction to the current National Minimum Standards. These standards are currently under review so there needs to be clear synergy between the two pieces of legislation

## 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?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

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

There are no rights to Welsh medium advocacy in this section which is disappointing (25.55) Parents are unable to access advocates themselves when their children are too young express their own opinions.

There is an expectation on Local Authorities to put in place arrangements for avoiding and resolving Disputes. In view of the fact that many of the disputes will be with aspects of their own services this will not provide an unbiased avenue of support for dispute resolution. It is not appropriate for Local Authorities to employ their own dispute resolution workers and expect that they can be unbiased in issue relating to their employers.

Unless the Code stipulates that the service should be provided by a third party it will be impossible to honour the principles set out in section 25.34 – 25.36.

## 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

Currently the Code states that appeals can be made about:

the ALP in an IDP, or the fact that ALP is not in an IDP, including whether the plan specifies that ALP should be provided in Welsh;

it should be possible to appeal also when the IDP stipulates that the ALP should be in Welsh but the provision has not been provided in Welsh,

## 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.

The Draft ALN Code is a lengthy document but it needs to be – it is very comprehensive; however, the wording is sometimes hard to decipher for practitioners who will not be familiar with the language used at this strategic level.

CWLWM has not answered questions 31-40 or Parts 2.3 and 4 as it was felt that these were outside the expertise of the partnership.

Case studies and supporting information/examples would be useful within a supporting document that could be developed alongside the Code.

The code needs to align with the National Minimum Standards which are currently being reviewed by Welsh Government . In the meantime. it would be helpful to have some guidance for registered Childcare settings

The language used to describe childcare setting and provision should be consistent and clear and included in the glossary, descriptions of registered childcare provision should be taken from the National Minimum Standards for regulated childcare to ensure consistency through policies.

In February 2019 one of the partners held 3 focus groups made up of members from Childcare settings, there were a total of 36 attendees, the common thread and concerns are noted below

- Concerns raised over the expectation of the ALNCO role within childcare settings and that it is obviously not meant for childcare settings. The question arises as to what will be the expectation especially as the National Minimum Standards are up for review – will there be a synergy between code and standards
- Referral pathway needs to be clear and consistent and the same across types of childcare setting and local authorities
- Transition needs to be taken seriously by funded education, work to be done in getting education to work with childcare settings although settings report that improvements have been made. There needs to be a consistent approach
- Training needs to be made available across all childcare settings initially training or information on IDP's and PCP's, this needs to be consistent across all authorities
- ALN definition is rigid and difficult to apply to very young children. How can you predict what a 2 year will need as a 5-year-old in order to fit in with definitions?
- What about Early intervention and prevention where is the guidance for an undiagnosed child with emerging difficulties?
- Confusion over the role of the EYALNLO as this is a strategic role so who do the childcare setting turn to. It leaves it open for each local authority to have a different system of approach for Early Years, ie referral schemes, training, transition, support for children and families

## **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?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

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

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

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

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

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

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

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## **Part 3 of the consultation: Draft ALNCo regulations**

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

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

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**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

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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

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

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

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

### **(c) Proposed revisions to the Part 6 Code**

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

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

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

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

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

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

## **Part 5 of the consultation: Impact of proposals**

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

It would be hoped that timescales and waiting times will be reduced, and that there will be more consistency across Wales in relation to these. Having strategic roles should also support the development of more efficient processes, and support early identification of issues and resolutions.

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

It is likely to promote the development of more Welsh Language education places.

**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	
<b>Name</b>	Jane Alexander
<b>Organisation (if applicable)</b>	Early Years 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?

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

The explanations are clear for ‘Must’, ‘Must Not’ and ‘May’. With regards to ‘Should’ and ‘Should Not’, it is not clear who will be assessing whether reasons for not doing so are justified and will this only be raised during appeal? Will there be capacity to assess every case and ensure that things are being done fairly?  
The footnotes are a very useful reference.

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?

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

The approach is transparent and puts children at the centre of the process while setting out clear expectations.  
There needs to be consistency with clear timescales. It is good as it means that, in theory, all children and families should benefit from the same process and timescales, and enables clarity on what to expect.  
  
There also needs to be clarification on what determines ‘exceptions’ so that they are not used unless it is exceptional circumstances beyond control.  
In terms of the trigger point – what/who determines a trigger point?

Clarification is needed from the main bodies involved as to whether timescales are realistic and there are sufficient, appropriately trained professionals to feed into this multi-agency process. It is also important that there is a balance between being prompt and the quality of decision making within the process.

If timescales prove unattainable across the board, will this be looked at in relation to budget allocations, support offered, changes to processes? At what point will the number of timescales (with a number of different cases) missed cause concern about flaws to the system/capacity?

**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?

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

There is no indication as to who decides that the exception applies and who will be monitoring applications for exceptions – e.g. if the same issue keeps arising, will this be noticed? Will that be part of the role of the Early Years ALNLO / DECLO?  
 What will be the consequences if an exception is claimed but it did not meet the criteria for an exception?  
 If the exception applies, there should then be a further clear timescale along with a process to inform the parents/child/involved parties. The term ‘promptly’ does not give bodies (or families/children) clear enough knowledge about when things will take place.  
 If the exception is likely to be needed (e.g. if a LA gets to week 10/11 there should be clear information/rules about when and how this information is communicated to all interested parties (the family, the child, the school) – if a deadline date is arriving there will be expectations attached to that, and the extension should be communicated to interested parties in a timely and sensitive manner.  
 How will these exceptions relate to very young children with emerging diagnosis

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?

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

The contents and division of chapters is clear and easy to understand, it is clear which chapters are relevant and to whom.  
 Cross overs have been clearly identified

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

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

The focus on describing and explaining the functions and processes is appropriate. However, it would be useful to have an accompanying resource with case studies, which could be updated as required providing clear examples, particularly to demonstrate how elements of the Code come together in set examples.

There does lack clarity of function and processes particularly for the Early Years sector as this code now extends to children under compulsory school age particularly 0-3. There is very little guidance or clarity in how the code will function within the private or voluntary sector

## 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

This question is outside our remit

## Chapter 2 - Principles of the Code

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

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

Yes, Early Years Wales agree with all the principles and the 5 key elements set out in 2.2 are easy to follow. In particular taking heed of the UN Convention on the Rights of the Child and putting the child, as well as their family – at the centre of the approach – is very important. Their empowerment through focussing on possibilities rather than problems is important to the wellbeing of these children and young people.

The general principles are the right ones providing they are embedded throughout the code. This is not always the case as in Early Intervention and Prevention, there is not enough detail on how a Local Authority should ensure that children under compulsory school age are supported.

## 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

It is clear what must and should be done and keeps to the ethos of the Principles of the Code ' a rights based approach'.

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

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

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

It is clear what is expected and it is good to see that the duties and expectations with regard to UNCRC and UNCRPD have been written into the code

## 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

The guidance is clear and ensures that the evolving needs of the child are kept under review and can be changed to meet needs although consideration should be given to the rapidly changing needs of very young children that may prompt the need for more frequent reviews  
There isn't a voice for the children under compulsory school age and not accessing Foundation Phase Nursery. Where is the support for children with ALN attending playgroups, Day Nurseries etc?

## Chapter 6 - Advice and information

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

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

Yes – it is important that other parties who are involved in the child’s development are also aware of the plan where possible, while giving due regard to GDPR. For example, a Day Nursery or playgroup, whilst not providing education, might be well placed to offer their knowledge about the child when the IDP is being developed, and would also benefit from knowing about the IDP – it could be that the needs identified by the school also need to be taken into consideration by the childcare setting to facilitate the child’s engagement/involvement.

## 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

Early Years Wales feels the focus here on education for under 3’s is incorrect. For any children of this age it would be early years childcare provision rather than education provision that they are accessing. There is no real differentiation between the flow charts looking at children attaining mainstream education and children under compulsory school age. The language and terminology are wrongly applied to child under school age. Childcare can be accessed at a range of different settings, including Playgroups, Day Nurseries, Cylch Meithrin or childminder. A mother and baby group would never be classed as either an educational or childcare provision as the parent is there with the child. Early Years Wales supports such groups which are generally referred to as Toddler Groups or Parent/carers and Toddler groups and are not regulated . Regulated childcare definitions are clearly defined in legislation and, Early Years Wales considers that this is what needs to be referred to here

The definitions should be geared towards emerging diagnosis, it is not realistic to know that a 2-year-old will have difficulties as a 5-year-old. We should be looking at definitions that look at a child’s needs now not in a few years’ time. Early Years Wales queries where is Early Intervention and Prevention here?

**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 language, even when it is specifically for below school age, is still very education based. The Draft Additional Learning Needs Code sets out the duty Local Authorities have in favouring educating children in mainstream schools, including maintained nurseries. Early Years Wales believes that further clarification is required to define what this means in relation to pre-school

children where the definitions and use of terminology between care and education are more blurred to avoid varying interpretations of this for children before the compulsory education age.

There is ongoing work in the early years sector looking at a more joined up approach between 'Early Childhood Education and Care (ECEC)' and this is gaining strength. The principles of this work need to be considered in the content of the Code to ensure that it is fit for purpose.

7.60 includes reference to various agencies that could be involved in identifying and supporting children with ALN. *Early Years Wales* strongly feels that 'childcare providers and their umbrella organisations' need to be added to this list.

The flow chart for a child below compulsory school age is heavily focused on education and does not account for emerging needs and the importance of Early Intervention and Prevention.

Early Years Wales would like to highlight the upcoming curriculum changes in Wales which are likely to lead to less clear definitions between stages and less clear transition points which need to be considered to future proof the Act and associated Code. We would also like to reiterate that the National Minimum Standards for regulated care are under review in 2019 and there needs to be synergy between all the policies that affect the early years, childcare and play sector.

## 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 checked="" type="checkbox"/>
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### **Supporting comments**

It is clear that this role is a strategic one. However, this means that each Local Authority could have a different way and interpretation of its duties for children under compulsory school age so we could still have different systems of guidance and support in all 22 counties

Current legislation and supporting documents such as the current code of practice and the National Minimum Standards for childcare already use the term ALNCO but this obviously has a different meaning in the Childcare sector. This is already causing some concern and confusion and needs some further clarification and guidance

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?

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

The Draft Additional Learning Needs Code sets out the duty of Local Authorities , which in the view of Early Years Wales favours mainstream maintained education. As this description is within a section specifically for children below compulsory school age Early Years Wales believes that further clarification is required to define what this means in relation to pre-school children where the definitions and use of terminology between care and education are more blurred to avoid varying interpretations of this for children before the compulsory education age.

Early Years Wales advocates for parental choice and a child-centered approach, which places the needs of the child on an individual basis first. In this respect, the ALN Code should allow for consideration on an individual basis of the most suitable approach, format and setting to meet the needs of a child in the pre-school years. This could mean naming ALP which could be a CIW registered childcare setting, there needs to be some provision within this code for this to happen and this would fall under the duty of the Local Authority EYALNLO

**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?

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

Early Years Wales strongly believe that clear timescales need to be in place and that these need to be set around the best interests of children and their families rather than being influenced by current issues which we are aware of can impact the time it takes to prepare a plan. We are aware of issues that have been raised at the consultation events that can impact on the development of a plan but do feel that these should be clearly set in line with a national vision and be consistent.

We also feel that timescales can be too long for very young children as Early Intervention and Prevention is critical.

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 checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

It would be beneficial to have examples of one page profiles in the Code to ensure consistency and quality of approach, we would like mandatory training available to support this across the childcare sector.

**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**

It needs to be clear whether this form is mandatory or if it is the information contained within it that is. A concern would be the allocation of time to complete the IDPs and the training and support to compete to ensure consistency.

**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**

Early Years Wales believe that transport arrangements to support children with an IDP to access childcare settings and non-maintained education providers need to be considered in this section of the Code. The focus needs to include care alongside education in line with previous comments.

## Chapter 15 – Duties on health bodies and other relevant persons

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

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

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

It is important that everybody recognises and adheres to the timescales set

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

It would depend how in depth an assessment needed to be made. Currently waiting times are often longer than this period

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

Yes, it will be important to have a strategic role. However, it will also be important to know the structure of staffing underneath this role, particularly who the point of contact will be for ALNCOs.

## Chapter 16 - Review and revision of IDPs

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

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

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

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

Early Years Wales agree that having 12 weeks for initial preparation and 7 weeks to review is adequate. It is agreed that under circumstances that may affect the time scale this should be flexible.

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

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

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

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

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

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## Chapter 18 - Meetings about ALN and IDPs

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

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

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## Chapter 19 – Planning for and supporting transition

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

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

In line with previous comments the focus on educational provision in 19.1 needs amending given that children under the age of three (or four for those accessing funded education provision in a non-maintained setting) could be accessing a childcare provision that is not funded by Foundation Phase Nursery or Flying Start. In section 19.3, Early Years Wales query the higher importance of transitions within an education setting. The importance of transitions in the early years from non-Foundation Phase Nursery funded childcare provision should not be overlooked and seen as any less important. It is suggested that 19.3 is amended with the example removed. It is noted that 'year1' is written against the 'compulsory education' bullet in the Code in this section and that compulsory education in Wales is from the school term following the child's fifth birthday which is usually within the reception school year.

Transition is an important consideration when planning childcare which is sensitive to the emotional needs of babies, young children, and children with additional learning needs. Potentially a child could be under the care of several types of childcare settings such as Flying Start Playgroup or a Day Nursery. In addition, the child could also be accessing a wide range of services such as portage or physiotherapy. There needs to be a consistent approach to supporting a child to transition between services not just in between key stages of education.

## 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 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?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

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

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## **Chapter 22 – Children and young people subject to detention orders**

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

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

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

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

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

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

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

This role clearly sits within Education however there has been no clarity over the Role of an ALNCO/ SENCO within registered childcare settings. Under current legislation as stated in the National Minimum Standards for regulated Childcare , registered Childcare settings should have a named SENCO/ALNCO who must follow the current Code of Practice. Non-maintained Education providers are not identified and would fall under the EYALNLO but this is in contradiction to the current National Minimum Standards for day-care which are based on regulation. The National Minimum Standards are under review and there needs to be clear synergy between the two pieces of legislation

## 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

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

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

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## Chapter 27 - Case friends for children who lack capacity

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

Yes	<input 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.

The Draft ALN Code is a lengthy document but it needs to be – it is very comprehensive; The wording is sometimes hard to decipher for practitioners not familiar with the language used at this strategic level.

Early Years Wales has not made comments on Part 2,3 and 4 as these fall outside Early Years Wales' area of expertise

Case studies and supporting information/examples would be useful within a supporting document that could be developed alongside the Code.

The code needs to align with the Care Inspectorate of Wales, National Minimum Standards which are being reviewed by Welsh Government. . In the meantime, it would be helpful to have some guidance for Registered Childcare settings

The language used to describe childcare settings and provision should be consistent and clear and included in the glossary. Descriptions of registered early years, childcare and play provision should, for the sake of consistency be taken from the National Minimum Standards for regulated childcare so that the terminology is understood by all.

In February 2019 Early Years Wales held 3 focus groups made up of members from Childcare settings, there were a total of 36 attendees, the common thread and concerns are noted below

- Concerns raised over the expectation of the ALNCO role within childcare settings and that it is obviously not meant for childcare settings. Therefore, what will be the expectation especially as the National Minimum Standards are under review – will there be a synergy between code and standards?
- Referral pathway needs to be clear and consistent and the same across types of childcare setting and local authorities
- Transition needs to be taken seriously by mainstream education, there is work to be done in continuing the improvement in the work with mainstream education and childcare settings. This will lead to a be a consistent approach
- A national training programme needs to be made available for all early years, childcare and play settings. Initially, it is recommended that this is training or information on IDP's and PCP's, . this will lead to a consistent approach through all Local Authorities.
- ALN definition is very rigid and difficult to apply to very young children. How can you predict what a 2 year will need as a 5 year old in order to fit in with definitions?
- ALN flowcharts for children under compulsory school age focus on education and are almost y word for word the same as for children in mainstream education. Early

Years Wales does not consider this to be appropriate.

- What about early intervention and prevention? Early Years Wales would like providers to have guidance for an undiagnosed child with emerging difficulties.
- There is confusion over the role of the EYALNLO. As this is a strategic role, who does the childcare provider turn to? It leaves it open for each local authority to have a different system of approach for Early Years, ie referral schemes, training, transition, support for children and families
- The Early Years and Childcare sector do not have appear to have a voice in this code and the this leads to a concerns that, going forward, processes in place for children under school age will therefore continue to be different with every local authority.

## **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?

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

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

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

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

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

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

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

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

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

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

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

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## **Part 3 of the consultation: Draft ALNCo regulations**

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

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

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**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**

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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**

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### **(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**

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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**

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**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?

<p>It would be hoped that timescales and waiting times will be reduced, and that there will be more consistency across Wales in relation to these. Having strategic roles should also support the development of more efficient processes, and support early identification of issues and resolutions.</p>
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**Question 63** – What impact do you think the proposals in the draft ALN Code and proposed regulations would have on the Welsh language?

It is likely to promote the development of more Welsh Language education places.

**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	
<b>Name</b>	Martyn Reed
<b>Organisation (if applicable)</b>	Addysg Oedolion Cymru   Adult Learning 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 explanation is clear and the key terms are a helpful indicator throughout the Code.

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 felt that the general approach to the timescale for compliance is appropriate.

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

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

The general exception is appropriate, but it must be noted that in the case of a young person attending a short course in a community venue, the course may be for as little as 5 hours with enrolment completed on the day. Whilst AOC|ALW requests that partners share the additional learning needs of attendees in advance of a one-day course, this information is not always forthcoming.

## 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**

**It is felt that the separation of chapters has been completed with appropriate consideration and that sub-section under a chapter heading follow a consistent approach.**

**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**

**Given the length of the Code it is felt that the exclusion of case studies is appropriate and that the approach to describe and explain functions is necessary. It would be helpful if Welsh Government continued to work with partners to develop and extend the separate Frequently asked Questions resource issued February 2019.**

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

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

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

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## **Chapter 2 - Principles of the Code**

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

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

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

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

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

It is felt that the explanation is appropriate and suitably well supported by the sub-sections.

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

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

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

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

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

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

## Chapter 6 - Advice and information

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

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

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

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

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

It is felt that the definition is sufficiently clear in order to allow tutors and support staff to have a common understanding and starting point from which to initiate the assessment process. However, it was noted that the term 'significantly greater difficulty' (7.6 & 7.21) is open to personal interpretation and will require an element of standardisation in approach across the college, facilitated through training.

**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**

This section is clear in regard to the source of information and the process for gathering evidence and adopting a multi-agency approach.

This section presumes that a young person is enrolled on a programme of study of sufficient length that formal assessment and tracking may be carried out. However, evidence gathering would be greatly impeded for short course delivery of 5 - 20 hours where the learner enrolls on the same day as delivery. In such circumstances the professional judgement of the tutor and Curriculum Delivery Officer is relied upon to secure an appropriate level of ALP to support the learner for the duration of their course.

## 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

**It is felt that the structure and content of these chapters is clear. The separation of the duties allows for clarity in signposting stakeholders to the sections most relevant for their consideration.**

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

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

**It is felt that in the case of an FEI, 35 term time days is an appropriate time scale in which to make a decision and carry out ones duties. It is difficult to gauge the impact that this will have on staff time and resources at this stage as there are too many variables to consider.**

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

It is felt that the general content and layout of the IDP is appropriate for use. As a pan-Wales organisation providing community based delivery, it would be beneficial if there were a national electronic platform for the sharing of IDPs between stakeholders. This would assist with ensuring that ALP is secured early on in the case where a young person is accessing a short course.

**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 type="checkbox"/>
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Supporting comments

## Chapter 15 – Duties on health bodies and other relevant persons

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

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

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

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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**

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## Chapter 16 - Review and revision of IDPs

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

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

It is felt that this chapter is comprehensive in its description of the duties and processes for conducting an IDP 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 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

Where a young person with ALN wishes to attend a short course of study to achieve a skill based qualification (e.g. Level 2, Food Safety) it would be beneficial for the local authority to maintain the IDP and work with the FEI to secure and deliver the required ALP.

**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

It is felt that the principles and guidance in this chapter are clearly laid out with appropriate sub-sections for further clarity.

(18.4 & 18.5)

For the standardisation of approach to convening and recording a meeting about ALN and IDPs, it might prove helpful to have a standard case note template to ensure that all necessary information/contributions are captured.

## 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

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## Chapter 20 - Transferring an IDP

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

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

It is felt that this section is clear; however we have an issue to raise regarding dual registration (20.22). The issue concerns the registration of full-time and part-time learners and which FEI would take lead responsibility for the learner as this is not made clear in the code. Please see additional point in Q46.

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

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## Chapter 22 – Children and young people subject to detention orders

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

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

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

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

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

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

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

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

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## **Chapter 23 - Children and young people in specific circumstances**

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

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

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

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

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

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## Chapter 25 - Avoiding and resolving disagreements

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

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

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

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

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## Chapter 27 - Case friends for children who lack capacity

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

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

It is felt that this guidance is clearly explained.

