

Respondent Details

Information	
Name	Anonymous
Organisation (if applicable)	

I am an elected member of the Children Young People Select committee for my own authority, so I take an interest in educational matters.

However the comments made are my own personal comments in relation to this consultation.

The changes made in this area aim to make the procedure for obtaining a statement of special needs now called ALN easier in terms of the length of time it takes and it is now called an IDP which links in with social services PEP. It aims to promote the rights of parents and of children. The aim is also to keep children in their local mainstream school, otherwise referred to as supporting inclusiveness.

Whilst that is an important aim there are children who do not cope with mainstream schools well and need the extra care and support of special schools. Children who may need this support covers those with a variety of needs such as challenging behaviour- SEBD/ASD and those with disabilities which need special school provision. I would like to see the principles in chapter 2 properly acknowledge that fact and not just cover the inclusiveness in mainstream side.

I am also concerned that whilst the general aims of the direction of travel are to help make it easier for parents to obtain IDPs they make it more difficult to obtain the type of special school provision for those children that need it. This needs to be amended in both chapters 2 on principles and chapter 11. Children with a level of challenging behaviour or a level of other special needs require the type of support provided by special schools. It should not be made more difficult for parents to get that support where appropriate and needed. In addition a children with very challenging behaviour can disrupt the learning required for other pupils in the school. I have been told of instances from a parent whereby the whole class had to be taken to another room because of the disruptive behaviour of one child. Other pupils may be frightened of pupils who may show more disturbing behaviour. It is unfair to mainstream schools with limited resources to manage such pupils. It is also beneficial to those children to have the sense of belonging and support from special schools in order to progress.

In order to support children with a variety of needs the special schools are set to increase in England. Also in Wales local authorities have recognised the importance of providing schools which cater for a variety of children's needs such as Newport Maes Ebbw school and Trinity Fields in Caerphilly. If local authorities do not have internal special schools then they may have to pay for special provision in out of county schools, so internal provision if possible in my opinion, is much better.

I would be grateful if the draft ALN code could be amended to incorporate the principle that not all children are able to cope in mainstream education and where appropriate do need

the support of special schools. Hence please add to this to the principles set out in 2.2 of the Code. In other words, the best interests of the child is paramount and although inclusive education is supported it is recognised that support in special schools may be necessary and in the best interests of the child and other pupils in mainstream education. Also in chapter 11 the duty to favour mainstream education does not sufficiently take account of the rights of children and parents put forward in the earlier part of the code to have a child educated according to the parents and child's wishes particularly where special schools are appropriate and needed. It is going to put too much pressure on mainstream schools to cope with children who because of their very challenging behaviour special needs would be better supported in special schools.

Respondent Details

Information	
Name	Rebecca Williams
Organisation (if applicable)	UCAC

Rhan 1 o'r ymgynghoriad: Y fersiwn ddrafft o'r Cod ADY

Pennod 1 - Cyflwyniad

Ystyr 'rhaid', 'ni chaiff', 'caiff', 'dylai' ac 'ni ddylai' yn y Cod ADY

Cwestiwn 1 - Ydy'r esboniad ym mharagraffau 1.10 -1.16 o'r fersiwn ddrafft o'r Cod ADY o ddefnydd ac ystyr y gwahanol dermau rhaid, ni chaiff, caiff, dylai ac ni ddylai yn glir?

Ydy	<input checked="" type="checkbox"/>	Nac ydy	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Amserlenni

Cwestiwn 2 - Ydych chi'n cytuno â'r dull gweithredu cyffredinol mewn perthynas ag amserlenni ar gyfer cydymffurfio â dyletswyddau (hynny yw, gweithredu'n brydlon a, ph'un bynnag, o fewn cyfnod penodol), fel yr eglurir ym mharagraffau 1.31 - 1.32 o'r fersiwn ddrafft o'r Cod ADY?

Ydw	<input checked="" type="checkbox"/>	Nac ydw	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Cwestiwn 3 - Ydy'r eithriad cyffredinol sy'n gymwys yn achos amserlenni, fel y'i disgrifir ym mharagraffau 1.33-1.35 o'r fersiwn ddrafft o'r Cod ADY, yn briodol?

Ydy	<input checked="" type="checkbox"/>	Nac ydy	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Cytunwn, ond bydd angen bod yn glir ac yn gyson ynghylch yr hyn a ganiateir ai peidio dan y pennawd 'amgylchiadau sydd y tu hwnt i'w reolaeth'.

Derbyniwn nad oes modd diffinio hynny yn y Cod ei hun oherwydd ehangder ac amrywiaeth yr amgylchiadau posib, a chytunwn â'r rhesymeg ym mharagraff 1.8 o'r ddogfen ymgynghorol ynghylch peryglon ceisio rhestru eithriadau/amgylchiadau o'r fath.

Croesawn y pwyslais ar amgylchiadau 'eithriadol', a'r angen i weithredu'n brydlon unwaith y bydd yr amgylchiadau eithriadol hynny wedi newid; mae'r enghreifftiau a roddir yn gymorth i ddehongli natur yr amgylchiadau eithriadol hyn.

Fodd bynnag, bydd angen sicrhau gofal wrth weithredu, a hoffem gael sicrwydd nad yw

diffyg gwasanaeth yn y Gymraeg, neu 'aros am gyfieithu' yn dod dan bennawd 'eithriad' yn y cyd-destun hwn.

Strwythur y fersiwn ddrafft o'r Cod ADY

Cwestiwn 4 - Ydy strwythur y fersiwn ddrafft o'r Cod ADY a'r modd mae'r Penodau wedi'u rhannu yn briodol, yn glir ac yn hawdd ei ddeall?

Ydy	✓	Nac ydy	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Cwestiwn 5 - Ydy ffocws y fersiwn ddrafft o'r Cod ADY ar ddisgrifio ac egluro'r swyddogaethau a phrosesau yn briodol?

Ydy	✓	Nac ydy	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Unedau Cyfeirio Disgyblion - Rheoliadau arfaethedig i'w gwneud o dan Baragraff 15 o Atodlen 1 i Ddeddf Addysg 1996

Cwestiwn 6 - Ydych chi'n cytuno â'r cynnig i ddefnyddio rheoliadau i ddirprwyo swyddogaethau o awdurdod lleol i Bwyllgor Rheoli Uned Cyfeirio Disgyblion?

Ydw	✓	Nac ydw	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Pennod 2 – Egwyddorion y Cod

Cwestiwn 7 - Ai'r egwyddorion a nodir ym Mhennod 2 y fersiwn ddrafft o'r Cod ADY yw'r rhai cywir?

Ie	✓	Na	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Dan y pennawd 'System ddwyieithog', teimlwn y dylid cyfeirio nid yn unig at y Ddarpariaeth Ddysgu Ychwanegol (DDdY), ond yn ogystal at y prosesau ehangach. Er enghraifft, ble bynnag posib, dylai unrhyw brofion diagnostig, asesiadau a phrosesau ar gyfer penderfynu a oes gan y plentyn/person ADY, fod ar gael yn y Gymraeg ble mae angen hynny - boed hynny o fewn y sector addysg, iechyd neu ofal cymdeithasol. Efallai y byddai croesgyfeiriad at Fframwaith olynol 'Mwy na Geiriau' yn berthnasol yma.

Mae'n hysbys bod prinder asesiadau neu dulliau sgrinio dibynadwy (neu arbenigwyr i'w gweinyddu a'u dadansoddi) yn y Gymraeg ar gyfer amryw o gyflyrau. Mae hynny'n fater o bryder gwirioneddol o ran gallu'r system i adnabod anghenion plant (ac i raddau, pobl ifanc)

yn gywir at bwrpas y Ddeddf a'r Côt, ac felly i ddiwallu eu hanghenion yn effeithiol.

Dylai bod modd yn ogystal i gyfarfodydd gyda'r ysgol, awdurdod lleol, sefydliad addysg bellach neu wasanaeth iechyd gael eu cynnal trwy gyfrwng y Gymraeg ble mae'r plentyn, rhiant a/neu berson ifanc yn dymuno hynny.

Gellid ymhelaethu'n sylweddol iawn ar 2.24 a 2.25. Nid oes yma wir ganllaw, ond yn hytrach yr hyn sydd yn y Ddeddf heb ragor o fanylder ynghylch sut i weithredu. Mae hyn yn wendid sylweddol, ac mae'n debygol o adael bylchau fydd yn caniatáu diffyg gweithredu priodol (e.e. pa ffactorau dylid eu cymryd i ystyriaeth wrth 'ystyried a ddylid cyflwyno DDdY...drwy'r Gymraeg'; sut gellid diffinio 'cymryd pob cam rhesymol i sicrhau ei bod yn cael ei chyflwyno drwy'r Gymraeg'?; beth yw ystyr 'digonolrwydd DDdY drwy'r Gymraeg', a sut gellid diffinio 'cymryd pob cam rhesymol i unioni'r mater'?; pa gamau dilynol sy'n deillio o adolygiadau Gweinidogion Cymru o ddigonolrwydd DDdY drwy'r Gymraeg - a sut dylid cynnal yr adolygiadau?). Mae'r pwyntiau hyn yn codi drwy'r Côt mewn gwahanol manau.

Mae 2.26 yn datgan bod 'mwy o wybodaeth am ddarpariaethau drwy'r Gymraeg...ym Mhenodau 6 a 25.' Nid yw Pennod 6 (Cyngor a Gwybodaeth) na Phennod 25 (Osgoi a datrys anghytundebau a gwasanaethau eirioli annibynnol) yn cyfeirio o gwbl at y Gymraeg (y tu hwnt i gyfeiriad ym Mhennod 6 i'r angen i ddefnyddio Cymraeg a Saesneg clir). Yn bendant, mae angen iddo wneud.

Pennod 3 – Cynnwys a chefnogi plant, eu rhieni a phobl ifanc

Cwestiwn 8 - Ydy'r esboniad o'r dyletswyddau'n ymwneud â chynnwys a chefnogi plant, eu rhieni a phobl ifanc a roddir ym Mhennod 3 y fersiwn ddrafft o'r Cod ADY yn briodol?

Ydy	<input checked="" type="checkbox"/>	Nac ydy	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Pennod 4 - Dyletswyddau ar awdurdodau lleol a chyrrff y GIG i roi sylw i Gonfensiwn y Cenhedloedd Unedig ar Hawliau'r Plentyn a Chonfensiwn y Cenhedloedd Unedig ar Hawliau Pobl ag Anableddau

Cwestiwn 9 - Ydy Pennod 4 o'r fersiwn ddrafft o'r Cod ADY yn glir am y disgwyliadau ar awdurdodau lleol a chyrrff y GIG wrth gyflawni eu dyletswyddau i roi sylw dyledus i Gonfensiwn y Cenhedloedd Unedig ar Hawliau'r Plentyn a Chonfensiwn y Cenhedloedd Unedig ar Hawliau Pobl ag Anableddau?

Ydy	<input checked="" type="checkbox"/>	Nac ydy	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Pennod 5 – Dyletswydd i gadw llygad ar ddarpariaeth ddysgu ychwanegol (ALP)

Cwestiwn 10 - Ydy'r canllawiau a roddir ym Mhennod 5 y fersiwn ddrafft o'r Cod ADY mewn perthynas â'r dyletswyddau i gadw llygad ar ddarpariaeth ddysgu ychwanegol yn briodol?

Ydyn	<input checked="" type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Bydd angen gofal i sicrhau y gweithredir 5.7 yn gywir, hynny yw gyda'r pwyslais ar y ddarpariaeth yn gyffredinol, ac nid monitro ansawdd darparwyr unigol. Teclyn cynllunio strategol yw hyn i fod, ac nid 'arolygiad' yn null Estyn – ac mi allai'r rhestr o faterion ym mharagraff 5.12 gael ei cham-ddehongli a'i cham-weithredu.

O ran y rhestr ym mharagraff 5.12 o faterion y dylid ceisio casglu tystiolaeth yn eu cylch, awgrymwn y dylai fod pwyslais yma nid yn unig ar yr hyn sydd 'ar gael mewn ysgolion' ond yn ogystal, yr hyn sydd 'ar gael i ysgolion'. Er enghraifft, nid yn unig y 'trefniadau ar gyfer cynnwys arbenigwyr lle bo angen', ond argaeledd yr arbenigwyr hynny. Yn gysylltiedig â hynny, gellid ystyried casglu gwybodaeth ynghylch cydymffurfiaeth â'r amserlenni a'r terfynau amser a nodir yn y Côd; mi allai hynny fod yn fodd effeithiol o ddangos bod diffyg darpariaeth/arbenigedd/ gwasanaethau i ddiwallu anghenion yn unol â gofynion y Côd.

Mae un cwestiwn pwysig arall yn codi yma, sef pa lefel o sgrwtini neu her (allanol?) sydd i adolygiad yr Awdurdod Lleol o'i drefniadau ei hun? Tybiwn fod hynny'n angenrheidiol os am sicrhau tryloywder a chysondeb - o ran canfyddiadau'r adolygiad, a'r camau gweithredu dilynol.

Pennod 6 – Cyngor a gwybodaeth

Cwestiwn 11 - Ydy'r canllawiau a roddir ym Mhennod 6 y fersiwn ddrafft o'r Cod ADY mewn perthynas â gwneud trefniadau i roi cyngor a gwybodaeth am ADY a'r system ADY yn briodol?

Ydyn	<input type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input checked="" type="checkbox"/>
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Sylwadau cefnogol

Mae Pennod 2 (Egwyddorion y Côd) yn dweud y bydd 'mwy o wybodaeth am ddarpariaethau drwy'r Gymraeg mewn perthynas â threfniadau rhoi cyngor a gwybodaeth...ym [Mhennod] 6...' – ond nid yw'r wybodaeth yn ymddangos yma. Yn bendant, mae ei hangen.

Pennod 7 – Y diffiniad o ADY a DDdY, nodi ADY a phenderfynu ar y DDdY sydd ei hangen

Cwestiwn 12 - Ydy'r esboniad hwn o ADY a roddir ym mharagraffau 7.4 – 7.32 y fersiwn ddrafft o'r Cod ADY yn glir?

Ydy	<input type="checkbox"/>	Nac ydy	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Mae camgymeriad sillafu yn y fersiwn Cymraeg yn y pennawd ar ben dudalen 59 (cyn paragraff 7.13). Mae angen newid 'Plan' i 'Plant'.

7.20 – nid 'arwyddo' yw'r gair priodol yn y Gymraeg, ond yn hytrach 'awgrymu' (*likely to indicate* yn y fersiwn Saesneg).

Cwestiwn 13 - Ydy Pennod 7 y fersiwn ddrafft o'r Cod ADY yn rhoi esboniad clir a chynhwysfawr o'r dystiolaeth a ddylai fod yn sail i benderfyniadau am ADY a DDdY, o ba ffynonellau y gellid coladu'r dystiolaeth hon, a sut y dylid ei hystyried?

Ydy	<input type="checkbox"/>	Nac ydy	<input type="checkbox"/>	Ddim yn siŵr	<input checked="" type="checkbox"/>
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Sylwadau cefnogol

Er bod y ffynonellau tystiolaeth a phartneriaid posib yn glir, nid yw'r adran hon yn glir ynghylch pryd mae lefel y cymhlethdod yn golygu bod y cyfrifoldeb yn pasio oddi wrth y darparwr addysg (hynny yw yr ysgol, neu'r coleg addysg bellach) i'r Awdurdod Lleol. Mae natur yr ymholiadau, ymchwil a threfniadau a ddisgrifir ar gyfer dyfarnu (1) a oes ADY gan y plentyn/person ifanc a (2) pa DDdY fyddai'n briodol yn mynd ymhell tu hwnt i gapasiti y rhan fwyaf o CADY o ran yr amser sydd ar gael iddynt ar gyfer eu dyletswyddau. Efallai bod angen croesgyfeiriad yma at Bennod 9 o ran pryd ac o dan ba amgylchiadau y mae modd cyfeirio'r mater i'r Awdurdod Lleol.

Mae'r siartiau llif yn ddefnyddiol.

Penodau 8 i 12 – Dyletswyddau ar ysgolion, SAB ac awdurdodau lleol

Swyddog Arweiniol ADY y Blynnyddoedd Cynnar

Cwestiwn 14 - Ydy'r canllawiau ar rôl, profiad ac arbenigedd y Swyddog Arweiniol ADY Blynnyddoedd Cynnar a nodir ym mharagraffau 8.40 - 8.47 y fersiwn ddrafft o'r Cod ADY yn briodol ar gyfer cyflawni'r amcanion (bod y rôl yn strategol a bod gan y cyfryw swyddogion y profiad a'r arbenigedd priodol i fodloni disgwyliadau'r rôl)?

Ydyn	<input type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Dyletswyddau ar ysgolion, SAB ac awdurdodau lleol

Cwestiwn 15 - Ydy strwythur a chynnwys Penodau 8 i 12 y fersiwn ddrafft o'r Cod ADY yn glir?

Ydyn	<input checked="" type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Gweler sylwadau penodol yng nghwestiwn 46 isod.

Cwestiwn 16 - Ydy'r amserlenni ar gyfer penderfyniadau gan ysgolion, SAB ac awdurdodau lleol ar ADY a pharatoi CDU fel y'u nodir ym Mhenodau 8-12 yn briodol?

Ydyn	<input type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input checked="" type="checkbox"/>
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Sylwadau cefnogol

Maint yn ymddangos yn briodol o safbwynt plant a phobl ifanc ag ADY.

Mae p'un a ydynt yn briodol o safbwynt ysgolion a SAB yn dibynnu bron yn llwyr ar faint o amser digyswllt ac adnoddau fydd gan y CADY; ni fydd y math o ofynion a ddisgrifir yn y Còd yn cydweddu'n dda gydag amserlen ddysgu.

Bydd angen bod yn ymwybodol iawn o amserlenni a therfynau amser sy'n bodoli eisoes o fewn y GIG. Os yw penderfyniadau ynghylch ADY, a darpariaeth ddilynol yn ddibynnol ar fewnbwn o'r sector iechyd, bydd amserlen y naill yn amlwg yn ddibynnol ar amserlen y llall.

Penderfynu a yw'n 'angenrheidiol' i awdurdod lleol baratoi a chynnal CDU ar gyfer person ifanc nad yw mewn ysgol a gynhelir neu SAB- Proposed regulations to be made under Adran 46 o Ddeddf 2018

Cwestiwn 17 - Ydy'r gofynion a chanllawiau arfaethedig ym mharagraffau 12.22 – 12.51 y fersiwn ddrafft o'r Cod ADY ynghylch pryd mae'n angenrheidiol i awdurdod lleol gynnal CDU ar gyfer person ifanc nad yw mewn ysgol neu SAB yng Nghymru yn briodol?

Ydyn	<input type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Pennod 13 – Cynnwys CDU

Cwestiwn 18 - Ydy elfennau cynnwys gorfodol CDU sy'n ofynnol o dan y Cod ADY yn briodol?

Ydyn	<input checked="" type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Cwestiwn 19 - Ydy'r ffurflen safonol orfodol sydd mewn golwg ar gyfer CDU (wedi'i chynnwys yn Atodiad A y fersiwn ddrafft o'r Cod ADY) yn briodol?

Ydy	<input checked="" type="checkbox"/>	Nac ydy	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Bydd angen sicrhau bod disgwyliadau priodol ynghylch hyd a manylder cynnwys y ffurflen ar gyfer dysgwyr sydd ag ADY nad ydynt yn ddwys, cymhleth na phrin - hynny yw, y rhai sy'n cyfateb ar hyn o bryd i Weithredu gan yr Ysgol, ac i raddau, Gweithredu gan yr Ysgol a Mwy. Gan fod niferoedd y dysgwyr hyn yn fawr iawn, mae'n rhaid bod y dasg o ran llenwi'r ffurflen yn gymesur â'r anghenion.

Cwestiwn 20 - Ydy'r canllawiau ym Mhennod 13 y fersiwn ddrafft o'r Cod ADY yn glir?

Ydyn	<input checked="" type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Cludiant

Cwestiwn 21 - Ydy'r canllawiau ar gludiant ym mharagraffau 13.74 - 13.76 y fersiwn ddrafft o'r Cod ADY yn briodol?

Ydyn	<input type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

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Pennod 15 – Dyletswyddau ar gyrff iechyd a phersonau perthnasol eraill

Ceisiadau statudol gan awdurdodau lleol i bersonau perthnasol am wybodaeth neu help arall - Proposed regulations to be made under Adran 65(5) o Ddeddf 2018

Cwestiwn 22 - Ydy'r amserlen a'r eithriadau sydd mewn golwg yn achos personau perthnasol yn cydymffurfio â chais awdurdod lleol am wybodaeth neu help arall (o dan Adran 65 Deddf 2018) yn briodol?

Ydyn	<input checked="" type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

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DDdY i'w sicrhau gan gyrff y GIG - Proposed regulations to be made under Adran 21(10) o Ddeddf 2018

Cwestiwn 23 - Ydy'r cyfnod a'r eithriad arfaethedig y mae'n rhaid i gorff y GIG hysbysu eraill am ganlyniad atgyfeiriad iddo (o dan Adran 20 o Ddeddf 2018) i nodi a oes triniaeth neu wasanaeth perthnasol yn briodol?

Ydyn	<input type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input checked="" type="checkbox"/>
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Sylwadau cefnogol

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Y Swyddog Arweiniol Clinigol Dynodedig Addysg ("SACDA")

Cwestiwn 24 - Ydy'r canllawiau ar rôl, profiad ac arbenigedd y SACDA a nodir ym mharagraffau 15.37 – 15.53 y fersiwn ddrafft o'r Cod ADY yn briodol ar gyfer cyflawni'r amcanion (bod y rôl yn un strategol a bod gan swyddogion o'r fath brofiad ac arbenigedd priodol)?

Ydyn	<input type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

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Pennod 16 – Adolygu a diwygio CDU

Cwestiwn 25 - Ydy cynnwys a strwythur Pennod 16 y fersiwn ddrafft o'r Cod ADY yn glir?

Ydyn	<input checked="" type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

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Cwestiwn 26 - Ydy'r cyfnod a'r eithriad arfaethedig ar gyfer cwblhau adolygiadau mewn ymateb i gais gan blentyn, ei riant, person ifanc neu gorff y GIG (a nodir ym mharagraff 16.18 y fersiwn ddrafft o'r Cod ADY) yn briodol?

Ydyn	<input checked="" type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Fel uchod, gyda llunio'r CDU, bydd angen sicrhau bod disgwyliadau priodol ynghylch natur y broses adolygu ar gyfer dysgwyr sydd ag ADY nad ydynt yn ddwys, cymhleth na phrin - hynny yw, y rhai sy'n cyfateb ar hyn o bryd i Weithredu gan yr Ysgol, ac i raddau, Gweithredu gan yr Ysgol a Mwy. Gan fod niferoedd y dysgwyr hyn yn fawr iawn, mae'n rhaid bod y dasg o adolygu'r CDU yn gymesur â'r anghenion.

Pennod 17 – Ailystyriaethau awdurdod lleol ac ysgwyddo cyfrifoldeb am CDU

Cwestiwn 27 - Ydy cynnwys a strwythur Pennod 17 y fersiwn ddrafft o'r Cod ADY yn glir?

Ydyn	<input checked="" type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Mae 17.12 yn anodd ei ddilyn yn y Gymraeg a'r Saesneg fel ei gilydd. Byddai torri'r frawddeg gyntaf yn ddwy yn help, drwy osod y darpariaethau ynghylch plentyn neu berson ifanc mewn ardal awdurdod lleol yng Nghymru mewn un frawddeg, a'r darpariaethau cyfatebol ynghylch plentyn neu berson ifanc mewn ardal awdurdod lleol yn Lloegr mewn brawddeg arall.

