

Respondent Details

Information	
Name	Ann Batley
Organisation (if applicable)	Children's Services Rhondda Cynon Taf CBC

Part 1 of the consultation: The draft ALN Code

https://beta.gov.wales/sites/default/files/consultations/2018-12/draft-additional-learning-needs-code-for-wales_0.pdf

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

Definitions are helpful. May be helpful to use these descriptions elsewhere in other WG documentation (e.g. FS guidance)

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 always helpful to have clear timescales. The term prompt should be considered alongside maximum timescales, e.g. promptly and no longer than X weeks.

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

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

Structure of the draft ALN Code

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

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

Chapter 7 – definitions may need to come earlier.

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

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

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

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

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

Not applicable at current time.

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

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

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

Perhaps a concise and exact explanation on who provides the ALP for children who are considered typically developing with regards cognition and learning but who have a physical disability / medical need that requires intervention or support from an adult would be helpful e.g. children who use mobility aids, children who require hygiene facilities to be changed, children who are PEG fed, NG fed, MIC-KEY button fed, children who have open stomas, children who are catheterized etc.

'other means' (7.32) may need to be expanded on to remove ambiguity and look at accountability of provision for the child.

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

Early Years ALN Lead Officer

Question 14 – Is the guidance on the role, experience and expertise of the Early Years ALNLO set out in paragraphs 8.40 - 8.47 of the draft ALN Code appropriate for achieving the

objectives (that the role is strategic and such officers have the appropriate experience and expertise to meet the expectations of the role)?

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

Specialist support for Early Year’s settings will be paramount going forward to help meet the expectations placed on local authorities on implementing the Code. Wording in the code will also need to reflect the ‘strategic’ nature of the role. Whilst ‘Strategic Responsibilities’ is part of 8.46 (d) it has been stressed in working groups and Cwm Taf consultation events, that the overarching duties of this role are strategic e.g. consider whether these should be listed first.

Duties on schools, FEIs and local authorities

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

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

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

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

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

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

Yes	✓	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

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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

Consider bringing the 'Timeline' forward in the document e.g. before / after the one page profile. This could help give a better understanding of the child when coupled with the one page profile.

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

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

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Chapter 15 – Duties on health bodies and other relevant persons

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

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

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

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

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

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

Current understanding is that the timescale listed here conflicts with current NHS timescales. (6 weeks ALNET vs. 14 weeks NHS).

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

N/A

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	✓	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	✓	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	✓	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

Training regarding Person Centred Practice could also be rolled out to Early Years / Childcare / Education colleagues so that they have a better understanding of what is expected of the meetings.

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

Consider wording of heading between 19.25 and 19.26. Many children will transition into early years / childcare settings prior to accessing an education placement (as outlined in 19.4), acknowledgement of this would be beneficial.

Chapter 20 - Transferring an IDP

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

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

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

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

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

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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	✓	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?

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

Yes, proposals are appropriate in the circumstances described.

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

Yes, proposals are considered appropriate.

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

Yes, children should have a right to appeal the tribunal.
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Chapter 23 - Children and young people in specific circumstances

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

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

Chapter 27 - Case friends for children who lack capacity

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

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

Any other comments

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

Will training on Person Centred Practice be offered to staff / colleagues who will be expected to coordinate meetings? Chapter 18.

Perhaps further clarity is required in stating that some professionals (specifically health, who have clinics or therapy appointments to run) may not / will not be present to contribute to meetings. This may cause unrealistic expectations to levy upon therapeutic services staff. Currently in Team Around the Child meetings therapy staff are informed of a child’s placement and will provide advice / guidance to the receiving setting via various methods.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Part 3 of the consultation: Draft ALNCo regulations

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

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

Question 56 – Do you agree with the tasks that 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 checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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

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

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

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

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

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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

N/A

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?

- Ability to meet timescales (what is seen as impractical and circumstances beyond its control)
- Significant support for Early Years' settings in meeting their role in the first instance. Settings currently attend Early Years Team Around the Child meetings and Child Development Team meetings and contribute information regarding the child's development well. However they would need support and upskilling in order to facilitate meetings and to understand:
 - New systems and processes
 - Which children the 'SENCOP' applies to and which children the ALNET Code applies to
 - What information is required from them to maintain an IDP if secured by the local authority.
- Early Years childcare settings may also require advice and guidance on:
 - Types of assessment to be used with children in order to maintain the IDP
 - If they are still required to follow a 'graduated response' (as previously stipulated in the SENCOP, Chapter 4:9) and if so what elements of it are they expected to follow?

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

- IDP's in Welsh, meetings held using Welsh language will have an impact on many settings, particularly EY settings.

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?

- Potential increase in translators for the local authority
- Potential to upskill current staff Welsh abilities so that meetings and IDPs can be conducted in and contributed to in Welsh, respectively.

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.

Are Early Years settings expected to continue to follow the 'Graduated Response' (SENCOP, CHAPTER 4:9)?
What type of support is the EYALNLO expected to provide Early Years settings with?

Respondent Details

Information	
Name	Lorraine Young
Organisation (if applicable)	Ceredigion County Council

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

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

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

Yes	<input 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?

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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

Structure of the draft ALN Code

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

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

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

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

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

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

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

Chapter 2 - Principles of the Code

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

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

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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?

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Supporting comments

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

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

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

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

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

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

Chapter 6 - Advice and information

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

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Supporting comments

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

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

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

We don't feel that the current definition contains enough clarity around the terms 'significantly greater difficulty'. How can this be measured so that there is a clear cut off point between recognising pupils with weak basic skills who require some ALP and those pupils with ALN across all LAs and regions in Wales? We fear that unless the definition is more specific there could be too many pupils recognised as having ALN with the consequence that the entire ALN system becomes overly bureaucratic. We feel that some criteria need to be included as part of this definition for it to be workable and equitable across Wales.

Our preferred definition would be that an ALN is defined as "a substantial and long term adverse effect upon learning" alongside a range of criteria. If the definition is unable to be changed because it is already enshrined in law by the ALN Act, we suggest that it needs to be substantiated by additional criteria. This would be similar to the definition of disability included within the JCQ's "Adjustments for candidates with disabilities and learning difficulties" regulations booklet 2018-2019 (page 4).

We are not in favour of having additional assessments simply in order to recognise learners with ALN such as IQ scores included as part of the criteria. Standardised scores from the national tests might be one appropriate criterion. However, we are aware that this would only apply to a certain cohort of pupils. Another criterion might be around how long they require the ALP for so that where it is a temporary measure this is not seen as an indication of ALN but where it is longer term this is seen as indicating ALN. This might help differentiate between those with weak basic skills and ALN more successfully. Temporary could refer to two terms or less while long term could refer to more than two terms. An additional criterion to consider would be whether the learning difficulty is seen as a substantial barrier to accessing their learning within the classroom or not – despite appropriate differentiation by the teacher.

The definition of ALN for children under compulsory school age (7.13) is not helpful for Early Years practitioners i.e. 'whether the individual, when of compulsory school age, is, or would be if no ALP was made, likely to have...'. This is a definition which is hard to understand and it will require practitioners to predict the future and the progress children will make by the time they attend a different school establishment. Progress made by children at 3 years of age is difficult to forecast.

We feel very strongly that this needs to be changed before the final ALN Code is produced as the success of the recognition of ALN or not is the single most important element of the ALN system. Not getting this right will impact upon many other elements within the ALN system in a potentially negative way.

Question 13 – Does Chapter 7 of the draft ALN Code provide a clear and comprehensive explanation of the evidence on which decisions about ALN and ALP should be based, the

sources from which this evidence might be collated, and the way in which it should be considered?

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

We feel that it is still open to being interpreted differently by different individuals, schools, local authorities and regions across Wales. We are particularly concerned about the number of pupils who currently receive ALP to boost weak basic skills. If these pupils are recognised as having ALN because they receive ALP then the entire system is in danger of becoming too bureaucratic and unwieldy. The workload of ALNCOs and other school staff in creating IDPs and holding review meetings for this number of pupils would be unworkable. For this reason, we feel that it is crucial that we improve the definitions of ALN and ALP by adding criteria and/or additional descriptors (as described above) before the final version of the ALN Code is written.

One consideration we feel is appropriate is to classify interventions as something like Wave 1, Wave 2 and Wave 3 in order to be able to differentiate between those that are universally available to everyone in short bursts – as mainstream school provision - and those that are more specialised and longer term to meet ALN? This raises a further question regarding whether all pupils who follow a speech and language programme should have an IDP or not since this can be seen as specialist 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 checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

We have concerns regarding how LAs are going to be able to fund this additional post without additional funding being provided for this. Currently the duties identified for this role are carried out by a number of individuals from different services within the LA. To bring this together for one individual without any additional resources will be difficult. We were initially informed that the introduction of the ALN Act and Code would be cost neutral. The requirement to add this role to the LA team contradicts this expectation. While we agree that the role will be needed, we feel that the financial burden on LAs will have an impact. WG need to take this into account when making funding decisions for LAs in Wales.

(8.2) IDPs for children under compulsory school age and not attending a maintained school will always be prepared and maintained by a local authority. This will mean that there will be a huge work load increase for LA's to maintain IDP's for children under compulsory school age. This requirement will not be part of the EY ALNLO role so will have an additional impact on LAs' funding and capacity.

We also have concerns regarding the capacity of the EPS to respond to the increased requests for assessment which will come from the early years setting.

Duties on schools, FEIs and local authorities

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

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

11.2 states that the LA must decide whether a child “for whom it is responsible” has ALN. Currently, a LA is not responsible for those who are electively home educated. However, in chapter 23 (23.16 and 23.17) it suggests that a LA is responsible for those who are EHE. If Eps are expected to respond to requests for assessments for children who are EHE this will have a massive impact on the capacity of the EP service.

11.33 appears to support the notion that the LA’s duty does not apply to those who are EHE.
Greater clarity is needed.

ALN reform is about upskilling the workforce – with no emphasis on 1-1 support – this contradicts the 30 hour childcare offer guidance where training is to be targeted and not opened out to all staff.

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

We feel that the focus on timescales will make the system as bureaucratic as the current system. We would prefer to be able to focus on recognising the needs and ensuring that the provision is able to be put in place as quickly as possible without the need to focus on the timescales. Timescales make it more difficult to achieve the objectives of the ALN Act.

We feel that the timescale for local authorities is too short in comparison to schools and FEIs. The reasoning provided is that LAs do not have fixed holiday periods during which they are closed. However, the reality is that staff who work within SEN/ALN teams in LAs take their annual leave during school holidays. Increasingly, many of the posts within these teams are employed on term time contracts as well. This means that it would be very difficult to work successfully within the seven weeks timescale. This is particularly the case during the school summer holiday when all SEN/ALN staff will be on long term leave. Where a school transfers an IDP during the last week of the summer term we would be unable to turn the decision around due to a lack of staff capacity and not having access to information from school staff or the pupils themselves. Assessment outside of the learning setting would not provide a full picture of the child’s difficulties within the learning setting. Assessments would purely be measuring potential ‘within child’ difficulties without taking into consideration changes which would necessarily need to be made within the learning environment.

Even during term time, we feel that the LA timescale is too short to be workable as our SEN/ALN teams are not office based staff who would be able to turn their attention immediately to focussing on new referrals from schools. We have many diary commitments such as attending and delivering training courses, visiting staff and pupils in schools to provide assessments and advice, writing reports following school visits, attending meetings at a local, regional and national level, meetings with parents and other agency staff, attending annual review meetings etc. A timescale of seven weeks would mean that we had to cancel many commitments in order to adhere to the proposed timescales and this would have a real impact on the effectiveness of our current provision and early intervention and support for pupils and schools.

If we do need to be bound by timescales, we feel that it would be more realistic to extend the timescales for LAs to 70 working days/ 16 weeks/ four months outside of school holidays – particularly the school summer holiday. Diagrams of the timescales will also need to be provided as

part of the final ALN Code as the differences in timescales across different requirements will be confusing to all involved? Consistent timescales would be even more helpful.

The statutory timescales for assessment are too tight. The phrase ‘circumstances beyond our control’ is too vague and open to interpretation. Who decides what is an ‘exception’?

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

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

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

Chapter 13 - Content of an IDP

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

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

The current wording of the IDP leads to confusion. Those practitioners who have been trained in PC approaches by Helen Sanderson Associates are likely to be confused by the use of the terms ‘outcome’ being used to refer to what we currently recognise as being a ‘target’ and ‘rationale’ being used to refer to what we currently recognise as being ‘outcome’. In section 2b.1 the ‘intended outcome’ is in fact the target to be worked on and in section 2b.7 the rationale for the provision is the outcome for the individual. The current wording used in the template is not child or young person centred as it links the rationale to the provision rather than to the outcome for the child/young person. This runs contrary to the person centred training we have received and have been delivering to our school staff.

We would like the IDP format to mirror the training that the majority of staff as well as children/young people and parents in Wales are already used to working with. This is the language that is already contained within the guidance booklets and Toolkits provided by WG. The term ‘rationale’ is not referred to in any of these documents. It would be more appropriate for 2b.1 to read “Target” and for 2b.7 to read “outcome for the individual of the ALP”. Ideally, we would prefer to see the outcome (2b.7) to appear first with the targets to meet the outcome underneath.

The content of Part 2 of the IDP remains very similar to the content of a statement of SEN which notes what is to be done to/for the child/young person rather than what is to be done with/alongside them. There is nowhere in the mandatory IDP template that records the child/young person’s aspirations or views so it isn’t a person centred document. Considering that this document will be with them for their entire education career (providing they continue to have ALN) this does match the intended principles of the ALN transformation.

These are additional points that we feel are missing from the proposed IDP template:

- Nowhere to record the date of the review.
- No parental signatures to show that parents/guardians/corporate parents agree with the content of the IDP.
- Nowhere to record outside agency involvement with the child.
- No front cover – although we assume we can add a LA front cover?
- Nowhere to record the agreed actions needed to meet the outcomes. Additional actions to the ALP are likely to be needed by parents/pupil/teacher/ALNCo/ others in the community which would support the pupil in achieving the outcomes.
- We also feel that the One-page profile headings should be agreed to reflect the guidance in the WG’s published guidance booklets which our school staff have been trained to use and pupils and their parents are familiar with. Our understanding is that there should only be three headings: What others like and admire about ..., Important to... and How best to support...

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

We feel that the template does not encourage person centred practices since there is no mechanism for recording the information gathered during the person centred review meeting. One consequence of this may be that ALNCOs reduce their reliance on the specific headings that have been advocated as being vital to person centred reviews as they do not form part of the recording process that they are currently used to employing.

We also don’t feel that the titles used in this template are child/ young person friendly and therefore don’t model good person centred practice.

Please also see the comments in response to question 18 above regarding the specific use of terminology in section 2.

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

Chapter 15 – Duties on health bodies and other relevant persons

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

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

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

The timescales don't take account of the NHS timescales that are imposed on health bodies.

Hywel Dda Health Board is poor at notifying us of pupils with potential VI. This will need to be tightened under the new act.

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

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

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

The Designated Education Clinical Lead Officer (“DECLO”)

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

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

Chapter 16 - Review and revision of IDPs

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

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

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

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

We feel that the timescale for local authorities is too short in comparison to schools and FEIs. The reasoning provided is that LAs do not have fixed holiday periods during which they are closed. However, the reality is that staff who work within SEN/ALN teams in LAs take their annual leave during school holidays. This means that it would be very difficult to work successfully within the seven weeks timescale. This is particularly the case during the school summer holiday when all SEN/ALN staff will be on long term leave. Where a school transfers an IDP during the last week of the summer term we would be unable to turn the decision around due to a lack of staff capacity and not having access to information from school staff or the pupils themselves.

LA staff who are required to assess the learning needs of individuals who attend FEIs will not be able to assess that young person's needs within the educational setting between June and September. The ALNCO will also not be available to share information during this time period.

Even during term time, we feel that the LA timescale is too short as our SEN/ALN teams are not office based staff who would be able to turn their attention easily to focussing on new referrals from schools. We have many diary commitments such as attending and delivering training courses, visiting staff and pupils in schools to provide assessments and advice, writing reports following school visits, attending meetings at a local, regional and national level, meetings with parents and other agency staff, attending annual review meetings etc. A timescale of seven weeks would mean that we had to cancel many commitments in order to succeed and this would have a real impact on the work we currently do. The alternative is that we would need to increase the number of members of staff within our central ALN team and yet, the transition from the SEN to the ALN system is supposed to be cost neutral?

We feel that it would be more realistic to extend the timescale for LAs to 35 working days outside of school holidays – particularly the school summer holiday.

We also feel that it would be difficult for schools to gather all of the evidence, make a decision regarding whether a learner has ALN or not and then organise and conduct a multi-agency review meeting and then write the IDP within 35 term time days. The reality is that they are likely to have multiple cases to deal with at once as well as the scheduled 12 monthly IDP review meetings. While we appreciate that we need to act as promptly as possible in the best interests of the learners and their families, we feel that the pressure of having to keep to these unrealistic timescales are highly likely to add a lot of unnecessary additional stress to the ALNCo role.

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

While we agree that it is clear, we have concerns regarding the expectation that schools should consult an educational psychologist to 'see if this is appropriate' to transfer the IDP to the LA – this makes the educational psychologist a gatekeeper to LA resources rather than a source of expertise to help educational settings meet the needs of individuals. This will impact upon the cost to LA's if they need to increase the capacity of the EPS team.

Currently, schools refer to the LA for consideration of further resources based upon the LA's SEN strategy document which clearly lays out the appropriate steps which need to be taken before placing a case before a resource panel.

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

Seven weeks is too short, particularly where the period includes a school holiday and we would not be able to have access to the pupil and school staff for a significant period of time within this timescale. We would prefer to see a more realistic timescale of 16 weeks.

Chapter 18 - Meetings about ALN and IDPs

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

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

However, there are capacity issues regarding the expectation that agencies and professional should make every effort to attend review meetings. This will impact upon the cost to LA's if they need to increase the capacity of the central ALN team.

We also have concerns about the impact of having class teachers attend review meetings as well. In primary schools, they are likely to be the people that know the child/young person best (where there is no TA involved). If they are expected to attend review meetings this will have an impact upon the funding of cover as well as the provision for other pupils within their classes.

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

We have enormous concerns regarding the workload implications of the IDP co-ordinator where IDPs have been transferred to LAs. If an educational psychologist is the IDP co-ordinator (which is likely as they are expected to be involved and advise the LA) they are then also the Transition co-ordinator, they are expected to attend too many meetings to allow the team to fulfil all of their other duties effectively (early intervention, training to increase school capacity, intervention with individuals, systemic work in schools, etc.). This will impact upon the cost to LA's if they need to increase the capacity of the EPS team. The narrowing of the role of educational psychologists which is implied by the wording of the ALN Code may make recruitment and retention of educational psychologists very difficult in the future.

We also have concerns regarding the workload implications of the IDP co-ordinator where this is a member of school staff other than the ALNCo. If this is seen as being part of a class teacher's responsibility then it will impact upon school finances and teaching provision for other pupils within their classes.

We feel that there needs to be consistency regarding the guidance for transferring between key stages since this is specified as beginning in year 9 for secondary age learners but is not specified ('in advance') for other key stages. This is likely to lead to inconsistency across Wales.

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

we have concerns regarding the expectation that schools should consult an educational psychologist to 'see if this is appropriate' to transfer the IDP to the LA – this makes the educational psychologist a gatekeeper to LA resources rather than a source of expertise to help educational settings meet the needs of individuals. This will have a significant impact on the role of the EPS and will impact upon the cost to LA's if they need to increase the capacity of the EPS team.

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

Where LAs need to transfer the matter to Welsh Government ministers we feel that the timescale of 20 days followed by another 20 days – which is a different timescale again – is confusing and unclear. A diagram would be helpful here. Consistent timescales would be even more helpful.

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

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

Chapter 21 - Ceasing to maintain an IDP

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

Yes	<input 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

The four week timescale means that LAs will need to be holding decision making Panel meetings on a weekly basis in order to cope with the anticipated demand of parents/ children/ young people appealing school decisions. This will have a significant impact upon LAs current work. This will impact upon the cost to LA's if they need to increase the capacity of the central ALN team.

Chapter 22 – Children and young people subject to detention orders

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

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

We found this to be a difficult chapter to understand and navigate even for someone who has had experience in this area. We think the introduction could be reworded to make it easier to navigate through the chapter.

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

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

It will be very difficult for a LA to determine the needs of a child whilst that child/YP is in a totally different learning environment to that found in the mainstream. The code asks us to guess possible difficulties.

The only secured accommodation in Wales is NPT. It is not always possible to get a place. Would this necessitate EPs from Wales travelling to Scotland possibly to assess need (potentially at short notice)? It could be the case that the detained young person would not be returning to the LA following release from detention (e.g. a LAC child/young person)? This will impact upon the cost to LA's if they need to increase the capacity of the EPS team.

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

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

It will be very difficult for a LA to determine the needs of a child whilst that child/YP is in a totally different learning environment to that found in the mainstream. The code asks us to guess possible difficulties.

As a young person who is detained under the mental health act do they have the right to decline ALP that is deemed appropriate to meet their assessed needs?
Under 22.47 it is noted that the LA is not required to make a decision on whether a young person has ALN if the young person does not consent to that decision being made. Who decides whether a young person detained under the mental health act has the capacity to make that decision?

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

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

The term “promptly” is nebulous. Could we be held to account for not responding to a 28 day detention in hospital? If the young person has been detained in hospital is it appropriate to be carrying out a learning assessment? We would rather that the wording was “as appropriate to the circumstances of the young person” rather than ‘promptly’.

Chapter 23 - Children and young people in specific circumstances

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

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

Paragraphs 23.16 and 23.17 suggest that the LA is responsible for assessing and maintaining IDPs for EHE. How can a LA secure ALP for a child/YP in the home. Is this the case? Who funds this provision (they will not appear on a PLASC return). It is not clear whether the LAs should maintain an IDP in case a child/parent decides to return to mainstream education. This appears to be at odds with the information contained in 11.33

If EPs are expected to respond to requests for assessments for children who are EHE – this is an enormous change from the present situation and again will have a massive impact on the capacity of the EPS. This will impact upon the cost to LA’s if they need to increase the capacity of the EPS team.

The ALN Code does not adequately address the EHE situation and this chapter would seem the best place for it to do so. EHE requires more clarity than is currently provided by the current legislative system and the Code unfortunately provides even less clarity.

The emphasis of both the current system and the new system appears to be for LAs to make the most efficient use of their resources by making provision available for the majority i.e. in mainstream schools. That’s why there is a strong emphasis on mainstream in the code. By not making it clear, there is a risk that LAs will be ploughing funding and resources into individual homes to the few who do not wish for the LA to take responsibility for their education. This is happening across a number of authorities across Wales already, resulting in a shortfall in the provision for the children/YP for whom the LA is responsible. In order to ensure that LAs can direct their resources to the children/YP for whom it is responsible, much greater clarity is required around the EHE issue.

11.2 states that the LA must decide whether a child “for whom it is responsible” has ALN. Currently, a LA is not responsible for those who are electively home educated. However, in chapter 23 (23.16 and 23.17) it suggests that a LA is responsible for those who are EHE. If Eps are expected to respond to requests for assessments for children who are EHE this will have a massive impact on the capacity of the EP service.

11.33 appears to support the notion that the LA’s duty does not apply to those who are EHE. Greater clarity is needed.

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

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

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

Many of our schools will find it very difficult to be able to afford to allocate the amount of non-contact time necessary for the ALNCo to fulfil the role requirements effectively. Having the requirement for head teachers to do this within the draft code supports the ALNCo but there is no support for the head teachers to be able to do this without having an impact somewhere else within the staffing structure and the funding priorities. This may have an unintended impact upon pupils.

Many of our primary and secondary schools have had to make cutbacks in their teaching assistant staffing as a result of reducing budgets. This means that there are no HLTAs or TAs at level 3 available to support the SENCOs in their role. Although there are TAs level 1/2 in our schools, this responsibility would not comply with their job descriptions.

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

There is no allowance within the timescales for dispute resolution to take place. We feel that there should be an allowance for this.

Given the issues raised previously regarding the lack of clarity in the draft ALN code, it is unlikely that there will be a reduction in the number of tribunal disputes (25.28).

(25.43) It is unacceptable to expect parents to follow two separate dispute procedures in order to resolve a dispute around health provision in a school.

Question 43 – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of **the provision of independent advocacy services** appropriate?

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

Chapter 26 - Appeals and applications to the Tribunal

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

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

Vague statements throughout the ALN Code make it difficult for LAs and parents to be clear about their rights.

It would appear that the Tribunal has no right to extend the period of appeal whilst a disagreement resolution is taking place. This means that disputes which could have been resolved locally with additional time will go to Tribunal unnecessarily.

Parents do not have to engage in disagreement resolution before applying to the tribunal. Some parents, therefore, may decide not to engage in disagreement resolution.

Chapter 27 - Case friends for children who lack capacity

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

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

Any other comments

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

We are in agreement with the principles contained within the ALN Act and Code and feel that this draft is a vast improvement on the previous versions. However, we remain very concerned about

- the impact of the recognition of pupils as having ALN or not from the current definition of ALN;
- the timescales for local authorities – if the timescales continue to be different across different requirements then diagrams will need to be provided as part of the final ALN Code in order to avoid confusion to all involved. Consistent timescales would be even more helpful;
- the impact on the workload of the EPS team as well as the ALN team. There will be an enormous increase in terms of the administrative burden. We anticipate that this ALN system will be even more bureaucratic than the current SEN system is in practice. This is likely to prove to be an additional cost to LAs who will need to increase the capacity of their teams in order to meet the increased workloads involved. There is also the need for WG to consider that it will take time to ensure that there are sufficient trained EPs who are able to provide services through the medium of Welsh and that in the meantime, LAs will be vulnerable to increased tribunal appeals. The rural nature of some counties means that the increased workload for EPs will not be cost effective in terms of their travel commitments as they are required to assess a greater number of learners.

We feel that unless these points are amended before the final version of the ALN Code is published, they will have a detrimental impact upon ensuring that the intended principles become a reality.

We have concerns regarding the workload implications of writing the IDPs. If this is to be done by a member of school staff other than the ALNCo then it can only be TAs or classroom teachers who carry this out. If this is seen as being part of a class teacher's responsibility where will the time for doing this come from? This will impact upon school finances and teaching provision for other pupils within their classes.

In our view a great deal of the success of the ALN transformation programme rests on the successful development of mainstream teachers – especially in secondary schools – as teachers who have the understanding, confidence and skills to meet the needs of a wide range of learners

with ALN through adjusting their teaching within the classroom in order to meet their needs. WG will need to provide online training on aspects of ALN if this is to happen. This should be at a national standard rather than expecting all LAs to create their own training resources.

Initial teacher training is not referred to within the ALN Code at all. We have concerns that unless the ALN content of ITT is improved drastically that the workforce training for currently practising teachers may not be sufficient to realise the intentions of developing teachers' confidence and skills to be able to meet the needs of all pupils with ALN.

The ALN code has an emphasis on training and school staff/childcare practitioners are able to cater for children's needs. However, another policy area under Welsh Government contradicts this as the emphasis is on targeted training. We would welcome that training is accessible to all staff to ensure that settings are prepared to meet children's needs.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Part 3 of the consultation: Draft ALNCo regulations

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

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

<p>We agree that this is necessary in such a strategic role.</p>
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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 checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

<p>Additional or ring-fenced funding will be required to enable the ALNCo to fulfil all of these functions. Currently very few schools have a SENCO who is able to work in this role on a full time basis – most have full teaching commitments as well. Frequently, in our small rural schools it is the head teacher who is also the SENCo. This dual role is likely to have an impact upon their ability to be able to prioritise their time adequately.</p> <p>Within secondary schools SENCOs are also responsible for external examination access arrangements. This will also impact upon the amount of time they have available to fulfil all of the other functions at key times during the year.</p>
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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

We agree the LACE Coordinator should remain a statutory role. We suggest that clarification of the role and responsibilities and greater consistency of the role across Wales would be beneficial. We acknowledge the specialist nature of the Corporate Parent and Education Department knowledge of responsibilities. The job description is currently being stretched by the increasing demands of the ALNET together with the LACPDG responsibilities.

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

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

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

We do not agree that there should be a separate standard form for looked after pupils. We promote equality and fear that a different form would further stigmatise looked after pupils and be discriminatory. We feel that it would be more straight forward for all (children, carers, parents and staff) if the IDP template was the same for all children and young people. It will be easier for ALNCoS in school to have one document for all pupils – especially if a pupils with ALN becomes looked after, or ceases to be looked after.

(c) Proposed revisions to the Part 6 Code

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

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

However, we are concerned about the increasing expectation and work load of the LACE Coordinator.

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

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

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

Clarification of the role and responsibilities (job description) and greater consistency of the role across Wales would be beneficial. A Welsh Government Guidance of minimum expectations of the LACE Coordinator role to include ALNET and Part 6 2014 Act. Acknowledge the 'specialist nature' of the LACE Coordinator's role in understanding and linking Corporate Parent and Education Department knowledge of responsibilities. Concern regarding the job description currently being stretched by the increasing demands of the ALNET together with the LACPDG responsibilities.

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?

Greater emphasis on including the views of the ch/yp.
Shared responsibility for meeting the needs of ch/yp across schools rather than over-dependency on the ALNCO in time.
Increased ALN training for all mainstream teachers and childcare practitioners.
Increased bureaucracy.
Increased financial burden on LAs.
Increased workload for ALNCOs and LA SEN teams – especially EPS teams.
Increased Tribunal appeals.

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

This will have a positive impact on the status of the Welsh language and the availability of interventions through Welsh. However, there is a danger that parents expectations will be raised when there is no capacity to provide some specialist interventions through Welsh initially.

Welsh language provision in the sensory service is an issue across Wales.

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:

- iii) 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?;
- iv) 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.

- Initial teacher training is not referred to within the ALN Code at all. We have concerns that unless the ALN content of ITT is improved drastically that the workforce training for currently practising teachers may not be sufficient to realise the intentions of developing teachers' confidence and skills to be able to meet the needs of all pupils with ALN.
- Concerns regarding the inequality of funding for pupils post 16. Pupils with statements can stay in school until they are 19 and have a potential of a further four

years of paid education (2 years in residential college and 2 year at FE). Pupils who leave school at 16/18 do not have the same rights.

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Respondent Details

Information	
Name	Ceredigion Partnership Agencies Conference
Organisation (if applicable)	Multi-agency within Ceredigion

Part 1 of the consultation: The draft ALN Code

Chapter 1 - Introduction

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

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

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

Structure of the draft ALN Code

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

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

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

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

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

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

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

Chapter 2 - Principles of the Code

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

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

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

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

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

6 respondents stated Yes.
4 respondents stated No.

- Clear definition of “learner”.
- “Significantly greater” (statistical definition is more than 5% difference) is that the expectation? How will this be measured?

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	✓
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Supporting comments

5 respondents stated Yes.
1 respondents stated No.
2 respondents stated Not sure.

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	✓
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Supporting comments

1 respondent stated Yes.
1 respondent stated No.

- This is a good development. It recognises the strategic and operational value of this role and the level of expertise & knowledge & experience required to do it justice.

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

1 respondent stated Yes.

- Why do LAC Pupils have a separate IDP? Is this discrimination?

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

1 respondent stated No.

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

2 respondents stated Yes.

- Consultation with transport unit should be sought.

Chapter 15 – Duties on health bodies and other relevant persons

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

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

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

1 respondent stated No.

- Opportunity for health board to be equal partner “may” should become “should”.
- There needs to be some robust flexibility built in i.e. people have to make a case for extensions which set out the reasons for them that are transparent and open.

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

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

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

1 respondents stated Yes.
2 respondents stated No.

- Opportunity for health board to be equal partner “may” should become “should”.
- There needs to be some robust flexibility built in i.e. people have to make a case for extensions which set out the reasons for them that are transparent and open.
- There may be genuine reasons why more time is needed but this needs to be open and transparent.
- It will be useful to have clear time bound expectation for health input (don’t hold your breath!)

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

1 respondent stated No.

- This is a great development. It is critical to the success of this new code that appropriate people are in place to safeguard it.
- Given the size/structure of the Health Board – this role is a mammoth task for 1 person. Is this doable?

Chapter 16 - Review and revision of IDPs

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

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

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

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

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

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

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

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

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

Chapter 18 - Meetings about ALN and IDPs

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

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

Chapter 19 – Planning for and supporting transition

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

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

1 respondent stated Not sure.

- Not sure what remit is responsible?
- Varied?
- Pending Provision?

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

1 respondent stated Yes.

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

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

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

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

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

Chapter 21 - Ceasing to maintain an IDP

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

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

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

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

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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?

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

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

3 respondents stated Yes.

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

4 respondents stated Yes.

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

1 respondent stated Yes.

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

4 respondents stated Yes.

Any other comments

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Part 3 of the consultation: Draft ALNCo regulations

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

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

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

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

Part 4 of the consultation: Looked after children

(a) Proposed regulations to be made

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

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

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

<p>1 respondent stated No.</p> <ul style="list-style-type: none">• Why do LAC Pupils have a separate IDP? Is this discrimination?

(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?

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:

- v) 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?;
- vi) no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?

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

Respondent Details

Information	
Name	Ceredigion primary and secondary SENCOs
Organisation (if applicable)	Ceredigion LA

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

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

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

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

Structure of the draft ALN Code

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

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

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

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

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Chapter 2 - Principles of the Code

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

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

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

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

18 respondents stated NO.

- How do we define a “Significantly” greater difficulty in learning? This has an impact on many other parts of the Code. (this comment was also submitted by 4 others)
- What if a child only receives 20 minutes a week of intervention? (this comment was also submitted by 4 others)
- How do you measure “greater”?
- Can you define “significantly greater difficulty” when deciding whether a child has ALN? (this comment was also submitted by 2 others)
- Does every child who receives temporary and long term intervention require an IDP? (this comment was also submitted by 1 others)
- What data should be used for regular monitoring? (this comment was also submitted by 1others)

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	✓
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Supporting comments

2 respondents stated Not Sure.

23 respondents stated No.

- What is the definition of a “Significantly greater learning difficulty”? (this comment was also submitted by 5 others)
- Does this apply to everyone receiving intervention, i.e. those currently on SA?
- Will pupil’s currently receiving minimum intervention, e.g. 2 additional Maths sessions per week still have ALN? (this comment was also submitted by 1 others)
- Without being defined as having ALN are you worried that we will be in danger of failing the pupils who are currently on SA? (this comment was also submitted by 4 others)
- The definition of ALN needs to be clear to all stakeholders so that decisions can be explained - what is the definition of a “Significantly greater”? (this comment was also submitted by 1 others)
- It will be unworkable if this covers over 25% of the school population. (this comment was also submitted by 6 others)
- How exactly do you define ALN? We need clarity on whether this is for any provision above the norm or not. If it is the IDPs for all is unrealistic. (this comment was also submitted by 1 others)

- The pupils who are on “catch-up” and therefore do not have substantial difficulties – are these still tracked via targets (as with current IEPs)?

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

Early Years ALN Lead Officer

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

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

18 respondents stated Not sure.

- Can you be more specific?

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

12 respondents stated Not sure.

- Where a young person does not consent to a decision or IDP being made - Does it need to be written consent? Will there be a template for all to use? (this comment was also submitted by 3 others)
- How do schools make this decision if the definition of ALN in Chapter 7 is unclear? (this comment was also submitted by 4 others)

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

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

25 respondents stated No.

- Time frame need for transition of information from one setting to another.

- We feel that the time frames are a grey area in terms of gathering and transferring information about a pupil. (this comment was also submitted by 1 other)
- Funding needs to be given to allow staff to be freed up to write IDPs. (this comment was also submitted by 6 others)
- Funding in schools should be sufficient to allow this to happen. (this comment was also submitted by 5 others)
- Class teachers only have 4 to 6 non-contact lessons – how can they possibly collect information, hold reviews and create IDPs?
- Where will the time to achieve this come from? The time scales are too short for school staff.
- An appropriate amount of non-contact time will be required to achieve this especially in small primary schools. The current finance doesn't allow this. (this comment was also submitted by 6 others)
- 35 days is an appropriate time scale when parents are co-operating. There needs to be an additional paragraph for when the parents are not co-operating/needs more time or support to agree to the process. Therefore a longer time frame will be required. (this comment was also submitted by 3 others)
- Can we extend the 35 days? Many young pupils can take a long time to settle (this comment was also submitted by 3 others).

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

23 respondents stated NO.

- 400 pupils currently on SEN register. How you see IDPs being written and reviewed for all of these with no HTLAs and teaching staff on full teaching loads? (this comment was also submitted by 6 others)
- How do you define "Impractical" in relation to reviewing an IDP? (this comment was also submitted by 3 others)
- With a high percentage of pupils on the SEN register and needing an IDP where will the time to do this come from where there is no extra funding? (this comment was also submitted by 6 others)
- How do you define "Sufficient notice" for invitations for multi-agency professionals to attend meeting? (this comment was also submitted by 2 others)
- Will there be an increase in funding to support the provision in schools as we are currently struggling to staff interventions? (this comment was also submitted by 5 others)

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

23 respondents stated No.

- We need clarity on the use of the terms “outcome” and “rationale”. (this comment was also submitted by 6 others)
- Can we make the IDP template more relevant to the young people? (this comment was also submitted by 8 others)
- How do you define when a learning provision is not “reasonable”? (this comment was also submitted by 1 other)
- Can we have an IDP template that is more person centred and follows previous published guidelines on person centred practices? (this comment was also submitted by 6 others)
- The titles do not match person centred review guidance. (this comment was also submitted by 4 others)
- Do you consider the IDP to be user friendly and child friendly given the person centred approach for reviews? (this comment was also submitted by 3 others)
- It is good that there is a single document across Wales, but why is the document not person centred?? This is the whole purpose!
- This template is not pupil/child/young person centred. The “outcome” appears to be the target on this template? (this comment was also submitted by 5 others)
- Part 3 – record of information. Despite this being a summary, the worry of ensuring this is accurate can cause stress to ALNCo s.
- What if health bodies do not engage sufficiently with schools.
- 1C. The one page profile – the description on page 162 – 163 is much more than a one page profile currently contains. It also mentions additional headings which changes the current one page profile. Why, this will be confusing?
- 13.17 How can we comment on the capacity of parents?
- If this template is mandatory and headings can’t be re-worded, therefore there is no way of making this template pupil friendly.
- 13.24 The description of the one page profile headings are not consistent with Helen Saunderson Ass. One page profile headings – why not?

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

23 respondents stated No.

- Annex A. of the IDP template is not very child friendly. (this comment was also submitted by 9 others)
- He terms “outcome” and “rationale” as they are used on this template will require definitions. (this comment was also submitted by 1 others)

- **Can you adapt the terms “outcome” and “rationale” so that their purpose is clearer? (this comment was also submitted by 4 others)**
- **The terms on the IDP template need to match the terms we are all currently familiar with using as part of person centred reviews. (this comment was also submitted by 7 others)**
- **The use of the term “outcome” is confusing. There is no mention of “targets” in this template which is part of current person centred reviews. If schools choose to create separate “interim” targets the documentation will become huge. (this comment was also submitted by 3 others)**
- **Does the Welsh translation use the terminology correctly?**
- **There is nowhere to record a date on the IDP template. There is nowhere to record signatures of those involved.**
- **I feel we need to change the mandatory template.**
- **The template is too wordy and irrelevant for the stakeholders to understand and follow.**

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

Yes	✓	No	✓	Not sure	✓
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Supporting comments

5 respondents stated Not sure.
 7 respondents stated No.
 9 respondents stated Yes.

- There is a mention of possible “interim” targets. This therefore means additional documentation which will add to the workload. (this comment was also submitted by 3 others)
- Not clear if this is the sole documentation or if additional documentation will be necessary?
- Gender – How would pupils who view themselves other than male or female be recorded. Perhaps prepositions should be used rather than male or female, e.g. he/she/they.