### 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.

**(1.62) As a non-campus based FEI operating across all local authorities in Wales and across all health boards, it will be challenging for our Organisation to maintain working relationships pan-Wales from a centralised Learner Services provision. We will be dependent on Regional Managers and Curriculum Delivery Officers maintaining these relationships. To avoid delay in communication, it would be helpful if Welsh Government would consider the development of a central database of contacts, consisting of lead representatives for schools, FEIs, local authorities and health boards.**

**(20.22 & 21.4.4) In the instance when a young person becomes dual registered at two FEIs, it is felt that the FEI with whom the young person is completing the greater proportion of their study, or is registered as a full-time learner, should become the lead in notifying the local authority of the dual registration. Consideration will need to be given as to whether it is appropriate to transfer the IDP to the care of the local authority at this point, as the period of study with one of the FEIs may be for a short course of less than one term on a part-time basis. AOC|ALW currently works in partnership with a number of FEIs to offer an extended curriculum to some full-time learners. In these instances, the learners complete an enrolment form for AOC|ALW, thereby becoming dual registered for a short period. It will be important to avoid any unnecessary disruption to the supply of ALP. Where possible it will be desirable to eliminate any administrative duplication and potential confusion that dual registration may cause for the young person and/or their parents.**

**(21.4) When a learner with ALN ceases to be a registered learner at an FEI, there is no indication within the Code as to how long an FEI should retain the learner's IDP on record.**

## **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?

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

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

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

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

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

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

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

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

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

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

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

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

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 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

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### **(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

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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**

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

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

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

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

## **Part 5 of the consultation: Impact of proposals**

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

**It is recognised that the introduction of the Act and Code will have a positive impact, placing the learner at the centre and requiring closer collaboration between stakeholders supporting the child or young person.**

**However, there is also concern about the impact on work force capacity and the availability of appropriately trained staff to fulfil the duties.**

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

**This proposal will ensure that due consideration is given to the requirement to provide ALP in Welsh. However, this is dependent on the availability of suitably qualified staff who can deliver ALP through the medium of Welsh.**

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

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

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

## Respondent Details

Information	
<b>Name</b>	
<b>Organisation (if applicable)</b>	Welsh Therapies Advisory Committee

Question number	Comment
1.	Yes the explanation of terms must, must not, may and should is clear.
2.	<p>No</p> <ul style="list-style-type: none"> <li>• NHS bodies would normally be able to comply for existing patients but not for new referrals.</li> <li>• Welsh Government imposes a 14 week Referral To Treatment (RTT) timescale for all new patients referred to community services provided by NHS bodies. The 6 week timescale set out in the draft Code creates a conflicting timescale.</li> <li>• The timescales outlined within the draft Code would mean that any patients referred by the Local Authority as part of the ALN process would have to be prioritised over all other patients including those who have a higher level of clinical need.</li> <li>• Complying with the 6 week target could result in: <ul style="list-style-type: none"> <li>○ Health boards breaching the 14 week RTT target for other children and young people</li> <li>○ Other children and young people who are unwell/have healthcare needs having their assessment and treatment delayed.</li> </ul> </li> </ul>
3.	No, the exceptions should be broadened so that NHS bodies can continue to meet their 14 week RTT requirements and prioritise patients on the basis of clinical need.
4.	<p>Yes, the structure is clear and easy to follow.</p> <p>However there is still a need for the whole document to be read as there are some points which are worded differently in different chapters.</p> <p>Paragraph 1.66. states: <i>NHS bodies have a direct role in providing 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</i></p> <p>Paragraph 9.75 states: <i>Where, following a referral to an NHS body, the body identifies a <u>relevant</u> 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.</i></p>

	The use of the word 'relevant' makes a significant distinction to the two paragraphs. NHS bodies should provide treatments which are relevant
5.	Yes the Code's focus on describing and explaining functions and processes is appropriate.
6.	No comment
7.	Yes, we welcome the general principles underpinning the Code. However there is a risk that the requirement for NHS bodies to provide "intervention which may be of benefit" is too broad and may have the unintended consequence of undermining early intervention which could prevent children from developing ALN.
8.	Yes
9.	Yes
10.	No comment
11.	No comment
12.	<p>No. What does 7.6 "significantly greater difficulty in learning than the majority of others the same age" mean in practice? This definition may result in an increase in requests for IDPs and appeals to Tribunal.</p> <p>The chapter fails to acknowledge that only education professionals will have sufficient understanding of what is an educational or learning need and therefore ALN, as only they will have the knowledge of educational requirements. Health professionals will not have this knowledge as they focus on developmental need not educational.</p> <p>Paragraph 7.10, which states that a requirement for a differentiated curriculum is not ALN, is an important distinction. Non education professionals will find it difficult to know what areas would be routinely provided in a school and would be appropriate to expect differentiation for, therefore they could not identify ALN.</p> <p>Paragraph 7.22, which states that not all individuals with a disability will have ALN, is also important. It highlights that ALN is based on functional impact and not on diagnosis.</p>
13.	<p>No the definition of ALN is vague and open to interpretation</p> <p>The identification of ALN has a number of complex factors to be considered and requires an in-depth knowledge of what would routinely be provided or differentiated in the classroom.</p> <p>ALN should be diagnosed by specially trained educational professionals such as Educational Psychologists</p>
14.	No comment

15.	No comment
16.	The process fails to acknowledge that LA's and FEIs will need to identify to NHS bodies what the child or young person's ALN is before the NHS body can identify if there is a treatment or service likely to be of benefit.
17.	No comment
18.	Yes
19.	We welcome the inclusion of "Rationale for ALP" to be secured by NHS bodies in section 2 of IDP
20.	Yes
21.	No comment
22.	<p>No.</p> <ul style="list-style-type: none"> <li>• NHS bodies should be able to comply with the timescales set out in the Code for existing patients</li> <li>• NHS bodies will not be able to comply for new referrals.</li> <li>• Welsh Government imposes a 14 week "Referral to Treatment (RTT)" timescale for all new patients referred to NHS bodies. The 6 week timescales set out in the draft code creates a conflicting timescale to the 14 week RTT timescale which NHS bodies are required to meet.</li> <li>• In order to comply with the timescales outlined within the draft Code, any patients referred by the Local Authority as part of the ALN process would have to be prioritised over all other new patients including those who have a higher level of clinical need.</li> <li>• Complying with the 6 week target outlined in the draft Code will result in other children having their assessment and treatment delayed. This will include: <ul style="list-style-type: none"> <li>○ Children who are unwell and whose health could deteriorate because treatment is delayed.</li> <li>○ Children with health needs (such as stammering) which would not be considered as ALN</li> <li>○ Children from disadvantaged families who would benefit from early intervention to prevent ALN when they are of school age.</li> </ul> </li> </ul>
23.	<p>No</p> <p>It is unclear what is meant in paragraph 15.31 by:</p> <p>"the duty to inform of the outcome of its consideration" Is the outcome whether there is a treatment or service likely to be of benefit or is the outcome the full ALP which the NHS body believes to be required.</p>
24.	<p>We welcome the establishment of the DECLO role. However the guidance needs to be modified to include the following:</p> <ul style="list-style-type: none"> <li>• The DECLO must be a dedicated role spanning the whole of the</li> </ul>

	<p>NHS body. In order to achieve the objectives set out in the Code there should be a support structure in place under the DECLO.</p> <ul style="list-style-type: none"> <li>• This is a corporate role – it needs to be clear that the DECLO must have the skills and experience to work in partnership with the Local Authority.</li> </ul>
<b>25.</b>	Yes
<b>26.</b>	<p>We welcome the requirement that reviews must take place if an NHS body request ALP is removed or changed.</p> <p>The timescales for providing information for reviews is appropriate for existing patients.</p> <p>The timescales are not appropriate for new referrals - see response to Question 22.</p>
<b>27.</b>	No comment
<b>28.</b>	No – the Local Authority may need to make a new referral to an NHS body (see response to Question 22).
<b>29.</b>	The principles are appropriate. The guidance lacks clarity - what does “sufficient notice” (page 208 18.8) mean?
<b>30 – 41.</b>	No comment
<b>42.</b>	<p>We welcome the emphasis on mediation however it is unclear how the NHS Putting It Right Process will work alongside the Local Authority mediation process.</p> <p>The NHS “Putting It Right” process is not set up to manage situations where families disagree with NHS professionals’ recommendations about whether healthcare needs are an educational need.</p>
<b>43.</b>	No comment
<b>44.</b>	<p>The information about the appeals process is in general clear.</p> <p>p.286 26.21 - It is not clear what powers the Tribunal has over an NHS body if it does not propose to take any action in response to a recommendation made by Tribunal.</p>
<b>45.</b>	No comment
<b>46.</b>	We welcome the emphasis on collaborative working between agencies.
<b>47.</b>	Yes
<b>48.</b>	It needs to be made clear in the Code that Educational Tribunals should not be able to direct NHS bodies to deliver intervention unless the NHS body has recommended it. The Tribunal panel are not qualified to judge the clinical priorities of the NHS body.
<b>49-50</b>	No comment
<b>51.</b>	Yes

52.	<p>In order to comply with timescales relating to Educational Tribunal orders, NHS bodies will have to prioritise these patients above others who may have a greater clinical need. This will include:</p> <ul style="list-style-type: none"> <li>○ Children who are unwell and whose health could deteriorate because treatment is delayed.</li> <li>○ Children with health needs (such as stammering) which would not be considered as ALN.</li> <li>○ Children from disadvantaged families who would benefit from early intervention to prevent ALN when they are of school age.</li> </ul>
53.	<p>The Educational Tribunal is not appropriately qualified to decide on NHS clinical priorities. There is a risk that complying with Educational Tribunal rulings will result in children with significant health needs but no ALN having treatment delayed.</p>
54 - 61.	<p>No comment</p>
62.	<ul style="list-style-type: none"> <li>• In relation to 16-25 year olds <ul style="list-style-type: none"> <li>○ There are currently gaps in NHS provision to FEIs. This would require substantial investment.</li> <li>○ There are currently few therapy services set up to provide to meet the needs of young people with developmental disorders (such as autism) who do not meet the criteria for accessing the Adult Learning Disability teams. The number of patients falling into this category will grow with the increase in young people identified with ASD and other neuro-developmental disorders following the establishment of the Integrated Autism Services. It will require substantial investment to be able to meet these needs.</li> </ul> </li> <li>• The statutory requirement for NHS bodies to “provide treatments which may be of benefit” will have a number of consequences. <ul style="list-style-type: none"> <li>○ It will result in an increase in appeals to Tribunal as families will demand access to treatments which are recommended by private therapists but which have a weak evidence base.</li> <li>○ It will mean that NHS bodies have to prioritise providing treatment to children and young people with identified ALN and IDPs. This in turn will reduce the resources available to provide early intervention which could prevent ALN. It will also reduce the resources available to provide health care to children and young people with health care needs but no ALN</li> </ul> </li> </ul>
63.	<ul style="list-style-type: none"> <li>• The proposals will have cost implications for education and health services. It will be challenging to provide ALP in Welsh for children and young people with low incidence conditions (such as visual impairment).</li> <li>• It is challenging for NHS bodies to recruitment therapists who speak Welsh competently enough to be able to deliver assessments, treatments and written reports/advice in Welsh.</li> </ul>
64.	<p>No comment</p>

## Respondent Details

Information	
<b>Name</b>	
<b>Organisation (if applicable)</b>	The Special Educational Needs Tribunal for Wales

## Introduction to the SENTW Response

1. The SENTW is keen to ensure that the new ALN system brings significant improvements in support for learners with ALN as far as that is possible. The SENTW is also keen to ensure that the new system is clear and fair and works as effectively as it possibly can for participants. With this in mind the SENTW has provided a detailed commentary on the draft ALN Code and on the draft Education Tribunal Regulations 2019 and draft ALNCO Regulations 2019.
2. The commentary identifies that the draft ALN Code is effective in so far as it describes the key statutory provisions of the new system and identifies relevant timescales (although some timescales are considered to be too short and others too long). However, in the view of the SENTW, the Code needs to go much further in defining key terms, setting out clearly which statutory provisions apply to key decisions that have to be under the legislation, providing guidance on how these statutory provisions come together to support proper and effective decision-making, provide greater clarity on how the principle of inclusion in s. 6 of the ALNET Wales Act 2018 and the principle of effective collaboration and multi-agency working will be achieved, clarify who ought to be making key decisions and how they ought to be made and clearly set out and properly explain rights of redress and how they are to work together.
3. As a result of the time it has taken for the SENTW to undertake a detailed analysis of the ALN Code and the two sets of draft Regulations it has not been possible for the SENTW to also consider the draft amended Part 6 Code of Practice for Looked-After and Accommodated Children and linked to this to consider

Chapter 14 of the ALN Code and Annex 2 of that Code in any detail. Neither has the SENTW had sufficient time to fully consider Chapter 22 of the ALN Code relating to Children and Young People who are Subject to a Detention Order.

4. As the above two groups of children and young people are some of the most vulnerable and disadvantaged groups in society the SENTW does not believe that it would be appropriate to rush a response on these matters, particularly as they may also impact on the content of the new Education Tribunal Regulations 2019, and instead asks Welsh Government to consider extending the general response time to this consultation so that further consideration can be given to these important matters.
5. In addition, since there are a number of key aspects of the ALN Code and the Education Tribunal Regulations 2019 that are dependent on further draft Regulations being issued for consultation (for example Chapter 12 of the draft Code) the SENTW is of the view that an extension of time to respond fully to the current consultation would be useful so as to address matters raised by these new draft Regulations when they are issued.
6. In regard to the draft ALNCO Regulations 2019 the SENTW has set out a detailed response in its commentary on Chapter 24 of the draft ALN Code and in response to the questions set in the consultation document relating to the Regulations themselves. The SENTW takes the view that the ALNCO role is pivotal to ensuring that the new system works effectively in education settings. It is for this reason that the SENTW is keen to ensure that the ALNCO role is a central one in all education settings and of sufficient status within settings to actively influence decision-making and ensure ALN is at the heart of an education providers planning, whilst at the same time ensuring that the ALNCO remains actively involved in the day-to-day management and delivery of appropriate ALN provision within education settings. The SENTW is also keen to ensure that the ALNCO has sufficient time and resources to carry out this vital role effectively and is supported to secure appropriate ongoing training and qualifications. For, these reasons, whilst recognising the practical difficulties for some education settings in providing and supporting this role, so central is it to the effective working of the new ALN system that the SENTW is unable to support some of the

measures set out in the ALN Code and draft Regulations that appear to water down the centrality of this role.

7. In regard to the draft Education Tribunal Regulations 2019 the SENTW has provided a very detailed response in its commentary on Chapters 26 and 27 of the ALN Code and in response to the questions set in the consultation document relating to the draft Regulations. It is clear that the draft Regulations are very much based upon the current SENTW Regulations 2012, and whilst this is helpful in some respects, because the new system seeks to expand the statutory protections offered to children and young people from 0 – 25 irrespective of level of ALN and is therefore different from the current SEN system the SENTW takes the view that the draft Regulations will need significant amendment to take account of this fact. In addition, the SENTW considers that there are errors and omissions in some parts of the draft Regulations that need to be addressed and that further consideration needs to be given to making some of the draft provisions clearer. Also, as stated above, there are still a number of outstanding sets of Regulations that have yet to be provided in draft form that will mean that the current draft Tribunal Regulations will need to change to address the matters set out in these other new Regulations.
8. As a consequence of the above, the SENTW would urge Welsh Government to enter into further direct dialogue with the SENTW concerning the current draft of the Regulations and necessary amendments. It would also ask Welsh Government to consider extending time to complete the consultation on these Regulations generally in order that proper account can be taken of other Regulations that have yet to be issued but which are likely to have a direct impact on the content of the Tribunal Regulations and allow adequate time to consider the needs of detained children and young people and children and young people who are looked after.

## **Chapter 1 - ALN Code – Introduction**

### **Question 1- Must, must not, may, should and should not**

**Is the explanation in paragraphs 1.10 – 1.16 of the draft Code of the use and meaning of must, must not, may, should and should not clear?**

9. Yes, although these are difficult concepts to apply in practice and are likely to be confusing for some of the users of the Code.
10. There also appear to be times within the draft Code when the terms may have been misapplied. For example, applying the explanation given in Chapter 1 of the terms and taking account of the central importance of involving children, young people and parents in decision-making under s. 6 of the ALNET Wales Act 2018, where the duty to involve is touched on in the draft Code, for example throughout Chapter 9 of the Code, it appears that the term “must” ought to be used rather than “should” to describe the obligation to meet with children, young people and parents. This is dealt with further in the response to Chapter 9. In addition, other examples of when it may be more appropriate to describe an obligation as a “must” rather than a “should” are also commented upon throughout the rest of this response.
11. Also, “shoulds” that are qualified by words such as “normally,” as at paragraph 9:13 of the draft Code, are likely to be confusing since the obligation under “should” is to act unless exceptional circumstances apply which can justify a decision not to act.
12. In addition, the need to incorporate so many ‘musts’, “must nots”, “shoulds”, “should nots” and “may” and “may nots” supported by reference to numerous footnotes that identify the statutory provisions from a number of different Acts, and the numerous Regulations, Statutory Guidance, Non-Statutory Guidance and Good Practice Guidance that apply, whilst essential, highlight a general concern about the overall legislative complexity of the new system and how difficult it will be for decision-makers, children, their parents and young people to understand and use effectively. It is essential therefore that the finalised Code is clear about how the statutory provisions within the Act, supporting Regulations and Guidance come together to facilitate decision-making.
13. If the use of “must”, “should” and “may” is retained in the final version of the Code then it is helpful for the terms to be colour coded throughout.

## **Question 2 - Timescales**

**Do you agree with the general approach to the time scales 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?**

14. The obligation to act promptly and to have specific back - stop timescales with exceptions is supported generally.
15. However, greater clarity needs to be provided as to when time starts to run and end in relation to the timescales set. This addressed further at various points later in this commentary.
16. Some timescales are considered to be too short and others too long and these matters are addressed further later in this response.
17. Some of the timescales set are unlikely to be achievable in light of the capacity and resources available to relevant nurseries, schools, FEIs, local authorities and NHS bodies.

### **Question 3 - Exceptions**

**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?**

18. Yes, although much more clarity is needed as to how this will apply in practice since the term used to describe the exception is very open-ended. It will also be necessary for the Code to explain what can be done if an exception is misused and results in unreasonable delay.

### **Question 4 - Structure of the draft ALN Code**

**Is the structure of the draft ALN Code and the separation of the chapters appropriate clear and easy to follow?**

19. Yes.

### **Question 5 – Focus of the draft ALN Code**

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

20. Yes. However, as stated above, the final Code needs to provide a much better explanation of how the various statutory and non - statutory provisions will work together to support effective decision-making. This is an essential element in trying to ensure that decisions are made correctly and disagreements do not arise and when they do ensure they are dealt with as quickly as possible.

### **Question 6 – Delegation of Functions to Management Committees of PRUs**

#### **Do you agree with the proposal to use regulations to delegate functions from a Local Authority to a Management Committee of a PRU?**

21. No. The functions outlined in paragraph 1.16 of the consultation document, with the exception of the duties to take reasonable steps to secure ALP or help the Local Authority to do so and the duty to designate an ALNCO, should remain with the Local Authority.
22. PRU's are very different to mainstream schools and have a different cohort of pupils who will have exceptional needs that cannot be met in mainstream provision and therefore responsibility should rest with local authorities in all cases where pupils are placed in PRUs. This will ensure that the needs of this vulnerable group are met with the minimum of delay.
23. In any event, it is often the case that pupils attending PRUs will be dual registered and therefore remain the responsibility of the local authority.

#### **Additional Points**

24. The SENTW supports the inclusion of local authority funded non-maintained nursery providers within the ALN system and supports the inclusion of guidance for such providers within the draft Code as per paragraph 1.5. In contrast paragraph 1.72 the draft Code makes it clear that independent schools and ISPis are not required to have regard to the Code and, whilst it is unlikely that anything can now be done to include independent school providers that deliver ALP funded by local authorities within the ALN system and obligate those providers to have regard to guidance within the ALN Code, in the view of the SENTW this is regrettable.

25. As per paragraph 1.9 it is understood that the Code is primarily aimed at and written for the bodies that have a duty to have regard to the Code.
26. However, paragraph 1.9 also recognises, quite rightly, that the Code might be useful to others such as parents. In fact, given what is set out below at paragraph 27, the paragraph should state that the Code “will” be useful to others rather than “might.”
27. In the experience of the SENTW the current SEN Code is regularly used not only by local authorities but by parents and by children and young people when they are trying to understand how a decision ought to be made and what the duties of schools, local authorities, health bodies and social services are in respect of SEN. Notwithstanding the statutory requirements placed upon local authorities under the ALNET Wales Act to provide advice and information to children, young people and the parents of children the new Code is also likely to be used by these groups in much the same way as at present. This needs to be taken into account in the way the Code is written and statutory/ non-statutory provisions and guidance are signposted so that information provided is as clear and accessible as possible.
28. Linked to the above, a very useful aspect of the current SEN Code of Practice for Wales is its incorporation of the key relevant statutory provisions that apply to decision-making and statutory processes and the explanations it offers regarding the application of the relevant provisions. In the experience of the SENTW this is of great use to local authorities, schools and parents and children and young people currently. It provides the most accessible starting point for effective decision-making. This is something that the SENTW would urge the new ALN Code to emulate.
29. Also, the Glossary, currently located at paragraphs 1.102 – 1.103, ought to be at the end of the document to aid ease of reference rather than in Chapter 1. This is particularly important given that the Glossary seeks to define terms which apply to different parts of the Code and not just Chapter 1 and those using the Code will not necessarily read all of the Code every time they use it but look at specific parts which apply to their particular needs and thereby be unaware of the Glossary’s existence or think it applies to Chapter 1 alone.

30. In addition, at the end of the Code, given the plethora of legislation, regulations, statutory and non-statutory guidance referred to in it, it would be helpful if the document lists all of the legislation, regulations, statutory and non-statutory guidance identified and signposts how this can be accessed.
31. The section that identifies key terms and provides an interpretation of them from paragraph 1.10 onwards omits a definition of “parent/s”, leaving this definition to the Glossary at the end of the chapter. Is this an oversight or a deliberate decision that is reflective of an intention of Welsh Government to limit the role of parents within the new system when compared with their central importance to the current SEN system?
32. There is certainly a shift in focus away from parental rights, as set out in the Education Act 1996, to the rights of children and young people in the ALNET Wales Act 2018. It is noted in this regard also that the Ministerial Foreword and paragraph 1.1 of the draft Code indicate that services are to fully inform and involve children and young people in decisions and that learners’ views, wishes and feelings are at the heart of the process of planning the support that they need without any reference to the involvement of parents.
33. However, the ALNET Wales Act s. 6 clearly states that a child’s parents (albeit not a young person’s parents) will be supported and involved in decision-making and it appears as though s. 9 of the Education Act 1996 is to be retained which places an obligation on local authorities to have regard to the general principle that children are to be educated in accordance with the wishes of their parents.
34. It is assumed that the non-inclusion of “parent/s” within the section that identifies and defines the meaning of the key groups involved within the new system is likely to be an oversight and in the view of the SENTW this ought to be rectified.
35. If this assumption is incorrect then equally this needs to be made clear and an explanation needs to be offered as why parents are no longer regarded as a key contributor to the new system and the implications of this for decision-makers needs to be explored further.

36. It is important that the Code provides a clear steer for decision-makers and for children, parents and young people on the issue of the rights of children and young people and of parents with the new ALN system.
37. Paragraph 1.15 lists possible consequences if relevant bodies do not carry out their duties properly and should make reference to the possible use of relevant bodies own complaints procedures in addition to the numerous other options for redress outlined. For example, both school, FEI and NHS complaints procedures will be relevant. Also, Esytyn will have a role in ensuring that schools carry out their statutory ALN functions and should be mentioned.
38. If this plethora of systems for redress is to be effective it is essential that Welsh Government provides clear guidance on how these multiple systems will work alongside each other and together to provide effective means of redress. This is addressed further later in this commentary.
39. Paragraphs 1.18 – 1.19 seek to define the concept of children and young people “for whom a local authority is responsible.” This is a complex area and in the view of the SENTW needs further consideration and guidance from Welsh Government so as to avoid unnecessary disputes arising and consequential delay in provision being made for children and young people.
40. Paragraph 1.34 envisages that IDPs will be issued within the stipulated timescale even if ALN and ALP cannot be fully described because relevant evidence is still outstanding and that the IDP will then be subsequently reviewed when the evidence becomes available and amended if necessary. This “rolling process” has the potential for complicating the appeal process and thought needs to be given to how appeal rights are generated and managed in this context. This is addressed further later in this commentary.
41. In relation to paragraph 1.42 where it is made clear that the duties and requirements in the Act and Code do not extend to the parents of young people the SENTW makes the point that this removes the current rights that parents of 16 – 19 year old school registered statemented pupils have under the SEN system. Also, this is an area that is likely to give rise to practical problems as the SENTW has identified in its previous responses to consultations on the

proposed new ALN system and it could result in the needs of the 16 – 25 year old age group not being met effectively or delayed.

42. One practical way to address some of the problems arising from the approach adopted by the new system is for young people to be allowed to authorise and consent to their parents being fully involved in decision-making and for relevant bodies to be obligated to act on this authorisation. The mandatory IDP Form at Appendix A appears to provide for this, however, it needs to be made clear in the Code itself that this is possible and that decision-makers ought to act on this consent. The Code also needs to offer guidance to decision-makers about how they should proceed in cases where young people do not consent to the involvement of their parents, yet the parents remain central for the day to day support. This is something that is returned to later in this commentary.
43. Paragraphs 1.44 – 1.47 that relate to implementation arrangements for 2020 – 2023 need to signpost what implementation guidance is available and how it can be accessed. To date the SENTW is aware of only one guidance document and is of the view that much more detailed advice and guidance needs to be provided regarding how decisions ought to be made during the transition period.
44. What is meant by (anaw1) at paragraph 1.51 of the draft Code?
45. Paragraph 1.65 that relates to teacher practitioners indicates that they will be able to access information, guidance, tools and professional learning opportunities. It is important that these things are properly signposted so they are easily accessible otherwise they will not be effective in supporting staff to develop skills and knowledge related to ALN.
46. Are paragraphs 1.75 – 1.101 that briefly describe each chapter of the Code needed? If they are needed would they be better placed as an introduction to the chapter that each paragraph seeks to describe, since, as stated above, people will tend to refer to specific parts of the Code that are relevant to them rather than read the Code in its entirety each time they use it.