Cwestiwn 28 - Ydy'r cyfnod a'r eithriad arfaethedig ar gyfer awdurdod lleol sy'n ailystyried CDU ysgol (a nodir ym mharagraff 17.20 y fersiwn ddrafft o'r Cod ADY) yn briodol?

Ydyn	<input checked="" type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

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Pennod 18 – Cyfarfodydd am ADY a CDU

Cwestiwn 29 - Ydy'r egwyddorion a'r canllawiau a roddir ym Mhennod 18 y fersiwn ddrafft o'r Cod ADY ar gyfarfodydd am ADY a CDU yn briodol?

Ydyn	<input checked="" type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Mae camgymeriad yn y fersiwn Cymraeg ym mharagraff 18.23. Yn lle 'Os na fydd...' dylai fod 'Os bydd...'

Pennod 19 – Cynllunio a chefnogi pontio

Cwestiwn 30 - Ydy'r canllawiau ym Mhennod 19 y fersiwn ddrafft o'r Cod ADY ar gynorthwyo plant a phobl ifanc gyda phontio effeithiol yn briodol?

Ydyn	<input checked="" type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Pennod 20 – Trosglwyddo CDU

Cwestiwn 31 - Ydy cynnwys a strwythur Pennod 20 y fersiwn ddrafft o'r Cod ADY yn glir?

Ydyn	<input type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input checked="" type="checkbox"/>
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Sylwadau cefnogol

A yw 20.11 yn gywir? Os oedd y plentyn yn un oedd yn derbyn gofal, deallwn mai'r awdurdod lleol fyddai wedi bod yn cynnal y CDU, felly, yn ôl yr hyn a ddisgrifir, nid oes trosglwyddo'n digwydd. A yw 'peidio â bod yn blentyn sy'n derbyn gofal' yn cynnwys amgylchiadau, er enghraifft, pan fydd plentyn yn dychwelyd i'r teulu genedigol, neu'n cael ei fabwysiadu? Mae'n ymddangos fel petai'r paragraff hwn yn gwrth-ddweud (neu o leiaf, yn mynegi mewn ffordd wahanol) yr hyn sydd ym mharagraff 21.6 (b).

Trosglwyddo CDU - Proposed regulations to be made under Adran 36(3) o Ddeddf 2018 a Adran 37 o Ddeddf 2018

Cwestiwn 32 - Ydy'r gofynion y bwriedir eu cynnwys mewn rheoliadau i drosglwyddo CDU i SAB (fel y'u disgrifir ym mharagraffau 20.12 - 20.17 y fersiwn ddrafft o'r Cod ADY) yn briodol?

Ydyn	<input type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input checked="" type="checkbox"/>
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Sylwadau cefnogol

Nodir yn glir yr amserlenni ar gyfer (a) SAB i ymateb i gais gan awdurdod lleol a (b) awdurdod lleol i atgyfeirio'r mater at Weinidogion Cymru. Fodd bynnag, ni nodir unrhyw amserlen na therfyn amser ar gyfer penderfyniad gan Weinidogion Cymru. Rydym o'r farn y byddai'n fanteisiol bod amserlen o'r fath yn bodoli - er mwyn i ddisgwyliadau pawb sydd ynghlwm â'r broses fod yn glir, ac i osgoi rhagor o oedi ar ôl proses a fydd eisoes wedi bod yn hirfaith o safbwynt y person ifanc. Dylai'r amserlen gael ei ragnodi yn y Rheoliadau arfaethedig, ac yn y Côd.

Cwestiwn 33 - Ydy'r trefniadau y bwriedir eu cynnwys yn y rheoliadau mewn perthynas â'r holl achosion eraill o drosglwyddo (fel y'u disgrifir ym mharagraffau 20.18– 20.21 y fersiwn ddrafft o'r Cod ADY) yn briodol?

Ydyn	<input type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Pennod 21 – Rhoi'r gorau i gynnal CDU

Cwestiwn 34 - Ydy cynnwys a strwythur Pennod 21 y fersiwn ddrafft o'r Cod ADY yn glir?

Ydyn	<input type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Yn y fersiwn Cymraeg, ar dudalen 231, mae troednodiadau 5-10 wedi colli eu fformat (yn y prif destun).

Gweler cwestiwn 31 uchod. A oes gwrth-ddweud rhwng paragraff 21.6 a pharagraff 20.11?

Cwestiwn 35 - Ydy'r cyfnod o amser ar gyfer gwneud cais am ailystyriaeth (a ddisgrifir yn 21.18 y fersiwn ddrafft o'r Cod ADY) yn briodol?

Ydy	<input checked="" type="checkbox"/>	Nac ydy	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Nodir yn glir bod gan blentyn, ei riant neu berson ifanc 4 wythnos i wneud cais i'r awdurdod lleol ailystyried penderfyniad ysgol nad oes gan y disgybl ADY bellach (ac felly nad oes angen cynnal CDU); fodd bynnag ni nodir amserlen ar gyfer penderfyniad gan yr awdurdod lleol ar y mater. Awgrymwn y byddai'n werth nodi amserlen yn y Rheoliadau arfaethedig, a'i gynnwys yn y Côd, er mwyn i bawb sydd ynghlwm â'r broses fod â disgwyliadau clir, ac i osgoi oedi diangen.

Pennod 22 – Plant a phobl ifanc sy'n destun gorchmynion cadw

Cwestiwn 36 - Ydy cynnwys a strwythur Pennod 22 y fersiwn ddrafft o'r Cod ADY yn glir?

Ydyn	<input type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Cwestiwn 37 - Ydy'r cynigion ar gyfer y rheoliadau mewn perthynas â phenderfynu a fydd hi'n angenrheidiol cynnal CDU ar gyfer plentyn neu berson ifanc dan gadwad pan fydd yn cael ei ryddhau yn briodol?

Ydyn	<input type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Cwestiwn 38 - Ydy'r cynigion ar gyfer y rheoliadau mewn perthynas â phlant neu bobl ifanc sy'n destun gorchmynion cadw a dan gadwad mewn ysbyty o dan Ran 3 o Ddeddf Iechyd Meddwl 1983 (fel y disgrifir ym mharagraffau 22.45 – 22.74 y fersiwn ddrafft o'r Cod ADY) yn briodol?

Ydyn	<input type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Cwestiwn 39 - Ydy'r gofynion o ran amserlenni ar gyfer gweithredu'n "brydlon" mewn perthynas â phenderfyniadau am ADY a pharatoi CDU ar gyfer plant a phobl ifanc sy'n destun gorchmynion cadw (fel y nodir ym Mhennod 22) yn briodol, yn hytrach na chael gofyniad hefyd i gydymffurfio o fewn cyfnod penodol yn amodol ar eithriad neu eithriadau?

Ydyn	<input type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Pennod 23 – Plant a phobl ifanc o dan amgylchiadau penodol

Cwestiwn 40 - Ydy'r canllawiau ym Mhennod 23 y fersiwn ddrafft o'r Cod ADY ar blant a phobl ifanc o dan amgylchiadau penodol yn briodol?

Ydyn	<input type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Yn y rhestr bwled ym mharagraff 23.2, mae dau bwynt wedi'u huno, ac mae angen eu gwahanu (y pedwerydd pwynt bwled); mae hyn yn y Gymraeg a'r Saesneg.

Pennod 24 – Rôl y Cydlynnydd Anghenion Dysgu Ychwanegol

Cwestiwn 41 - Ydy'r wybodaeth a nodir ym Mhennod 24 y fersiwn ddrafft o'r Cod ADY am rôl a chyfrifoldebau'r Cydlynnydd ADY yn briodol?

Ydy	<input type="checkbox"/>	Nac ydy	<input checked="" type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Mae'r wybodaeth yn y Côd yn glir. Fodd bynnag, mae gan UCAC bryderon sylweddol iawn ynghylch y darpariaethau yn sgil gofynion Deddf 2018 a'r Côd.

Mae disgrifio'r rôl fel un 'strategol' yn gwbl gamarweiniol. Oes, mae yna elfennau strategol sylweddol i'r rôl, ond mae'n rôl weithredol ("hands on") drom iawn yn ogystal. Mae'r rhestrau hirfaith o ddyletswyddau a chyfrifoldebau eraill CADY yn y Côd yn brawf o hynny, ac maint yn cyfeirio at ddelio ag achosion unigol (e.e. 24.14, 24.16, 24.19, 24.22 ac ati).

Cytunwn yn llwyr â'r datganiad ym mharagraff 24.5 ynghylch neilltuo adnoddau digonol i gyflawni dyletswyddau'n effeithiol - gan gynnwys amser wedi'i neilltuo y tu allan i'r ystafell ddosbarth. O ddarllen y rhestrau o ddyletswyddau a chyfrifoldebau, ac o ddeall faint o gydlynw bydd ei angen gyda chyrrff ac asiantaethau allanol, mae'n glir iawn mai rôl llawn amser yw'r un a ddisgrifir, ac nid un y gellir ei gyflawni mewn ychydig o oriau digyswllt wythnosol. Yn wir, mewn llawer o ysgolion a sefydliadau Addysg Bellach mi fydd angen mwy nag un CADY. Mewn ysgolion bach, os yw'r CADY'n cael ei rannu (yn unol â pharagraff 24.2), wedyn mi fyddai hynny hefyd yn awgrymu rôl llawn amser.

24.3: Mae'r cyfeiriad at 'gymwysterau sylweddol' ("*should be highly qualified*") yn amhenodol iawn. Derbyniwn nad oes modd bod yn fanwl ac yn benodol, ond dylid cydnabod mai prin iawn yw'r cymwysterau sy'n berthnasol i ADY sydd gan y mwyafrif helaeth o Gydlynwyr AAA/ADY ar hyn o bryd. Awgrymwn fod angen aralleirio'r cymal hwn i roi pwyslais ar yr angen i fanteisio ar gyfleoedd datblygiad proffesiynol perthnasol.

24.6: Byddai'n ddefnyddiol rhoi enghreifftiau o'r 'cyfrifoldebau nad ydynt yn ymwneud ag addysgu' sydd dan sylw yma.

24.11: Ar ôl 'athrawon' dylid ychwanegu 'a staff cymorth dysgu'. Nid yw 'os oes angen' yn briodol yma; o ddarllen gweddill y Côd, mae'n amlwg ei fod yn anorfod y bydd angen 'gwybodaeth a chymorth ar gyfer rhieni ac asiantaethau/sefydliadau eraill'. Mae'r elfen hon yn haeddu ei baragraff ei hun, yn hytrach na chael ei gyfuno gydag 'arweiniad, cyngor a chymorth proffesiynol ar gyfer athrawon.'

24.12: Os na fydd gofyn i'r CADY ddatblygu pob CDU, byddai'n ddefnyddiol iawn rhoi enghreifftiau o bwy arall mewn ysgol neu sefydliad addysg bellach fyddai'n gymwys i wneud hynny. Ar hyn o bryd y CADY sy'n llunio'r mwyafrif helaeth o CDUau. Mae angen gochel rhag rhoi tasgau newydd i athrawon sydd eisoes yn ei chael hi'n anodd dygymod â llwyth gwaith; os oes gofyniad newydd arnynt, rhaid sicrhau bod yna leihad mewn maes arall i greu'r gofod ar ei gyfer. Rhaid bod yn benodol ynghylch pwy allai ymgymryd â'r dasg.

24.13: Mewn modd tebyg, awgrymwn fod angen rhoi enghreifftiau o'r mathau o bersonau allai gael eu dynodi 'i gydlynu'r camau sy'n ofynnol i wneud y penderfyniad hwn [a oes gan ddisgybl/myfyriwr ADY] ac, os bydd angen CDU yn sgil hynny, i fod yn gyfrifol am ei lunio.' Mae'n anodd iawn gennym feddwl pwy arall, mewn ysgol, fyddai â'r capasiti, yr arbenigedd a'r amser i ymgymryd â'r dyletswyddau hynny, a thybiwn mai ar y CADY y bydd y cyfrifoldeb yn cwmpo bron yn ddieithriad. Mae angen bod yn onest ynghylch hynny yn y Côt ac yn realistig felly ynghylch maint y dasg.

Rydym o'r farn bod gormod o ragdybiaeth ymhlyg yn y fersiwn Cymraeg bod CADY yn wrywaidd (er yr ydym yn derbyn, yn ramadegol, mai gwrywaidd yw'r gair Cydlynnydd). Pwyswn am ymgais i aralleirio i osgoi hyn gymaint â phosib, ac yn sicr i osgoi ffurfiau megis 'iddo', 'ganddo' ac ati.

Pennod 25 – Osgoi a datrys anghydfodau

Cwestiwn 42 - Ydy'r gofynion a osodir ym Mhennod 25 y fersiwn ddrafft o'r Cod ADY ar awdurdodau lleol mewn perthynas â threfniadau i osgoi a datrys anghydfod yn briodol?

Ydyn	<input type="checkbox"/>	Nac ydyn	<input checked="" type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

25.7: A oes angen cyfeiriad at baragraffau penodol fan hyn, yn hytrach na chyfeiriad at Bennod 25 yn gyffredinol, gan mai ym Mhennod 25 y mae'r paragraff?

25.15: Awgrymwn ychwanegu at y rhestr: sicrhau bod modd i blentyn, rhiant plentyn neu berson ifanc ddefnyddio'r trefniadau drwy gyfrwng y Gymraeg neu'r Saesneg. Mae Pennod 2 (Egwyddorion y Côt) yn dweud y bydd 'mwy o wybodaeth am ddarpariaethau drwy'r Gymraeg mewn perthynas â threfniadau...osgoi a datrys anghytundebau, a gwasanaethau eirioli annibynnol ym [Mhennod]...25' – ond nid yw'r wybodaeth yn ymddangos yma. Yn bendant, mae ei hangen. Gan nad yw Safonau'r Gymraeg yn cyfeirio'n benodol at wasanaethau eirioli, rydym yn deall na fyddai'r Safonau'n gallu gwarantu darpariaeth i ddefnyddwyr. Mae'n hynny'n golygu bod mwy o reidrwydd dros ymhelaethu ar yr hawl yn y Côt; ac os gofiwn yn iawn, mi wnaeth y Gweinidog ar y pryd, yn ystod taith y Bil drwy'r Cynulliad, ymrwymo i hynny.

Dulliau eraill o herio (25.47-25.54); oni ddylai fod cyfeiriad at Gomisiynydd y Gymraeg a Thribiwnlys y Gymraeg yma? Gan fod sawl elfen o'r darpariaethau'n ddibynnol ar Safonau'r Gymraeg sydd wedi'u gosod ar awdurdodau lleol a sefydliadau addysg bellach, credwn y byddai cyfeiriadau o'r fath yn briodol.

Cwestiwn 43 - Ydy'r gofynion a osodir ym Mhennod 25 y fersiwn ddrafft o'r Cod ADY ar awdurdodau lleol mewn perthynas â darparu gwasanaethau eirioli annibynnol yn briodol?

Ydyn	<input type="checkbox"/>	Nac ydyn	<input checked="" type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Dylai bod cyfeiriad yma at sicrhau bod y gwasanaeth ar gael yn y Gymraeg.

Pennod 26 – Apelau a cheisiadau i'r Tribiwnlys

Cwestiwn 44 - Ydy'r wybodaeth am apelau a'r broses apelau a nodir ym Mhennod 26 y fersiwn ddrafft o'r Cod ADY yn briodol?

Ydy	<input type="checkbox"/>	Nac ydy	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Yn y fersiwn Cymraeg, yn 26.22 mae (b) yn ymddangos yn y lle anghywir (yng nghanol pwynt bwled (a)), ac felly'n creu un pwynt bwled yn ormod yn y rhestr.

Pennod 27 – Cyfeillion achos ar gyfer plant â diffyg galluedd

Cwestiwn 45 - Ydy'r wybodaeth am gyfeillion achos, yn cynnwys y dyletswyddau ar y Tribiwnlys i benodi a dileu ffrindiau achos, yn cael ei hegluro'n glir ym Mhennod 27 y fersiwn ddrafft o'r Cod ADY?

Ydy	<input type="checkbox"/>	Nac ydy	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Unrhyw sylwadau eraill

Cwestiwn 46 - Rhowch unrhyw sylwadau eraill yr hoffech eu gwneud ar y fersiwn ddrafft o'r Cod ADY. Os yw'ch sylwadau'n ymwneud â phennod neu baragraff penodol yn y fersiwn ddrafft o'r Cod ADY, nodwch hynny yn eich ymateb

Sylwadau cefnogol

Cyffredinol

Yn y fersiwn Cymraeg, dylid ceisio osgoi'r defnydd o ragenwau neu eiriau eraill sy'n rhagdybio'r gwrywaidd e.e. 3.4 pwynt bwled 2 (“iddo”); 3.16 (“ef”, “iddo”). Mae ffyrdd o wneud hynny, er enghraifft, trwy ddefnyddio ffurfiau lluosog neu trwy aralleirio.

Yn y fersiwn Cymraeg, defnyddir CADY ar gyfer Cydlynnydd Anghenion Dysgu Ychwanegol yng nghyd-destun ysgolion, ond Cydlynnydd ADY ar gyfer y swydd gyfatebol mewn SAB. Yn y fersiwn Saesneg defnyddir ALNCo ar gyfer y ddau. A oes rheswm dros wahaniaethu?

1.65: Croesawn y pwyslais ar yr angen am ddatblygiad proffesiynol. Fodd bynnag, er bod yna gyfrifoldeb ar unigolion ‘am eu dysgu a’u datblygiad proffesiynol eu hunain’, teimlwn y byddai'n deg cyfeirio at yr angen i gyrff eraill wneud hynny'n bosib/hwyluso hynny – o ran darparu amser/cyllid/cyfleoedd/cefnogaeth briodol. Nid yw hyn yn rhywbeth y gellid disgwyl i ymarferwyr ei gyflawni ar eu pennau eu hunain – mae'r cyfrifoldeb yn un ehangach, a hoffai UCAC weld cydnabyddiaeth o hynny yng ngeiriad y Còd.

8.22/9.74/10.20/11.18/12.53: Mae angen canllaw cliriach yn y Còd ynghylch y ffactorau i'w hystyried wrth ddod i benderfyniad ynghylch ‘a ddylid darparu ...DDdY drwy'r Gymraeg’ (e.e. dymuniad y plentyn/rhiant/person ifanc; iaith y cartref; cyfrwng iaith y ddarpariaeth addysg).

8.33/9.36/9.86/10.34/10.74/11.65/12.67: Mae wir angen ymhelaethu a darparu canllaw gweithredol i'r hyn o olygir (a'r hyn na olygir) gan ‘pob cam rhesymol’ i sicrhau bod y DDdY yn cael ei darparu drwy'r Gymraeg. Yn ogystal, mae angen bod yn gwbl glir bod methiant i gymryd pob cam rhesymol yn sail ar gyfer apêl i'r Tribiwnlys. Fel arall, mae perygl i hyn ddatblygu'n ‘loophole’ sy'n caniatáu pob math o resymau annilys.

Pennod 9

9.3 (Ilinell 2): Yn y fersiwn Cymraeg, mae angen newid 'iddo' i 'iddi' (yr ysgol hon).

Dyletswydd ysgol a gynhelir i gymryd pob cam rhesymol i sicrhau DDdY ar gyfer disgybl ag ADY ond sydd heb CDU (9.27-9.33): Mae'r rhestr o enghreifftiau yn 9.28 o amgylchiadau a allai arwain at ddiffyg CDU ar gyfer plentyn ag ADY yn ddefnyddiol. Mae'r rhan fwyaf ohonynt yn achosion o sefyllfaoedd ble mae CDU yn y broses o gael ei lunio neu ei drosglwyddo. Mae cwestiynau'n codi yn y cyd-destun hwn ynghylch p'un ai yw cyllid yn cael ei ryddhau i'r ysgol ar gyfer y DDdY yn ystod y cyfnod hwn. Os oes disgwyl i ysgol ddarparu DDdY, ac os oes goblygiadau ariannol, ni ddylai fod unrhyw oedi tra bod CDU yn cael ei lunio neu ei drosglwyddo.

Mae un o'r enghreifftiau a roddir yn llawer mwy cymhleth, sef os yw'r disgybl yn berson ifanc 'nad yw'n cydsynio i'r bwriad i wneud penderfyniad am ADY nac yn cydsynio i'r bwriad o lunio neu gynnal cynllun'. Gallai ysgol fod mewn sefyllfa o orfod cynnig DDdY, heb fod wedi cael mewnbyn arbenigol ynghylch union natur yr ADY, y DDdY fwyaf priodol ac effeithiol, ac heb unrhyw drefniadau ffurfiol ynghylch pwy sy'n darparu beth, sut caiff ei gyllido, na threfniadau monitro ac adolygu. Awgrymwn fod angen ystyried ychwanegu rhagor o gyngor yn y Côd - mewn isadran benodol - ynghylch sefyllfaoedd o'r fath.

Cyfeirio achosion o ysgol a gynhelir i awdurdod lleol (9.39-9.48): Croesawn yr adran hon. Awgrymwn y dylai paragraff 9.44 ddod yn gynharach – ac efallai yn syth ar ôl 9.39. Er bod y Cod yn eithaf clir, rydym yn rhagweld problemau sylweddol iawn o ran dyfarnu ar faterion ym mharagraff 9.44, a llawer o anghydweld rhwng ysgolion a gynhelir ac awdurdodau lleol. Mae anghysondeb mewn dulliau ariannu ADY o awdurdod i awdurdod yn golygu y gallai'r pwynt bwled olaf gael ei ddehongli'n wahanol o ardal i ardal.

I ryw raddau mae 9.45 yn mynd i'r afael â hynny; fodd bynnag, oni fyddai'n well i'r 'gyfres o egwyddorion' fod yn rhai cenedlaethol (o fewn y Côd) i sicrhau rhywfaint o gysondeb ledled Cymru? Mae perygl yn y ffaith mai awdurdodau lleol sy'n llunio'r egwyddorion (hyd yn oed mewn ymgynghoriad ag ysgolion ac eraill) y byddant yn llunio egwyddorion sy'n tueddu i roi mwy o gyfrifoldebau ar ysgolion, ac osgoi ysgwyddo cyfrifoldebau eu hunain. Gwyddom eisoes dan y drefn bresennol bod patrwm o geisio osgoi rhoi Datganiadau er mwyn osgoi'r cyfrifoldeb a'r costau sydd ynghlwm â hynny; mi fyddai'n naif i feddwl y byddant yn gweithredu'n wahanol dan y drefn newydd - yn enwedig â'r cyd-destun cyllidebol fel ag y mae.

9.54: Yn y Gymraeg, mae "ymddangos fel arall" yn amwys. Mae'n awgrymu "appear otherwise" (hynny yw, nad oes ADY gan y disgybl) yn hytrach na "otherwise appear" (hynny yw, ymddangos mewn dull gwahanol).

Cyfarwyddyd gan awdurdod lleol i ysgol i lunio neu gynnal CDU (9.92-9.104): Yn yr un modd â'r adran ynghylch Cyfeirio achosion o ysgol a gynhelir i awdurdod lleol, rydym yn pryderu'n fawr am y potensial am wrthdaro mewn perthynas â'r darpariaethau hyn. Cwestiwn pwysig yw a oes gan ysgol a gynhelir unrhyw hawl i herio neu i apelio yn erbyn cyfarwyddyd gan awdurdod lleol? Dylai bod modd cael barn *annibynnol* ar resymoldeb y cyfarwyddyd. Os oes unrhyw fecanwaith o'r fath, dylid cyfeirio ato yn y Côd.