Transport

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

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

15 respondents stated Yes.

Chapter 15 – Duties on health bodies and other relevant persons

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

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

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

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

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

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

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The Designated Education Clinical Lead Officer (“DECLO”)

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

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

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

1 respondent stated not sure. 1 respondent stated No. 16 respondents stated Yes.

- Schools will need additional funding for training additional staff and to be able to provide the non-contact time required to conduct review meetings. (this comment was also submitted by 2 others)
- Where will the time and money to allow staff to attend review meetings come from? (this comment was also submitted by 4 others)
- Where does the funding come from to allow staff time to attend meetings and write IDPs. (this comment was also submitted by 6 others)
- Will there be money available to provide the non-contact time required? (this comment was also submitted by 5 others)
- 16.23 If the NHS decide to remove the ALP what happens if parent/pupil disagree? It is likely to be the school that bears the brunt of this. (this comment was also submitted by 2 others)
- In small rural schools the ALNCo , headteacher and Key Stage 2 teacher are all the same person. Where will the funding to provide time for this extra burden come from? (this comment was also submitted by 6 others)
- This is not suppose to incur additional cost, however, it is going to take much more time for schools especially in the implementation period when we are running two systems. (this comment was also submitted by 1 other)

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

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

20 respondents stated Not sure.
5 respondents stated No.

- How can schools ensure sufficient funding to enable the ALNCo to carry out the role effectively? In small schools the teaching commitment is heavy. (this comment was also submitted by 2 others)
- Do you not think this depends on the definition of ALN, and therefore how many IDPs will need to be written and reviewed? (this comment was also submitted by 8 others)
- If a school receives a request for an early review meeting it may not be possible to fit this in within 35 days where other reviews have already been planned alongside other school priorities. We don't think this is realistic. (this comment was also submitted by 1 other)
- 35 days is not a realistic time frame. This will depend on how many pupils an ALNCo has to review during this time – on top of the day job. (this comment was also submitted by 2 others)

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

<p>19 respondents stated Yes.</p> <ul style="list-style-type: none">• Can you quantify “sufficient notice” for inviting other agencies/professionals to IDP review meetings? (this comment was also submitted by 4 others)• Is there too much pressure on schools to ensure representation from other services who are also under pressure of time and availability? (this comment was also submitted by 3 others)• 18.14 Welsh Language Obligations. Certain external agency staff are not Welsh speakers. Whose responsibility is it to deal with this? (this comment was also submitted by 1 other)
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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 checked="" type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

<p>6 respondents stated Yes. 2 respondents stated No. 14 respondents stated Not sure.</p>

- It is important that the ALNCo is involved in transitions. (this comment was also submitted by 6 others)
- There will not be enough time for the ALNCo to attend all the meetings around transition where other agencies are involved. (this comment was also submitted by 8 others)
- Will there be additional funding to allow the transition key worker enough non-contact time to attend all the meetings? (this comment was also submitted by 2 others)
- Under the current pre-school system it is not statutory for parents to engage with health visitors for development checks. They can start school without having been seen by anyone in a position to assess the child. Will this system be reviewed under the new code? (this comment was also submitted by 9 others)
- Can the Welsh Government ensure additional funding to free up key transition workers within schools?
- Should the transition key worker be in the establishment the pupil is transferring to or from? (this comment was also submitted by 2 others)

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 checked="" type="checkbox"/>
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Supporting comments

17 respondents stated Yes.
1 respondent stated Not sure.

- The term “promptly” may need to be defined. (this comment was also submitted by 6 others)
- When you transfer an IDP, what constitutes “promptly”? (this comment was also submitted by 1 other)

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

<p>19 respondents stated Yes. 1 respondent stated Not sure.</p> <ul style="list-style-type: none">• What happens when pupils leave schools without warning and the new school does not contact us to inform us where the children have moved too? (this comment was also submitted by 4 others)

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

<p>21 respondents stated Yes. 1 respondent stated No.</p> <ul style="list-style-type: none">• This is dependent on the definition of ALN. (this comment was also submitted by 3 others)

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

<p>21 respondents stated Yes.</p>

Chapter 22 – Children and young people subject to detention orders

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

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

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

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

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

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

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

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

Chapter 23 - Children and young people in specific circumstances

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

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

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

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

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

23 respondents stated No.
1 respondent stated Not sure

- Schools will require additional funding for the role of the ALNCo as there is not enough funding within schools at the present time to allow for the provision of the non-contact time required.
- ALNCo's new to the role won't possess the necessary qualifications or experience.
- How will small rural schools be able to afford to free up the ALNCo in order to fulfil the role requirements effectively?
- This is totally inappropriate, when will the ALNCo working day end?
- You will need to consider the pressures on staff and the impact on pupils. Co-ordinating the new ALN Code will involve significantly more work.
- Where is the funding for the strategic role of ALNCo coming from in a climate of budget cuts for schools? (this comment was also submitted by 12 others)
- Where is the funding going to come from to provide additional staffing to allow "sufficient time" for ALNCo s? (this comment was also submitted by 2 others)
- In secondary schools HLTA/Level 3 TAs will be needed to support the ALNCo with writing IDPs – we currently don't have any TAs at this level. (this comment was also submitted by 3 others)
- How will "sufficient time" be given to the role of ALNCo when there are staff cuts in many schools? (this comment was also submitted by 8 others)
- 24.16 Can you define "on a regular basis"? (this comment was also submitted by 2 others)
- Will there be ring fenced funding for the ALNCo role directly from Welsh Government to schools? (this comment was also submitted by 2 others)
- Do you consider that schools have appropriate trained staffing levels to cope with the increased workload? (this comment was also submitted by 7 others)
- Will there be additional funding to provide the time for ALNCo s to write IDPs and review them? (this comment was also submitted by 4 others)

- In secondary schools JCQ specifications state that the SENCO and not the examinations officer must be available to justify the contents of the exam access arrangements file. The responsibility for exam access arrangements is in addition to the ALNCo responsibilities mentioned in the ALN Code. Has Welsh Government taken this into account? (this comment was also submitted by 6 others)
- We have grave concerns about schools' capacity to provide the time necessary for the ALNCo and the lack of funding to do this. (this comment was also submitted by 1 other)

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

17 respondents stated Yes.

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

16 respondents stated Yes.

- It all comes back to needing a clear definition of ALN with supporting guidance and criteria. (this comment was also submitted by 10 others)

Chapter 27 - Case friends for children who lack capacity

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

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

20 respondents stated Yes.

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.

- I agree with many aspects of the draft Code, but there is a lack of support for many of the ideas in relation to funding. Funding needs to be considered for training staff, providing time to release staff, staff costs to cover teaching time to write IDPs.
- Has consideration been given, at secondary school level in particular, regarding the implications of the Donaldson report and ALN Code at the same time. The stress on teachers could cause a crisis within the teaching profession.
- We have concerns over the definitions of ALN, the increased work load, the issues of staff training and lack of funding as well as the practicalities of holding meetings to create and review IDPs – all of this will be dependent on the numbers of pupils who are identified as having ALN.
- How can schools provide appropriate support for pupils without receiving sufficient funding?
- The current funding formula according to the numbers according the numbers of free school meals is not an appropriate method of deciding the SEN/ALN funding for schools.
- In our school intervention sessions are run by TAs who also have responsibilities within classrooms. In order to allow them to provide efficient intervention sessions they also need non-contact time in order to plan and prepare. Schools require additional funding to allow this.
- Nursery classrooms will need to receive information from child care settings regarding pupils’ needs. Transition support will be required.
- Can you ensure non-contact time for ALNCO s to plan/discuss and support the work of providing interventions. Better funding will be required to provide this non-teaching time for ALNCO s.
- How are you ensuring the wellbeing of already overworked staff when bringing in the ALN Code? Will there be additional funding? (this comment was also submitted by 5 others)
- How will you protect the needs of the pupils who are currently at SA and receiving minimal support? (this comment was also submitted by 4 others)
- Teachers in training will require far more ALN content than is currently the case. (this comment was also submitted by 1 other)
- The workload as a consequence of the ALN Code will increase and there may be consequences in terms of schools not being able to provide support within intervention groups for some children(this comment was also submitted by 2 others).
- I have strong concerns about the increase in work pressures and requirements on teaching staff as a result of the contents of the ALN Code with regard to wellbeing and mental health of staff and pupils. (this comment was also submitted by 1 other)
- The increase in workload and expectations is a concern during a period of massive budget cuts. (this comment was also submitted by 3 others)

- **The pressures on staff within small rural schools with the list of responsibilities they have to take on is likely to have an impact on their physical and mental health. (this comment was also submitted by 1 other)**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Part 3 of the consultation: Draft ALNCo regulations

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

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

7 respondents stated Not sure.

- **Will there be funding available to free staff from their teaching responsibilities in order to increase their skills when there is not enough money in the RPG?**

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

11 respondents stated Not sure.

- **Funding for enabling the ALNCo to meet these requirements will be required. Currently very few schools have a SENCO who is able to work in this role on a full time basis.**

Part 4 of the consultation: Looked after children

(a) Proposed regulations to be made

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

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

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

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

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

(c) Proposed revisions to the Part 6 Code

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

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

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

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

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:

- vii) 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?;
- viii) no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?

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

Respondent Details

Information	
Name	Teachers in charge of Ceredigion Specialist Resource Centres
Organisation (if applicable)	Ceredigion County Council

Part 1 of the consultation: The draft ALN Code

Chapter 1 - Introduction

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

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

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

Structure of the draft ALN Code

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

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

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

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

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

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

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

Chapter 2 - Principles of the Code

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

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

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

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

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

5 respondents stated No.

- How long does a pupil need to be receiving intervention before they are added onto the ALN register?
- What specific criteria need to be met related to intervention.

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

2 respondents stated not sure

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

2 respondents stated No.

- No mention of experience..., expertise..., Why is there?
- ALNCO – compulsory role but no budget? Why? Is budget coming from individual school or local authority?
- Why is there not a budget for this? This is a large role to be undertaken by 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?

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

3 respondents stated Not sure.

School timeline is too short. No mention of extension of time frames. Health professionals do not attend but input is vital.

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

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

2 respondents stated No.

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

5 respondents stated No.

- What is the criteria for “need”?
- Can the IDP’s which the local authority is responsible for be signed by an LEA representative?
- Although the IDP may be the responsibility of the local authority, it will actually be the school who make the largest contribution to the IDP.
- Can the Person Centred Review Form be linked more closely to the IDP form or vice versa?

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

6 respondents stated No.

- Why is the rationale only concerned with the ALP and not the pupil’s progress?
- Language is confusing: Outcome = target? Rationale = Outcome?
- Why is the content not user friendly, “outcome” and “rationale” are not used appropriately.
- Where does it ask for evidence for the need of the IDP? Surely the rationale/evidence should be first on sheet.
- Who is accountable?
- Who signs? Who has legal responsibility?
- Does the rationale not mean reason for IDP in the first place?
- Terminology in 2B.1 and 2B.7 is not appropriate. “Outcome” should be “target” and “rationale” should be “outcome”.
- “Outcome” should come before the SMART target.

- Do the individual bodies who come together to write the IDP have to sign the relevant parts, where is this made clear?
- How does the current Person Centred Review transfer into the IDP document?
- Who is accountable? Will training be provided on writing IDP's? Will quality assurance also be required? Implications for findings?

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

8 respondents stated No.

- How will the schools know which pupils on the SEN register need an IDP?
- Why is the IDP not reflecting that of the Person Centred Review documentation?
- Do all children who are on a SAPRA have to be transferred within the first year?
- Why does the mandatory IDP template not reflect Person Centred Principles?
- Why is the IDP not pupil centred?

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

4 respondents stated Yes.

- Why is the IDP not pupil centred?
- IDP NOT child friendly even though the new Code states the importance of the child being at the centre of all decisions.
- Why is the language used in PCP meetings not mirrored in the IDP document? Rationale? Outcome? Evidence?

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

7 respondents stated Yes.

Chapter 15 – Duties on health bodies and other relevant persons

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

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

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

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

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

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

The Designated Education Clinical Lead Officer (“DECLO”)

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

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

Chapter 16 - Review and revision of IDPs

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

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

2 respondents stated Yes.

- Criteria for the request of an early review need to be set.

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

1 respondents stated Not sure.

- What are the implications for all involved if this time period is not adhered to for whatever reason?

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

3 respondents stated No.

What happens if a professional does not attend or send a report in the allocated time frame? How can schools write up an IDP without input?

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

4 respondents stated No.

Who decides who the transition key worker is when there is dispute /reluctance to take on the role?

Who determines who will take on the role of the transition key worker?

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

3 respondents stated Yes.

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

4 respondents stated Yes.

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

3 respondents stated Yes.

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

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

3 respondents stated No.

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?

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

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

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

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

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

Chapter 23 - Children and young people in specific circumstances

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

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

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

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

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

3 respondents stated Yes.
2 respondents stated Not Sure.

- If teaching staff are encouraged to write IDPs, how can consistency be ensured?
- Training for staff?
- Inclusion on contracts?
- Is the ALNCo an admin role? If a teacher how does this fit in with union guidelines?
- Is this a TLR role? Will extra PPA time be given if ALNCo is also expected to teach?
- Will admin support be funded separately?

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 checked="" type="checkbox"/>
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Supporting comments

3 respondents stated Yes.
1 respondents stated Not Sure.

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

2 respondents stated Not sure.
3 respondents stated Yes.

- Appropriate Yes, but is a time period mentioned?

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.

- If a child is home educated but still under local authority responsibility, who writes the IDP?
- Is the workload manageable for ALNCo in larger schools?
- What does “significantly greater” need mean?
- How can progress or actions be tracked if staff are not named, i.e. keyworker who will set something up in 2 months...how can we check? Change of staff?
- Workload implications for ALNCo in larger schools.
- Why does the NHS not have a definite responsibility to respond, input and assess? Huge holes here!
- Teachers should not routinely undertake admin roles, union guidelines have been very clear about this.
- Mainstream teachers already feel unprepared (on the whole) to cater for some levels of SEN. I can envisage resistance in secondary schools in particular.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Part 3 of the consultation: Draft ALNCo regulations

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

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

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

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

Part 4 of the consultation: Looked after children

(a) Proposed regulations to be made

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

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

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

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

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

(c) Proposed revisions to the Part 6 Code

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

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

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

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

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:

- ix) 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?;
- x) no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?

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

Respondent Details

Information	
Name	Respondent requested anonymity
Organisation (if applicable)	

Part 1 of the consultation: The draft ALN Code

Chapter 1 - Introduction

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

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

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

<p>Explanation of terms is clear.</p> <p>There are some instances where 'must consider' is used in the Code and this can lead to ambiguity regarding the action following the consideration.</p> <p>The term 'must have regard' may lead to ambiguity in terms of expected actions and outcomes reducing the consistency of approach as a result.</p>

Timescales

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

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

<p>Agree with the principle of acting promptly within a fixed period; however, all timescales should be term time for all parties, not just schools. Given that LA services are likely to need to engage with schools and individuals in their school setting it is possible that the timescales would be breached due to school holiday periods impacting on the timescales, particularly the summer break.</p> <p>The 12 week timeframe, whether the decision is yes or no, does not take into account the time required to prepare the plan, particularly the LA plans for complex needs.</p>
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Question 3 – Is the general exception which applies in the case of timescales, as described in paragraphs 1.33-1.35 of the draft ALN Code, appropriate?

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

Further guidance regarding exceptions should be made available as the current description is vague, open to interpretation and could lead to overuse. It does not support the concept of a unified system. Local Authorities need a clearer steer from Welsh Government and more defined, specific 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?

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

The structure is clear and relevant chapters can be accessed with ease.

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

Agree with focus on functions and processes, as long as there are further guidance documents provided by Welsh Government to provide more specific details on the ‘how’. This would be in line with the aim of creating a consistent national system. The general nature of the document could lead to ambiguity and is open to interpretation. This is likely to lead to a significant rise in cases to Tribunal for determination. More specific detail would provide all parties with a clearer understanding of expectations.

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

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

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

Agree with proposal, however, there should be additional information in the Code regarding registration. There is currently a discrepancy in the Code, whereby there are duties on management committees, yet for dual registered pupils, the responsibility rests with the LA. Some pupils in a PRU would have a LA plan while others have a PRU plan – this is inconsistent. There is also concern that some dual registered learners access a short term PRU with no formal engagement from the LA, with the school remaining as the main base. It would be inappropriate for the LA therefore to take responsibility for plans for this group of learners. The management committee should be responsible for all IDPs for learners where the PRU is their long term provision.

Chapter 2 - Principles of the Code

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

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

Agree with the principles of the 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	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The explanation is clear.

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

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

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

Chapter 4 is clear.

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

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

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

The importance of reviewing the level and suitability of provision is understood however, the term 'keep under review' is ambiguous. The term 'continuous process' has significant implications in terms of officer capacity and could leave the LA open to challenge inappropriately by parents/carers.

It needs to be clearer that LA ALP should be reviewed through existing self-evaluation and strategic plan reviews and that this could include the development of regional solutions, e.g. provision for low incidence needs, Welsh medium provision etc.

There is a significant list of bodies for the LA to consult with; it would be helpful if the duties to engage and provide the required information were stronger within the Code.

Chapter 6 - Advice and information

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

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

The guidance is appropriate.

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

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

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

The concept that an individual only has ALN if an ALP is required is likely to cause confusion for some parents and practitioners, particularly where a child has a formal diagnosis. The interpretation of the definition ALP is likely to vary from setting to setting as is the interpretation of 'significant'. Parents accessing private assessments is common practice and these associated reports often identify the need for a significant level of intervention. This is not always in line with reports produced by NHS or LA colleagues which will cause difficulties for the school and LA in determining whether an IDP is required.

The terms educational or training provision is also ambiguous, particularly in relation to pre-school. The publication of the draft Code has already raised expectations of parents and particular groups around the provision that will be available to children without due consideration and understanding of whether the child is accessing 'educational' provision.

Whilst there is reference to learners with EAL/WAL, a key group of vulnerable learners who may have ALN, an opportunity has been missed with regard to reinforcing the importance of the use of translation or interpretation services for pupils and parents whose first language is neither English nor Welsh.

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

All local consultation events have highlighted the need for guidance and criteria. It is felt that there should be a national approach, not just a local one. The definition of 'universal' varies hugely due to variety of schools in terms of size, workforce, and inclusive ethos. Without a clearer national view on this, the Code does not support the aim of a consistent system that supports learners when they move schools.

For the Code to be successful in delivering against its principles, there needs to be parity at provider, county and national levels in terms of education and health input. There are therefore significant concerns about the use of the following terms - 7.25 – slow progress, 7.4 'slower', 7.43 – 'slowly', These are subjective. There is a need for clear understanding of assessment tools and evidence to make determination. Whilst it is recognised that the Code is not a Code of Practice, some parties feel that there should be case studies made available within the document to provide greater clarity.

There is a very important question that needs consideration and should be addressed in the Code - When is provision 'ALP' as opposed to a reasonable adjustment (Equality Act)? Further detail on this is required in the Code to enable practitioners understand and use evidence correctly to make determination on ALN and ALP.

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

Early Years ALN Lead Officer

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

Yes	✓	No	☐	Not sure	☐
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Supporting comments

The guidance is appropriate for achieving the objectives. There are impact issues for the LA, which are raised under question 62. There are concerns about the breadth and range of settings a lead officer would have responsibility in providing advice to in the absence of more specific criteria in the Code.

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 structure of the chapters are clear. The different chapters and headings are useful for practitioners. The flow diagrams are helpful.

Concerns have been raised about the content in regards to the following issues:

- There needs clarity in what is meant by ‘may have ALN’ – a parent may mention this to any member of school staff and they may not necessarily wish to have assessment, a comment may just occur at a school gate with a teaching assistant for example. Further detail would clarify exactly when the process is triggered.
- Chapter 8 does not provide accurate or clear information regarding educational provision for children under 3. It does not match what is being conveyed verbally from Welsh Government. The setting for providing educational provision needs to be a specific list, for example, Early Entitlement setting. The broad scope the code that the Code currently has is unrealistic and raise expectation. There are no current examples of educational provision in a mother and baby group so it is unclear why this type of setting is referenced. All parties need to have a clear understanding of when learning becomes educational rather than developmental learning through childcare, otherwise the scope for provision is too vast.
- If the scope of settings is going to be as broad as the Code suggests, do all staff have a good understanding of child development as so much can change in that age range and some developmental delays are not ALN?
- The requirement to have Educational Psychology consultation in all pre-school considerations is unnecessary. This may cause unnecessary parental anxiety in cases of a lower level of need and has significant capacity issues especially in light of the recruitment difficulties that LAs are experiencing with regard to Education Psychologists.
- The existing Code and Act will result in an increase in numbers of pupils that will be captured. This includes the increased duties in regards to children who reside in England and the broad scope of chapter 8 will result in significant increase in pre-school referrals. This point is also raised under question 62.

- It is felt that the Code should provide an increased level of detail regarding processes and that these should be driven from a national perspective, not just local to support the overall aims of the reforms.
- It is felt that the following sections are ambiguous - 9.39, 9.44 and 9.45.
- Local feedback indicates a desire for guidance in the Code in terms of tracking and recording the assessment process. The Code does not provide sufficient detail for children who move between local authorities, i.e. assessment through intervention model.
- There appears to be insufficient regard to a graduated response, which is still required in terms of meeting the needs of learners with ALN.
- Travellers that are dual registered; there is concern that LA would be retain responsibility even if the ALN and ALP can be provided by the school.
- It is vital that appropriate sensory specialist professionals are included in a child's assessment, and it is recommended that this is a statutory requirement.

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

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

The use of term time only timescales should apply to all settings, not just schools. As part of their duties, LAs need to be able to communicate with schools and obtain information from them.

The timeframe of 12 weeks is felt to be too short.

Consistency of timescales required, some are referred to as days and some as weeks.

Members of the Youth Council commented that the timescales should be kept to avoid delays in provision.

With regards to Chapter 8; it is felt that for this age range a 12 week timescale is not appropriate as assessment is less predictable. Current practice is for a longer period of observation to enable professionals to determine whether the outcomes of these observations are due to developmental delay or an ALN.

The existing system of health notifications and a longer period of monitoring and EP involvement in preparation for decision making for when the child enters an educational setting is currently working extremely well in Flintshire.

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

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

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

It was agreed that chapter 12 would provide an equitable system, within a legal framework. It is positive that it recognises the voice of the learner in decision making.

12.22 - desired objectives related to Independent living skills. There is cross over between education and social care; all parties need to be clear about what is an educational objective. Independent living skills are typically skills that are lifelong and continue into adulthood, out of the educational system. There is concern around the reference to a general 'desired objective' and whose desired objective takes precedence, e.g. parent or young person as this can be an area of contention for young people with a more severe level of ALN.

Concerns have been voiced from Educational Psychologists in that they currently provide advice related to learners up to age of 19. There are training and qualification implications of working with individuals up to the age of 25. These concerns are also extended to other LA education officers whose current remit ends normally at 16 and exceptionally at 19.

12.29 – significant implications for LAs here, regarding standard of provision - based on what evidence? Parental/young person dissatisfaction?

12.36 – should state that LA 'should' take into account avoidance of unreasonable public expenditure.

Positive feedback regarding consistency and equitable system, voice of the young person, local decision making as opposed to Welsh Government.

Concern expressed in regards to the term 'reasonable period' – some objectives related to independent living skills are lifelong for some people with significant needs and they don't cease after 2 years of post-school education; their learning continues through life.

The Code at present does not provide the level of detail in regards to provision, which will likely lead to difficult situations managing parental understanding and expectations.

There are concerns with regards to the capacity of LAs to provide support and additional resources to young people in FE. There needs to be an agreed level of consistency around the universal provision available across the FE sector.

There are significant concerns regarding funding arrangements for Post 16 specialist provision and how this will be allocated, particularly as a significant number of young people in NE Wales currently access this provision. How will LA funding be determined when needs change on an annual basis? There are training implications in regards to post 19 young people, including EPS and Inclusion officers.

The Code does not appear to refer to the future role of Careers Wales. Input from Careers professionals is an integral and valuable part of the current process and concern has been raised that the need for careers involvement is not required. It is also a concern that the funding currently allocated to Careers Wales as part of the assessment process, is not being included within the WG

budget to be allocated to LAs. This would facilitate the engagement of Careers Wales officers where required.

The extension of the age range is likely to result in an increased demand for advocacy services.

Chapter 13 - Content of an IDP

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

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

The elements of the mandatory content of an IDP are appropriate, sufficiently detailed and cover all aspects relevant to the individual child or young person.

Person centred practice, one page profiles, early intervention and parental engagement are all positive aspects of the IDP. These sections are clear and relevant.

It is a recommendation that the date of issue and plan number is recorded on the IDP.

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

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

The proposed IDP format is thorough and appropriate however, there are significant time implications associated with setting up the initial document either in response to a newly identified child with ALN or the transfer from Statement to IDP.

Concern was raised regarding the individualisation of the format of the form however we recognised that the one-page-profile will be tailored to the style, need and preference of the individual child or young person. The fact that all of the information will be held together in one place is particularly helpful.

Whilst the standard form is felt to be appropriate, it is also felt that accessible versions of it should be made available by Welsh Government.

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

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

The guidance in Chapter 13 is clear and the format of the Chapter is well organised and set out in a clear and structured manner. The language is detailed but user-friendly.

13.27 – it is recommended that it states that a diagnosis ‘must’ be rather than ‘should’ be included, where a diagnosis has been confirmed to the responsible body.

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

Section 13.76 - The use of the word 'invite' implies a direct meeting which will not be possible in many situations. It may be more appropriate to state that the designated LA officer should authorise the need for transport and transport officers should consider options available to facilitate this in the most appropriate and cost effective manner.

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

The proposed timescale and exceptions for relevant persons to comply with a local authority request for information are appropriate.

It is essential that there is a safe transfer of information. Health should be encouraged to use safe online methods of communication to avoid delays due to postal arrangements. It is also recommended that paperwork and reports from health use a common format and language that is easily transposed into the IDP and has a shared meaning to avoid confusion and dispute.

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

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

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

The proposed period and exceptions are considered reasonable. It is unclear however, what the timescale actually relates to, is it purely an acknowledgement that a service is required or that a service will have been initiated?

The Designated Education Clinical Lead Officer (“DECLO”)

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

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

The guidance appears to be appropriate for achieving the objectives. Regarding paragraph 15.41, consideration was given as to whether or not the instruction should be must however, it was recognised that an officer promoted to the role may not have had previous experience as a senior health service leadership role.

The inclusion of the role expectations within the Code supports a consistent approach. The inclusion of requirements around a seamless approach, with IT compatible systems would be beneficial.

A further recommendation is that the DECLO or a designated deputy is able to act as a point of contact for parents, offering information and reassurance regarding the health aspect of the IDP process.

The capacity to deliver the DECLO role across a large health board was raised a concern. Other concerns include access to translation services/staff who can engage in other languages along with general capacity of health professionals to engage effectively in the IDP process.

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

Overall, the structure and content is clear.

16.12 – plain use of English language required. More examples would avoid this being open to interpretation.

Is there an expectation that a Local Authority officer attends every IDP review meeting where the LA maintain the plan? This leads to significant capacity issues.

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

This timescale is considered appropriate for schools and FEIs. The Local Authority timescale should also be in referenced in terms of schools days.

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

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

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

There are significant concerns that there is a remit to reconsider an IDP for child/young person who resides in England. This is confusing for the school and potentially a Welsh LA can be re-considering the IDP while the learner is also undergoing an EHCP assessment or in an appeal process with English LA. The 7 week timeframe for this type of case may prove unrealistic if the child is undergoing EHCP assessment as the information collected via that process would potentially be required by Welsh LA in reconsidering the IDP. Further guidance and clarification is required.

There are concerns about 7 week timescale, particularly in cases of requests to LA to take over responsibility of plan as it states ‘must’ consult with an educational psychologist before making a decision.

There is confusion with regards to the term ‘consultation’ in relation to Educational Psychology service. Clarification is needed to explain further.

It was felt that the school or FEI should provide all information before decision made not after.

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

LAs should have timescales that are term time based.

Chapter 18 - Meetings about ALN and IDPs

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

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

Person Centred Practice is becoming established across Flintshire LA.

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

19.7 – Transition planning ‘must’ not ‘should’ be an ongoing process. Person centred practice should ensure consistency through transition. A flowchart would be helpful in supporting a consistent approach. A further guidance document regarding transition will be helpful for all parties, including young people and parents/carers.

19.27 – Transition into nursery can be a challenge, when parents are notified of placement in May, in line with admissions protocol. Queries were raised in regards to priority within admissions procedures. The role of key worker with regards to admissions was raised.

Although a transition key worker role is helpful, it was felt that a ‘team around the child’ approach is required. This could be referenced in the Code.

Chapter 20 - Transferring an IDP

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

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

20.14 - The wording in this section is unclear.

20.18 - 20.21 The choice of phrasing in these sections makes the content of the paragraphs difficult to comprehend and therefore difficult to be fully cognizant of the duties placed on the LA.

20.22 The requirement for an LA to maintain plans in these instances is impractical. There are other situations such as Managed Moves which would also fall into this category which would also prove difficult to maintain. It is felt that in such instances, the IDP would be the responsibility of the main provider unless there were significant circumstances which would mean that this would not be possible.

There are concerns around the instances where an IDP maintained by ‘old body’ is transferred to a ‘new body’ who may not be able to offer the same level of provision. There needs to be guidance on timescales for the revision of the ALP.

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

This is felt to be appropriate.

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	✓
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Supporting comments

Further clarification is required regarding point 20.20.

Chapter 21 - Ceasing to maintain an IDP

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

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

The structure is clear. Overall, the content is clear however, the cross border issues regarding ECHPs are unclear and have been raised under a different section of the consultation.

There needs to be a comprehensive understating of ALN and ALP for a body to conclude that an IDP is no longer required.

There are concerns around young people who are not engaging in the process, particularly in relation to who maintains responsibility and how decisions can be determined.

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

All timescales should relate to term time only.

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

The structure of the chapter is clear. The content is clear, only after a significant amount of reading and consideration. The descriptions in 22.2 and 22.3 are confusing. 22.4 onwards is clearer.

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 checked="" type="checkbox"/>
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Supporting comments

They are appropriate.

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

They are appropriate but the overall description of the proposals leads to confusion without considerable reading and consideration. It would be helpful if the Code provides a clear explanation regarding 22.45. and definition of 'relevant' LA.

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

The timescales are appropriate.

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

The guidance is generally appropriate, however concerns raised in previous questions may apply to the duties with regards to this group of learners. Further guidance regarding children who are electively home educated is required.

The meaning of the phrase 'in the area of' is not clear and will lead to confusion around responsibilities.

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

Generally, the information about the role of the ALNCo is felt to be appropriate however, it is felt that some of the information provided may be open to interpretation, e.g. 'Highly trained/qualified'. It would be beneficial to have further clarity, e.g. a minimum standard to describe relevant experience, clarity over relevant qualifications etc.

24.6 should also refer to 'teaching responsibilities'.

24.7 It is felt that the link to the SLT should be strengthened with the use of 'must' rather than 'should' to support the ALNCo to fulfil their duties.

There is concern regarding the level of responsibility and status of the ALNCo role along with the statutory nature of the IDP and whether this will be adequately reflected in schools' pay grading policies. Some current ALNCoS have described the new responsibilities as 'overwhelming'.

Further definition for what determines a 'large setting' is required and also what is considered appropriate in relation to the word 'regular'.

The term 'sufficient time' is highly subjective and the Code offers no guidance/protection for ALNCoS should the need arise to negotiate time with SLT. A proposal is that this could be linked to number of pupils on roll with ALN.

There is concern about section 24.15, particularly the requirement that ALNCoS 'must' secure relevant services. ALNCoS cannot be responsible for securing services that are not within their sphere of responsibility, e.g. services offered through the LA or health. A better phrasing may be that the ALNCo must ensure that referrals to relevant services are made and any subsequent advice or intervention is acted upon within the school environment.

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

In general, the requirements are appropriate.

There are concerns about Welsh LAs being responsible for learners who reside in England and attend Welsh school. There is potential duplication if the family are already in dispute with their home authority regarding EHCP assessment/plan.

There are further impact implications which are noted under question 62.

Information regarding resolution services needs to be available in different formats as we are mindful that not all parties have access to online information.

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

Question 43 is a duplication of 42 on the online version of the consultation document. The question on the paper document refers to independent advocacy services.

25.34 – This section should determine that an independent person must be a member of an independent advocacy service.

There should be clear guidance on determining consent to communicate directly with advocates.

Members of the Youth Council commented that they did not feel it is helpful if there are too many people involved and it can feel overwhelming.

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	✓
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Supporting comments

There is a lack of detail with regards to the process. Further points are made under question 47.

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

Further information, guidance and clarity required with regard to how a school or Local Authority determines capacity. It would be helpful to have examples of what evidence is required to support this decision making.

Any other comments

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

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

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

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

There is agreement in principle with the aims of having fair and transparent processes and with the duty on the Tribunal to provide information on alternative procedures for disagreement resolution. There is however, a lack of detail regarding process in the Code, particularly in relation to Case Statements and evidence.

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

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

Currently within the Code, there is the potential to have two appeals to Tribunal open at the same time which will be problematic. The limitations to powers regarding health and reliance on 'Putting it right' procedures, which are not independent is also felt to be an issue.

There are potential issues with regard to cross border procedures, e.g. where a child resides in England and attends a school in Wales. There could be a situation where there is an active appeal in England regarding an EHCP decision and an appeal to the Welsh Tribunal regarding the ALP contained within an IDP; clearer information is required regarding cross border situations. LAs will also be required to provide more comprehensive disagreement resolution services which has resource implications as will the directive for parties to appoint a single expert.

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

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

The case statement process is appropriate. It would be helpful to have more detailed information regarding content of case statements and relevant evidence.

There are concerns about the potential direction for both parties to jointly appoint a single expert to provide evidence. This raise questions around responsibility for funding this.

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

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

All time scales should be in reference to term time. The case statement period of 4 weeks could prove to be challenging should this fall over a school holiday period, particularly the summer holiday.

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

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

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

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

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

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

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

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

All case friends should provide an enhanced disclosure certificate, including extended family members.

Part 3 of the consultation: Draft ALNCo regulations

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

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

We agree they it is appropriate that the ALNCo is a qualified school teacher or SENCo immediately prior to the regulations coming into force.

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

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

Overall the tasks set out within the regulations are appropriate with the exception of 'securing relevant services' as referred to in question 41.

Part 4 of the consultation: Looked after children

(a) Proposed regulations to be made

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

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

This role should be a statutory role within the LA. It would be helpful if the Code provided an overview of the role and the expected post holder skillset and experience, similar to the information provided for the ALNLo, ALNCo and DECLo. This would support a level of consistency nationally. It is felt that this is especially important given the expectation on the LACE Coordinator to take on the lead role for the completion of the IDP for LAC. It is foreseen that this requirement will be further complicated when LAC are placed at significant distances away from the home LA. Having a more consistent approach around the role of the LACE coordinator may help the post holders to complete this role in such situations.

(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

The proposed differences between the LAC IDP and the general IDP are not sufficient to warrant the need for a 'separate' LAC form. In essence, the difference between the 2 proposed forms amounts to the removal of the front information page and the one page profile. Whilst it is recognised that the completion of Part 1 could be seen as duplication of the information within the PEP, the Code could make reference to the fact that this section would not need completing where the IDP is integrated into a PEP. It is felt that the one page profile should be maintained as part of the IDP for all pupils including LAC as these are useful documents for the pupil, school and other professionals and, in the absence of a statutory format for the PEP, this would give an element of consistency across all educational settings.

(c) Proposed revisions to the Part 6 Code

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

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

The generic use of the term 'local authority' leads to some ambiguity around the duties and whether these sit within education or social services. There is also a lack of clarity around the role of the LACE Coordinator which may have a role in the completion of PEPs, but a more defined role in the completion of IDPs. These points are particularly important given the difference in the routes of challenge for the two Acts involved, with the 2014 Act having a route through the LA' complaints process and through Tribunal for ALNET.

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

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

The proposal to integrate the PEP with the IDP is a positive development however, the requirement for IDPs for all LAC to be the responsibility of the LA is not appropriate or practicable. It is felt that the school where the child attends should have responsibility for the IDP unless, as with other children, they have a level of need that requires additional ALP that the school could not reasonably provide. The proposed system could create a situation where a school perceives that they do not have the lead role in the education of the child which is not one we would want to perpetuate. It has

the potential to create tension between the LA and school around the completion of the document, particularly if the child is placed at a significant distance away from the home LA.
The proposal for the content of the PEP to be specified is a positive development, it would however be useful to have a mandatory format as has been provided for the 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 checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

There is a level of ambiguity about the role of the LACE Coordinator which is not helped by having to reference two separate documents. It would be helpful to have a separate chapter within the ALN Code that specifically covers LAC given the distinction between the process for these individuals and that of the majority of other children with ALN.

Part 5 of the consultation: Impact of proposals

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

There are many significant impacts as a result of the Code and regulations. On the whole, these are in relation to resource increases. This includes workforce time and administration costs. Chapter 3 and 18 will have significant impact on officer workload and time, particularly as we move towards an increase in meetings with families. Other factors are outlined below:

- Training implications for the new ALNLO and ALNCOs in all areas of ALN, including sensory.
- The need to increase the level of Welsh-medium provision and the inherent difficulties associated with the recruitment of Welsh speaking staff in a border county.
- Increase in provision of resolution services and advocacy along with workforce development in the area of dispute resolution.
- Workforce development and training for officers, psychologists and administrators in response to the increase age range.
- Resource Implications of Ch 8 due to ambiguous scope of settings covered. We will very likely see an increase in notifications and the expectation that all will have educational psychology involvement.
- Additional costs, including officer and administration in order to comply with new duties identified in Chapter 12.
- The role of the LACE Coordinator will have resource implications.
- Expectations of FEIs with regards to accessing Local Authority support services will have resource impact.
- It is very likely that we will see an increase in need for resolution and tribunal services. This will have impact on Local Authority resources, including time and administration.

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

There is potential for positive impact; raising the profile of the Welsh Language and ensuring that one language is not seem as more favourable.

The regulations and Code should also make specific reference to WESP.

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:

- x) 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?;
- xii) 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.

Although the implementation period is not covered in the Code and regulations, it is an area that needs consideration. The expectation with regards to 'conversion' poses a huge challenge. Given the increase in the number of pupils covered in the in the new system, it will be necessary for the LA to increase its capacity to deliver the new system and also transfer the existing pupils. At present, the grant funding is primarily focused on preparing for the new system and does not take into account the implementation period.

Respondent Details

Information	
Name	Respondent requested anonymity
Organisation (if applicable)	

Part 1 of the consultation: The draft ALN Code

Chapter 1 - Introduction

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

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

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

You may wish to split 1.13 though as it makes reference to two different points;

1.13 The Code includes statutory guidance. A relevant person, when exercising functions under Part 2 of the Act, **must** have regard to relevant guidance in the Code. This means that when taking decisions, they must give consideration to what the Code says which is relevant to the decision. Where this Code says that a relevant person **should** do something, the person must consider this *and* follow it unless they can demonstrate that they are justified in not doing so. Similarly, where this Code says that a relevant person **should not** do something, unless there are exceptional circumstances, the person should not do it. A relevant person will be expected to explain any departure from the statutory guidance.

Change to;

1.13a The Code includes statutory guidance. A relevant person, when exercising functions under Part 2 of the Act, **must** have regard to relevant guidance in the Code. This means that when taking decisions, they must give consideration to what the Code says which is relevant to the decision.