## **Chapter 2 - Principles of the Code**

### **Question 7 – General Principles**

**Are the principles set out in Chapter 2 of the draft ALN Code the right ones?**

47. Yes.
48. In regard to the rights based approach at paragraphs 2.3 – 2.7 this is likely to take additional time and require additional capacity and resources to ensure that the principle is followed through into effective practice.
49. Following on from the comments made above concerning the rights of children and young people and of parents the final Code will need to address how decisions are to be taken in cases where children and their parents or indeed parents disagree with each other.
50. As already mentioned above the ALNET Wales Act gives no weight to the wishes and views of the parents of young people and does not require decision-makers to involve them in decision-making processes. The draft Code reflects this policy decision. However, in practice the parents of many young people will inevitably be heavily involved in the day to day lives of young people identified as having ALN requiring ALP and for the new system to work effectively professionals will need to engage with these parents. The final Code needs to address how this can be achieved.
51. Paragraphs 2.17 – 2.19 deal with the principle of collaboration and how effective collaboration between services is to be achieved. This issue is one of the biggest weaknesses in the current SEN system and notwithstanding the terms of the ALNET Wales Act and the sustainable development principle within the Well-being of Future Generations (Wales) Act 2015 this is likely to remain one of the biggest challenges within the new ALN system. The different statutory underpinnings of education, social services and health services will continue to make it hard for services to work together effectively and limitations in the capacity of and resources available to these organisations will exacerbate these difficulties. This needs to be recognised and the Code needs to give clearer guidance on how collaboration is to be achieved in these circumstances.

52. Paragraphs 2.20 – 2.23 deal with the principle of inclusive education. Much greater clarity is needed to explain what is meant by inclusive education and how the statutory provisions relating to it this will impact on decision-making relating to educational provision and placement.
53. Paragraph 2.23 appears to recognise that the effectiveness of the new system will still be heavily dependent on each school and FEI's individual commitment to meeting the needs of those with ALN and as such that there is likely to continue to be considerable scope for variation in the new system. This was one of the criticisms of the current system of SEN and the new Code needs to give consideration to how it is proposed to address this.

### **Chapter 3 – Involving and supporting children, their parents and young people**

#### **Question 8 - Duties to involve and support children, their parents and young people**

**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?**

54. No.
55. As the involvement and participation in decision-making of children, their parents and young people has been identified as a crucial aspect of the rights based principle which is one of the things that is said to underpin the new ALN system and their involvement and participation is backed by s. 6 of the ALNET Wales Act it would appear that further consideration needs to be given to whether the term “must” ought to be used instead of “should” in a number of the paragraphs that describe and explain these requirements. This relates in particular to paragraphs 3.4, 3.8, 3.10, 3.12, 3.16, 3.17, 3.18, 3.19, 3.20 and 3.26 and is also an issue in later chapters of the draft Code.
56. At paragraph 3.10 in regard to attendance at meetings it needs to be made clear that decisions as to how best to facilitate participation must be discussed with children, their parents and young people and involve them.

57. Further at paragraph 3.11 the starting point ought to be that children, their parents and young people ought to be involved in meetings where they wish to be involved and some guidance/ more clarity needs to be offered around the circumstances in which “it might not be appropriate” for a child or young person to attend a meeting.
58. At paragraph 3.24, which refers to parental involvement in decision-making, consideration needs to be given as to how s. 9 of the Education Act 1996 will work alongside s. 6 of the ALNET Wales Act 2018.
59. In addition, as has been touched on above, this Chapter needs to make clear how decision-makers ought to proceed when the views of children and their parents are in conflict and when the views of parents conflict. Paragraph 3.31 is inadequate in this regard.
60. Also, in regard to young people and their parents, paragraph 3.32 is inadequate. It needs to be recognised that this is a very difficult area and the final Code needs to provide better advice and guidance than is offered in this paragraph. As has been mentioned already, many parents of young people with ALN will of necessity be heavily involved in the care and support of the young person and to ensure that the best outcomes for these young people are achieved professionals will of necessity need to engage with this group of parents and their views may be important and highly relevant.
61. Recognition also needs to be given to the time and resources that effective child, parent and young people participation requires and how this might impact on statutory timescales and exceptions in particular.

#### **Chapter 4 – Duties on Local Authorities and NHS Bodies to have regard to the UNCRC and the UNCRPD**

##### **Question 9 – Discharge of Local Authority and NHS Body Duties in respect of the UNCRC and the UNCRPD**

**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 UNCRC and UNCRPD?**

62. Yes in so far as it goes.
63. At paragraphs 4.8 and 4.9 given that Ss. 7 - 8 of the ALNET Wales Act 2018 state that a local authority or an NHS body must have due regard to the Conventions ought the references to “should” be changed to “must?”

## **Chapter 5 – Duty to keep additional learning provision under review**

### **Question 10 – Review of ALP**

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

64. Yes in so far as it goes.
65. At paragraph 5.6 the use of “should” ought to be changed to “must,” so that local authorities are obliged to record the findings of their reviews. As well as being expected to record the findings of a review should local authorities be directed to publish them and if so in what way? Should local authorities also be directed to provide Welsh Government with details of the findings of a review to support Welsh Minister functions in respect of education provision and are there any other bodies that should be notified of the outcome of a review?
66. As set out in paragraph 5.13 local authority guidance to schools on ALN and the ALP that should normally be available in schools and guidance on the support that schools can expect from local authorities and partners, including NHS bodies, is likely to be welcome. However, without further guidance and clarification on these matters in the Code it is highly likely that local authority guidance will vary considerably and this will lead to large inconsistencies across Wales in the way that decisions are made and in the way that provision and support is or is not made. This needs addressing further therefore.
67. At paragraph 5.13 whilst it makes sense to retain the option for local authorities to have moderating groups to ensure transparency and consistency of decision-making the Code needs to outline in more detail how children, their parents and young people can to be involved in contributing to the decisions made by such groups and more specifics in regard to how moderating groups should function

would be helpful. Local authorities should also advise providers/ interested parties of the membership of moderating groups.

68. Would paragraph 5.13, with additional detail, be more helpfully situated in Chapter 9?
69. Paragraph 5.16 emphasises that review should be a continuous process and this is felt to be appropriate. However, would it be of benefit for local authorities to be expected to conduct a strategic ALN review after a stipulated number of years as a long-stop provision?
70. At paragraph 5.17 the SENTW welcomes the inclusion of the findings and outcomes from recent appeals and claims to the Tribunal and consideration of outcomes from disagreements relating to ALN/ALP as part of the overall review process.
71. In addition, ought data relating to looked-after children and detained children be included in the list of things that local authorities might want to consider? In addition, might it be helpful to look at data relating to cross-boarder matters?
72. Also, rather than saying that local authorities 'might' want to consider the items listed in paragraph 5.17 and consult the bodies identified in paragraph 5.14 ought these things be described as "should?"
73. In regard to the section relating to outcomes following review, whilst the SENTW supports the principle of regional provision where this will benefit learners, very careful consideration needs to be given as to how learners and their parents will be involved in decision-making in a regional context and thought needs to be given as to the accountability and accessibility of regional providers and provision. If regional provision is to be used widely then it will be necessary to have additional guidance on this.

## **Chapter 6 – Advice and Information**

### **Question 11 – Duty on local authorities to provide advice and information**

**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?**

74. SENTW is aware that some stakeholders are strongly opposed to the suggestion at paragraph 6.5 that local authorities may choose to provide advice and information themselves rather than contract this work to an external service provider.
75. In addition, in the view of the SENTW, paragraph 6.5 is contradictory following as it does from paragraphs 6.1 – 6.4.
76. In some cases the advice and information needed relates to health and/or social services obligations and information relating to options for redress will be related to health and/or social care. Will local authorities be required to provide advice and information relating to these obligations and rights of redress as well as their own obligations? If so, the Code needs to be much clearer about these matters so as to assist local authorities in this difficult task. Alternatively, should health and social care services be obliged to offer their own arrangements for providing advice and information about their services in the context of their ALN obligations and rights of redress in respect of their decisions? If so how will these be married together with local authority arrangements?
77. Also, given that the ALN system envisages the use of health and social services complaints procedures as part of the redress process will these bodies be expected to explain their decisions and signpost rights of redress?

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

**Question 12 – Definition of ALN**

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

78. No. Please see response to question 13 below.

**Question 13 – Evidence required to make decisions on ALN and ALP**

**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?**

79. No.
80. This is one of the most important chapters in the Code and in the view of the SENTW it requires significant reconsideration and clarification around what constitutes ALN and ALP, the decision-making processes linked to a determination of ALN and ALP and the evidence needed to make these determinations.
81. The Code does not make clear here or in Chapters 8 -12 when and how the process of considering whether a learner has ALN requiring ALP and an IDP will be initiated and who holds responsibility for decision-making in this regard. This is essential information that needs to be clear and it is not sufficient to simply say that there should be clear processes.
82. Linked to this, at paragraph 7.1, the Code needs to be much clearer as to what is meant by, "whenever it comes to the attention of a maintained school or FEI that one of its registered pupils or enrolled students may have ALN that education must decide whether the child or young person has ALN." What exactly is meant by "whenever it comes to the attention of?"
83. This is particularly important given the position taken in Chapter 9, at paragraph 9.5, and repeated in other later Chapters that pupils, parents, family members, an external body or profession can bring the issue to the attention of the relevant body and that it does not matter how this awareness raising is done. In some circumstances this will be clear but in others it will not.
84. It is also important because the statutory timescale for making a decision on ALN and preparing an IDP begins to run at the point at which the possibility that a child or young person may have ALN is brought to the attention of the decision-maker. So, for example, could a parental chat with a TA in the playground constitute coming to the attention of? Should this chat then constitute the date on which the matter was drawn to the attention of the decision-maker and should time therefore begin to run on making a

decision on ALN at that point and should the TA therefore formally record the conversation and any action taken? What happens if the TA fails to pick up that an ALN concern is being raised?

85. Neither does the current Chapter or later chapters make it clear as to who ought to be responsible for making decisions relating to ALN/ALP and whether an IDP is needed. Is it to be the class teacher, the designated coordinator, the ALNCO, the Head Teacher or a sub committee of the relevant governing body on behalf of the Governors of the relevant education setting. So, in the example above would the TA be responsible for acting on the conversation and if so to whom would the TA refer the matter or direct the parent to and how would this issue then be progressed. Who should a child, parent, family member or professional direct their concerns to? It is assumed that the responsible person should be the ALNCO, but this is not made clear.
86. As presently drafted the content around what might constitute ALN requiring ALP in Chapter 7 is extremely confusing and unhelpful and does nothing to aid a better understanding of this central issue.
87. In reaching a determination as to whether a child has ALN the Chapter needs to give more guidance on the significance of a child or young person's "potential" in the decision-making process. The statutory definition of ALN at s. 2 of the ALNET Wales Act 2108 does not include a reference to potential. However, the Ministerial Foreword to the Code makes reference to Welsh Government's commitment to creating an education that amongst other things supports all learners to "reach their potential." This Chapter, at paragraph 7.35, makes reference to concerns being raised, amongst other things, because a learner "makes little or no progress towards their potential," and then goes on at paragraph 7.37 to talk about "areas where a child or young person is not progressing satisfactorily," without clarifying whether satisfactory progress is to be considered against the potential of the child or young person or against the average performance of the majority of pupils of the child or young person's age. Then, at paragraph 7.39, the Chapter makes reference to schools using Foundation Phase Profile Assessment and National Curriculum level descriptions to enable a school to consider "the individual pupil's attainment and progress against expected levels for pupils of their age. Later still, in Chapter 15 at paragraph 15.7, ALN is described

as setting up barriers to a child or young person achieving their potential and describes ALP as provision that is necessary to overcome or mitigate that barrier. In the opinion therefore the SENTW the Code needs to be much clearer about the role of “potential” in assessing ALN.

88. In addition, in the view of the SENTW, the contents of paragraphs 7.17 – 7.21 and 7.47 -7.49 need to be considered together and a better explanation offered as to how a decision-maker will be expected to reconcile conflicting statements such as “it is important to remember that other factors contribute to poor academic performance, such as external factors or circumstances,” at paragraph 7.48, and “whether a learner has ALN which calls for ALP is determined by the definitions set out in sections 2 and 3 of the Act, irrespective of the cause....” set out at paragraph 7.17 of the Chapter.
89. In addition, at paragraph 7.49, when talking about problems in a learner’s home or family and the possible identification of such issues through differences in behaviour in different settings and environments it ought to be noted that it is not uncommon for children and young people with ALN to behave differently at school and home and this does not necessarily indicate a problem in the home or in family circumstances and could be indicative of a learner having difficulties in coping with their educational environment.
90. Also, in the view of the SENTW, the contents of paragraphs 7.43 – 7.45 as currently drafted, risk being interpreted in such a way as to exclude learners with more general learning difficulties, who would currently qualify for support through the IEP and statement SEN process, from the ALN statutory support process. This therefore needs reconsideration.
91. It is the understanding of the SENTW that the new statutory ALN system is intended to give statutory protection via an IDP in respect of children and young people who would presently qualify for additional SEN support under an IEP at the school action and school action plus stages of the current SEN system. However, the way the current guidance in the draft ALN Code is drafted in regard to what constitutes ALN and ALP and the evidence needed in this regard so as to determine whether an IDP is necessary, particularly from paragraphs 7.57 – 7.69, seems to point to a

requirement for schools and FEIs to have taken the steps that would normally be taken at school action and school action plus in the current SEN system before a decision on ALN/ALP and the need for an IDP is taken. This would mean that the children and young people who would currently be eligible for an IEP at school action/school action plus within the current SEN system may not be supported under any sort of plan in the new system let alone a statutory one with rights of redress attached to it. This needs much further consideration.

92. By way of example, at paragraph 7.64, many of the items identified as being available from specialist services would be things that it would be reasonable to see in an IEP or statement and it seems to the SENTW would be reasonable to include within an IDP.
93. In addition, the Chapter does not address the issue of what it would be reasonable for a school or FEI to provide for a pupil in terms of ALP and what it would be reasonable for a local authority to provide so that there is no delay in referring appropriate matters on to the local authority.
94. In this regard, for example at paragraphs 7.59, 7.63 and 7.64, where reference is made to complex or low incidence needs and the need for specialist advice it may be that in such cases consideration ought to be given to referring the matter on to the local authority without further delay. This possibility, however, is not highlighted in these paragraphs at all and so could result in delay in appropriate cases being referred on and addressed at the most appropriate level.
95. An unrelated but relevant point is whether at paragraph 7.54 the “should” in the paragraph relating to meetings ought to be a “must offer” to meet a child, parent or young person to discuss ALN and ALP related issues and should meet unless the child, parent or young person declines or indicates that they wish to be included by other means.
96. In addition, paragraph 7.65 stating that professionals will need to comply with data protection law is wholly inadequate in addressing this complex issue and in supporting professionals to share information appropriately. If further guidance is not set out on this matter there are likely to be regular misunderstandings and disputes over these issues and in some instances essential

information sharing may be frustrated to the detriment of the child or young person.

97. At paragraph 7.69 the statutory provisions that support the statement that “the Act does not give entitlement to provision which goes beyond that which is called for by the child or young person’s ALN,” need to be included and an explanation needs to be offered as to how these provisions work together to support this conclusion.

## **Chapters 8 -12**

### **Question 14 – Early Years ALNCO – Chapter 8**

**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)?**

98. Yes, in so far as it goes.
99. How will people know who the Early Years ALNLO is within a local authority and how he/she may be contacted?
100. Is it envisaged that the role will be a full-time strategic post? If the role is not to become an “add-on” title to an individual’s main role this needs to be made clear.
101. In terms of experience the ALNLO will also need a good working knowledge of the ALN system.
102. The content of the draft Code on the role of the Early Years ALNLO is in large part at present aspirational and gives limited guidance on how these aspirations can be delivered. More detail is needed generally on this role and in particular about how the ALNLO will ensure the local authority meets its statutory duties as outlined in paragraph 8.39.

### **Other points on Chapter 8**

103. At paragraph 8.5 the issues raised above in Chapter 7 about to whom and how matters can be brought to the attention of the local authority and when time starts to run in regard to decision-making apply here. So, for example can an administrative assistant be expected to act on a conversation with a child or parent and does time start to run in regard to decision-making from this point? Things need to be made much clearer.
104. There also needs to be greater clarity as to who holds responsibility for making decisions and how decisions will be made in respect of children under compulsory school age and not in attendance at a maintained school. Although Chapter 8 provides for a person to be designated as the responsible officer for coordinating action and for drawing up IDPs and it provides for an ALNLO to over see matters at a strategic level it makes no provision as to how decisions will actually be made and by whom. This is not helpful.
105. At paragraph 8.11 it will be important for designated officers to have knowledge and experience in ALN. This should be made clear.
106. At paragraph 8.14 ought the paragraph include a requirement to signpost rights of redress in circumstances where a local authority decides that it is not necessary to make a decision on ALN/ALP/IDP as it has previously decided the issue?
107. At paragraph 8.15 where it says that the coordinator “should” normally arrange a meeting with a child’s parents consideration ought to be given to changing this to “must offer to meet with the child’s parents and a meeting/s should normally take place unless the parents decide they don’t want this or indicate that they wish to be engaged in the process by other means.”
108. At paragraph 8.24 relating to placement issues the Code needs to offer much more clarity as to how such decisions are to be made and outline the relevant statutory provisions that apply to such decisions and explain how these provisions work together. Also, will it be possible to describe a type of provision if considered appropriate rather than naming a particular provision?
109. Paragraph 8.26 needs further consideration and needs to be linked to what is said in paragraph 7.16 regarding ALP for children under

3 “taking any form.” Also, as noted elsewhere in this response the IDP Annex A does not appear to make provision for EOTAS provision to be identified in the IDP. At present this paragraph is confusing and very unhelpful and the issues relating to placement and EOTAS need much further consideration.

110. At paragraph 8.27 the statement that the local authority “should” give the parents an opportunity to comment on a draft IDP ought to say that this “must” happen unless a parent indicates that they do not wish to comment.

### **Question 15 –**

#### **Is the structure and content of Chapters 8 – 12 of the draft ALN Code clear?**

111. No.
112. In regard to paragraphs 9.1 – 9.13 and a maintained school’s duty to decide whether a child or young person has ALN the comments made in this response relating to the need to clearly define what is meant by ‘being brought to the attention of ‘ and the need to be clear as to who makes this decision set out in the response to Chapters 7 and 8 above apply.
113. In regard to paragraph 9.4 please see the response to Chapter 24 and the role of the ALNCO in the new system and comments made there about the “designated person.” In the view of the SENTW it is vitally important that the ALNCO has a central role in decision-making and processes related to the identification of ALN and ALP and in the drafting of IDPs and this needs to be made clear in the Code.
114. Paragraph 9.10 needs to signpost the implications of the young person not giving consent as set out in paragraphs 9.27 – 9.28.
115. Paragraph 9.11 needs to state that a school should also outline/signpost rights of redress in respect of this decision.
116. At paragraph 9.13 the reference to “should “ needs to be “must offer” and “should normally arrange a meeting” ought to include “if that is what a child, parent or young person wants or should provide reasonable alternative means of communicating and

discussing issues if this is what a child, parent or young person wants.”

117. In regard to paragraphs 9.14 – 9.18 and a maintained school’s decision that a child or young person does not have ALN once again the comments made in this response relating to the need to clearly define what is meant by ‘being brought to the attention of “ and the need to be clear as to who makes this decision apply.
118. Paragraph 9.19 ought to signpost later paragraphs that explain things further, namely improved versions of paragraphs 9.39 and 9.44-9.45.
119. Paragraph 9.23 ought to state that a school “must” rather than “should” give a child, parent or young person an opportunity to comment on the draft IDP before it is finalised.
120. The SENTW considers that paragraphs 9.27 – 9.33 of the Chapter are helpful but believes that more guidance is needed for schools around how to address the needs of young people who are refusing consent, as this a particularly difficult area for schools to manage and links with issues that have been raised elsewhere about the importance of engagement with families.
121. At paragraph 9.34 the Code should signpost paragraphs 9.27 and 9.28 where the duties on schools in respect of pupils who do not give consent to an IDP are identified.
122. At paragraph 9.39 and linked to it paragraph 9.44 – 9.45 the Code needs to be much clearer about and explain in more detail the circumstances in which it may be reasonable for a school to refer a pupil’s case to a local authority for consideration. The Code as currently drafted creates considerable scope for poor decision-making, dispute and delay and for the needs of pupils to be lost in disputes over responsibility. It also does not make it clear what if anything can be done to address these problems where they arise. It also builds in significant scope for inconsistency between local authorities.
123. As explained in the commentary in Chapter 7 and 8 above at paragraph 9.40 it is important define the term “where it is brought to the attention of....”

124. At paragraph 9.46 whilst the SENTW very much supports the involvement of educational psychologists in decision-making processes the SENTW wonders whether it is appropriate to make educational psychologists the “gate-keepers” of referrals on to the local authority and is concerned that some local authorities may seek to use a lack of educational psychologist involvement at this point as a standard reason for referring a case back to the school irrespective of the individual circumstances of the case.
125. It would be helpful if paragraph 9.48 refers back to the improved advice that should be set out at paragraph 7. 68 relating to data protection issues.
126. At paragraphs 9.49 – 9.63 relating to the local authorities duties to decide whether a pupil at a maintained school has ALN please see the response to Chapters 7 and 8 above relating to how this can be said to have been brought to the attention of the local authority, who has responsibility for decision-making, how the process will work and on what basis decisions are to be made.
127. The SENTW is concerned that paragraphs 9.53 – 9.54, amongst others referred to later in this response, may build into the new system opportunities for local authorities to seek to transfer responsibility for decisions to schools or FEIs without putting in place effective safe guards against responsibility being transferred inappropriately. There is a significant potential here for dispute and delay and again for the needs of the child or young person to get lost in disputes as to responsibility.
128. At paragraphs 9.61, 9.71 and 9.83 the Code should either explain what a local authorities duties are in respect of a young person with possible ALN who does not consent to a decision on ALN being taken or to an IDP being drawn up or maintained or signpost back to improved versions of paragraphs 9.27 – 9.33 where these duties are outlined and explained.
129. At paragraph 9.62 the SENTW takes the view that the duty to communicate and provide information and advice to a child, parents or young person concerning a decision that a local authority does not need to determine whether the child has ALN is a “must” rather than a “should” and it takes the view that this paragraph must also outline what rights of redress are available to

a child, parent or young person if they are unhappy with this decision.