Pennod 10

Dyletswydd sefydliad addysg bellach i gymryd pob cam rhesymol i sicrhau DDdY ar gyfer myfyriwr ag ADY ond sydd heb CDU (10.26-10.31): Yn wahanol i'r adran gyfatebol ar gyfer ysgolion a gynhelir, ni roddir os yw'r myfyriwr yn berson ifanc 'nad yw'n cydsynio i'r bwriad i wneud penderfyniad am ADY nac yn cydsynio i'r bwriad o lunio neu gynnal cynllun' fel enghraifft o reswm dros fod heb CDU. A yw hyn yn fwrriadol? Beth yw'r disgwyliadau ar SABau dan yr amgylchiadau hyn? A ydynt yn gyfatebol i'r disgwyliadau ar ysgolion a gynhelir?

16.23: A oes hawl gan blentyn, ei riant neu berson ifanc i herio neu i apelio yn erbyn penderfyniad corff GIG i dynnu neu newid disgrifiad y DDdY a ddarperir ganddo ac a nodir yn y CDU? Mae'n ymddangos nad oes gan ysgol/SAB/awdurdod lleol yr hawl i wneud hynny.

Rhan 2 yr ymgynghoriad: Rheoliadau Tribiwnlys Addysg Cymru drafft

Yr hyn rydym yn ei gynnig

Cwestiwn 47 - At ei gilydd, ydy'r rheoliadau Tribiwnlys Addysg drafft yn darparu prosesau a gweithdrefnau clir ar gyfer apelau a hawliadau i'r Tribiwnlys Addysg?

Ydyn	<input type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Cwestiwn 48 - At ei gilydd, a fydd y prosesau a'r gweithdrefnau a amlinellir yn y rheoliadau Tribiwnlys Addysg drafft yn galluogi'r Tribiwnlys Addysg i ymdrin ag achosion yn deg ac yn gyfiawn?

Bydd	<input type="checkbox"/>	Na fydd	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Cwestiwn 49 - Ydy'r broses arfaethedig ar gyfer datganiadau achos (rheoliadau 12-21 y rheoliadau Tribiwnlys Addysg drafft) yn briodol?

Ydy	<input type="checkbox"/>	Nac ydy	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Cwestiwn 50 - Ydy'r amserlenni arfaethedig ar gyfer pob parti yn y broses datganiadau achos (rheoliadau 12-21 y rheoliadau Tribiwnlys Addysg drafft) yn rhesymol?

Ydyn	<input type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Cwestiwn 51 - Ydy'r amserlen lle mae'n rhaid i gyrrff y GIG adrodd i'r Tribiwnlys Addysg o fewn 6 wythnos i argymhelliad (rheoliad 65 o'r rheoliadau Tribiwnlys Addysg drafft) yn briodol?

Ydy	<input type="checkbox"/>	Nac ydy	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Cwestiwn 52 - Ydy'r amserlenni ar gyfer cydymffurfio â gorchmynion y Tribiwnlys Addysg yn briodol?

Ydyn	<input type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Cwestiwn 53 - Ydy'r dull gweithredu mewn perthynas ag amserlenni (rheoliad 66 y rheoliadau Tribiwnlys Addysg drafft) yn briodol?

Ydy	<input type="checkbox"/>	Nac ydy	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Cwestiwn 54 - Ydy'r rheoliadau arfaethedig yn ymwneud â chyfeillion achos (rheoliadau Tribiwnlys Addysg drafft 64 i 68) yn briodol?

Ydyn	<input type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Rhan 3 yr ymgynghoriad: Fersiwn ddrafft o'r Rheoliadau Cydlynnydd ADY

Cwestiwn 55 - Ydy'r cymwysterau rhagnodedig i fod yn Gydlynnydd ADY a nodir yn y rheoliadau Cydlynnydd ADY drafft yn briodol?

Ydyn	<input checked="" type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Cwestiwn 56 - Ydych chi'n cytuno â'r tasgau y mae'n rhaid i Gydlynwyr ADY eu cyflawni neu drefnu i gael eu cyflawni yn y rheoliadau Cydlynnydd ADY drafft?

Ydw	<input checked="" type="checkbox"/>	Nac ydw	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Yn Rheoliad 5 (d) a oes angen gwahaniaethu rhwng plentyn a pherson ifanc mewn perthynas â'r gofynion i ddarparu gwybodaeth i rieni?

Rhan 4 yr ymgynghoriad: Plant sy'n derbyn gofal

(a) Rheoliadau arfaethedig i'w gwneud

Cwestiwn 57 - Ydych chi'n cytuno y dylai rôl Cydgysylltydd Addysg Plant sy'n Derbyn Gofal fod yn rôl statudol?

Ydw	<input type="checkbox"/>	Nac ydw	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

(b) Pennod 14 y fersiwn ddrafft o'r Cod ADY – Cynnwys CDU ar gyfer plentyn sy'n derbyn gofal

Cwestiwn 58 - Ydych chi'n cytuno y dylai fod ffurflen safonol ar wahân ar gyfer plant sy'n derbyn gofal ac Ydy'r ffurflen safonol arfaethedig, ynghyd â'r canllawiau a'r gofynion sy'n gysylltiedig â hi, yn briodol?

Ydw/Ydy	<input type="checkbox"/>	Nac ydw/ Nac ydy	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

(c) Diwygiadau arfaethedig i'r Cod Rhan 6

Cwestiwn 59 - Ydy'r diwygiadau drafft i'r Cod Rhan 6 yn rhoi esboniad clir o'r dyletswyddau ar awdurdodau lleol mewn perthynas â'u swyddogaethau gwasanaethau cymdeithasol ar gyfer plant sy'n derbyn gofal sydd ag ADY a beth mae'r dyletswyddau hyn yn ei olygu yn ymarferol?

Ydyn	<input type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Cwestiwn 60 - Yn gyffredinol, ydych chi'n cytuno â'r dull a ddefnyddir yn y fersiwn ddrafft o'r Cod Rhan 6 diwygiedig i egluro'r newidiadau deddfwriaethol, yn cynnwys integreiddio cynlluniau addysg personol a CDU a chynnwys gorfodol cynlluniau addysg personol? Ydy'r gofynion a'r disgwyliadau a'r hyn maent yn ei olygu yn ymarferol yn cael eu hesbonio'n glir?

Ydw/Ydyn	<input type="checkbox"/>	Nac ydw/ Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Cwestiwn 61 - Ydy'r newidiadau sydd wedi eu gwneud i'r cod Rhan 6 yn egluro rôl y Cydgysylltydd Addysg Plant sy'n Derbyng Gofal yn glir o ran goruchwyllo'r trefniadau ADY ar gyfer plant sy'n derbyn gofal a beth mae hyn yn ei olygu'n ymarferol?

Ydyn	<input type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Rhan 5 o'r ymgynghoriad: Effaith cynigion

Effaith rheoliadau arfaethedig

Cwestiwn 62 - Pa effaith ydych chi'n rhagweld o ganlyniad i'r rheoliadau arfaethedig?

Sylwadau cefnogol

Mae'r gofynion ar gyfer Cydlynwyr ADY dan y drefn newydd a osodir gan Ddeddf 2018 a'r Côt arfaethedig, yn sylweddol uwch na'r drefn bresennol, a hynny'n arbennig mewn perthynas â'r niferoedd/canrannau sylweddol iawn o ddisgyblion sydd ar hyn o bryd yn dod dan gategori 'Gweithredu gan yr Ysgol'. O ganlyniad i hynny, rydym yn rhagweld bod rôl statudol y Cydlynnydd ADY, natur y dyletswyddau a lefel y cyfrifoldebau, yn mynd i olygu bod angen i Gydlynnydd ADY, yn amlach na pheidio, fod yn rôl llawn amser, neu o bosib bod angen mwy nag un Cydlynnydd fesul lleoliad mewn sefydliadau mawr. Os na fydd hynny'n digwydd, bydd perygl na fydd yn bosib cyflawni'r gofynion statudol.

Mi fyddai goblygiadau cyllidebol i hynny nad oes modd i ysgolion – nac o bosib Awdurdodau Lleol – eu hysgwyrddo ar hyn o bryd.

Rhagwelwn y bydd angen i Gorff Adolygu Cyflogau Annibynnol Cymru roi ystyriaeth i rôl, tâl ac amodau Cydlynwyr ADY o fewn cyfundrefn addysg Cymru.

Effaith ar y Gymraeg

Cwestiwn 63 - Pa effaith y byddai'r cynigion yn y fersiwn ddrafft o'r Cod ADY a'r rheoliadau arfaethedig yn ei chael ar y Gymraeg yn eich barn chi?

Sylwadau cefnogol

Mae yma botensial i wella'r sefyllfa yn sylweddol o safbwynt dysgwyr ag ADY. Bydd llawer yn dibynnu ar ddiffiniad, dros amser o 'gymryd pob cam rhesymol', a sicrhau bod pob corff yn gweithio tuag at wella'r ddarpariaeth dros gyfnod.

Cwestiwn 64 - Sut ydych chi'n credu y gellid llunio neu newid y cynigion yn y fersiwn ddrafft o'r Cod ADY a'r rheoliadau arfaethedig er mwyn:

- cael effaith gadarnhaol neu fwy o effaith gadarnhaol ar gyfleoedd i bobl ddefnyddio'r Gymraeg a sicrhau nad yw'r Gymraeg yn cael ei thrin yn llai ffafriol na'r Saesneg?;
- sicrhau nad oes effaith andwyol ar gyfleoedd i bobl ddefnyddio'r Gymraeg ac ar sicrhau nad yw'r Gymraeg yn cael ei thrin yn llai ffafriol na'r Saesneg?

Sylwadau cefnogol

- ymhelaethu ar y dull o benderfynu a ddylid darparu DDdY yn Gymraeg
- ymhelaethu ar y diffiniad o 'pob cam rhesymol' i ddarparu DDdY yn Gymraeg
- rhoi sicrwydd bod gwasanaethau eirioli ar gael yn Gymraeg

- sicrhau bod hawl i apelio i'r Tribiwnlys ar sail diffyg DDdY yn Gymraeg (a phrosesau cysylltiedig), os na ellid profi bod pob cam rhesymol wedi'i gymryd
- sicrhau bod adolygiad Llywodraeth Cymru bob pum mlynedd yn arwain at weithredu pwrpasol ar bob lefel
- buddsoddi mewn asesiadau diagnostig a sgrînioi pwrpasol yn y Gymraeg
- cynllunio'r amrywiaeth o weithluoedd perthnasol i sicrhau'r cyflenwad priodol o bobl proffesiynol i gwrdd â'r anghenion presennol ac ar gyfer y dyfodol

Cwestiwn 65 – Rydym wedi gofyn nifer o gwestiynau penodol. Os oes unrhyw faterion cysylltiedig nad ydym wedi cyfeirio'n benodol atynt, nodwch nhw fan hyn.

Respondent Details

Information	
Name	
Organisation (if applicable)	Swansea Council 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

However, the term 'must' is often followed by 'reasonable' this leads to confusion around what is deemed reasonable and unreasonable

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

Nobody disagreed that timescales were required.

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

Feedback from stakeholders felt that there was a requirement for some flexibility in timescales but also noted that this was open to interpretation.

Greater clarity is needed on what could be considered 'impractical' and 'circumstances beyond its control' to avoid any confusion or delay in issuing IDPs for CYP.

CYP feedback said that ‘seven weeks is too long for a pupil to wait for help as they miss out on help during this time’

Professional feedback also included that support from external agencies should not delay the development of IDPs and the provision being put in place.

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

The draft is a lengthy document and it was felt that including case studies would result in an unmanageable.

A separate document to provide illustrative case studies would be helpful.

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

Schools felt that as CYP will be dually registered, responsibility for maintaining the IDP should fall on the LA, who will then direct the PRU Management Committee to carry out this function.

The PRU Management Committee raised concerns that the PRU is a provision not a placement, particularly for most learners who are dually registered with a mainstream school. Therefore, there is a need to clarify responsibilities between PRU and mainstream schools in meeting needs. Committee thought it better that either the school or the LA maintained the IDP and the PRU was part of the provision on the IDP to meet clear needs but not necessarily be responsible for all of them.

There is a danger PRUs which have a re-integration remit will effectively become special schools.

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

All feedback from stakeholders agreed 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	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	✓
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Supporting comments

Central to the decision making

Concerns were raised about the ability and capacity of settings to deliver this model of service delivery for all pupils requiring an IDP.

Schools noted that PCR's currently take approximately an hour to facilitate per pupil. This is currently for 4% of the population that have statements. If this is to be delivered for roughly 25% of the population this is potentially an unmanageable task.

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

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

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

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

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

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

All agreed that the LA has a duty to consider the ALP provided across the authority. However, this provision both at a school setting level as well as a LA level feel that expectations need to reflect current budgetary constraints. In large LA's this would need a dedicated role.

All raised concern about workforce development in regard to providing a consistent offer of ALP across the LA. Clear guidance on what is considered ALP needs to be clarified so that all settings are basing their judgements on equal grounds.

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

Advice and information should be made available via numerous methods.

LA will be reviewing all documents and our methods of communicating in line with the reform.

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

Concerns raised as follows:

- The term 'Significant need' is open to interpretation
- 'majority of other pupils the same age'---standardised assessment are only in attainment.
- ALN not all linked to attainment- some functioning above GCA
- Likely to be more pressure on EP service to provide standardised scores to clarify ALN.

Consistency across schools of what they see as a need- some schools may consider a pupil to have ALN where another school not.

- Terms are open to interpretation and this could result in a 'postcode lottery' across Wales on whether a child is recognised as having ALN or not.
- There is a likelihood that inclusive schools are going to have less IDP due to effective differentiation.
- Interpretation of what constitutes severe and complex needs is subjective according to context of school/ setting. Greater clarification required.
- Training needs for staff- assessing the ALN needs and what the provision needs to be.
- There is a need for moderation across settings to ensure consistency across the LA

LA officers feel there is a real concern in an increase in Tribunal appeals around these issues unless better clarity is given which will be costly.

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

Comments raised as follows:

- **Assessment-** The suggestion of national tests are limited.
- **Sources-** EP to be used as a method of identification this is going to unmanageable. Pressures on all services will be increased.
- **Need to develop confidence and expertise in identification of ALN in settings to avoid escalation to LA services**

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

Comments raised as follows:

- **EYALNLO role appears to be set out as two separate roles one which is strategic and one operational/ training.**
- **No indication of Pay grade for this position**
- **No confirmed JD for role- consistency required across Wales**

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

The structure is clear but note comments/ questions raised as follows with regard to the content:

- **Why is there a different IDP for LAC pupils?**
- **35 days does this include school holidays?**
- **Concerns around securing detailed information in the timeframes from external agencies.**

- Some pupils that felt 7 weeks was too long to wait for support, however most felt that 10-12 weeks was a realistic timeframe.
- Clearer guidance required on reasonable ALP to be provided at a school level. Consistency needed across Wales.
-
- **Note:** prediction that most instances the maintained school will be responsible for maintaining the IDP. Schools will be in a position to identify ALN and provide adequate provision. To achieve this they will require a high level of support to build the capacity. There are concerns around the LA ability to do this with current budgetary constraints.
- 9.39- schools can make a referral in the ground of budget very worrying
- 9.4- person creating IDP not necessarily the ALNCO – training implications of mainstream class teacher—identification of ALN ALP.
- 9.39- schools may refer to LA- just refer to LA if unsure—capacity issues—greater clarity on when this will occur. Need consistency across Wales in this aspect
- 9.5- school aware of ALN duty to decide applies--- time required regardless of the quality of the evidence is going to be.’ Regardless of how brought to the attention’
- If school says they are unable to meet needs- automatic referral to LA, potentially clogging the system which will not be available to those in most need.
- Capacity issues regarding consent 9.3—adjusted for the individual re: age of consent.
- Greater demand on EPS- no eps available to fill positions recruitment.
- Need further guidance on how graduated response maps onto new system.
- Concern that some pupils (SA) will not be provided with an IDP
- IDP- Although the IDP includes a one page profile this is not the same as genuine pupil/child involvement (does not follow PCP principles)
- SMART targets not included in IDP even though reference made to requiring SMART targets
- Workload concerns on ability to deliver.
-

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

Comments raised as follows:

- Consensus that timescales are required
- May not be practical/ realistic
- Impact of outside agencies on timescales (diagnosis)
- Need for a statutory framework between ALNCO’s, schools, health board, other agencies
- ALNCO release time
- Timescales may affect the quality of documentation
- Not enough EP services to deliver requirements
- Lack of clarity on the evidence required before referring to the LA
- LA need to set out what is reasonable but this will be inconsistent across Wales—IDPs will be a consistent format but the content and delivery of the ALN system is open to inconsistencies.
- Concerns around the quality of information from health within 6 weeks
- ALNCO will need to have a knowledge of budgets to allocate and agree resource at reviews
- 35 day timescale for schools is too short
- Risks of parents bypassing schools and clogging EP system for schools
- Legal implications of missing timescale
- Pupils- 7/12 weeks too long
- Do timescales include weekends?

- When does the timeline begin (formal/ informal)?
- External agencies will take the deadlines as ‘goal’ rather than acting ‘ promptly’
- ‘prompt’ is subjective
- 35 days- difficult to say whether this is reasonable- depends on complexity.
- 35 days- misleading may equate to 17 hours if ALNCO release is 2hrs a week.
Exceptions:
 - Get out clause- ‘circumstances beyond its control’- subjective

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

Comments raised as follows:

- If LA maintained a EHE IDP and the parents although funded do not provide adequate provision then we will be held to account.
- Independent/ residential school should be recognised as responsible for delivering a IDP.
- LA officers have significant concerns in the increase in demand for services in this age range up to 25 and the impact on budgets and staffing with the current wording as it stands.
-

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

Comments raised as follows:

- Need further guidance on how graduated response maps onto new system.
- Concern that some pupils (SA) will not be provided with an IDP
- IDP- no pupil/child involvement (does not follow PCP principles)
- SMART targets not included in IDP even though reference made to requiring SMART targets
- Workload
- Section 3B (Responsibility to collate this information?, shared, GDPR, Historic (relevance as child gets older))
- Agreement of ALP requires attendance of relevant external services
- PCP training for all services is required
- Low attainers- when does targets end and IDP begin
- Targeted child friendly intervention (reviewed regularly) is missing
- Tracking of progress throughout the year?

- Long term annual targets cannot be SMART
- Would prefer a standard template
- Storage – GDPR
- Transition- needs more detail
- Parents view not included
- There is a danger that the IDP morphs into EHCP—overly wordy document.
- Some sections of IDP are open to interpretation which may result in an inconsistent level of detail e.g. part section 2a description of ALN.
- IDP needs to be a working document
- Level of paperwork has increased in this system and therefore is counterproductive to the principles of the code to reduce bureaucracy.
- Very serious concerns about the capacity to produce a statutory (legal) document with the level of specificity and content suggested for the ten fold increase on average number of learners (ie 2% with statements to 20 to 25% with IDPs)

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

Cumbersome, not a working document bureaucratic.

Please see above comments

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

Comments raised as follows:

- Not schools decision to secure transport when putting together IDP
- Potential damage to relationships with parents due to direct decision making at a school level
- Concerns raised on consistencies on the quality/ content of these documents across Wales.

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

IDP – decisions on transport will be made at LA level and will be recorded in the IDP and in line with the LA policy.

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

Comments raised as follows:

- What does ‘other help’ refer to?
- Health will acknowledge request within set time period but this does not mean that provision is made for them.

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

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

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

As above

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

Both strategic as well as directly delivering- realistic or consistent across regions.

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

Comments raised as follows:

- Reviews can be held at any time and further requirements relating to requests for reviews made by a CYP, parent, other NHS body--- management of the workload this creates will need resourcing at a time of LA budget constraints.
- Decision to cease to maintain IDP- EP have to be part of the review- capacity for EPs to attend the reviews.
- IDP LAC child to be held with other review process PEP and it will often be appropriate for the review of the child case under the SSD review process.
- Flow chart 197/8 helpful
- Management/ delivery of 3-6 months between younger pupil review
- Management/ delivery of Parent request for review-
- Management/ delivery of NHS body request for review:
- Timescales do not apply when not convenient- greater clarity required.
- Taking over responsibility – EP must be consulted- workload
- Capacity of EP team and likely recruitment difficult to secure.

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

Time period are fine but exceptions leave room for interpretation. Eg circumstance beyond control.

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

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

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

Reconsideration would involve the EP – capacity unrealistic.

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

As above

Chapter 18 - Meetings about ALN and IDPs

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

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

Meetings – ALNCO needs to be a member of SLT in order to make decisions on provision.

Any meetings about IDP/ ALP should involve a member of SLT to agree on provision so that realistic ALP decisions can be agreed in one meeting.

Management/ delivery – workload

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

Comments raised as follows:

- Transition workshops during school holidays- how will this be delivered/ funded?
- Transition key worker- designated person for prep of IDP
- Principles are set out but it does not identify how these principles will work in practice. E.g. do we want professional to be attending meetings or providing services/ therapy/ provision.
- Content of IDP- relation of Transition one box no thought in what should be included in this process in the form.

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

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

There is a duty for all settings to transfer maintenance of the IDP except that of FEI. In this case the LA may request that the FEI become responsible, if they refuse the matter can be referred to Welsh Ministers.

This does not enable a smooth transition between all settings and could delay provision for young people wanting to access FEI provision.

All settings have the option to hold a review after transition to review the package of support and whether it is still appropriate given the new setting.

20.21- 'may arrange lodging to enable the CYP to continue to attend school/ institution'- does this include board and lodging for parents/ support workers to enable this access also?

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

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

Chapter 21 - Ceasing to maintain an IDP

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

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

CYP- decision to not consent to IDP being maintained/ developed (does this take into account cognitive ability/ understanding or just age range?)

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

Does the time period take into account school holidays?

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

Consideration is required on the impact this will have on already stretched resources. Undoubtedly, the principles are correct. However the numbers of YP in prison with ALN is significant and if responsibility for assessment of this population up to the age of 25 is now passed to the LA current funding allocation will not extend to providing this service and will undoubtedly impact on early intervention for children.

The results of this will be increased waiting times for CYP and their families to access services, increased tribunal cases leading to less capacity within LA services.

Investment is essential to acknowledge and provide for this increased demand on already stretched service areas.

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

As above

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

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

Principles of easy access to services to determine ALN are likely to be un-deliverable.

The LA's duty to decide within a time frame from all services such as health, young offender, prison, parents, schools, early years providers, FEI etc. inevitably will result in increased demand in LA central services this is not supported by allocated funding to recognise the increase in these demands. It is therefore likely that these demands will indeed increase timescales and compromise the aims of the Act.

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 type="checkbox"/>
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Supporting comments

No-

Ideally this should be given a set timescale as other CYP, as there would be a risk that priority will be given to those following a timescale.

However, adding an additional timescale will only add to the pressures on delivery.

Chapter 23 - Children and young people in specific circumstances

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

Yes	✓	No	□	Not sure	□
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Supporting comments

Schools agree with the regulations that PRU management committee should take over maintenance of IDPs but the PRU Management Committee raised concerns that the PRU is a provision not a placement, particularly for most learners who are dually registered with a mainstream school. Therefore, there is a need to clarify responsibilities between PRU and mainstream schools in meeting needs. Committee thought it better that either the school or the LA maintained the IDP and the PRU was part of the provision on the IDP to meet a clear needs but not necessarily be responsible for all of them.