1.13b Where this Code says that a relevant person **should** do something, the person must consider this *and* follow it unless they can demonstrate that they are justified in not doing so. Similarly, where this Code says that a relevant person **should not** do something, unless there are exceptional circumstances, the person should not do it. A relevant person will be expected to explain any departure from the statutory guidance

There is also a 'must' which is not bold and red;

1.13 The Code includes statutory guidance. A relevant person, when exercising functions under Part 2 of the Act, **must** have regard to relevant guidance in the Code. This means

that when taking decisions, they **must** give consideration to what the Code says which is relevant to the decision. Where this Code says that a relevant person **should** do something, the person must consider this *and* follow it unless they can demonstrate that they are justified in not doing so. Similarly, where this Code says that a relevant person **should not** do something, unless there are exceptional circumstances, the person should not do it. A relevant person will be expected to explain any departure from the statutory guidance.

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

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

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

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Structure of the draft ALN Code

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

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

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

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

<p>A ‘good practice’ guide/documentation could be produced alongside the code and/or digitally.</p>
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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 type="checkbox"/>	No	✓	Not sure	<input type="checkbox"/>
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Supporting comments

This would be a potentially risky strategy as the Management Committee of a PRU is not held accountable in-statute for other items and therefore this decision could destabilise how many people agree to sit on Management Committees going forwards. Essentially WG would be giving accountability for IDPs to those people who sit on the Management Committees which could also create a conflict of interest as many of those people are from within the Local Authority.

Additionally, a pupil may arrive at the PRU with an IDP as one would expect a graduated response to have been put in-place within the mainstream context, so it would just be the ALP which would need to be considered.

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

However there is little recognition that a very small number of CYP may be unable to communicate or share their views/wishes and that this may also be the case with Parents/Carers. Sometimes we can overlook that the Parents/Carers of some of our more limited CYP also have significant limitations in terms of communication, expectations and participation.

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

However this is likely to create a conflict between schools and LAs in terms of finances and expectations; for example a LA with a limited budget could deem that it is appropriate that all schools offer intervention x as a result of an ALP review and could provide initial training but not resource/funding to enable that to happen which would mean hidden costs of providing the ALP is lost as this would then not be a specific ALP but an expectation on all schools.

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

Very clear and gives good explanations that would be easy to understand in various settings.

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

Use of diagram gives a good visual representation of the process discussed in the chapter.
Clear differentiation between what establishments must and should do.
Section 9 gave a lot of relevant detail around its subject matter.

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

Yes	✓	No	<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	✓	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 checked="" 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

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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

Language appear to be more legally biased as opposed to a code that suggests/ gives guidance to what is required e.g. explaining how to complete a section that says date of birth.

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

May wish to strengthen for children and young people with behavioural, emotional and social difficulties as the Learner Travel (Wales) Measure 2008 can create vulnerabilities in terms of an understanding of their difficulties in regulating themselves on school transport.

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

6 week timescale is good however in reference to 15.12 it is not clear who decides if the timescale is impractical due to outside circumstances as this may give ambiguity to the deadline.

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

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

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

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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 checked="" type="checkbox"/>
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Supporting comments

Does ‘should’ offer enough accountability from 15.40 onwards?

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

The process is clear but time will be required to embed this through appropriate consultation / support events. The resources / practicalities of completing the IDP will potentially be a challenge / problem.

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

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

For example health timeframes for responses are currently beyond waiting times for health appointments.

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

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

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

The Chapter is not reader friendly and easy to understand.

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

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

Time frames could be unreasonable for complex cases especially where a wide variety of medical needs need to be identified / included in the plan.

Chapter 18 - Meetings about ALN and IDPs

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

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

Principles and guidance are reasonable if a little complex in some of the language.

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

Transition planning can become more challenging as the cost of the new placement increases and the availability of specialist placements may be limited; this aspect of the code may become unworkable if provision is not available.

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

LA's / Schools should have one common operational system across Wales for transferring IDP's.

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

Complex language / procedure; why are Welsh Ministers involved?

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

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

Chapter 21 - Ceasing to maintain an IDP

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

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

A pupil who wishes that an IDP should be ceased does not make sense operationally; could a child therefore compromise / refuse their place at a Special School by refusing to have an IDP if having an IDP was a criteria for entering a special school?

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

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

Chapter 22 – Children and young people subject to detention orders

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

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

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

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

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

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

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

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

Chapter 23 - Children and young people in specific circumstances

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

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

DUPLICATED QUESTION

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	✓	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.

8.23 ‘Where, following a referral to an NHS body, the body identifies a relevant treatment or service likely to be of benefit in addressing the child’s ALN,’ – this poses a risk as some NHS treatment and intervention will not ‘address’ a child’s ALN but may significantly improve their quality of life. Think the term may need to be reconsidered.

9.3 ‘The pupil is a young person who does not consent to the decision being made;’ – how is capacity of that young person being defined?

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

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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 checked="" 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?

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

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

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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?

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 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

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

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

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

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

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Part 3 of the consultation: Draft ALNCo regulations

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

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

There is no reference to specific experience with children with ALN; the Early Years ALNCO is more specific to ALN; could a similar format/requirement be added here?

Experience and expertise of the Early Years ALNLO

8.40 The Early Years ALNLO **should** have experience of and expertise in:

- working closely with children in the early years who have ALN and their families; and
- dealing with the provision of services for meeting the ALN of these children, across a range of settings.

8.41 The local authority **should**, therefore, only designate an Early Years ALNLO it considers to be suitably qualified and experienced to deliver the expectations of the role as set out in paragraphs 8.42 to 8:47 of this chapter. Specifically, the Early Years ALNLO **should**:

- be capable of providing overall strategic direction to ensure the local authority is able to meet its statutory duties in relation to children under compulsory school age who are not yet in a maintained school; and
- be able to act as a source of expertise for providers of childcare and non-maintained nursery education and their umbrella organisations on matters relating to ALN.

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

There are lots of responsibilities; the role could be overwhelming and may create a potential recruitment challenge as people would be reluctant to take on this level of responsibility. Changing the duty to be on GB's or HTs or changing the term to 'should' may soften things slightly.

Part 4 of the consultation: Looked after children

(a) Proposed regulations to be made

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

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

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

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

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

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

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

Some LA's will need to appoint LACE coordinators if they no longer exist. IDP's being held as part of a PEP is a reasonable idea however previously a statement would have carried a wider professional overview / input than a PEP.

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

More specific info / practical info could be shared if the role is statutory.
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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?

- **Greater accountability for health colleagues**
- **Less conflict and SENTWs**
- **A quicker response to professional and parental requests for support**
- **More consistency across Wales**
- **Financial risks for LAs which could be passed onto schools**
- **Greater pressure on schools; there is potentially a negative impact on those schools who offer a broad provision and are fully inclusive as this would be considered as part of their 'offer' and therefore would not be part of an ALP and/or be funded**
- **Potential recruitment challenge for ALNCO positions**
- **Recruitment needed within LAs (LACE, Ed. Psych's to meet demand)**
- **Significant financial and time implication during transition period**
- **Skill-set required by ALNCO in facilitating IDP meetings and coordinating requirements/views of all parties (including aligning those views) is extremely challenging**

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

Positive in that ALPs would need to be provided through 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:

- xiii) 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?;
- xiv) 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.

Good, strong Bill and Code which could be thwarted or limited in its impact by the resource implication at National, Regional and Local levels.

Respondent Details

Information	
Name	Sarah Dixon / Catherine Edwards
Organisation (if applicable)	Blaenau Gwent CBC

Part 4 of the consultation: Looked after children**(a) Proposed regulations to be made**

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

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

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

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

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<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 (Annex A) 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.

In this consultation document, the one page profile is not contained in Annex B (proposed IDP format for children looked after). 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.

If section 1 was included in the IDP for children looked after, then the one page profile would also be included.

The IDP is not child/young person/family friendly. Significant work has been carried out preparing the workforce to be person centred in their approach. The proposed Annex B does not provide a framework to reflect the voice of the child/young person.

(c) Proposed revisions to the Part 6 Code

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

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

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 PEP and an ALN and are of compulsory school age or below and are not a detained person). Instead, 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.

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

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

The approach in Part 6 does explain the changes but 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

Paragraph 110 outlines that the mandatory content of 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	✓	Not sure	<input type="checkbox"/>
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Supporting comments

The changes to Part 6 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 states that 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. This is not made clear in Part 6.

The ALN Code refers to 'should' in relation to the role of the LACE Coordinator in fulfilling this function:

The ALN code states that where a local authority has a duty to decide whether a child has ALN, it **must** designate an officer as responsible for co-ordinating the actions required to make that decision and, if an IDP is subsequently required, to be responsible for preparing it. In the case of child who is looked after by the local authority, the officer designated **should** be the local authority's LACE coordinator.

'Should' meaning: the person must consider this *and* follow it unless they can demonstrate that they are justified in not doing so.

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

Respondent Details

Information	
Name	
Organisation (if applicable)	RCT CBC Governors Association

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

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

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

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

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Timescales

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

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

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

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

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Structure of the draft ALN Code

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

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

Very comprehensive, covers the personnel/the various roles and requirements.

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

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

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

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

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

Appropriate as the PRU has the day to day involvement and responsibility for managing the provision along with direct contact with the young people and their parents.

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

Listening to/involving the young people and their parents is a must.

However, points 2.24 and 2.25 could be made more firm.

I don't think that the measures relating to the provision via the medium of Welsh is robust enough as in "must consider", "must take all reasonable steps".

Giving consideration does not mean any action has to be/will be taken.

How can “all reasonable steps” be defined, which again leaves LAs with a “get out” clause.

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

Again gives consideration to the views of the pupils and parents and assistance to aid understanding.

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

Gives clarity in the use of must/should. Footnotes and reference to other related documents are very useful.

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

I found a lack of robustness in several of the points in this section.
5.3 “Must consider” in relation to the provision of Welsh – does not necessitate action.
5.4 “Should include Welsh medium workforce”
5.8 – 5.14 refers to the LA ensuring adequacy of provision and future planning to meet needs. Nowhere does it specifically refer to the fabric and size of the building/classrooms.
Particularly in relation to ALN provision there is a lack of guidance on this aspect of provision. Often pupils with ALN require equipment and devices to assist/enable them to

access learning in addition to one to one (in some cases more) support, yet there is no guidance as to what would be suitable classroom capacity to accommodate these needs.
5.14 A glaring omission from the list is that of the school's governors who are responsible for managing the finances, employing the staff and overseeing the SIP/SER all of which directly impacts on what's covered in this chapter.

Chapter 6 - Advice and information

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

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

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

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

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

Explanations given provide clarity.

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

The chronology is detailed and the inclusion of the multi-agency approach is useful. Flow charts also useful.

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

8.40 “should have experience” – needs to read **MUST** have experience. This is a person who is going to be advising at a strategic level across the LA how can they do this without first hand experience? They won’t have credibility with those they will be advising/instructing. This is the sort of role where the post holder will need to ‘hit the ground running’, learning on the job is not an option here.
 8.41 Again needs to read **MUST** with regard to experience. This is vital as in early years provision, time is of the essence in gathering pupil information to inform future strategies to best help the child.

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

Detailed, use of must provides clarity. Flow charts also help clarification

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

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

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

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

Chapter 13 - Content of an IDP

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

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

Vital especially if pupils move schools/Authorities.

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

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

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

In some instances travel can be a barrier.

Chapter 15 – Duties on health bodies and other relevant persons

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

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

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

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

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

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

The Designated Education Clinical Lead Officer (“DECLO”)

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

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

Relevant experience/training brings understanding/empathy and the ability to see the bigger picture and thereby meet the strategic role.

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

Helped by the cross reference to links to requirements in other sections and the inclusion of a flow chart.

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

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

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

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

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

Chapter 18 - Meetings about ALN and IDPs

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

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

Avoidance of duplication/confusion.

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

19.64 – 19.66 does not go far enough. Could be improved by the inclusion of examples of services and facilities that may be appropriate.

Chapter 20 - Transferring an IDP

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

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

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

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

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

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

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

Chapter 21 - Ceasing to maintain an IDP

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

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

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

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

Chapter 22 – Children and young people subject to detention orders

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

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

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

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

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

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

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

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

Chapter 23 - Children and young people in specific circumstances

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

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

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

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

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

On a practical level it will be difficult for a small school to facilitate. A solution could be linking with another school or on a cluster basis.

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

However - the definition as to who would be suitable to act as a Case Friend needs clarification. Possibly by giving examples of who might take on this role and who is not suitable for the role.

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

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

This is a duplication of Q42

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

The definition as to who would be suitable to act as a Case Friend needs clarification. Possibly by giving examples of who might take on this role and who is not suitable for the role.

Any other comments

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

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

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

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

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

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

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

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

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

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

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

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

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

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

They correspond with timescales given in the other document

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

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

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

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

Part 3 of the consultation: Draft ALNCo regulations

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

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

<p>The person undertaking this role needs to have had training and experience in providing for children/young people with ALN.</p>
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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 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(Children Looked After)

(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

Heading should read - Children Looked After

(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

As Children Looked After have another level of need to be considered/catered for.

(c) Proposed revisions to the Part 6 Code

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

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

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

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

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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

Could not see any specific explanation.

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?

If fully implemented, clarity for all stakeholders and the standardising of paperwork which will ease transfer of information between schools/Authorities. This should improve provisions for pupils.

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 lack substance, they need to be more robust. “Should” allows for a let off.

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?

See comments above.

Provision of specific Welsh courses for ALN providers.

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

Respondent Details

Information	
Name	Ceri Jones
Organisation (if applicable)	Access and Inclusion, Rhondda Cynon Taf

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

Yes. The use of the terms must, must not, may, should and should not are clearly explained in paragraphs 1.10 - 1.16 of the Draft 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 checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

This question encapsulates the contradictions in the Act and in the subsequent Code of Practice. All professionals working in this field would support the principles of early identification and prompt support. However, the 7 week timescale set out in the Code will be very challenging to deliver, particularly in more complex cases. Achieving compliance with such a timescale will require significant additional funding for schools, LAs and all partner agencies. If this is not the case these timescales will not be met and will result in considerable increase in litigation and reputational damage for local authorities and Welsh Government (WG).

The Code should provide flowcharts for easy and accurate reference of processes and associated timescales. This will prevent confusion for stakeholders and will remove the possibility of various interpretations of processes and timescales. A Code of Practice to

support the Code would be welcome. The inconsistencies between the 12 week timescale for LAs and the 14 week timescale for 'Putting it Right' for NHS queries is untenable.

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 statement in paragraph 1.34 is a concern. This indicates that an IDP must be prepared even if there is outstanding evidence which might provide a fuller picture of the extent of ALN. It is a huge concern that as a legal document an IDP could be prepared in order to meet a statutory timescale without crucial evidence from professionals being included. Whilst it is understandable, for the sake of clarity, that WG only want to have one exception “circumstances beyond the responsible body’s control”, this would be impractical for the local authority being the body responsible for the IDP without relevant input from partner agencies such as Health. It would not be reasonable to expect a local authority to be required to defend this decision around the IDP and the ALP in such circumstances and consequently have to fund any provision which may then result from tribunal decisions, because of incomplete advice.

1.37 refers to other exceptions being detailed within footnotes of the Code, however these footnotes cannot be found.

Structure of the draft ALN Code

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

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

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

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

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

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

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

Management Committees of PRUs are in their infancy relative to Governing Bodies in schools. It is not felt that management committees have the systems and expertise in place to carry out such functions at this time.

Chapter 2 - Principles of the Code

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

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

The local authority is fully supportive of the general principles as set out in the draft ALN Code and the 2018 Act: a rights-based approach, early identification, intervention and effective transition planning, collaboration, inclusive education and a bilingual system. What is not accepted is the view held by Welsh Government that developing this system will be “cost neutral” for Local Authorities in Wales. To deliver on these aspirations significant additional funding will be required.

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

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

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

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

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

This chapter gives very clear guidance on what local authorities should or must consider when carrying out their duties. This will be helpful in ensuring effective planning and commissioning of provision to meet the needs of children and young people with ALN.

In relation to paragraph 5.12 which requires LAs to have evidence of the quality and range of provision available in schools, this will be challenging to local authorities and there will need to be a partnership approach with Regional School Improvement services. The delivery of high quality provision for children and young people with ALN must be seen as part of the school improvement agenda as a whole.

However, specific reference should be made to the qualification of Mandatory Qualified Teacher of the Deaf, VI and MSI.

Chapter 6 - Advice and information

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

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

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

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

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

The explanation of the definition of ALN provided lacks sufficient clarity and needs revising as a matter of urgency.

The term “significantly greater difficulty in learning than the majority of others the same age” is extremely vague. In its current form, this definition creates the potential for a huge amount of conflict between parents and schools, schools and local authorities, local authorities and parents, FEIs and parents, FEIs and local authorities, LAs and Health bodies.

Due to the vague, subjective nature of the definition, any decision taken by LAs will be open to local challenge and it is inevitable that LAs will face increased legal challenges which will be time consuming and costly.

All parties consulted during the LA consultation process, raised concerns about the subjective nature of the terms ‘significantly greater difficulty’. The context of different schools means that there could be a wide variation in identification based on this statement. The vagueness of the statement could lead to disagreement and dispute between different stakeholders – LA, Schools, Parents, other professionals.

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

A clear and comprehensive explanation is given on the range of evidence which may be required in the decision making process about ALN and ALP.

The range of agencies and professionals identified in the chapter highlights the scope of this reform and the extent to which so many professionals need to work in partnership to ensure the successful implementation and delivery of the principles set out in the Act. All of these groups will need to increase their capacity in order to support the increased expectations around partnership working,. If any of the partners are unable to do this, the ability of LAs to discharge their function effectively will be diminished.

It is concerning to note that although Chapter 7 does not single out Educational Psychology as a discipline that is more crucial to the decision making process about ALN than any other

professional body, subsequent chapters identify educational psychologists as key professionals in the process. For example, in paragraph 9.55, it is stated that “As part of the process of deciding whether a pupil has ALN, a local authority must seek advice from an educational psychologist”. This is far too prescriptive, in reality, the most appropriate professionals to advise on whether a pupil has ALN will depend on the nature of the ALN. LAs now use a range of professionals who are experts in their field to support and work with young people and the guidance will need to reflect this. An over-reliance on Educational Psychology will also create a crisis in capacity as there will be insufficient numbers of trained Educational Psychologists to meet the increasing demands.

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

Early Years ALN Lead Officer

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

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

The guidance does set out clearly the role, experience and expertise required of the Early Years ALNLO. There is no doubt that this is an important post within LAs and one which is required if LAs are to be able to discharge their additional duties from 0-3 and ensure that identification of need and effective transition into mainstream education is achieved. There has to be a recognition, however, by Welsh Government, that this is a post that does not currently exist in LAs and therefore LAs will need to find additional funding to create this post.

Duties on schools, FEIs and local authorities

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

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

The structure is clear but there are a number of concerns regarding the content (see Q16)

Whilst each chapter deals with a different category and is intended to enable schools, FEIs and LAs to identify quickly the specific duties to them. This is open to interpretation and the Code should provide flowcharts to ensure consistency with processes and timescales. There is also reference to the contents of communication for parents.

It would be helpful to have a Code of Practice, to support the Code, to ensure consistency across Wales, which could include process maps, proforma letters and leaflets.

Chapter 8

The 12 week process to determine if a child has ALN and to prepare an IDP will be difficult to meet. In this time advice has to be sought, decisions made, which is likely to be a panel process for many LAs. In the spirit of the act, there should be time to allow for disagreement resolution. This will be difficult to achieve with little time between the issue of a draft IDP for consideration and finalising within 12 weeks. Sufficient time for effective dispute resolution would reduce the number of appeals to tribunal.

Chapter 9

Significant clarification is required in respect of referrals to the LA. It is considered that LAs will see a significant increase in number of referrals

The 7 week timescale to reconsider a schools decision is based on the fact that schools would provide the LA with information obtained and therefore would not require a 12 period. However, if there is the need to obtain further information e.g. health, the code refers to the NHS having 6 weeks to respond to LA referrals. This timeframe leaves little time for dispute resolution, which is highly likely to be required if there have been school based issues that have necessitated the referral.

There is no duty placed upon the NHS to respond to school requests for information this is likely to result in increased referrals to the LAs

The duty placed on LAs that they must seek EP advice is considered untenable.

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

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

All professionals working in this field would support the principles of early identification and prompt support. However, the 7 week timescale set out in the Code will be very challenging to deliver, particularly in more complex cases. There is a concerning disparity between the timescales set out for FEIs and LAs; FEIs have 35 working days whereas LAs have 7 weeks. This does not take into consideration the added difficulties LAs are likely to encounter when attempting to liaise with all parties involved in the IDP over school holiday periods, particularly holiday periods of 5 days or more which will make the timescales even more challenging to deliver for LAs.

The differences in time scales for schools and Local Authorities whilst understandable in principle could prove difficult to meet. Current experience demonstrates that to write effective plans there needs to be quality partnership between the two bodies, and parents. School holidays will be a significant barrier to this partnership working. Meeting to discuss IDP needs greater emphasis than the 'should'. Concerns about a high level of demand on lower funded provisions, may need to be addressed. Time scales involved may need to be more flexible

Achieving compliance with such a timescale will require significant additional funding for schools, LAs and all partner agencies. If this is not the case these timescales will not be met and will result in considerable increase in litigation and reputational damage for local authorities and Welsh Government (WG).

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

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

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

The majority of the identified paragraphs give clear guidance, however some content could be open to interpretation.

Points which need to be clarified are:

Defining realistic expectations in relation to outcomes

Difference between purely social care provision as opposed to educational provision which could be interpreted as social care eg independent living skills.

12.37 – it is concerning that the Code indicates the local authority should maintain an IDP if the ‘reasonable needs’ for ALP would not be met. The term ‘reasonable’ needs to be expanded and exemplified as the term ‘reasonable’ would be widely interpreted. An agreed minimum expectation for FEI maintained provision should be identified.

12.48 – this is crucial to the effective provision of residential placement but needs to be strengthened in relation to joint funding arrangements. The wording ‘might consider’ does not give enough onus on health to cooperate.

Chapter 13 - Content of an IDP

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

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

The content is clear.

The inclusion of measurable outcomes for ALP gives a clear focus for implementation.

The element regarding to commenting on the capacity of either child/parent or young person is a contentious issue – many IDP co-ordinators may feel they do not have the expertise to

comment on this. The LA has concerns regarding the legal redress when making such judgements. Will there be guidance on how these judgements should be made? Feedback taken from the LA from current SENCOs / ALNCOs indicates that they would not be willing to comment on a person's 'capacity' but would be happy to comment on whether a person 'needed support' with the IDP process.

13.44 The LA will only be able to describe provision recommended by health professionals. This could lead to the inability to explore creative solutions or may fall short of the expectations of parents.

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

Whilst a one page profile is a mandatory element the format is not particularly Person centred. The idea of one template for all ages and needs may not be the most appropriate or suitable. Reference to appeals to Education Tribunal are highlighted in the form which the LA feels is unnecessary and pre-emptive and may encourage parents to proceed in this direction without engaging in purposeful mediation. There is no mention in the form about mediation. As this provides an overview of what has happened so far, what has been tried, what has worked, in order to plan next steps.

The emphasis on transition at all stages of a child / young person's development is considered positive. However, clarity is required as to what needs to be entered into this section – issues relating to transition or a transition plan for example.

The mandatory form has one column for a review/end date. It was considered that this should be separated. This would ensure that all ALPs made are subject to review to consider effectiveness and if provision has achieved its objectives.

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

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

The guidance is very general and lacks detail. As a result LAs will continue to make decisions based on the guidance set out in the “Learner Statutory Provision and Operational Guidance 2014”.

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

See supporting comments for Question 23.

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

Clarity is required about the use of the two sections, 65 and 20. It was understood that section 65 is the request for advice. It was considered that the LA, to comply with the timescales, would need to request under section 65 and refer under section 20 at the same time in order to obtain the necessary information to complete the IDP. This would provide the pupils medical needs together with intended provision to meet those needs.

The 6 week compliance time in a 7 or 12 week timeframe is ambitious as Health cannot meet current timescales and very often do not provide by the 26 week deadline to issue a final statement

Concern that the requirement to provide information does not apply if it is ‘impractical for the relevant person to do so due to circumstances beyond its control’. What circumstance would apply? This needs clarity to avoid potential conflict.

Paragraph 15.7 states that a “relevant person must comply with such a request unless it considers that doing so would be incompatible with their own duties or would otherwise have an adverse effect on the exercise of their functions”. It would be very helpful to clarify the

meaning of this caveat to avoid future conflict between a relevant person and the LA making the request. For example, would it be acceptable for a relevant person not to comply with such a request on the grounds that there were insufficient resources to provide the advice and there was a waiting list for the service.

It is also a huge concern that neither schools nor FEIs can request help or information. Further, it is stated in paragraph 15.10, if a school is not able to obtain the advice they need from a relevant person, they should raise the matter with the responsible LA and that the LA “may need to take over responsibility” for the IDP. This may result in LAs being forced to take over responsibility for numerous IDPs simply because advice to schools is not being provided. Currently gaining timely advice from a range of professionals is challenging due to lack of capacity in crucial services such as therapeutic services in health. Paragraph 15.12 states that a relevant person must comply promptly within a period of six weeks from receiving the request. However, the paragraph goes on to state that this requirement does not apply if it is “impractical for the relevant person to do so due to circumstances beyond its control”. What constitutes such circumstances needs clearly defining and should be the same definition as that set out in paragraph 1.35 in respect of other bodies.

The Designated Education Clinical Lead Officer (“DECLO”)

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

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

The strategic emphasis that is placed upon the role is wholly appropriate. However, capacity is likely to be an issue for Local Health Boards to deliver the objectives set out in the Code.

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

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

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

- There is no guidance in Chapter 16 which sets out the requirements on health bodies and other relevant persons to contribute to reviews. It should be made clear in the Code that if a review is agreed by the body maintaining the IDP and advice is requested about the ALP provided, the health body or other relevant person must contribute fully to that review. If this is not stipulated, the review process will become meaningless.
- The aspiration set out in the Act and the draft Code for multi-agency partnership working needs to be supported by the Code and the responsibilities of all partners made clear in this regard. If this is not set out clearly in the Code, agencies will not create the capacity to contribute in a meaningful way and local authorities will be the only body held to account. In the current system, it is difficult for health bodies to engage in the review process in a meaningful manner and this will continue to be the case unless the duty to contribute in this way is set out in a legal framework.
- It is very concerning that no limit is set in terms of the number of reviews that can be undertaken in a calendar year. The IDP review process as set out in the draft Code is very rigorous and all partners are expected to contribute fully to this. As the Code is currently set out, it would be possible for a review to be requested every 35 days in the case of an FEI or school and every 7 weeks in the case of a local authority. In the face of such requests, the onus would be on the body responsible for the IDP to prove that it was unnecessary which will drain the resources of that body and undermine the system. The Code should protect bodies from such an approach by requiring those requesting a review to demonstrate the basis on which a review is required.
- The guidance on exceptions in paragraph 1.35 is clear. However, it will be extremely challenging for LAs to comply with the timescales when faced by a potentially significant increase in requests for reviews, particularly when needing to collaborate with a school based stakeholders during school holiday periods that extend beyond 5 school days.

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

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

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

There are many risks for LAs which result from this section of the draft Code. It significantly increases the rate of the LA in determining whether a schools' decision making and provision
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for pupils with ALN is correct when challenged by parents. The process of “reconsideration” as set out in the draft Code is extensive and the 7 week timescale for achieving the expectations set out in the Act is very challenging.

The LA currently has no such role with schools, certainly no role which is set out in law with rights of appeal to tribunal which is the proposal under the draft Code. As a consequence to fulfil this function effectively, a significant investment to increase the resource and capacity within an LA to do this. It is also highly likely that the number of such requests for reconsideration made to the LA will be significant and if this were the case, LAs could become overwhelmed and unable to meet its statutory requirements.

Even more significant is the intention set out in the Code for an LA not only to be the body which has the statutory duty to “reconsider” and ultimately take over responsibility for IDPs in all maintained schools in Wales. The code also gives the same duty to LAs in respect of FEIs. This is unworkable and does not fit with current education legislation.

LAs have no legal jurisdiction over FEIs, they are separate entities and are funded from Welsh Government. It would be wholly inappropriate for LAs to carry out this role within the FE sector and wholly inappropriate for LAs to become responsible for IDPs for pupils attending FEIs. It would be far more appropriate under current legislation for Welsh Government to take over this responsibility.

Paragraph 17.25 makes reference to ‘the school or FEI should consider consulting an educational psychologist...’ as referred to previously, this should be expanded to include other relevant specialist professionals eg advisory teachers.

Chapter 18 - Meetings about ALN and IDPs

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

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

The principles and guidance provided is appropriate, however, as stated previously, schools and LAs will require significant investment to increase skills and capacity of staff in order to meet the aspirations as set out in the Act and the draft Code.

Chapter 19 – Planning for and supporting transition

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

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

In general, this chapter in the draft Code provides guidance to support effective transitions when moving into, between and out of educational settings.

As stated previously, the LA should not have any responsibility for an IDP when a young person is attending a FEI. It is absolutely appropriate for the LA to work with the FEI to ensure a smooth and effective transition but once this process is completed, all responsibility for meeting the needs of the learner with ALN should transfer to the FEI.

Paragraph 19.54 states that learners with ALN who are at risk of becoming NEET should be identified as a priority group requiring enhanced services and the involvement of Careers Wales. The LA has concerns regarding the capacity of services to provide this support.

Chapter 20 - Transferring an IDP

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

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

The content of this Chapter as it relates to transfers for children looked after by a local authority, where a child ceases to be looked after and transfers from a local authority to an FEI are unsatisfactory.

Section 20.12 – 20.13 needs to be strengthened.

It is crucial that FEIs are funded appropriately to be able to develop the provision required to meet the needs of young people with ALN. The current draft Code does not address this fundamental issue. Chapter 20.12 states that an LA may request the FEI becomes responsible for maintaining the IDP for a student who transfers from a local authority to an FEI. The expectation should be that the FEI would automatically become responsible for the IDP. The section goes on to say “such requests should only be made where the local authority believes that it would be reasonable for the FEI to secure the ALP as set out in the IDP”. The fundamental issue to be addressed is the inclusive nature, or otherwise of FE institutions which is a decision which needs to be taken by Welsh Government. For the ALN Act to operate effectively, it is fundamental that FEIs are seen as an integral part of this and Welsh Government need to legislate to this regard and ensure that FEIs are funded appropriately to meet these needs. The current draft Code fails to do this and as a consequence creates the danger that by default, responsibility for developing provision and meeting the needs of the 16-25 year old with ALN will need to be developed or commissioned and/or funded by local authorities. This will place huge financial and operational strains on LAs which will be unsustainable for future generations.

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

The term ‘reasonable’ in relation to what an LA can consider an FEI to provide in terms of ALP is vague and open to interpretation and great variation across LAs. There needs to be an agreed understanding of what ‘reasonable’ means in this context with minimum expectations for ALP within all FEIs.

Whilst we appreciate the provision of a body to appeal to, clarity regarding the criteria upon which the Welsh ministers will make their decision needs to be agreed and widely available. This will prevent unnecessary conflict between LAs and FEIs and will avoid unnecessary workload for LAs, FEIs and Welsh Ministers. As a new requirement, written requests that LAs will be required to make to Welsh Ministers to review cases in dispute are likely to be time consuming and will have an impact upon the capacity of LA services. This is unlikely to be cost neutral in its implementation.

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

The aim should be seamless transition and continuity of ALP, with appropriate transition arrangements there should be no need to review provision as the new body will have been an active partner in the previous review. Only where this has not been possible should there be a need for a review on entry.

Paragraph 20.20/21 – There is lack of clarity in these paragraphs regarding interim arrangements where there may have been, for example, a breakdown in placement.

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

There is lack of clarity in relation to the timescale for LAs to reconsider a school’s decision to cease an IDP. It is clear that there are 4 weeks during which a request for the LA to

reconsider a school’s decision can be made but it is not clear how much time the LA has to make its decision following the request. Do the request and the decision made by the LA have to both be made within the 4 week period? For example, if the parents make a request to the LA during the last few days of the 4 week period, it would be extremely unrealistic to expect the LA to be able to comply with the request within the 4 weeks.

Chapter 22 – Children and young people subject to detention orders

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

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

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

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

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

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

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

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

This is reassuring as it would be highly unlikely that LAs could comply with fixed timescales due to the complexity of the cases above. The timescales clearly take into account the typically short nature of custodial sentences and the practicalities of securing appropriate ALP within the limitations of youth accommodation for detained persons.

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

However, the arrangements for children in the area of an LA in England, registered at a school in Wales, are not clear with references to several preceding chapters – a flow chart would be very helpful.

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

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

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

The move to make the role of ALNCO a mandatory post is very much welcomed as is the requirement for them to be a registered school teacher. Given the highly strategic emphasis to this role, it is questionable if a teacher with just the statutory induction period of experience has enough experience to effectively undertake the role. The term ‘highly qualified and should have expertise in dealing with a broad spectrum of ALN’ needs greater clarity as to the extent of that ‘highly qualified’ this also has significant implications for training and development for the current workforce.

The ‘Clear and sufficient time allocation’ to undertake the duties – the role outlined is vastly different to that carried out by SENCOs. School leaders need support to recognise this and ensure ALNCOs are given the appropriate senior leadership support and skill development. A concept muted during discussions was the creation of an indicative formula which might support schools to allocate appropriate time in the early stages of code implementation, the factors which might be included are

- Size of school
- FSM/deprivation index
- Number of pupils with school based IDP

- Number of pupils with LA maintained IDP
- Pupil population movement

The duties place a much greater emphasis on the strategic leadership of ALP, this is welcomed and will provide for a much needed shift in thinking to a much wider school improvement approach to ALN. This has the potential to require a significant shift in the focus of school development plans. It is vital that school leaders and those involved in school accountability (challenge advisers and Estyn) are trained to recognise and support schools to identify good practice and develop this consistently across a setting.

The ongoing professional development to shift existing SENCOS to be effective ALNCOs cannot be underestimated, for many the role currently centres around SEN administration a small role with very little perceived impact on effective teaching and learning. The regulations also require the ALNCO to manage Learning support staff, deliver quality training and monitor effectiveness of ALP. Significant training is required to undertake these tasks effectively.

Governing bodies will also need a significant level of awareness raising to enable them to effectively support school leadership to enable ALNCOs to undertake the expanded remit. Para 24.12 and 24.16 are in conflict. In the first instance it is promoted that ALNCOs are ensuring quality IDPs in place – it is assumed these will be written by the person who knows the learner and the best methods to meet their learning needs, yet in para 24.16 it is the ALNCO who is providing regular information to the child or family. This should be reflective of the IDP preparation and the ALNCO have responsibility for ensuring it happens rather than have responsibility for this directly.

When all the above points are taken into account, Regulation 3(b) allowing someone in post who is not a qualified teacher to continue in the role is not compatible with the significantly greater demands of the role as described in this chapter.

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

It is not appropriate to require local authorities to be responsible for resolving disagreements relating to FEIs or other 'relevant institutions' that do not fall under the jurisdiction of LAs.

Whilst agreeing with the principles and rationale for putting robust arrangements in place to avoid disagreements outlined in the Code, there appears to be no mandatory requirement for parents/ children/ young people to engage in these arrangements.

The requirements above will have significant cost implications for LAs and the enhanced recourse that parents / children / young people will have to challenge the LA in relation to statutory plans at all levels, will undoubtedly result in a significant increase in the workload of LAs in dealing with disagreements in addition to increased costs.

There is not sufficient clarity in defining persons who are 'independent' of the parties in paragraphs 25.34 – 25.36. and whether such persons should be independent solely to the decision making or to the LA itself.

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

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

The requirements are appropriate. Although LAs currently have similar services in operation, it needs to be recognised by Welsh Government that LAs will need increase the capacity of these services due to the Act which will require additional funding. Should there not be a duty upon FEIs and not LAs to provide advocacy services for those learners who have FEI maintained IDPs?

There is lack of clarity as to whether advocates will be able to represent families at Education Tribunals.

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

The Act and draft Code expand significantly the matters about which appeals can be made. This, together with the extended age range to which the Act and draft Code applies, is almost certainly going to lead to an increased number of appeals to the tribunal. This is of great concern to LAs as defending such appeals is a very costly, adversarial, time consuming and bureaucratic process which requires a great deal of officer time. In addition, the nature of the current system almost always finds in favour of the appellant with LAs only being successful in approximately 5% of all cases. Expectations with regards the mediation process required are unclear. It should be mandatory that parents/carers or young people themselves engage in mediation with either school, FEI or LA as applicable.

The flowchart provided at the end of the chapter is considered helpful, particularly in drawing the distinction between decisions made by a school or NHS and that NHS complaints procedures should be followed. However, it is unclear as to whether parents will follow NHS complaints procedures, given that doing so, currently does not appear to allow parents to challenge clinical decisions made with regards Health Board provision.

26.18 Tribunal direction adds a further layer of bureaucracy.

The reduced timescales for preparing case statements together with the likelihood of increased number of appeals is very likely to overwhelm LAs and lead to a breakdown of the system.

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

<p>There needs to be greater clarity as to the difference between a case friend and advocate.</p> <p>27.6 – whether a child or young person has capacity or not is considered too simplistic. It is possible that they have some understanding of some aspects and considered that capacity can vary dependent on context and depending on the issue being determined. This is concerning as the child or young person potentially loses all rights if it is decided they do not have capacity at any given time. The possibility of reviewing this is not considered.</p> <p>There appears to be an assumption that if a parent is making an appeal, then a case friend is not required. It is felt that a case friend may still be required to help support the child through the process.</p> <p>There needs to be greater clarity with regards the needs of children who are looked after or detained as to whether they will have access to a case friend.</p> <p>21.29 Clarification is required as to whether a young person may disagree with their parents and request a case friend.</p>
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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.

<p>15.36. It is completely unacceptable to state that “if a tribunal orders the revision of an IDP in relation to ALP specified as ALP an NHS body must secure, <u>an NHS body is not required to secure the revised ALP unless it agrees to do so</u>” and that the body maintaining the IDP <u>should</u> work with the NHS body to reach agreement in such circumstances. It is difficult to find any rational, logical argument to justify such an approach. The consequence of this will be that an NHS body, as in the current system, will not recognise the decision of tribunal as binding and any ruling relating to increasing the input from NHS bodies such as therapy service will need to be met by the LA. Not only does this have financial implications for the LA, it also then requires the LA to purchase additional provision from private therapists operating outside of the health service which undermines the whole partnership approach. In the current system, NHS bodies do not prioritise Education Tribunal cases because they are</p>
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not bound by the tribunal decision. As a consequence, advice is not always forthcoming or is not detailed comprehensive advice which can be used successfully in tribunal to counter what is often very detailed advice provided by parents who have commissioned private therapists to assess and advise. If the code does not address this issue, it will be ignoring what is a fundamental flaw in the current system and as an LA, it would be incumbent on Welsh Government to provide an explanation about how this fits with the principles of the Code.

In such circumstances the LA should not be expected to deliver and fund this provision. Matters relating to ALP that an NHS body must secure, should not be heard by the Education Tribunal if they do not have the legal jurisdiction to require compliance. Such issues should therefore be referred to the NHS complaints system.

Mandatory qualifications for specialist teachers for hearing Impairment, Visual Impairment and Multi-Sensory Impairment should be made clear. This could be included in the glossary.

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

However, it is unclear how the timescales set out for the NHS to respond to recommendations made by the Tribunal indicating what action they have taken or why they have not taken action, will run alongside other specified timescales for LAs and FEIs to comply with orders. For example, where a Tribunal makes a recommendation to the NHS regarding ALP, will the Tribunal await the response from the NHS (6 weeks timescale) before issuing an order to LAs and FEIs? If not, awaiting a decision from the NHS which could take 6 weeks would make the process of complying with Tribunal orders within the 35 day or 7 weeks timescales allowed for FEIs and LAs extremely difficult, if not impossible in some cases.