130. In addition, at paragraph 9.63 the “should” relating to holding meetings ought to be a “must offer the opportunity for the child, parents or young person to meet to discuss and decide on the child or young person’s needs and hold such meetings as are necessary if requested and must offer opportunities for discussion of the issues by other reasonable means requested by the child, young person or parent.”
131. Paragraphs 9.76 – 9.77 need further significant consideration and more detail. As drafted they are opaque and of limited help to decision-makers. Placement decisions need to be made even if the local authority decides that it is not necessary to name a particular school or placement in the IDP. Therefore this section needs to address the statutory mechanisms that enable this to happen and how this will work in practice or at the very least signpost to where in the ALN Code and other relevant Codes this is properly addressed and explained. In addition, Chapter 11 applies to decisions about non-maintained provision rather than maintained provision and simply referring readers to this Chapter without explaining how the “powers and limitations in respect of placements” should be applied in cases relating to maintained school placements is ducking the issue and does not offer any proper guidance on how these decisions are to be made.
132. At paragraph 9.78 ought the statement that a local authority “should’ give the child, parents or young person an opportunity to comment on the draft IDP be a “must” unless the child, parent or young person indicates that they do not want to comment?
133. The SENTW would ask that the statement at paragraph 9.91 that reasonable steps to help a local authority secure the ALP in an IDP include involving the parent of a child in the delivery of ALP is explained further. At the present time a parent cannot be legally obliged to be involved with or deliver special educational provision, so this paragraph needs to explain whether this position is to change under the new ALN system and parents can be obliged to deliver ALP and if not what is meant by the statement made about this in this paragraph.

134. In regard to paragraphs 9.92 - 9.104 relating to a local authority's power to direct a school to prepare and maintain an IDP the SENTW is concerned that in practice there are significant risks that the needs of the child will be lost in this process and arguments between a local authority and a school over responsibility for the IDP and linked to this that this process could cause considerable delay in an IDP being drawn up.
135. To try to avoid this happening and to assist where disputes do arise this section needs to outline what obligations local authorities will have to consult with the child, parent or young person and with the school under consideration before arriving at the decision to refer back to the School. It also needs to set out more clearly and in more detail the circumstances in which this decision might be reasonable and set out clearly what rights of redress are available to the child, parent or young person and to the School and any other relevant local authority if there is a significant delay in the IDP being drawn up because of arguments around responsibility or if a party to the decision believes it to be wrong.
136. At paragraph 9.93 it would be sensible to signpost the reader to paragraph 9.103 so as to give a more complete picture around the circumstances in which it would not be possible for the local authority to refer an IDP back to a school.
137. Linked to this in regard to paragraph 9.103 ought the "should not" here be a 'must not?' Further, as indicated above it is important that the Code provides more detail here about what is considered reasonable for a school to manage.
138. At paragraph 9.104, as indicated above, in the opinion of the SENTW, this paragraph ought to set out the obligations on the local authority to consult with the child, parent, young person and the relevant school under consideration and go on to identify what rights of redress are available if any of the parties to the decision believe it to be wrong or flawed.
139. To be in any way useful paragraph 9.108 needs to set out this statutory duty and explain what this is designed to achieve and what it will mean in practice.

140. The flow chart at the end of the Chapter needs to signpost what happens at the end points of the flowchart - refer to rights of appeal/redress or refer to next steps.
141. In regard to Chapter 10 please see the commentary on Chapter 9 and on Chapters 7 and 8 above. Even though the Chapter relates to FEI and local authority duties in relation to young people in FEI provision the content of the Chapter is broadly the same as that set out in Chapter 9 relating to school and local authority duties in relation to pupils in maintained provision. The points made by the SENTW in regard to Chapter 9 therefore apply in large measure to this Chapter and the SENTW will not repeat them again. Also, points made in Chapters 7 and 8 that have been identified as applicable to issues in Chapter 9 are also applicable to the same issues in Chapter 10.
142. It would be helpful if Chapter 10 had a flow chart in the way that Chapter 9 does. Again, please see commentary on the flow chart at Chapter 9 that are also relevant to the content of the flow chart that ought to be provided at the end of Chapter 10.
143. In regard to Chapter 11 it would be sensible to include in the title of the Chapter the following addition," and placement issues in IDPs."
144. Again, the contents of this Chapter, in so far as they describe the process for identification of ALN and ALP and the making and maintenance of an IDP for children of compulsory school age not attending school, is very much the same as the processes outlined in respect of local authority duties in respect of pupils attending maintained provision set out in Chapter 9 of the Code and therefore the commentary set out in Chapter 9 and also in Chapters 7 and 8 above apply in large part to this Chapter. The SENTW therefore does not intend to repeat the points made there but points out that that the matters outlined in the commentary on Chapter 7, 8 and 9 need to be looked at when amendments to this Chapter are being considered.
145. In addition, the commentary on Chapter 23 relating to children and young people in specific circumstances is also relevant to this Chapter.
146. Taking paragraphs 11.17 – 11.23 and 11.55 – 11.60 together the SENTW asks that further consideration is given to these sections

of the Chapter as far they apply to pupils in independent schools for the reasons set out below.

147. The implication of these sections of the Chapter, taken along with the current content of Chapter 9 and Chapter 23, is that independent schools have no obligation to determine ALN or ALP under the legislation and are not obliged to prepare or maintain an IDP for pupils with ALN and as a result local authorities will be obliged to carry out these duties in respect of any pupil who may have ALN who attends an independent school irrespective of the severity of the ALN. The local authority cannot refer the pupil back to the independent school and must identify ALN and ALP, and if ALN is identified it must prepare and maintain an IDP in all cases.
148. The first point to raise is how fair is this? Since it will mean that pupils with ALN of any level in independent provision must be assessed by an educational psychologist and if the pupil or their parents are unhappy with decisions taken by the local authority they will have direct appeal rights to the Education Tribunal – neither of which would apply automatically to pupils in maintained provision with similar levels of need.
149. The second point to raise is that these duties are likely to be onerous for local authorities.
150. The third point is to ask whether in cases where it is not necessary for a local authority to name an independent school in the IDP for a pupil to attend the school because a pupil's parents are paying for and are prepared to continue to pay for the annual school admission fee will a local authority nonetheless be obliged to draw up and maintain a pupil's IDP and therefore become responsible for paying for the costs associated with the ALP identified in the IDP and could this obligation extend to supporting the needs of a pupil where the pupil is attending an independent school that is not on the independent school register?
151. The SENTW would suggest that if the above is not to apply then paragraphs 11. 24 – 11. 34 along with paragraphs 11.17 – 11.23 and 11.55 – 11.60 and aspects of Chapters 9 and 23 will need to be reconsidered and more detailed guidance on independent school matters and on placement issues generally need to be provided.

152. In particular, paragraphs 11.33 – 11.34 need clarification and more detail. In addition, in the view of the SENTW the implications of s. 9 of the Education Act 1996 and its impact on placement decision-making should not be consigned to a footnote. Given that s. 9 is to continue to apply the statutory provision should be clearly set out in the body of the Code and its relevance and impact should be properly explained or at the very least these paragraphs should clearly signpost readers to where else in the Code this is done. In addition the interaction of s. 9 of the Education Act 1996 and s. 6 of the ALNET Wales Act 2018 needs to be considered and explained, particularly where the wishes of a child and their parents differ.
153. In addition to having a section on naming a maintained school in an IDP the Code needs a section on how placements are secured where a school or provision is not named. It could be included here or at the very least this Chapter could signpost another Chapter of the Code where this is clearly explained and fully addressed.
154. The issue of whether or not a school should be named in an IDP is new and will no doubt be a point of significant contention between interested parties. As a result the SENTW takes the view that it would be helpful for the section on this at paragraphs 11.35 -11.42 to offer more detail to decision-makers about how decisions ought to be on this issue. In particular the section needs to explain how s. 6 of the ALNET Wales Act 2018 and s. 9 of the Education 1996 are to be applied to such decisions.
155. The same comments that are outlined above apply to the section of this Chapter at paragraphs 11.43 – 11 54 relating to “other provision.” This is a highly contentious area and it is essential that the Code deals with this matter as clearly and as fully as possible if proper decisions on placement are to be made and lengthy, costly and damaging disputes are to be avoided.
156. At paragraph 11. 47 reference is made to Section G of an IDP, it appears to the SENTW that this should be Section 2D instead as per Chapter 13 paragraph 13.50 and Annex A to the draft Code.
157. At paragraph 11.50 reference is made to support from parents. The issue of parental support for ALN has been raised elsewhere

in this commentary. This is an area that needs to be considered further and where more guidance is needed.

158. In addition, at paragraph 11. 53, more guidance is needed around how residential placements should be funded. Again, this is currently a highly contentious issue and it is important that this is addressed fully.
159. After paragraph 11. 60 the Code needs to set out and explain rights of redress.
160. As with Chapter 9 and 10 it would be helpful to have a flow chart at the end of this Chapter illustrating decision-making processes in relation to placement decisions.
161. In the experience of the SENTW EOTAS provision, referred to in paragraph 11. 61, is far more common than this paragraph suggests. It is a complex area and this paragraph is insufficient as it stands to help decision-makers arrive at proper decisions on this matter. There needs to be a more detailed consideration of this provision and the section also needs to clearly cross reference and consider other parts of the Code where this is mentioned.
162. In regard to Chapter 12 about the duties on local authorities in relation to young people not at a maintained school or FEI it is not possible for the SENTW to comment properly on the content of the Chapter until such time as the Regulations that are to underpin decision-making have been issued in draft form. The SENTW would value the opportunity to consider this further once these Regulations have been published.
163. This having been said, it would appear to the SENTW on reading the contents of the Chapter and the information set out in the consultation document that the SENTW's commentary on Chapters 7, 8, 9, 11 and 23 of the draft Code are likely to be relevant to this Chapter also.

## **Question 16 – Timescales**

**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?**

164. The SENTW does not support the 7 weeks timescale set for a local authority reconsideration of a school or FEI's decision as it is not practical. The premise on which the time scale is based as set out in the consultation document at paragraph 1.44 is in the view of the SENTW flawed. This matter is dealt with further later in this response.

### **Question 17 – Local Authority maintenance of IDPs for a young person not at a school or FEI**

**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?**

165. No. Please see response to question 15 above.

### **Chapter 13 – Content of IDP**

#### **Question 18 – Mandatory IDP**

**Are the elements of the mandatory content of an IDP which are required by the ALN Code appropriate?**

166. It would be helpful if at the start of the introduction to Chapter 13 s. 10 of the ALNET Wales Act 2018 is set out so that the statutory basis for IDP content is clear from the outset.

167. At paragraph 13.1 it would also be helpful if readers are referred back to Chapter 7 regarding the definitions of ALN and ALP.

168. At paragraph 13.5 it would be helpful if the reference to Chapter 16 is more specific to avoid the need for readers to have to read all of Chapter 16 to access the relevant information they need in regard to IDPs being included in other documents. At the present the relevant paragraphs are 16.31 – 16.32.

169. It also needs to be made clear in this part of Chapter 13 and/or in Chapter 16 that care must be taken to ensure that the IDP is clearly identified as such within any other document or that the IDP will need to clearly identify and keep separate the contents of any other document that is included within it otherwise it will not be clear which aspects of the relevant document are appealable to

Tribunal or may be challenged in other ways, making what is already a very confusing picture around rights of redress potentially even more confusing. In addition, further detail is needed either here or in Chapter 16 around how a combined plan might be drawn up. In the view of the SENTW any review meeting arranged to provide for this is likely to require expert chairing and detailed knowledge and understanding of legislation across the education, health and social care fields.

## **Part 1**

170. In regard to paragraph 13.14 at section 1A. 7) of the IDP regarding the name of parents, as indicated elsewhere in this response, the Code needs to address how the dynamics of the relationship between young people and their parents is managed by decision-makers in the new ALN system. Please also see comments on the One-page profile below.
171. At paragraph 13.15 and language of communication issues there ought to be an indication as to whether the language of communication ought to be English, Welsh or both, in addition to the examples given.
172. After paragraph 13.16 dealing with consent of the young person, in the view of the SENTW, the Code should refer to other parts of the Code which explain what ought to happen in cases where a young person does not give consent.
173. After 1A. 12) of the IDP “capacity issues” and paragraph 13.17 that deals with this also should provision be made in the IDP to record the deals of any independent advocate that has been appointed and what purposes the advocate has been appointed for?
174. In regard to the drawing up of the One–page profile 1C, at paragraph 13.23 which deals with who should be involved, it is a cause for concern of the SENTW that the parents of young people have no voice in this process. In many cases it will be entirely appropriate for young people to take the lead with little or no input from parents, however, in practice there will be a number of cases where parents are likely to remain central to the care and support of the young person and where parents are likely to have a valuable and important contribution to make. It is important for the Code to address how this can be facilitated where the young

person does not consent to parental involvement. A failure to do this could result in the disempowerment of this group of parents, deny access to a valuable and important source of information and could lead to disputes that derail the IDP process to the detriment of the young person concerned.

175. The Code needs to state whether Part 1 or aspects of it can be amended without review and what should happen in the event that there are disputes as to the content of Part 1.

## **Part 2**

176. At paragraph 13.28 the reference to “should” ought to be a “must” and the second “could” in this paragraph should also be a “must.” If these things are not made mandatory in the opinion of the SENTW conflicting opinions are likely to remain unresolved and no reasons will be given for any conclusion being reached and it is important that this happens so that the IDP is clear and makes sense.
177. At paragraph 13.34 the examples of timescales should include provision delivered on a weekly and on a term time only basis.
178. At paragraph 13.35 which deals with disapplication and modification of the curriculum further detail is needed to make it clear to decision-makers where disapplication or modification may be necessary and it needs to be clearly stated that the section must include a description of the ALP that is to be provided in place of the disapplication or modification in addition to stating that it needs to be made clear how the relevant ALP will ensure that a broad and balanced curriculum is maintained. Also, it should be noted that Annex A and B do not appear to contain a separate section for this issue to be written up in the IDP and in the view of the SENTW this is needed to ensure clarity of thought on this issue and for ease of reference.
179. Specification and quantification of ALP is a highly contentious matter and is one of the main areas of dispute at Tribunal. Paragraphs 13.38 and 13.39 that deal with this issue, in the view of the SENTW, are not sufficiently detailed to adequately address this. In particular, the issue of what levels of quantification are considered to be reasonable needs to be addressed and the issue of the specification and quantification of provision being recommended by professionals and other agencies and the

difficulties that currently exist and are likely to continue to exist in securing clarity on these matters also needs to be addressed.

180. The SENTW is concerned about the wording of section 2B.6 “end/review date” and paragraph 13.41 that deals with it. As presently drafted and as explained in paragraph 13.41 there is a high probability that provision will be given an end date without review and as a result a child, parent or young person could then be without the means to challenge this even where it had become apparent that the provision may need to continue.
181. At paragraph 13.42, and following on from the comments made in regard to paragraph 13.28, in the view of the SENTW the “should” in this paragraph ought to be a “must.”
182. At paragraph 13.44 dealing with Section 2C NHS provision in the opinion of the SENTW the Code ought to outline how disputes around the description of the ALP are to be managed. Please see additional commentary on this point set out in the response to Chapter 15 regarding NHS duties.
183. At paragraph 13.45 dealing with 2C.6 “End date”, please see commentary in regard to paragraph 13.41. Also, following on from 13.44, in the view of the SENTW, the Code ought to outline how disputes on this issue are to be resolved.
184. At paragraph 13.48, so as to help address cross border placement, please could it be clarified whether it is possible to name a maintained school in England in Section 2D. 1 and if not could this section please refer to the parts of the Code that deal with the issue of placement in English schools for pupils with ALN residing in Wales and how this ought to be managed.
185. At paragraph 13.49 in regard to Section 2 D placement ought the reference to “should” in this paragraph be a “must.”
186. Please could this part of the Code clarify whether it is possible to describe a type of provision or school placement in an IDP as is currently possible in a Statement. If so, please could Section 2D make provision for this.
187. Also, please see SENTW comments on Annex A and B below.

### Part 3

188. It would be helpful if the section on S. 3A “Record of Information” makes it clear whether the record needs to be a running one or just focus on the latest discussions. As things stand Section 3A together with the items that are to be included in section 3B “Timeline” could make this part of the IDP quite lengthy.
189. Ought paragraphs 13.59 and 13.61 be “musts” rather than “shoulds.”
190. The SENTW is very concerned about the content of the section of the Code relating to Part 3C Transition at paragraphs 13. 65 – 13.70.
191. Firstly, it seems to the SENTW that transition arrangements that warrant special provision to be made to support a learner’s ALN ought to be appealable and included in Section 2 of the IDP.
192. Secondly, if Welsh Government decide to retain transition arrangements in Part 3 and therefore make it non- appealable it is essential that this section very clearly defines what constitutes transition arrangements and what constitutes ALP and at the present time the section does not do this and in fact is very confusing, particularly as it makes reference to future ALP as transitional and therefore non-appealable. As things stand this section is likely to cause more disputes than it solves and is an area of the Code that needs much more careful consideration.
193. Thirdly, if Welsh Government continue to include transitional arrangements within Part 3 it would seem sensible to the SENTW to give the Educational Tribunal a power under s. 71 of the ALNET Wales Act 2018 to make consequential amendments to all aspects of the IDP so as to ensure that the IDP continues to make sense in light of amendments made to Part 2 provision and to make amendments to all aspects of the IDP where the parties to an appeal agree that this is necessary. Indeed, it would be sensible to add these two powers to s. 71 of the Act in any event.
194. Also, in regard to the issue of appealable/non-appealable provision the SENTW is concerned that at paragraph 13.73 access arrangements are considered non-appealable and of even more concern is the fact that they are to be treated as non-mandatory

parts of the IDP. The SENTW takes the view that any special exam access arrangements must be mandatory elements of an IDP and that issues related to this should form part of an appeal to tribunal.

### **Question 19 – Mandatory IDP**

#### **Is the proposed mandatory standard form for an IDP appropriate?**

195. No. Please response to question 18 above and comments of Annex A and B.

### **Question 20 – Guidance**

#### **Is the guidance in Chapter 13 of the draft ALN Code clear?**

196. No. Please see the response to question 18 above.

### **Question 21 – Transport**

#### **Is the guidance on transport in paragraphs 13.74 – 13.76 of the draft ALN Code appropriate?**

197. No.

198. The SENTW needs to see the proposed new guidance on travel before it can comment fully on this part of the Code.

199. However, the SENTW feels that to be useful this section of the Chapter needs to be more comprehensive.

200. It would be helpful for the section to indicate whether Welsh Government take the view that transport issues should always be considered as non-mandatory and non-appealable elements of an IDP for consideration under the Learner Travel (Wales) Measure 2008 or whether there are any circumstances where it might be appropriate to consider transport provision under the ALNET Wales Act 2018 and include this provision as ALP under Part 2 of an IDP. In this regard the SENTW draw the attention of Welsh Government to Birmingham City Council v KF [2018] UKUT 261 (AAC) where, in regard to English provision under the Children and Families Act 2014 and the Education Act 1996 as amended, the Upper Tribunal suggests that there may be circumstances in which

transport provision could be considered to be special educational provision. Whilst the SENTW appreciate that the law in Wales is different to that in England the case is highlighted as it is likely that similar arguments may be run in regard to the ALNET Wales Act 2018 and an indication from Welsh Government as to the approach that should be taken under the new legislation is needed so that there is clarity on this issue from the outset.

## **Chapter 14 – Content of an IDP for a looked after child**

201. Please see SENTW response in relation to Part 4 of the consultation document below.

## **Chapter 15 – Duties on health bodies and other relevant persons**

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

202. The exceptions that apply such that a relevant body need not respond if it considers that it would be incompatible with the relevant authority's own duties or would otherwise have an adverse effect on the exercise of their functions makes it easy for the relevant body to circumvent this statutory requirement and this issue is not resolved by the obligation to give reasons for non-compliance. This Chapter of the Code needs to at the very least expand on what the two exceptions mean and should provide some redress if the relevant body is acting unreasonably in not replying or in replying has not provided an adequate response. As set out presently, the statutory provision, the timescale set for compliance and the information in the Code is unlikely to deliver any measurable improvement to the support and information provided by relevant bodies to local authorities.

### **Question 23 – Timescale**

203. **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?**

204. The exception that applies to the duty is vague and very open ended and makes it potentially very easy for the NHS body to circumvent this timescale. The Chapter needs to give a clearer indication of what this exception means/does not mean.

## **Question 24 – DECLO**

**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)?**

205. Yes in so far as it goes.

206. How will people know who the DECLO is within a LHB and how he/she may be contacted?

207. Is it envisaged that the role will be a full-time strategic post? If the role is not to become in effect an add-on title to an individual's main role this needs to be made clear.

208. In terms of experience the DECLO will also need a good working knowledge of the ALN system.

209. The content of the Code on the role of the DECLO is in large part at present aspirational and gives limited guidance on how these aspirations can be delivered.

210. If new health provisions within the ALNET Wales Act 2018 and the role of the DECLO stands any chance of delivering improvements in health related collaboration and support for ALN the Code needs to address clearly what the consequences would be if compliance is poor in individual cases and across a range of cases. For example, would it be possible to make compliance and support for ALN part of the LHB's and other health bodies performance indicators? If this is possible how would these performance indicators be set and what would they consist of and where and how would they be publicised?

## **Other points**

211. As indicated in regard to other Chapters of the Code it would be very useful if the Chapter clearly sets out at the start the statutory provisions and Regulations that apply in relation to duties on health boards and other relevant bodies.
212. At paragraph 15.25 it would assist greatly if the Code could expand further on what is actually meant by the phrases ‘ “ is likely to be of benefit in addressing ALN,” and “...is a treatment or service that an NHS body would normally provide as part of the comprehensive health service in Wales.” These are both crucial in understanding the duty placed on NHS bodies by ss. 20 - s. 21 of the ALNET Wales Act 2018 and without significantly more elucidation in the Code these are matters which are highly likely to give rise to disputes. As things stand, without greater clarity, it is also highly likely that these disputes will prove difficult to resolve easily or quickly.
213. In regard to NHS decision-making in response to a referral as currently set out in this Chapter of the Code it is a cause of concern to the SENTW that the NHS body appears to have absolute control over the decision and what the provision if any should be without any further input from the referrer or from the child, parent or young person beyond the initial point of referral. In addition it is a concern that the NHS body may dictate absolutely what if any provision should be included in the IDP without recourse to the child, parent or young person or the referrer or other relevant professionals and without the need to give reasons for the conclusions reached and thereafter this provision must then absolutely be included in the IDP even if the child, parent, young person, the referrer and other professionals are of the view that this is not beneficial and it cannot be removed or changed without the NHS bodies consent.
214. In the view of the SENTW the Code must address the above and provide an explanation as to what action is open to the child, parent or young person and/or the referrer in the event that there is a dispute over the approach being taken by the NHS body in relation to this duty or they believe that the provision being put forward is not going to be of benefit in meeting the ALN of the relevant child or young person.

## **Chapter 16 – Reviews and revision of IDPs**

## **Question 25 –**

### **Is the content and structure of Chapter 16 of the draft ALN Code clear?**

215. No.
216. Reviews in advance of transfers along with proper procedures for identifying transition plans need to be looked at again and looked at in association with each other. Please see comments below in relation to Chapter 18 transition plans.
217. Clear timescales need to be set for such reviews that link into relevant education settings admission arrangements and timetables if there is to be any chance of the new ALN system working effectively in this important area of support.
218. It would be helpful if the statutory provisions that form the framework for review processes are set out clearly at the beginning of the Chapter or at least listed.
219. At paragraph 16.22 - 16.24 relating to NHS requests for review ought the NHS be required to give reasons to the school, FEI or local authority and to the child, parent or young person for making the request to change or remove provision and how will s. 6 obligations be satisfied in regard to this process?
220. Linked to this at paragraph 16 .41 does the relevant school, FEI or local authority that amends the IDP following an NHS request for change or removal of provision also need to set out for children, parents and young people how they might go about challenging the position of the NHS body.