There is a danger PRUs which have a re-integration remit will effectively become special schools.

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

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

Yes	□	No	✓	Not sure	□
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Supporting comments

Comments have been raised as follows:

- Need to recognise the extreme pressure SENCO/ALNCo's are/ will be under (risk of losing of experienced staff)
- Statutory context of writing IDP's – overwhelming.
 - Need sufficient training
- Need to have transparent budget management
- Qualifications- higher standard moving forward- new qualifications must be realistic
- Experience- should have knowledge and understanding of ALN
- ALNCo's require dedicated time and support required to carry out the role- how will this be funded?
- ALNCo's need to be part of the SLT
- Consistent IDP needs to be coordinated by the ALNCo- but ownership of the class teacher (this raises training implications)

- ALNCO role requires time: to develop quality IDP's, avoid disagreements, collate PCP information, train staff and plan for ALP throughout the school. This time needs to be funded.
- Convergence period- worries from school about running dual system

Chapter 25 - Avoiding and resolving disagreements

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

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

Comments were raised as follows:

- Needs independent advocacy (parents)- funding for this
- Schools feel they require a LA service to support them- disputes
- Schools feels there needs to be a buffer between parents and schools to maintain relationships
- There needs to be clear access to support, advice, information
- Concerns raised about non-legal staff working within a legal framework.
- Training- budget/ time to access training
- Time and staffing is required to enable avoiding/ resolving disagreements.
- Access to central services- need to review current system. LA funds are not available to develop services to meet the increased demands set out in the Act.
- Develop a system to review current ALN practice in schools and settings (Chapter 5)- it is suggested in the act that provision is reviewed regularly- provision to do this robustly is not currently there. Time/ funding is required to develop this.
- LA is developing clear flow chart on DRS for schools/ LA
- LA is putting together guidance on the processes including letters etc. to navigate the new system
- LA leading working party to include EY/Primary/ Secondary/ FEI IDP format
- Training IDP development
- Need to develop a school/LA interface to share 'live' information on ALN needs in schools

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

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

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

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

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

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

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

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

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

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

Greater clarity required on the experience and qualifications required to carry out the role. This enables greater accountability for the ALNCO and recognition of their expertise. It also raises the status of ALN within settings. In light of the regulations, an NQT could be appointed to the role of ALNCO this would not give the role the status it requires and would put enormous pressure on the member of staff undertaking the role.

Although skills/expertise from being a SENCO will transfer to the ALNCO role. The ALNCO role is more strategic and the role will be more accountable within a legislative framework and therefore a more robust training/ qualification package is required.

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

There is agreement with the task, however concerns have been raised about the level of workload will be unmanageable/ undeliverable.

This is especially as there is no consistent allocation of time agreed within the code on the non-teaching allocation of time for the role. There is variance currently in non-teaching commitments for SENCO's many of which have very little non-teaching time to carry out the role.

Concerns have been raised by existing staff about workload and there are real concerns that experienced staff will be leaving the role at time where the expertise will be needed most.

Part 4 of the consultation: Looked after children

(a) Proposed regulations to be made

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

Yes	✓	No	□	Not sure	□
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Supporting comments

- **Agree the LACE Coordinator should remain a statutory role. Suggest that clarification of the role and responsibilities (job description) and greater consistency of the role across Wales would be beneficial. A Welsh Government Guidance of minimum expectations of the LACE Coordinator role to include ALNET and Part 6 2014 Act. Acknowledge the ‘specialist nature’ of the LACE Coordinator’s role in understanding and linking Corporate Parent and Education Department knowledge of responsibilities. Concern regarding the job description currently being stretched by the increasing demands of the ALNET together with the LACPDG responsibilities. In some LAs this role may require one member of staff, while in others it may require a specialist team in order to compete all duties.**
- **A separate chapter for the LACE Coordinator would further strengthen the role of the LACE Coordinator similar to that of the ALNLO and DECLO. And strengthen their ability to influence senior managers/leaders.**
- **9.51 (a) Further clarity needed – currently being interpreted differently. XXXX (Regional ALNET Transformation Lead) was of the opinion that the LACE Coordinator role was that of overseeing and not the doing/writing of IDPs and also to hold LAs to account if children are placed out of authority without first ensuring their ALN can be met (ratified also by XXXX). XXXX (WG - Head of Supporting Achievement and Safeguarding) was of the opinion that the LACE Coordinator role would be integral to the ALN processes set up for all pupils within LAs to advocate and oversee they meet the needs of LAC.**
- **Suggestion that LACE Coordinators will require National training.**

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

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

Yes	□	No	✓	Not sure	□
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Supporting comments

- **Do not agree that there should be a separate standard form for looked after pupils. Promote equality and fear that a different form would further stigmatise pupil’s looked after and be discriminatory. It will be more straight forward for all (children, carers, parents and staff) if the IDP is one document for all. It will be easier for ALNCoS in school to have one document for all pupils – especially if a pupils with ALN becomes looked after, or ceases to be looked after. It would be useful for the One Page Profile to be included within the IDP for all pupils (including those looked after) – especially for those Las where the SW completes the PEP.**

(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

- Needs strengthening to describe and clarify the need (must) for LAs to plan for education needs to be met, prior to placement or immediately after, if child is placed in an emergency.
- 110 – needs clarification as to which LA has responsibility.
- 140 – reinforce careful consideration prior to placement.
- 227/228 - IDP should be given to any receiving school.
- 233 point 4 – IDP must be given to carer.

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

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

- Yes – the IDP safeguards the ALN of those looked after.

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

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

- Part 6 has the opportunity to redefine the role of the LACE Coordinator. Suggest that clarification of the role and responsibilities (job description) and greater consistency of the role across Wales would be beneficial. A Welsh Government Guidance of minimum expectations of the LACE Coordinator role to include ALNET and Part 6 2014 Act. Acknowledge the ‘specialist nature’ of the LACE Coordinator’s role in understanding and linking Corporate Parent and Education Department knowledge of responsibilities. Concern regarding the job description currently being stretched by the increasing demands of the ALNET together with the LACPDG responsibilities. In some LAs this role may require one member of staff, while in others it may require a specialist team in order to compete all duties.

Part 5 of the consultation: Impact of proposals

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

Please see above responses but in short LA officers think the following impacts will be seen:

- **Increase in Tribunal appeals in the medium term**
- **Pressure on ALN budgets in both schools and LAs**
- **Increase in disputes and disagreements despite LA and schools best endeavours due to the current budgetary context.**
- **Increase in demand for LA maintained IDPs**
- **An increase in requests for specialist provision/placement outside mainstream settings.**
- **Serious concerns that WG has underestimated the impact on LAs budgets and staff capacity of widening of the age range to 0 to 25 and the statutory arrangements for assessing ALN and provision across this age range.**
- **Inconsistent access to provision across schools and authorities.**

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

Local Authorities review ALP provision currently through the WESP return so it is unlikely to produce significant change.

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

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

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

The responses from Swansea above have been collated from a range of engagement events carried out over the consultation period with schools, parents and carers, children and young people and other agencies.

Respondent Details

Information	
Name	
Organisation (if applicable)	Diabetes UK Cymru

Question 4

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

No. Diabetes UK Cymru (DUKC) currently have concerns that the document is not accessible.

We would note that the document has a stated audience that is incredibly varied, and that the new framework aims to put the child or young person at the centre of the process. However, there is a huge amount of information provided within the Code, and chapters are ordered by process.

We feel that the Code would be more appropriate, far clearer and easy to follow if it information were organised by either the role of the reader. I.e. A section for Local Authorities, a section for governors, a section for head-teachers, a section for teachers and teaching assistants, section for healthcare professionals and NHS bodies, etc.

Furthermore, Welsh Government has yet to confirm whether new guidance will be issued to support the Code, or current guidance will be updated. Without assurances that new or updated guidance will be issued, DUKC feels that the Code is not an appropriate document for many individuals involved in the support and care of children or young people with ALN.

Question 7

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

Not fully. We feel that the principles set out in Chapter 2 of the draft ALN Code are the right ones.

However, DUKC is concerned that upon reading the draft Code in its entirety, it would appear that there is a system of inequity within the document. We feel that the draft ALN Code does not afford equal consideration to those with ALN as a result of a disability or healthcare needs, as it does to those with ALN as a result of other factors such as a learning difficulty. For example, the section on *Multi-agency Working* [p7.57-7.67] in Chapter 7.

We believe very strongly that for children with ALN as a result of a disability or healthcare need that this these ought to be a **must** rather than **should**. It should be obvious that a when there is a healthcare need, bodies involved in deciding if there is ALN should consult across agencies to gain specialist medical input, particularly if the child or young person is already seeing a medical professional.

Children and young people who have ALN as a result of a disability or healthcare need should be just as much of a priority and consideration in the drafting of this Code as those with ALN as a result of other factors.

(Please see our response to Question 13 for further detail on this).

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, DUKC believes that this is a particularly important part of the draft ALN Code and feel that it is appropriate.

Question 10

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

Yes, DUKC believes that the duty to keep ALP under review is appropriate.

Question 12

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

Yes, DUKC believes that the explanation of ALN provided in paragraphs 7.4 – 7.32 of the draft ALN Code is clear.

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?

No. Under the section *Multi-agency Working* [p7.57–p7.67] under Chapter 7 of the draft ALN Code states 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 person, or whether there are any other professionals or persons that they believe should be consulted...’ [p7.58].

And;

‘If there is an identified lack of expertise amongst the staff in a maintained school or FEI, then the school or FEI **should** consider seeking external advice to support the process of deciding whether the person has ALN...’ [7.59].

Furthermore, under paragraph 7.62 the draft Code states that;

‘Staff from schools and FEIs **should** work with, and alongside, specialise professionals where appropriate. ALNCOs will provide a great deal of expertise, they may however determine that further advice and input from specialist professionals is required...’

The approach within the code of suggesting that schools and FEIs **should** work with other agencies is continued throughout Chapter 7 from 7.57 – 7.67.

We believe very strongly that for children with ALN as a result of a disability or healthcare need that this these ought to be a **must** rather than **should**.

It should be obvious that a when there is a healthcare need, bodies involved in deciding if there is ALN should consult across agencies to gain specialist medical input, particularly if the child or young person is already seeing a medical professional. We would strongly urge Welsh Government to change this.

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

Yes.

However, we would reiterate our response to Question 7, and suggest that this is another example where the draft Code does not give adequate consideration to the effect of the procedure on children or young people with ALN as a result of a healthcare need.

That Early Years ALNLOs **should** have certain responsibilities and expertise, as suggested in paragraphs 7.40 – 7.47, may in some circumstances be inadequate for the support and care required by some children and young people with ALN as a result of a disability or healthcare need. This could result in provision in early years being inadequate.

DUKC would ask that this is addressed.

Question 18

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

Yes, but we have outstanding concerns regarding the relationship between IDPs and existing Individual Healthcare Plans (IHPs).

(Please see our response to Question 20 for further detail on this).

Question 19

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

Yes, but we have outstanding concerns regarding the relationship between IDPs and existing Individual Healthcare Plans (IHPs).

(Please see our response to Question 20 for further detail on this).

Question 20

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

Throughout Chapter 7 and Chapter 13, DUKC are extremely concerned that the code does nothing to clarify the relationship between IDPs under ALN and existing Individual Healthcare Plans (IHPs). Throughout the entire document there is no reference to Individual Healthcare Plans or IHPs.

Where a child has ALN as a result of a disability or healthcare need there is a need for clarification over the interaction between IDPs and IHPs.

Specifically, there is a need for clarity when 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.

Question 21

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

Where the ALN is a result of a disability or healthcare need, it is possible that consideration of transport is vital. For example where a learner has Type 1 diabetes, if they are expected to walk several miles to school from home, it is likely that they could have low blood glucose levels by the time they arrive at school. This will mean they could have difficulty preparing themselves to learn.

Therefore again we would ask for equity of consideration of the effect of the paragraph on those with ALN as a result of a disability or healthcare need, as any other factor.

Question 24

Is the guidance on the role, experience and expertise of the DELCO 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, DUKC is content that the role of DELCO is appropriately defined, and that adequate weighting is given to the importance of the role, and of the experience and expertise of the individual.

However, we would like to see the formalisation of a relationship within the code between the DELCO and the Early Years ALNLO and ALNCo under the relevant sections of Chapter 8 and 24.

Question 25

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

Yes, DUKC believe the content and structure of Chapter 16 is clear. We are particularly pleased to see the section on *Requests for reviews from NHS bodies* [p16.22-16.25] as we feel this is of particular importance.

Question 29

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

Not fully. As in our answer to Question 13 states; we believe that where a child has ALN as a result of a disability or healthcare need there must be multiagency working.

On that basis under paragraph 18.8 we would strongly urge Welsh Government to replace **should** with **must** when the ALN is as a result of a disability or healthcare need. Again, it should be obvious that a when there is a healthcare need, bodies involved in deciding if there is ALN should consult across agencies to gain specialist medical input, particularly if the child or young person is already seeing a medical professional.

We would strongly urge Welsh Government to change this.

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. DUKC are pleased to see this Chapter in the draft ALN Code. Transitioning to one learning environment to another can be difficult and scary for people with a disability of healthcare condition like Type 1 diabetes. Many individuals with Type 1 diabetes will become used to having a particular member of staff to support them in controlling their blood glucose levels.

As such a smooth transition, and support for people with ALN as a result of a disability or healthcare condition is vital.

Question 31

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

Yes. DUKC believes that the content and structure of Chapter 20 of the draft ALN Code is clear.

Question 34

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

Yes. However DUKC believes it is important to include that where a child or young person is deemed to have ALN as a result of a disability or healthcare need that is incurable, then it should not be possible for a school or FEI to opt to cease to maintain an IDP.

Question 62

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

In answer to this question DUKC refers to a testimonial we have permission to share as part of our response from XXXX, the mother of a child with Type 1 diabetes:

‘My son XXXX, was diagnosed with Type 1 Diabetes at the age of 5. Handing your young child over to other people for a large proportion of the day is a daunting prospect for most parents. But when that child has just been diagnosed with a life-changing (and potentially life-threatening) chronic illness that you yourself are struggling to fully understand and manage, that process can seem utterly terrifying.

We were so lucky to have a very receptive, proactive and motivated team of school staff. They were as determined as we were that XXXX’s life should be impacted as little as possible by his diagnosis and willingly accepted the responsibilities that entailed with commitment, vigilance and compassion.

I am aware that we have been tremendously lucky. All over Wales, there are parents and children who have not had similar support; parents who have had to resign from work, such is the demand placed upon them by school-staff to be ever-available; children who are routinely excluded from activities and residentials due to perceived risk. The list goes on and on.

The ALN Act will ensure standardisation of care and provision in schools, not only for children with Type 1 Diabetes, but for all children with additional learning needs. It will provide schools with clear and unambiguous guidance that must be met. I sincerely hope that now this bill is passed, every child in Wales will experience the safe, supported and inclusive school environment experienced by XXXX, with the same access to opportunities as every one of their peers’.

However, DUKC would add that without new or updated supporting guidance in addition to the Code, it will be impossible for the effective working of the ALN framework to exist. The fact that Welsh Government has not confirmed that the *Supporting Learners with Healthcare Needs guidance 2017* will be updated or replaced is deeply concerning given that it is cited in the draft ALN Code. We would argue that as this guidance was established prior to the passing of the ALN Act, it is unsuitable to help guide schools and educational bodies in its current form.

Respondent Details

Information	
Name	SLT department
Organisation (if applicable)	NHS - ABMU

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

**7.3 - 7.5: There is a risk that members of the public will confuse the phrase ‘a learning difficulty or disability’ used within the draft Code as an umbrella term for ALN, with the phrase ‘learning difficulties’ which is a specific condition. Education and Health staff currently use this to describe below average cognition and learning, as set out in Diagnostic Statistical Manual V (DSM version 5).
In addition, this section is difficult to follow and not written in plain English.**

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

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

The chapter is not clear because its style of writing is lengthy and complex.

7.34 – the list contains inaccurate terminology, e.g. ‘language delay.’ Key conditions are missing, e.g. speech disorder. The order and specific examples are difficult to rationalise.

We suggest authors either use specific diagnostic categories from DSM V or broader categories with a focus on functional impact, e.g. cognitive impairment, language disorder, social communication disorder, sensory impairment. The document must be inclusive, not exclusive; no list will be exhaustive due to individual variation.

It might be helpful to divide chapters into broad age categories, e.g. EY, School age, FEI. This would help all stakeholders navigate each chapter more quickly and easily. The current draft is a ‘one size fits all’ approach.

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

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

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

Page numbers would be helpful on the IDP template, e.g. page 1 of 7.
The consent must also be clear at the outset of the document.

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

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

Transport

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

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

Chapter 15 – Duties on health bodies and other relevant persons

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

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

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

15.7 If Health Services are asked to provide information for every pupil with an IDP, it will have an adverse effect on all services to the rest of the population. With current Health Board resources in Paediatric Speech and Language Therapy, (budget and workforce), we would become solely an assessment service for CYP with ALN. We would not have capacity to provide therapy to the 10% of CYP with speech, language and communication disorders that persistent beyond 5y. This would therefore actually increase the population of ALN as they would fail to meet their targets.

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

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

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

The timescales for IDP and the Health Board waiting times are mismatched. Schools will struggle to meet the demands of an IDP without information from outside agencies; Health Board staff will struggle to assess and share results within the IDP timescales, even if the child or young person is already known to their service.

In 15.22 the bullet points describe the universal, targeted and specialist tiers of Speech and Language Therapy service, although they do not use that terminology. The majority of SLT

services are only funded for specialist tier and do not stretch to provide universal and targeted intervention as described in 15.22. There are examples of good practice which exclusively deliver universal and targeted tiers in SLT in Wales, e.g. Flying Start. These are specifically funded by Welsh Government through Local Authority and under the new Code of Practice, there would need to be a **redistribution of resources from Local Authorities to the NHS**. In addition, current commissioning arrangements between local authorities and Health Boards for CYP with statements of SEN would be reviewed once statements cease in 2022. These resources would also need to be given to Health Boards to meet their duty to deliver identified health provision within an IDP. These are the same CYP under the new system as under the old.

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

There is a discrepancy between the strategic influence and the operational knowledge needed for the role to function with impact and measurable outcomes.

The DECLO role must exist in partnership with the Early Years ALN Co-ordinator because the same CYP will be transitioning through the 0-25 framework.

Local networks for ALNCo and Transformational Leads, that then feed up to the DECLO must be clear and coherent. This would operationalise the strategic responsibilities. The flow of data must also be explicit to ensure measurable compliance with targets/outcomes.

The relationship between DECLO and the Welsh Government Quadruple Aim of prevention must be clarified. The aim is to reduce the number of CYP with ALN with effective early identification and intervention.

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

As IDPs will be the responsibility of either the school or the Local Authority, this is not an area for comment from us as Health Professionals.

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

The code allows flexibility depending on the progress made.

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

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

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

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

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

Chapter 18 - Meetings about ALN and IDPs

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

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

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

As this section contains many ‘should’ phrases, these are statutory and therefore not “guidance” This could be renamed as Requirements for Transition.

Chapter 20 - Transferring an IDP

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

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

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

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

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

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

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

Chapter 21 - Ceasing to maintain an IDP

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

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

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

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

Chapter 22 – Children and young people subject to detention orders

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

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

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

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

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

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

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

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

Chapter 23 - Children and young people in specific circumstances

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

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

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

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

Yes	<input type="checkbox"/>	No	<input 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

This is a local authority area for comment.

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 typing error – questions 42 and 43 are the same.

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

Note sections 15.48-15.52 – there are different complaints procedures for NHS complains and Local Authority complaints. How will families navigate these and track their progress through an already confusing system?

Chapter 27 - Case friends for children who lack capacity

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

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

Any other comments

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Part 3 of the consultation: Draft ALNCo regulations

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

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

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

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

Part 4 of the consultation: Looked after children

(a) Proposed regulations to be made

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

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

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

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

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

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(c) Proposed revisions to the Part 6 Code

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

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

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

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

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

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

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	Richard J Cubie
Organisation (if applicable)	GwE (School Effectiveness and Improvement Service for North Wales)

Part 1 of the consultation: The draft ALN Code

Chapter 1 - Introduction

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

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

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

Yes there is no ambiguity in these statements.

Timescales

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

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

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

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

They 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

Well written and in this format will be an easy to use reference for ALNCo's and practitioners.

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

It brings the PRU's in line with other areas of the maintained sector.

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

2.2 d) should refer to "equivalence" in the description of inclusion to underline the principles of "right and equity".

2.10 in the provision of independent advocacy services, the descriptors in Chapter 25, 25.55-25.60 DO NOT provide the facility of independent advocacy before a decision is imminent and DO NOT give the facility of referral to schools, children's services or health services.

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

3.25, 3.26, do not explore the duty of the school where the persons with parental responsibility may be determined to have limited capacity to exercise their functions.

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

These duties should have a more prominent loading.

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

This section is far too detailed and prescriptive and duplicates other areas such as WESP

This section does not take into consideration the direction of directives from ALN tribunal.

This is a key duty and should refer to the SLA's with the Consortium, which would inform the process of continuous review.

For example 5.4 cannot be undertaken without the evidence that will determine the indicators for "size" and "capability".

5.5 – 5.13, A LA could not determine what is "insufficient" without reference to evidence collated by the Consortium.

5.14 refers to the Consortia without acknowledging the pivotal and lead role that the consortia undertakes in partnership with the other named stakeholders.

5.20 refers to "reasonable steps", which is too ambiguous and would also enable each LA to determine what "reasonable" means.

Chapter 6 - Advice and information

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

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

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

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

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

This Chapter misses to opportunity to reference the Curriculum for Wales and integrate the concepts of “Wellbeing” into all of the descriptors of need.

7.31 does not adequately cover wellbeing within the descriptions of Healthcare.

7.34, 7.35 do not explicitly describe wellbeing.

7.48 and 7.49 should be more prominent within the structure of this chapter and should not be referred to as “other factors”, given that they are frequently comorbid with other descriptors.

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

Refer to question 12

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

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 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

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

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

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

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

N/A

Chapter 15 – Duties on health bodies and other relevant persons

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

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

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

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

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

Yes	✓	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

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

19.9-19.11 “should”, should be changed to “must”.
19.38 “might” should be replaced with “should”.

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

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

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

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Chapter 21 - Ceasing to maintain an IDP

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

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

N/A

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

N/A

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

N/A

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

N/A

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

N/A

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

N/A

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

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

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

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

Chapter 26 - Appeals and applications to the Tribunal

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

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

N/A

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

N/A

Any other comments

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

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

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

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

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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

N/A

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

N/A

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

N/A

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

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

This depends on the collaboration of all stakeholders.

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

N/A

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

N/A

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

N/A

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

N/A

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

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	□	Not sure	□
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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?

- 1) Entitlement for all children to an inclusive system will improve.
- 2) Improved educational opportunities through differentiation for all learners.
- 3) Opportunity for integration of LA services and review to make higher quality provision.
- 4) Rights of individual learners established as part of the reforms.
- 5) Considerable CPD commitment needed by all stakeholders to develop skills and knowledge of workforce and evidence high quality outcomes.
- 6) Significant bureaucracy to schools especially small schools where headteachers also teach

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

The regulations will help the evolution and establishment of 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?

- i) will depend on the implementation of the Curriculum for Wales and the raising of awareness of Welsh culture .
- ii) will depend on the establishment of a bilingual work force, where, equal force is given to each 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.