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

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

There is concern that the very premise that an Education Tribunal can make recommendations relating to health provision is fundamentally flawed in relation to making fair, just and well informed decisions. Further clarification would be welcomed in relation to circumstances that are considered to be 'fair and just' as there appears to be a significant imbalance in the number of tribunals that currently find in favour of parents and not LAs.

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

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

The sequential process that has been introduced in relation to the submission of case statements by the parties is helpful and a significant improvement on the current system.

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

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

There is concern that the 4 week timescale for LAs to submit a case statement is unrealistic due to the potential increase in tribunal appeals and that there is no dispensation given within the LA timescales regarding the impact of school holidays on the above process – e.g. unavailability of school based professionals, unavailability of families etc. There is clear inequity between the timescales allowed for the different parties involved for which there appears to be no clear rationale or justification.

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

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

Yes, when considering timescales outlined for other parties. However, there is lack of clarity regarding whether the 6 week timescale runs concurrently with the 35 days / 7 weeks allowed for FEIs and LAs to comply with orders or is intended to form part of a sequential time frame, whereby FEIs and LAs are aware of the outcome of NHS response to Tribunal recommendations prior to the commencement of their 35 day / 7 week timescale in order to inform their actions.

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

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

There is lack of clarity regarding whether the 6 week timescale runs concurrently with the 35 days / 7 weeks allowed for FEIs and LAs to comply with orders or is intended to form part of a sequential time frame, whereby FEIs and LAs are aware of the outcome of NHS response to Tribunal recommendations prior to the commencement of their 35 day / 7 week timescale in order to inform their actions.

There is clear disparity in the timescales outlined for different parties to comply with orders and there is no consideration given to the impact that a school holiday period can have upon the LAs ability to comply with orders.

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

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

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There is lack of clarity regarding what is considered fair or just grounds for extensions to timescales as the current system does not appear to treat parents and LAs on an equal footing.

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

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

Overall - but there are a number of concerns highlighted in Q45 in relation to the information provided about case friends.

Part 3 of the consultation: Draft ALNCo regulations

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

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

The move to make the role of ALNCO a mandatory post is very much welcomed as is the requirement for them to be a registered school teacher. Given the highly strategic emphasis to this role, it is questionable if a teacher with just the statutory induction period of experience has enough experience to effectively undertake the role. The term ‘highly qualified and should have expertise in dealing with a broad spectrum of ALN’ needs greater clarity as to the extent of that ‘highly qualified’ this also has significant implications for training and development for the current workforce.

The ongoing professional development to shift existing SENCOS to be effective ALNCOs cannot be underestimated, for many the role currently centres around SEN administration a small role with very little perceived impact on effective teaching and learning. The regulations also require the ALNCO to manage Learning support staff, deliver quality training and monitor effective ness of ALP. Significant training is required to undertake these tasks effectively.

When all the above points are taken into account, Regulation 3(b) allowing someone in post who is not a qualified teacher to continue in the role is not compatible with the significantly greater demands of the role as described in this chapter.

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

The duties place a much greater emphasis on the strategic leadership of ALP, this is welcomed and will provide for a much needed shift in thinking to a much wider school improvement approach to ALN, this has the potential to require a significant shift in the focus of school development plans. It is vital that school leaders and those involved in school accountability (challenge advisers and Estyn) are trained to recognise and support schools to identify good practice and develop this consistently across a setting.

The ongoing professional development to shift existing SENCOS to be effective ALNCOs cannot be underestimated, for many the role currently centres around SEN administration a small role with very little perceived impact on effective teaching and learning. The regulations also require the ALNCO to manage Learning support staff, deliver quality training and monitor effective ness of ALP. Significant training is required to undertake these tasks effectively.

Governing bodies will also need a significant level of awareness raising to enable them to effectively support school leadership to enable ALNCOs to undertake the expanded remit.

Part 4 of the consultation: Looked after children

(a) Proposed regulations to be made

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

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

The LACE Coordinator has a key role in overseeing the education of all children who are looked after, not only those with ALN. Learners who are looked after have a particular set of experiences and complex needs that may not receive the same level of expertise if they were to become part of a broader 'vulnerable' group. Making the role statutory would assist in standardising practice across LAs. However, it is concerning that there is no clear understanding of the qualifications / experience required to undertake this role in comparison to those set out for the ALNCo within the draft Code.

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

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

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

It is positive that the IDP would be incorporated within the PEP as this will raise the profile of the PEP to give it the status that it requires to ensure that children looked after receive appropriate learning provision and support in an integrated manner. As there is an All Wales IDP template within the draft Code, it is felt that consideration should be given to producing an All Wales PEP template to align with the proposed timescale for the implementation of IDPs from September 2019.

In light of the requirements of the draft Code in relation to review of IDPs, the LA queries whether the guidance relating to the review of PEPs as outlined in the SSWbA will remain unaltered.

There is concern that there is some slight overlap in the content of an IDP and a PEP, although we recognise that these documents may, at times, be reviewed in isolation.

(c) Proposed revisions to the Part 6 Code

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

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

The differences in the definition of a child who is looked after between the SSWbA and the draft Code are confusing and may lead to discrepancies within local authorities. This is likely to lead to some confusion regarding when the completion of a PEP is required. The revisions are not clear regarding roles and responsibilities in terms of implementing and reviewing IDPs and ALP.

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

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

The integration of PEPs and IDPs will be highly beneficial in ensuring a holistic approach to addressing the ALN of children who are looked after. The mandatory content is acceptable. However, further clarification is necessary in relation to roles and responsibilities and accountability of parties involved in the coordination and completion of the above documents. Currently, there appears to be lack of accountability regarding failure to adhere to due process in relation to PEPs.

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

There is insufficient detail regarding the role and responsibilities of the LACE Co-ordinator other than stating that they will have a critical role in overseeing / coordinating the IDPs and in developing effective collaboration with the school designated person for LAC. There is no consideration of the impact of the above upon the LACE's workload and capacity, or to how this would look in practice. There needs to be clear guidance around the experience and qualifications required to undertake this role and a clear outline of responsibilities. The additional responsibility of the LACE coordinating IDPs for all children who are looked after is unrealistic when considering the multi-faceted nature of the LACE role currently and the complexity of this cohort of pupils in general. Larger LAs will likely need to enhance their staffing capacity in terms of the above statutory responsibilities which will incur additional costs.

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?

See above responses in general.

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

The requirement to provide ALP in Welsh is welcomed and will ensure equitable provision is available. The potential demand for Welsh provision is unknown at the current time. There are concerns with regard to making resource efficient provision with a suitable level of specialist input available if there is a low level of demand. Collaboration between local authorities may address this to some extent, but it may still lead to children travelling significant distances to access provision.

Investment in developing a wider range of Welsh language ALN resources would be welcomed. Consideration should also be given into researching the most effective formats of provision eg specialist input and support to exiting settings versus discrete WM provisions.

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 proposals in the ALN Code and proposed regulations will reflect the strong legislative emphasis of the Welsh Government on ensuring equity for the Welsh language.

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

Respondent Details

Information	
Name	
Organisation (if applicable)	Grŵp Llandrillo Menai

Part 1 of the consultation: The draft ALN Code

Chapter 1 - Introduction

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

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

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

The legal prohibitions referenced by must not are clear.
 The terms clearly state whether a person or body is to do something however the references to 'should' may lead to inconsistency as they may be able to demonstrate justification via local procedure. (1.13)
 Compliance would be strengthened by the removal of 'should'.

Timescales

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

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

It is agreed that organisations should work towards responding as quickly as is possible. Timescales are welcomed however the basis of how the timescales were determined are unclear. Further clarification is welcomed as to when the timescale process actually begins. A general statement that states that the timescales begin in accordance with the organisations procedures would be helpful e.g. from the point of requesting / diagnosing support requirements.
 There is concern that 'Promptly' is open to interpretation and may lead to expectations that processes are completed much quicker within the timescales where it may not be reasonable for this to be done (1.32)
 There is concern that LHBs may not be able to respond within 35 days.
 A chart/infographic/workflow stating the timescales for the statutory processes would be beneficial.

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

Given that the onus is on responding 'promptly' within defined timescales, further clarification by providing examples of what are 'circumstances beyond the responsible body's control' is welcomed. However it is recognised that it is difficult to consider every circumstance therefore the general exception will suffice however this may lead to disputes.

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

The structure is clear. It would be helpful to include a chapter on how the code is applied to other post 16 education sectors e.g. work based learning and Higher Education delivered by FEIs especially as it is usual for the same FE staff to provide support all learners.

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

Description of processes is needed to ensure compliance. Case studies and the sharing of good practise could be developed via the networks and would provide a sound reason for the regional multiagency networks to be maintained.

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

Is there a potential for conflict between PRUs and LEA if they do not receive adequate funding for services?

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 type="checkbox"/>
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Supporting comments

Should consideration be given to include a section that refers to learners aged 19-25 who return to FE and where the ALN needs are not known for various reasons at the start of studies e.g. moved into area, ALN due to accident /injury/medical condition / moved into area etc.

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

Need for further guidance on how to support learners that do not have capacity to understand and to make informed decisions and in instances where their parents may not have capacity to support them. Unclear regards process whereby 16 year old in FE does not want to involve their parents or if a decision they make conflicts with the that of a parent/guardian.

Whilst the Act places a requirement to provide advocacy services the current provider of services in north Wales does not have experience of providing support post 16.

Many staff are uncomfortable with the use of the word `capacity` however appreciate that an alternative may not have the same legal definition.

There is concern that learners may be deemed to have `capacity` to make a decision however may not be mature enough to understand the consequences.

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

It is unclear as to which duty has primacy especially when determining if the need is educational or social care.

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

Does section 5.4 ensure compliance with the Welsh Language Standards?

Should local authorities be required to consult with and inform FEIs of any changes/planned changes to ALP within a specific timeframe? 5.14

My understanding is that the Wellbeing of Future Generations (Wales) Act does not apply to FEIs although it does apply to higher education. Is this being reviewed/amended? 5.16

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

Whilst AIG will be managed at a local level and by the respective organisation should Welsh Government host a portal where the information outlined in 6.12 is publicly available on one website? Minimum maintenance would be required if linked to each health board, local authority and FEI website.

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 type="checkbox"/>
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Supporting comments

Further guidance required regarding 7.22. If a learner has a disability as defined by the Equality Act 2010 but not ALN they will still require adaptations to be made / differentiated teaching approaches to enable them to fully engage with teaching and learning. Colleagues are particularly concerned regarding learners with EBD and the use of appropriate legislation used to support their needs whilst studying. Can FEIs retain Fitness to study policies and practices or does this contravene the legislation?

What arrangements are in place for learners aged 18+ who's learning may have been impaired by their health condition but do not have a healthcare package? 7.30

There is widespread concern that there is a lack of clarity or conformity across the FE sector with regards what is considered ULP and ALP. Work is underway to define this however it is critical that learners, parents and local authorities understand the ULP offer.

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

There is a concern that some of what the FE sector would class as ALP is being expected to be delivered universally. Whilst it is welcomed that FEIs will be able to access specialist support from other public sector bodies and agencies the Code should provide guidance on timescales for response to ensure FEIs can respond 'promptly'.

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

Not applicable

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

The structure is clear. Whilst the Code makes clear the need for partnership working and the responsibilities of each public sector body, experience shows that not all learners with ALN are identified appropriately by schools. This causes a concern in particular for the many FEIs that have an intake from more than one local authority area as historically support has differed. Therefore it is important that local authorities and health will have the necessary capacity to respond to an increase in demand for assessment.

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 is not clear on what basis 35 days has been decided as an appropriate timescale even though this is the maximum amount of time expected.
 FEIs will need to make it clear within their procedures what process is required to enable the timescales to begin e.g. written disclosure / request to appropriate designated person (ALNCO / manager). There is concern that other organisations may not be able to respond within this timescale especially when assessing a learner aged 18+ who has no previous record of an ALN. Should the timescale for learners who require input from professionals such as educational psychologists be increased to 12 weeks in line with local authorities?
 Information regarding realistic caseload management, staff ratios, average times taken to produce IDP is not currently available to the FE sector to clearly determine if the timescale is truly feasible however every effort will be made to ensure that the IDP is completed promptly.

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

Yes however it is important to stress that the educational outcomes are of paramount importance when determining whether the learner is accessing post 16 education to achieve academic qualifications or for improving independent skills. As the sector moves towards non accredited learning this becomes more challenging. It is essential for the FEIs to clearly define what ALP can and more importantly can not be offered.

It is our understanding that statutory learners should remain the responsibility of the local authority.

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

The IDP would be strengthened by including the following:

- Short term and long term outcomes
- Date and reason if learner requests for the IDP to stop
- Method and Mode of travel should be mandatory

Does the question relating to ‘capacity issues’ relate to both the learner and or parent/guardian and if not should it? Preference to include both.

Should 2.b3 only make reference to Welsh and not other means of communication e.g. BSL?

Should there be details of the advocacy services if used in developing the IDP?

Date that the IDP is agreed by all parties

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

See above points.

Concern has been raised regarding the wording/phrasing of 1a(12) Capacity issues. Suggest that this amended

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

See above points

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

Guidance should make clear the responsibility of the local authority to continue to provide transport to learners not of statutory education age that have ALN or are defined as disabled in accordance with the Equalities legislation.

The Learner Travel (Wales) measure indicates a maximum travelling time however this may not be achievable in more rural areas.

Chapter 15 – Duties on health bodies and other relevant persons

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

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

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

Will the 6 week timescale for response have an impact on FE's ability to respond promptly and within 35 working days?

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

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

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

The timescales are the same as the current guidance therefore the health board should be able to respond accordingly.

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

DECLO role is strategic, whilst the governance and accountability are mentioned there is a need for further guidance relating to how health will respond on a practical basis. There is a real concern due to limited experience of partnership working with health, and in areas such as mental health where there has been partnership working to support learners there is little evidence that the DECLO will be able to secure successful links between children and adult services.

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

Review dates are best determined by the sector although it is important that reviews are timely. Planning staff capacity is essential.

16.12 the review date of 12 months is too long and should be within the cycle of an academic year typically September to June for FE.

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

Further guidance required in relation to the local authority refusing to make a decision regarding if the child/young person has an ALN.

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

It is appropriate that the timescale of 7 weeks for reconsideration is the same as that for the initial decision however there must be safeguards in place to ensure that the period for reconsideration is not misused to provide more time to make a decision if for example all the information was not available when the initial decision was made.

Xref with xxxx's comment ??

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

The principles are clear. There is no guide for the frequency of meetings however this does enable flexibility. 18.4 refers to 'should' arrange a meeting with the learner and parent rather than 'must'. Whilst the explanations of must and should have been previously defined it is recommended that the learner and parent must attend at least one 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?

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

Further clarity with regards the role of Careers Wales specialist advisors to continue to provide AIG. Ideally this should be provided prior and alongside the transition planning.
Further guidance required regarding the transfer of IDP to HEIs and the sharing of information with the DSA assessment centres. (19.67-70)

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

Consideration needs to be given to the admission process particularly in situations where the learner makes an application to mainstream without the knowledge of the school and does not disclose an ALN and then the local authority transfers responsibility for the IDP and requires a response within 20 days.

Should the local authority be able to transfer the responsibility of IDPs for learners aged 14-16 to the FEI for learners that access school link programmes (EPIC / TRAC) ? Mention has been made that FEIs only have responsibility for the IDPs of learners of non statutory school age.

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

It is essential that the FEIs make clear the ALP to ensure that the basis for the decision of the local authority to transfer responsibility for the IDP is sound.

Procedures are required to respond appropriately to regulations 37 of the Act.

20 term days is short for large FEIs to be able to respond especially as learners tend to apply at the same time around Jan- May.

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

FEIs need to consider when the review period begins.

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

Is there guidance on the length of time that FEIs should retain the IDP especially with regard learners that withdraw or are excluded and may return to FE before they are 25?

Should the IDPs be returned to the local authority for learners who withdraw/excluded?

Does guidance exist for situations where a young person no longer consents to the IDP being maintained and subsequently changes their mind e.g. in cases where the management of behaviour is not successful and the learner faces exclusion?

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

As previously stated, 4 weeks is a short period of time. The removal of ALP should be planned and phased to enable the learner to adjust accordingly.

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?

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

<p>22.38 Further guidance is required as our experience is that neither the healthboard or local authority have shared information with the college regarding the needs of learners who have been maintained under Part 3 of the Mental Health Act. It is welcomed that the Code details the requirements however there is a genuine concern based upon experience that the in tis example, the timescales (12 weeks) for the transfer of responsibility for the IDP to an FEI be made longer and whether or not the responsibility should remain with the local authority. We have too many examples of where health transfer responsibility to education on account of education being seen as part of therapeutic interventions. This is not the purpose of education.</p>

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

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

<p>See comments above</p>

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

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

<p>See above comments</p>

Chapter 23 - Children and young people in specific circumstances

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

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

There has been an increase in the number of EHE learners within the catchment area of GLLM. There is concern that the timescales for developing the IDP may not be achievable for this cohort.

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

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

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

The explanatory note 2019 (W) Education, Wales the Additional Learning Needs Co-ordinator Regulations 2019 are clear.

Chapter 25 - Avoiding and resolving disagreements

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

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

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

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

Chapter 26 - Appeals and applications to the Tribunal

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Part 3 of the consultation: Draft ALNCo regulations

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

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

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

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

Part 4 of the consultation: Looked after children

(a) Proposed regulations to be made

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

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

Yes. Good practice has been established with regards co-ordination of support for looked after children at local authority level however it would be beneficial if FEIs were required to appoint a Looked After Child Co-ordinator with responsibility for overseeing the preparation of the PEPs.

(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

Part 5 of the consultation: Impact of proposals

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

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

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

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

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

Respondent Details

Information	
Name	Davina Jones
Organisation (if applicable)	National Star

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 interpretation of the key terms used in the Code is standard and can be readily understood. When the terms 'may', 'should' and 'should not' are used care must be taken to remove ambiguity and to ensure the emphasis remains upon meeting the ALN needs of children and young people. National Star recognises that there needs to be a degree of flexibility so that the system can adapt and change to the circumstances of a wide range of individual cases; however, the interpretation of terms needs to include an increased emphasis on participation and decision-making in partnership with young people and where appropriate, their families.

National Star is surprised to see no mention of ISPIs in the list of 'relevant persons' (paragraph 1.3). Although not a public authority, National Star understands that the Welsh Government intends to maintain an approved list of providers following a process which is similar to that of the Section 41 providers list under the Children and Families Act 2014 in England. As a Section 41 provider in England, we are required to have regard for the Code of Practice. National Star is unsure as to why it would be different in Wales.

This may present a further complication in relation to 1.4, which confirms that the Education Tribunal for Wales must have due regard to the Code. ISPIs are very much part of the mixed education system in Wales. Overall, ISPIs provide education to 300 young people at any one time. If National Star as an ISPI is not required to have due regard to the Code, how does that impact upon the relationship between the tribunal and National Star as a 'registered' provider of post-16 education in Wales?

Timescales

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

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

The requirements for the timescales stipulated in the draft Code seem reasonable. The approach to timescales will need to be carefully managed throughout the implementation stages of the new ALN system.

Ongoing high quality information, advice and guidance needs to be available to young people and their parents to enable them to understand their rights and how relevant persons and responsible bodies should be accountable to them.

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

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

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Structure of the draft ALN Code

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

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

The structure of the Code is hard to follow as the separation of the chapters is not appropriate. Suggestions include:

Chapters 1 to 3 to stay the same. Chapter 4 to be moved into Chapter 2 (see question 9). Chapters 5, 6, 7 and 15 to be brought together to provide guidance on how all bodies will work together.

Chapters 8 to 12 are hard to navigate in their current format and may have contributed to the different guidance that is offered in Chapter 10 as opposed to Chapter 12. To support the rights-based principles of the Code we would suggest that the Code is structured as to the age of the individual with ALN, for example:

- children under compulsory school age

- children of school age
- young people over compulsory school age in schools, FEIs, ISPIs and other post-16 provision.

The guidance in each section can then reflect whether the IDP is being maintained by the LA or the provider.

The current structure does not appear to provide guidance as to how the ALN system will increase aspiration and achieve ambitious outcomes in partnership with young people with ALN. The Code needs a chapter which can best be described as being similar to Chapter 8 in the English SEND Code: 'Preparing for adulthood from the earliest years'. Chapter 19 in the draft Code 'Planning for and supporting transition' provides very limited guidance in 19.71 with an emphasis on employment.

This lack of clarity could lead to a situation where outcomes which relate to employment or increased self-reliance are values for young people with ALN. Young people with an ALN should be supported to continue in education or training beyond compulsory participation age, while they are still acquiring or developing knowledge, skills or understanding that will help them achieve the outcomes that have a positive impact for their adult life whatever the focus of their learning (i.e. employment, independent living, health or community participation).

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

Yes	✓	No	□	Not sure	□
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Supporting comments

The focus on describing and explaining the functions and processes is appropriate. This can become repetitive and confusing due to the issues put forward above regarding layout.

National Star would like to challenge the lack of inclusion of ISPIs in the proposed ALN system for post-16 learners. It does not reflect the current education system, or put in place processes which would ready the ALN system to be inclusive without specialist providers. The lack of inclusion for specialist colleges will create confusion for local authorities, young people and their families. The information, advice and guidance offered to young people will not reflect the full range of opportunities available to them, ultimately limiting the choice and control they have over their future life.

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

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

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

Chapter 2 - Principles of the Code

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

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

The principles set out in the Code require further investigation to identify whether they are the right ones for Wales going forward. Both 2.1 and 2.2 identify the creation of a fully inclusive education system to be a key principle underpinning the Code. National Star is part of the specialist sector and would be considered as an ISPI under the Draft Code. This gives us a keen interest in what the Welsh Government considers to be an inclusive education system. Evaluating Chapter 2 and subsequent chapters, it appears that the Code is promoting inclusion as ‘being under the same roof’. The Code attempts to achieve the ‘placement’ of children and young people as opposed to a rights-based approach. For example:

*12.40 Where a young person would prefer an independent school or ISPI but the local authority is satisfied that their needs can be met within a maintained school or FEI the local authority is not required to secure a place at an independent school or ISPI. However, where this situation arises, the local authority **should** ensure that they explain to the young person how their needs could be met without recourse to an independent school or ISPI placement.*

This view takes a placement approach to inclusion and fails to identify inclusion as the active form of participation within a common learning framework. Inclusion should be driven by ideas of social learning, belonging, shared experiences, respectful interpersonal relationships and equality of provision. This can be achieved by mainstream and specialist providers working together; the way the principles of the Code are currently written it would actively discourage these relationships to form and best practice to be shared across the whole ALN system.

Whilst reference to the UNCRDP is laudable, it needs to be recognised that the UK has placed a reservation on Article 24 (Education), meaning the UK does not fully accept the requirements of inclusive education. Given that Wales currently has a dual education system of mainstream and specialist, more needs to be done to make the proposed aspiration of an inclusive education system clear to all currently involved. If that is the intent, there needs to be a fully funded strategy with clear time bound goals to make education more inclusive. It should cover the implementation of laws/policies, teacher training, School/FEI Management Training and awareness raising for children, young people and

their parents. Alongside this there should be a clear way to support specialist schools and colleges to work with mainstream partners to share expertise and create an education system which gives young people with ALN the best transition into adult life. The way the Code is currently written marginalises and excludes specialist providers, particularly non-maintained ones, to the point of sitting them outside of the ALN system (1.72). In addition, this undermines the principle of ‘Collaboration’ stated by the Code.

Both Chapter 2 and Chapter 3 do not make the rights that young people have after compulsory school age sufficiently clear. 3.18 and 3.32 hint at the fact that young people have different rights to children, but it is not explicit enough. The Code needs to be really clear about the different rights of young people as opposed to children, as the information, advice and guidance young people receive needs to reflect the rights and choices they have when planning their transition into Further Education and adult life. Currently the Code would not support young people to understand and act upon the rights they have.

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

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

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

The Code in Chapter 3 appears to be weak concerning the duties relating to the involvement and support of young people and their parents/carers. The section appears to restrict the involvement of children, young people and parents to the IDP process. There seems to be no direct mention of how children, young people and their parents can be equal partners in designing and developing services that are about them. The inclusion of this would strengthen the Code and have a positive impact upon the development and delivery of ALN services in Wales.

No mention is made of how the ALN system will be designed to improve choice and control for young people and their families when seeking the support they would like to meet their identified education need. Please see question 7 for comments about promoting/ensuring the rights of young people are recognised. The Code needs to be strengthened to ensure the participation of young people and their families. In paragraph 3.4 ‘should’ needs to be changed to ‘must’. Further review of the duties in practice is also required; paragraph 3.8 provides guidance on how a child or young person would like to participate in decision-making about them. The guidance requires that decision-making bodies ‘should’ be required to use the information available to them about an individual child or young person’s preference. National Star would argue that when identifying how a child or young person would like to communicate and participate, the information available ‘must’ be used.

The brief section on providing information (3.15 – 3.18) does not include the mechanism of how this information will be provided; how it will be provided in an impartial way; and how

the quality of the information, advice and guidance will be monitored and evaluated. With the potential loss of expertise provided by Careers Wales, it is unclear how local authorities will provide impartial information, advice and guidance about all the options open to young people for both post-16 and post-19 education which will enable a young person to make the best transition to adult life.

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 unclear as to why Chapter 4 is not integrated into Chapter 2, which considers the principles of the Code. The rights which children enjoy through domestic UK law mostly exceed the rights expressed in the UN Convention on the Rights of the Child. This includes expressing their views freely and being heard in legal proceedings that affect them and rights around education.

Regarding the UN Convention on the Rights of Persons with Disabilities, this was signed by the UK in 2009 (long after the first Disability Discrimination Act had been passed 2005). The UN Convention cannot be enforced because it is not UK law, even though the UK Government signed the Convention. Furthermore, the UK Government has placed a reservation on Article 24 (Education) as it does not fully accept the requirements for inclusive education. There is a very real risk that local authorities will view compliance with the UNCRPD as a means of not placing learners within specialist provision. Steps need to be taken within the Code and during transitional arrangements to recognise the role specialist providers have in meeting the needs of the most complex young people with disabilities. The experiences of the implementation of the Children and Families Act and SEND Code of Practice within England are well documented, including the ongoing 'SEND crisis'. One of the key issues is the compromised role of local authorities who have attempted to implement a new system which justifiably increases the rights of young people in a period of austerity. This has led to local authorities making decisions regarding both the maintenance of plans and the placement of young people with complex disabilities based upon the budget available rather than the intent of securing the required educational provision to meet the identified need. A significant amount of local authority income has been spent defending these decisions at tribunal.

4.2 - Asserts that the principles of the Conventions are given effect in the Act and the Code, therefore compliance with the Code is likely to be giving effect to the relevant articles. As the principles of the Conventions underpin the Code, it would make sense to have them in one

section to ensure all partners within the ALN system are clear upon the set of principles the system is based upon.

4.12 - Introduces a further set of 5 principles developed by the Children’s Commissioner, which are similar but different to the principles in Chapter 2 and the UNCRC and UNCRPD. This adds to the confusion of principles and also creates a sub-set of principles that are applicable to children and not young people. This can only increase confusion for local authorities providing advice and guidance and the young people and their families receiving this range of information about their rights.

4.17 - Makes a positive contribution as it considers useful actions to take under the Conventions. This includes involving children and young people in the strategic planning and delivery of services and providing children and young people with ALN to engage with and influence policies and services relating to ALN amongst other suggestions. This is really welcome as the ability for children and young people to inform, develop and influence the services they are receiving has been lacking within the Code overall. National Star would suggest that this is also included in Chapter 2 and given more prominence.

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

No, the guidance is not appropriate. The guidance reflects the duties to review ALP in school settings and doesn’t reflect the need to keep the ALP provided by the whole ALN system under review. This would lead to a fragmented and disjointed picture which would not reflect a review of the ALP available in the 0 – 25 age range which is part of the new ALN system.

The structure of the chapter is not clear; 5.5 states that if a local authority considers arrangements are insufficient, it must take all reasonable steps to remedy this. Further guidance is needed as to how these judgements are made. This is, to some extent, then provided in 5.20 under the heading of ‘Outcomes following a review of ALP’, which then repeats 5.5. This makes the chapter feel disjointed.

Under the section ‘Conducting a review’ it needs to be restructured to prioritise the consultation local authorities must do with children, young people and their families. Paragraph 5.24 suggests that local authorities might decide to ‘secure greater involvement of children and young people and their families with ALN in strategic planning and decision-making’. Given the principles that the Code is based upon, this statement should be

strengthened and placed in the section relating to conducting a review or opportunities for co-production and collaboration will be missed.

In section 5.14 National Star is no longer clear if 'specialist post-16 education providers' means ISPIs?

5.19 – The way this paragraph is worded is too vague. Stronger multi-agency working should be a key area that the review makes a judgement about, not an outcome that emerges from the review. Local authority ALN reviews should be able to identify if the ALP provided links the recommended provision to the stated outcomes to be able to make a judgement about the quality of the outcomes young people achieve.

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

No, the guidance is not appropriate in relation to arrangements to provide advice and guidance about ALN and the ALN system. The decision to place ISPIs outside of the ALN system means that arrangements to provide advice and guidance does not cover a significant part of the ALN system. 6.12 should include mention of all providers who contribute to the local ALN system to avoid the gaps in both knowledge and information exchange in the system, and in the resulting advice and guidance received by parents and young people.

It is surprising that the experiences of the implementation of the Children and Families Act and the SEND Code of Practice have not influenced this chapter more. It is widely recognised that there is a lack of impartiality in information, advice and guidance (IAG) and assessment for children and young people with disabilities provided by local authorities in England. This has resulted in children and young people with SEND across England not having equal access to high quality education that meets their needs and supports them to learn and achieve their potential. This is driven by a range of factors, including local authorities having blanket policies - for example, only commissioning post-19 provision if it is linked to an employment outcome, therefore influencing the advice and guidance that it offered.

Transition planning into further education often relies on someone within a school (ALNCo) who may or may not be aware of the full range of options and are influenced by the information, advice and guidance (IAG) provided by their local authority as to what can be

considered. This needs to be considered in both 6.12 and 6.17, as a considerable amount of advice will be brokered through a school setting.

Chapter 6 again reinforces the highly conflicted position local authorities will find themselves in. The role of the IAG provider, assessment, commissioning and budget holder will result in inconsistent provision. The advice and guidance each young person receives will influence the distribution of funding which then becomes reliant upon the behaviours of each individual local authority and, in some cases, each commissioner. Potentially, the lack of external high quality IAG which is planned, delivered and evaluated by a separate body (to the one that has commissioned it) will increase inequality between young people with ALN across Wales.

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

The explanation and definition of ALN is clear. 7.30 makes the Welsh Government’s statutory guidance on Supporting Learners with Healthcare Needs under the age of 18 clear. The Code needs to provide guidance on Supporting Learners with Healthcare Needs when they are aged 18 – 25. This guidance needs to link to Chapter 15.

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

Chapter 7 does not provide a clear and comprehensive explanation due to the earlier decision to place ISPIs outside of the ALN system. Within the current system a large proportion of the expertise to assess for, plan and provide person-centred learning programmes that enable young people with high levels of additional learning needs sits in the specialist sector.

There would appear to be a missed opportunity to provide guidance on how the ALP provided for young people should be linked to education within an age-appropriate environment which links the ALP offered both to the ALN and the individual’s transition plans for the future. This would support the guidance offered in Chapter 19.

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

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

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

Duties on schools, FEIs and local authorities

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

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

Please see question 4 regarding the structure of the Code. Chapter 10, which relates to young people, has some consistent issues with content. The requirement to communicate with young people is often marked as something an FEI or local authority ‘should’ do. National Star would suggest that these are consistently change to ‘must’ to ensure high quality person centred planning and a collaborative system. This needs to be considered for 10.10; 10.12; 10.22; 10.39; 10.40; 10.53; 10.56; 10.68.

If the Code was amended to include ISPIs as part of the ALN system it would significantly strengthen the section of the Code that relates to the ‘local authorities’ duty to prepare an IDP for a young person at an FEI who has ALN’. This section recognises in 10.66 that a local authority might need to consider if a student should be educated or trained elsewhere. It would be useful at this point to provide guidance as to how schools, FEIs and ISPIs can work together to meet the needs of young people with ALN through:

- promoting and mapping effective transition between settings
- sharing good practice and expertise
- offering blended programmes
- collaborative working to develop effective transition pathways for adult life.

10.21 and 10.65 both refer to collaborative working with NHS bodies. A requirement to confirm that the ALP will be provided or secured by the NHS body is essential to avoid stressful delays for young people and their families. Current experience of working with local health boards has resulted in situations where a health body has refused to secure or fund a health activity as there assessment has found that the activity was not required. During implementation of the IDP process the intersection of health services and how they interact and enhance the other services delivered as part of the ALP is essential if holistic education programmes with integrated therapies are to be successfully planned and provided.

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 timescales need to be monitored as part of the implementation process. The suggested timescales will result in a significant degree of pressure for FEIs and create pinch points throughout the year. There has been extensive feedback in England from the ‘consultation’ process where GFEs have to respond to paper-based consultation as to whether they can meet an individual’s needs within a very short timescale. This has resulted in placement offers for young people with moderate to complex disabilities where GFEs have not even managed to meet with the young person. As expected, a number of these placements subsequently break down, having a significant psychological impact upon the young person as well as rendering them NEET.

The impact for ISPIs is significant. The level of stress young people and their families have been under before they manage to secure the education which meets their needs should not be underestimated. Experiences include:

“It took five years to secure the funding for our daughter xxxx to attend residential college. The entire transition process was shambolic and badly handled.

We had to argue that the various in-county options were simply unable to provide the support and facilities xxxx needed. One local college offered four hours a day, four days a week with two hours of travel a day. How would that work with a young person who hates long journeys and both my wife and I work full time?

Even at the last minute, there was extreme frustration. Our local authority did not confirm our daughter’s place until the beginning of July, two weeks before she left school. We nearly lost her place.”

“xxxx found the uncertainty of her future after sixth form so stressful that her doctor prescribed her anti-depressants. She had to wait until a week before she was due to start at a specialist college to find out whether she would receive funding. The 19-year-old, who uses a wheelchair and has unclear speech, was socially isolated at her mainstream sixth form.

The local authority refused her request to attend a residential college. She applied to the local college and was rejected. xxxx and her family twice appealed against the decision for residential college and both times it was rejected by the local authority panel. Only when her family threatened to go to tribunal did the local authority agree to fund.”

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

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

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

No. The proposed requirements and guidance are not appropriate to meet the needs of children and young people not at a school or FEI in Wales. Paragraph 12.1 highlights the issues caused through the draft Code placing ISPIs outside of the ALN system. This creates the situation where the local authority becomes a gatekeeper to any provision, other than that which is maintained. The local authority will subsequently be placed in the position where they are responsible for assessing the ALN, commissioning the provision and holding the budget. The lack of independence between these functions has led to significant conflict in England with a body of evidence that demonstrates that some local authorities prioritise their budgets over the needs and wishes of young people and their families. This is not equitable with the systems proposed in the Code for young people who are currently attending a maintained school or FEI.

1. The systems implemented by each local authority under the guidance, as it stands in Chapter 12, will be highly variable and rely upon subjective judgment and interpretation made by staff members with insufficient expertise. The Code should go further to embed a secure understanding of the specialist provision required to meet the needs of young people with complex disabilities. The Code should require local authorities to establish permanent consultative bodies with FEIs and ISPIs. These should be consistently implemented across all local authorities and would have the additional benefits of:

- sharing specialist expertise
- drawing on learner experiences
- reducing the risk of consequences which were not intended by Section 50 of the Act but which can be anticipated, such as placement breakdowns due to changing needs, resulting in increased stress and anxiety for young people and their families
- reducing the need for dispute resolution and tribunals
- supporting the flow of information and best practice during the transition to devolved funding (2021).

We note the very significant historic variations in identification and resourcing of additional needs across local authorities, reported by Michael Dauncey (Research Briefing: Additional Learning Needs in Wales, Nov 2016). These variations in practice represent inequalities on many levels and have been resistant to change. In the context of the devolution of decisions on post-16 specialist placements from the Welsh Ministers to local authorities, these geographical inconsistencies are a major concern. Cross-sector consultative bodies for post-16 provision would be able to focus on these to promote best practice in commissioning.

Whilst the Code addresses the process of identifying children and young people with ALN at pre-school and school age, we believe that Chapter 12 of the Code should give further guidance on identifying ALN post-16 and post-19, particularly where a young person is not enrolled at an institution within the FE sector and therefore does not have the protection which the Act gives to young people who are already in education. Lessons can be learned from the transition period of the Children & Families Act 2014 in England; some young people with multiple and complex disabilities had been unable to access appropriate education or training and either became NEET, or accepted a social care offer which was not their preferred choice. This was based upon the fear of not being able to access anything else. These young people were eligible under the new Act for post-19 education which has greatly improved their lives and aspirations but often this opportunity has only been possible through recourse to tribunals.

We believe the ALN Code can prevent these stressful and wasteful proceedings by specifying clear assessment routes and advocacy for young people eligible for vital education and training opportunities as the new legislation takes effect. This will be particularly significant during implementation.

12.19 and 12.20 raise questions as to what are the young person's reasonable needs for education and training and what is necessary to meet them. 12.22 – 12.25 further clarifies expectations around what the training should be and the duration. 12.26 has the potential to disadvantage young people with complex disabilities due to local authorities and/or potentially some schools may not have the expertise to evaluate the individual's previous progress and their capability to progress within the adult learning environment that National Star provides. Evidence from SEND tribunals in England includes:

*2. Obtaining qualifications is not an essential element of education (i.e. the fact that a child/young person will not obtain qualifications does not mean that they do not need, or are not entitled to, education). Per **Buckinghamshire CC v SJ [2016] UKUT 254 (AAC), [2016] ELR 350**, the FTT was entitled to direct the LA to issue an EHC plan following assessment in circumstances where SJ (who was 20 years old) functioned at a pre-school level and it was accepted "further achievements would be small", because those achievements would be valuable in SJ's adult life.*

3.

4. National Star believes that learners with profound and multiple and complex learning disabilities should have access to person-centred learning programmes which are aspirational, focusing on independent living skills, communication and self-advocacy, improving their ability to maintain good health and to develop relationships.

We therefore argue that 12.19 and 12.20 should be clarified in the form of:

"A learner would have a reasonable need for further education or training where educational or training provision specific to their additional learning need would continue their progress towards reaching their full potential for independent living, communication and self-advocacy, including their need to maintain good health and to develop relationships. A learner may also have a reasonable need for further education or training if that educational or training provision is available to someone of their age in an FEI."

This would also ensure that learners with complex disabilities whose needs could not be met in a mainstream setting would not be disadvantaged through different local authority interpretation and would enjoy the same entitlement to education as proposed for their peers in Chapter 10.

12.22 - States that the local authority must consider whether there is a realistic prospect of the young person achieving the desired objective within a reasonable period. This is a highly specialised and subjective judgement. The vagueness of the guidance in 12.22 will lead to conflict between parents and local authorities and providers, and local authorities ultimately increasing the number of cases escalated to tribunal. For example, the top two reasons for SEND tribunals in England in 2018 were appealing the contents of an EHC plan (3384) and refusal to conduct an assessment (1717). Paragraph 12.22 does not fit with the Principles of the Code and would increase inequality between young people with ALN and their non-disabled peers.

12.27 - Raises concerns for National Star as it is not equitable with the guidance given in Chapter 10. Furthermore, 12.27 presents rigidly drawn out ability expectations, where young people with disabilities who can go on to achieve a vocational qualification or move into employment are afforded more time to complete their outcomes as opposed to more 'general outcomes', such as achieving independent living skills. The timeframe to achieve these appears to be arbitrarily capped at two years. This represents significant inequality across the ALN community of learners and doesn't reflect the wide range of outcomes that the person-centred programmes delivered within the proposed ALN system should achieve. 12.27 should be amended to reflect both the person-centred and rights-based principles proposed in Chapter 2.