## **Question 26 – Timescales**

### **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?**

221. The SENTW does not necessarily accept the rationale for the timescale for local authority reviews on request set out in the draft consultation document. In the experience of the SENTW reviews

of statements regularly necessitate additional specialist advice (although it is not always provided or provided in a helpful and supportive way) and since NHS bodies will have 6 weeks to comply with a request for information and support it seems that local authorities will only have an additional week to process and consider any information provided by the NHS which unfortunately is not sufficient.

## **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?**

222. No.

223. How will local authorities make reconsideration decisions? Will it be via panels on the basis of written paperwork only? This needs to be made clear.

224. At paragraph 17.25 it appears that local authority educational psychologists will be the initial gatekeepers around what it is reasonable/unreasonable for a school to provide. Is this appropriate?

225. At paragraph 17.27 it would be helpful if it is made clear that the IDP includes all supporting documentation and that this should be provided to the local authority by the school or FEI along with the completed IDP form.

226. After paragraph 17.35 should it be made clear again that the local authority must give reasons for deciding not to take over responsibility and provide information about ALN processes, dispute resolution and advocacy services and rights of redress?

227. Please set out relevant statutory provisions that apply to reconsiderations more clearly at the beginning of the Chapter.

### **Question 28 – Timescale and exception**

**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?**

228. No unfortunately not.
229. As with timescales for local authority reviews on request the SENTW does not accept the rationale for the shorter 7 week timescale for similar reasons to those set out above in respect of reviews. It is not necessarily going to be the case that requests for reconsideration will relate to less complex cases or that all evidence that needs to be considered will have been already gathered. The local authority may well need to exercise its power to request information and advice from an NHS body who then has 6 weeks to respond and again this only leaves the local authority a further week to complete the reconsideration process. Unfortunately this period therefore is likely to be insufficient for carrying out and completing a proper reconsideration.
230. If the 7 week time period is retained it is a concern of the SENTW that the use of the exception will become very common. Clarification of what are “circumstances beyond the control of the local authority” is likely to be needed.

**Chapter 18 – Meetings about ALN and IDPs**

**Question 29 – Meetings**

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

231. No.
232. The Chapter gives no role to the ALNCO in the process of planning for or conducting meetings. In the view of the SENTW it ought to since the ALNCO is the ALN specialist within the school or FEI setting.
233. Linked to this, paragraph 18.7 makes reference to “..and someone from the school” and “..and someone from the FEI” in the context of who should attend meetings. This is too vague and most unsatisfactory. In the view of the SENTW it is the ALNCO who

ought to be the key person involved in meetings and reviews regardless of the severity of the needs of the child or young person.

234. Also, in regard to attendance at meetings what ought decision-makers do when a young person does not consent to the attendance of parents at a meeting to discuss provision when it is clear that the parents will need to be central in providing ongoing support to the young person? As stated elsewhere in this response the Code ought to offer guidance on this to practitioners.

## **Chapter 19 – Planning for and supporting transition**

### **Question 30 – Effective Transition**

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

235. No.
236. The Chapter is high in aspiration but low in the detailed guidance that is needed to ensure a smooth transition with necessary support is delivered. The Chapter needs significantly more work if it is to be of any use.
237. It would be helpful if the Code defines precisely what Welsh Government consider a transition plan to be and refers back to Chapter 13 paragraphs 13.65 – 13.70 with a further explanation of how the points made there would work in practice.
238. Which aspects of support should be considered ALP and which should be considered a transition arrangement need to be made as clear as possible. This is because the current proposals set out in this Code indicate that ALP is appealable but the contents of the transition arrangements section of the IDP are not (something that the SENTW does not necessarily support – see response to Chapter 13 above). An example of possible confusion in this regard is highlighted below in relation to the SENTW's commentary on paragraph 19.38. As things stand this is likely to be a new and keen area for dispute.

239. Paragraph 19.4 does not include a reference to transition from Ks 2 –Ks 3.
240. Paragraphs 19.9 – 19.11 planning for transition emphasises that early planning and collaboration and multi-agency working should be used without giving any indication as to how this in practice can be achieved. These are areas that have proved to be problematic within the SEN system and as things stand the SENTW is concerned that they are likely to continue to be significant features of the new ALN system. Much more detail regarding how these things are to be achieved is needed in the Code.
241. Paragraphs 19.13 – 19.20 on timing are wholly inadequate and far too vague to be of any use. They fail to give any consideration to IDP development or review and decision-making concerning appropriate placement and admission arrangements and admission timetables and how transition planning needs to work within this context if it is to be of any use at all.
242. Paragraphs 19.21 – 19.23 again provide no details as to how collaborative working can be achieved in practice. Also, should it be pointed out that the designated coordinator will be responsible for achieving the things set out in these paragraphs?
243. Paragraph 19.24 recording transition arrangements will need to make clear that transition arrangements for looked after children should be recorded in a personal education plan.
244. Paragraphs 19.26 – 19.35 again are insufficient to address the transition needs of young children entering nursery and school because as stated above they fail to give any consideration to decision-making on ALN and ALP and appropriate placement and admission arrangements and admission timetables. The same considerations apply to later sections of this Chapter relating to secondary transfer, post -16 transfer and post-19 transfer.
245. In effect what the SENTW would expect to see is that an IDP is developed or reviewed and amended to identify ALN and the necessary ALP, which would be appropriate for decisions to be taken about placement and along with that any transition plans. All of which need to be in place well in advance of relevant admission timetables and arrangements so that the appropriate placement

can be secured for the child or young person either by naming the provision in the IDP or through ordinary admission processes.

246. This Chapter and Chapter 16 on Reviews need to be tied in together far more effectively than they presently are if processes for transfers are to be successful and the provision required to support transfer is to be provided.
247. The matters outlined in paragraph 19.38 as aspects of school life that may need to be changed to support transition planning within settings would appear to the SENTW to constitute ALP and ought more appropriately to be dealt with therefore in Part 2 of the IDP rather as part of the non-appealable Part 3 Transition Plan.
248. In the view of the SENTW the approach described in paragraph 19.62 that requires a review to take place after a young person transfers to FEI so as to secure appropriate provision rather than before the transfer is a cause for concern. As indicated above reviews need to take place well in advance of any transfer to identify current ALN and necessary ALP in the context of the transfer to help inform decision-making on an appropriate transfer placement and to ensure that appropriate provision and support is in place for the young person when they move to the placement thereby ensuring a successful transition. The proposal in this paragraph would delay the introduction of necessary support and the lack of that necessary support could jeopardise the success of the placement.
249. Finally, in the view of the SENTW this Chapter would provide a perfect opportunity to set out examples of good practice in different educational establishments so as to assist practitioners in the performance of their duties under the ALN system.

## **Chapter 20 – Transferring an IDP**

### **Question 31**

**Is the content and structure of Chapter 20 of the draft ALN Code clear?**

250. Yes as far as it goes.

251. However, until the Regulations that support these provisions are provided it is difficult to give a definitive answer to the question.
252. In addition, it would assist the better understanding of the processes relating to transfers if the Chapter could set out clearly at the beginning details of the specific statutory provisions that apply to transfers at s. 35 – 37 of the ALNET Wales Act 2018 and gives details of all relevant supporting Regulations.

### **Question 32 – Requirement of Regulations – transfer to an FEI**

**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?**

253. No.
254. At paragraph 20.12 should the young person, who is the subject of the IDP, be notified of the local authority's consideration of a request to transfer the IDP and should their views be sought on the issue in advance of making the request and taken into account by the local authority before making the decision to request the transfer of the IDP to an FEI in line with s. 6 of the ALNET Wales Act 2018?
255. Also, linked to the above, should the local authority's dispute avoidance and resolution arrangements have a role to play in this process and if so how?
256. In addition, ought the Code to explain, after paragraph 20.17 relating to Welsh Ministers decision-making, what processes are available to a young person who is the subject of the transferred IDP and to the relevant FEI to challenge the decision of the Welsh Ministers if they do not agree with it.
257. It would be helpful to have sight of the relevant Regulations before making any further comment on this matter.

### **Question 33 – Requirements of Regulations – other transfers**

**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?**

258. No.

259. Ought paragraphs 20.18 and 20.22 make it clear that the IDP includes all of the documents that support it and not just the IDP form itself? In the experience of the SENTW it is currently the case that copies of statements often do not include their supporting appendices.

260. The SENTW does not understand the circumstances in which the first example set out in paragraph 20.23 could arise and it would be helpful if the example could be clarified further.

261. It would be helpful to have sight of the relevant Regulations before making any further comment on this matter.

**Chapter 21 – Ceasing to maintain an IDP**

**Question 34**

**Is the content and structure of Chapter 21 of the draft ALN Code clear?**

262. No not yet.

263. It will be necessary to see any Regulations provided under s. 46 ALNET Wales Act powers and the further explanation of these Regulations in this Chapter of the Code before a definitive view about the clarity of this part of the Code can be given.

264. As with other key complex parts of the new system the SENTW believes that it would be helpful if the Chapter sets out the main statutory provisions from the ALNET Wales ACT 2018 that apply to decisions about ceasing to maintain an IDP at s. 31 – 34 of the Act and also identifies all of the s. 46 Regulations that are to be made in regard to this issue.

265. Paragraphs 21.3 – 21.5 refer to the issue of young people and consent. As indicated earlier in this response the SENTW takes the view that Welsh Government need to make clear what should

happen in circumstances where a young person with ALN either does not give consent or withdraws consent for an IDP. This could be explained here or readers could be signposted to provisions elsewhere in the Code that explain the position. Whilst the views and wishes of young people need to be respected a refusal to consent will not alter the fact that a particular young person has ALN that ought to be addressed.

266. After paragraph 21.23 it would be helpful for the draft Code to include some guidance concerning the mechanism that local authorities may use to review a decision to cease to maintain. For example, is it appropriate for local authorities to hold panels to make such decisions and does Welsh Government have any guidance to give as to the constitution of such panels and how they would function.
267. At paragraph 21.26 it should be made clear that local authorities must also give reasons for the review decision to cease to maintain and indeed it may be helpful if local authorities also give reasons for any decision not to cease to maintain.

### **Question 35 – Time period**

**Is the period of time for making a reconsideration request (described at paragraph 21.18 of the draft ALN Code) appropriate?**

268. So as to allow sufficient time for the matter to be resolved either directly with a school or by recourse to the responsible local authority's dispute resolution arrangements as per paragraph 21.20 of the draft Code would it be sensible for the Regulations that will address the time limit issue to provide for time to be extended where local dispute resolution arrangements are being pursued.

### **Chapter 22 – Children and young people subject to detention orders**

#### **Questions 36 – 39**

269. Given the relatively short time period set for responding to this Consultation compared with the extensive nature of the questions to be addressed and the substantial amount of documentation

under consideration it has not been possible for the SENTW to consider this Chapter of the Code in detail as yet.

270. The needs of detained children may impact on the content of the new Education Tribunal Regulations 2019 and the SENTW would very much wish to look at this further please. This cohort of children are likely to be some of the most vulnerable in society and the SENTW consider it is important that further time is taken to try to ensure that the new ALN system works as effectively as possible in this area.
271. Welsh Government is asked to give consideration to extending the time for responding to the current consultation document to enable all stakeholders to contribute fully to the very important matters addressed in the consultation.

## **Chapter 23 – Children and young people in specific circumstances**

### **Question 40 - Specific Circumstances**

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

272. No.

### **Children and young people receiving EOTAS**

273. It would be helpful to set out s. 19 of the Education Act and s. 53 of the ALNET Wales ACT 2018 in full at the beginning of this section. This is an area that appears to be poorly understood so is important to be clear about statutory duties in this context. As the legal requirements regarding EOTAS provision are within the Education Act 1996 as well as the ALNET Wales Act 2018 it would assist people seeking to secure a clear understanding of the law in this area to see both provisions together.
274. At paragraph 23.6 it ought to be made clear that the descriptions of the types of EOTAs provision set out in the final sentence are only examples of what may be provided under the EOTAS umbrella.
275. It is not clear where EOTAS provision will sit within the IDP. This is addressed further in the SENTW's commentary on the IDP mandatory forms Annex A and B.

## **Children attending PRUs**

276. The SENTW does not consider that the management committees of PRUs should have the same responsibilities as the governing bodies of maintained schools. Such are the needs of the cohort attending PRUs that it is felt to be extremely important that local authorities retain responsibility for this pupil group.

## **Children and Young People in EOTAS because of healthcare needs**

277. It is suggested that this sections needs to highlight Welsh Government guidance on meeting the needs of pupils with medical conditions and explain the interface between this, EOTAS provision and IDPs.

## **Children receiving education other than at a maintained school in Wales or EOTAS.**

278. It would be very helpful if the Code could set out the statutory provisions that are applicable to this complex area in full either here or in Chapter 11 of the Code.

279. The SENTW has already identified concerns and issues about the approach being taken by the Code in regard to these groups of children. Please see response to Chapter 11. In the view of the SENTW this section is likely to need further consideration and work.

## **Chapter 24 – The Role of the ALNCO Part 3 Draft ALNCO Regulations 2019**

### **Question 41 – Role of the ALNCO**

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

280. No.

281. It would be helpful if at the start of this Chapter readers are directed to the statutory basis of the guidance set out in s. 60 of the ALNET Wales Act 2018 and the Additional Learning Needs Coordinator (Wales) Regulations 2019. This is so that it is very clear that this essential role has a very clear and definite statutory footing.
282. Paragraph 24.1 is currently misleading and needs to make it clear that the duty to appoint ALNCO's also applies to maintained nurseries and to PRU's as well as "maintained mainstream schools and FEI's."
283. So crucial is the role of the ALNCO to the new ALN system that the SENTW remains firmly of the view that it is necessary for maintained special schools to have ALNCOs. In the view of the SENTW the argument that this is not needed because all special school teachers are specialists overlooks the important strategic, planning and liaison, coordinating and review and training roles that ALNCO's carry out so as to ensure that the needs of learners are appropriately identified and met on an ongoing basis. Given the high levels of need of learners within the special school sector, in the view of the SENTW, it is important that a key person, the ALNCO, is designated to carry out these responsibilities.
284. The ALNCO is the linchpin in the new ALN system and how effectively this role is carried out will, to a significant extent, dictate how successful each education setting is in meeting its statutory duties towards learners with ALN. This is clearly recognised in the lengthy list of duties that are set out in the draft ALNCO Regulations and which are also referred to in the draft Code. It is a concern of the SENTW therefore that the Code waters down the requirement for the ALNCO to be part of the senior management structure of education settings and that it does not recognise that the role is likely to be a full-time in many cases and gives considerable scope for ALNCOs to be shared by a number of education settings. In the view of the SENTW it will not be possible for ALNCO's to perform their considerable and important duties effectively if they are not part of the senior management team of an education setting and in many cases, particularly in larger settings, if they have to juggle their ALN responsibilities with the demands of other roles within an education setting or indeed across a number of settings.

285. All governing bodies should be obliged to make it clear to children, young people and parents who the ALNCO of the setting is and how they can be contacted and provided updated details when the ALNCO changes.
286. In individual cases where the ALNCO identifies another member of staff to be the “designated coordinator” for the assessment of ALN and the drawing up of an IDP, in the view of the SENTW, this must be made clear to the child, their parents or young person and the name and contact details of that individual must be made known to them and any changes of designated coordinator should also be made known.
287. In addition, the ALNCO must ensure that the designated coordinator has sufficient knowledge and experience of ALN to be appointed to the role.
288. It must be made clearer that at all times where a “designated coordinator” is appointed the ALNCO retains overall responsibility for ensuring that an appropriate assessment of ALN is conducted and that it is the ALNCO, on behalf of the relevant governing body, who is responsible for identifying whether a learner has ALN and in such cases for ensuring that appropriate provision is identified and set out in an IDP and thereafter for ensuring that provision and progress are appropriately monitored and reviewed and the IDP is updated as necessary.
289. The responsibilities set out at paragraph 24.23 appear to be central to the duties of the ALNCO and this ought to be reflected by using the term “must” rather than “should.”
290. Please see response to Question 55 in regard to the prescribed qualifications and experience of ALNCOs.

### **Question 55 – Prescribed Qualifications of ALNCOs**

#### **Are the prescribed qualifications to be an ALNCO set out in the draft ALNCo regulations appropriate?**

291. In the view of the SENTW these requirements reflect the minimum that will be needed to carry out this crucial role, of equal importance is the training, knowledge and experience of this “expert” role and therefore the SENTW believes some form of

mandatory minimum compulsory professional development requirements should be attached to the role to ensure that ALNCO's develop, maintain and up date their knowledge and expertise and are allocated sufficient time by their governing bodies to enable this to happen.

292. Also, it was the understanding of the SENTW that consideration was being given by Welsh Government to the creation of an ALNCO specialist qualification in the context of its work force development and training programme. The SENTW supports this idea and feels that the Code should at the very least signpost the existence of this qualification/ outline plans for its creation and implementation.

### **Question 56 – ALNCO tasks**

**Do you agree that the tasks that the ALNCO must carry out or arrange to carry out as set out in the draft ALNCO regulations?**

293. No.
294. As stated above, it needs to be made clear that the ALNCO must ensure that any one whom they appoint as a “designated coordinator” has sufficient knowledge and experience of ALN to carry out the role and also that the ALNCO informs the child, young person and relevant parents when a designated coordinator has been identified and provides details as to how the designated coordinator can be contacted and provides updated details if the coordinator changes.
295. It also needs to be made clear that the ALNCO retains overall responsibility for the work of the designated coordinator and retains overall responsibility for ensuring that an appropriate assessment of ALN is conducted and an appropriate IDP is created where needed.
296. In addition, in the view of the SENTW, it ought to be made clear that it is the ALNCO, on behalf of the relevant governing body, who is responsible for identifying whether a learner has ALN and in such cases for ensuring that appropriate provision is identified and set out in an IDP and thereafter ensuring that the provision is appropriately monitored and reviewed and updated as necessary.

## **Chapter 25 – Avoiding and resolving disagreements and independent advocacy services**

### **Questions 42 – Arrangements for avoiding and resolving disputes**

**Are the requirements imposed by Chapter 25 of the draft ALN code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?**

297. No.

298. It would be helpful if at the start of this Chapter readers are directed to the statutory basis of the guidance in the Code as set out in S. 68 - 69 of the ALNET Wales Act 2018. This is so that it is clear that these requirements have a very definite statutory footing and so as to assist ease of reference where there is a need to check the legal requirements of the duties set out in the Act.

299. The SENTW would like this Chapter to emphasis the importance of the right first time principle in decision-making and linked to this the importance of mechanisms for learning from mistakes as part of processes for avoiding disagreements and resolving them. At the present time neither is referred to at all and there is very limited provision made for decision-makers to learn from mistakes.

300. In the view of the SENTW access to good quality legal advice in decision-making in the first instance and in arrangements to avoid and resolve disputes can help to support the right first time principle and ensure that where issues arise as many disputes as possible are resolved quickly. The Chapter, at the present time, ignores this and that in the view of the SENTW is unhelpful.

301. SENTW User group meetings have identified that parents and advocacy and dispute resolution services are concerned that s. 68 – 69 of the Act and the draft Code do not go far enough in securing the independence of dispute avoidance and resolution arrangements and advocacy services and that local authorities are/may begin to make their own internal arrangements for dispute avoidance and resolution in preference to using arms length services.

302. S. 68 (3) of the Act indicates that local authority arrangements for the avoidance and resolution of disputes must include access to help that is independent of the parties and this is confirmed at paragraphs 25.34 – 25.36 of the draft Code. However, earlier in the Chapter paragraphs 25.11 – 25.12 make reference to the need for "staff" delivering arrangements to be knowledgeable and have appropriate training and for "staff" to be impartial to the outcome of any disagreement.
303. It would be very helpful if the Code could state clearly and unequivocally what is expected in terms of independence of local authority arrangements for the avoidance and resolution of disputes.
304. Is it envisaged that local authority staff who are impartial and appropriately trained should seek to support families to address issues initially and then subsequently if there remain issues that need further consideration that the matter is referred to an independent form of mediation? Is there a role for independent support for families to access the independent mediation provision?
305. S. 69 of the Act and paragraphs 25.55 – 68 of the draft Code appear to stress the need for advocacy services to be independent of local authorities. However, as indicated above, SENTW users have expressed concerns that such services may no longer need to be independent of local authorities and again therefore it would be helpful if the Code could state clearly and unequivocally what is expected.
306. It would also be helpful if the Code could give more clarity as to whether local authority arrangements relating to dispute avoidance and advocacy services includes maintained nursery providers and independent nursery providers who are in receipt of public funding. Under s. 68 of the Act the term 'education body' would appear to include a maintained school with nursery provision but not an independent provider in receipt of public funding, which is perhaps understandable given that an LA will always be responsible for determining whether young children in independent nursery provision have ALN and require and an IDP, but the term 'relevant institution' makes reference to various other education settings including, amongst others, independent schools but does not mention independent nursery providers. It would be helpful if this

could be addressed either in this Chapter or in Chapter 8 relating to duties in relation children under compulsory school age not attending a maintained school.

307. At paragraph 25.14 the Code needs to offer further guidance to local authorities concerning how they will be expected to facilitate separate access to dispute avoidance and resolution arrangements for children in cases where parents oppose this.
308. This leads to the more general issue, which has already been raised elsewhere in this commentary, of how local authorities and indeed any other decision-maker will be expected to manage cases where children and their parents are in dispute over their education. The Code provides no guidance on this and it needs to do so.
309. It also leads to a question about whether the Code should address the issue of how education providers should avoid and seek to resolve disputes regarding provision themselves since this can very frequently be the cause of lack of provision or delay in provision being made. In the view of the SENTW, so as to be effective, the Code should do this.
310. Paragraph 25.26 refers to the local authority review mechanism relating to school decisions on ALN and IDPs as part and parcel of the section relating to local authority arrangements for resolving disagreements, whereas it seems to the SENTW that this is an entirely different procedure which is better separated from guidance on general arrangements for avoidance/dispute resolution services; if it is to be mentioned in this Chapter at all, rather than being dealt with in its entirety at Chapter 17, it ought to be set out into a separate section just as the interrelationship between dispute resolution processes and tribunal proceedings is dealt with later in the chapter.
311. In regard to the section concerning the involvement of health bodies in avoiding and resolving disagreements the SENTW supports the idea that where problems relate to health support or provision then the DECLO should be informed and efforts should be made to include the relevant health body in the disagreement avoidance/ resolution process.

312. The SENTW is concerned however that the Code envisages that the NHS Putting Things Right complaints procedure is to be used in conjunction with the local authority dispute resolution procedures, so that potentially two complaints processes will have to be initiated to address one single case, which can be confusing, time consuming and an additional drain on limited resources for all the parties involved. The claim, at paragraph 25.3, that this is likely to happen infrequently is in the opinion of the SENTW, based on the issues that arise in appeals, inaccurate. In addition, the strategy put forward in paragraph 25.3 for addressing this is muddled.
313. Would it not be preferable for local authority and health to work together to seek to resolve an issue in the first instance and then thereafter if this fails for outstanding issues to be referred on?
314. The SENTW believe that a similar inclusive approach should be adopted in relation to disagreements concerning early years provision and the Code should outline how this would work.
315. Also, the SENTW believes that a similar inclusive approach should be adopted in relation to disagreements concerning social care provision and that the Code should outline how this would work.
316. The section needs to be very clear as to whether it covers 'health bodies' as the title suggests or "NHS bodies' as referred to in the content on this section since the terms are different and involve different health related bodies.
317. In the view of the SENTW as well as dealing with the interrelationship between disagreement resolution services and the Tribunal the Code also needs to give consideration to the interrelationship between the Tribunal and the NHS Putting Things Right complaints procedure.
318. In regard to paragraph 25.45 it ought to be made clear that although disagreement resolution meetings are confidential and what is discussed is without prejudice to tribunal proceedings, any agreement reached during the meetings is not confidential and may be shared at tribunal.
319. The new draft Education Tribunal Regulations appear to remove Regulation 12 (2) of the current Special Educational Needs

Tribunal Wales Regulations 2012 that allow appellants additional time to bring tribunal proceedings where alternative dispute resolution mechanisms are engaged. In view of the importance placed on dispute resolution within the new ALN system it would seem sensible to the SENTW if this current provision is retained in the new draft Education Tribunal Regulations. This would also have the benefit of allowing complainants the time and opportunity to use the local authority disagreement resolution arrangements and then/ or the NHS complaints process in an endeavour to resolve matters before having to initiate tribunal proceedings.