- 1) To repeat the point that Wellbeing is not promoted as an equal descriptor within Additional Learning Needs.**
- 2) That having Additional Learning Needs are not recognised within the Code as an Adverse Childhood Experience.**
- 3) That Independent Schools admitting learners from Wales, with additional learning needs, are not required to adopt the Code of Practice relating to learners with Additional Learning Needs.**

Respondent Details

Information	
Name	
Organisation (if applicable)	Response of Ysgol Melyd ALNCo

Chapter 1 - Introduction

Q1. 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?

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?

In principal, agree with a prompt response. However, the Code needs to be more specific about The School/Headteacher providing the ALNCo with adequate time, and resources and training to carry out assessments needs addressing.

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?

Need to be recognised by the Headteacher. Time to be released.

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

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

Mostly

Pupil referral units (PRUs)

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?

Not applicable to my setting.

Chapter 2 - Principles of the Code

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

Should be on SDP? – Wasn't quite sure what this was? (They are on every agenda of staff meeting)

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

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

Is it appropriate for the person facilitating to decide with the child not to attend the review? How will it be recorded?

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

Q9. Is Chapter 4 of the draft ALN Code clear about what is expected of local authorities and NHS bodies when discharging their duties to have due regard to the UNCRC and UNCRPD?

Yes

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

Question 10. 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?

There could be disagreement/conflict with LA and school. Negative wording. Maybe support would be needed.

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?

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?

P.56 7.6 contradicts. 7.44 - needs clarification. Specific guidelines on what is ALN.

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

Needs county guidance clarification.

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)?

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

Timings could be difficult due to staffing and release time for ALNCOs.

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?

Currently, there is disparity between time allocated for ALNCOs in Primary and Secondary throughout North Wales and within actual county. 35 teaching days; what happens if an ALNCO is waiting for a report from CAMHS or other NHS bodies? Will the 35 days be frozen? Will there be flexibility on this timescale in these circumstances?

Headteacher/Governing Body need to be aware of these particular pressures on the ALNCO and resource time appropriately. It would also be helpful if there was a flowchart of what should be done in the '35 days timescale'.

1.41 It is intended that the regulations will set out matters that are relevant when a local authority is considering what, if any, reasonable needs for education or training the young person has. The intention is that they focus on identifying whether there is a realistic prospect of the young person achieving a desired objective within a reasonable period of time by undertaking a course of education or training. P84 – 85 Needs clarification if pupil needs/wants it. P86 9.4 Record the date

Q17. 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?

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?

Exemplar case studies of the IDP being available would be useful.

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

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

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

Chapter 15 – Duties on health bodies and other relevant persons

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

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?

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)?

Chapter 16 - Review and revision of IDPs

Question 25. Is the content and structure of Chapter 16 of the draft ALN Code clear?
Guidelines and structure of who needs an IDP.
Training for staff to complete IDPs and implementing the code.
Time issues – how much is done by the school/LA

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?

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?

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?

Chapter 18 - Meetings about ALN and IDPs

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

Time issues and concerns regarding the role statutory. Huge step up in responsibility from class teacher, with increasing paperwork. Therefore, massive implications to pay scales and increments for ALNCoS as most receive SEN points at best. Surely this responsibility would equate to TLR 2.

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?

Chapter 20 - Transferring an IDP

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

What about ~EHIC from England? Is the review immediate 35 days or when it is due?

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?

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?

Chapter 21 - Ceasing to maintain an IDP

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

1.99 It is proposed to provide for a **4 week period***(see paragraph 21.18 of the draft ALN Code) within which a child, their parent or a young person may request that a local authority reconsiders a school's decision to cease to maintain an IDP for a registered pupil. This would be 4 weeks from the school giving the notification of its decision that the pupil no longer has ALN (with the 4 week period starting on the day after the day on which the notification is given). This period of time is proposed on the basis that it provides a reasonable period of time in which to make a request for a reconsideration, taking into account the fact that the child, their parent or the young person will have already been involved in the review which informed the decision to cease to maintain the IDP. We would not wish to unduly delay a decision to cease to maintain an IDP where one is no longer required.

***Proforma**

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

How long can they be re-assessed after a decision to cease the IDP?

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?

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?

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 – 22.73 of the draft ALN Code) 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?

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?

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

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

There is ambiguity regarding whether the ALNCo should or should not be on the Senior Leadership Team. The increased responsibility and accountability that the draft ALN Code places upon the ALNCo needs recognition, not only in terms of status within the school, but also in terms of financial reward. It is also important that Heads and Governors ensure that ALNCoS are provided with sufficient time to do their role – the draft Code is once more ambiguous in this regard. It needs to be more concrete. Training is another important consideration which the draft ALN Code does not appear to be specific enough. A number of current SENCoS have Masters equivalent qualifications or are studying at present. There appears to be no recognition of qualifications that have been taken or are in the process of qualifying.

Timing issues need to be resolved, this is going to need massive increases to ALNCo release time.

Money, this level of responsibility is more than most ALNCoS are currently paid for, this job description is more in line with TLR2.

More training will be required to meet the code of practice.

Will this be responsibility be compatible with other duties?

Queries – Considerations for a small school sharing role.

24.12 is not clear, needs clarification.

Responsibilities are massively more statutory than previous none statutory role.

Heads and deputy involvement would be beneficial to assist ALNCoS

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?

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?

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?

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?

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?

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?

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

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

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?

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

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

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

Part 3 of the consultation: Draft ALNCo regulations

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

There are no prescribed qualifications and there is no recognition of previous training which I feel should be.

Q56. Do you agree with the tasks that ALNCo's must carry out or arrange to carry out as set out in the draft ALNCo regulations?

Part 4 of the consultation: Looked after children

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

Yes. Not ALNCo's

(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 guidance and requirements related to it, appropriate?

Yes. IDP

(c) Proposed revisions to the Part 6 Code

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

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?

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

Part 5 of the consultation: Impact of proposals

Impact of proposed regulations

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

Children not slipping through the net.
Financial, time, responsibility, training, retention of staff.
Pay status.

Impact on the Welsh language

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?**

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

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Timescales

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

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

7 weeks is not enough time to ascertain if a pupil has ALN. Particular concern around a 7 week timescale lies with circumstances such as-

- In year school transfers,
- Year 7 pupils if the concern is raised at the start of Year 7
- Interventions need time to take effect and at present we are told that we require 2 terms of graduated response to be sure if the pupil is making progress.
- Volume of cases to investigate at the start of Year 7.
- If concerns of a Year 7 pupil are raised by a parent before they start in the secondary school, does this trigger the 7 weeks? If so, this will not be a reasonable timescale as we would have a lack of evidence.

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

Completion of an IDP in a prompt fashion is an acceptable requirement. However, where the ALNCO has a teaching commitment and other roles/responsibilities within the school, the volume of meetings to create IDPs and to review them is unlikely to be practical. Concerns around point 1.34 with regards to having to review and up-date an IDP if not all evidence is available during the initial meeting. This will add extra pressure onto the ALNCO. All stakeholders **MUST** be held accountable for providing information in readiness for an IDP meeting or give adequate notice to re-arrange the meeting if they are unable to provide the information.

Structure of the draft ALN Code

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

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

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

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

The document is too wordy. It would be beneficial to have a flow chart of processes to accompany the Code.

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

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

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

N/A

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

Although it is crucial to place the views of the child and the family at the centre of all discussions, it is also important that the views of the professionals are accepted in cases

where parents are seeing different needs and behaviours to those being observed in the educational setting.

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

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

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

Concerns about young people choosing to opt out of support and then being unable to make progress.
Concerns about parental and pupil views clashing.
Concerns around the logistics of arranging what could be a potentially large number of meetings.

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

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

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

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

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

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

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Chapter 6 - Advice and information

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

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

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

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

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

In point 7.6 it is not clear what constitutes as a *significantly greater difficulty*.

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

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

The explanation is clear, but in many cases the ALNCO would need to consult with external agencies, who may then advise carrying out assessments to determine if the young person has an ALN. A timescale of 7 weeks to do this, will in some cases be very difficult, if possible to meet.

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

Early Years ALN Lead Officer

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

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

N/A

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Duties on schools, FEIs and local authorities

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

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

Some more complex cases could take longer if the involvement of an outside agency is needed to determine if the young person has an ALN.

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

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

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

N/A

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

Section 1A.12 entitled capacity should be re-phrased. It is not the responsibility of the ALNCO or whoever is preparing the IDP to make a judgment on the capacity of the young person’s 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 type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

It is going to be a challenge to ensure that an IDP in this format is a pupil and parent friendly document. However, it is understood that this is a legal document and therefore must have a certain format. It is very helpful to have a national version of the IDP.

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

Currently school does not secure transport for pupils. Parents must contact Transport officers. It is unclear how school can therefore include this in an IDP.

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

N/A

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

Concerns around the fact that anyone can request a review meeting at any time could lead to an unsustainable workload for ALNCOs. Point 16.15 does go some way to remedy this, but there could still be cases where reviews are being requested too frequently.

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

This much depends on the flexibility of the outside agencies.

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

In a large secondary school, where the ALNCO has a teaching commitment it is going to be challenging to manage the volume of 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 type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

The arrangements are appropriate as long as all agencies involved with the young person are able to attend meetings / give their input.

Chapter 20 - Transferring an IDP

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

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

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

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

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

20.7 – As it is not clear what constitutes as a *significantly greater difficulty*, it could vary from school to school and therefore a young person who is issued an IDP in one school may transfer to another school where his or her needs are not greater than the majority.

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

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

Chapter 21 - Ceasing to maintain an IDP

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

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

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

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

Chapter 22 – Children and young people subject to detention orders

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

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

N/A

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

N/A

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

N/A

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

N/A

Chapter 23 - Children and young people in specific circumstances

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

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

There should be an automatic system for Local Authorities to take on the responsibility for the IDP if the child moves to EOTAS provision.

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

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

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

The information set out is appropriate in theory, but in very large schools the volume of work may become unmanageable.

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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Part 3 of the consultation: Draft ALNCo regulations

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

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

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

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

Part 4 of the consultation: Looked after children

(a) Proposed regulations to be made

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

Yes	<input 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.

Respondent Details

Information	
Name	Debbie Thoams
Organisation (if applicable)	National Deaf Children's Society Cymru

Key points

Welsh Government Statistics demonstrate significant attainment gaps between deaf learners and their hearing peers. Deafness is not a learning disability and, with appropriate support, deaf learners should achieve on a par with their hearing peers. As such, it is imperative that the new Additional Learning Needs and Education Tribunal Wales Act and accompanying Code work effectively to support deaf learners and their families so that this attainment gap can be closed.

The National Deaf Children's Society Cymru would like to acknowledge that a number of key improvements have been made to this latest version of the Draft Code. However, as indicated throughout this response, we believe there remain areas of the Code that require further development.

Given the significant impact that the Code will have on our members, we wanted to take this opportunity to highlight the following key headline points in addition to responding to the relevant consultation questions set by the Welsh Government.

ALNCos

We are disappointed that page 265 of the Code does not go further in its requirements of prescribed qualifications and experience of ALNCos. Previously, the Welsh Government had been discussing mandatory training for ALNCos, but this has now been dropped. It is essential that ALNCos have experience of/training in ALN. We also feel it would be useful for the EWC (Education Workforce Council) to register their role as an ALNCO.

Furthermore, we have concerns about ALNCO capacity and whether formulae should be considered to ascertain when more than one ALNCO is required at a school or college.

Early Years ALNLO

Similar to the above, we would be keen for EY ALNLO to have certain core training requirements. For example, training should cover IDP process, PCP, basic awareness of specific ALN types including deafness.

We also have concerns about capacity and whether one ALNLO would be sufficient to fulfil this role in each local authority. Again, we wondered whether a formulae should be developed to this end. This section also neglects to emphasise the importance of the EY ALNLO in working and collaborating with specialist professionals, such as Teachers of the Deaf, which is a worrying oversight that needs to be rectified.

Careers advice and transitions

The National Deaf Children's Society Cymru is extremely disappointed in the transitions section of the Code, which should be much stronger in ensuring that young people are supported out of

school/FE education and on to HE/the workplace. We are also particularly disappointed in the reference to careers advice, which is much less frequent than the current code and is considerably weakened. Whereas the current code makes a statutory requirement for careers advisors to be invited to a year 9 review of a statement, the new draft code appears to imply that mainstream careers advice will be sufficient for most ALN learners (19.54). This is at odds with the Welsh Government's employability plan and the acknowledgment that unemployment is disproportionately high among the disabled population in Wales. It is also at odds with what the National Deaf Children's Society Cymru is being told by deaf young people who feel that current careers advice is not meeting their needs.

Usability

The National Deaf Children's Society is concerned that difficulties in the usability of the Code will result in failed adherence to the duties within it. In particular, we consider that a flowchart indicating timeframes would be useful and that the presence of prompts within the IDP template could help the Code become more user-friendly.

We appreciate that the Welsh Government has stated that the Code is a document for professionals, but would like to highlight that it is also important that families have access to clear information on how the new system will work. Since information provided on the current Statementing system by local authorities varies in quality, we would welcome the development of central, family-friendly information on the Code.

Equality Act

It is important that the Code works alongside the Equality Act and more cross-referencing is required to this end.

Confusion over rights of appeal and complaints

The National Deaf Children's Society Cymru feels that there remains a confusion as to whether an issue is raised via Putting things right or tribunal. We are mindful that these are two different types of processes and that pursuing one over another will have an impact in terms of timescales for subsequently pursuing the other route. It is important that families understand their rights fully.

Paragraph 9.45

We have concerns that this clause could lead to a postcode lottery. Given the low incidence nature of deafness, it is important that deaf children receive specialist input from a teacher of the deaf, which will most likely require a local authority referral.

Speech and Language Therapy

Speech and Language Therapy support is vital to the linguistic and educational development of many deaf children. We are concerned that the draft Code implies that local authorities are absolved of responsibility for an ALP where the need is identified by the NHS. The ALNET Act does not lend the same guarantee and legal weighting to ALP provided by the NHS and we are concerned about meeting the speech and language therapy needs of deaf young people where the NHS lacks the capacity to do so. We would welcome consideration of whether there should be an emphasis on local authorities to provide speech and language therapy for educational purposes where the NHS is unable to do so.

Transport

The draft Code does not address ongoing concerns raised by the National Deaf Children's Society Cymru and many others around ensuring that discussions around transport take place as part of the

IDP process. This is particularly crucial where a child/young person needs to attend a placement at a school/FEI away from home in order to access appropriate provision. During the scrutiny of the Bill, the Welsh Government committed to review learner travel guidance and for this to be referenced in the Code. As it stands, this review has not yet taken place. It is important that these areas of work are cross-referenced.

At present, there is no statutory duty in the learner travel guidance for local authorities to provide free transport for post 16 ALN learners. The National Deaf Children's Society Cymru is aware of three local authorities that have recently sought to make cost savings through cutting transport provision for FE ALN learners. If this issue is not addressed, learners with ALN could face a significant barrier in accessing the support they need.

To ensure that discussions around transport take place as part of the IDP process, the National Deaf Children's Society Cymru strongly urges that a section on transport is included within the IDP template.

Improvements to the IDP

We are pleased that there is now a statutory template, but improvements are required. In particular, the format of the ALP section needs to be improved so that vague descriptions of ALP are avoided (i.e. "access to a teacher of the deaf" is often used in current Statements, but is unhelpful in specifying length and frequency of sessions).

We recommend that prompts are included within the template to help ensure guidance is followed and IDPs contain quality content.

We are concerned that Annex C does not provide scope for health professionals to outline any advice other than the support which the NHS is willing to fund. Neither does it enable health professionals to explain why a decision has been made not to provide health support for an ALN learner. It is imperative that these issues are rectified.

Clear requirement to include a Teacher of the Deaf in an assessment of a deaf child is required

While the draft Code references Teachers of the Deaf, it does not do so as rigorously as paragraph 9.49 of the English Code of Practice, which makes involvement of a teacher of the sensory impaired a clear requirement when assessing the needs of a deaf learner. We would wish for the same statutory obligation on this point within the Welsh Code.

Clarity on supporting young people who have had breaks in their course of study would be welcome.

More explicit reference to family choice is required.

Concern around the reference to impracticability where public bodies cannot meet timeframes.

In order to ensure that this clause is not abused and that the vast majority of IDPs are processed within timeframe, the definition must be clear that this should only be **very** exceptional circumstances.

Eligibility of deaf children for IDPs

The National Deaf Children's Society Cymru strongly welcomes the acknowledgement within the Code that certain disabilities, such as deafness, would by their nature be eligible for an IDP. It is important that this point remains in the final version of the Code.

However, linking this reference to the register that local authorities keep of deaf people is unhelpful as these registers are voluntary and many deaf children and young people are not recorded on it. Whether or not a child is recorded on this voluntary register has no bearing on the impact that hearing loss has on their access to learning. We would, therefore, recommend that these references to the register are removed. We would also urge that the word “likely” is removed, since, the nature of deafness is such that eligibility for support through an IDP is required.

Post 16 courses and a two year limit

The National Deaf Children’s Society Cymru shares concerns raised by others around the restriction of funding for specialist FE courses for ALN learners to two years. We feel that this is unfair and does not provide ALN learners with equality of opportunity.

Online Action

The National Deaf Children’s Society Cymru ran an online action, inviting members and supporters to respond to the Welsh Government consultation and highlight key issues for deaf learners. At the time of writing, 264 members of the public had taken part in this action, demonstrating strong support for our key recommendations to the Welsh Government.

Response to questions

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

For the operation of the new IDP system to work effectively, it is imperative that the exceptions for not meeting obligations within the Code are regarded as rare and exceptional.

We would welcome an emphasis on not meeting a **should** requirement being described as rare and exceptional. Without this emphasis, it is easy for local authorities/public bodies to ignore these important responsibilities. It would also be helpful to provide examples of such rare and exceptional circumstances.

The National Deaf Children’s Society Cymru would also wish to highlight our disappointment that “**must**” is not used more frequently throughout the Code. Placing clear obligations on public bodies would help to avoid a postcode lottery for ALN provision.

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?

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?

Broadly, the National Deaf Children’s Society Cymru welcomes the move towards shorter timeframes for developing an IDP. It is crucial to ensure that ALP is in place for learners as soon as possible so that they are able to access learning and reach their full potential. However, we feel that the Code must be strengthened around ensuring that the exception for not meeting the timescales as described in paragraphs 1.33-1.35 is not open to abuse. It must be absolutely clear that the exception should only be applicable in very rare circumstances.

Furthermore, as a means of ensuring that that the exception does not become abused, the National Deaf Children’s Society Cymru would recommend that quality assurance measures are

put in place. If public bodies were required to report to regional consortia/Estyn/Welsh Ministers on the number of exceptions applied to timescales in any given year, this would help to ensure that the legal exception is being used appropriately.

The National Deaf Children's Society Cymru would also welcome further clarification around the meaning of "promptly".

4. Is the structure of the draft ALN Code and the separation of the characters appropriate, clear and easy to follow?

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

The National Deaf Children's Society Cymru does not consider the Draft ALN Code to be a particularly user-friendly document as much cross-referencing appears to be required. We would recommend the use of flowcharts to clearly outline timeframes for the new IDP process.

We are concerned that busy professionals who will be using the Code may miss key information due to the implied need to cross – reference. For example, it is likely that a busy teacher filling out an IDP form will use only the template IDP as a guide rather than Chapter 13 in its entirety. For this reason, we would welcome the presence of written prompts within Annex A itself.

While we appreciate that the Welsh Government has stated that the Code is for professionals, it is also crucial that families are provided with clear information on the new IDP process and how it operates. Currently, it is left to local authorities to provide its own information on the Statementing process to families. The National Deaf Children's Society Cymru believes that, under these arrangements, information on Statementing that has been provided to families has been poor and subject to great variation across the country. For this reason, we would welcome clear, national and standardised family-friendly information on the operation of the new IDP process.

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

The National Deaf Children's Society Cymru is broadly supportive of the principles set out in Chapter 2, although we do have reservations around whether the Code adequately meets these principles. In particular, the guidance within the Code around transitions requires strengthening. We have outlined these concerns in more detail later on in this response.

While we appreciate that many families have a preference for inclusion in mainstream schools, we wish to emphasise that in some cases, specialist placements can be of greatest benefit for the child. A small number of deaf children from Wales currently attend specialist schools for the deaf across the border in England, where a specialist deaf environment is of great benefit to meeting their support needs. We would wish for the Code to acknowledge that in some cases this provision can be necessary.

This chapter requires reference to the Equality Act.

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?

The National Deaf Children's Society Cymru welcomes this chapter, in particular the emphasis on meeting communication needs. We would suggest that the chapter could also emphasise the need to ensure that language is accessible.

We query paragraph 3.18 as we had thought that the ability for a learner to not consent to an IDP was only from the age of 16. This is not clear in the Code and would benefit from clarification. We would also welcome reinforcement within this paragraph of the fact that on turning down an IDP, the young person must clearly have the mental capacity to make this decision and must be fully informed and aware of the IDP process so that they are taking an informed choice.

It would be helpful if this chapter also stated that family members should not be used as interpreters. This is poor practice.

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 UNCRC and UNCRPD?

The National Deaf Children's Society Cymru welcomes the inclusion of this chapter, but is disappointed that the emphasis is on "might" around the suggested actions to meet these duties and the adoption of the social model of disability.

It is, however, regrettable that there is such a distinct lack of reference to the Equality Act. The National Deaf Children's Society Cymru urges that this is rectified in the final version of the Code.

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

The National Deaf Children's Society Cymru welcomed this duty within the Act and also welcomes this chapter within the Draft Code. However, we do consider that some of the responsibilities outlined as "should" within this chapter would benefit from being "must" particularly around reporting and recording of the review. Given the varied nature of ALP and the specialist nature of support for those with low incidence needs, the National Deaf Children's Society Cymru would recommend a further emphasis within this section of the code upon looking at ALP for specific ALN types, particularly low incidence needs such as deafness which require specialised support.

Paragraph 5.16 should reference the Equality Act.

We recommend that this section of the Code also requires local authorities to publish the findings of their reviews. This will assist transparency and quality assurance.

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?

Paragraph 6.5 states that local authorities may choose to provide advice and information itself. We would query quality assurance around ensuring that this advice is not biased. We would also highlight that, at present local authorities produce their own documentation around the Statementing process. The quality of this information can be very poor. We suggest that key family-friendly information is produced by the Welsh Government.

It is imperative that advice and information is able to meet various communication needs.

Paragraph 6.7 is not sufficiently strong in detailing the types of information that should (as opposed to “could”) be provided.

Paragraph 6.10 should also cover key contact information and timeframes associated with the IDP process.

Paragraph 6.12 should also include health visitors given their relevance in the referral of early years children.

Paragraph 6.21 should emphasise the need to highlight these services at each key stage and point within the IDP process.

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

The National Deaf Children’s Society Cymru broadly welcomes the definitions of ALN as provided within Chapter 7. We also particularly welcome the acknowledgement that, by their very nature, some disabilities will constitute ALN. The clarification in paragraph 7.29 is also to be welcomed as it is important that learners with ALN are supported to reach their fullest potential.

However, the National Deaf Children’s Society Cymru would recommend that the following improvements are made to this section of the Code:

- Paragraph 7.10 identifies that differentiated teaching is separate from ALN. Although we understand the intention behind this point, it is important that it does not create a misunderstanding, or an easy opt-out for providing IDPs where they are relevant. This is of particular concern given that the National Deaf Children’s Society Cymru is aware of conversations from frontline professionals about plans to only introduce IDPs for those with more complex needs due to time restraints. It is imperative that wherever a child meets the definition of ALN, they are provided with an IDP and we would welcome further robust clarification on this point within the Code.