12.28 - Asserts that where a young person has previously undertaken a course of post-16 education, the local authority must consider whether the post-16 education have afforded the young person effective access to post-16 education. This statement has potential to cause a high level of conflict around access to post-16/post-19 provision. Many young people stay within the school system (both mainstream and specialist) until the age of 19. The ambiguity of the statement in 12.28 may lead some local authorities to take the extended school period to be the same as a further education experience. The unintended consequence of this will be young people missing out on their opportunity to take part in further education in an adult environment which will support their transition into adult life. Natspec hold a body of evidence as to the positive impact an adult-focused curriculum delivered in an adult environment has on young people moving into adult life. Provision is made for exceptions in 12.29 for those where the education they have been provided with has fallen short. 12.29 does not recognise those learners who may have exceeded expectation and would now be ready to tackle a new set of objectives which would have a significant impact on the future life they wish to lead.

12.31 and 12.34 – Both paragraphs seem to imply that young people would have to take 'pot luck' as to whether a course was available to meet their needs and enable them to meet their desired objective. These paragraphs should be altered to reflect the requirement of providers to build education programme in response to the individual's needs.

12.32 – Only requires that a local authority 'should' consider the suitability of potential courses both locally and further afield. On what grounds is this a 'should' and not a 'must'?

12.36 – Further guidance is required as to what constitutes unreasonable public expenditure. This would include guidance on the cost of the alternative education provision.

For example, when comparing a residential placement with a day placement, the additional costs of the social care-funded respite or health-funded therapies required as part of the programme would need to be included in the comparison. Local authorities should be required to evidence the cost/benefit analysis of the outcomes that different types of provision would provide. This would inform a reasoned judgement as to what may constitute unreasonable public expenditure.

The Code should make clear at 12.36 that where a need is identified in an IDP, securing the proper provision to fully meet that need is likely to avoid unreasonable expenditure in future by enhancing the learner’s independence and participation, on the principle of ‘invest to save’. Consideration should be given to the disparity in inspection standards applied to FEIs and ISPIs (unless this is urgently addressed), so that the evidence required by 12.36 includes robust, comparable qualitative judgements of the provision available in each sector.

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

In line with the above commentary upon the draft Code, the proposed documentation does not do enough to capture the thoughts, interests and aspirations of young people with disabilities. The IDP could be adapted for young people to reflect the increase in transition planning and the young person’s choices for their future life.

The Code does not provide sufficient clarity around who would provide the specialist careers guidance required to broker young people progression into adult life. With the emphasis the Code places upon transition into employment it needs to be clear about how providers would be supported to deliver these functions.

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

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

National Star welcomes the mandatory standard format for an IDP.

When planning the development and implementation of the IDP system, consideration needs to be given to the implementation of the EHC plan process in England. There is clear evidence that the resourcing in local authorities was too limited to operationalise the policy, and there was a lack of guidance about the professional requirements and expertise required to develop the plans. There would appear to be a significant risk during

implementation as it is hard to predict how the workload will be shared across FEIs and local authorities (with regard to young people).

As previously mentioned, the production of an IDP for a young person with complex disabilities and educational needs requires a high level of expertise. In our experience the writing of meaningful outcomes that provide stretch for learners with complex disabilities is an area which requires significant investment in both guidance and training.

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

5. Across the Act and Code, there is a potential risk to parent/provider relationships as the provider becomes the body responsible for preparing, maintaining and reviewing the legal document.

The draft Code sets out the process for mainstream settings where the provider can ask the local authority to take responsibility for the plan but the process is less clear if the learner already attends a provider in the specialist sector. Specialist providers often have access to a higher level of specialism and so are able to assess an individual's needs. During the implementation of the Act, and the devolution of commissioning powers from the Welsh Ministers to local authorities, the procedure for conducting assessments and making IDPs for learners already in the specialist sector must be specified in more detail to avoid duplication of effort, and delays which will impact heavily on young people and their families. Likewise, learners who are in transition from one sector to another, or one provider to another, require protection within the Code; so-called 'in-between' cases are inevitable in a systemic change of this scale and young people with profound and multiple needs must have support and safeguards. They should not be left to advocate for themselves: the Code must make transparent arrangements for them.

National Star has advocated for the inclusion of ISPIs within the ALN system. If specialist providers become responsible for preparing, maintaining and reviewing IDPs this may give rise to potential conflicts. Firstly, the provider may make an IDP with which the young person or parents disagree; secondly, the local authority may object to the content of the IDP. As it is a legal document, this opens specialist providers up to legal challenge by both parties, one dissatisfied with the provision contained in the plan and the other dissatisfied with the cost. Specialist providers should not be forced into the position of being a buffer between parents and the local authority, for example.

A significant challenge for the post-16 sector is the receipt of plans from school settings which have had insufficient clinical or specialist input and are based upon a teacher assessment. This will reduce the holistic nature of the plans and increase the likelihood of a postcode lottery when it comes to the quality of plans and the subsequent commissioning of specialist provision. The Code should include safeguards for such situations.

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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 checked="" type="checkbox"/>
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Supporting comments

The regulations in the Learner Travel (Wales) Measure 2008 prides clear guidance for young people post-16 up to the age of 19. The guidance is not clear as to the support that would be provided for learners to access post-19 education. As the Act and the Code are making provision for a 0-25 ALN System the guidance on transport should be amended to reflect 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?

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

The Code provides a solid basis upon which joint working is promoted across providers, local authorities, health boards and other relevant persons. National Star has concerns over the current assessment methods and decision-making regarding additional provision for learners with complex needs. Guidance needs to be strengthened to ensure consistent assessment across all health boards that reflect the health and therapy needs required to support a programme of education. This will promote a high quality IDP with the ALP identified being appropriate to meet the health and education needs of young people with complex needs. Again, the conflict between the assessment and commissioning of the provision needs to be addressed.

Guidance needs to be clear about the timescales to either secure or deliver the health related ALP in the IDP. Guidance needs to be clear about the level of accountability for the quality of the health content in the IDP and the requirement for collaboration with young people and their families need to be emphasised.

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

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

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

The Designated Education Clinical Lead Officer (“DECLO”)

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

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Chapter 16 - Review and revision of IDPs

Question 25 – Is the content and structure of Chapter 16 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

16.3 - Is lacking guidance on the criteria to judge the efficacy of an IDP.

16.6 - Guidance regarding the timescales required to plan an effective transition into post-16/post-19 provision needs to be enhanced to ensure that young people can make a successful transition into an adult curriculum.

16.30 - Firmly places local authorities in the gatekeeper role for access to, or to maintain a place at, an ISPI. This is then compounded by concluding the paragraph with signposting to the paragraph required to cease an IDP. This reinforces the guidance given in Chapter 12 which is not equitable with the guidance given in Chapter 10 for young people in maintained settings.

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

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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 checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

<p>It is not clear where this chapter has relevance just for schools or the wider ALN system. The chapter appears to be written for schools with the occasional mention of FEIs. Clear guidance that relates to the post-16 ALN system and ISPIs needs to be produced, given that it is likely that movement of young people from FEIs to ISPIs will require the local authority to take over the IDP.</p> <p>17.5 – Further clarification is required of what constitutes a material change in a young person’s needs.</p> <p>17.30 – The current national shortage of education psychologists needs to be considered in line with the volumes of local authority reconsideration that are to be anticipated.</p>
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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

<p>The wording needs to be re-considered as this section of Chapter 17 focuses on schools. Does this paragraph even apply to young people post-16?</p>
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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

The guidance provided is appropriate but limited. Again, there is no mention of ISPIs or other post-16 providers within the chapter. This is a limited view of the ALN system and therefore renders the guidance provided by Chapter 18 incomplete.

Paragraph 18.23 does acknowledge that different partners may be required if a review focuses on transition and preparation for adulthood. The guidance is limited to the body responsible for maintaining the IDP to flag that it is a transition review. The guidance should be expanded to ensure that the people/bodies required 'should' attend the review. This will strengthen the guidance in Chapter 19.

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

The quality of the guidance offered in Chapter 19 is limited by the Code's narrow interpretation of the ALN system for Wales. There is little guidance for transition for young people with more complex needs and a lack of guidance for young people's transition into adult life. This has the potential to affect the support and guidance young people receive at this vital time, impacting upon the range and quality of outcomes they achieve.

The 'Planning for transition' section has no reference to the involvement of young people and their families in transition planning. There is little acknowledgement of the contribution young people could bring both to their own transition plans and a transition framework that would help young people plan and prepare for adult life.

19.10 - Causes National Star some concern. Working alongside learners with complex disabilities we understand how vital it is to ensure all partners involved in transition work together. This can include a transition to independent/supported living alongside a transition to employment. As 19.10 states that the paragraph is relevant to where multi-agency working is required, National Star would recommend that the 'should' be changed to 'must'. The same applies to 19.66.

19.11 - Relies upon specific roles to offer advice and guidance to young people and their families. Would the role have sufficient expertise to offer advice and guidance to young people with complex disabilities about all the options available to them when planning their post-16 education of their transition into adult life?

19.12 – Omission of ISPIs.

19.20 – Reiterates Chapter 12. The wording is extremely ambiguous and would leave both local authorities, young people and their families confused as to its intent and how to be

guided by it. The notion that young people (particularly those with complex disabilities) have to prove their right to an education by evidencing 'reasonable need' is not equitable with their ALN and non-disabled peers. The guidance provided in 19.20 is not based in the principles of the Code and will ensure conflict between local authorities and the young people they are trying to serve.

19.60 – National Star would suggest that 19.60 is rewritten due to the unfortunate choice of negative language, and lack of guidance it provides. We would further suggest that if the Code was amended to include ISPIs and others the guidance would in 19.60 would not be required.

Chapter 20 - Transferring an IDP

Question 31 – Is the content and structure of Chapter 20 of the draft ALN Code clear

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The introduction to the chapter is not clear and has become overly complicated for what it is trying to describe.

As this version of the Code places ISPIs outside of the ALN system, there is no provision to transfer an IDP from the local authority to the ISPI. This fails to recognise and capitalise on the significant expertise that is situated within the network of ISPIs across Wales. Given the concerns raised over both the capacity and expertise available in local authorities to develop and maintain IDPs, this would appear to be a significant omission.

20.20 and 20.21 are not clear; the reference to board and lodgings would suggest residential provision, but the information is not sufficient to take any guidance from it.

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

Question 33 – Are the arrangements that are intended to be included in regulations in relation to all other transfers (as described in paragraphs 20.18 – 20.21 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

See question 31. The arrangements described in 20.20 and 20.21 may be appropriate but they need to be expanded and clarified as they are currently too ambiguous.

Chapter 21 - Ceasing to maintain an IDP

Question 34 – Is the content and structure of Chapter 21 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

National Star has significant concerns over the content of paragraphs 21.10; 21.11; 21.12 and 21.13 under the heading of ‘Deciding that it is no longer necessary to maintain an IDP for a young person’. The concerns raised in Question 17 regarding Chapter 12 are raised again here.

There is a high level of ambiguity in the term ‘reasonable need’ for education and training in 21.11 which is not equitable with other parts of the Code. The requirement for young people, often with very complex disabilities, to demonstrate reasonable need often requires them and their families to secure evidence that their need is reasonable. Not only does this place a significant level of stress on young people and their families, it also creates an inequality where young people and their parents who are able to present the strongest arguments, often backed up by evidence from private assessments, are likely to be the ones who can evidence their reasonable need. This will increase inequality within the ALN system through exclusion.

21.21 fails to recognise the need for post-19 provision in light of raising participation age. This needs to be addressed as most young people with complex disabilities stay at school until they are 18. This guidance could potentially limit young people’s opportunities to take part in adult orientated education which will enable them to make a positive transition into adult life.

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

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

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

Question 38 – Are the proposals for the regulations in relation to children or young people who are subject to a detention order and detained in hospital under Part 3 of the Mental Health Act 1983 (as described in paragraphs 22.45 – 22.74 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 39 – Are the timescale requirements to act “promptly” in relation to decisions about ALN and preparing IDPs for children and young people subject to detention orders (as set out in Chapter 22) appropriate, rather than also having a requirement to comply within a fixed period subject to an exception or exceptions?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Chapter 23 - Children and young people in specific circumstances

Question 40 – Is the guidance in Chapter 23 of the draft ALN Code on children and young people in specific circumstances appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	✓
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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	✓
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Supporting comments

The range of responsibilities that the ALNCo has to fulfil appear to be appropriate but not achievable in one job role. The level of advice, guidance and decision-making the post holder would have to do on a regular basis is significant and requires a high level of expertise. It looks unrealistic to plan, prepare and deliver a teaching caseload alongside the ALNCo role as it is currently described.

ALNCoS would have to spend some time establishing local networks to support both transition in and transition out for learners. Depending on the age/stage of the provision, this could require extensive networking with post-16 providers both mainstream and specialist, or with community-based adult options. The requirement to build and maintain networks must not be underestimated as it will impact upon the advice and guidance children and young people receive and the outcomes they achieve.

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	✓	Not sure	<input type="checkbox"/>
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Supporting comments

The requirements for local authorities to avoid and resolve disagreements are impacted upon by the unresolved issue of the local authorities providing the IAG, assessment, planning and commissioning of high ALN places. There is significant evidence from the implementation of the Children and Families Act 2014 and the English Code of Practice which demonstrates that the position local authorities are put in is highly conflicted. This is further compounded by limited budgets leading to a system where conflict will only increase.

Evidence from the Department for Education funded research shows that English local authorities have used roughly £70 million to handle SENDIST appeals since the SEND reforms became law in September 2014 – on top of that cost they also lost 88% of appeals. National Star cannot understand why the ALN Code for Wales would want to copy a system which has caused so much conflict and wasted so much resource in England.

Guidance should be improved through the whole Code to recognise all the diverse providers which make up the ALN system and a stronger emphasis placed on collaborative working by the local authority with all providers to broker education packages that best meet the young person’s identified needs.

Question 43 – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Repeated question – 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?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

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Chapter 27 - Case friends for children who lack capacity

Question 45 – Is the information about case friends, including the duties on the Tribunal to appoint and remove case friends, clearly explained in the Chapter 27 of the draft ALN Code?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

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Any other comments

Question 46 – Please provide any other comments that you would like to make on the draft ALN Code. Where your comments relate to a specific chapter or paragraph within the draft ALN Code, please indicate this in your response.

The ALN system

The decision not to include independent specialist provision in the overall ALN system is disappointing. The exclusion of ISPIs from all parts of the Code not only fails to recognise the skills and expertise the sector currently contributes to the post-16 education landscape in Wales and it also leaves young people with a higher level of additional learning needs unsure of where and how their needs will be met within the proposed ALN system. This is then further reinforced by the commitment of the Welsh Government to an inclusive education system. If Welsh Government want to move away from the dual system of education that is currently offered, this needs to be explained explicitly and plans put in place to evaluate the current system and propose how a single ALN system would meet the needs of young people who currently achieve very positive outcomes through specialist college provision.

Supporting young people to develop the skills and confidence to take up their place successfully in the wider community should be a key aim for all ALN provision. There are different routes to achieving inclusion, however. For some young people with ALN, a FEI college can be an isolating experience, while the opportunity offered by a specialist setting to learn amongst peers with similar needs and life experiences can be a very effective way to help them achieve long-term sustainable outcomes that enable them to become active participants in and contributors to society.

The Code presents a missed opportunity to bring together all post-16 providers to create a strong framework which enables young people with ALN to have a range of choices and options open to them. The sharing of expertise through regional ALN Centres of Excellence would only enhance the expertise of the whole sector and improve curriculum development and the outcomes achieved.

A wider view of the whole ALN system could bring the additional benefit of providing meaningful guidance which will strengthen relationships across all professionals. This would support the co-operation of education, social care and health to plan for and support young people through the transition from education to adult life.

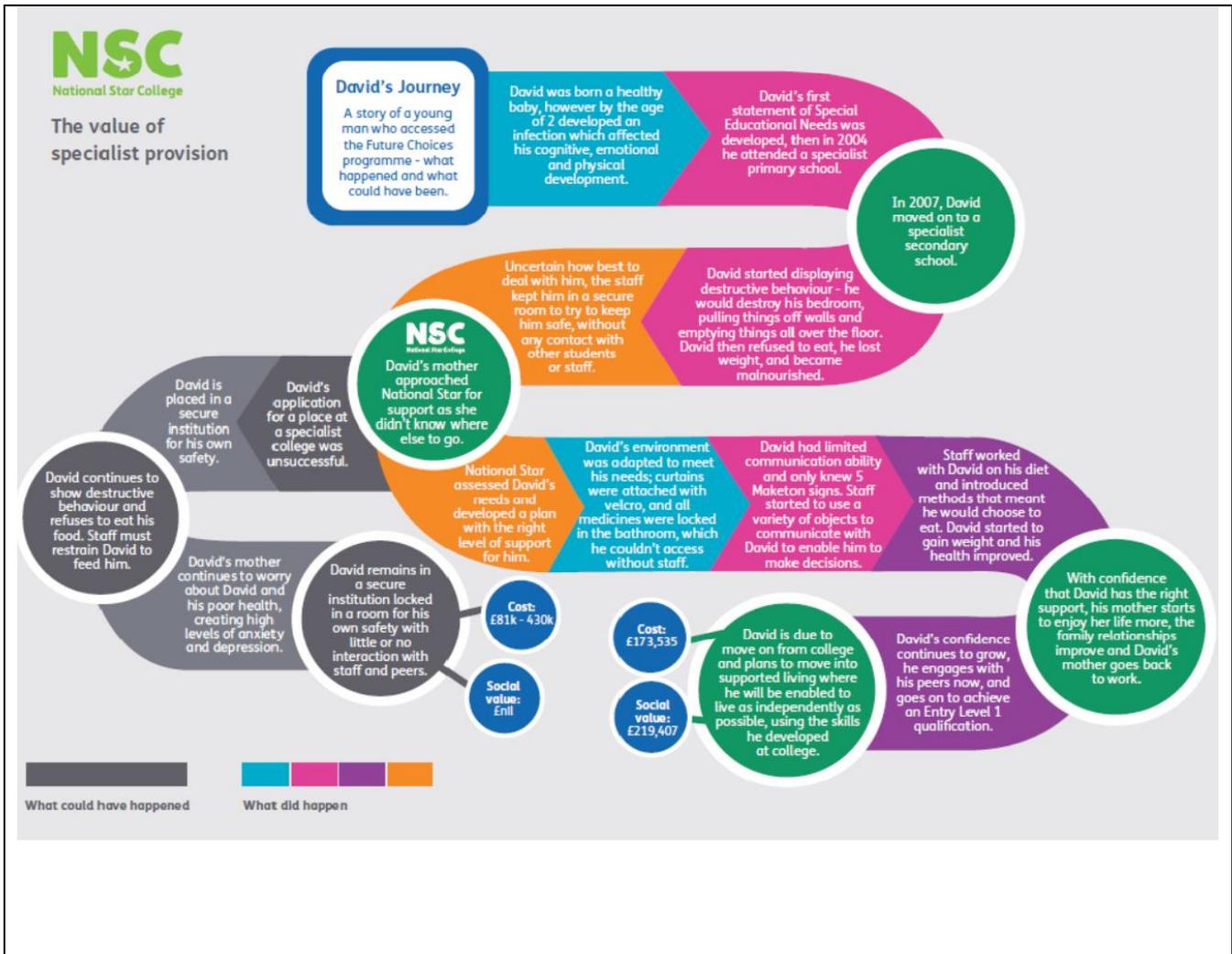
Preparation for adulthood

The Code lacks a clear focus on the impact the overall provision will have for children and young people with ALN. Additional guidance with an emphasis on transition into adult life will support all professionals who work alongside children and young people with disabilities to understand how their contribution is vital in supporting the individual to achieve an adult life of their choice. Additional guidance in this area will increase aspirations focusing on children and young people's strengths and capabilities, and the outcomes they would like to achieve.

The guidance given in 19.71 prioritises employment as an outcome. Guidance needs to be developed upon valuing a range of outcomes that prepare young people with disabilities for adulthood that extend further than employment. Additional guidance needs to be provided to develop the themes of independent/supported living, valuing freedom and promoting choice and control for young people with ALN. Guidance that promotes good health and increases young people's understanding of how to make positive choices to maintain their health needs to be added. Finally, guidance that supports young people to integrate and promotes a sense of belonging in the community of their choice when they transition into adult life would enhance the overall guidance.

Adult provision

There needs to be an increased recognition of the benefits of good post-19 provision, and the long-term impact for young people with disabilities. For some young people the length of programme required will be greater than their non-disabled peers. The positive impact and social return on investment of the outcomes achieved significantly outweighs the costs. Evidence includes:



Part 2 of the consultation: Draft Education Tribunal for Wales regulations

Question 47 – Overall, do the draft Education Tribunal regulations provide clear processes and procedures relating to appeals and claims to the Education Tribunal?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 48 – Overall, will the processes and procedures outlined in the draft Education Tribunal regulations enable the Education Tribunal to deal with cases fairly and justly?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

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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?

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 50 – Are the proposed timescales for each party in the case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) reasonable?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

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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?

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 52 – Are the timescales relating to compliance with Education Tribunal orders appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

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Question 53 – Is the approach to extensions to timescales (regulation 66 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 54 – Are the proposed regulations relating to case friends (draft Education Tribunal regulations 61 to 64) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Part 3 of the consultation: Draft ALNCo regulations

Question 55 – Are the prescribed qualifications to be an ALNCo set out in the draft ALNCo regulations appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 56 – Do you agree with the tasks that ALNCos must carry out or arrange to carry out as set out in the draft ALNCo regulations?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Part 4 of the consultation: Looked after children

(a) Proposed regulations to be made

Question 57 – Do you agree that the Looked after Children in Education (LACE) Co-ordinator should be a statutory role?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

(b) Chapter 14 of the draft ALN Code – Content of an IDP for a looked after child

Question 58 – Do you agree that there should be a separate standard form for looked after children and is the proposed standard form, together with the guidance and requirements related to it, appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

(c) Proposed revisions to the Part 6 Code

Question 59 – Do the draft revisions to the Part 6 Code provide a clear explanation of the duties on local authorities in relation to their social services functions for looked after children with ALN and what these duties mean in practice?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 60 – Overall, do you agree with the approach taken in the draft revised Part 6 Code to explaining the legislative changes, including the integration of personal education plans (PEPs) and IDPs and the mandatory content of PEPs? Are the requirements and expectations and what these mean in practice clearly explained?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

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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?

The proposed regulations relating to ‘Deciding if an IDP is necessary for a young person not in a maintained school or FEI in Wales’ are covered in Chapter 12. National Star’s response to Question 17 highlights the impact of the proposed regulations. Fundamentally, the guidance and regulation proposed will drive up inequality for the most vulnerable young people, and increase conflict between local authorities and young people and their families.

The impact of the proposed regulations relating to ‘Deciding if it is no longer necessary to maintain an IDP for a young person not in a maintained school or FEI in Wales’ is covered in National Star’s response to Question 34. The impact of the regulation will increase inequality amongst children and young people with ALN, and place children, young people and their families in the position where they will be required to evidence reasonable need as defined by individual local authorities.

Regulations should be reviewed to ensure they promote collaboration across all providers and professional involved in the ALN system.

Question 63 – What impact do you think the proposals in the draft ALN Code and proposed regulations would have on the Welsh language?

No comments.

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:

- xv) 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?;
- xvi) no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?

No comments.

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 additional comments.

Response 282

Respondent Details

Information	
Name	Respondent requested anonymity
Organisation (if applicable)	

Part 1 of the consultation: The draft ALN Code

Chapter 1 - Introduction

The meaning of 'must', 'must not', 'may', 'should' and 'should not' in the ALN Code

Question 1 – Is the explanation in paragraphs 1.10 -1.16 of the draft ALN Code of the use and meaning of the different terms 'must', 'must not', 'may', 'should' and 'should not' clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The inclusion of meanings around these terms along with the clear colour coding used helps to focus attention on the main duties for each sector.

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

The approach used in setting out clear timetables for compliance is necessary and broadly welcomed by Colegau Cymru. The challenge, in setting minimum compliance times, is in ensuring that we meet the needs of children and young people, while at the same time allowing organisations sufficient time to comply. As young people may spend as little as a year in college or 6th form, the timescales identified would seem adequate to ensuring that organisations act promptly as long as there is not a fixed expectation that the IDP will necessarily contain final and complete information about ALN and ALP (see answer to Q3)

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

Colegau Cymru agrees that there needs to be general exceptions included within the Code. However, the example given concerns the unavailability of a young person which, while appropriate, leaves uncertainty around scenarios where an FEI is unable to make a judgement due to a delay caused by external 'experts' from health, local authority, etc. Where a college is unable to confirm a learner's need for ALP until they are in receipt of an external report or advice, it would seem unfair to place them in contravention of the ALN Code.

However, if it was clear within the Code that the timescale could mean a temporary judgement was made resulting in provisional arrangements for support while awaiting a full report, then colleges might be better placed to comply. It may be perfectly possible to 'promptly put in place' appropriate provisional support, based on the limited understanding that a college ALNCo has of the learner's needs, before further clarification as to exactly what is required. It might also be possible to make provisional entries within the learner's IDP. However, if there is a perception that a 'final and complete' decision has to be made on both ALN and ALP, this may lead to compliance difficulties.

Structure of the draft ALN Code

Question 4 – Is the structure of the draft ALN Code and the separation of the chapters appropriate, clear and easy to follow?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The structure of the draft ALN Code provides easy access to the most important elements for each sector/organisation. It ensures that professionals are able to follow the information that is pertinent to them without the need to read every chapter.

Question 5 – Is the draft ALN Code's focus on describing and explaining the functions and processes appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

This focus provides clarity and ensures that the Code is a useful resource for ALNCoS and other responsible persons.

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	✓
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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

<p>Colegau Cymru agrees that the right principles are set out within chapter 2. They help to set the scene for professionals to work within and provide a focus for institutions to use as they develop policies and procedures. In particular, the emphasis on early intervention, collaboration and inclusive education are essential elements in an equitable system.</p> <p>It is also clear to any professional that the person-centred approach identified in paragraph 2.2a) ensures that children, young people and their parents/carers are placed at the centre of the decision making process. However, to some other stakeholders, the emboldened use of the term ‘a rights-based approach’ might be interpreted in other ways. There is already a danger that some parents will interpret the Act in a way that leads them to believe that their children have a right to whatever provision they prefer. It is important that a ‘needs’ rather than ‘wants’ basis is reinforced. It might help to ensure a clearer perception of the purpose of the Code and its purpose if the wording could reflect this.</p>

Chapter 3 - Involving and supporting children, their parents and young people

Question 8 – Is the explanation of the duties relating to involving and supporting children, their parents and young people provided in Chapter 3 of the draft ALN Code appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

<p>Colegau Cymru believes that young people are and should continue to be at the centre of decisions affecting them. Chapter 3 provides clear and appropriate guidance on the duties of providers to ensure that this occurs.</p>

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

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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

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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 checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Providing accurate and easily accessible information to children, young people and parents is crucial if the legislative changes are to be effective.

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

<p>Generally, the information and definitions within this chapter are clear and appropriate. Using the need for ALP as the trigger for an IDP means that the significant resources required from schools and FEIs to carry out their duties under the Act are reserved for those who really need this.</p> <p>While the initial explanation and definitions are clear, the statement at the end of 7.22 appears to contradict earlier information. <i>‘Whether or not the person has ALN on that basis, if the person has a significantly greater difficulty in learning than the majority of others of the same age, they will have ALN.’</i> Based on this statement, if a young person has a moderate form of Dyslexia with severe difficulties in making sense of text, they will have ALN under the Code even if the universal learning provision within a college (e.g. accessibility technology) provides them with the tools to successfully complete their course.</p>

Young people attending discrete provision within an FEI almost always have learning difficulties and/or disabilities. Each group of ILS learners will include learners with a range of abilities and difficulties. ALL learners within such a group will have access to support that is provided for the group. Some may have particular needs that require individualised (and perhaps one-to-one) support. Within the current Code definition of ALN it might be interpreted that most learners within ILS do not have additional learning needs as they only need educational provision that is offered to all young people on their course (ULP). This might not be the intention of the Act or Code and therefore further wording may be necessary.

What is the definition of ‘significantly greater difficulty in learning’ and is it a subjective or quantifiable assessment? Is the difficulty learning, based on intellectual capability or literacy ability?

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	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Based on the information provided within this chapter regarding evidence needed (e.g. 7.36) the Code appears to allow in some cases a decision of whether a young person has ALN to be made by school and college staff. While colleges are used to making judgements around education support needs of their learners, it might be prudent to highlight in this section the importance of qualifications and experience. It is generally regarded within FE that suitably experienced staff who hold a L7 SpLD qualification can quite properly assess for education support needs based on assessment tools they have administered. However, this would not be seen as a formal diagnosis of a specific learning difficulty. Clarity within the Code is needed to identify whether this level of evidence is acceptable; where a formal diagnosis of a learning difficulty has not been made by an EP, but instead, an assessment has been carried out (using assessment tools recognised by SASC) by a L7 SpLD trained assessor.

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	✓
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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	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

<p>The structure and content of these chapters does appear to flow well and provide information in a sensible sequence. The titles and references make it easy for the reader to find what they are looking for and this helps to create a useful manual for professionals.</p> <p>The needs of learners change as they grow from child into young person and it is important that these differences are evident within the Code. In its current structure, the Code has post-16 learners separated dependent on whether they attend a school or FEI. While this makes complete sense in terms of professionals using the document, there is a missed opportunity to emphasise the differing needs and approaches required for young people. This could be at least partially overcome with a clearer reference to the importance of treating young people as adults whether in school or FEI.</p> <p>10.37 This is a crucial paragraph within the Code that will no doubt cause some lively discussions between colleges and local authorities. Following the work of some of the recent Creative Solutions projects, colleges are providing a more person-centred curriculum within discrete provision. The definition of what constitutes further education has broadened in some colleges. However, most colleges would consider ‘therapies’ outside their remit. While the information provided within the code is not exactly ambiguous, there may be potential for a little more detail on the kinds of ALP elements that would/would not be appropriate for FEIs to provide.</p> <p>It is currently expected that the vast majority of learners with ALN who enrol at an FEI will already have an IDP. However, experience shows that a significant number of learners are still missed during their first 16 years either because their needs change, they have been in EOTAS or they have been ‘hidden’ for one reason or another. In such cases FEIs need clarification of:</p> <ul style="list-style-type: none">• Whether they must secure the services of an EP to assess the nature of any learning difficulty or whether, under the Code, their own L7 SpLD-qualified staff are deemed as having adequate skills to make this judgement• In cases where learners provide reports from freelance professionals, to what extent should such reports be accepted as evidence and how might FEIs ensure that the evidence is accurate
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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	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

<p>While there are significant challenges for FEIs in meeting these timescales, it is essential that decisions be made swiftly, particularly for learners who may only attend college for a year. It</p>
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is therefore important to provide adequate flexibility within the Code for decisions to be made based on the information available with an expectation that schools should provide the information to FEIs as soon as the learner has applied to the FEI or that the IDP/assessment evidence is available on a secure national platform. If FEIs are forced to source expensive and scarce external advice, when learner difficulties and needs can be appropriately assessed by their own qualified staff, the timeframes may become more difficult to meet. Better to reserve expert services for learners with more complex needs.

Deciding whether it is ‘necessary’ for a local authority to prepare and maintain an IDP for a young person not at a maintained school or FEI - Proposed regulations to be made under Section 46 of the 2018 Act

Question 17 – Are the proposed requirements and guidance in paragraphs 12.22 – 12.51 of the draft ALN Code on when it is necessary for a local authority to maintain an IDP for a young person not at a school or FEI in Wales appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

This chapter attempts to deal with the very complex issue of ‘reasonable need for education or training’. It does not define what constitutes education or training and, while it may be felt the Code is not the place to cover this, the potential for disagreements around this issue are considerable. It might be helpful for local authorities if WG could provide greater guidance on this.

12.27 While this section refers to young people not attending an FEI, there are concerns from some college leads that this paragraph might, under equality law, lead to a significant change in discrete provision.

Providing a limit to the number of years a young person might reasonably be expected to attend a course that focuses on independent living skills seems sensible. After all, the purpose of FE is to provide education and training in order to move learners on to the next phase of their life. Leaving the potential duration of ILS training open could lead to some colleges having learners on such programmes for many years. The pressure from parents for young people with more severe learning difficulties to stay on in college for as long as possible, while understandable, fuels this situation. Learners staying on such programmes for many years are unlikely to be making ‘significant’ progress.

Unfortunately, due to the very limited range of LA social day care alternatives, this will have a significant impact on young people who have learning difficulties and currently attend their local college for as long as four years.

The first term of any ILS programme is generally a settling in period. This leaves just 5 terms for learners to achieve the level of independence they need for future life outside education. If we are to retain a person-centred approach to ALN provision, limiting ILS programmes to two years might be challenged as going against one of the central aims of the legislation.

The other point to note is that some learners who start at level 1 may work through several programmes eventually achieving a vocational qualification at level 3. This would involve a total of four years in college. There may need to be a statement that differentiates between learners who study at a single level and those that progress to higher levels.

Chapter 13 - Content of an IDP

Question 18 – Are the elements of the mandatory content of an IDP which are required by the ALN Code, appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The content within the IDP, along with the stated flexibility for additions and style, provide an appropriate basis for an IDP. Additional comments regarding the details and format are included against Question 19.

Question 19 – Is the proposed mandatory standard form for an IDP (included at Annex A of the draft ALN Code) appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The content of the IDP is, in the main, appropriate for use in an FEI. The flexibility mentioned within the Code regarding style and additions is helpful and important given the wide range of learners that it will need to cover.

One of the most important factors governing the successfully writing, revision and transfer of the IDP relates to the platform used to contain it. At this point in time, WG have not committed to supporting a national electronic IDP platform. It is the view of Colegau Cymru and of the colleges in Wales that this would be a mistake and would have a significant impact on the final success of the new system. Earlier concerns from WG and other agencies that an electronic platform might not meet confidentiality and security requirements are not valid within the current technologically advanced environment. A modern data-based system would allow for the secure storage and restricted sharing of all elements within the IDP. It would also allow for specific stakeholders to be granted access to just the information relevant to them. So an exams officer in a college would only be provided with the information necessary to inform an application for access arrangements, whereas the young person, and through them their parents, would have access to live versions of all the decisions affecting them. While there is likely to be a cost, this would be more than outweighed by the saving in time and improvement in service. Without a national platform, it is likely that a varied range of document-share options will be used resulting in duplication of effort and the danger of thousands of paper-based IDPs being printed.

Section 2B – While it is recognised that no single design for this element of the IDP will necessarily be perfect for everyone, consideration ought to be given to the structure and whether this will support an effective process. The usual way to approach support is to consider:

1. What is the specific need we are meeting?
2. What ALP might meet this need?
3. Details of who/how/when; and finally
4. Did it work?

It might support this way of thinking to more accurately reflect this in the way in which this section is organised.

The wording within section **2D.1) 'The name of a maintained school in Wales that is being named for the purpose of securing the admission of the child to the school'** appears a little confusing. It is not clear how this section should be (if at all) completed in the case of a learner going to a FEI.

Section 3 provides the opportunity to provide essential information on potential changes to ALP following transition to a new establishment. As one of the key issues during transition is the accurate interpretation of a YP's needs from one environment to another, this should encourage a sensible approach to this.

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

As stated above, some clarification of 2D is needed.

Additionally, consideration of quality assurance is missing. If this is not to be included within the Code itself, it will need to be considered within other supporting documentation.

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

While the information within these paragraphs is clear, the current Learner Travel Measures do not ensure appropriate transport is available for young people. This is particularly problematic in rural areas and, under the current LA economic climate, already leads to young people becoming excluded from post-18 provision. There is nothing within the Code that is likely to improve this situation and it may be that WG believe that the ALN Code is not the place for this to be dealt with. However, the current situation leads to an inequity for young people depending where they live. Further consideration of this issue is needed.

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

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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 checked="" 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 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

<p>This chapter includes very helpful information that supports a clear understanding of duties. There are a small number of issues that Colegau Cymru wish to raise.</p> <p>Paragraph 16.12 is written in a way that is very difficult to follow. While the information has to be legally enforceable, ALNCOs need to understand adequately to comply. Perhaps a simplified flow diagram might help in this case.</p> <p>The timing of reviews poses a much greater issue for colleges. Most schools carry out year 11 reviews during the autumn term. Under the Code, this would require FEIs to be providing reviews at the same time of year and would mean FEI staff would not have capacity to attend school year 11 reviews. One possible solution for this would be a clearly defined adjustment</p>

to this duty during transition. If colleges were required to carry out person-centred admissions interviews with learners either prior to enrolment or within the first few weeks, then it would make more sense for the period for reviewing progress to be extended beyond the one year from last review. An additional 6 months would place these reviews within the spring term when resources might be available and, more importantly, would allow a more informed review to take place with college staff having a reasonable attendance period to consider.

The importance of ensuring that due consideration is given within year 11 (year 12/13 for some special schools) to the changing environment, curriculum and ALP within the proposed college cannot be overstressed. In most cases, it will be important for school ALNCoS to ensure that they have someone present within the review that is able to speak with experience about the proposed provision and, with the ALNCo, to interpret the young person’s ALP needs accordingly. If this is missing from the final review, it is likely that the future ALP identified within the IDP will be inappropriate and could lead to a breakdown within the placement. It is certainly likely to increase the anxiety for the young person concerned.

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 proposed period and exceptions are both clear and appropriate.

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	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

While the majority of this section is clear and straightforward, there appears to be a good deal of scope for interpretation regarding the ALP for which it is reasonable for an FEI to provide or assess.

It may be that WG feel the Code is not the place to define this element. However, there are some areas of provision that have, historically, been outside the scope or skills of an FEI:

- Therapies of any kind – all colleges see therapies such as physiotherapy and SALT as being outside of their remit

- **Specialist services – such as ASD counselling, specialist behavioural support, psychiatry, physical restraint, hydrotherapy and specialist ILS for those with profound sensory impairments**
- **Assessment that requires skills that FEI staff could not reasonably be expected to hold such as educational psychology**

While many of these elements do not necessarily exclude a learner completely from an FEI programme, they would require external expertise from LA, Health Board or other service. If this cost had to be borne by the FEI, it might seriously affect the already limited ALS allocation and lead to a reduction of support for other learners.

Question 28 – Is the proposed period and exception for a local authority reconsidering a school IDP (set out in paragraph 17.20 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

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

18.13 and 18.15 In cases where a young person has opted for their parents to be involved in decisions about their support, it may be important to ensure that communication is carried out with both YP and parent at each stage. This is especially the case with YP who are likely to misunderstand information provided. Therefore, these paragraphs should be amended to reflect this by using the words ‘and/or’ rather than just ‘or’.

Where reviews are being planned for children and young people who are considering transition, the Code does mention that there should be appropriate representation from professionals that can support this. Colleges do not always have adequate workforce capacity to attend school reviews but it is recognised that their involvement in such events is often essential to ensure accurate interpretation of ALP from the school to FE environment. Pupils do not always know what kind of provision they wish to opt for post-16, and it may be that college has not even been considered. However, if schools do not invite attendance from someone in a position to provide accurate information on FE provision as well as assessment/interpretation of ALP, learners who later decide to enrol at a college may have a delay in their needs being met. The Code needs to be strengthened to ensure that all schools invite a professional to transition reviews who can interpret needs and provide accurate guidance.

Chapter 19 – Planning for and supporting transition

Question 30 – Is the guidance in Chapter 19 of the draft ALN Code on supporting children and young people to make effective transitions appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

There is some very helpful and specific guidance within this chapter that is likely to encourage better planning for transition.