320. The SENTW has previously expressed concern about the multiplicity of possible avenues of redress within the current SEN system and how confusing, time consuming and resource draining this can be. It would appear that Welsh Government has decided to take no action to simplify matters and this is regrettable.
321. In view of this the section on “other challenges,” paragraphs 25.47 – 25.54, needs to contain considerably more detailed information so as to be helpful in understanding what the multiple options are, what they are designed to achieve and therefore which procedure/s is/are most relevant and useful to a particular set of circumstances.
322. It would appear that a number of alternative routes of redress have not been included. These include school complaints processes, local authority complaints processes, admission and exclusion appeal processes, Estyn procedures, disability discrimination claims to the Tribunal or County Court and complaints to the Children’s Commissioner, the Future Generations Commissioner, Commissioners and the Welsh Language Commissioner and the Welsh Ministers powers to intervene in relation to schools.
323. Neither does the section address possible alternative routes of challenge in respect of early years provision and FE provision or explain whether there are any routes of redress available in respect of regional consortia decisions.
324. The section also does not explain how these various and multiple avenues of redress come together and in failing to do so increases the possibility that the incorrect procedure may be used or that multiple procedures may be initiated and not work at all well together.

### **Question 43 – Arrangements for independent advocacy**

#### **Are the requirements imposed by Chapter 25 of the draft ALN Code on local authorities in respect of the provision of independent advocacy services appropriate?**

325. No.
326. It is difficult to comment on this section fully as the consultation does not include the proposed new Independent Professional Advocacy National Standards and Outcomes Framework for Children and Young People.
327. It is important that Welsh Government issue these standards as quickly as possible in order that stakeholders can understand Welsh Government's vision for independent advocacy services more fully.
328. However, at paragraph 25.55 (c) the SENTW queries whether the reference to case friends for young people is correct. S. 69 (1) (c) of the ALNET Wales Act 2018 refers only to case friends in relation to children.
329. Please see above in respect of concerns that have been expressed about the possible lack of independence of advocacy services appointed by local authorities.
330. In terms of the role to be played by advocacy services as set out at paragraph 25.58 of the Code it may assist to explicitly state that an advocate would be expected to support the child or young person to initiate any relevant or necessary complaints processes or legal proceedings and act on their behalf in that context.
331. In this context, at paragraph 25.63, which sets out the required knowledge base of an effective advocate, ought advocates to have a good knowledge of the law that relates to education, health and social care?
332. It seems to the SENTW that there is an important role to be played by good quality legal advice for all parties in a potential dispute.

## **Chapter 26 – Appeals and Applications to the Education Tribunal for Wales**

### **Part 2 - Draft Education Tribunal for Wales Regulations 2019**

#### **Question 44 – The Appeals and Appeal Process**

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

333. No.
334. It would be helpful if at the start of this Chapter readers are directed to the statutory basis of the guidance in the Code as set out in ss. 70 - 81 of the ALNET Wales Act 2018.
335. There is a lack of clarity around how important decisions ought to be made and the processes involved in earlier parts of the Code and therefore it will be hard to make lawful decisions and by extension for the Education Tribunal to make a determination of the issues in an appeal. This applies to important things such as decisions on ALN and ALP and on placement.
336. Linked to this the continued interplay between the law and decision-making bodies “policies” with no or limited direction from the Code is a cause for concern. What the SENTW regularly sees is policy which is applied without regard to the law or individual circumstances and as things stand without a clearer steer from the Code the SENTW is concerned that this will continue to happen – contrary to the right first time principle. Again, this applies to important considerations such as the role of policy in determining ALN, ALP and placements and on determining whether a school FEI or LA ought to prepare and maintain the IDP.
337. Also, greater clarity is need on how Regional Consortia and other regional bodies will work in the new ALN system.
338. As indicated above, at Chapter 25, in regard to the range of other routes of challenge the SENTW is concerned that the current situation as explained in the Code is likely to be confusing, potentially misleading and time consuming and that processes may not work well together or at all and may actually frustrate access to justice.

339. The SENTW is concerned that interim or rolling IDPs are likely to give rise to a whole series of rights of appeal as per s. 70 of ALNET Wales Act. This needs further consideration and some clarity as to how this ought to be managed in the context of tribunal proceedings.
340. It may be that the Tribunal needs the power to make an additional order to those in s. 71 of the Act so as to require an assessment of ALN to be carried out. The SENTW notes the ability to make such a change is provided for by s. 74 (1) of the ALNET Wales Act 2018.
341. Chapter 26 does not deal well with capacity issues or case friends and these things are dealt with more fully in relation to the SENTW's commentary on Chapter 27 and the draft Education Tribunal Regulations Wales 2019 set out below.
342. It is the view of the SENTW that the Education Tribunal is going to need improved case management tools and to have more flexibility to adopt more streamlined procedures to deal with appeals under the new ALN system effectively and this is addressed further in relation to the SENTW's commentary on the draft Education Tribunal Regulations 2019.
343. In regard to compliance with Tribunal orders the timescales are longer than those set currently in the SENTW Regulations 2012 and it is not clear why this needs to be the case. Please see the response to question 52 below.
344. Also, in regard to compliance with Tribunal orders there is a need to deal with the Tribunal's power under s. 78 ALNET Wales Act 2018 to share information with Welsh Minister. At the present time the Code is silent on this and this needs to be corrected. Issues around enforcement of tribunal orders are a small but persistent feature in the current SEN system and for the new ALN system to be effective it is important that this is addressed. The Code therefore needs to highlight the new power of the Tribunal to refer matters to the Welsh Minister so that people are aware of this compliance process. Also, consideration needs to be given as to whether this new power needs to be reflected in the new Education Tribunal Regulations 2019 or whether this will be a matter for the President to address further via Presidential direction if needed.

345. The flow chart at end of the Chapter is a very good idea but it needs much work as it gives a misleading picture at present.
346. Reliance on Tribunal advice and guidance is stressed in the Code. It must be noted that this is very time consuming to draw up and that the SENTW will need the Code to provide a much clearer picture regarding what is expected under the new system to be able to do this and it is imperative that this clear picture is provided quickly if the SENTW and other stakeholders are to be ready for implementation to commence in September 2020 as currently planned. It is also costly.

## **Chapter 27 – Case Friends for Children who Lack Capacity**

### **Part 2 - Draft Education Tribunal for Wales Regulations 2019**

#### **Question 45 – Case Friends**

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

347. No.
348. It would be helpful if at the start of this Chapter readers are directed to the statutory basis of the guidance in the Code as set out in ss. 83 - 85 of the ALNET Wales Act 2018.
349. This Chapter needs significant reconsideration along side the new draft Education Tribunal Regulations if this process is to work effectively and for the benefit of children.
350. The Chapter is confusing, not clearly thought through and lacking in any detail and it is hard to understand how decisions will be made in practice. This is a concern given the importance and significance to a child of such a decision.
351. Neither does what is said in the Chapter sit well with what is currently in the new draft Tribunal Regulations at Regulations 61 – 64 which will be addressed in more detail in the SENTW's commentary on the draft Education Tribunal Regulations 2019.

352. The Chapter suggests that capacity issues may be assessed by teachers, LA's and NHS bodies, as well as Tribunals. The SENTW asks whether it is realistic to expect teachers to do this? The SENTW also notes that normally an NHS body assessment will be linked to capacity to consent to treatment rather than capacity to understand the ALN process and these two things are not the same. If NHS bodies are to make decisions on capacity this distinction needs to be addressed.
353. The Chapter does not deal with the process by which a decision on capacity will be taken and little detail is given about the evidence needed to support such an assessment. This needs to be rectified.
354. It also does not address what should happen after a decision on capacity has been taken. Once the assessment has been made who ought to be made aware of the decision? What should happen next and how will this happen if there are no proceedings already in existence before the Tribunal or being initiated since the current provisions in the draft Education Tribunal Regulations 2019 seem to envisage that an appeal or claim will be underway or be in the process of being initiated. All of these things need to be considered and clarified.
355. Further, how will children and their parents be enabled to seek a declaration relating to capacity as envisaged by s. 70 (3) of ALNET Wales Act as there appears to be no provision in the draft Regulations for how this is to happen. Again, this needs to be rectified.
356. Also, nowhere are capacity issues relating to young people and adults dealt with and the Re: D case and the fact that its outcome is likely to be significant in this area does not entirely prevent some consideration being given to these matters at least on a preliminary basis
357. Once it is determined that a child lacks capacity paragraphs 27. 8 – 27.13 of the Code do not address how s. 84 (1) of ALNET Wales Act and s. 6 of the Act work together in practice to ensure that a child's views are still considered
358. There is no flow chart at the end of this Chapter to deal with capacity assessment and appointment of a case friend. Once

proper decision-making processes and procedures have been identified it would be helpful to have such a flow chart.

### **Draft Education Tribunal Regulations 2019**

359. The SENTW takes the view that there is further work that needs to be done in order to ensure that the new Education Tribunal Regulations 2019 provide appropriate and fair mechanisms for resolving ALN appeals and disability discrimination claims and it would invite Welsh Government to enter into direct discussions with the President of the SENTW and SENTW staff in this regard.
360. Set out below are some of the key points that the SENTW feel need further consideration.

#### **Question 47 – The Tribunal Appeal Process and Procedure - Clarity**

**Overall, do the draft Education Tribunal Regulations provide clear processes and procedures relating to appeals and claims to the Education Tribunal?**

361. No.

362. Please see response below.

#### **Question 48 – The Tribunal Appeal Process and Procedure - Fairness**

**Overall, will the processes and procedures outlined in the draft Education Tribunal Regulations enable the Education Tribunal to deal with cases fairly and justly?**

363. No.

364. The draft Education Tribunal Regulations 2019 are based largely around the current SENTW Regulations 2012. It needs to be borne in mind that the 2012 Regulations are designed to deliver a fair and efficient process for handling appeals for children and young people with the most significant special educational needs and the new ALN system is to be expanded to give statutory rights of appeal to children and young people with a much broader range of ALN. As such, in the view of the SENTW there is a need for the

Tribunal to be given more flexibility to adapt and streamline current processes and procedures commensurate with the complexity of the issues in a particular appeal. As such, for example the Tribunal will need the discretion to manage appeals via a paper hearing process and via telephone and electronic means without needing the consent of the parties to do so.

365. In addition, and for the reason set out above, it is important that the current power of the President to make practice directions as set out in Regulation 28 of the SENTW Regulations 2012 is reinstated.
366. Also, the Tribunal needs a general power to stay proceedings at its own discretion and not just one that is linked to ADR as currently set out in Regulation 8 (2) of the SENTW Regulations 2012 and repeated in draft Regulation 8 (2) of the proposed Tribunal 2019 Regulations.
367. In addition, as referred to above, in the SENTW's response to Chapter 25, consideration needs to be given to reinstating the extended time limit for bringing proceedings where ADR is being pursued in line with the current Regulations at 12 (2) and (4) of the 2012 SENTW Regulations.
368. In regard to timescales for compliance with Tribunal orders please see the SENTW's response to question 52 below.
369. As referred to above in regard to the Tribunal's new compliance power under s. 78 of ALNET Wales Act 2018 it may be considered that the Tribunal Regulations should set out a procedure for this rather than leave this for Presidential direction and if so the 2019 Tribunal Regulations will need to reflect this.

#### **Question 49 – Case Statement Process**

**Is the proposed case statement process at Regulations 12-15 and 19-21 of the draft Education Tribunal Regulations appropriate?**

370. No.
371. The process and time scales for submitting appeals and claims and case statements at Regulations 12, 15 and 19 needs to be

clarified and redrafted. This is a big change as there is a return to sequential filing and different and unequal timescales for submission of case statements. Whilst the SENTW does not object to this change in principle the wording of Regulations 12, 15 and 19, taken from the current 2012 SENTW Regulations, is very unclear and can be read as though the local authority/responsible body's time for submitting their case statement starts to run from when notice of the appeal/claim is received by them which could mean that they will need to submit their case statement in advance of the appellant/ claimant. The three Regulations therefore need careful redrafting and cannot rely on the wording of the current 2012 SENTW Regulations as they presently do, not least because the new process differs considerably from the current one.

### **Question 50 – Case Statement Timescales**

**Are the proposed timescales for each party in the case statement process at Regulations 12-15 and 19-21 of the draft Education Tribunal Regulations reasonable?**

372. No, please see the response to question 49 above.

### **Question 51 – NHS Body Reports to Tribunal**

**Is the 6 weeks timescale within which NHS bodies must report to the Education Tribunal in response to a recommendation at Regulation 65 of the draft Education Tribunal Regulations appropriate?**

373. No, this is too long.

374. The NHS body is likely to be familiar with the child or young person and the case already in this situation.

375. It is a longer time period than any of the current timescales for compliance set out in the SENTW Regulations 2012 Reg. 61, and the SENTW can see no justification for a more lengthy timescale.

376. Any problems with a shorter period could be dealt with via the power of the Tribunal to extend time in exceptional cases at Regulation 66, which is preferable to the open ended nature of the

current Regulation 61(5) which set out specifically circumstances in which there need not be compliance.

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

377. No.

378. As with the response relating to submission of NHS body reports it seems to the SENTW that the new timescales are too long.

379. Current timescales for compliance in the SENTW 2012 Regulations are shorter and the SENTW can see no justification for more lengthy timescales in relation to the new Tribunal Regulations 2019.

380. As with timescales for submission of NHS body reports any problems with a shorter timescale could be dealt with via the power of the Tribunal to extend time in exceptional cases.

**Question 53 – Power of Tribunal to grant time extensions**

**Is the approach to extensions to timescales at Regulation 66 of the draft Education Tribunal Regulations appropriate?**

381. Yes.

382. This gives the Tribunal sufficient flexibility to consider each case on its merits and thereby ensure that overall fairness is achieved.

**Question 54 – Case Friends**

**Are the proposed Regulations relating to case friends in the draft Education Tribunal Regulations 61 – 64 appropriate?**

383. No.

384. The new draft Tribunal Regulations need to deal more comprehensively with capacity and case friends.

385. A procedure for parents and children to raise capacity issues with the Tribunal needs to be created.
386. A procedure for appointing case friends independently of appeal or claim proceedings needs to be created.
387. The process by which a case friend is appointed ought to set out what should happen once a person applies to be a case friend and how that ought to be dealt with. Also, what happens if nobody makes an application for a case friend?
388. The Regulations also need to deal with how capacity related issues for young people and adults using the Tribunal should be dealt with.

## **Additional Points**

### **Errors**

389. The SENTW has identified the following mistakes:

Reg. 10 (2) “my” should say “may.”

Reg. 13 (b) the word “the” needs to be added before...”other institution.”

Reg. 54 (1) should refer to Reg. 42 (4) rather than Reg. 41 (4).

Reg. 69 (2) copies a similar provision in the current SENTW Regulations but fails to take on board that in the current draft of the new Tribunal Regulations the current SENTW Regulation 28 relating to the President’s power to make practice directions has been removed and so Regulation 69 (2) in referring back to Regulation 28 is referring back to the power to strike out an appeal or claim that does not exist and is therefore illogical. As stated elsewhere it is the view the SENTW that the President’s power to make presidential directions should be reinstated in the new Tribunal Regulations and so Reg. 69 (2) would then once again make sense.

Reg. 74 (1) regarding irregularities also make reference to “a practice direction” and therefore the point raised above applies.

Reg. 77 (1) – (2) regarding calculating time also make reference to “a practice direction” and therefore the point raised above also applies.

## **Lay out**

390. It would be make easier and quicker to identify relevant sections of the new Regulations if there were a contents page at the beginning and if the Regulations are properly divided into relevant Sections A, B, C, D etc. as is presently the case with the SENTW Regulations 2012. The draft Tribunal Regulations make partial use of divisions and in the view of the SENTW this should be used throughout.

## **Definitions**

391. In the view of the SENTW the definitions of “Child” and “Young Person” at the beginning of the draft Regulations are not especially helpful and need to be looked at again and ought to include the definitions given to them by the ALNET Wales Act 2018 s. 99 (1) where reference to compulsory school age is used.

## **Streamlining**

392. There are a number of provisions throughout the draft Tribunal Regulations that may benefit from streamlining and the SENTW takes the view that it would be beneficial to consider these in more detail directly with Welsh Government. Areas for consideration may include Regulation 7 (3) – (5) dealing with the strike out process, Regulation 15 (5) jurisdiction, Regulation 23 (3) change of local authority, Regulations 27 (3), Regulation 28 and Regulation 29 also dealing with strike out, Regulation 36 (5) and Regulation 37 (6) dealing with consolidation of appeals/claims, Regulation 47 (9) dealing with setting aside or varying a witness summons, Regulation 54 (3) dealing with Panel decisions, Regulation 55 (13) dealing with the process for dealing with an application to change a witness in relation to a review.

## **Alternative Dispute Resolution – Reg. 8 (1)**

393. It seems to the SENTW that making this requirement mandatory is extremely unhelpful and potentially places the Education Tribunal

in an untenable position when what is meant by “any alternative procedure for resolution of the dispute” is unclear and when, as has already been pointed out, in the SENTW’s view, potential alternative means of redress in the ALN field remain myriad and when decisions relating to which are likely to be most appropriate can be complex and not clear cut and when each local authority is likely to have their own individual schemes for avoiding and resolving disputes which conceivably could change over time.

394. In some cases the Tribunal may be in a position to identify suitable alternatives and then it may be appropriate to alert the parties to an alternative means of redress but in other cases the position may not be so very clear cut or whilst there may be alternatives they may be ill advised or not optimal. It would also require the Education Tribunal to continuously keep itself informed of the mechanisms that individual local authorities have in place for dispute avoidance and resolution. Making this section mandatory rather than discretionary therefore as stated above potentially places the Education Tribunal in an untenable position and this needs to be addressed.

### **Lay Panel Members - Reg. 9 (1)**

395. In line with the SENTW Regulations 2012 the expert members of tribunal panels are currently known as education panel members so as to reflect their knowledge and expertise in education. As this is felt to be helpful to the parties in proceedings it would be the intention to continue to adopt this practice in respect of tribunal panels convened under the new ALN system and in relation to disability discrimination claims.

### **Appeal Application Contents – Reg. 13 (2) (b)**

396. Should this section retain the phrase “other than one already identified in the IDP” after the statement “if the person makes an appeal seeking a placement at a school or other institution.”
397. Ought provision be made for the inclusion of an option to describe a type of school or provision?

### **Appeal Application - Reg. 13**

398. Ought this section include provision for the Tribunal to have the discretion not to register the appeal application if it does not include the matters listed in Regulation 13? If so, this would require amendment to Regulation 15 also which currently requires the Secretary of the Tribunal to register an appeal on its receipt irrespective of its contents. In such cases the President or the Secretary of the Tribunal could notify the appellant/claimant of the deficiency and indicate what is needed to correct it and ask for reasons why the deficiency cannot be rectified and indicate that an appeal/claim will not be registered until such time as the deficiency is corrected or good reasons as to why this is not possible are provided.
399. This would then have a knock on effect in relation to Regulation 17 and the procedure for dealing with an insufficiency of reasons.
400. In turn this would have a further knock on effect to Regulation 19 (3).
401. If this change is not supported and Regulation 17 is retained should it be made clear what the consequence of a failure to give reasons in line with Regulation 17 would be consideration of strike out either in whole or in part.

#### **Claim Application – Reg. 14**

402. Similarly, ought this section include provision for the Tribunal to have the discretion not to register a claim application if it does not include the matters listed in Regulation 14? Again, if so, Regulation 15 would need to be amended to reflect this and the steps identified above in relation to Regulation 13 could be taken to address the matter.
403. Again, this would then have a knock on effect in relation to Regulation 17 and the procedure for dealing with an insufficiency of reasons.
404. In turn this would have a further knock on effect to Regulation 19 (3).
405. If this change is not supported and Regulation 17 is retained should it be made clear that the consequence of a failure to give

reasons in line with Regulation 17 would be consideration of strike out either in whole or in part.

### **Action by the Secretary - Reg. 15**

406. At Reg. 15 (7) ought the power to correct errors lie with the President in addition to the Secretary? In which case this section would need to be amended to provide for this.
407. At Reg. 15 (9) in cases where a person objects to a correction being made should provision be made here for what happens next in such cases?

### **Case Statement Periods – Reg. 19**

408. The SENTW has already outlined its principal concerns regarding a lack of clarity in this section along with Regs. 12 and 15 and the concern that as a consequence of this time may run for submission of a respondent/responsible body cases statement from date of submission of the appeal/claim rather than running from when the appellant/claimant has submitted their case statement.
409. In addition, a smaller drafting point is that this section sets out the timescale for submission of a case statement in relation to a claim in terms of weeks but earlier at Regulation 12 provides for a timescale for submission of the claim in terms of months. This is considered to be unhelpful and in the view of the SENTW it is preferable for both timescales to be expressed either as a period of weeks or as a period of months.

### **Case Statement of Appellant or Claimant – Reg. 20**

410. Ought there to be a requirement included in this section relating to the content of case statements that an appeal case statement must include details of any amendments that are being sought to the IDP by the appellant and that a claim case statement must include details of the breaches of the Equality Act 2010 that are being alleged by the claimant?
411. Also, after Reg. 20 (5) – (6) should provision be made that requires the appellant to repeat the steps set out in Regulation 13 (4) (c) (i) – (iv) in respect of the new school or institute?

## **Case Statement of Respondent/Responsible Body - Reg. 21**

412. At Reg. 21 (4) (a) is it necessary for the respondent/responsible body to include the views of the young person since it will generally be the young person who brings an appeal or claim under s. 70 of the ALNET Wales Act 2018?

## **Absence of Opposition – Reg. 25**

413. At Reg. 25 (4) where a respondent does not oppose an appeal in addition to the requirement that the respondent must provide written confirmation of the changes to be made to the IDP would it assist if provision is made for matters to be concluded via means of a consent order?

## **Evidence and Submissions – Reg. 30**

### **Joint Instruction of Experts – Reg. 30 (1) (c)**

414. This is a provision that could be useful but is little used at present in large part due to problems relating to payment of joint experts. Generally the expectation would be that payment would be shared equally by both parties to an appeal. In some cases it may be possible for an appellant to secure public funding to contribute to payment for a joint report but in cases where this is not possible and parents are in receipt of benefits it may be of assistance if local authorities were required to meet the full cost of a joint expert report.

### **Power to direct making a child available for examination or assessment - Reg. 30 (2)**

415. Should the Tribunal have similar powers to direct a child or young person to make themselves available for examination or assessment?

## **Case management and directions – Reg. 31**

416. At s. 31 (10) should provision be made for an interim matter to be dealt with via telephone hearing or on the basis of written submissions at the discretion of the President?