- Paragraph 7.16 would benefit from specifying “specialist mother and baby groups” as opposed to just “mother and baby groups.” Specialist mother and baby groups can provide vital support for families of babies with ALN, but the specialist nature and access to expertise within these groups is what sets them apart from mainstream groups and makes them ALP. We would also suggest removing the reference to Flying Start within this paragraph. Access to Flying Start is dependent on postcode, whereas ALP should be focused on need.

- Many children and young people will suffer from a temporary hearing loss as a result of glue ear. While in many cases, an episode of glue ear will only be for a very short time, there are children who will experience episodes of glue ear for a prolonged period. Although the loss is temporary, where it is experienced for an extended period of time, it can have a substantial impact on a child’s learning support needs. Not providing this support for such a child can then have ramifications for their future language and learning development. **The National Deaf Children’s Society Cymru strongly recommends that 7.18 requires clarification to ensure that temporary illnesses, like glue ear, which can result in ALN for prolonged periods of time are appropriately considered.**

- The National Deaf Children's Society Cymru is pleased to see the acknowledgement within paragraph 7.23 that "there are some forms of disability where the nature of the disability means it is likely the learner will have ALN" and that hearing impairment is one such type of disability. However, we would suggest removing the reference to the register of hearing impaired people kept by the local authorities. This is because this register is voluntary and many deaf people are not on the register. Not being on the register in no way means that these deaf children and young people are any less eligible for/in need of ALP support.

- The National Deaf Children's Society Cymru understands that the Additional Learning Needs and Education Tribunal Wales Act does not cover medical needs. However, given that there will be many ALN learners who also have medical needs, we would welcome a greater emphasis on the cross referencing with these plans at paragraph 7.23.

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?

There are many aspects of this chapter which the National Deaf Children's Society Cymru is supportive of. We welcome the reference to hearing impairment at paragraph 7.34 as an indication that the learner requires an IDP.

As identified earlier, the National Deaf Children's Society Cymru is keen to avoid "grey areas" in relation to understanding what constitutes "differentiated teaching". Without a clear and universal understanding of this, there will be a postcode lottery around eligibility for an IDP. With regards to deafness, it is imperative to acknowledge that this is a low-incidence need which requires specialist input distinct from mainstream differentiated teaching. We strongly recommend that the Welsh Government provides clarification around these points within paragraphs 7.45/6 of the Code.

Paragraph 7.59 states:

*"If there is an identified lack of expertise amongst the staff in a mainstream school or FEI, then the school or FEI **should** consider seeking external advice to support the process of deciding whether the person has ALN. This might include, for example, where the child or young person has a low incidence need, such as being vision or hearing impaired, or both, and staff do not have the knowledge and expertise to appropriately support the child or young person. A person who is qualified to teach pupils or students with these impairments should be involved in such cases. For children or young people with such needs they will be on a register maintained by the local authority."*

We warmly welcome the specific reference to sensory impairment and the involvement of teachers of the sensory impairment within the IDP process. However, we strongly advise that this paragraph be strengthened. Indeed, the English Code of Practice places a statutory obligation for teachers of the sensory impaired to be included within an assessment at paragraph 9.49 of the English Code.

We strongly recommend that paragraph 7.59 is strengthened to insist that external advice from a specialist Sensory Impaired teacher **must** be sought.

We welcome the reference to Newborn Hearing Screening Programme Wales in paragraph 7.60.

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)?

The National Deaf Children's Society Cymru deems the role of the Early Years ALNLO to be crucial to the success of the reforms for the early years. However, in order to ensure that the ALNLO role can operate effectively, we believe that the following points need to be addressed:

- We are disappointed that there is no longer a mandatory training qualification for ALNLOs. We believe that all ALNLOs should take CPD training in basic awareness of key disabilities, including deafness.
- We are concerned that liaising with specialist professionals, such as teachers of the sensory impaired does not appear to be listed.
- Paragraph 8.44 would benefit from placing more emphasis than just "could" in relation to liaising with key professionals such as health visitors and DECLOs.
- It was our understanding that the Early Years ALNLO would be the key point of contact for professionals and families seeking an IDP and for co-ordinating plans. This does not appear to be specified in this part of the Code. If the Early Years ALNLO is not to perform this role, it is important to identify where early years referrals should be made.
- The ALNLO role is large and varied. The National Deaf Children's Society Cymru believes local authorities are likely to require more than one ALNLO in order for the role to be effectively fulfilled. We would recommend that a formula is created to help ascertain how many ALNLOs are required within an authority.
- We are concerned about the reference to discouraging inappropriate referrals to the local authority. Those referring cases cannot be expected to be experts in ALN or to determine whether or not a child or young person has ALN. This should be the responsibility of the relevant school/FEI/Local authority.

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

As with other sections of the Code, the National Deaf Children's Society Cymru believes the format could be clearer for professionals/governors to use the code. The use of flowcharts clearly outlining statutory timeframes would be particularly welcomed by our Children, Families and Support Officers at the National Deaf Children's Society, who work directly with families to support them through the educational planning process.

It would be helpful if paragraph 8.12 highlighted the need to make families aware of their appeal rights and the need for information to meet any communication needs.

In light of paragraphs 8.23 and 9.36, we seek urgent clarification on the affect this may have on the ability of a local authority to provide speech and language therapy through private/subcontracted arrangements where the NHS will not agree to fund this support. Although speech and language therapy traditionally sits within health, it is also widely acknowledged as a service of clear educational benefit.

Paragraphs 8.26 and 11.61 should be clearer in stating that for those under compulsory school age, provision outside of school will not just be “more common”, but regular practice. More broadly, the National Deaf Children’s Society Cymru has reservations about the impact of this paragraph on the provision of specialist equipment outside of a school setting. There is much clear evidence to highlight the importance of utilising technologies such as radio aids both inside and outside of the school environment. However, despite the clear linguistic, social and educational development benefits of enabling children to use such devices outside of the school setting, this is often not permitted due to insurance difficulties. We fear that this paragraph could exacerbate the reluctance of local authorities/schools to allow pupils to use such assistive devices outside of the school setting.

It is important to explicitly state within paragraph 9.10 that a young person’s decision not to consent to having an IDP must be taken only on the basis that the young person has capacity to make this decision and that they have been provided with full information around the IDP and ramifications for not consenting to have one. This is also the case for the flowchart on page 110.

As outlined elsewhere in this response, we are concerned that reference to “differentiated classroom teaching strategies” at paragraph 9.17 could present a grey area in terms of eligibility for an IDP and be open to varied interpretation and a postcode lottery. It is essential to reinforce that any children or young person meeting the definition of ALN under the Act is entitled and eligible for an IDP.

We welcome the acknowledgement of low incidence needs being a flag for a local authority taking responsibility for maintaining an IDP. For low incidence needs such as deafness, it is imperative that specialist services are easily accessed.

The National Deaf Children’s Society Cymru is concerned that paragraph 9.45 could lead to a postcode lottery of support without a national oversight/quality assurance of such localised principles.

The National Deaf Children’s Society Cymru values the input of educational psychologists, but is concerned that paragraph 9.46 places an unnecessary barrier/time delays to referring cases to a local authority.

We believe that paragraph 9.69 should be strengthened; the opportunity for further discussion [should](#) be offered.

Paragraph 10.3 would benefit from explaining what constitutes higher education and what does not. Indeed a lack of clarification on this point has caused difficulties under the new SEN systems in England.

As with other aspects of the Code, paragraph 10.9 could be strengthened with a reference to the law on mental capacity.

Paragraph 10.25 would benefit from a reference to ensuring that information is accessible.

Paragraph 10.30 would benefit from acknowledging that adaptations may also be required within the external work placements of FE students.

The National Deaf Children’s Society welcomes the reference to HI resource bases at paragraph 11.38 and 11.45.

As outlined elsewhere in this response, we are concerned that decisions around only funding specialist FE courses for two years presents inequitable access to education for ALN learners. As such, we are concerned about paragraph 12.19 of the code. Similarly, the reference in this section to a young person's choice needs further clarification. Whilst it cannot be assumed that a learner will be eligible or entitled to a funded specialist placement, it should be assumed that ALN learners are free to choose a course that is of interest to them.

Paragraph 12.46 should place a mandatory responsibility on local authorities.

The Code would benefit from greater clarity around supporting and planning for young people who are returning to education after a break from studying.

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

The National Deaf Children's Society Cymru welcomes moves by the Welsh Government to adopt shorter timeframes for the IDP process. It is important to ensure that learners are able to access support as soon as is feasible. This is key to assisting these vulnerable learners in reaching their full potential.

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?

As outlined in elsewhere in this response, we have significant concerns and would welcome further discussion with the Welsh Government. The suggestion that funding courses for ALN FE learners beyond two years appears to present place these learners are an inequitable disadvantage.

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

The National Deaf Children's Society Cymru welcomes the presence of mandatory content for an IDP. As we highlighted during the scrutiny of the Bill, we feel that outlining mandatory content will assist with transparency, consistency and portability.

We are also pleased that the Welsh Government has taken on board recommendations such as including sections on transitions and communication needs. However, we feel that further improvements are required. In particular:

- There is a need for more specific detail to be outlined on the ALP (i.e. frequency and duration of sessions.)
- There is a need for transport to be listed as part of the IDP, so that whenever travel forms an essential element to a learner accessing identified ALP that is appropriately discussed as part of the IDP process.
- We would urge that the template includes space to record key contact details for relevant professionals.
- The template should highlight the importance of attaching details on assessments and results.

- The National Deaf Children's Society Cymru would also like to take this opportunity to highlight our concerns regarding Annex C. Anecdotally, we have heard that NHS employers feel unable to write anything on the form that they are unable to fund. Health professionals such as audiologists may be able to provide some advice to education staff working with children, but the form does not provide a space for advisory information. It only enables an outline of health ALP that the health board will be able to fund and provide. In addition, should the decision be taken that NHS support is not required for the learner, the form does not provide an opportunity for the health professional to record the reasons for this decision.

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

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

The National Deaf Children's Society Cymru understands that there is written guidance on the form within the Code. However, we are mindful that when routinely completing IDPs, professionals (who are time-pressured) are likely to focus on the template as a guide. For this reason, we consider that it would be helpful to include prompts within the form itself to assist with quality assurance/consistency. It would also be worth clearly stating that the format can be expanded to include more actions/ALP if this is appropriate.

We welcome the references to meeting communication needs, particularly BSL.

We warmly welcome 13.15, which provides important clarification on meeting communication needs.

We also welcome paragraph 13.38, which calls for information within the IDP to be clear and quantifiable and to outline any relevant qualifications of support staff. However, we strongly believe that this paragraph is of such importance that it requires statutory obligation.

The National Deaf Children's Society has reservations around the requirement within paragraph 13.44 having the potential to create unreasonable delays in the production of an IDP.

The National Deaf Children's Society is pleased to see a section on transition. We would suggest that chapter 13 also indicates that this section could be used to help plan for transitions within a setting – for example changing class teachers at the end of a school year.

With regard to section 13.17, reference to the application of the mental capacity act is required.

The importance of considering examination access requirements is such that paragraph 13.73 should contain a statutory obligation.

Transition planning is crucial as each year of a learner's education will see some degree of change, even if that is just moving classrooms. The word "might" within paragraph 13.74 seems to downplay the importance of covering transition within all IDPs.

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

Where a learner has to travel in order to access provision, we believe that transport to reach that provision should be considered part of the ALP. It is essential that discussions around

transport take place within the IDP process and at the same time as discussions around educational placement.

We are concerned that the current guidance is weak in terms of placing duties on local authorities to provide transport. The Code does nothing to rectify this issue. We are disappointed that the Welsh Government has not yet met its commitment to review this guidance, as the Code would benefit from clearer cross referencing. We would urge that the review of learner travel guidance seeks to boost duties on authorities to provide free transport where a learner has to travel to reach appropriate ALN provision.

We believe paragraphs 13.74 - 13.76 must be strengthened to ensure that authorities do provide transport for ALN learners who require it.

We also believe that Annex A would benefit from having a section on transport in order to prompt and assist these discussions where it is relevant/applicable to the case in hand.

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?

The National Deaf Children's Society Cymru welcomes moves by the Welsh Government to adopt shorter timeframes for the IDP process. It is important to ensure that learners are able to access support as soon as is feasible. This is key to assisting these vulnerable learners in reaching their full potential.

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?

As with other areas of the Code, the National Deaf Children's Society Cymru is concerned that the references to impracticability within paragraphs 15.7 and 15.12 could provide an easy scape-goat for not meeting timeframes. We recommend that the Code is strengthened in this regard, making it clear that this must be the exception and not the rule. We would also recommend that quality assurance and monitoring measures are put in place to ensure that timeframes are not routinely exceeded.

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)?

The National Deaf Children's Society has welcomed the development of this role. However, we have concerns around the need to ensure that adequate time is allocated for this role to be fulfilled.

Paragraph 15.53 would benefit from including looking for reoccurring themes within disputes and seeking to address root causes of any such themes.

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

The National Deaf Children's Society Cymru queries whether paragraph 16.15 needs to clarify the feasibility of restating a request an early review if new evidence or the basis for doing so has changed.

With regard to paragraph 16.15, it appears to imply that where a decision is taken by a local authority not to review an IDP, the deadline for the annual review is still refreshed. We understand that resetting the annual review date is relevant where a review is conducted, but it is unfair to do so where a request for a review has not been granted. The learner/their family in this situation is likely to already feel concerned about support and resetting the review date without having a revised plan is likely to add to frustration. Furthermore, resetting a review date for refused early review requests is likely to act as a deterrent to people who have justifiable reasons for doing so. **In light of these points, the National Deaf Children's Society strongly urges that this paragraph is amended so that review dates are not reset where an early request to review an IDP is denied.**

As with other aspects of the Code, we are concerned that the reference to not meeting the relevant period within paragraphs 16.18 and 16.25 due to reasons of impracticability should be made more robust to ensure that this clause is only utilised as a very rare exception in exceptional circumstances.

In addition to the points outlined within 16.21, a review might also be triggered if concerns are raised that ALP currently in place is not appropriately supporting the learner to reach his/her full potential.

As demonstrated during the scrutiny of the Bill, the National Deaf Children's Society Cymru is disappointed with the ability for NHS bodies to easily withdraw IDP support, as outlined in 16.22 and 16.23. However, we understand that this provision has now been passed in law. Nevertheless, we would welcome further information in this section to indicate that where an NHS body requests a review of a plan, it is still imperative to conduct a review and involve the family in this process.

We welcome the inclusion of paragraph 16.35 to help safeguard against collaborative working creating unreasonable delays in accessing support.

We are concerned that there must be more emphasis within this section of the Code on adopting a PCP approach to the process of reviewing an IDP. Families must be involved and not merely notified of an outcome.

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?

The National Deaf Children's Society Cymru welcomes moves by the Welsh Government to adopt shorter timeframes for the IDP process. It is important to ensure that learners are able to access support as soon as is feasible. This is key to assisting these vulnerable learners in reaching their full potential.

As outlined elsewhere in our response, we are keen to ensure that the clause enabling timeframes to be missed due to impracticalities is not over-used/abused. We strongly urge that quality assurance measures are employed in this regard.

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

The National Deaf Children's Society Cymru would welcome a greater emphasis on the importance of person-centred planning and including the families in the process.

We believe paragraph 17.21 should reference the importance of family choice in considering whether ALP should be provided in the medium of Welsh.

It is important that schools are only required to maintain an IDP where it has access to the appropriate expertise to do so. As such, we recommend that the shoulds outlined within paragraph 17.22 become musts. Similarly, we believe that in paragraph 17.33, the local authority must act promptly.

It would be helpful if this chapter referenced the need to inform/notify families of decisions and their rights to appeal/access advocacy support. Such notification must be in a format that meets any communication requirements.

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?

The National Deaf Children's Society Cymru welcomes moves by the Welsh Government to adopt shorter timeframes for the IDP process. It is important to ensure that learners are able to access support as soon as is feasible. This is key to assisting these vulnerable learners in reaching their full potential.

As outlined elsewhere in our response, we are keen to ensure that the clause enabling timeframes to be missed due to impracticalities is not over-used/abused. We strongly urge that quality assurance is employed in this regard.

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

We consider that providing families with notice of a meeting in paragraph 18.12 should be a must.

Being in a room full of professionals may be daunting for some families. It is important that paragraph 18.13 also provides families with the opportunity to reflect on discussions/meetings afterwards.

A reference to meeting communication needs in general would be welcomed in paragraph 18.14.

Paragraph 18.15 should be a must. This should not be "especially the case" where there has been a difference of opinion, but rather that extra time may be required where there has been a difference of opinion.

Paragraph 18.21 should be a should.

Paragraph 18.22 needs to acknowledge the importance of inviting families and advocates/case friends where applicable.

As outlined elsewhere within our response, we believe that a stronger emphasis needs to be placed on transitions and preparing for adulthood/employment. Therefore, we would urge the Welsh Government to strengthen paragraph 18.23 in this regard.

We welcome paragraph 18.33.

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

The National Deaf Children's Society Cymru has grave concerns that this section of the Code is insufficient (and lacking in legal responsibilities) to ensure learners with ALN are effectively supported at these traditionally difficult points in their educational careers.

In particular, deaf young people tell us that they need more tailored careers advice. They tell us that messages around key support such as Access to Work and Disabled Students Allowance are not reaching deaf young people. They also tell us that there remains a need to "myth-bust" around misconceived barriers to employment for deaf young people.

The National Deaf Children's Society is also mindful that the Welsh Government itself has acknowledged the need for more work to improve access to employment for the disabled population in Wales, as has been identified within its recent employability and inclusive apprenticeship plans.

In light of these points, it seems particularly worrying that the Code represents reduced duties from the current code of practice with regards to specialist careers advice and inviting careers advisors to attend reviews. In particular, paragraph 19.54 seems to imply that the vast majority of ALN learners will have their needs met within mainstream careers advice. This paragraph is misleading as it makes the assumption that current careers advice is meeting needs, whereas our conversations with deaf young people tell us that current provision is not sufficiently tailored and specialist.

Similarly, paragraph 19.55 states that it "may be useful to invite a careers advisor to an IDP review meeting with a focus on transitions and preparing for adulthood to discuss the child's or young person's careers options." This is very weak and does not acknowledge the importance of good careers advice for vulnerable ALN learners.

The National Deaf Children's Society Cymru strongly urges the Welsh Government to review the guidance around careers advice within the Code and to put in place statutory requirements. We would be happy to provide assistance/advice in this regard.

In general, we believe that more guidance and detail is required in this section of the Code, with greater distinction around the different types of support required for different transition stages. The section on preparing for adulthood is particularly lacking in detail. Support at transition to independence/adulthood would look quite different from support required at 16. In the English Code of Practice, there is a separate chapter on preparing for adulthood.

A section on moving onto employment would also be welcomed.

Paragraphs 19.9, 19.15 and 19.18 would benefit from giving examples of timeframes.

The importance of ensuring that families have a key point of contact within an FEI should be emphasised within this section of the Code.

We would recommend that paragraph 19.40 also lists “ensuring that new teachers/staff are aware of the learner’s basic support needs and any communication requirements.” This is fundamental to supporting any learning with ALN.

We would recommend adding to paragraph 19.43 the examples of staff training in assistive equipment and adaptations to the classroom environment.

The National Deaf Children’s Society Cymru is unsure as to why the obligation on FEIs to provide applicants with an opportunity to disclose ALN or disability is “should” as opposed to “must”. It is crucial that learners have the opportunity to do so.

The Moving to Higher Education section requires more detail and should emphasise the importance of providing disabled learners with information on Disabled Students Allowance. Deaf young people tell us that there is a lack of awareness about this important support fund.

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

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?

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?

The National Deaf Children’s Society Cymru welcomes that there are statutory responsibilities for IDPs to be transferred. However, we would ask for clarification around learners who may formerly have had an IDP maintained by a school, but now require it to be maintained by the local authority. This may be the case if the child has transferred to a new school which is less able to meet the pupil’s needs without local authority input and support.

The National Deaf Children’s Society Cymru remains unsure of how the IDP planning process will work from a learner perspective where local authorities and FEIs are in dispute around a learner’s placement. While we welcome the clarity around resolving issues with the assistance of Welsh Ministers, further consideration is required to address this issue from the learner perspective.

The National Deaf Children’s Society Cymru also strongly recommends that this section of the Code includes guidance around learners moving either side of the English/Wales border.

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

We would welcome reference within paragraph 21.3 to the need to consider whether failure to provide ALP is likely to result in any ALN worsening or where ongoing support is needed to maintain outcomes. For example, communication support (such as a note taker or interpreter) is an ongoing ALP that is required to maintain equality of access and outcomes.

There is a need for appropriate support to be offered to prepare learners where a young person attains the age of 25 and the IDP ceases. We are pleased that paragraph 21.4 clarifies that, in these circumstances, the IDP will not cease until the end of the academic year where a young person has attained the age of 25. However, there will still be some learners that do not complete their study within this timeframe. Guidance around supporting them would be welcomed.

We are pleased to see the acknowledgement in paragraph 21.7 that some disabilities will mean that an IDP is likely to be required until the learner leaves education or training.

The National Deaf Children's Society Cymru queries why paragraph 21.8 is a **should** as opposed to **must**. Similarly, we query why this is not the case in paragraph 21.11 where the decision to cease to maintain is subject to a review. We would also query the use of **should** as opposed to **must** within paragraph 21.14.

Paragraph 21.10 would benefit from a reference to outcomes and whether the young person is meeting their full potential and ambition.

Paragraphs 21.20-21.21 should be clearer about the fact that, while we would hope issues can be resolved locally, families should be made aware of their right to appeal from the offset.

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

The National Deaf Children's Society Cymru is in support of paragraph 21.18.

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

The National Deaf Children's Society Cymru believes that the role of the ALNCo is essential to the effective implementation of the IDP process. We were, therefore, disappointed that former proposals for ALNCos to undertake a mandatory qualification have been dropped. We believe it is imperative that these individuals undertake basic deaf awareness training.

We are also concerned about capacity for ALNCos to fulfil the role. Anecdotally we have heard from ALNCos that, due to time constraints, they will not be providing all young people currently on School Action/School Action Plus with an IDP. We suggest that a formula is produced to help identify the number of ALNCos required.

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?

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?

We would recommend that paragraph 25.11 also highlights the importance of staff undertaking training on basic awareness for specific ALN types/communication needs, including deafness. Being able to communicate effectively with ALN learners is crucial to the role.

Paragraph 25.23 should also highlight that families must be aware at all times of their right to appeal. In raising concerns at a local level in the first instance, it is important to remain aware of timeframes for lodging an appeal.

Paragraph 25.27 should be strengthened. It is important that families understand the difference between complaints mechanisms and an appeal.

Paragraph 25.31 should be strengthened in relation to emphasising prompt responses through the disagreement process. It is important that families accessing this service are not disadvantaged in terms of running out of time to lodge an appeal if they remain unsatisfied.

As highlighted elsewhere in this response, the National Deaf Children's Society Cymru remains concerned by the dual system of Putting Things Right and Education Tribunal appeal. More guidance is required in this section of the Code to reduce confusion and to safeguard against families being encouraged to pursue Putting Things Right and running out of time to lodge an appeal. The two systems have different legal standing and it is important that families have a clear understanding of the difference.

Aside from the Code, the National Deaf Children's Society Cymru also recommends that Putting Things Right staff and advocates used within this system to undertake ALN training.