19.23 identifies the need for a school or FEI to include organisations to which the C/YP is preparing to move. However, teenagers are often unclear about this until towards the end of their school attendance and often change their minds. This currently results in young people for whom colleges have little or no information, turning up at enrolment (when schools are often still on summer recess). This delays decisions about support and can lead to attendance on inappropriate courses. If the Code was strengthened here to ensure that an invitation is made either to a careers officer (this would have to be someone who understands the additional learning needs and provision for the learner) or to providers of further education, then information could be available should the young person turn up for enrolment.

Colleges may not have capacity to attend reviews, so it would be important to focus on the requirement to 'invite' appropriate organisations to transition reviews. Limited workforce capacity may also lead to colleges and schools working in other ways to meet the transition needs of leavers. For instance, holding transition events within school or college that would include an opportunity for pupil and parent to discuss, in a person-centred way, their support needs. These kinds of events would be in addition to the review but would allow the transition elements to be fully addressed.

The timing and arrangements of reviews for year cohorts of learners is crucial to ensure staffing efficiency. Most schools carry out their year 11 reviews within the autumn term. This is to ensure they do not clash with exams and that decisions about transition can be made at an early stage. If college staff, who may be called to attend these reviews, also have to carry out reviews for their year 1 learners, it will be impossible to staff both. Colleges already provide a bespoke transition experience for many applicants and this is improving all the time. If colleges include in this process the opportunity to meet with learner and parent (and other professionals where appropriate) to discuss support needs and to reconsider the ALP recorded within the IDP, this should meet most students' needs. Holding another review within the first term, except in cases where there are difficulties that require one, should not be necessary. Holding their first formal review within term 2, when FEIs may have greater capacity to do this, would seem a more sensible and achievable prospect. This would need an adjustment to the Code to allow for this flexibility in times of transition.

19.56 '...the FEI should be invited' – colour 'should' in blue.

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

Well-structured with clear information.

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

Although much of the information provided here is quite clear, the circumstances around the timescales given for IDP transfer appear a little ambiguous.

The transfer of a learner's IDP from LA to FEI in most cases is likely to occur at the beginning of a young person's entry to further education. The reasons for such a transfer might be due to the changing nature of the curriculum, learning environment or skills of the learner. Whatever the reason, where this occurs at entry, the process needs to take account of the learners transition and, in cases where there are complex needs, must allow for a full assessment by the FEI of the young person's needs within the new environment. Where there is any question of the match between learner and environment, this would normally include a number of taster sessions to allow both the learner and FEI to identify whether the placement is likely to be a successful one. It is clear that, if the LA were to notify the FEI of its intention to transfer the IDP prior to this process starting, 20 days would not be adequate for a full assessment to be carried out. If the Code was changed to ensure that the LA could not issue such a request until the FEI had accepted the young person's application, the period of 20 days would be appropriate.

Question 33 – Are the arrangements that are intended to be included in regulations in relation to all other transfers (as described in paragraphs 20.18 – 20.21 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Chapter 21 - Ceasing to maintain an IDP

Question 34 – Is the content and structure of Chapter 21 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The content and structure are clear. There are clear challenges involved for LAs, schools and FEIs in ceasing an IDP. Children, young people and their parents are likely to feel extremely unhappy at the prospect unless they are really clear on the continuing provision. However, edits or additions to this chapter of the Code are unlikely to improve this situation.

There does not appear to be any guidance regarding what happens to the IDP record once it has been ceased. If a young person leaves an FEI, for how long should the FEI store the IDP? Situations might occur where a YP no longer needs ALP on their current course but subsequently progresses to a course where they do require ALP. Has this eventuality been considered?

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

Time frame appropriate.

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

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

Question 38 – Are the proposals for the regulations in relation to children or young people who are subject to a detention order and detained in hospital under Part 3 of the Mental Health Act 1983 (as described in paragraphs 22.45 – 22.74 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 39 – Are the timescale requirements to act “promptly” in relation to decisions about ALN and preparing IDPs for children and young people subject to detention orders (as set out in Chapter 22) appropriate, rather than also having a requirement to comply within a fixed period subject to an exception or exceptions?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Chapter 23 - Children and young people in specific circumstances

Question 40 – Is the guidance in Chapter 23 of the draft ALN Code on children and young people in specific circumstances appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The information here is generally clear and appropriate. However, information and guidance about reciprocal arrangements between England and Wales relating to EHCP, IDPs and ALP appears to be missing or not clear. Additional guidance on this would be welcomed.

Chapter 24 - Role of the Additional Learning Needs Co-ordinator (ALNCo)

Question 41 – Is the information set out in Chapter 24 of the draft ALN Code about the role and responsibilities of the ALNCo appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The role and responsibilities of the ALNCo are clearly defined and appropriate for the job. Colegau Cymru agree that the position must either be within the SMT or have a clear line of communication to the senior leadership team. It is essential that they are able to influence college policies.

While we agree that there needs to be some flexibility around qualifications for ALNCo currently in post, we believe that the Code needs to be strengthened to ensure that all new ALNCo are required to attend ALNCo training within the first two years in post. The role demands that they have the knowledge and experience to be able to provide guidance and training to other staff. They also need to make judgements around the ALP required by learners who have ALN.

The actual ALN management and staffing structure that is appropriate within each college will depend largely on the size of the institution. However, the wording within the Code does appear to allow for these variations.

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

The requirements imposed on LAs are likely to support early resolution of disagreements between FEIs and young people.

Question 43 – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of the provision of independent advocacy services appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

While the information within this section appears appropriate, there appears to be a lack of clarity regarding the children and young people for whom an LA would provide IAS. 25.55 refers to 'children and young people for whom it is responsible'. It is unclear whether this refers to all children and young people living within the authority, or just those for whom they maintain an IDP. Further clarification would be helpful here.

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

This information is clearly explained.
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Any other comments

Question 46 – Please provide any other comments that you would like to make on the draft ALN Code. Where your comments relate to a specific chapter or paragraph within the draft ALN Code, please indicate this in your response.

Please see comments made against question 56.

Part 2 of the consultation: Draft Education Tribunal for Wales regulations

Question 47 – Overall, do the draft Education Tribunal regulations provide clear processes and procedures relating to appeals and claims to the Education Tribunal?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 48 – Overall, will the processes and procedures outlined in the draft Education Tribunal regulations enable the Education Tribunal to deal with cases fairly and justly?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Procedures at meetings 44.(4) (a) – To allow appellants, claimants or defendants to rely on grounds not stated within the appeal application would surely make it very difficult for each side to prepare their case successfully. This might also encourage poor preparation leading to an inefficient and overly stressful process. Is there a sound reason for this inclusion?

Question 49 – Is the proposed case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 50 – Are the proposed timescales for each party in the case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) reasonable?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 51 – Is the 6 week timescale within which NHS bodies must report to the Education Tribunal in response to a recommendation (regulation 65 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 52 – Are the timescales relating to compliance with Education Tribunal orders appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 53 – Is the approach to extensions to timescales (regulation 66 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 54 – Are the proposed regulations relating to case friends (draft Education Tribunal regulations 61 to 64) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Part 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

<p>The requirement for teacher registration via EWC would seem appropriate given that this role will include advising other educators on approaches to teaching and support.</p> <p>While we agree that there needs to be some flexibility around qualifications for ALNCos currently in post, we believe that the Code needs to be strengthened to ensure that all new ALNCos are required to attend ALNCo training within the first two years in post. The role demands that they have the knowledge and experience to be able to provide guidance and training to other staff. They also need to make judgements around the ALP required by learners who have ALN.</p>

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

<p>While the list of tasks is not necessarily exhaustive, the items included are appropriate.</p>

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

It is important that this is a statutory role to ensure some level of consistency across Wales.

(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

It makes sense to combine the PEP and IDP and to hold combined meetings wherever possible.

(c) Proposed revisions to the Part 6 Code

Question 59 – Do the draft revisions to the Part 6 Code provide a clear explanation of the duties on local authorities in relation to their social services functions for looked after children with ALN and what these duties mean in practice?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Question 60 – Overall, do you agree with the approach taken in the draft revised Part 6 Code to explaining the legislative changes, including the integration of personal education plans (PEPs) and IDPs and the mandatory content of PEPs? Are the requirements and expectations and what these mean in practice clearly explained?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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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?

The Code and regulations are likely to reinforce the right of every child and young person to receive provision through the medium of Welsh. The difficulty for schools, colleges and LAs will be in accurately assessing needs through the medium of Welsh. There are currently no properly normed and standardised tests that can be used with young people.

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:

- xvii) 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?;
- xviii) 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?

See answer to question 63.

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 impact of the ALNET Act, Code and regulations is likely to be very positive if all organisations and services execute their duties fully and effectively. The key principles within the Act itself along with the focus on a person-centred approach to provision will hopefully herald more collaborative and transparent services and lead to improved experiences for children, young people and their parents.

The main concerns for FEIs lie around workforce capacity. In order to meet these new requirements they will be involved in a range of activities that are additional to their current role, while they are not expected to cease carrying out any current duties. It is estimated that between 5% and 10% of college learners will qualify for an IDP. For a small college this might mean between 120 and 240 learners and for a large FEI, between 800 and 1600 learners. Given that these new tasks include, attending schools reviews, providing

enhanced transitions, organising and carrying out reviews and creating/updating IDPs, the increased work load will have a large impact on staffing requirements.

Currently, colleges receive a fixed annual ALN allocation, which does not cover the current costs of support. There are also restrictions placed around this allocation that mean it cannot be used for the kinds of activity required by ALNET. This means that colleges will need to find the additional resources from within their core budgets at a time when these are already becoming stretched.

The response from colleges to the planned changes under the Act have been overwhelmingly positive. However, they are beginning to question how they might meet their duties under ALNET within the available resources and realising the challenges that this brings. There is a risk that, without these additional resources, the impact of ALNET will be watered down.

The current understanding is that trainees attending a work-based learning programme at a college are covered by the Act and Code. However, no mention is made about this within the Code. There are significant issues for colleges in providing ALP for such learners given the large proportion of time they spend off-site. There is also no clarification of what implications (if any) the Act and Code has on employers who provide the placements.

These issues, and their financial implications, need serious consideration if the new legislation is to have the successful impact that we all wish to see.

Respondent Details

Information	
Name	Anonymous
Organisation (if applicable)	Care in Schools Alliance

1. Definition of Additional Learning Needs

1.1. We are concerned the code fails to provide further clarification or guidance with regards to the definition of ALN and resulting qualification for Additional Learning Provision (ALP). This leaves significant interpretation up to practitioners on the ground that could be challenging in scenarios where they may wish to avoid committing to an Individual Development Plan (IDP). In particular this is likely to lead to confusion in cases where there is ambiguity over whether a condition qualifies as a disability under the Equality Act 2010.

2. Healthcare needs section (p.61 – 7.30- 7.32).

The healthcare needs section should provide more clarity and guidance as follows:

2.1. *Supporting Learners with Healthcare Needs guidance 2017*: The Code currently signposts to *Supporting Learners with Healthcare Needs 2017* (SLHCN) guidance for “those learners under the age of 18 with healthcare needs” (7.30). However this guidance was drawn up prior to the passage of the Additional Learning Needs Act and does not reflect the updated legislative framework. For example, it refers to ‘Special Educational Needs’ rather than ‘Additional Learning Needs’ throughout. Further, it fails to provide for anything like the level of support required for children with healthcare needs that are complex and long-term, leaving decisions over whether a child with a medical need is provided with a plan in the hands of the Head Teacher even where that is at odds with the advice of health care professionals. This guidance requires urgent updating alongside proper stakeholder consultation if it is to be cited in the Code. CISA engaged at length in consultation on *Supporting Learners with Healthcare Needs guidance 2017*, arguing at the time that this guidance was insufficiently robust and does not provide the necessary legal framework to help guide schools and educational bodies.

2.2. The Healthcare needs section appears to cover a broad cohort of learners, from straightforward short-term illness or injury to long-term, chronic medical conditions. It makes clear that whilst not all children with healthcare needs will have ALN, the needs of these children “should be met by other means” yet it is not clear how (p.62, 7.32). School Governing bodies must ensure that Head Teachers consult health care professionals as well as the pupil and their parents to ensure that their specific healthcare needs are properly understood and effectively supported. Children may be impacted in indirect ways as result of their condition, be it from the stigma of being different, to associated challenges of anxiety or depression and it is important a child centred approach takes this into account. Further, long-term absences due to health problems affect children’s educational attainment, impact on their ability to integrate with their peers and affect their general wellbeing and

emotional health. Schools have a responsibility to safeguard children in line with Section 3 of The Children Act 1989 and this should be referenced within this section.

- 2.3. Where a child does have ALN as a result of a medical condition there is a need for clarification over the interaction between Individual Development Plans (IDPs) and Individual Healthcare Plans (IHPs). For example there is a need for clarity where a learner is entitled to both an IDP and IHP as to how these plans and associated resourcing of them will be coordinated. In our view, where a child is entitled to both plans, they should be unified within an IDP.

3. Multi-agency working

- 3.1. The code states that “the body responsible for deciding whether the person has ALN should consider whether input from external agencies or other suitably qualified professionals is required” (p.66, 7.57). In the case of ALN arising from a medical condition, this is essential and we would suggest this is stated in the healthcare needs section above.
- 3.2. We welcome the statement on p.67 (7.58) that “the body responsible for deciding whether the person has ALN should check with the child, child’s parents or young person to find out if there are any professionals already working with the child or young persons”. We would ask that this is also reflected within Chapter 15 (p.183, 15.42).
- 3.3. On page p.67 (7.60) a list of professionals who may be engaged is provided. This gives the impression of being comprehensive but excludes key professionals such as dietitians, specialist diabetes nurses or catering staff. A similar approach is taken in other sections (e.g 15.47) within the document. This could be confusing and further consideration should be given as to which roles are listed with either a comprehensive and appropriate set of professionals referenced or none at all.
- 3.4. Consideration also needs to be given to the interaction between schools and catering services where children and young people with significant difficulty in learning (e.g. autism, ADHD, multiple sclerosis, cerebral palsy, sight or hearing impairment) are more likely to require additional provisions for eating or drinking that impact on learning (e.g. limited food range, texture modification, food selection difficulties, dining environment modification). The same would be true for medical conditions/disabilities (e.g. severe food allergies, diabetes, coeliac disease) that require additional provisions for eating or drinking that impact on learning (e.g. dietary provision). There is not currently sufficiently detailed national guidance for catering for special dietary requirements in Wales (or UK) maintained schools and practices vary across Wales. We would refer you to the work led by the Welsh Local Government Association’s (WLGA) Food in Schools Coordinator on this matter. There is also at present no national dietetic resource to support this much needed work.

4. Further guidance

- 4.1. As stated, we firmly believe there is a need for the SLHCN guidance to be updated and placed on firmer statutory footing, particularly as it is being referenced in this code.
- 4.2. We would also expect further guidance and easy read documentation to be developed and would ask that CISA be engaged fully as part of this process.

Thank you for your time and consideration of our response. I would welcome the opportunity to discuss any of the points raised with you further.

Respondent Details

Information	
Name	Carol Walker
Organisation (if applicable)	Conwy County Borough Council Social Care and Education Department

Part 1 of the consultation: The draft ALN Code

Chapter 1 - Introduction

The meaning of ‘must’, ‘must not’, ‘may’, ‘should’ and ‘should not’ in the ALN Code

Question 1 – Is the explanation in paragraphs 1.10 -1.16 of the draft ALN Code of the use and meaning of the different terms ‘must’, ‘must not’, ‘may’, ‘should’ and ‘should not’ clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The meanings of each of these terms is clearly explained, although greater clarity could be offered/would be welcome in respect of “justified in not doing so” and “exceptional circumstances”, in order to ensure consistency and clarity for all parties. It is recognised that these will be specific to each discrete part of the code, but it is felt that more guidance throughout the Code regarding what is valid justification and/or exceptional circumstances would support the ethos and focus on early dispute resolution by removing subjectivity as much as possible from the process.

Timescales

Question 2 – Do you agree with the general approach to the timescales for compliance with duties (that is, to act promptly and in any event within a fixed period), as explained in paragraphs 1.31 – 1.32 of the draft ALN Code?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

We agree with the general approach and the principle of acting promptly. We agree in part that fixed time scales are necessary to ensure consistency, equitability and clear and fair processes for all children and young people with additional learning needs. However, we believe that the Code could offer greater clarity/a more specific description regarding the “event” that starts a statutory period, as this is very open throughout the Code and could potentially lead to confusion and easily avoided dispute. In addition, time scales imply that ALN can always be identified through a fixed and time limited assessment and do not

effectively capture the good practice of constant evaluation and review of pupil progress which results in interventions and ALP being accessed as required rather than as a constant state. Timescales for specific outcomes can potentially create artificial and unnecessary expectation and dispute if it is in the best interests of a learner to gather more comprehensive information over time. In addition, fixed timescales and the principle of pupil participation may not be mutually supportive of one another if more time is required to support a child or young person to understand the process and implications of being identified as learner with additional learning needs and the purpose of any ALP. It would be wrong, and without due regard to their rights, to enforce a time scale where a child/young person is not yet fully and meaningfully participating, and where they have capacity to do so with appropriate support and time.

Question 3 – Is the general exception which applies in the case of timescales, as described in paragraphs 1.33-1.35 of the draft ALN Code, appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

We have some concern that it may not always be appropriate or possible to prepare a high quality and meaningful IDP where outstanding information is essential to the identification of ALP, (Paragraph 1.34). For example, in the situation that Speech and Language Therapy Advice is awaited, EY staff/school staff/FE staff/LA Officers may not have the specialist knowledge to ensure that ALP is evidence based and effective in meeting very specific need. There is a risk that more generic objectives and strategies are therefore included within an IDP which may not be in that child/young person’s best interests and appropriately defined to ensure best outcomes for their individual needs. While we agree that the principle of 1.34 will apply for the majority of cases, we do not believe that it can be applied exclusively. There may be cases wherein outstanding evidence is essential for the preparation of a meaningful and appropriate IDP for a child/young person.
We agree that the principles/general exceptions described in 1.33 and 1.35 are appropriate.

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

The structure of the Code and separation of chapters is very clear.

Question 5 – Is the draft ALN Code’s focus on describing and explaining the functions and processes appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

This focus is appropriate; however, when trying with regional partners to map the processes within, there were clear differences in parts regarding how the functions and processes described were interpreted. This suggests that, while the principle is appropriate, there is not yet the intended clarity consistently throughout the Code, which may in turn impact inadvertently on compliance.

Pupil referral units (PRUs) - Proposed regulations to be made under Paragraph 15 of Schedule 1 to the Education Act 1996

Question 6 – Do you agree with the proposal to use regulations to delegate functions from a local authority to a Management Committee of a PRU?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Yes.

Chapter 2 - Principles of the Code

Question 7 – Are the principles set out in Chapter 2 of the draft ALN Code the right ones?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

We believe that all of the underlying principles are good. However, we also believe that it may be helpful to recognise in 2.13 – 2.16 that early intervention can occur prior to the decision that a child has ALN and can form part of the early identification process. Early intervention at a universal level is entirely appropriate and in keeping with many recognised definitions of specific learning needs. Responsiveness to intervention at this level can be essential in informing a clear understanding of a child’s additional learning needs, or in concluding that a child does not have additional needs.

We believe that in being clear that assessment over time, (including assessment of a child’s responsiveness to support and interventions), is a positive, graduated and inclusive approach to additional learning needs, this will help alleviate anxiety and concern around the “wait” for diagnosis or “labelling” of additional learning needs.

Intervention at the earliest stage can both ensure clear understanding and identification of needs while simultaneously providing effective and appropriate early support. Parents and carers should be confident that this is both assessment and intervention, and should not be perceived as a delay in identification. The most robust understanding of need is established over time and responsiveness to support is a key component.

An example may be a child with significant literacy or language delay: a parent/teacher may be concerned that a profile of dyslexia or language disorder is emerging, and the child’s responsiveness to evidence based interventions at this stage will help inform whether this

may be the case and the child being identified as requiring more intensive ALP due to the pervasiveness of the difficulties despite appropriate learning opportunities and intervention. The child has continued to receive appropriate and positive support, and it is not helpful for this to be viewed as a delay in identification or recognition of ALN; rather, it is a thorough assessment over time meaning that the ALN and ALP described in the IDP will be well informed, accurate and in the best interests of that learner.

Chapter 3 - Involving and supporting children, their parents and young people

Question 8 – Is the explanation of the duties relating to involving and supporting children, their parents and young people provided in Chapter 3 of the draft ALN Code appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 3 is very clear and comprehensive in its explanation of the duties relating to involving and supporting children, their parents and young people.
 The inclusion of the right of a young person not to have their parent involved in the process is welcome, recognising this as an important step in becoming a young adult, and signalling a shift from parental preference perhaps.
 We would hope that the fact that PCP approaches and tools are not a must does not result in a step back from utilising the approach to ensure effective participation.

Chapter 4 - Duties on local authorities and NHS bodies to have regard to the UNCRC and the UNCRPD

Question 9 – Is Chapter 4 of the draft ALN Code clear about what is expected of local authorities and NHS bodies when discharging their duties to have due regard to the United Nations Convention on the Rights of the Child (UNCRC) and United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Yes.

Chapter 5 - Duty to keep additional learning provision (ALP) under review

Question 10 – Is the guidance provided in Chapter 5 of the draft ALN Code in relation to the duties to keep ALP under review appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The principle of keeping ALP under review is very appropriate and a key part of service planning and development. However, there are elements of 5.12 that perhaps should be outside of the scope of this review and which should be reviewed and monitored through other processes: for example, “high quality, differentiated teaching for individual children and young people”. We are not sure that local authority ALN services have the capacity to review this across all schools and make judgements regarding this at a whole school level, particularly, when this is already being done on a school level and each individual school will be able to evidence it at this level. The amount of information involved in reviewing this area feels outside of the scope of this review, particularly when the Code focuses on ALP being “educational or training provision that is additional to, or different from, that made generally for others of the same age” throughout, and makes the assumption elsewhere that this universal level of support for learners is well established and in place.

The level of detail suggested within the review is significant, and while we agree entirely with the principle, we do have concerns about the capacity of LAs at present to conduct reviews to this level of detail without unduly impacting on their ongoing delivery of services for children and young people with ALN. We feel that meaningful and informative review could (and should) take place without this level of finite detail, and effectively inform the development of provision.

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.
6.19 to include BSL interpretation.

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

In general yes; however, we believe that the key questions in 7.6 raise some further questions that require more detail. For example, the definition of “significantly greater difficulty” is open to subjectivity and differences of opinion, and while we recognise the reasons that this has

not be further defined, it does not capture the wider picture of a learner’s functionality within an education setting. For example, a child may present as having “significantly greater difficulty” than other children their age on a discrete subtest of a formal, standardised assessment; however, their skills and strengths in other areas may ensure that this does not impact unduly on their functional access to an appropriately differentiated curriculum. Schools have also fed back to the LA concern around differing expectations from parents in respect of progress and achievement, and how the subjective nature of “significantly greater difficulty” may exacerbate concerns. Head Teachers have also queried what measures can be used to identify/describe “significantly greater difficulty”, particularly in the context of the new online assessments.

The second key question refers to “disability which prevents or hinders the person from making use of facilities for education or training”. Often this should and could be managed through reasonable adjustments, environmental adaptations or developing skills which would not necessarily call for ALP and an IDP. The statement seems counter intuitive to the Social Model of Disability referred to earlier in the Code which focuses on removing attitudinal and physical barriers to equality, and assumes that the prevention to access is external rather than internal to the child/young person.

7.17 refers to ALN caused by “particular events, such as bereavement or bullying”. Does this imply that any universal wellbeing support and interventions should be considered ALP? As we believe that this should not be the case and consideration and support for wellbeing should be integral to, and not additional to, or different from, support generally made available to all learners of the same age. We are not clear if 7.17 is making the assumption that events such as bereavement and bullying can lead to the development of additional learning needs as this point seems to be contradicted in 7.18. 7.17 would possibly make more sense in the context of surrounding information if it only read “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, if any.”

We agree with the principle set out in 7.19; however, this notion of early intervention needs to be made clearer earlier on (in Chapter 2), and should be factored in to time scales from the start, i.e. the duty to decide whether a person has ALN can reasonably be delayed until such a point that the monitoring of learner progress indicates that it is appropriate to continue.

We believe that the key question of whether the child or young person has a learning difficulty or disability which calls for ALP is a fundamentally sound one, and it will be positive to develop a greater shared understanding and agreement regarding what constitutes ALP in the context of inclusive education.

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

We believe that this is an area of the Code that does not require specific description of “particular difficulties or problem areas” (7.34) as the key principle is in the requirement for ALP. Each of the possible difficulties described are not in isolation necessarily indicative of significant impact on functioning or learning, and working memory for instance is not an area which is responsive to ALP: for example learners with weaker working memory benefit from universal level adjustments and the development of strategies. There is no evidence in this instance that ALP will improve working memory per se. In addition, areas such as HI may not require ALP if aids and adaptations lead to effective and independent access to the mainstream curriculum. This section more usefully can describe the evidence required rather than a list of possible needs (7.35). The evidence collated by the appropriate individuals around the learner will provide a comprehensive description of need, and we believe that this is an area of the Code that can be refined and shortened.

We would suggest that “behaviour management techniques” could be replaced by the more child centred “behaviour support strategies”, which implies a proactive approach to changing behaviours and understanding of behaviour as communication rather than managing existing negative behaviours.

We do not believe that creative skills are part of or subject to a continuum of development, rather they are individual to the child and cannot be considered to be delayed. Creativity is fluid and subjective and not subject to developmental milestones in the same way as the development of language or physical skills, for that reason we do not believe that it needs to be referred to here.

7.69 – this is useful in setting out clearly that the Act does not give an entitlement to provision that goes beyond that which is called for by the child’s ALN - an example would be helpful, particularly in what is ‘reasonable provision’ when considering FE provision to meet ALN. Later on in Chap 9 the code talks about provision being ‘unreasonable’ to provide. Reasonable and unreasonable are very subjective.

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

This section is very clear and we believe is appropriate for achieving the stated objectives.

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

The structure of the Chapters is clear and easy to follow in terms of key areas; however, the content can be confusing at times and in places.

We had some concern regarding the duty to decide (8.7) regardless of how the possibility that a child under compulsory school age may have ALN has been brought to the LA's attention, and that as part of this process the LA must seek advice from an educational psychologist. This does not seem to offer an opportunity to assess the appropriateness of the referral in the first instance, and may result in resources being directed towards unnecessary assessments and away from service provision. We believe that a moderating step is necessary, to include relevant professionals and the ALNLO to review requests/referrals, in order that resources are most appropriately and effectively used. We recognise the LA's role in training and awareness raising in this area, but still believe that there is a risk of time and resources being used inappropriately. This risk is mitigated at school age and beyond due to the role of school and FE settings in the process.

The rest of Chapter 8 is clear and comprehensive.

Chapter 9 is generally clear; however, we are not clear on the principle behind dual registration and the responsibility lying with the LA.

Question 16 – Are the timescales for decisions by schools, FEIs and local authorities on ALN and preparing an IDP as set out in Chapters 8-12 appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

There is concern that timescales may be difficult to adhere to if appropriate staffing isn't available locally to provide necessary assessment: for example where recruitment of Educational Psychologists has been difficult. Where this is the case, the flexibility to request information from other specialist staff/advisory teachers could be appropriate and provide enough detail for some individual children/young people. We also have some concerns about the duty falling to school, FEIs and LAs despite the waiting times etc of other agencies which are outside of their control.

Feedback from Head Teachers has unanimously supported the view that 35 school days is not long enough to collect evidence, carry out assessment, arrange multi-agency meetings and complete paperwork in all cases. Where it might be achievable in some cases, there will be many others wherein it is not possible to gather all relevant people together and collate their contributions within this time scale. Schools also shared their concern that there needs to be a more robust system for initiating the 35 day (or other) timescale, as the current guidance suggest that a "casual conversation" could start this process, and a more formalised process will ensure clarity and lack of confusion.

We believe that the principle applied to schools and FEIs: that assessment for ALN can only be carried out during term/school days, should also apply to LAs. If the principle is that the needs of children and young people can only be effectively assessed in context and therefore in their education settings, then this principle should be applied consistently to all agencies involved in the duty to appropriately identify ALN and associated ALP. While we understand

that many LA Officers do not have fixed holiday periods, the important question to consider is whether quality assessment of ALN and ALP can be made when a child/young person is not in school/other education placement.

When a school has requested that an LA review a decision regarding whether a child has ALN and the school is then directed to prepare an IDP, the existing time scale may be tight and difficult to achieve: it may be helpful to both schools and parents to support this process with an additional week for example.

The 7 week timescale for a local authority to reconsider a decision assumes that all information pertinent to reconsideration will have already been gathered; however, it does not account for more specialist EP or Health assessment which may be difficult to secure and be carried out within the 7 weeks; particularly given then the additional step of a Moderating body receiving and considering this additional specialist assessment. Assuming that 7 weeks could be long enough to complete this process with the information gathered previously over 35 school/term days by school/FEI, we are unclear why there is a total period of 12 weeks in all other cases. Should this not combine the 35 school days and 7 weeks to allow for the same amount of detailed assessment and information gathering, i.e. 14 weeks?

10.65 - reference to NHS body identifying treatments or service likely to be of benefit in addressing the young person’s ALN, although there are timescales relating to decision making for the NHS in relation to CHC, these timescales are rarely met including in time for a young person to begin college. Specialist residential colleges also tend to identify these ‘services’ as part of their offer / care package rather than the NHS identifying them. Consequently there is then subsequent disagreement re funding leading to disputes and timescales not being met. How do we stop specialist residential colleges ‘costing’ in health services as part of their core fee? How do we engage the NHS in identifying the ‘health’ services required as part of the ALN and responding in a timely manner?

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	☐	Not sure	☐
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Supporting comments

In general, yes. There is some concern and differences of opinion regarding the definition of “realistic prospect”, “desired objective”, “reasonable need”, and “reasonable period”, and there is a risk that the subjective nature of each could lead to dispute and appeal. Given that FEIs have their own admissions criteria etc, how can we ensure agreement between settings and LA and Health (see comment in q16) regarding what provision it is reasonable for the setting to provide?

12.19 – use of what is a person’s ‘reasonable need’ for education. This is very subjective. Similarly leading to dispute and appeal. Again ‘realistic prospect’ of attaining a desired objective. Use of desired is also potentially subjective. Agreed objective / identified objective

would be better. We need to be clear that the purpose is to achieve educational outcomes. Statement that there is no right to continuous education up to the age of 25 or that there is no entitlement to meet the young person's choice is clear.

Education or training – would 'training' be covered by other types of provision available within the Local Authority other than in an 'educational setting' for example through TRAC / ADTRAC projects?

12.26 – extremely difficult to have conversations with families around and individuals' capability to progress. Often specialist placements are requested for young adults with PMLD where the prospect of progression is very limited. Are we now saying that it is possible to have these conversations in light of the duty to ensure that resources are shared equitably etc and in terms of value for money? On the other hand individuals with severe learning disabilities' progression may be small in comparison to an individual who does not have a disability but is significant for that person, capability and progression again can be quite subjective. However, does the person require specialist provision to address that need is the question? Individuals can achieve the same or more in local non-education settings.

12.44 - We are concerned that parents / carers will refer to this part of the guidance along with Social Services & Wellbeing Act provisions around 'willing and able' to require the LA to make provision at an ISPI – our experience is that a driving force for parents is the provision of 2 years of 'respite' irrespective of the prospect of the young person achieving objectives. We are not clear why 'those caring for the young person' is included in the example as they would not normally be delivering an essential part of the young person's formal education or training?

12.47 – Should there be reference to an assessment for provision under the Social Services & Wellbeing Act in terms of social care / transport / personal care? Funding from social care will be dependent upon establishing eligibility under the SS&W Act. Should there be reference to inclusion of Health in the assessment of health needs as part of the multi-disciplinary approach, including CHC Guidance? Both social care and health assessments need to take place at the earliest stage to ensure that there is no delay in agreeing the appropriate ALP. Where a decision is to be made about a suitable placement and it is thought that the young person does not have capacity to consent, then a mental capacity assessment will be required and a best interests meeting, where a young person does not have capacity and as part of the ALP their liberty will be deprived then work around ensuring appropriate DoLS are in place including least restrictive environment will be essential as part of the decision making.

12.50 – right to Independent Tribunal for 'particular aspects' of the IDP?

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 checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

We believe that the standard form as it stands has lost the sense of being truly person centred and having the child/young person at its core; which is the ethos and philosophy behind the Code. We recognise the need for mandatory headings which accurately reflect the requirements in the Act; however, this is the opportunity to provide documentation that responds to the principles and drivers behind ALN Transformation in Wales. This standard form, while including all relevant information, does not look dissimilar from existing documentation under the old SEN Code of Practice, and therefore doesn't reflect the aspirations behind the transformation.

Question 20 – Is the guidance in Chapter 13 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

YES.

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 guidance is brief but simple to read; however, it implies that this should be considered for all learners with an IDP regardless of who has responsibility for it. We would suggest that this is not necessary for all children with a school managed IDP, and may raise unrealistic expectations about the availability of transport in cases outside of the Measure.

Chapter 15 – Duties on health bodies and other relevant persons

Statutory requests by local authorities to relevant persons for information or other help - Proposed regulations to be made under Section 65(5) of the 2018 Act

Question 22 – Is the proposed timescale and exceptions for relevant persons to comply with a local authority request for information or other help (under section 65 of the 2018 Act) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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ALP to be secured by NHS bodies - Proposed regulations to be made under Section 21(10) of the 2018 Act

Question 23 – Is the proposed period and exception within which an NHS body must inform others of the outcome of a referral to it (under section 20 of the 2018 Act) to identify whether there is a relevant treatment or service, appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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The Designated Education Clinical Lead Officer (“DECLO”)

Question 24 – Is the guidance on the role, experience and expertise of the DECLO set out in paragraphs 15.37 – 15.53 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have appropriate experience and expertise)?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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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	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Yes.

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

Yes.

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

In general yes; where we were not clear was whether reconsideration should involve the same level of assessment and Educational Psychology involvement as included in the duties described in Chapter 9. If so, the timescale of 7 weeks seems unachievable if there is then subsequent direction to the school to produce an IDP.

Question 28 – Is the proposed period and exception for a local authority reconsidering a school IDP (set out in paragraph 17.20 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

We would query whether this is achievable.

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

Yes, the guidance is clear and we agree with the principles. However, 18.11 refers to the priority attached to attendance of all relevant professionals and that this should be achievable given notice well in advance of a meeting. However, the timescales throughout would not give this adequate prior notice for professionals with commitments to prior appointments, waiting time targets etc, and is unlikely to offer time to provide advice and evidence in writing (for example, in the event that a parent requests a review).

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

Yes, and these processes and transition planning are already well established across all stages – these existing processes will map easily onto the duties described in Chapter 19. Where we would have concern in the implementation is possibly in respect of the valuable and well received role of Careers Wales at present, and how this role will be filled moving forwards.

19.60 – should it be the LA that identifies the appropriate placement to meet the young person’s ALN not the parents – refer to previous section stating there is no entitlement to choice for young person (q17).

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

YES.

Transfers of IDPs - Proposed regulations to be made under Section 36(3) of the 2018 Act and Section 37 of the 2018 Act

Question 32 – Are the requirements that are intended to be included in regulations in relation to requests to transfer an IDP to an FEI (as described in paragraphs 20.12 - 20.17 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 33 – Are the arrangements that are intended to be included in regulations in relation to all other transfers (as described in paragraphs 20.18 – 20.21 of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

YES

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Chapter 21 - Ceasing to maintain an IDP

Question 34 – Is the content and structure of Chapter 21 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

YES

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 time limit of 8 weeks in which to make an appeal (plus 4 weeks to request reconsideration from the LA and the appeal process), could be a long and inappropriate length of time for a school to continue to offer provision which may not be in the child/young person's best interests. We believe that a school or LA would not suggest that an IDP be ceased unless the criteria had been fulfilled and if a child continued to require provision; therefore, we feel that the impact on learners of continuing to receive provision which they do not require needs to be considered.

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

Yes – but we are not clear who would have responsibility for determining whether a detained person should be brought to the attention of the LA due to the belief that they may have ALN. The Chapter feels vague in this respect.
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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 checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Yes, although it is likely to be difficult to implement time scales effectively given the different professionals and other processes involved.

Question 38 – Are the proposals for the regulations in relation to children or young people who are subject to a detention order and detained in hospital under Part 3 of the Mental Health Act 1983 (as described in paragraphs 22.45 – 22.74 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 39 – Are the timescale requirements to act “promptly” in relation to decisions about ALN and preparing IDPs for children and young people subject to detention orders (as set out in Chapter 22) appropriate, rather than also having a requirement to comply within a fixed period subject to an exception or exceptions?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 23 - Children and young people in specific circumstances

Question 40 – Is the guidance in Chapter 23 of the draft ALN Code on children and young people in specific circumstances appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

23.13 – in keeping with the principles of inclusion, we do not believe that a pupil who is dual registered at a PRU and their mainstream school should then become the responsibility (IDP) of the LA. We believe that the home school should maintain the IDP as PRU placements should be short term and with the aim of reintegration and full involvement of the home school throughout.

Chapter 24 - Role of the Additional Learning Needs Co-ordinator (ALNCo)

Question 41 – Is the information set out in Chapter 24 of the draft ALN Code about the role and responsibilities of the ALNCo appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Yes when read along with the regulations. Concern has been raised by Head Teachers about the funding and time available to release ALNCOs for all of their statutory duties alongside existing teaching etc commitments, particularly in the context of smaller schools.

Chapter 25 - Avoiding and resolving disagreements

Question 42 – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 43 – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 26 - Appeals and applications to the Tribunal

Question 44 – Is the information about appeals and the appeals process set out in Chapter 26 of the draft ALN Code appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 27 - Case friends for children who lack capacity

Question 45 – Is the information about case friends, including the duties on the Tribunal to appoint and remove case friends, clearly explained in the Chapter 27 of the draft ALN Code?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Should there be reference to capacity for young people over the age of 16?

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 agree with the principles behind the Code and believe that it is detailed and comprehensive.

Greater clarity is needed in relation to the interplay between the Mental Capacity Act, the Social Services & Wellbeing Act, NHS Continuing Healthcare Guidance and the ALN where joint commissioning of provision to meet a young person ALP is needed – mainly focussing here on post 19 ISPI's.

The Code is not clear about what is appropriate provision. There are a range of services provided by Local Authorities that are not formal education but provide training and learning opportunities specifically in relation to developing independent living skills. For example Social Care, European funded TRAC and ADRAC provision. Is it appropriate for the IDP to be ended where the young person's ALN can be met through alternative provision. This is not clear to me. I do wonder whether the development of Independent Living Skills is something that should necessarily fall to Education, this is a multi agency responsibility including family to prepare young people for moving on from living at home. Often parents cite the need to develop independent living skills as why the local FE provision is unable to meet the young persons needs. The appropriateness of the provision of a specialist residential placement to enable a young person to develop their independent living skills at a distance from their local area / home community for people with severe learning disabilities needs to be addressed in terms of the young person's ability to transfer skills learnt. Young people with learning disabilities need to learn independent living skills in the area they will be living in. For ex independent travel is an example where people can learn particular routes but do not have the skills to learn other routes independently of further intervention.

Part 2 of the consultation: Draft Education Tribunal for Wales regulations

Question 47 – Overall, do the draft Education Tribunal regulations provide clear processes and procedures relating to appeals and claims to the Education Tribunal?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 48 – Overall, will the processes and procedures outlined in the draft Education Tribunal regulations enable the Education Tribunal to deal with cases fairly and justly?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 49 – Is the proposed case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

We believe that the process is appropriate, however, we believe that the 4 week time scale for a respondent to respond to an appellant's case statement will not be long enough to collate responses from other agencies and professionals, for example, in the case of private reports being submitted by an appellant that the LA may not have had sight of before. Recommendations in respect of needs and/or provision would need to be checked against evidence of good practice and impact, and this may take time in order to consult with appropriate other professionals. It is unlikely that responses can be received within 4 weeks and for the LA to carry out its own further assessments. Giving 8 weeks for the appellant to produce their case statement and 4 weeks for the defendant suggests a process that is already biased towards the appellant.