### **Varying or setting aside directions – Reg. 32**

417. Would it be preferable, in the interests of certainty, for a general time limit to be placed on these types of applications rather than leave it open-ended as is presently the case with the use of the term “at any time.” Any exceptional cases where it is appropriate to extend the general time limit could be dealt with by providing the President with a power to extend time if necessary.

### **Disclosure of document - offence and summary conviction – Reg. 34**

418. In the view of the SENTW it would be preferable for this section to provide at s. 34 (5) that a failure to comply without reasonable excuse would give rise to a fine calculated by reference to the County Court standard scale rather than provide for summary conviction and a resulting fine not exceeding level three on the standard scale.

### **Addition and substitution of parties - Reg. 38**

419. Ought there to be provision made for the Tribunal to be able to join a party to an appeal or claim where it is manifestly in the interests of justice to do so without the need for consent provided the potential party is given an opportunity to make representations on the issue in the first instance?

### **Power to determine the appeal or claim without a hearing – Reg. 41**

420. Linked to consideration relating to streamlining of procedures referred to above, this provision could be added to so as to provide for additional circumstances where it is permissible for the Tribunal to determine an issue without an oral hearing.

### **Attendees at Hearings - Reg. 42**

421. Whilst the SENTW supports the attendance of observers at hearings for training purposes there may be cases where this is not appropriate and it may be preferable therefore for the Regulations to enable the President to control the attendance of observers at hearings from the outset. To achieve this the

regulation should require Presidential permission to be sought for a party to bring an observer to a hearing in addition to the current power for the President or the Tribunal Panel to determine that a person may not attend as an observer.

### **Adjournments and directions – Reg. 51**

422. Would it be appropriate to include a power to strike out the whole or part of an appeal/ claim where directions under this section are not complied with?

### **NHS Bodies – Reports to the Tribunal – Reg. 65**

423. The SENTW has already expressed concern about the length of time given to NHS bodies to provide their report.

424. Should the Regulations provide more structure in respect of this procedure, particularly in respect of what ought to happen after the NHS body provides its report and this is copied to all parties?

425. In addition, ought the Regulations provide a structure for the process by which the Tribunal may share documents and other information with the Welsh Minister in respect of compliance with Tribunal orders and recommendations or is s. 78 of the ALNET Wales Act 2018 considered sufficient in this respect?

### **Withdrawal – Reg. 67**

426. It would assist greatly if an appellant/claimant is allowed to give oral or written notice of their intention to withdraw to the Tribunal Secretary. Also, is it appropriate to provide that there should be a requirement that a person seeking to withdraw an appeal or claim must secure the consent of the President or Tribunal Panel to do so?

### **Orders for costs – Reg. 68**

427. How should this provision apply in respect of appeals and claims brought by a child or young person?

### **Register – Reg. 72**

428. Should the register record that an appeal or claim has been withdrawn and provide details of the date of withdrawal?

### **Irregularities – Reg. 74**

429. S. 74 (3) which sets out the current slip rule relating to tribunal proceedings may need further consideration.

### **Bundles**

430. Should the Tribunal Regulations set out requirements in relation to tribunal bundles to include stipulations as to content, structure and duty to prepare?

### **Role of Deputy President**

431. Should the Tribunal Regulations say anything in respect of the Deputy President and their role?

### **Best interests test**

432. Should the Tribunal Regulations provide for a best interests test in relation to decisions taken relating to a child or young person?

### **Order relating to Interim provision**

433. Should the Tribunal have an additional power to order interim education provision?

### **Detained Children and Young People and Looked-After Children**

434. The SENTW would value additional time to consider the needs of these particularly vulnerable groups and how the application of the ALN system to them is likely to impact on the new Education Tribunal Regulations 2019 please.

### **Annex A IDP Mandatory Form**

### **Biographical Information and Contacts**

435. Footnote 2 relating to the inclusion/exclusion of the parents of young people in relation to the IDP process picks up on comments and concerns expressed by the SENTW in respect of how

decision-makers should practically proceed when a young person does not give consent to involve their parents but it is clear from the provision and support that a young person is likely to need that the ongoing involvement of parents will be required.

## **Part 2 - Section 2B**

436. At 2B.3 should consideration be given to whether the ALP should be provided in Welsh, English or both languages? Section 2B.6 makes provision for ALP to end/have a review date. It is a concern of the SENTW that the way this is phrased could lead to ALP ending before it has been reviewed and may not allow for a child, their parent or young person to challenge the termination of ALP that they believe ought to be continued notwithstanding that it was originally envisaged and recorded that the provision would end rather than be reviewed.

437. As per the earlier commentary on Chapter 13 IDP content paragraph 13.35 the SENTW takes the view that Section 2B ought to include a separate section for considerations around disapplication and modification of the curriculum.

## **Part 2 – Section 2D**

438. Section 2D does not make provision for EOTAS or for a description of a type of school or provision to be set down in the IDP.

## **Part 3 – Section 3C – Transition**

439. Please see comments earlier in this response relating to whether this ought to be included in Part 2 or Part 3 of the Form.

## **Annex B – IDP for a Looked after Child – Mandatory Form**

440. The SENTW would wish for additional time to be given to consulting on issues relating to looked- after children.

441. Initial comments and points of clarification on the IDP Form are as follows:

## **Part 1**

442. Part 1 of the Form appears to be missing. Is this deliberate? Is it intended that biographical information as set out in Annex A Part 1 will be provided in the context of the personal education plan? In which case why is any “basic personal information” necessary and should the form make it very clear that the Form is to be incorporated into a personal education plan.
443. Also the footnote relating to parents and parental responsibility, to be consistent with Annex A, needs to address the issue of young people and consent.

### **Part 2 - Section 2B**

444. At 2B.3 should consideration be given as to whether the provision is to be provided in Welsh, English or both?
445. At 2B.5 and 2B.6 ALP is to have a start and an end date. This does not include the possibility of a review date for provision and is different to the approach taken in regard to non-looked after children. The rationale for this is not clear. See also concerns expressed above about possible denial of a right to challenge if such an approach is taken.
446. As per the earlier commentary on Chapter 13 IDP content paragraph 13.35 the SENTW takes the view that Section 2B ought to include a separate section for considerations around disapplication and modification of the curriculum.

### **Part 2 – Section 2D**

447. Section 2D does not make provision for EOTAS or for a description of a type of school or provision to be set down in the IDP.
448. Should there be a section for transition in this Form? If so, please see comments earlier in this response relating to whether this ought to be included in Part 2 or Part 3 of the Form.

### **Annex C – NHS Body Referral for ALP**

#### **Details of ALP**

449. The box relating to the intended outcome of the ALP appears to be repeated twice. Is there a reason for this?
450. Would it be sensible to include a section that outlines the information, if any, that is being provided to the NHS body along with the referral?

### **Part 3 Consultation: Draft ALNCO Regulations**

451. Please see answers to questions 55 and 56 set out above under the SENTW's response to Chapter 24.

### **Part 4 Consultation: Looked after Children**

452. The SENTW would very much value additional time to consider the needs of this particularly vulnerable group.
453. Given the substantial amount of time that the SENTW has had to give to responding to the Consultation in respect of the draft ALN Code and the draft Education Tribunal Regulations 2019 it has not been possible for the SENTW to consider the revised Part 6 Code and then consider the matters set out in this part of the consultation and then provide responses to questions 57 – 61.
454. In the view of the SENTW Welsh Government should give consideration to extending the time for responding to the current consultation document to enable all stakeholders to contribute fully to the very important matters addressed in the consultation.
455. The needs of looked after children may impact additionally on the content of the new Education Tribunal Regulations 2019 and the SENTW would very much wish to address this further.

### **Part 5 Consultation: Impact of the Proposals**

#### **Question 62 – Impact of Regulations**

**What impact do you think there will be as a result of the proposed regulations?**

456. In the view of the SENTW the regulations are likely to place considerable extra demands on ALNCOs and their teams, on local authority ALN teams and on the Education Tribunal and this is a concern given that the resources available to ALNCOs, local authority ALN teams and to the Tribunal are limited.
457. Given the importance of the ALNCO role, local authorities and of the Education Tribunal in the new ALN system Welsh Government is asked to take on board these concerns and ensure that all are adequately resourced to be able to carry out their respective roles properly.

### **Question 63 and 64 – Impact on Welsh Language**

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

**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 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?**

458. In the view of the SENTW the draft Code does not address the needs of Welsh speaking learners sufficiently and the references to the Welsh language within it are far from clear.
459. There is no indication within the draft Code as to how planning for Welsh medium education in relation to ALN provision and support will be improved. This is a particular cause for concern given that the Welsh Medium Strategy 2016 found that planning processes and consistent structured frameworks for ALN provision in Welsh were not always timely and effective. There also continues to be a lack of capacity for Welsh medium ALN provision. The draft Code does not contribute to improving these important aspects of Welsh language.

460. It has also been brought to the attention of the SENTW that when requests are made to Welsh Government for copies of the draft Code that only an English version is provided. If a Welsh version is required this has to be specifically requested. This needs to be addressed as this does not place Welsh and English on an equal footing.

## **Other**

461. Admission and exclusions arrangements and guidance need to be amended to take on board the new ALN system and as stated elsewhere the ALN Code needs to take on board and reflect admission and exclusion arrangements and guidance.

## **Final Comments**

462. The President of the Special Educational Needs Tribunal for Wales would like to thank Tribunal Members for their contributions to this response.

463. The President would also like to thank Paul Williams and Ruth Conway from the Additional Learning Needs Transformation Team for coming to speak at recent SENTW User Group Meetings to elucidate the approach taken by Welsh Government the draft ALN Code.

464. The President hopes that decision-makers find this response helpful in preparing the final versions of the ALN Code and the Education Tribunal Regulations and the ALNCO Regulations. The President also hopes that decision-makers will take on board the detailed commentary set out above and include more guidance in the ALN Code as to how key statutory provisions apply to key decisions that need to be made under the new system so that these decisions can be made properly from the outset.

465. In addition, the President asks that decision-makers engage directly with the SENTW to consider necessary changes to the draft Education Tribunal Regulations before a final version of the Regulations is drawn up.

466. The President also asks decision-makers to extend time for responding to this consultation as requested and explained in the Introduction to this response.

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

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

**Respondent Details**

Information	
<b>Name</b>	Carmarthenshire Educational and Child Psychology Service
<b>Organisation (if applicable)</b>	Carmarthenshire 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?

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

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?

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

**Concerns around timescales to meet due to demands on all professionals involved and need to work across agencies.**

**Need examples of what would be acceptable to evidence that it was impractical to comply with the fixed period.**

**Are there circumstances where there could/would be exceptions – examples? This should include school/college holiday periods for the LA – suggest could stop the clock re 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?

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

**There will need to be exceptions as stated.**

**There are issues in the current system e.g. medical assessment delays.**

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?

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

**Yes. As clear as most documents of this kind.**

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

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

**Not really.**

**It is written section by section and the ‘flow’ and ‘overview’ is lost. (This is generally for the whole document).**

**Lacks details regarding processes.**

**Greater clarity of guidance on what to make decisions upon is needed.**

**There is too much ambiguity regarding when LA provides Additional Learning Provision.**

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?

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

Would nevertheless need to work closely together – with LA representative/s.

Would need guidance regarding equity of provision across provisions i.e. different PRUs, if more than one in an Authority.

## Chapter 2 - Principles of the Code

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

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

We like the PCP approach (involving parents and person).

Very inclusive.

However, there is no mention of outcomes or effective intervention here. We see this as a key principle of meeting ALN with ALP.

## 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

We like :

- Consent
- Incorporating pupil's goals and interests
- Process using PCP and inclusive practice
- Explaining process.

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

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

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

#### General points:

- It would help to provide a summary of parts of UNCRC (overview on page 40) and UNCRPD mentioned in draft
- Did not read smoothly due to lots of cross referencing
- 4.16 language isn't clear
- What does the impact assessment involve?
- Unclear what is meant by discharging duty
- Not accessible.

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

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

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

It is unclear who in the Local Authority would be recording the ALP review.

We would want to protect the EP role from gatekeeper of ALP.

Good focus/consideration for Welsh ALP.

Good focus on looking within school for ALP.

Good that examples of how to monitor provision are given.

Good that it links into wider strategic provision.

Paediatricians need to be accessible - includes relevant suggestions

## Chapter 6 - Advice and information

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

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

Sharing of information is clear – written/published online, easily accessible place, should be Welsh and English.

Is there a need to consider other languages?  
“Reasonable steps”

## 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

What is the definition of ‘significantly’ (7.6)? – How can consistency be established between schools, LAs, and professionals to ensure equality? This is still open to interpretation.

What language should be used in defining under 3 ALN - ‘learning difficulty’ vs ‘developmental needs/delays’?

7.19 More information about setting timescales to monitor progress when considering whether a possible learning difficulty might be ALN is needed for clarity and consistency. i.e. a ‘graduated response’. Linked to 7.21 point re: developmental age of learner vs age (chronological) of learner.

7.24-27 ALN for EAL/Welsh AL – consideration of definition for EAL Learners and research about Basic Interpersonal Skills (BICS) vs Cognitive Academic Language Proficiency (CALP) mismatch ref Jim Cummins.

**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

When decided that a YP has ALN it will ‘usually be necessary’ ??? to prepare an IDP – When is it necessary? When is it not? Who decides?

Under compulsory school age – defined as learning difficulty or disability. What about developmental needs?

7.18 – understanding reasons for ALN is clear.

7.35 – talks about lack of progress despite teaching approaches targeted – not referencing interventions?

7.37 What about assessment through intervention?

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

### Early Years ALN Lead Officer

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

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

We feel it is explicit and relevant – but lacking depth e.g. relevant experience.

There will need to be ability to lead and plan strategically i.e. management skills.

May need examples/case studies re role for further clarification.

### 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

Good practice/case studies would help – to give ALNCO/teachers/Senior Management Team etc. what it looks like in “the real world” - jargon explained.

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

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

Yes. Although no clarity re: –triggers; process ..... etc.

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

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

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

Yes – but need to be more explicit re. requirements/data evidence that may be required by LA to make decisions.

## 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**

**Extra point:** Do the ‘Person Centred basis’ principles need to be outlined here in 13.3 given that they underpin the content of the document.

**13.5 I.A.10.** Shouldn’t this be also included in the mandatory LAC IDP?

**13.17 extra** – Need guidance in the code to clarify “capacity” and how is this assessed and by whom and how is this decided with the child/young person/parents?

If it is decided that there is a lack of ‘capacity’, what then? e.g. does the LA decide? What if the young person or parent doesn’t agree?

**13.69 clarity sought re:** is ‘near future to undertake transition’ 1 year or 2 years? Current practice would be planning for KS2 transition to begin in Year 5.

**Point for clarity:** Transport is not mandatory – how can this be appealed? Is it linked to the LA policy and appeals procedure?

**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**

It can be expanded.

We liked the ‘Intended Outcome’ link to ALP which can be measured – progress tracked.

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

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

**In the main but we have a few points that we feel will benefit from clarification/guidance:**

- Capacity
- Transition reference to 'near future' timeframe
- Transport decision appeal process

Transport

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

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

**Point for clarification: Is there an expectation that LA transport officers can be part of the Person Centred Planning process for some children/young people with ALN? This would reflect Person Centred practice.**

## **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**

**Timescale is appropriate (6 weeks) and exceptions noted in 15.7 and 15.8 seem reasonable.**

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

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

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

This is difficult for us to comment on as we don't know the full picture from NHS bodies' perspective i.e. staffing, expertise and Welsh-language provision.

However we are aware that coordination of all Health professionals' information in the current system is often not holistic/effective.

Also that this is more possible where the child/young person is already known to the Health professionals, especially where they have been involved over time or there is regular multi-agency review.

When they have not been involved previously, or in some cases where they have just become involved, assessment is carried out over time in response to intervention and they may not be in a position to answer this question within the 6 week timescale, for example Speech and Language Therapy, Specialist CAMHS.

This process may also depend on the quality of supporting information available with the IDP describing the child/young person's ALN and the clarity of the Objectives that the ALP aims to meet.

It will be very helpful to have a clear provision map from LHBs with clarity about the objectives of the Service or treatment.

The Designated Education Clinical Lead Officer ("DECLO")

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

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

It's a huge role for one person and we are concerned about the potential issues should this person, for whatever reason, be away from work.

We believe that the 'should' statements should be 'musts' in order to ensure that the role is carried out effectively.

## Chapter 16 - Review and revision of IDPs

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

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

We feel that there is ambiguity unless it is made explicit as to how this is decided.

- How is this resolved in the instance of a dispute?
- Sets out the process which can take up to 35 days - but it is still up to the LA to decide on their actual processes.
- Processes will have to be shared with all stakeholders, including children and young people and make a direct link to the Code.
- There is likely to be ambiguity around what an IDP will contain as it will be person centred led and fit for the individual and their circumstances.
- Whose role will it be to provide quality control around IDPs?
- There is a need to ensure staff feel confident and competent in being able to review and revise IDPs without calling on 'specialist advice'.
- How will a child/young person trigger a review?

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

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

Health/Education

- Working to different systems which aren't always compatible
- Consider the volume of reviews
- Best hope is that timescale is realistic however ...

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

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

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

The content and structure of Ch. 17 is mostly clear.

However, 17.11 begs the questions that if a local authority prepares an IDP for a child or young person in the area of a local authority in England and if not allowed to describe other provision (i.e. a place at a particular school or other institution or board or lodging) in it and the child or young person requires such provision who can do this? Would this be grounds to ask the Local Authority in England to consider an EHC assessment? What would happen if the LA in England refuses to do so?

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

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

The timescale of 7 weeks is too short on several counts:

- 1) LA consideration of a request to revise on IDP follows parental or child/young person dissatisfaction and likely disagreement resolution and the LA's decision can be appealed and therefore the LA is likely to want, in a number of cases, to have enough time to secure and consider additional advice which may not have already been available therefore the process is more akin to the 12 week timescales process of a LA producing an IDP, if it is to be done thoroughly as a person centred process.
- 2) The 7 week timescale is not realistic if it falls just before or during the Summer holiday period of 6 weeks.

It is good to see in 17.25 that where a school or FEI are considering asking a LA to take over responsibility for maintaining an IDP that they 'should', i.e. it is expected as good practice, consider consulting an EP to see whether this is appropriate as the EP is able to provide objective child/young person centred advice on how the school or FEI could meet needs inclusively. However, should this be an expectation and therefore a 'must' to seek to avoid this request being made of the LA without this evidence being available? If this was the case this would enable a possible shorter timescale to be met by the LA in making a robust decision.

Also, we would not advocate use of language in 17.25 that could be interpreted as the EP having a gatekeeper role. It should be the LA who has this role and the EP role should be to provide expert consultation to support education settings to meet identified ALN inclusively. A further concern is raised by 17.22 where education settings may vary in 'the ALP that they might reasonably be expected to provide/secure'.

The ALN CoP has as its vision that ALN should be met in mainstream as far as is possible. This depends on the level of protected funding that is made available to do so and the specialist training, advice and support. The LA should therefore only need to maintain the IDPs of a very small percentage of those with ALN where specialist education is required or the level of provision in mainstream is exceptionally high and needs to be additionally funded by the LA centred funding. Clear LA expectations re ALP that we would expect to be available in inclusive mainstream educational settings needs to be set out in 'local offers' if this system is to provide equity across Wales. This will support the process that Chapter 17 refers to.

Without these frameworks and processes in place there is a real concern that the LA may be overwhelmed with such requests and indeed that Appeals to the Tribunal will increase significantly unless the LA is willing to take over a significant number of IDPs.

## Chapter 18 - Meetings about ALN and IDPs

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

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

It is helpful to outline principles of meeting and the flexibility to meet individual circumstances in each meeting e.g. timing and numbers present, “Needs led!”

It is clear that the child/young person is at the centre.

Coordinator - indicates most appropriate to run meeting (i.e. not necessarily ALNCO!)

In general – seem methodology has clear cross reference to WG documents re Person Centred Practices.

Attendees etc (18.7) clear.

18.11 provides a good solution if professionals are not able to attend.

If professionals are not in attendance then it does need to be explicitly written that they can't be signed up to action by others, unless there is a prior agreement, and that it is good practice that the Coordinator or someone else present in the meeting agrees to contact them as an action.

18.14 Welsh requirements need clarification e.g. make explicit implications of organising translation, cost and possible delay in organising this additional service for meetings when this is required to provide everyone with full access and participation in the meeting.

18.15 is clear but should it be stated/written in record that there is a difference in opinion with the implication that this may lead to mediation/LA resolution process etc.

18.18 and 18.34 Should the definition of Coordinator role and where it is stated be referred to here (as there is an expectation that chapters can be read as stand alone)? Should it state that the Coordinator could be a range of professionals/contributors?

18.22 “should” better than “must” as it is about good practice and pertinent to transitions e.g. FP to KS1 etc.

18.28 the term “impact monitoring” would be usefully clarified.

## Chapter 19 – Planning for and supporting transition

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

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

This chapter includes more practical guidance re transition process than other chapters do and this level of information would be welcomed in other chapters to support best and consistent practice across Wales.

N.B. 19.16 missed transition from KS2 to KS3 out (Yr 6-7)

We like that there is a need to plan multiagency sometimes two years in advance and hold IDP planning Review meetings annually when transition planning needs to be considered and informed by Person Centred practice.

Timing should allow ALP to be put in place in a new setting prior to them attending.

19.60 We will need more information re when an independent special post 16 institution should be considered and the process for this.

## Chapter 20 - Transferring an IDP

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

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

20.1 Use of 'normally transfer' begs the question of clarifying the exceptions. Is this just the situation outlined in 20.4 which appears to be later outlined in 20.23?

20.12 'Where the LA believes that it would be reasonable for the FEI to secure the ALP set out in the IDP' – it would be helpful to clarify what factors would need to be considered in arriving at this decision, i.e. what ALP is reasonable for the FEI to secure.

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

20.12 'Where the LA believes that it would be reasonable for the FEI to secure the ALP set out in the IDP' – it would be helpful to clarify what factors would need to be considered in arriving at this decision, i.e. what ALP is reasonable for the FEI to secure.

**Welsh Ministers decision if FEI do not agree to LA request – what is the reason for this process?**

**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?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

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

21.8 Not sure why use governing body here rather than setting.

21.10 We would welcome clarification on 'reasonable needs for education and training'.

21.14 Would you also inform the Social Worker of a LAC as they have parental responsibility?

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

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

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## **Chapter 22 – Children and young people subject to detention orders**

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

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

We would think that a detained child/young person as defined in 22.2 a) and b) would benefit from ALP being made if they have ALN (and no prior IDP) whilst detained in youth accommodation or hospital not just on release. However, we note if they have an IDP on being detained this must be sent to the Youth Accommodation.

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

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

However see above.

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

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

22.54 Currently for a child/young person with a Care and Treatment Plan and a statement of SEN it is the Local Authority's statutory duty to provide a Coordinator and likewise if they are Looked After rather than the Health Authority. Will this change in light of this Code's provision? Educational Psychologists fulfil the role of the Care and Treatment Plan Coordinator in Carmarthenshire for those with statements of sen.

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

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

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## Chapter 23 - Children and young people in specific circumstances

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

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

23.3 and 23.4 It would be helpful to summarise relevant duties rather than refer to Ch.s 9 and 10 if the intention is that the chapter can be read as stand alone for this group of children and young people.

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

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

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

We are pleased to see that this is a mandatory role and may be more than one designated ALNCo in a setting if required mentioned and that in some circumstances it may be appropriate to share an ALNCo.

The information continues to reflect the range of settings factors that may influence how the role will work but protects key elements such as registered teacher, member of or clear communication link with SMT as a strategic planning role, the LA role to support the ALNCo.