The role of the Public Services Ombudsman is very specifically to ensure that procedures and structures have been met. It is not to assess whether or not a decision was the right one. This is not made clear in paragraph 25.49.

Paragraph 25.57 implies that advocacy services are only for when there is a disagreement. This should not be the case. Families should be able to access advocacy support at any point in the IDP process to feel confident in understanding the process and secure in making their voices heard.

It is important that all those relevant to the IDP process are aware of advocacy services. As such we propose that paragraph 25.59 includes a more comprehensive list.

With regard to paragraph 25.61, the National Deaf Children's Society Cymru would also add that local authorities must ensure the advocacy service is monitored for providing a satisfactory service to families.

We warmly welcome the reference to ensuring that advocates are appropriately trained, including in communicating with children and young people with communication difficulties. This is fundamental and we are pleased that the Welsh Government has taken this on board.

We consider that the duty to actively offer advocacy support in paragraph 25.64 should be upgraded to a **must**. It would also be beneficial for the paragraph to outline the relevant points within the IDP process where a family should be informed of advocacy services and how to access them.

In relation to paragraph 25.69, it is important to ensure that if advocates are to be used to provide advocacy under other Acts, they are appropriately trained to fulfil all of these duties.

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

It would be helpful if paragraph 26.21 also stated that where the action has not yet been taken but is proposed, that the NHS Body should outline when that action is to be taken.

The flowchart on page 288 should clarify that where a decision relates to a school and the family is not content, it should be referred to the local authority. It must be clear that should the family remain discontent with reconsideration of a case at a local authority level, they will then be able to lodge an appeal.

We would welcome clear clarification on where information on the varied appeal rights of English resident children attending school in Wales, as referenced at the bottom of page 288, can be found.

The flow chart states that if the issue relates to a decision by an NHS body, the NHS complaints procedures should be followed. However, this is misleading. Support such as speech and language therapy may be supplied by a health body or a local authority, or funded by a local authority but provided by the NHS. Should a NHS body decide not to provide speech and language therapy support, families would have a right to appeal to the Education Tribunal on the basis that the local authority could also be a provider of this support. The National Deaf Children's Society Cymru believes that greater clarification around speech and language therapy is required. We would be happy to work with the Welsh Government in this regard.

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?

The National Deaf Children's Society Cymru believes there should be more information and cross referencing within this chapter to guidance on determining capacity. We appreciate that the current law around mental capacity is being reviewed, but nevertheless wanted to take the opportunity to highlight this point.

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 refer to our notes at the start of this response, which highlights the key points that we would wish the Welsh Government to consider in drawing up the final version of the Code.

The National Deaf Children's Society Cymru understands that the Welsh Government has produced this Code for practitioners and professionals. However, it is also essential that families have access to clear, unbiased information on how the new system and structures will operate. Currently, local authorities provide information on the Statementing process, the quality of which can be very poor. We would like to see national guidance for families developed by the Welsh Government.

The National Deaf Children's Society Cymru believes there is a clear need for appropriate monitoring of key aspects of the IDP process. We would welcome assurances in this regard. It would be helpful if the Code outlined clear reporting duties to assist with such quality assurance.

We would also like to take this opportunity to highlight our concern around restricted funding for specialist further education courses for learners with ALN to two years. This is unfair as many learners with ALN will require additional time to reach their potential. Furthermore, it represents inequality of opportunity as it restricts the ability of FE ALN learners to change their minds and redirect their course of study, or to extend studies where life circumstances have

prevented them from reaching their full potential. We are mindful that there is currently a judicial review around this issue, but wanted to take this opportunity to highlight our concern.

We welcome the duty to keep additional learning provision under review. It is important that such a review looks at support by ALN type. We are pleased to see hearing impairment services listed as a service the local authority might wish to consider, but believe there needs to be more of an emphasis to do so.

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

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?

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

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?

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?

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

53. Is the approach to extensions to timescales 38 (regulation 66 of the draft Education Tribunal regulations) appropriate?-

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

Due to time constraints, the National Deaf Children's Society Cymru has been unable to consider the Education Tribunal regulations in detail. However, we would like to highlight the following points:

- We welcome the emphasis on establishing any communication requirements. Doing so is fundamental to fair and equitable participation in the process. It may also be necessary to do the same for parents/family of the young person. Regulation 13 and 14 currently only specify the need to meet communication requirements of the child or young person.

- Similar to our comments within the Code, regulation 8 around bringing to the "attention of the parties the availability of any alternative procedure for the resolution of the dispute" should also take account of the need to ensure that families are also fully informed of their appeal rights and of any restrictions on timeframes in lodging an appeal.

- We welcome the requirement within regulation 9 for the panel members to have relevant experience of children and young people with ALN and/or disabilities.

- We would suggest more detail around the information that must be reported upon within regulation 65.

- In relation to regulation 68, we are concerned about families incurring costs and would ask that they are appropriately informed of the consequences of actions incurring costs prior to charges being made.

- The National Deaf Children's Society Cymru considers that publication of information from the Education Tribunal should form a core element of quality assurance of the new ALN system. For this reason, we seek clarification on whether regulation 73 enables the Welsh Government to direct particular information be published.

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

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?

As identified earlier within our response, the National Deaf Children's Society Cymru is disappointed that ALNCoS will not be required to complete specialist mandatory training.

We believe that ALNCoS should have training in specific ALN types, including deafness and should be committed to ongoing CPD within the field.

We would recommend that ALNCoS be required to register the role as ALNCo with the EWC (Education Workforce Council).

It is imperative that ALNCoS have sufficient time to fulfil their role and this may require more than one ALNCo for a school or FEI.

In terms of outlining the role and functions of both school and FEI ALNCoS, we would urge that liaising with specialist professionals (such as sensory impaired teachers); ensuring families are aware of their legal rights and how to access advocacy support; and ensuring that the IDP process is operated in a person-centred way, be included within the regulations.

The National Deaf Children's Society Cymru has reservations around the phrase "advising school teachers about differentiated teaching methods appropriate for individual pupils with ALN"; and "supervising and training school learning support workers who work with pupils with ALN." It is important to acknowledge that ALNCoS will often require the assistance of specialist professionals in performing these functions. While the ALNCoS should develop good general knowledge of a range of ALN, they cannot be expected to replace the role of specialist professionals such as teachers of the sensory impaired. This is particularly important in relation to low incidence needs such as deafness. The National Deaf Children's Society Cymru would welcome assurances from the Welsh Government on this point.

We seek clarification as to why the role of the Early Years ALNLO is not also covered within these regulations.

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?

It is important to ensure that the integration of these documents does not result in a loss of mandatory content or a delay to the production of either the IDP or the PEP.

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

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 National Deaf Children's Society Cymru would welcome a greater emphasis within the Code on **family choice** and the Welsh language. The current wording in the code does not emphasise the importance of this when determining whether ALP should be provided in the Welsh or English medium.

We are aware that there are difficulties in securing specialist ALP for deaf learners in the medium of Welsh and, as such, would suggest that a more regular review and consideration of Welsh medium ALP is required by local authorities than the five year term identified within Chapter 5 of the Code.

Respondent Details

Information	
Name	Eleri Griffiths
Organisation (if applicable)	Mudiad Meithrin

Rhan 1 o'r ymgynghoriad: Y fersiwn ddrafft o'r Cod ADY

Pennod 1 - Cyflwyniad

Ystyr 'rhaid', 'ni chaiff', 'caiff', 'dylai' ac 'ni ddylai' yn y Cod ADY

Cwestiwn 1 - Ydy'r esboniad ym mharagraffau 1.10 -1.16 o'r fersiwn ddrafft o'r Cod ADY o ddefnydd ac ystyr y gwahanol dermau rhaid, ni chaiff, caiff, dylai ac ni ddylai yn glir?

Ydy	<input checked="" type="checkbox"/>	Nac ydy	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Rydym yn croesawi eglurder y termau a ddefnyddir.

Amserlenni

Cwestiwn 2 - Ydych chi'n cytuno â'r dull gweithredu cyffredinol mewn perthynas ag amserlenni ar gyfer cydymffurfio â dyletswyddau (hynny yw, gweithredu'n brydlon a, ph'un bynnag, o fewn cyfnod penodol), fel yr eglurir ym mharagraffau 1.31 - 1.32 o'r fersiwn ddrafft o'r Cod ADY?

Ydw	<input type="checkbox"/>	Nac ydw	<input type="checkbox"/>	Ddim yn siŵr	<input checked="" type="checkbox"/>
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Sylwadau cefnogol

Hoffem weld fod plant ifanc iawn sydd angen asesiadau a darpariaeth ddysgu ychwanegol yn cael eu gweld a'u hystyried yn gynt na'r cyfnod 12 wythnos os yn bosibl. Rydym yn cydnabod bod deuddeg wythnos yn amserlen gymharol fyr ar gyfer plant hŷn (a oedd yn gorfod ymgodymu â phroses lawer hirach o dan yr hen god ymarfer).

Fodd bynnag, i blant (a'u teuluoedd) yn y blynyddoedd cynnar, mae hyd yn oed deuddeg wythnos yn amser hir i blentyn fethu cael mynediad i ddarpariaeth chwarae ac addysg oherwydd anghenion cymorth ychwanegol helaeth. Mae hwn i bob pwrpas yn dymor ysgol gyfan y gallai plentyn fod yn colli allan arno – sydd yn amser hir os mai dim ond tri thymor oedd eu cyfnod tebygol mewn lleoliad cyn-ysgol (Dyma sefyllfa rhai plant pan fydd ysgolion yn caniatáu mynediad tymhorol yn dilyn eu pen-blwydd yn 3 oed)

Yng nghyd-destun caffael ail iaith (i rai plant a hoffai fynychu darpariaeth cyfrwng Cymraeg,

a phlant nad yw eu mamiaith yn Saesneg na Chymraeg) mae colli tymor cyfan o drochi iaith yn sylweddol. Gallai hyn eu gosod dan anfantais bellach o gymharu â'u cyfoedion.

Dylid ystyried byrhau'r amserlenni ar gyfer plant o dan oedran ysgol statudol i sicrhau asesiadau cynnar a mynediad prydlon at gymorth ac ymyriadau cynnar pan fo angen. Mae digon o dystiolaeth ryngwladol i gefnogi hyn fel arfer gorau ac er lles y plentyn.

Os nad oes posibilrwydd o ymestyn yr amserlen, dylid ystyried creu system gymorth dros dro sy'n galluogi'r plentyn i barhau (neu ddechrau) ei ddarpariaeth addysg gynnar. Er enghraifft aelod ychwanegol o staff a ariennir ar unwaith os oes angen), tra bod y broses yn mynd rhagddi. Pan fo angen mewnbwn gan wasanaethau iechyd (sydd yn gweithio i amserlenni a thargedau go wahanol) gallai hyn olygu oedi sylweddol cyn bod plentyn yn gallu derbyn gwasanaeth gofal ag addysg gynnar o unrhyw fath. Rhaid sicrhau and yw'r system newydd yn caniatâi hyn.

Cwestiwn 3 - Ydy'r eithriad cyffredinol sy'n gymwys yn achos amserlenni, fel y'i disgrifir ym mharagraffau 1.33-1.35 o'r fersiwn ddrafft o'r Cod ADY, yn briodol?

Ydy	<input type="checkbox"/>	Nac ydy	<input type="checkbox"/>	Ddim yn siŵr	<input checked="" type="checkbox"/>
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Sylwadau cefnogol

Nid lle Mudiad Meithrin yw gwneud sylwadau am oblygiadau 'yn brydlon' i blant sydd yn nesu at ddiwedd eu haddysg orfodol neu bobl ifanc sydd yn dilyn cyrsiau byr. Serch hynny rydym o'r farn y gellid defnyddio'r cysyniad o ddarparu CDU yn brydlon neu ar frys o ateb y gofid ynglŷn â 12 wythnos fel cyfnod amser i blant 0-3 oed. Awgrymwn y gellid eu henwi fel grŵp penodol o blant ble mae gweithredu prydlon yn hollbwysig.

O safbwynt yr 'eithriadau' sydd wedi eu gosod allan yn 1.35 hoffem weld datganiad yma yn nodi and yw diffyg gwasanaeth Cymraeg neu heriau cyfieithu yn gallu bod yn rheswm digonol i gael eithriad i'r disgwyliadau amser. Rydym yn ymwybodol iawn bod prinder arbenigwyr sydd yn medri'r Gymraeg a phrinder asesiadau safonol yn y Gymraeg. Rhaid i Lywodraeth Cymru fynd i'r afael a'r materion yma o'r cychwyn cyntaf er mwyn sicrhau bod cydraddoldeb rhwng profiadau plant sydd yn siarad Cymraeg (neu am ddysgu drwy'r Gymraeg) a'r rheiny sydd yn cael ei asesu, eu cefnogi a'u haddysgu trwy gyfrwng y Saesneg yn bennaf.

Strwythur y fersiwn ddrafft o'r Cod ADY

Cwestiwn 4 - Ydy strwythur y fersiwn ddrafft o'r Cod ADY a'r modd mae'r Penodau wedi'u rhannu yn briodol, yn glir ac yn hawdd ei ddeall?

Ydy	<input type="checkbox"/>	Nac ydy	<input checked="" type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Gwerthfawrogwn y gwaith manwl sydd wedi ei wneud er mwyn cynhyrchu'r cod draft hwn. Yn anffodus wrth geisio cyflwyno cynnwys y cod hwn i ymarferwyr gofal plant yn y blynyddoedd cynnar, cafwyd llawer o sylwadau yn nodi ei fod yn anodd ei ddarllen, fod yr ieithwedd yn rhy gymhleth, a bod y brawddegau yn hir ac anodd eu dilyn. Ofnwn y bydd rhaid cael dogfennau pellach i egluro cynnwys y cod hwn i ymarferwyr

gwahanol. Tybiwn nad dyna oedd y bwriad, ond ar hyn o bryd nid yw'n ddigon dealladwy i ymarferydd bicio at y rhannau sydd yn berthnasol iddynt hwy. Mae yna faterion perthnasol i'r blynyddoedd cynnar (sy'n gweithio yn Gymraeg) trwy'r ddogfen gyfan. Mae ein Tîm Polisi wedi bod yn myfyrio dros y cynnwys ers wythnosau er mwyn ceisio ei ddeall yn llawn. Ni fydd gan weithwyr addysg a gofal cynnar nac athrawon mewn ysgolion amser i wneud hyn.

Mae'r ymdrech i wahaniaethau rhwng yr hyn sydd rhaid ei wneud a rhai materion sydd yn darllen fel arferion da hefyd yn cymhlethu natur a phwrpas y cod. Deallwn nad cod ymarfer ydyw hwn i fod ac eto mae yna ddetholiad o arferion gorau yn ymddangos ymhlith materion sydd yn orfodol.

Mae hyn yn gwneud y Cod yn anodd ei ddadansoddi. Cyfeiriwn at enghreifftiau o dan rai o'r cwestiynau arall.

Penodau

O safbwynt y penodau, nodwn fod y rhan fwyaf o'r materion ynglŷn â phlant 3 oed yn ymddangos ym mhennod 3. Nid yw hi'n amlwg o'r 'Cynnwys' fod y wybodaeth am gyngor a gwybodaeth sydd yn berthnasol i'r blynyddoedd cynnar yn ymddangos ym mhennod 7 ac NID ym mhennod 6.

Rydym o'r farn fod cyfle wedi ei golli yma i addysgu ag atgoffa pobl o'i goblygiadau eisoes o dan Ddeddf Cydraddoldeb 2010. Synwn and oes eglurhad manwl yma am y Ddeddf a sut mae'r ddeddf yn sail gyfreithiol i'r ddeddf hon yn ogystal â Chonfensiynau'r Cenhedloedd Unedig. Dylid cynnwys hyn yn sicr.

Cwestiwn 5 - Ydy ffocws y fersiwn ddrafft o'r Cod ADY ar ddisgrifio ac egluro'r swyddogaethau a phrosesau yn briodol?

Ydy	<input type="checkbox"/>	Nac ydy	✓	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

O safbwynt siaradwyr Cymraeg mae'r wybodaeth a gynhwysir yn annigonol. Nid yw'n eglur chwaith i'r gweithiwr proffesiynol sut y dylent fynd ati i asesu, diwallu a darparu gwasanaethau yn Gymraeg. Nid yw'r materion hyn wedi ei nodi o dan y wybodaeth am swyddogaethau'r Prif Gydlynnydd ADY y Blynyddoedd Cynnar nac ychwaith ym mhennod 11.

Byddai'n ddefnyddiol gosod pennod ddynodedig ar gyfer delio gyda darparu gwasanaethau Cymraeg a dwyieithog.

Nid yw'r eglur i'r teuluoedd pa hawliau sydd ganddynt i dderbyn gwasanaethau Cymraeg. Nid oes chwaith unrhyw eglurhad o beth yw'r 'camau rhesymol' y dylai Awdurdodau Lleol eu cymryd i ddarparu gwasanaeth yn Gymraeg os ydyw wedi ei nodi mewn CDU. Hefyd nid oes eglurhad o beth fyddai'r broses dylai plant / teuluoedd eu dilyn os ydynt am herio diffyg Darpariaeth Ddysgu Ychwanegol yn Gymraeg, neu ddiffyg asesiad yn yr iaith Gymraeg.

Nid yw chwaith yn eglur o'r Cod hwn sut dylai'r Awdurdod Lleol fynd ati i benderfynu os oes angen CDU yn Gymraeg, oes angen asesiad i fod yn Gymraeg / Saesneg / yn y ddwy iaith neu mewn iaith arall. Mae angen llawer mwy o ganllawiau a manylion i gyd-fynd gyda'r dyletswyddau ieithyddol a osodir yn y Ddeddf.

Dylai fod eglurhad yma o sut a phryd gall unigolyn dderbyn gwasanaethau eirioli yn Gymraeg. Nid yw hyn yn ymddangos o gwbl ar hyn o bryd yn y Cod drafft.

Pennod 1 – Sylwadau Ychwanegol Mudiad Meithrin

1.5 Nid yw Mudiad Meithrin yn deall y rhesymeg dros enwi lleoliadau addysg feithrin nas cynhelir, a gyllidir gan Awdurdod Lleol fel mudiadau sydd angen rhoi sylw i'r Cod Drafft.

Mae lleoliadau blynyddoedd cynnar fel meithrinfeydd a chylchoedd meithrin yn derbyn arian awdurdodau lleol at bwrpasau fel Dechrau'n Deg a'r Cynnig 30 awr. Oni ddylai'r rhain hefyd felly fod a disgwyliad i "roi sylw" i'r Cod hwn? Mae'n wir eu bod oll wedi eu henwi a'u cydnabod yma yn rhannol:

1.60 Mae Penodau 7, 8, 13, 14, 15 ac 19 yn rhoi canllawiau sy'n berthnasol i ddarparwyr addysg feithrin nas cynhelir a gyllidir gan awdurdodau lleol.

1.61 Efallai y bydd y rhannau hyn o'r Cod yn berthnasol i ddarparwyr addysg a gofal plant cyn-ysgol eraill nas cynhelir hefyd.

Nid ydy'r cymalau hyn yn egluro a fydd disgwyliadau sydd ar Leoliad Nas Cynhelir a Gyllidir i ddarparu Addysg 3 oed yn wahanol i'r disgwyliadau a fydd ar Leoliad Nas Cynhelir a Gyllidir i ddarparu gofal 3 oed. Yn lle ceir defnydd o air amwys sef 'efallai'.

Mae angen eglurder ynglŷn â'r disgwyliadau fydd ar Leoliadau Nas Cynhelir. Yn aml iawn dyma ble mae'r gofidiau ynglŷn ag arafwch datblygiad mewn plant ifanc yn codi gyntaf. Byddai'n ddefnyddiol cydnabod y dyletswyddau presennol sydd arnynt o dan reoleiddiadau gofal plant.

O dan Reoliadau Gwarchod Plant a Gofal Dydd (Cymru) (Diwygio) 2016 mae disgwyliadau cyfreithiol trylwyr eisoes yn bodoli i sicrhau bod lleoliadau sydd wedi eu cofrestru i ddarparu gofal plant yn asesu anghenion unigol gan gynnwys anghenion addysgiadol ac anabledau. Maent yn gorfod dangos eu gallu i ddiwallu anghenion y plentyn; bod y camau priodol yn cael eu cymryd pan nodir anghenion arbennig, ac yr hyrwyddir lles a datblygiad y plentyn mewn partneriaeth â'r rhieni a phobl berthnasol eraill. Rhaid iddynt hefyd bod y **Cod Ymarfer cyfredol** ar gyfer Anghenion Addysgol Arbennig (neu Anghenion Dysgu Ychwanegol) ar gyfer Cymru yn cael ei ddilyn. Gwelir manylion pellach yn Safonau Gofynnol Cenedlaethol.

TERMAU

Mae'n bwysig bod terminoleg gyson yn cael ei ddefnyddio trwy gydol y Cod. Ar hyn o bryd defnyddir y termau:

- meithrinfeydd nas cynhelir (*non-maintained nurseries*)
- darparwyr gofal plant ac addysg feithrin nas cynhelir (*providers of childcare and non-maintained nursery education*)

Mae'r rhan fwyaf o'r lleoliadau nas cynhelir ond cyllidir a gefnogir gan Mudiad Meithrin yn Gylchoedd Meithrin yn hytrach nag yn feithrinfeydd. Mae yna nifer fach o feithrinfeydd yn darparu addysg 3 oed, ond nid yw Cylch Meithrin a Meithrinfa'r un fath a'i gilydd.

YMARFERWYR ADDYSGU (t 13)

Mae Mudiad Meithrin am dynnu sylw at y ffaith nad yw'r cymal 1.65 yn addas at ddibenion ymarferwyr addysgu ADY sydd yn gweithio yn y sector nas cynhelir. Dylid rhoi eglurhad yma bod manylion ynglŷn a datblygiad broffesiynol i ymarferwyr addysg yn y sector nas cynhelir i'w weld ym mhennod 8.

Unedau Cyfeirio Disgyblion - Rheoliadau arfaethedig i'w gwneud o dan Baragraff 15 o Atodlen 1 i Ddeddf Addysg 1996

Cwestiwn 6 - Ydych chi'n cytuno â'r cynnig i ddefnyddio rheoliadau i ddirprwyo swyddogaethau o awdurdod lleol i Bwyllgor Rheoli Uned Cyfeirio Disgyblion?

Ydw	<input type="checkbox"/>	Nac ydw	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

DIM SYLW

Pennod 2 – Egwyddorion y Cod

Cwestiwn 7 - Ai'r egwyddorion a nodir ym Mhennod 2 y fersiwn ddrafft o'r Cod ADY yw'r rhai cywir?

Ie	<input checked="" type="checkbox"/>	Na	<input checked="" type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Cytunwn gyda'r egwyddorion ond hoffem weld yr egwyddor ynglŷn â dwyieithrwydd yn cael ei gryfhau. Dylai'r egwyddor (e) System ddwyieithog ddatgan bod gan blant a'u teuluoedd hawl i dderbyn pob agwedd o'r gwasanaeth trwy gyfrwng y Gymraeg (nid y ddarpariaeth ddysgu ychwanegol yn unig fel nodir nawr) Hynny yw:

- Cyfarfodydd gyda'r Awdurdod Lleol, yr ysgol, neu'r gwasanaethau iechyd perthnasol
- Aseidiadau gan swyddogion proffesiynol
- Darpariaeth ddysgu ychwanegol

Nid yw hi'n ddigonol i roi cyfeiriad at safonau'r Gymraeg yma gyda'r gosodiad "*pob cam rhesymol....gan ganiatâi ar gyfer cynyddu DDhY drwy'r Gymraeg dros amser*"

Dydy hyn ddim yn rhoi canllaw clir i weithwyr nac i deuluoedd, ac mae'n tansilio'r egwyddor trwy osod amodau arno.