Question 50 – Are the proposed timescales for each party in the case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) reasonable?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

We believe that the process is appropriate, however, we believe that the 4 week time scale for a respondent to respond to an appellant’s case statement will not be long enough to collate responses from other agencies and professionals, for example, in the case of private reports being submitted by an appellant that the LA may not have had sight of before. Recommendations in respect of needs and/or provision would need to be checked against evidence of good practice and impact, and this may take time in order to consult with appropriate other professionals. It is unlikely that responses can be received within 4 weeks and for the LA to carry out its own further assessments. Giving 8 weeks for the appellant to produce their case statement and 4 weeks for the defendant suggests a process that is already biased towards the appellant.

Question 51 – Is the 6 week timescale within which NHS bodies must report to the Education Tribunal in response to a recommendation (regulation 65 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 52 – Are the timescales relating to compliance with Education Tribunal orders appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 53 – Is the approach to extensions to timescales (regulation 66 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 54 – Are the proposed regulations relating to case friends (draft Education Tribunal regulations 61 to 64) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Part 3 of the consultation: Draft ALNCo regulations

Question 55 – Are the prescribed qualifications to be an ALNCo set out in the draft ALNCo regulations appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 56 – Do you agree with the tasks that ALNCoS must carry out or arrange to carry out as set out in the draft ALNCo regulations?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Part 4 of the consultation: Looked after children

(a) Proposed regulations to be made

Question 57 – Do you agree that the Looked after Children in Education (LACE) Co-ordinator should be a statutory role?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

(b) Chapter 14 of the draft ALN Code – Content of an IDP for a looked after child

Question 58 – Do you agree that there should be a separate standard form for looked after children and is the proposed standard form, together with the guidance and requirements related to it, appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

(c) Proposed revisions to the Part 6 Code

Question 59 – Do the draft revisions to the Part 6 Code provide a clear explanation of the duties on local authorities in relation to their social services functions for looked after children with ALN and what these duties mean in practice?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 60 – Overall, do you agree with the approach taken in the draft revised Part 6 Code to explaining the legislative changes, including the integration of personal education plans (PEPs) and IDPs and the mandatory content of PEPs? Are the requirements and expectations and what these mean in practice clearly explained?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 61 – Do the changes that have been made to the Part 6 code clearly explain the role of the LACE Co-ordinator in overseeing the ALN arrangements for looked after children and what this means in practice?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Part 5 of the consultation: Impact of proposals

Question 62 – What impacts do you think there will be as a result of the proposed regulations?

Question 63 – What impact do you think the proposals in the draft ALN Code and proposed regulations would have on the Welsh language?

Question 64 – How do you think the proposals in the draft ALN Code and proposed regulations could be formulated or changed so as to have:

- i) positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?;
- ii) no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?

Question 65 – We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

Respondent Details

Information	
Name	Anonymous
Organisation (if applicable)	National Association of Principal Educational Psychologists in Wales

Having read the document we recognize the following strengths:

There is a broad recognition of the contributions of EPs to many areas of ALN assessment and development.

The Code includes positive steps forward with respect to involving and supporting **children** and young people and their families, person centred planning and proposals for avoiding and resolving disagreements.

We would wish to make the following points:

- EPs need to decide the way in which we are involved in contributing to assessment of individual children and young people.
- The word “assessment” can be interpreted in a number of ways.
- We recognize that other colleagues will be making important contributions to the assessment process.
- We appreciate the regular mention of EPs as contributing to the assessment process but are concerned about capacity and specificity.
- Some of the time scales seem to be unrealistic.
- We would hope that all **education** settings would be included in considerations about assessments only being possible during term time **and the implications for timescales and exceptions.**
- We would hope to emphasise the need for the learning context to be taken into account in the assessment of individual need.
- We welcome the principal of early identification but would argue that this will need to be balanced with the capacity of services to provide the necessary support.
- We feel that EPs could be well placed to work as the Early Years **ALN** Lead Officer because of our knowledge of children’s development and experience of working in multiagency contexts.

- We are concerned that there needs to be clarity about what is operational and what is strategic.
- There needs to be clarity about maintained and non-maintained settings in the Early Years Section.
- Some counties in Wales already have DECLOS and there will need to be a consistent approach.
- We are concerned about the possible pressure on other professional groups including Speech and Language Therapy Services.
- There are many concerns about the clear definition of the roles of Health Agencies in the Draft Code.
- There needs to be account taken of the new curriculum and the need for differentiation.
- Chapter 7 needs particularly careful interpretation.
- Is there a need for the equivalent of a Local Offer in England for individual **education** settings and the **Local Authority - Health Board level i.e. Provision maps for ALN and ALP?**
- There is a need for clarity to avoid inconsistencies across Wales.
- The need to consider the extent to which LAs have delegated funds to schools for ALN.
- Concerns that there is still too much room for interpretation which will lead to highly variable practice across Wales.
- The Code or supplementary guidance should make reference to the Welsh Government document on the role of the EP.

Activities which are already within EP's remit	Activities which are additional for EPs once the Code is implemented
Preschool assessment of ALN for more complex needs and providing Psychological Advice where a statutory assessment of sen is agreed.	Preschool assessment for any child who the LA has reason to think may have ALN
Providing training, consultation to build capacity in school settings and some preschool settings. Providing Psychological Advice for school pupils where a statutory assessment of sen is agreed.	Providing advice where a LA is required to consider maintaining or reconsidering an IDP by the school or child/young person/parent.

	Providing consultation to FEI deciding whether to refer a student to the LA. Assessment of students ALN attending FEIs where LA have a duty or are asked to reconsider an IDP.
Providing Psychological Advice for pupils attending Independent schools where statutory assessment of sen is agreed.	Providing Advice to the LA for pupils with ALN attending independent schools.
Providing assessment and advice to support transition from EHE and EOTAS into school and where statutory assessment of sen has been agreed.	Providing Advice to the LA for pupils with ALN who are Electively Home Educated and EOTAS.
	Assessment of young people for post 16 specialist college placements and involved in person centered transition planning.
	Providing Advice for children and young people with ALN who are detained.

Respondent Details

Information	
Name	Anonymous
Organisation (if applicable)	Welsh Association of Vision Impairment Educators (WAVIE)

1. Role of the ALNCo

It is felt that given the strategic role within the school and the fact that this person must carry out the duties mentioned below, they cannot possibly be afforded this level of responsibility as a Higher Level Teaching Assistant or Unqualified Teacher.

24.18 ALNCo **must** prepare and review the information required to be published by the governing body pursuant to the ALN Code.

24.19 ALNCo **must** advise teachers at the school/FEI about differentiated teaching methods appropriate for individual pupils with ALN.

24.20 ALNCo **must** supervise and arrange for the training of learning support workers who work with learners with ALN.

24.21 ALNCo **must** contribute to in-service training for teachers at the education setting to assist them to carry out the tasks referred to above.

24.26 states that “Individuals acting as a special educational needs co-ordinator (SENCo) at a particular school prior to the implementation of the Act can, subject to the governing body agreement, undertake the role of the ALNCo at that school.

Newly identified ALNCo will however be required to meet the requirements prescribed in law.”

It seems more appropriate that schools/FEIs are given a period of time (e.g. by September 2023) to appoint and transition this responsibility to a suitably qualified teacher, with a strategic role.

As the professionals responsible for drafting and co-ordinating support plans, it is essential that ALNCo and Early Years ALNLOs receive awareness training from a qualified specialist in the field e.g. a Qualified Teacher of Vision Impairment (QTVI) should deliver awareness training to ALNCo if they are to coordinate the support for a child with VI. It should also be a requirement that all staff involved in the education of that child or young person should receive awareness training in the specific needs of that child, from the specialist service contributing to their IDP.

2. Habilitation Specialists

Habilitation Specialists must be mentioned specifically amongst any reference to a specialist workforce, as they are key to learner outcomes that relate specifically to children and young people with vision impairment. Habilitation must be seen as part of a child or young person's education, as without independent living and mobility skills they will not be ready for independent adult life (regardless of how many qualifications they achieve). The danger for children and young people with vision impairment if this is not made clear within this code is

that they will not be granted access to the right person at the right time and local authorities will not understand their contribution to the education of these children and securing their successful futures.

A Habilitation Specialist is specifically trained to teach independent living skills and mobility to 0-25 year olds. Sometimes Rehabilitation Officers of Vision Impaired (ROVIs) from Social Services are asked to contribute to the delivery of Habilitation. ROVIs are not trained to work with children. They are trained to work with adults and the way that skills are taught to children vary vastly to teaching adults. For CYPVI a Qualified Habilitation Specialist is the right person at the right time and the skills that they teach cannot be taught by a QTVI either. There is currently a lot of talk around registration of Habilitation Specialists. Rather than focussing on whether someone is registered, the Code should state that they should be qualified. This is true for any specialists and Habilitation Specialists should be specifically included within this.

3. Careers Advisor's Involvement

The Code removes the need for careers advisors to be invited to key planning meetings for learners with additional needs. The new ALN Code should enhance existing duties around careers advice for vulnerable learners; not reduce it. "Only one in four registered blind or partially sighted people of working age is in paid employment, and this number is falling." (taken from <https://www.rnib.org.uk/professionals/knowledge-and-research-hub/research-reports/employment-research>) Without the right advice and support at the right time, including careers advisors and specialist staff, these figures are not likely to improve and these children will be denied the successful futures that they deserve.

Who is involved in transition planning

19.22 As set out in Chapter 18, the school, FEI or local authority responsible for maintaining the IDP **should** involve in the review process all those agencies and professionals they consider necessary to conduct an effective review.

This leaves it to the school, FEI or LA to decide if VI Service Specialists are involved in transition – this should be decided by QTVIs. QTVIs and Habilitation Specialists play a vital role during transition. The work of QTVIs and Habilitation Specialists focusses heavily on preparing CYPVI for independent adult life. Transition must involve them as well as Careers Advisors.

4. The role of the QTVI and Habilitation Specialist as Education Specialists

Development of a CYPVI differs considerably to a sighted child. A QTVI and Habilitation Specialist should be called upon to assist with assessments of CYPVI as many developmental progress milestones are not standardised for CYPVI, giving a false impression of their progress relative to their peers of the same age and stage.

The mention of specialist services for children with sensory impairments as external agencies is misleading. VI services are part of education services and the fact that it is said that *"they can offer advice and support staff with strategies or obtaining more information, undertake assessments and/or observations to provide more information about the child or young person's needs, and suggest interventions and alternative forms of provision. External agencies might also be the appropriate body to directly provide the ALP required. Lots of different agencies, professionals and individuals have a role to play in identifying and supporting children and young people who may have ALN"*

It is **vital** that appropriate specialist professionals, such as QTVIs and Habilitation Specialists are included in a child with VI assessment. Without a statutory obligation to include QTVIs and Habilitation Specialists in assessments and IDP reviews within the Code, schools/FEIs are highly likely to develop IDPs that do not truly meet the needs of CYPVI. Without access to these specialists when the IDPs are being written, CYP and their families are not likely to understand the value that the involvement of the specialists will bring.

7.63 In some instances, agencies **may refer** the child or young person onto more specialist advice and/or assessments. This might be where the child or young person has particularly complex, severe and/or low incidence needs, where it is unclear what difficulties the child or young person is facing and where more information is needed surrounding the precise nature of the child's or young person's ALN and what ALP they need to meet those needs.

7.64 Specialist services **may be required** in the initial determination of the child's or young person's needs and how to meet those needs or where it is determined that further expertise is required having tried other interventions. It may be appropriate to refer to a specialist service when the needs of the child or young person requires input or advice which is beyond the ability of schools, FEIs or local authorities to provide, or additional advice/ consultation/assessment/intervention is thought to be needed because the child or young person is not making progress as expected despite appropriate school or FEI based intervention.

The wording of "may refer" and "may be required" appears to leave schools with the option of involving the specialist staff who are qualified to make judgements and conduct assessments. It would be more appropriate to state that there must be the involvement of a specialist when the ALN requires the input from specialist teachers e.g. QTVI must be involved in assessment and IDP for a child or young person with vision impairment.

5. IDP template and wording used

The template for the support plan needs to be improved to ensure that descriptions of support is appropriately detailed. WAVIE would be happy to review any amended IDP templates to address this point. It is crucial that specialist teachers are involved in the writing of the IDP intended outcomes. Otherwise there is a danger that schools will set targets for Sensory Support Services that differ considerably to those that would be agreed as appropriate by specialist staff, relative to the learner outcomes for a child with VI.

6. Access to the right person at the right time

It is important that learners do not experience delays in getting the support they need. As such, the exception enabling authorities to operate outside of the set timeframes for reasons of impracticality must not be open to abuse. It has been known for local authorities choosing not to appoint the specialist workforce that would be required to meet the needs of the child e.g. no Habilitation Specialists working within the authority. This should not be permitted as a reason of impracticality and local authorities should have a duty to appoint appropriately qualified specialist staff relative to the expected need e.g. there should be 1 full time Habilitation Specialist within a sensory support (Education) service for every 100 pupils with VI. Spot purchasing is likely to reduce the availability of qualified skilled specialists and is likely to result in a delay to the delivery of the specialist support required.

7. Accessible formats of teaching and learning materials/resources

CYPVI usually require materials in modified formats and sometimes braille. Within the Code there should be a duty to provide materials in modified accessible formats to ensure access to the teaching and learning. Guidance on accessible formats can be found here <https://www.gov.uk/government/publications/inclusive-communication/accessible-communication-formats> and suggest that there is inclusion of this point within the Code as it is a legal obligation within other legislation. Modified resources are often provided by VI Specialist Teaching Assistants and QTVIs. Tactile graphics and braille must be developed by those who are trained and have knowledge in their production. The specialist technical skills required in the production of quality tactile resources cannot be underestimated. The Equality Act came into force on 1 October 2010, replacing the Disability Discrimination Act of 1995. The Act makes it clear that it is unlawful to discriminate against a disabled person because of their disability, unless this behaviour can be justified. In education this means that it is important for a child with vision impairment to have access to worksheets and text books at the same time as their peers. This further emphasises the need to involve specialist staff e.g. QTVI throughout resource/development planning and reaching agreement about who, when and how resources will be made available to CYPVI. The IDP should also detail such agreements around the responsibilities of the school and specialist services to make resources available. It has been known for a school to believe that the responsibility to provide modified print resources is that of the VI service, when the responsibility is theirs, following the guidance and recommendations of the QTVI. Braille and tactile resources are produced by highly trained and specialised staff and should be considered differently to modified large print materials.

8. Access arrangements

13.73 In cases where a child or young person with ALN is likely to be starting a course leading to assessments and qualifications soon or is already doing them, in setting the objectives and determining the ALP, thought should be given to what possible access arrangements should be applied for in light of ALP or the ALN. These are arrangements that are applied for (to the awarding body) before an assessment or examination, ideally at the start of the course, as they can cover the whole course. This could be included in the non-mandatory content of the IDP.

These access arrangements only relate to assessments and exams through awarding bodies (GCSE or A Level). There must surely be a requirement for the ALNCo to liaise with the Exams Officer and Specialist Staff e.g. QTVI, to ensure that arrangements are appropriate. Any teaching and support staff involved with any assessments, including the National Reading and Numeracy tests, should be given awareness training in the specific adjustments for each child with an ALN that relies upon modified formats and delivery of support during assessments e.g. reader, scribe or practical assistant. Without this requirement within the Code there is a risk that CYPVI may simply be dis-applied and this would be unacceptable.

9. Timeline

The school, FEI or local authority **must** - complete the review (including, as the case may be, giving the notification of its outcome or copy of the revised IDP) promptly and in any event, within the relevant period (see paragraph 16.19). But the requirement to complete the review within the relevant period does not apply if it is

impractical for the school, FEI or local authority to do so due to circumstances beyond its control.

16.19 For the purpose of paragraph 16.18 and 16.25 the relevant period is:

- i. in the case of a school, 35 school days,
- ii. in the case of an FEI, 35 term time days,
- iii. in the case of a local authority, 7 weeks;

It would seem more appropriate to state that the school, FEI or local authority have a certain number of days from the time that the case outcome is decided. This way the current relevant periods should give the school time to gather specialist reports and this reason would not be routinely used as an impractical reason for producing the IDP within this time frame of 35 school days. It could state that if the decision to grant an IDP is made beyond 20 school days from the initial request, the school have 25 days from the date of the decision to prepare the IDP. This would seem sensible as specialists would be called upon to assist/inform the IDP targets and crucial collaboration cannot always take place quickly.

Respondent Details

Information	
Name	Dr Rhian Murphy
Organisation (if applicable)	

Part 1 of the consultation: The draft ALN Code**Chapter 1 - Introduction**

The meaning of 'must', 'must not', 'may', 'should' and 'should not' in the ALN Code

Question 1 – Is the explanation in paragraphs 1.10 -1.16 of the draft ALN Code of the use and meaning of the different terms 'must', 'must not', 'may', 'should' and 'should not' clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Timescales

Question 2 – Do you agree with the general approach to the timescales for compliance with duties (that is, to act promptly and in any event within a fixed period), as explained in paragraphs 1.31 – 1.32 of the draft ALN Code?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 3 – Is the general exception which applies in the case of timescales, as described in paragraphs 1.33-1.35 of the draft ALN Code, appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Structure of the draft ALN Code

Question 4 – Is the structure of the draft ALN Code and the separation of the chapters appropriate, clear and easy to follow?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 5 – Is the draft ALN Code’s focus on describing and explaining the functions and processes appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Pupil referral units (PRUs) - Proposed regulations to be made under Paragraph 15 of Schedule 1 to the Education Act 1996

Question 6 – Do you agree with the proposal to use regulations to delegate functions from a local authority to a Management Committee of a PRU?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 2 - Principles of the Code

Question 7 – Are the principles set out in Chapter 2 of the draft ALN Code the right ones?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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

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

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 type="checkbox"/>
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Supporting comments

Question 13 – Does Chapter 7 of the draft ALN Code provide a clear and comprehensive explanation of the evidence on which decisions about ALN and ALP should be based, the sources from which this evidence might be collated, and the way in which it should be considered?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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 type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 16 – Are the timescales for decisions by schools, FEIs and local authorities on ALN and preparing an IDP as set out in Chapters 8-12 appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Deciding whether it is ‘necessary’ for a local authority to prepare and maintain an IDP for a young person not at a maintained school or FEI - Proposed regulations to be made under Section 46 of the 2018 Act

Question 17 – Are the proposed requirements and guidance in paragraphs 12.22 – 12.51 of the draft ALN Code on when it is necessary for a local authority to maintain an IDP for a young person not at a school or FEI in Wales appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 13 - Content of an IDP

Question 18 – Are the elements of the mandatory content of an IDP which are required by the ALN Code, appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 19 – Is the proposed mandatory standard form for an IDP (included at Annex A of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 20 – Is the guidance in Chapter 13 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Transport

Question 21 – Is the guidance on transport in paragraphs 13.74 - 13.76 of the draft ALN Code appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Chapter 15 – Duties on health bodies and other relevant persons

Statutory requests by local authorities to relevant persons for information or other help - Proposed regulations to be made under Section 65(5) of the 2018 Act

Question 22 – Is the proposed timescale and exceptions for relevant persons to comply with a local authority request for information or other help (under section 65 of the 2018 Act) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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ALP to be secured by NHS bodies - Proposed regulations to be made under Section 21(10) of the 2018 Act

Question 23 – Is the proposed period and exception within which an NHS body must inform others of the outcome of a referral to it (under section 20 of the 2018 Act) to identify whether there is a relevant treatment or service, appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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The Designated Education Clinical Lead Officer (“DECLO”)

Question 24 – Is the guidance on the role, experience and expertise of the DECLO set out in paragraphs 15.37 – 15.53 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have appropriate experience and expertise)?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 16 - Review and revision of IDPs

Question 25 – Is the content and structure of Chapter 16 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 26 – Is the proposed period and exception for completing reviews in response to a request from a child, their parent, a young person or an NHS body (set out in paragraph 16.18 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 17 – Local authority reconsiderations and taking over responsibility for an IDP

Question 27 – Is the content and structure of Chapter 17 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 28 – Is the proposed period and exception for a local authority reconsidering a school IDP (set out in paragraph 17.20 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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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?

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?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 38 – Are the proposals for the regulations in relation to children or young people who are subject to a detention order and detained in hospital under Part 3 of the Mental Health Act 1983 (as described in paragraphs 22.45 – 22.74 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 39 – Are the timescale requirements to act “promptly” in relation to decisions about ALN and preparing IDPs for children and young people subject to detention orders (as set out in Chapter 22) appropriate, rather than also having a requirement to comply within a fixed period subject to an exception or exceptions?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 23 - Children and young people in specific circumstances

Question 40 – Is the guidance in Chapter 23 of the draft ALN Code on children and young people in specific circumstances appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 24 - Role of the Additional Learning Needs Co-ordinator (ALNCo)

Question 41 – Is the information set out in Chapter 24 of the draft ALN Code about the role and responsibilities of the ALNCo appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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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 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.

Part 2 of the consultation: Draft Education Tribunal for Wales regulations

Question 47 – Overall, do the draft Education Tribunal regulations provide clear processes and procedures relating to appeals and claims to the Education Tribunal?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 48 – Overall, will the processes and procedures outlined in the draft Education Tribunal regulations enable the Education Tribunal to deal with cases fairly and justly?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 49 – Is the proposed case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 50 – Are the proposed timescales for each party in the case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) reasonable?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 51 – Is the 6 week timescale within which NHS bodies must report to the Education Tribunal in response to a recommendation (regulation 65 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 52 – Are the timescales relating to compliance with Education Tribunal orders appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 53 – Is the approach to extensions to timescales (regulation 66 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 54 – Are the proposed regulations relating to case friends (draft Education Tribunal regulations 61 to 64) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Part 3 of the consultation: Draft ALNCo regulations

Question 55 – Are the prescribed qualifications to be an ALNCo set out in the draft ALNCo regulations appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 56 – Do you agree with the tasks that ALNCo must carry out or arrange to carry out as set out in the draft ALNCo regulations?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Part 4 of the consultation: Looked after children

(a) Proposed regulations to be made

Question 57 – Do you agree that the Looked after Children in Education (LACE) Co-ordinator should be a statutory role?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

(b) Chapter 14 of the draft ALN Code – Content of an IDP for a looked after child

Question 58 – Do you agree that there should be a separate standard form for looked after children and is the proposed standard form, together with the guidance and requirements related to it, appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

(c) Proposed revisions to the Part 6 Code

Question 59 – Do the draft revisions to the Part 6 Code provide a clear explanation of the duties on local authorities in relation to their social services functions for looked after children with ALN and what these duties mean in practice?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 60 – Overall, do you agree with the approach taken in the draft revised Part 6 Code to explaining the legislative changes, including the integration of personal education plans (PEPs) and IDPs and the mandatory content of PEPs? Are the requirements and expectations and what these mean in practice clearly explained?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 61 – Do the changes that have been made to the Part 6 code clearly explain the role of the LACE Co-ordinator in overseeing the ALN arrangements for looked after children and what this means in practice?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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.

Children with health needs often have multiple hospital appointments which happen within school time. If they miss school for a hospital appointment, in some schools they miss out on achieving 100% attendance awards or rewards. This has the potential to build resentment and sadness in a child towards their health condition, and is ultimately damaging to their mental health and wellbeing.

The ‘Supporting learners with healthcare needs Guidance, 2017’ states that it is ‘unacceptable practice’ to,

“penalise a learner for their attendance record if the absence is related to their healthcare needs. ‘Authorised absences’ including healthcare appointments, time to travel to hospital or appointment, and recovery time from treatment or illness should not be used to penalise a learner in any way. This includes, but is not limited to, participation in activities, trips or awards which are incentivised around attendance records”

Despite this guidance, this unfair practice is still happening, and I am not confident that this code does enough to protect against this continuing to happen.

Respondent Details

Information	
Name	Troedyrhiw Primary
Organisation (if applicable)	

Part 1 of the consultation: The draft ALN Code

Chapter 1 - Introduction

The meaning of 'must', 'must not', 'may', 'should' and 'should not' in the ALN Code

Question 1 – Is the explanation in paragraphs 1.10 -1.16 of the draft ALN Code of the use and meaning of the different terms 'must', 'must not', 'may', 'should' and 'should not' clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Timescales

Question 2 – Do you agree with the general approach to the timescales for compliance with duties (that is, to act promptly and in any event within a fixed period), as explained in paragraphs 1.31 – 1.32 of the draft ALN Code?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

<p>The general approach to the timescales is agreed. However, there is significant concern about the ability of the Health Body or Educational Psychologist to provide their expertise in a timely manner when required</p>
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Question 3 – Is the general exception which applies in the case of timescales, as described in paragraphs 1.33-1.35 of the draft ALN Code, appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

<p>The interpretation of 'promptly' can very subjective and therefore needs further clarification.</p>

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Structure of the draft ALN Code

Question 4 – Is the structure of the draft ALN Code and the separation of the chapters appropriate, clear and easy to follow?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Question 5 – Is the draft ALN Code’s focus on describing and explaining the functions and processes appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

1.103 What is meant by ‘significantly’? This needs to be clearly defined. Exemplars showing the applications of the functions and processes would improve understanding and drive consistency of approach.

Pupil referral units (PRUs) - Proposed regulations to be made under Paragraph 15 of Schedule 1 to the Education Act 1996

Question 6 – Do you agree with the proposal to use regulations to delegate functions from a local authority to a Management Committee of a PRU?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

It is agreed as long as the Management Committee have the expertise and are qualified to fulfil the role.
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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	✓	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	✓	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	✓	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	✓	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	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

6.8 “Information made available by local authorities MUST be factual” The draft code states “should be factual”, which isn’t appropriate.

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	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

7.3, 7.6, 7.13, 7.18, 7.20, 7.21, 7.22, 7.23, 7.29, 7.31, 7.34, 7.35, 7.41, What is meant by ‘significantly’ or ‘significant’? This needs to be clearly defined.

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	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Because of the ambiguity of what ‘significant’ means, which is used extensively in the explanation. This will lead to differing interpretations between the responsible bodies.

Chapters 8 to 12 – Duties on schools, FEIs and local authorities

Early Years ALN Lead Officer

Question 14 – Is the guidance on the role, experience and expertise of the Early Years ALNLO set out in paragraphs 8.40 - 8.47 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have the appropriate experience and expertise to meet the expectations of the role)?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The recognition of this role is applauded as it is very much needed.

Duties on schools, FEIs and local authorities

Question 15 – Is the structure and content of Chapters 8 to 12 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 16 – Are the timescales for decisions by schools, FEIs and local authorities on ALN and preparing an IDP as set out in Chapters 8-12 appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Deciding whether it is ‘necessary’ for a local authority to prepare and maintain an IDP for a young person not at a maintained school or FEI - Proposed regulations to be made under Section 46 of the 2018 Act

Question 17 – Are the proposed requirements and guidance in paragraphs 12.22 – 12.51 of the draft ALN Code on when it is necessary for a local authority to maintain an IDP for a young person not at a school or FEI in Wales appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Not having direct experience of either organisation it’s difficult to have a view on whether the guidance is appropriate or not

Chapter 13 - Content of an IDP

Question 18 – Are the elements of the mandatory content of an IDP which are required by the ALN Code, appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

It is believed the amount of detail required will be very time consuming and hence demand significant resource to support.

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

It is believed the amount of detail required will be very time consuming and hence demand significant resource to support.

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

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

The recognition of transport is very appropriate.

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

This is accepted but there needs to be assurance all stakeholders will comply.

ALP to be secured by NHS bodies - Proposed regulations to be made under Section 21(10) of the 2018 Act

Question 23 – Is the proposed period and exception within which an NHS body must inform others of the outcome of a referral to it (under section 20 of the 2018 Act) to identify whether there is a relevant treatment or service, appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The Designated Education Clinical Lead Officer (“DECLO”)

Question 24 – Is the guidance on the role, experience and expertise of the DECLO set out in paragraphs 15.37 – 15.53 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have appropriate experience and expertise)?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

This role is very much needed and will need to have the proper resource in place.

Chapter 16 - Review and revision of IDPs

Question 25 – Is the content and structure of Chapter 16 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 26 – Is the proposed period and exception for completing reviews in response to a request from a child, their parent, a young person or an NHS body (set out in paragraph 16.18 of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 17 – Local authority reconsiderations and taking over responsibility for an IDP

Question 27 – Is the content and structure of Chapter 17 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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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 checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

<p>19.16 There's no mention of transition from Key stage 2 to Key stage 3 (from year 6 to year 7).</p> <p>The management of all transition stages has significant resource implications/costs.</p>
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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

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

Question 33 – Are the arrangements that are intended to be included in regulations in relation to all other transfers (as described in paragraphs 20.18 – 20.21 of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 21 - Ceasing to maintain an IDP

Question 34 – Is the content and structure of Chapter 21 of the draft ALN Code clear?

Yes	<input 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	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 22 – Children and young people subject to detention orders

Question 36 – Is the content and structure of Chapter 22 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	✓
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Supporting comments

Having no knowledge of the work necessary with young people subject to detention orders I can't confirm the content. The structure is clear.

Question 37 – Are the proposals for the regulations in relation to deciding whether it will be necessary to maintain an IDP for a detained child or young person upon their release appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	✓
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Supporting comments

Question 38 – Are the proposals for the regulations in relation to children or young people who are subject to a detention order and detained in hospital under Part 3 of the Mental Health Act 1983 (as described in paragraphs 22.45 – 22.74 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	✓
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Supporting comments

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 checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 24 - Role of the Additional Learning Needs Co-ordinator (ALNCo)

Question 41 – Is the information set out in Chapter 24 of the draft ALN Code about the role and responsibilities of the ALNCo appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

24.12 – 24.22 It does not seem feasible for one person to fulfil these requirements, which would then lead to significant cost for additional people.

24.15 It's not realistic to state "ALNCo's must secure relevant services that will support the learner's ALP..." How can a person secure services they aren't responsible for?

Chapter 25 - Avoiding and resolving disagreements

Question 42 – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

**How can the local authority be truly impartial in the guidance it applies/provides to resolve disagreements when it could have a significant interest in the potential outcome?
25.11 - 25.15 At a time when finances are being cut how is it expected the local authority will fulfil these requirements?**

Question 43 – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of the provision of Independent advocacy services appropriate?

Yes	✓	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	✓
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Supporting comments

The supporting case statement (evidence) required to support an appeal application looks to be quite extensive and gives the perception it's designed to deter applications.

Chapter 27 - Case friends for children who lack capacity

Question 45 – Is the information about case friends, including the duties on the Tribunal to appoint and remove case friends, clearly explained in the Chapter 27 of the draft ALN Code?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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.

Any significant failures in the performance of the current SEN system is more often than not caused by the lack of expertise being available at the appropriate time to meet the needs of a child in a timely manner. By the ALN regulations making the actions required by the individuals or bodies responsible, statutory, does not deal with the fundamental issue of not enough of the skilled people being available (or appropriate level of finance to support the provision). As there's no additional finance being provided to support the level of provision expected then the burden of the significant additional costs is being passed to the stakeholders involved. This attempt to force stakeholders to prioritise ALN at the cost of its other areas of responsibility is problematic as it will cause conflict and pressure on all the bodies/institutions/authorities involved. Especially within the education system where there are other initiatives ongoing such as the "Education in Wales: Our national Mission" in similar timescales, which also demands the allocation of finances and resources.

For the above reason the delivery of the ALN regulations will fail by any body, institution or authority with a significant demand for ALN to be dealt with. Also, it must be recognised there is a very strong likelihood that the relationship between carers and their children with the organisation responsible for the ALN provision could become very challenging as a consequence of the ALN Act regulations and the Code giving the carers and children idealistic expectations, which will not be able to be met.

How is the Performance Management of the ALNCo to be conducted? The performance measures will be very different from the mainstream teaching staff.

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

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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 checked="" type="checkbox"/>
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Supporting comments

It's not appropriate to hypothesise.

Question 49 – Is the proposed case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

The supporting case statement (evidence) required to support an appeal application looks to be quite extensive and gives the perception it's designed to deter applications.
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Question 50 – Are the proposed timescales for each party in the case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) reasonable?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<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?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 52 – Are the timescales relating to compliance with Education Tribunal orders appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	✓
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Supporting comments

It's uncertain whether an applicant would be able to provide all the necessary evidence within the timescales

Question 53 – Is the approach to extensions to timescales (regulation 66 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	✓
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Supporting comments

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	✓
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Supporting comments

Part 3 of the consultation: Draft ALNCo regulations

Question 55 – Are the prescribed qualifications to be an ALNCo set out in the draft ALNCo regulations appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 56 – Do you agree with the tasks that ALNCoS must carry out or arrange to carry out as set out in the draft ALNCo regulations?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

<p>It does not seem feasible, without extra funding to pay for the additional time the ALNCo will need to fulfil the new statutory ALN regulations. Someone else will need to be employed to meet the mainstream school duties the ALNCo will no longer be able to do.</p> <p>It's not realistic to state "ALNCoS must secure relevant services that will support the learner's ALP..." How can a person be responsible for having to secure services they aren't in charge of?</p>
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Part 4 of the consultation: Looked after children

(a) Proposed regulations to be made

Question 57 – Do you agree that the Looked after Children in Education (LACE) Co-ordinator should be a statutory role?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Where's the funding for the Looked after Children in Education (LACE) Co-ordinator to come from?

(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

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	✓	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?

Any significant failures in the performance of the current SEN system is more often than not caused by the lack of expertise being available at the appropriate time to meet the needs of a child in a timely manner. By the ALN regulations making the actions required by the individuals or bodies responsible, statutory, does not deal with the fundamental issue of not enough of the skilled people being available (or appropriate level of finance to support the provision). As there's no additional finance being provided to support the level of provision expected then the burden of the significant additional costs is being passed to the stakeholders involved. This attempt to force stakeholders to prioritise ALN at the cost of its other areas of responsibility is problematic as it will cause conflict and pressure on all the bodies/institutions/authorities involved. Especially within the education system where there are other initiatives ongoing such as the "Education in Wales: Our national Mission" in similar timescales, which also demands the allocation of finances and resources.

For the above reason the delivery of the ALN regulations will fail by any body, institution or authority with a significant demand for ALN to be dealt with. Also it must be recognised there is a very strong likelihood that the relationship between carers and their children with the organisation responsible for the ALN provision could become very challenging as a consequence of the ALN Act regulations and the Code giving the carers and children idealistic expectations, which will not be able to be met.

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.

How is the Performance Management of the ALNCo to be conducted? Any performance measures will be very different from the mainstream teaching staff.

Respondent Details

Information	
Name	Joint response from the specialist teams within the Education Service at Cardiff Local Authority
Organisation (if applicable)	Cardiff Local Authority

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

- However, it is not always clear that these terms are used consistently across the document;
- Also, a different interpretation was given at a recent ALN consultation event where it was said 'should' is treated as must'. So why use 'should' at all?
- With regards to the word 'should' (section 1.13), clarity would be useful on what constitutes an exceptional circumstance for the avoidance of doubt. We have made decisions based on exceptional circumstance previously, particularly in tribunal cases, only to find that our interpretation of what constitutes an exceptional circumstance is different to others. There needs to be common understanding of what this means.

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

- However, with regards to 'external factors/circumstances beyond control' – this point may be open to interpretation and a definition/guideline would help;

- However 7 weeks is too tight for EP involvement and 7 weeks may not be sufficient in many cases and the exceptions around school holidays need to apply to all those involved.

Question 3 – Is the general exception which applies in the case of timescales, as described in paragraphs 1.33-1.35 of the draft ALN Code, appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

- This section may need to be supplemented by guidance which provides examples to ensure that ambiguity is minimised.

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

- Clear headings, however a lot of repetition in some places (need to cover a variety of settings);
- At times there is conflicting/contradictory pieces of information in subsequent chapters.

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

- Very wordy but appreciate there is a need;
- Does risk being inaccessible for some stakeholders. Flow charts are useful to explain all processes as there is a tendency otherwise to get lost amongst the wordy descriptions in the document.

Pupil referral units (PRUs) - Proposed regulations to be made under Paragraph 15 of Schedule 1 to the Education Act 1996

Question 6 – Do you agree with the proposal to use regulations to delegate functions from a local authority to a Management Committee of a PRU?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Chapter 2 - Principles of the Code

Question 7 – Are the principles set out in Chapter 2 of the draft ALN Code the right ones?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

- Promotes an inclusive education system;
- However, use of term ‘feasible’ in 2.2 d is vague and could lead to some schools stating that they are not ‘feasible’ settings if they do not want to admit a child;

- The views, wishes and feelings of the child, child’s parents are central to the planning and provision of support – and taking their views meaningfully;
- It is a whole setting/school approach – not just the ALNCO;
- The need to understand the child’s strengths and potential is important;
- Considering the child’s ambitions and aspirations is important;
- Fits with person centred practice;
- Promoting inclusion;
- Early Identification, intervention being recognised as important;
- Recognising and including the rights of the child are important;
- Acknowledging and stressing the importance of a bilingual service.

Chapter 3 - Involving and supporting children, their parents and young people

Question 8 – Is the explanation of the duties relating to involving and supporting children, their parents and young people provided in Chapter 3 of the draft ALN Code appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

- Means of communication might also include Braille or Large Print – organisations may need to make sure that they are able to do this;

- Many young people with a Visual Impairment go through a period of rejecting support as part of their development into young adults with disabilities. Is there enough provision within the code to ensure that this very natural desire to reject the support that they need to succeed is appropriately managed? Will there be frequent opportunities to review decisions not to accept ALP and alternative approaches during periods where ALP might be rejected?

- (3.8) very positive that it promotes the communication needs of the child;
- Agree that all should be done to support the child and family to communicate and participate, but is this a specific role for someone or is it everyone's individual responsibility? Is it a training issue in how to do this effectively?
- Does the authority need a person responsible for pupils voice/family voice?
- Young person has the right not to consent (3.18) – Do we need a signature from them or agreed document that is completed when this is the case? Should it be checked with them again in the future? How do we check capacity, who does this? - Does this need people trained in this?
- (3.23/3.24) What is the duty? And who is it towards? Is 3.23 referring to the duty of the parent to support their child in the same way it is the duty of professionals or is it referring to the duty of professionals to support the parent in supporting their child. This needs clarity;
- If it is the duty of the professionals it needs clarity on what is expected.

Chapter 4 - Duties on local authorities and NHS bodies to have regard to the UNCRC and the UNCRPD

Question 9 – Is Chapter 4 of the draft ALN Code clear about what is expected of local authorities and NHS bodies when discharging their duties to have due regard to the United Nations Convention on the Rights of the Child (UNCRC) and United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)?

Yes	✓	No	□	Not sure	□
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Supporting comments

The chapter clearly lays out the responsibilities. It is easy to read and the naming of Articles Within the UNCRC and UNCRPD makes it easy to cross-reference.

Chapter 5 - Duty to keep additional learning provision (ALP) under review

Question 10 – Is the guidance provided in Chapter 5 of the draft ALN Code in relation to the duties to keep ALP under review appropriate?

Yes	✓	No	□	Not sure	□
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Supporting comments

- ALP should be kept under constant review. We would envisage difficulties with obtaining relevant updated information from the NHS in terms of what support they can provide;
- The code is clearly written and lays out the LA's responsibilities to strategically plan for and review the provision for ALN within the county. However, there is a concern that additional demands will be put upon LA's resources where Welsh speaking Educational Psychologists may need to travel to neighbouring authorities to satisfy its demand for Welsh language provision;
- It is appropriate but there needs to be further guidance as to when and how frequently this should be done and the most appropriate time of the year in which to complete it e.g. plenty of time to account for transition;
- A lot of 'should' so could be open to interpretation;
- Conflict between the provision LA/Schools should give and the funding made available.