This is a significant role and we wonder if a minimum of teaching years' experience should be made explicit.

## Chapter 25 - Avoiding and resolving disagreements

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

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

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

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

Same as Question 42. See above.

## Chapter 26 - Appeals and applications to the Tribunal

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

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

It would be helpful to outline what Part 2 of section 84 of the Act refers to.

**26.10** How does the Tribunal assess whether a child has capacity or not?

**26.11** We note that this list is not exhaustive but a significant omission is the time scale in which the appeal should take place and the decision reported. In the interest of children and young people we feel that a timeframe should be specified.

**26.14/15** Does the eight week timescale in which parents/child/young people can submit an appeal and the supporting case statement give an unfair advantage over the LA or FEI who only have 4 weeks to submit a case statement? Should this also be eight weeks?

**26.16 (a)** Should the time to comply with Tribunal orders be longer e.g. 12 weeks equivalent to the timescale for issuing a first LA IDP?

**26.22 (d)** Clarification on what the interests of justice would mean.

**26.25** Should this not also apply to the LA and FEI?

## Chapter 27 - Case friends for children who lack capacity

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

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

It is good to see reference to how those who may lack capacity are still required to participate however they can.

We are not sure why this only refers to child and not young person.

27.5 Although this defines what it means for a child to lack capacity in relation to the Act it would be helpful to have more examples to support consistency in those making this assessment.

27.6 Describes who can decide if a child lacks capacity but does not state how this decision is made i.e. what information is considered and who provides the information.

### Any other comments

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

We had expected more guidance but understand now from attending the ALN Consultation workshops that this is a legal Code for the ALNET Wales Act and not a Code of Practice and that this may be forthcoming in the future and good practice examples will be welcomed to support consistent good inclusive practice across Wales.

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

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

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

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

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

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

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

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

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

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

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

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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**

### **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**

However, we believe the ALNCO should have a prescribed number of years teaching experience of at least 2 years, i.e. having demonstrated good practice in ALN themselves as a practitioner.

We feel there is a missed opportunity to prescribe the requirement of ongoing CPD in ALN to keep abreast of research and effective inclusive practices.

**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**

### **Part 4 of the consultation: Looked after children**

#### **(a) Proposed regulations to be made**

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

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

No objection to LACE Role, but it should ensure the processes followed include those when the responsibility is on the school or LA developing an IDP etc.

ALN (for LAC) should be everybody's business.

Not sure what the added value is of LACE currently.

If the role called the LA to account maybe but can there sometimes be a conflict of interest?

## (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

Unclear why there is a difference in language options.

Unclear why there is no transition box as in Annex A.

Unclear why personal details comes at end.

The LAC IDP could be more aligned with the non – LAC 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 type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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### Supporting comments

The IDP should specify who is responsible for actions.

It should be the Social Worker not IRO who contributes to IDP (as they have Parental Responsibility).

**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?

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

One plan is much better as it doesn't separate out LAC from non-LAC (which is preference of LAC).

**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?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	✓
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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?

**Earlier identification of ALN.**

**Less standard prescription of ALP and more personalised person centred planning and objectives which change more frequently.**

**Greater integrated planned action to meet objectives and a more holistic approach.**

**Professionals in more planning meetings shaping effective interventions.**

**Local ALP mapped out as a local offer. Joined up planning re this.**

**Single point of information re provision and process to identify and meet ALN which is accessible to all and kept up to date and impactful.**

**Person Centred processes and conversations happening when needed.**

**Greater right to appeal for CYP and parents. Increased activity in advocacy, disagreement resolution, Tribunals.**

**Greater access to local ALP across educational phases.**

**A need to ensure quality CPD opportunities for all re ALN, including sharing what works well and keeping up with research and innovative practice. This will aim to build capacity and consistency across the systems.**

**More professionals involved in producing and reviewing IDPs.**

**IDPs which are more personalised to an individual's needs, wishes and aspirations and their context, potentially reviewed and adapted more frequently.**

**More targeted use of ALP and supporting professional's activity.**

**A wider group of children and young people receiving ALP.**

**The Local Authority and its support services involved more often with a wider range of settings e.g. Under 5 providers, Independent Schools, FEIs, Specialist Colleges, Youth Accommodation.**

**The Local Authority and its support services involved with more children and young people with ALN e.g. Under 5, elective home educated, attending Independent schools, attending FEIs attending specialist Colleges, detained in youth accommodation and hospital. This is an increase in activity in each group for Educational Psychology Services as there is a 'must' or 'should' duty.**

**Increased use of disagreement and resolution and independent advocacy services.**

**Increased use of and therefore Local Authority activity for Tribunals.**

**Pressures on workforce re demands of ALN Code with a need to adjust existing processes and design new processes.**

**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 support the use of the Welsh language and requires consideration of what ALP should be provided through the medium of Welsh for every learner with ALN which should strengthen Welsh ALN provision.**

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

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

**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.**

**We welcome the focus on roles and responsibilities but think that this could usefully be mapped out for all.**

**We are concerned that there needs to be clarification re terms used such as 'advice', 'consult', 'consultation', 'assessment' as they can be interpreted in different ways by different stakeholders and will determine processes which will need to be further considered to design systems to achieve the ALN Transformation.**

**We are concerned that the EP's role and responsibility is not seen as gatekeeper which is part of the educational settings, Local Authorities ALN section and Local Health Boards role and responsibility.**

**We are concerned that the EP's role and responsibility includes supporting educational settings and the Local Authority with holistic identification of ALN and effective intervention to meet ALN inclusively, working in collaboration with others supporting the child/young person. We would see a strategic role for the EP in building capacity within the system to do this which is both seen as both prevention and intervention.**

**We note that the EP role is valued, key at all phases and mandatory. We wonder if there is an intention to widen the involvement of EPs at preschool/under 5 (i.e compulsory school age) as 'must' is used for all children with and who may have ALN. Currently we are not resourced at a level to become involved with all of these children and therefore prioritise those where there are significant barriers to making progress despite interventions that are likely to prevent barriers to accessing teaching and learning in a mainstream setting.**

**We would like to see mention of the LA role and responsibility in making the ALN Code of Practice user friendly for all stakeholders.**

**We would welcome greater clarity supporting a common definition and interpretation of 'significant difficulty in learning'. We are concerned that the staged/graduated approach to determining an ALN is not made explicit enough in this Code.**

**We are awaiting more guidance re post 16 specialist provision assessments and anticipate that this will impact on EP activity which has been very limited in this area to date. There will need to be CPD and systems developments re. post 16 FE and specialist college provision.**

**It would be helpful to clarify responsibilities for funding ALN processes and ALP across providers including shared, pooled budgets if required e.g. Education and Childrens Services and Health.**

**We believe that there is a clear need to map out a LA - FE - LHB ALP offer to ensure that there is a framework that can underpin all decision making in a fair, open and transparent process and allow regular systematic review and improvement where required.**

**Respondent Details**

Information	
<b>Name</b>	Sharon Howley
<b>Organisation (if applicable)</b>	NAS

**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**

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**

**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**

1.33. I have some reservations about a final IDP being written and agreed during a meeting. Should a period to consider a draft be compulsory? Parents or young people may feel pressured into agreeing. 1.33 seems to contradict: 8.27 and 9.23 –

8.27 states that LA's should before an IDP is finalised prepare a draft giving parents an opportunity to comment.

9.23 School should give parents an opportunity to comment on draft IDP before it is finalised. So for continuity the option to issue a final IDP at the meeting to discuss a young person's needs mentioned in 1.33 should be amended to issue a draft.

#### Structure of the draft ALN Code

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

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

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

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

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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**

**No problems with delegating functions but -**

**Wouldn't all pupils attending a PRU be accessing ALP so therefore would they all need an IDP?**

**7.34 evidence of significant emotional or behaviour difficulties , as evidenced by clear recorded examples of withdrawn or disruptive behaviour**

## Chapter 2 - Principles of the Code

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

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

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

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

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

<p>3.28 The process can be daunting for parents. Some parents need more focussed support which is independent. Examples - Education Advice lines Parent Partnership services Disability specific organisations</p>
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## Chapter 4 - Duties on local authorities and NHS bodies to have regard to the UNCRC and the UNCRPD

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

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

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

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

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

Partly. There is no mention of public access to the review information. Parents may find this useful for example if they are told there isn't a specialist placement available. Include mechanisms for making review information 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 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

How differentiated would teaching need to be before ALN/ALP considered. Mechanism to monitor? Consistency?  
I also wonder if parents will prefer an LA maintained plan as a gateway to more support.

**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

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

If a young person refuses consent to an IDP but requires specialist support are 'Best interest' considered.

### 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

It would be useful to include timescales in a flow chart so that they can be seen at a glance.

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**

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## Chapter 13 - Content of an IDP

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

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

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

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

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

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

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

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

**15.36 NHS not required to secure revised ALP ordered by tribunal unless it agrees to do so.**  
**15.50 DELCO to promote use of NHS system for disputes health provision.**  
**Parents should not be expected to take multiple routes to ensure appropriate provision. The tribunal should be able to rule on all ALP identified in an IDP.**

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**

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## Chapter 16 - Review and revision of IDPs

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

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

Needs more guidance on process and time limits for collecting and sharing information prior to review.

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

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

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

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

Yes	<input 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?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

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

**18.8 timescales:**

**Notifying**

**Collecting information**

**Sharing information - very difficult for parents and young people to fully participate if they do not have the same information as professionals attending the review. Current code sets time scale of 2 weeks for reports to be circulated. Not acceptable to table reports at review meeting.**

## 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?

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

**Planning to leave compulsory education:**

**19.47 says it is expected schools and LA's will start this process in year 9. Needs to be should.**

**19.54 The role of Careers Wales in supporting learners at risk of being NEET is not strong enough in the code. 'May need' change to 'should'**

**19.55 \*should invite Careers Wales**

**19.56 \*should invite Careers Wales**

**19.66 is not strong enough about those learners who will need extensive support from social services and partnership working required to plan for this. Autistic young people can have a very difficult time at transition. Support and robust planning is vital.**

**19.60 the role of supporting with information on specialist post 16 placement was previously that of Careers Wales. Need clarity on who takes responsibility for this.**

**19.71 need more information on how transition planning will support YP not accessing post 19 education requiring independent living support. No mention of how social services are involved in transition**

## 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**

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

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

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

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## Chapter 21 - Ceasing to maintain an IDP

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

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

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

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## **Chapter 22 – Children and young people subject to detention orders**

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

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

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

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

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

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

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

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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**

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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 type="checkbox"/>
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**Supporting comments**

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## **Chapter 27 - Case friends for children who lack capacity**

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

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

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## **Any other comments**

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

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

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

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

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

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

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

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

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

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

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

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

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

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

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

Yes	<input type="checkbox"/>	No	<input 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 type="checkbox"/>
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Supporting comments

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### **(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

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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

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**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?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

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

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**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	
<b>Name</b>	Collective Response on behalf of Betsi Cadwaladr University Health Board
<b>Organisation (if applicable)</b>	Betsi Cadwaladr 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?

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

Some concern raised within the UHB that the meaning of the different terms is not clear and may cause confusion.

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?

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

Whilst the UHB agrees with the general approach to the timescales for compliance with duties, there is a concern that the timescales specified are too short and *may* diminish the resulting quality of information from health and other agencies.

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

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

The UHB feels that the general exception which applies in the case of timescales is appropriate; however there are concerns that, given the tightness of timescales, all cases requiring a face to face appointment with a child or young person will fall under this exception.

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**

Some uncertainty raised within the UHB regarding the structure of the draft ALN code.

**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**

Some concern raised within the UHB that the code needs to also apply to independent schools. There are a significant numbers of children with SEN receiving LEA monies in independent school placements and it is felt that the same standards should be applicable to the independent schools as public funded schools.

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**

Some uncertainty raised within the UHB regarding the proposal to use regulations to delegate functions from a local authority to a Management Committee of a PRU.

## 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

Again, some uncertainty raised within the UHB regarding the principles set out in Chapter 2 of the draft ALN Code.

## 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

Agreement regarding the explanation of the duties; the expectations of families will need to be carefully managed given relative lack of additional funding to support the introduction.

## 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

Some agreement regarding the clarity (of Chapter 4 of the draft ALN Code).

No issues identified, – aligns with person-centred care and patient goal-setting. There is a need to develop opportunities for children and young people to be involved more in service development and review.

## 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

The UHB feels that the guidance provided in Chapter 5 of the draft ALN Code in relation to the duties to keep ALP under review is appropriate.

## Chapter 6 - Advice and information

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

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

Some uncertainty raised within the UHB regarding the guidance provided in Chapter 6 of the draft ALN Code.

## 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

Some agreement regarding the clarity (explanation of the definition of ALN).

Regarding 7.18 – ‘temporary’ (e.g ‘illness’), this may need further clarification as to what ‘illness’ means that makes extra temporary support (? treatment) required but not considered ‘ALP’.

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

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

With reference to Early Years, some confusion expressed from the Children's team regarding the role of the early years ALN Lead Officer (at LEAs) and how that role interacts with what Health Visitors or Flying Start teams may do.

The teams are uncertain as to who will be responsible for providing what, who will pay, who will be responsible for writing (what) 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	<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

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

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

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

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## Chapter 13 - Content of an IDP

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

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

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

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

A presumption has been raised (made) within the UHB that ALP includes the provision of communication equipment.

It has also been highlighted that (with reference to ALP) there will be a need to relate to evidence base and that the rationale section will be important, ahead of indication/agreement that therapy may be appropriate to be delivered.

**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**

With reference to 13.45, it is important to confirm that review is based on 'Outcomes' not just 'Provision'. We believe it is crucial for a UHB to identify the outcomes expected from the defined treatment/provision to support ongoing provision or not.

## Transport

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

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

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

There is a concern from the Children's team that the proposed timescale is too short and that it will be very difficult to see a child, collate and give synthesised summary of needs in this timescale. The concern is that, based on the timescale, reports will be prepared from notes only and without synthesising information from other health professionals, therefore significantly impacting on the quality of reports.

Further clarity required as to the expectations within the timescale.

The Speech and Language Therapy (SLT) team has also raised a concern regarding the timescale – that this is a very short timescale bearing in mind caseload sizes and clinical pressures. Diaries are booked up at least half a term in advance. If children are not known to SLT, a referral will need to be made. Timescale for initial assessment is 14 weeks. Local processes will need to be agreed in partnership with schools, local authorities and other professionals. There will need to be direct communication to SLTs (not via paediatricians etc.)

With reference to section 15.7, concern raised regarding conflict between 2 sets of targets – Referral to Treatment (RTT) and timescales for LDP contribution. At times, before being able to provide advice, extra time is required to trial interventions and gauge response to 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?

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

Again, there is a concern from the Children’s team that the proposed timescale is too short for professionals to see children and compile a detailed and appropriate report.

Currently we offer an appointment for every child the LEA puts through an assessment for SEN. This is challenging given the current 6 weeks’ time scale (very short) but also because of the overall workload.

The Speech and Language Therapy (SLT) team has concerns that it could negatively impact wider caseloads if the majority of the team’s time is taken contributing to IDPs, irrespective of need.

With regards the description of any interventions to be considered/carried out, it would be appropriate to add ‘evidence-based’.

Noted that Schools, LAs and FEIs who are responsible for developing the IDP can consider the efficient use of resources when deciding on the ALP (7.69). This same consideration does not appear to be applied to NHS bodies (as ‘likely to be of benefit’ is used). We query whether NHS bodies should also “consider efficient use of resources”.

It is felt that the school based services will allow (the SLT team) to respond to requests from schools as mainly enjoy close partnership working. (Although this will be dependent upon capacity).

In recommending services in Welsh, this would be in collaboration with parents / guardians and complying with active offer of Welsh provision.

With reference to specific sections:

15.29 Instead of the wording “of the treatment” should say “about the treatment or service required”.

15.31 Recommend change word “referral” to “request for information”.

15.34 This would be very difficult to achieve within existing capacity. Currently children are discharged and information about this is fed into the annual review. It would take a lot of time to arrange (and attend) an IDP review before discharging. The time allocated to the IDP review could actually be taking time away from children who need input.

15.36 We believe 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 value clarity as to whether this applies to recommendations made by independent therapists?

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	✓	Not sure	<input type="checkbox"/>
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**Supporting comments**

There are concerns that the guidance on the role, experience and expertise of the DECLO is not appropriate for achieving the objectives.

Whilst it is noted from the Children’s team that the guidance is much better than previous versions and could now be achievable given solely strategic role; there are still significant uncertainties about what this role will entail, and whether the knowledge, skills and experience will necessitate this is led by a paediatrician or whether a senior nurse or therapist with appropriate training and support will be able to undertake this role.

Concerns have been raised by teams that the workload and the geography will make this role undoable. The role is significant in size, needing to work in our area with 6 children’s services and adult services. (We have 6 local authorities here in North Wales.)

The liaison with such a large number of services and professionals make the role challenging, as specified.

The role appears to present a conflict between the requirement for senior leader experience in NHS and detailed working knowledge of local practice in ALN.

We would be unable to attend many IDP meetings due to capacity. What would the timescale be of contributing paperwork “in advance”? We would need significant period of notice to contribute.

We’d value more clarity regarding the DECLO deciding on interventions that may be of benefit. Will professional opinion be taken into consideration as DECLO will not have that 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 type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

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

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

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

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

Yes	<input 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**

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## Chapter 18 - Meetings about ALN and IDPs

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

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

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## Chapter 19 – Planning for and supporting transition

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

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

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## Chapter 20 - Transferring an IDP

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

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

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

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

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

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

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

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## **Chapter 22 – Children and young people subject to detention orders**

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

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

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

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

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

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

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

The UHB does not feel that the requirements imposed on local authorities are appropriate.

With reference to the statement that LA's would work through conflict with DECLO, informed by PTR. All clinical teams and service managers will need a good understanding of the Code in relation to their role, the Duties on the HB and the process for avoiding and resolving conflict.

**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

Concerns have been highlighted from the Children's team that the lack of application to the independent school sector is a significant issue, which at present is creating significant anomalies of access and parity. This issue needs resolving and this Bill could ensure this clarity is in place.

## Chapter 27 - Case friends for children who lack capacity

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

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

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### Any other comments

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

Concerns have been highlighted from the Children’s team that the lack of application to the independent school sector is a significant issue, which at present is creating significant anomalies of access and parity.
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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?

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

The ongoing lack of clarity of health’s role and responsibility re tribunal has been highlighted.
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**Question 48** – Overall, will the processes and procedures outlined in the draft Education Tribunal regulations enable the Education Tribunal to deal with cases fairly and justly?

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

Concerns highlighted regarding the lack of change re independent placements means that a small number of children attending independent schools will continue to receive significant resources despite LEA provision being equal or better.
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**Question 49** – Is the proposed case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

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

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

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

The UHB does not feel that the timescale is appropriate.  The Children's team has expressed concerns that this is not enough time to see a child, compile a report and synthesise information from other professionals into this.
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**Question 52** – Are the timescales relating to compliance with Education Tribunal orders appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

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

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

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

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### **Part 3 of the consultation: Draft ALNCo regulations**

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

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

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**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**

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

Some agreement that this should be a statutory role.   
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## (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?

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

It is not felt that there should be a separate standard form for Looked After Children.

## (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?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

From a Children's team perspective, it is felt that this is very difficult to know at this time (what the impacts will be). There needs to be very careful management of family and professional expectations, especially given the resource pressure both within health and education to support these changes.

Combined with introduction of new curriculum, cut in funding to schools (e.g. 5-10% to primary schools in Conwy this financial year) and increased number of pupils – this will stretch existing provision significantly, at a time when there is already a chronic shortage of special school places and monies for ALN (in some counties especially), there are ongoing legitimate concerns that this may be too much both for schools, young people and partner services.

There will be significant implications on use of SLT time. Without extra capacity the proposals could take SLT time away from therapy with children with less difficulties, i.e. speech only difficulties.

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

Unclear at present – discussion needed with Welsh Language Officers/Commissioners given the new Standards and expectations.

**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?

Some uncertainty raised within the UHB as to the effect the proposals will have from a Welsh language perspective.

**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 following issues have been highlighted:

- 12.28 Very difficult to understand wording – doesn't make sense.
- ALNCos need to be given extra time.
- Difficult to find definitions in the document easily. For example what constitutes a young person?
- Difficult document to read. Difficult to work out how to find out where reference numbers are defined.

**Respondent Details**

Information	
<b>Name</b>	Ian Garvey
<b>Organisation (if applicable)</b>	St Richard Gwyn ALN Transformation Cluster*

\*This response is based on discussions that took place in a meeting of the representatives of the schools involved in the St Richard Gwyn ALN Transformation Cluster. The cluster is made up of the following schools - St Richard Gwyn Catholic High School, Flint; St Mary's Primary School, Flint; St Winefride's Primary School, Holywell; St David's Primary School, Mold; St Anthony's Primary School, Saltney; Venerable Edward Morgan Primary School, Shotton

**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?

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

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?

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

**The timescales seem to be appropriate. A consideration for schools will be if they have made all reasonable efforts to contact relevant bodies, when does it become 'impractical' and considered to be outside the school's control?**

**Mechanisms for the effective sharing of information need to be considered.**

**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?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

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

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

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

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

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

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

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

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

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

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

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

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## Chapter 6 - Advice and information

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

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

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

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

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

Representatives from the cluster made the following points:  
 Greater clarity of ‘significantly greater difficulty’ is required (section 7.7 attempts to clarify). It may be helpful if needs were broken down into ‘areas of needs’ – cognition and learning; communication and interaction; physical and sensory; social, emotional and mental health. Concerns were raised about the consistency of approach across school. It was noted that IDPs will be useful if they are useful living documents. With regards to professional learning needs, there will need to be consistency in IDP training and assessments used.

**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**

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

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

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

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## **Chapter 13 - Content of an IDP**

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

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

The elements of the mandatory content of the IDP are appropriate if the needs of a pupil are significant. The proposed standard IDP form appears to be appropriate although it is clear that the document could be extremely large for some pupils.

Considerations for schools might be:

All staff would need to be sure of how to identify pupils requiring an IDP.

Schools will need to consider how they monitor and support pupils with needs, but do not meet the criteria for an IDP.

Schools will need to consider how they will manage the paperwork/workload if and IDP is

required and is to be written by the school rather than the LA.

Professional learning needs include:

Training or some clear criteria for identifying pupils requiring an IDP.

A need for an electronic information management system to ensure that information for pupils is stored accurately (Ideally, this should transfer straight to an IDP to reduce workload for the ALNCo/teacher).

Training for proposed IDP requirements for all staff.

**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

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**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?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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)?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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**

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## Chapter 20 - Transferring an IDP

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

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

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

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## **Chapter 22 – Children and young people subject to detention orders**

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

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

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

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

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

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

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

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

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## Chapter 23 - Children and young people in specific circumstances

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

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

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

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

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

The chapter is highly detailed. It was noted that there are 15 musts and 12 shoulds. The following comments were made at the cluster meeting –  
What does qualified mean?  
There are budgetary constraints on schools so will the reforms be ‘cost neutral’.  
Has the work/life balance of people fulfilling the role been considered?  
Is there likely to be inconsistency across schools?

The percentage of ALN pupils will differ across schools.  
It will be essential for schools to work collaboratively and share expertise.  
Who/what are the 'relevant services' mentioned in 24.15?  
Will there definitely be a national qualification? Again, what will the cost/time impact of this be?

## 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

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

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

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

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### **Any other comments**

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

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

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

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

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

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

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

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

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

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

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

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

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

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

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**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?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

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

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## **(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?

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

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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?

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

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**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?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<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.