Chapter 6 - Advice and information

Question 11 – Is the guidance provided in Chapter 6 of the draft ALN Code in relation to making arrangements to provide advice and information about ALN and the ALN system appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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 type="checkbox"/>
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Supporting comments

- The word 'Significant' is not quantifiable;
- Where it states that schools 'should' be able to make the decision with regards to a child having ALN or not, there is a slight loophole in that schools could tend to say they are unable

to do this, thus placing responsibility firmly in the LA's department. This would also be the case where FEIs state they are unable to make decisions;

- Clarity around MAT and EAL/WAL is very helpful, as are the flowcharts, however some of it is complex and does not read easily, e.g. 7.20;
- 7.3 part 3 seems to be suggesting that we should be able to predict future ALN of pre-school children and what support they would be likely to require once they reach school age. It is very difficult to make this decision for many of our pre-three year olds;
- What does it look like for a one year old? A child who is complex at one may not be by the time they are of compulsory school age. Should be on present/current level of functioning rather than predicting what they will be when they reach compulsory school age.

Comments specific to sensory impairment team:

- Para 7.29: we feel that this paragraph should read 'must,' not 'should,' as access to qualified teachers is statutory;
- 7.6 – the list of additional learning provision should include habilitation and mobility specialists also;
- Children with hearing and vision impairments are entitled to a 'deafblind assessment undertaken by a suitably qualified assessor – there isn't reference to this in the description of provisions;
- Regarding the opening definitions, we were happy that children with sensory impairments broadly fell under the definitions of ALN here. Unlike perhaps children with physical disabilities, it was clear that ALP would be need to be made for all children with sensory impairments severe enough to require registration under these descriptions;
- We did feel that the way in which the definition of 'accessing facilities' was worded, however, did suggest a 'medical model' of provision – putting the emphasis on the need to make the child adapt to the setting, rather than putting emphasis on the need for the setting to be accessible – wording which supported an emphasis on ensuring accessibility of facilities might be more appropriate?
- Regarding references to the 'register' of children with sensory impairments held by Local Authorities – we wanted to feed back that this is not always a full and comprehensive list as it depends on parental action for children to be added to it. Therefore paragraph 7.59 which refers to this list as a means of identifying children may well exclude those children from support whose parents have not registered them. Accessing this list and identifying who holds it can also be challenging;
- Paragraph 7.37 referring to 'screening tools' for identifying children with ALN: we would point out that a further sentence which identifies that children with vision impairments can't access standardised tools for assessing learning etc, and so this list should also include reference to a personalised approach to assessment for such learners: use of standardised assessment

tools can lead to lower or inappropriate expectations for VI/MSI children, as they are likely to perform poorly on these so their potential may be overlooked or under-estimated;

- The emphasis across this chapter on schools' ownership of the process, whilst broadly a good thing, does mean that there is a need to ensure consistency of approach across settings.

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

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- Clear and comprehensive information in general;
- Issues with use of the term 'reasonable' – 7.42 as this is a subjective term;
- 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';
- Leaves a lot of scope for parents to disagree and oppose schools' professional opinion (7.51 schools are trusted to decide).

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

Yes:

- Yes we feel that the WG have listened to our previously comments. They have stressed that the role is a strategic one and that the role will ensure that systems are put in place to ensure Local Authority functions are met
- The document could stress further the strategic element: Information; Future strategic directive; Leadership and Management; Conflict resolution mediation; Strategic/

budget/ finance; Difficult conversations; Change management; Systems management – cross directive service area; Multi agency (leading) working (health, Ed, Social Care, Third Sector)

- The guidance is appropriate, however training for ALNCo is not mentioned. ALNCo can only provide expertise if they are appropriately and sufficiently trained.
- The ALNCo role should include contributing to the provision of building capacity opportunities for nurseries and early years staff in maintained schools to promote ALN development.
- No mention of strategic planning and/or joint working with professionals in compulsory school age. This cross-over working is integral to providing consistent strategies and support.
- this section was detailed and clear about the role
 - Increased responsibility on ALN lead.
 - Unrealistic time frame
 - Clear graduated response replaced with one stage of differentiation.
 - How will a consistent understanding of ALN be achieved across all schools?
 - Why should the Local Authority be responsible for dual registered pupils?
 - Implications of schools making referrals on the ground of budgets.
 - Increased pressure on EP service given potential future increase in demand as Illustrated
- Our understanding of the role is that they would be expected to have a strategic input and a service delivery input? This is a huge role for 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?

Yes	<input type="checkbox"/>	No	✓	Not sure	<input type="checkbox"/>
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Supporting comments

- Chapters has raised too many queries i.e. does not attending maintain school mean they are at home, at hospital, childminder etc;
- Look at terminology when referencing settings. Need a list of what is meant.to ensure consistent language;
- ‘should’ appear in school part need to be ‘must’ to ensure compliance;
- No reference to childcare offer;

- ***Really need to look at clarification for Chapter 8***;
- 8.35 Funded non-maintained 'should' help change to 'must' help;
- Even though the most likely route of referral is via the school it must be highlighted that parents, external agencies and the child /young person themselves can refer to the LA if there is a belief that an ALN exists. This is likely to result in an increased number of requests for EP assessments without there being any way of introducing a 'filtering' mechanism. EP services will potentially be overrun with requests for EP assessments, some of which are likely to be inappropriate referrals that will 'clog up' the system. Furthermore it does feel like the person who shouts the loudest will get what they want;
- 8.6 – more clarity about when a case friend would get involved;
- 8.6 – there is a need for training around the identification of ALN in pre-school settings. More clarity about how ALN is defined in pre-school would be helpful to ensure consistency and appropriate referrals;
- 8.9 – we feel that EP involvement is critical in early years settings, in terms of early intervention. However, our understanding of this paragraph is that an EP will be needed for every pre-school referral before a decision has been made about whether the child has ALN or not;
- It's mostly clear but some areas are ambiguous or too open to interpretation.

Comments specific to Sensory Impairment Team:

- 8.9 states that "As part of the process of deciding whether a child has an ALN, a LA must seek advice from an Educational Psychologist". We would question whether the educational Psychologist would be best placed to address all questions relation to a decision on ALN, or if other professionals would be more appropriate. For children with VI, standardised assessments are not always appropriate, as they rely heavily on vision.
- 8.27 states that "The local authority must prepare an IDP, before it is finalise the LA should give the parent an opportunity to comment on a draft and should encourage them to raise any concerns". From our experience, we believe that the LA **MUST** give the parent an opportunity to comment on a draft is more appropriate wording;
- 8.46 refers to developmental delay. The second bullet points says the ALNCo should "encourage appropriate referrals to the local authority and discourage inappropriate ones, for example developmental delay which does not amount to ALN but which might become so if not addressed early". We would question whether the example of developmental delay is appropriate?

- 10.52-‘signing to confirm’-some of our pupils would need advice/help with this. When there is involvement it should be in clear language so that pupils of all abilities understand fully of have face to face meetings as in 10.56, which will help with this;
- We would also add that documents would need to be produced in a format that the child can access – eg. Large print or Braille;
- **9.2** - A local authority will normally only decide whether a pupil at a maintained school has ALN and prepare and maintain an IDP in instances where the child or young person’s needs are more severe or complex or are of low incidence. VI could be considered to be of low incidence in all cases, as well as the complex and severe cases. Does this point need clarification, or is the new Code requiring that all VI cases should have LA based IDPs? Currently this is not the case – only the children whose needs make their VI severe or complex;
- **9.24** – Once prepared, the school **must** give a copy of the IDP to the child, their parent or the young person. (as long as pupil has consented) Who will be responsible for enlarging and modifying IDP’s or putting these into Braille, for CYP with VI to access and sign?
- **9.26** - information about how to access the responsible local authority’s arrangements for providing people with information and advice about ALN and the ALN system³³. This could be done by providing a local authority leaflet about the ALN system or the address of the local authority’s relevant web pages and drawing attention to how to get further information and advice; Are these websites/leaflet’s accessible to learners who need large print/Braille, if CYP are to access them?
- **9.44** – This may apply to the majority of VI learners?
- **Flow Chart** – What happens after a CYP has not consented to a decision of ALN? Is this followed up after a set amount of time? What guidance is given to CYP if it is clear that they have ALN/require support, but do not consent? This is of particular relevance in the case of VI learners who will often go through a phase of refusing help as they come to terms with their vision impairment – will support be withdrawn if children in this situation refuse, and are there mediation systems set up to help to manage this risk?

Question 16 – Are the timescales for decisions by schools, FEIs and local authorities on ALN and preparing an IDP as set out in Chapters 8-12 appropriate?

Yes	✓	No	□	Not sure	□
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Supporting comments

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However, one team specified that some timescales seem unnecessarily long in relation to children and young people with multi – sensory impairments.

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

- Concerns regarding the use of the term ‘reasonable’ again (12.37). What does reasonable mean? Must have clarity to avoid conflict;
- No because it does not make clear WHO these young people are/may be and WHERE they are-does it mean private schools, or NEETS , or over 19 and not in education but under 25? If they are NOT in education then why would they need an IDP?

Chapter 12 Specific Feedback

- The first part 12.1 indicates that ALN decisions are made not by the private schools but by the LA. Does this mean that independent schools don’t have to do what maintained schools do!?
- Independent schools do not have to comply with CoP. This is very concerning. With regards to providing advice to help inform ALN, shouldn’t there be a duty to do so in the interests of the child or yp? Surely now is the opportunity to make changes to ensure independent schools comply with the ALN code of practice if there are children with LA publicly funded (placement costs plus provision) IDPs in their setting? For children with IDPs, the LA would need to ensure processes are carried out in line with the CoP no matter what school setting, placing themselves at risk of litigation if they don’t. So, if the LA are ordered by a Tribunal to name an independent school in an IDP, yet the independent school do not have to comply with CoP, where does this leave the LA and the child or young person? We could provide numerous examples of very poor transitions, inadequate review processes and poor outcomes for youngsters in these circumstances. We are guardians of the public purse, so ensuring public money is spent appropriately is also an issue;
- 12.3 Where a local authority has a duty to decide whether a young person has

ALN, it **must**3: designate a person to be responsible for coordinating the actions required to make that decision and, if an IDP is subsequently required, to be responsible for preparing it; *Who would do this-LA employee, school employee?*

- 12.26 ‘The person’s previous progress in education, and any IDP they have previously are likely to be relevant to informing whether the person has the capability to progress and achieve the desired objective. Advice from an educational psychologist or other professionals may also be useful to consider in order to inform this matter’. *Who will decide this? ‘Capability’ is this linked to the notion of IQ scores? Dangerous precedent? Will CAT scores be used by LA Officers to make these 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

Mandatory content is relevant and required

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	✓	Not sure	<input type="checkbox"/>
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Supporting comments

- It’s not child friendly or person centred;
- Not bilingual;
- It doesn’t flow. Timeline of key events needs to come after section 1B or 1C. We need to find out about the person first before we can look to find solutions to any matters that need to be discussed. E.g. if a child has been exhibiting emotional and social difficulties that weren’t apparent before, we would need to first identify/understand whether there were any significant events that have occurred first before looking for appropriate ways forward. You wouldn’t do this last as suggested in the order of the IDP. Similarly new diagnosis;
- One Page Profile **MUST** be part of the IDP;

- Not in the right order. It doesn't flow as nicely when leading a meeting;
- 13.15 Should be a MUST for interpreter and communication aids;
- Disappointed with the IDP template. It is NOT person centred and seems to be in line with the aims of the Code or support the intended and required culture change. Most importantly, it does not support the development of person centred outcomes or practice;
- Little mention of PCP tools and focus;
- The content should be easier to read and more child centred e.g. what's going well etc. It is unclear what each section requires;
- How can it be short and specific but include enough detail? Examples would be useful.

Question 20 – Is the guidance in Chapter 13 of the draft ALN Code clear?

Yes	✓	No	☐	Not sure	☐
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Supporting comments

- However, further guidance needed on setting interim targets (13.33) and how would these be recorded;
- Pleased to note that methods of communication such as Braille/large print are included here. Means of producing these within the LA would need to be reflected upon.

Transport

Question 21 – Is the guidance on transport in paragraphs 13.74 - 13.76 of the draft ALN Code appropriate?

Yes	✓	No	✓	Not sure	☐
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Supporting comments

- It is important to consider and discuss transport arrangements within the IDP and ALP.
- However, the Sensory Impairment Team reported that ...
The paragraphs here don't reflect that for VI children, as independence and mobility skills increase, methods of transport may change. Is there provision for reviewing transport arrangements within the code?

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

- The importance of adhering to these timescales will help more appropriate support to be put into place sooner. However, we already have difficulties obtaining advice from health within the current timescales, so not sure how they will fulfil their obligations;
- 4 weeks should be sufficient time to provide an initial response of whether the request is relevant/appropriate or if further investigation is needed. If an assessment is needed, 10 weeks would be more appropriate for an NHS body to begin to commence further work;
- We struggle to obtain medical information currently for the Statutory Assessment process. We have concerns regarding the NHS' ability to adhere to this duty;
- The duty to respond only applies when a LA makes the request... This may cause delays as schools must approach the LA to make a request of needed. If CYP move schools/counties, the sharing of information is paramount in supporting the CYP. 'must comply' but what are relevant reasons to not comply – who is responsible for that?

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

- It may be helpful to say,

If 6 weeks is impractical for health professionals, the Health body has a duty to give a deadline by which a response will be given.

Otherwise, Education Services may be waiting for information from health professionals for several months (as is currently the case), thus delaying the completion of an IDP and exacerbating anxieties of parents and others. Not knowing when information will arrive is frustrating for both parents and the Local Authority and places a lot of strain on their relationship;

- We are concerned about section 15.31 which states that *the NHS body MUST comply with the duty to inform of an outcome*. It also states that the 6 week period does not apply if it is impractical. What is the point in writing MUST when there is also a caveat that offers the NHS body grounds for non-compliance? This sounds like a document that will end up being the sole responsibility of Education Services, as is currently the case with statementing;
- In relation to an NHS body providing a relevant treatment or service, there needs to be more direction and guidance in relation to funding streams. At present, Education Services pay for most health services and treatments for children and young people in school, despite evidence suggesting that the health needs are impacting on a child's ability to access an education e.g., diabetes condition requiring the child to have 2 adults to ensure they can access their education safely. The Code of Practice fails to consider the implications of the guidance in the Code of Practice to funding streams, and does not offer any clarity on which agency is responsible for funding the provision of a child with ALN.
- '...does not apply if it is impractical for the NHS body to do so due to circumstances beyond its control.' Who decides what circumstances are reasonable for this to happen?

The Designated Education Clinical Lead Officer ("DECLO")

Question 24 – Is the guidance on the role, experience and expertise of the DECLO set out in paragraphs 15.37 – 15.53 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have appropriate experience and expertise)?

Yes	✓	No	□	Not sure	□
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Supporting comments

- This role should not be over burdened with medical work so that stated timescales can be adhered to.

- ‘The Local Health Board **must** only designate an officer as a DECLO it **considers** to be suitably qualified and experienced in the provision of health care for children and young people with ALN.’ Who is setting these parameters?
- In Chapter 15.41 the use of the word ‘should’ does not deem it compulsory that designated persons have this experience etc.
- The guidance provided is clear but may be open to interpretation.
- In order to truly encourage a collaborative approach to supporting children with ALN, it is likely that more than 1 DECLO per Local Health Board is needed, to help bridge the divide between Education and NHS professionals and to promote information sharing and a more holistic assessment of a child’s or young person’s needs.
- The DECLO needs to have a basic understanding of school systems, the different types of educational provision and different interventions schools can offer. Visits to schools and provisions need to be made to help the DECLO develop a realistic and updated understanding of what schools can offer and how support for children with ALN is delivered

Chapter 16 - Review and revision of IDPs

Question 25 – Is the content and structure of Chapter 16 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

- 16.3 – IDP should be constantly monitored by the responsible body. This is impractical for LA (over 2300 LA maintained IDPs and rising?). How can they constantly monitor if they are not in the same building as the child on a daily basis? And if by chance they were, are they going to follow children and young people around all day? Constantly means all the time, all day. Open to misinterpretation and unrealistic. How will LA’s manage this in independent schools over which they have no authority?
- 16.6 – must be reviewed in the timescales set out by any targets / activities timescales / any anticipated changes / in line with rate of development – if we are setting small step, achievable targets, this could lead to reviews needing to be held too often;
- Paragraph 16.6 bullet point 3- what does ‘in order to meet their reasonable needs for ALP’ mean? What is ‘reasonable’? How is it defined?

- 16.11 – the LA will call the reviews and inform the settings? Who will be responsible for this? And how will we coordinate with the settings?
- 16.11 – Why wouldn't this be the same for LA maintained IDPs in independent settings? Don't they have the same rights as all other children and yp?
- 16.12 - not at all clear. Also, Must review before the end of review period- this has been a problem in the past with illness/ holidays etc. Do we need some leeway or reference to 'exceptional circumstances'?
- 16.22/16.23 The NHS can insist we have an IDP review. This leave schools vulnerable to inappropriate reviews (like the current trend for NHS staff to demand an EP assessment);
- 16.23 – if the NHS request provision removed from IDP we must review it – this could be a potential cause of conflict;
- 16.26 – “whether the CYP might need to receive the ALP at a particular school or other institution” How will this work in terms of movers?
- It's good that they are asking after each review if we consider if the child still has ALN;
- 16.27 the ALP being INCREASED OR DECREASED AT EACH REVIEW. This is a positive;
- 16.39 IDP must be given to child- this could be very detrimental and similar to giving a child medical records which in some circumstances could cause distress;
- 16.41 – At the point of giving a revised IPD to a CYP and their family, the maintaining body must give them the date for the next review – this could be challenging;
- Concerns around the number of reviews LAs will be responsible for, with current staffing levels.

Question 26 – Is the proposed period and exception for completing reviews in response to a request from a child, their parent, a young person or an NHS body (set out in paragraph 16.18 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

- It is a long time within the school life for a younger child but time needs to be given to complete the reviews thoroughly;

- Need to be constantly monitored and assessed by 'body responsible for maintaining it' – What if that is the LA?
- We argue that the Local Authority also needs 35 days in which to assess children, in line with schools, as children need to be assessed in situ in order to get a more accurate and reliable understanding of their needs. At present, under the current system, there is a time period over the summer holidays when an Educational Psychologist may be forced to undertake an assessment without information from educational staff, without an observation of the child in an educational setting and sometimes without any knowledge of a child's attainment, ability to learn in a busy classroom environment and their emotional, social and mental health needs. This is NOT a good assessment of a child's needs;
- Also, it may not be possible to assess a child over the 6 week summer holidays if the child is away from their home.

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

- On the whole the document is well laid out and the information clear;
- What does 'maintain' mean? Administrative role or resourcing - or both?
- 7 week time period seems quite short. This may need to be reviewed after a period of implementation;
- Point 17.25 – we approve. Requires on going consultation – not just a one off. Emphasise importance of consultation clinics;
- Funding mechanisms for EPs working with Further Education Institutions? Needs to be clarified;
- Point 17.30 - We agree that LAs **must** consult with EP – important;
- Looked after children – co-ordinator role is unclear. Needs clarification;
- It would have been better to separate the description of the roles of LA and School as this is not always clear. It is as if there is too much information or too many words;

- The wording in Chapter 17 was considered to read more like a legal document. It was not considered to be as 'user friendly' as the current Code. Colleagues wondered how easy it would be for school staff and parents to understand and interpret the chapter themselves;
- Colleagues commented that they often had to read over the passages and / or break them down in order to try and make sense of them.

Many of the paragraphs had either / or:-

- i) a complex sentence structure,
 - ii) long sentences or
 - iii) ambiguous wording which could make them difficult to understand
 - iv) were repetitive
- Chapter 17 was considered to be very difficult to read as a stand-alone chapter. Colleagues often reported that they needed to read through some of the initial chapters to try and make sense of what was being conveyed in it;
 - There were many cross references to sections of the ALN Act or other chapters of the Code alluded to in the footer. This could be off putting to the reader who is not familiar with them as it implies the need for further reading;
 - Advice about cross border arrangements between Wales and England can be confusing;
 - There does not appear to be any criteria given for *how the* LA or school decide *who* is going to write the IDP. Would this be determined by the level of provision the child would require?
 - There were concerns that there do not appear to be any incentive for schools to take responsibility for identify ALN if the LA can be asked to do it;
 - Concerns were raised about the increased rights of parents and children / young people to request the LA carries out an ALN assessment/ IDP if the school decline to do this. It does not appear to be in the spirit of the Graduated Response and could result in queue jumping;
 - How would this be managed, given the short turnaround time in which the LA has to respond?
 - Concerns were raised about the possible increase in workload this could cause EP's and the possible effects on their ability to continue engage in preventative work or training. Would EP's be regarded as gatekeepers to resources?

- Is it equitable that the LA can be taken to Tribunal but the school cannot? Is the LA then taking on the responsibility for issues pertaining to the school’s approach to ALN which could be dealt with by the school’s Governing Body?
- The requirement to provide Welsh medium provision could be an issue for some LA’s;
- Re: Paragraph 17.24; There does not appear to be any guidance on what evidence/documents are needed in order to support a request for a local authority to take responsibility for an IDP. This suggests that children or parents can request at any time, even when there is limited information or evidence to suggest that a child has significant or complex needs or requires ALP beyond what a school can provide. The parent can appeal and take the Local Authority to tribunal if they don’t like the response. The Local Authority will be obliged to undertake assessment work for every parent that requests an IDP be made the responsibility of a Local Authority. We envisage that local authority officers/educational psychologists will spend a lot of their time deciding on whether an IDP needs to be the responsibility of the local authority instead of supporting schools to manage ALN in schools. Also, this new system opens the gates for those parents who ‘shout the loudest’. There may not be equity in this for those parents or children who feel unable to request support.
- 17.1 Does this mean that the right of appeal is only if the IDP is maintained by LA or if the LA has been asked to consider maintaining the IDP and refused?
- 17.25 “A school or FEI might request the local authority to take over responsibility for maintaining an IDP where, for example, the school or FEI believes that it would no longer be reasonable for them to secure the ALP called for by a child or young person’s ALN. Before doing so, the school or FEI should consider consulting an educational psychologist to see whether this is appropriate.” – Interesting. Implications for EP time and school allocation;
- 17.30 – the LA must consult an EP before making a decision.

Question 28 – Is the proposed period and exception for a local authority reconsidering a school IDP (set out in paragraph 17.20 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

- Time period may be challenging if a large number of school decisions are referred to LA in this way.

- The period of 7 weeks to make a decision and prepare an IDP for a child in a mainstream school appears to be very short. I worry that the tight timescales for statutory work will have a massive impact on the Educational Psychology Service's ability to maintain its generic service to schools (both to individuals and systemic work), training, support to the LA and early intervention.
- Tight timescales.
- We are concerned that schools will encourage parents to request LA reconsideration so that they are not responsible for writing the IDP, as schools cannot be taken to tribunal but LAs can.
- It is not clear whether it is the notification to re-assess, or that the actual assessment and subsequent IDP will be completed in 7 weeks.
- What will the process look like? Will the LA have to carry out their own assessments or just look at the IDP paperwork and amend it?
- If an assessment needs to be carried out who will carry this out? Will the onus be on EP's
- What sort of time scale will the assessor have to carry out the work and submit their report? This could create very demanding workloads on practitioners.
- Colleagues felt that there is not enough emphasis on the responsibility of the school to promote inclusion.
- Without prior warning, 7 weeks is not long enough to assess properly e.g., meet with parents, child, staff, then find and process information from other professionals, complete observations and individual assessment with child/young person.
- Also we would seek greater clarification of what constitutes 'circumstances beyond its control' e.g.
 - In the event of x, y, z, - what might be the (circumstances beyond its control?) e.g. seeking clarifying information; school holidays; unavoidable failure to attend Person Centred Meetings/assessment appointments etc.
- The 7 week period applies to both situations of making revisions to an IDP or not. Should there be more time if revision/s are agreed as a revised plan would be required?(17.17). It is helpful that there is a caveat 'a copy of revised IDP within 7 week period does not apply if it is impractical for the local authority to do so due to circumstances beyond its control' (17.20). It would be helpful to have some examples of the types of circumstances that would apply.

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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

<ul style="list-style-type: none"> • Definition of a ‘meeting’ is quite vague. What level of discussion/conversation about a child’s needs is construed as a ‘meeting’? the document implies – even informal discussions. But the principles then laid out create a much more formal event – such that informal discussions may be avoided if they aren’t seen to comply. Perhaps more definition of when an informal discussion is still just an informal discussion would be helpful; • 18.12 advance advice sent to child – this could cause distress in some circumstances depending on the individual child; • 18.19 Last sentence is an opinion – ought to read ‘should’ instead of ‘will’; • please note: 18.34 “The IDP co-ordinator <u>should</u> attend every meeting to do with a child’s wider needs”. As policy and practice in other disciplines develops this has the potential to overload the IDP co-ordinator with statutory attendance at many meetings; 18.18 and 18.19 – ‘the co-ordinator’ do they mean ALNCo? They are recommending they do the IDP reviews; 18.24- provide a report of progress to the child and parent first.

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

<ul style="list-style-type: none"> • Will have time implications for ALNCo and multi-agencies • Yes, largely appropriate, but please note:
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19.4 should include PRUs and EOTAS settings as this is a significant transition for some students.

19.16 Typo – repeated ‘or’ instead of ‘of’

19.16 & 19.36 Needs reference to Donaldson’s phases of education or it will quickly become out-dated.

19.44 Have schools been consulted and largely agreed staffing and buildings availability during “school holidays” before this is mentioned specifically in the code?

19.48 What consideration and reference has been made to young people who are not Gillick competent?

19.49 “...or the young person objects” needs to be made more specific and qualified. What level of objection is considered relevant? Is a passing comment, or specific, strongly felt and persistently raised objections, or somewhere inbetween - where?

Is ‘young person’ defined earlier in the document?

19.52 – 19.61 is aspirational but non-committal. Perhaps it needs some strengthening?

Transition is often a point at which EP involvement is requested to update assessments. There needs to be a reference to schools considering EP input at transitions.

19.56 – Yr 11 far too late. What if FEI can’t meet needs? Then it’s usually too late to make adjustments to current provision in FEI to accommodate the pupil, and it’s very late to consider other options. This all leads to poor transition experience.

19.57 – Can we have a ‘must’ instead of a ‘should’? What about secondary independent schools? Independent special schools? Does this apply to them? If not, why not? And how can we change this? Maybe make it a caveat to registration for independent school status that they will abide by processes described in CoP for children with LA funded maintained IDPs? Or has this already been done?

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

- In many paragraphs the sentences are too long and instruction becomes more complex because of this. Paragraphs often require re-reading and breaking down in order to make sense of them. This could lead to misinterpretation. Para's 20.14 and 20.20 are an example.
- Some paragraphs are very long e.g 20.23 and would benefit from breaking down into bullet points.
- There is a lot of repetition of the guidelines.
- There is no guidance given about the transfer of an IDP to an EHCP should the child continue education in an English LA.
- If parents received this document, they wouldn't know where to start looking. More pictures or diagrams needed.
- The mandatory IDPs are not very user friendly and is likely to encourage vague 'Intended Outcomes' and vague/irrelevant 'ALP to be provided.
- The IDP form does not encourage a structured thought process between needs and provision. Staff who are less experienced with identifying targets need more explicit guidelines and structure.
- Consistent with how it is at the moment. FEI does not have to maintain it? No time scale for new body to review and revise plans.

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	✓	Not sure	□
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Supporting comments

- Yes Transition same. No change
- No, colleagues felt that this process could be viewed as adversarial and against the spirit of collaborative working between the LA and FEI.
- There is a lack of detail about how the process would work.

- There are no criteria given to determine how the LA should determine if the FEI can meet the young person's needs from their own resources.
- There is nothing else in place if the FEI decline to implement the IDP, it just goes straight to the Welsh Ministers. There is no middle ground for trying to reach a consensus before this happens and it could be regarded as a punitive 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?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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• **Supporting comments**

- Regarding transitions to nursery settings, and where children make a transition from non-maintained settings where an LA held IDP has not been previously appropriate: the principle set out in this chapter to plan transitions well in advance is possibly in conflict with the process of admissions: planning for a placement can't start until a setting is identified, and in some circumstances, this may be, relative to the need for recruitment and training, quite a short period.
- Why must the LA take responsibility for dual registered pupils particularly for those in FEI?
- Will the LA be part of these discussions before the decision is made?
- What if there need to be cross boundary arrangements in counties that border several LA's e.g:-

One setting is in LA 1 and the other in LA 2 or
LA 1 is Welsh and LA 2 is English)
- Para 20.18 Yes, but the word *promptly* is vague.
- Para 20.19. Colleagues appreciated that the Code referred to the transfer of an IDP as being a *normal* part of the transition process.
- Para 20.20 Is confusing and seems to be contradictory. It is not always clear which *institution* the Code is referring to... the old one or the new one. It would be more helpful if a practical example or a flow chart had been given to make things clearer
- Para 20.21 Again the instruction is vague and needs to be more specific. The decision to arrange the B&B seems to be only the LA's decision. Which LA are they referring to?

- We are not sure about the practicalities or appropriateness of arranging board and lodging for a child / young person in order that they stay at their original school whilst waiting for the IDP to be revised. The chapter does not specify a time limit for the revision referring only to ‘Until such time as it is possible.’
- Colleagues felt that as the wording of the Code only refers to the IDP as a *document* that somehow the spirit of person centred planning seems to have been lost amongst the need to clarify practical arrangements.

Chapter 21 - Ceasing to maintain an IDP

Question 34 – Is the content and structure of Chapter 21 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

- Colleagues felt that some parts of this chapter were clearer than others. However the content of the entry and exit criteria was dense
- List of bullet points and shorter sentences make it easier to read than other chapters.
- Lots of references to other Chapters and parts of the ALN Act mean further reading is required to understand the guidance fully.
- What criteria can school/FEI use to decide if a pupil no longer has an ALN? How do we ensure this is equitable across settings?

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

- As with previous feedback comments – is there a clear pathway back into an IDP for a child who has previously refused it – and what is the process for explaining this to the child?
- 4 weeks seems reasonable to enable advice to be sought to assist in decision making
- The main difference appears to be that if schools decide that a pupil no longer has ALN they must notify pupils and parents of the decision and give them the right to request the LA to reconsider the matter. If an IEP is ceased currently, parents do

not have the right to ask the LA to reconsider. This could impact on LA Officer / EPS time depending on volume of requests.

Chapter 22 – Children and young people subject to detention orders

Question 36 – Is the content and structure of Chapter 22 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

- For young people whose ALN is as a result of a disability, does the legislation under acts such as the DDA over-ride this part of the ALN bill (eg – does a child’s statutory right to equal access and to access to specialist teaching also cease if they are in detention – or does this responsibility move to the place which holds the child?)
- It is, however very repetitive. Generally the document is not accessible. It is confusing and does not consider the multiple audience. Some people thought the ambiguity will lead to interpretation challenges and tribunals.

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

- There should be a presumption that one is maintained

Question 38 – Are the proposals for the regulations in relation to children or young people who are subject to a detention order and detained in hospital under Part 3 of the Mental Health Act 1983 (as described in paragraphs 22.45 – 22.74 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

- Issues around appropriateness of consent. The capacity of the child/young person and the appropriateness for them to make these decisions at this point – are they able to make an informed re=rational decision when in a state of emotional arousal and personal upheaval. Would it be more appropriate at this point to have their views considered and reflected.

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 checked="" type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

- No set time requirements
- Clarity around timescales is necessary, even if there is a need for exception.
- Subjective term - promptly

Chapter 23 - Children and young people in specific circumstances

Question 40 – Is the guidance in Chapter 23 of the draft ALN Code on children and young people in specific circumstances appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

- The chapter is repetitive and it is not clear what responsibility rests with whom. Content should be addressed in specific chapters e.g. 9,10 and 17.

Chapter 24 - Role of the Additional Learning Needs Co-ordinator (ALNCo)

Question 41 – Is the information set out in Chapter 24 of the draft ALN Code about the role and responsibilities of the ALNCo appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

- Ought to read:
 - 24.22 Interventions ‘must’ be reviewed
 - 24.3 ‘must’ have expertise – could add a caveat that this can be undertaken whilst in role
 - 24.4 Head ‘must’ ensure ALNCo is supported
 - 24.7 ‘must’ have a clear line of communication with the leadership team.
 Should be more direction about time allocation and qualifications for role of ALNCo. How can ALNCo have strategic input if not on a school’s SLT?
- Change wording to must – all staff have a responsibility for identifying needs and providing for pupils.
- 24.14 – A consistent form should be developed to formally note the date on which it is first brought to the attention of the ALNCo.
- Huge role – not cost neutral for schools.

- We have concerns about availability of suitably qualified school staff to fulfil this function.
- Whilst the chapter encapsulates the existing role, it clarifies more strategic aspects of the role, as well as the desirability of becoming a source of expertise by developing specialist skills.
- We agree that ALNCo is a strategic role (see below) and it should preferably be part of the SLT rather than just having a clear line of communication to SLT (although this is the next most favourable option). There are concerns about whether the ALNCo would automatically have designated and sufficient time to carry out duties.
- We endorse the recommendation for the ALNCo to be actively involved in strategic coordination of ALN resources and in decisions around budgets and resources to help plan appropriate provision.

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

- Point 25.44-This is not actively encouraging parents to resolve issues locally. Why place so much emphasis on disagreement resolution approaches if you are saying parents don't have to have demonstrated this first before they appeal;
- The mediating service needs to be responsible for writing the statement about the meeting;
- Concerns about EPs being involved in more dispute resolutions and tribunals than we are currently. This takes time away from the other duties and responsibilities;
- Should there be the facility to access information in a range of languages reflecting Cardiff's multi-diversity?
- 25.28 – 25.29 - Disagreement Resolution has always been around. I'm not sure how much the arrangements will reduce the need to go to Tribunal if there isn't a requirement to attend mediation first. It's complex because many families are vulnerable to fee charging SEN or legal advisors, some of which actively encourage the parents to go to tribunal and avoid any contact with LAs. This means no matter how hard you try you cannot resolve matters. It becomes very ugly and the families find themselves significantly out of pocket, extremely emotionally drained, and still very vulnerable.
- 25.44 – Don't agree – it needs to be mandatory for reasons stated above.
- 25.43 – '*although this is likely to be infrequent...*' It's frequent. Currently, nearly all Tribunal appeals about provision in part 3 of statements of SEN include appeals about therapies.

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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	✓	No	☐	Not sure	☐
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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	✓	No	✓	Not sure	☐
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Supporting comments

<ul style="list-style-type: none">• Yes it reads clearly; • No it is not clear;• It is not equitable that there is a difference in timescales for schools/LAs and FEIs. Timescales should be 35 days regardless of where the child/young person is educated as obtaining information, meeting with parents and working with children and young people is difficult during school holiday periods and causes difficulty in compliance with statutory timescales; • Expectations with regards the mediation process required are again unclear. It should be mandatory that parents/carers or young people themselves engage in mediation with either school, FEI or LA as applicable; • It is not clear as to how ‘capacity’ will be determined; • The term, ‘sufficient’ information is unclear; • Concerns that LA may be subject to tribunals for school decisions, if LA thinks a school should be responsible for the IDP. This puts LA and schools into potential conflict.
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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 checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

No

- There needs to be greater clarity at to the difference between a case friend and advocate;
- 27.6 – whether a child or young person has capacity or not is considered too simplistic. It is possible that they have some understanding of some aspects and considered that capacity can vary dependent on context and depending on the issue being determined. This is concerning as the child or young person potentially loses all rights if it is decided they do not have capacity at any given time. The possibility of reviewing this is not considered;
- There appears to be an assumption that if a parent is making an appeal, then a case friend is not required. It is felt that a case friend may still be required to help support the child through the process.

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.

ALN Code –

- Why is there no requirement for ALNCOs to do a Masters?
- What is the cost of implementation? Is it sufficient?
- Will all teachers be able to do training in the working day?
- Does this incentivise schools to identify fewer pupils with ALN?
- What are the long term implications for schools and ALNCOs for not implementing an IDP?
- Is there a need to simplify the code?
- There is a risk that LAs will defer responsibility to schools.
- What is the expectations of teachers versus ALNCOs?

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

- LAs see and therefore respond to the appellant's case statement when they submit their own case statement. Wonderful; less time wasted, less stress involved for all, and more specific responses can be provided if the particulars of the appeal are known.

Question 48 – Overall, will the processes and procedures outlined in the draft Education Tribunal regulations enable the Education Tribunal to deal with cases fairly and justly?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 49 – Is the proposed case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 50 – Are the proposed timescales for each party in the case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) reasonable?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 51 – Is the 6 week timescale within which NHS bodies must report to the Education Tribunal in response to a recommendation (regulation 65 of the draft Education Tribunal regulations) appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 52 – Are the timescales relating to compliance with Education Tribunal orders appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 53 – Is the approach to extensions to timescales (regulation 66 of the draft Education Tribunal regulations) appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Question 54 – Are the proposed regulations relating to case friends (draft Education Tribunal regulations 61 to 64) appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Part 3 of the consultation: Draft ALNCo regulations

Question 55 – Are the prescribed qualifications to be an ALNCo set out in the draft ALNCo regulations appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

- Not clear what the requirements are in law?
- Yes – a strong focus on leadership is essential and so a qualified teacher or previous SENCo is the minimum requirement.
- No clarity as to qualifications beyond QTS?
- In addition, ALNCos must have/or be willing to undertake further professional qualifications.

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

Yes but with reservations as to how they will do this with teaching commitments etc.

Yes – we agree that the following duties are essential for an ALNCo to undertake, given the proper time, training and resource allocation:

- * identifying learners with ALN and ensuring all learners who have ALN have an IDP
- * coordinating making of ALP to meet identified needs
- * designating a person to coordinate actions re: decisions on whether a pupil has ALN
- * if an IDP is required in these cases, to be responsible for preparing it
- * maintaining records re: IDPs and ALP with relevant dates
- * securing relevant services to support ALP
- * liaison with ch/yp/parent on a regular basis about the learner's ALN, IDP and the ALP
- * promotion of inclusion in the school community and ensuring access to curriculum/facilities
- * duties re: preparing/reviewing information relevant to the code which is required to be published by the governing body

- * advising teachers about differentiated teaching methods appropriate for individual pupils with ALN
- * supervision and training of TAs and contribution to INSET for teachers
- * keeping up to date on the latest evidence and evidence of best practice
- * monitoring effectiveness of any ALP and using management information systems to monitor the impact of interventions and progress being made (against planned outcomes for all learners with ALN).

As noted previously, this role is not cost neutral for schools. Needs to be non teaching.

Part 4 of the consultation: Looked after children

(a) Proposed regulations to be made

Question 57 – Do you agree that the Looked after Children in Education (LACE) Co-ordinator should be a statutory role?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

(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

- No. Looked after children should have an IDP that is as near identical to that of other children as possible. The resulting duplication is trivial in a digital age – there could instead be scope in the PEP to remove sections if an IDP exists.
- Why is there apparently no One Page Profile? Is there one in the PEP now?
- Who is responsible – that appears to have been removed? Is it assumed that the LACE is responsible? Even at current School Action level? Where is the school’s role here – are they never responsible?
- Having a different IDP for looked after children might encourage schools to think that they are less responsible for maintaining the IDP and encourage them to delegate responsibility to others in the local authority leading to a “Not my problem” attitude.
- If the IRO is responsible for the PEP, does that make them responsible for the IDP? Bearing in mind they are not education professionals?
- These children have lost a lot of choice and should have the maximum opportunity for person-centred reviews. This might be easier if their IDP review is like any other child’s but feeds into the PEP/care plan review
- No – one form. Why would you use a separate form?

(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?

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.