Hawliau Plant, Pobl Ifanc a phobl Anabl

2.5 Dylai rhoi sylw i ddewis ieithyddol y rhiant neu'r plentyn gael e osod fel un o'r dyletswyddau mae'n rhaid ei harddel yn y rhestr yma.

2.7 Mae Mudiad Meithrin wedi ystyried yr adnoddau ychwanegol sydd yn cael ei chyfeirio ato fel adnoddau sydd yn cefnogi ymarferwyr i fabwysiadu arferion sydd yn canolbwyntio ar yr unigolyn. Nid yw'r geiriau / termau 'Cymraeg', 'y Gymraeg', 'dwyieithrwydd', 'iaith y cartref' yn ymddangos o gwbl yn y dogfennau hyn. Felly rhaid casglu and ydynt yn ddigonol ar gyfer sicrhau bod arferion sy'n canolbwyntio ar yr unigolion yn barchus o'u dewisiadau

ieithyddol yn y man cyntaf.

Gwybodaeth a chyngor, eiriolaeth a chyfeillion achos

Cytunwn gyda'r egwyddor yma a dylai pob agwedd o hyn fod ar gael yn Gymraeg.

System ddwyieithog

2.24 Nid ydy'r ddyletswydd i

“ystyried a ddylid cyflwyno DDdY i'r plentyn....drwy'r Gymraeg”

yn ddigonol heb gyfarwyddyd pellach am sut dylid mynd ati i ystyried hyn.

Mae angen cynnwys cyfarwyddyd i gynnal cyfarfodydd yn y Gymraeg, i asesu anghenion yn y Gymraeg ac i lunio'r CDU yn y Gymraeg yn ogystal â darparu'r DDdY.

2.25 Dylid cynnwys llawer mwy o gyfarwyddyd ar sut gellir mynd ati i gyflawni'r dyletswyddau a osodir yma gan ein bod yn gwybod bod hyn yn faes sydd yn peri heriau i lawer o awdurdodau lleol a gwasanaethau ieuchyd.

Byddai cynnwys gwybodaeth bellach am yr hyn y bydd Gweinidogion Cymru yn ei wneud ar ôl cyhoeddi adroddiadau digonolrwydd pob 5 mlynedd yn ddefnyddiol. Dylai fod camau gweithredu yn cael eu trefnu i unioni sefyllfaoedd annigonol.

Pennod 3 – Cynnwys a chefnogi plant, eu rhieni a phobl ifanc

Cwestiwn 8 - Ydy'r esboniad o'r dyletswyddau'n ymwneud â chynnwys a chefnogi plant, eu rhieni a phobl ifanc a roddir ym Mhennod 3 y fersiwn ddrafft o'r Cod ADY yn briodol?

Ydy	<input type="checkbox"/>	Nac ydy	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Gellid egluro goblygiadau Deddf Cydraddoldeb 2010 yma yn ogystal â'r dyletswyddau i arddel CCUHP a'r CCUHPA.

Cytunwn gyda'r hyn sydd wedi ei roi yn y Cod o dan 3.1-3.9 Mae angen bod yn ofalus i gydnabod bod gallu plant yn y blynyddoedd cynnar i gymryd rhan lawn a mynegi safbwynt clir ynglŷn â phenderfyniadau yn gyfyng. Gallant gyfranogi wrth gwrs, ond gyda'r blynyddoedd cynnar mae parchu hawliau'r plentyn i gyfathrebu yn ddibynnol ar sgiliau arsylwi rhagorol, a hwyluso medrus gan ymarferwyr proffesiynol.

Croesawn y wybodaeth am gynnwys a chefnogi rhieni (3.22 - 3.32). Byddai'n braf gweld cyfeiriad penodol at sefyllfa rhieni sydd yn darganfod am y tro cyntaf y gallai fod ADY gan eu plant. Mae'r arwyddion hyn yn aml yn dechrau amlygu eu hunain cyn bod plant yn cyrraedd oed ysgol statudol felly mae angen dealltwriaeth dda ar weithwyr sydd yn trafod hyn gyda rhieni am y tro cyntaf. Mae ymarferwyr gofal plant yn adrodd mae dyma'r sefyllfaoedd mwyaf anodd mae'n rhaid iddyn nhw ddelio â hwy.

Pennod 4 - Dyletswyddau ar awdurdodau lleol a chyrrff y GIG i roi sylw i Gonfensiwn y Cenhedloedd Unedig ar Hawliau'r Plentyn a Chonfensiwn y Cenhedloedd Unedig ar Hawliau Pobl ag Anableddau

Cwestiwn 9 - Ydy Pennod 4 o'r fersiwn ddrafft o'r Cod ADY yn glir am y disgwyliadau ar awdurdodau lleol a chyrrff y GIG wrth gyflawni eu dyletswyddau i roi sylw dyledus i Gonfensiwn y Cenhedloedd Unedig ar Hawliau'r Plentyn a Chonfensiwn y Cenhedloedd Unedig ar Hawliau Pobl ag Anableddau?

Ydy	<input checked="" type="checkbox"/>	Nac ydy	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Credwn dylid hefyd amlinellu dyletswyddau o dan y ddeddf cydraddoldeb yma neu greu pennod atodol.

Pennod 5 – Dyletswydd i gadw llygad ar ddarpariaeth ddysgu ychwanegol (ALP)

Cwestiwn 10 - Ydy'r canllawiau a roddir ym Mhennod 5 y fersiwn ddrafft o'r Cod ADY mewn perthynas â'r dyletswyddau i gadw llygad ar ddarpariaeth ddysgu ychwanegol yn briodol?

Ydyn	<input type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input checked="" type="checkbox"/>
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Sylwadau cefnogol

5.3 - Da gweld y bydd rhaid i Awdurdodau Lleol ystyried digonolrwydd y DDdY a gyflwynir yn Gymraeg a maint a gallu'r gweithlu sydd ar gael (5.4).

Mae gan Mudiad Meithrin amheuaeth ydy 5.5 yn ddigon uchelgeisiol search hynny a bod perygl na wnaiff arwain at y cynllunio ieithyddol ar gyfer y gweithlu sydd ei angen yn y maes.

Tra ein bod yn croesawi'r defnydd o'r ferf RHAID yn y frawddeg

Os bydd Awdurdod Lleol o'r farn and yw trefniadau lleol yn ddigonol, rhaid iddo gymryd pob cam rhesymol i unioni'r sefyllfa.

Gan and ydy'r Cod wedi diffinio "pob cam rhesymol" gallai hyn fod yn annigonol. Felly hoffem ni weld canllawiau pellach ar ystyr POB CAM RHESYMOL yn rhan o'r Cod hwn.

5.6 Mae angen mwy na chyhoeddi a rhannu canfyddiadau adolygiadau gyda Gweinidogion Cymru. Mae angen mwy o fanylder yma am beth y bydd yn digwydd o ganlyniad i hyn.

5.9 Tra'i fod yn dda bod awdurdodau lleol yn gorfod cymryd camau i unioni sefyllfaoedd o ddarpariaeth annigonol, nid yw'r gallu i wneud hyn bob amser o fewn eu cyrraedd. Bydd angen cynllunio ar lefel genedlaethol mewn partneriaeth gyda chyrrff fel Prifysgolion, Colegau Addysg bellach, y Coleg Cymraeg i sicrhau fod cyrsiau hyfforddiant addas ar gael i uwch sgilio a chymhwyso gweithlu addas.

5.8 - 5.17 Synnwn and oes unrhyw gyfrifoldebau wedi eu gosod ar Lywodraeth Cymru i arwain y gwaith yn genedlaethol o ymchwilio i safon gwasanaethau i blant ag ADY. Wrth gwrs bydd y wybodaeth yma i gyd yn ddefnyddiol i Awdurdodau Lleol, ond gan eu bod hwythau hefyd yn ddarparwyr gwasanaeth nid oes modd iddynt wneud ymchwiliadau diduedd ar eu gwasanaethau eu hunain. A phe bai adolygiadau o'r fath yn casglu fod gwendidau ar ran yr Awdurdod Lleol ei hun beth fyddai wedyn yn digwydd i'r canfyddiadau hynny?

Mae Mudiad Meithrin o'r farn y dylai adolygu effeithiolrwydd y system ADY yng Nghymru fod o dan law Llywodraeth Cymru mewn cydweithrediad gyda chyrrff rheoleiddio perthnasol.

O adael natur a chynnwys yr adolygiad yn weddol ben agored trwy ddefnydd o'r ferf "gallai" yn hytrach na "rhaid" (5.17) mae tebygrwydd y gwelwn wahaniaethau yn datblygu rhwng awdurdodau lleol a fydd yn ei gwneud yn anoddach i sicrhau safonau cyson ar draws Cymru.

5.25 Dylai awdurdodau lleol a'u partneriaid o fewn cyrrff GIG ystyried gweithio gyda meysydd eraill i ddatblygu trefniadau rhanbarthol ar gyfer cefnogi plant a phobl ifanc ag ADY. Gallai'r trefniadau rhanbarthol ymwneud ag unrhyw un o'r gweithgareddau strategol uchod neu â phob un ohonynt

Mae defnydd o'r term 'ystyried' yn y frawddeg uchod yn tanseilio'r bwriad o osod 'Dylai' fel y cyfarwyddyd yma. Os mae dim ond 'ystyried' rhaid iddynt wneud ni fydd unrhyw orfodaeth i gydweithio a goresgyn heriau. Bydd cydweithio strategol yn hanfodol i weithredu'r gwelliannau sydd eu hangen.

Pennod 6 – Cyngor a gwybodaeth

Cwestiwn 11 - Ydy'r canllawiau a roddir ym Mhennod 6 y fersiwn ddrafft o'r Cod ADY mewn perthynas â gwneud trefniadau i roi cyngor a gwybodaeth am ADY a'r system ADY yn briodol?

Ydyn	<input type="checkbox"/>	Nac ydyn	<input checked="" type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Mae'n briodol bod yr Awdurdod Lleol yn darparu gwybodaeth a chyngor ar lefel sylfaenol a chyffredinol. Weithiau pan fydd angen cyngor arbenigol neu pan fydd anghytundeb rhwng teulu a'r darparwr gwasanaeth ni nid yr Awdurdod Lleol fyddai'r corff mwyaf addas i ddarparu cyngor. Y rheswm am hyn yw eu bod fel darparwyr gwasanaethau ddim yn gallu bod yn ddiduedd.

6.6 Nid yw cyngor a gwybodaeth yn neu hanfod yn wasanaethau diduedd. Mae'r wybodaeth a rennir wedi ei ddethol gan y rheiny sydd yn cynnig y wybodaeth. Os yw'r corff sydd yn cynnig y wybodaeth yn gwybod er enghraifft nad oes gwasanaethau asesu iaith a llefaredd Cymraeg ar gael yn eu hardal nhw, ni fyddant yn darparu gwybodaeth a chyngor am asesiadau trwy gyfrwng y Gymraeg. Byddai corff annibynol and oedd yn gyfrifol am y gwasanaethau yn debygol o gynghori cleientiaid am eu hawliau i wasanaethau yn hytrach na'i llywio tuag at y gwasanaethau sydd yn digwydd bod ar gael yn lleol.

6.6Mae'n bwysig eu cyflwyno mewn ffordd ddiduedd gan mai pwrpas eu darparu yw ei gwneud yn haws i blant, eu rhieni a phobl ifanc ddeall y system ac arfer

eu hawliau o dani, gan gynnwys herio penderfyniadau.

Mae'n afrealistig i ddisgwyl i ysgol; awdurdod lleol neu wasanaeth iechyd ddarparu gwybodaeth a chyngor diduedd i alluogi plant / teuluoedd i herio penderfyniadau a wnaethpwyd ganddyn nhw eu hunain!

6.17 Nid yw gwefannau Awdurdodau Lleol yn safleoedd hawdd i gasglu a dod o hyd i wybodaeth. Pan mae Mudiad Meithrin yn chwilio am wybodaeth ynglŷn â ble i gyfeirio plant gydag ADY ar hyn o bryd, mae hi yn anodd dros ben canfod gwybodaeth berthnasol. Gofidiwn and yw hyn yn ffordd effeithiol i ddarparu gwybodaeth i'r cyhoedd. Oherwydd hyn hoffai Mudiad weld y gair 'ystyried' yn cael ei dynnu allan o gymal 6.16 fel bod gorfodaeth ar Awdurdodau Lleol i ddsbarthu posteru a thafleuni yn y gymuned hefyd.

Pennod 7 – Y diffiniad o ADY a DDdY, nodi ADY a phenderfynu ar y DDdY sydd ei hangen

Cwestiwn 12 - Ydy'r esboniad hwn o ADY a roddir ym mharagraffau 7.4 – 7.32 y fersiwn ddrafft o'r Cod ADY yn glir?

Ydy	<input type="checkbox"/>	Nac ydy	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Mae geiriad y ddeddf a'r diffiniad o ADY yn peri heriau wrth ystyried plant o dan oedran ysgol statudol. Mae'n gosod diffiniad sydd yn ddibynnol ar allu i ragweld sut y bydd plentyn erbyn eu bod yn bump oed, er efallai mai dwy neu dair oed ydynt ar y pwynt mae ein hymarferwyr ni yn dod ar eu traws! Rydym yn cydnabod mae dyna sydd yn y ddeddf ac and oes modd newid hyn.

Nid yw 7.13 yn cynnig unrhyw wybodaeth bellach o'r diffiniad yn y ddeddf felly gellid ei dynnu oddi yma.

7.14 Mae'r term darpariaeth addysgol o *unrhyw fath* yn achosi dryswch wrth geisio cyflwyno hyn i ymarferwyr gofal plant. Nid ydy'r sector addysg a gofal blynyddoedd cynnar yn gyfarwydd â defnydd o'r term addysg i ddisgrifio darpariaeth tu allan i system addysg ffurfiol. Mi fydd tipyn o waith codi ymwybyddiaeth o ystyr mwy holistig 'addysg' a welir yma. Gellid ystyried gosod y term gofal neu ddatblygiad yn gyfochrog ag 'addysg' er mwyn egluro'r cysyniad yn well.

7.16 Gall DDdY i'r rheini o dan dair oed fod ar sawl ffurf, ee gwaith grŵp neu gymorth unigol - lle mae'n ddarpariaeth addysgol o unrhyw fath. Gallai hyn gynnwys darpariaeth addysgol ar ffurf grwpiau mam a'i phlentyn, darpariaeth addysgol o fewn Dechrau'n Deg neu gymorth iechyd, corfforol, cyfathrebu neu synhwyrdd arbenigol. Gall hyn ddigwydd o fewn lleoliad addysg neu yn rhywle arall

Pe bai modd ail eirio'r frawddeg uchod byddai'n haws i bobl ddeall yr ystyr. Er enghraifft: *Gall DDdY i'r rheiny o dan dair oed fod ar sawl ffurf, ee Gwaith grŵp neu gymorth unigol - lle mae'n ddarpariaeth sydd yn cefnogi datblygiad y plentyn. Gallai hyn gynnwys darpariaeth ffurf grwpiau arbenigol rhiant a phlentyn, darpariaeth o fewn Dechrau'n Deg neu gymorth iechyd, corfforol, cyfathrebu neu synhwyrdd arbenigol. Gall hyn ddigwydd o fewn lleoliad addysg neu yn rhywle arall.*

Teimlwn fod y cyfeiriad presennol ar grwpiau mam a'i phlentyn yn amhriodol a ddim yn cydnabod egwyddorion cydraddoldeb. Hefyd wrth ystyried y bydd y plant sydd yn derbyn y DDdY wedi cael eu cyfeirio am asesiad mae'n debygol bod gan y plant anghenion amlwg. Trwy son am grwpiau arbenigol gellir cydnabod natur addysgiadol sydd yn y grwpiau hyn e.e. grwpiau bwydo o'r fron, grwpiau rhieni plant awtistaidd ac ati. Nid oes angen gosod y term 'addysgiadol o fewn Dechrau'n Deg' yn ein barn ni. Bydd hyn yn arwain at ymdrechion diangen i ddiffinio ymyraethau addysgiadol! Gan ddibynnu ar anghenion y plentyn gallai pob math o grwpiau fod yn cefnogi datblygiad y plentyn fel sesiynau dysgu coginio i riant, yoga babi, cylch meithrin, grwpiau canu ac ati.

Cwestiynwn pa mor ddoeth yw cyfeirio yn benodol at Dechrau'n Deg. Gwyddom fod cynlluniau dros y ddwy flynedd ddiwethaf wedi gweld ffynhonnell ariannol Dechrau'n Deg yn cael eu cyfuno gyda chynlluniau grant eraill. Fel unrhyw raglen grant wrth y llywodraeth dim gwarant i bara ond mor hir â chylchdro gwleidyddol sydd yn bosibl.

Mater arall sydd yn anodd o safbwynt cynnwys cyfeiriad at Dechrau'n Deg yn benodol yw bod y gwasanaethau hynny ddim o fewn cyrraedd y mwyafrif o'r boblogaeth. Efallai buasai'n saffach newid yr iaith i rywbeth mwy cyffredinol fel gwasanaethau arbenigol y blynyddoedd cynnar.

7.36 -7.26

Buasai Mudiad Meithrin yn disgwyl gweld canllawiau mwy cadarn yma wedi ei seilio ar dystiolaeth broffesiynol (yn hytrach na datganiadau arwynebol fel 'mae angen bod yn ofalus' a dylid ystyried a oes problem fwy). Byddai gwirio canllawiau Coleg Brenhinol Iaith a Llefaredd Cymru ar gyfer defnydd yn y cyd-destun hwn yn ddefnyddiol. Byddai hyn yn rhoi arweiniad ar lawr gwlad i'r rheiny sydd yn ceisio gwahaniaethu rhwng ADY a dysgwr sydd yn araf yn caffael ail neu drydedd iaith.

Cwestiwn 13 - Ydy Pennod 7 y fersiwn ddrafft o'r Cod ADY yn rhoi esboniad clir a chynhwysfawr o'r dystiolaeth a ddylai fod yn sail i benderfyniadau am ADY a DDdY, o ba ffynonellau y gellid coladu'r dystiolaeth hon, a sut y dylid ei hystyried?

Ydy	<input type="checkbox"/>	Nac ydy	<input type="checkbox"/>	Ddim yn siŵr	<input checked="" type="checkbox"/>
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Sylwadau cefnogol

7.34 Mae'r rhestr hon yn ddefnyddiol ac addas i'r blynyddoedd cynnar yn ein barn ni.

7.37-7.38 Mae rhai darparwyr addysg a gofal plant wedi dweud wrth Mudiad meithrin eu bod o'r farn ei bod yn anodd adnabod ADY trwy ddefnydd y Proffil y Cyfnod Sylfaen. Mae hwn yn declyn sydd yn debygol o gael ei ddisodli gyda chyflwyno'r cwricwlwm cenhadaeth i Gymru. Yn y rhestr o systemau arsylwi mae son am holiaduron graddfa a phroffion safonedig. Gwnaed y pwynt eisoes and ydy'r rhain ar gael yn y Gymraeg wedi eu safoni gan amlaf. Bydd angen gwaith datblygu i gyd fynd a datblygiad y cod hwn er mwyn sicrhau bod teclynnau ac offer addas ar gael yn Gymraeg yn ogystal â Saesneg.

Penodau 8 i 12 – Dyletswyddau ar ysgolion, SAB ac awdurdodau lleol

Swyddog Arweiniol ADY y Blynyddoedd Cynnar

Cwestiwn 14 - Ydy'r canllawiau ar rôl, profiad ac arbenigedd y Swyddog Arweiniol ADY Blynyddoedd Cynnar a nodir ym mharagraffau 8.40 - 8.47 y fersiwn ddrafft o'r Cod ADY yn briodol ar gyfer cyflawni'r amcanion (bod y rôl yn strategol a bod gan y cyfryw swyddogion y profiad a'r arbenigedd priodol i fodloni disgwyliadau'r rôl)?

Ydyn	<input type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input checked="" type="checkbox"/>
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Sylwadau cefnogol

Sylwadau Pennod 5

8.22 Mae angen canllawiau mwy manwl i helpu awdurdodau lleol i wybod sut i benderfynu os ddylai plentyn dderbyn DDdY yn Gymraeg.

8.40 - 8.47 Mae Mudiad Meithrin o'r farn bod angen i'r Swyddog Arweiniol ADY y Blynyddoedd Cynnar fod yn gallu siarad Cymraeg. Mae darparu gwasanaethau yn Gymraeg yn rhan mor greiddiol i'r Cod, byddai'n niweidiol i'r egwyddor hon i beidio bod ar allu i gyflawni'r swydd ar lefel strategol ag ymarferol trwy gyfrwng y Gymraeg yn ogystal â'r Saesneg.

Cytunwn gyda'r gofynion i gyd. Yn unig fater sydd yn codi cwestiwn i Mudiad meithrin yn wyneb y ffaith fod hon yn swydd ac iddi gymaint o gyfrifoldebau ydy:
Capasiti un person i ddelio gyda chymaint o faterion. Dylid ystyried gosod rhyw fath o fformiwla fesul 1,000 o blant fel bod awdurdodau mwy o faint yn ariannu mwy nag un o'r swyddi hyn o bosibl.

Pryderwn y bydd y rôl yn llawer gormod i un unigolyn, yn arbennig yn Siroedd mwy poblog Cymru.

Dyletswyddau ar ysgolion, SAB ac awdurdodau lleol

Cwestiwn 15 - Ydy strwythur a chynnwys Penodau 8 i 12 y fersiwn ddrafft o'r Cod ADY yn glir?

Ydyn	<input type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Mae'r Cod Anghenion Dysgu Ychwanegol Drafft yn nodi dyletswydd Awdurdodau Lleol i ffafrio addysg prif ffrwd a gynhelir. Gan fod y disgrifiad hwn mewn adran sydd yn benodol ar gyfer plant o dan oedran ysgol orfodol, byddai cael eglurhad pellach i ddiffinio beth mae hyn yn ei olygu mewn perthynas â phlant cyn-ysgol yn ddefnyddiol. Mae diffiniadau a defnydd terminoleg gofal ac addysg yn fwy aneglur yn y blynyddoedd cynnar felly mae angen cysondeb i blant cyn yr oedran addysg orfodol.

Fel y nodwyd eisoes, dylai'r arweiniad sy'n ymwneud â gwasanaethau Cymraeg 8.22 fod yn fwy manwl a dylid nodi sut i gynnal gwasanaethau Cymraeg ag hawliau rhieni a phlant i dderbyn gwasanaethau yn Gymraeg.

Cwestiwn 16 - Ydy'r amserlenni ar gyfer penderfyniadau gan ysgolion, SAB ac awdurdodau lleol ar ADY a pharatoi CDU fel y'u nodir ym Mhenodau 8-12 yn briodol?

Ydyn	<input type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Mae amserlenni'n bwysig ac mae'n hanfodol bod cynlluniau'n cael eu rhoi ar waith cyn gynted â phosibl i geisio sicrhau cyn lleied o darfu â phosibl ar y plentyn a'i addysg. Mae'r amserlenni yma yn ymddangos yn gam i'r cyfeiriad cywir.

Mae 12 wythnos serch hynny yn amser hir i blant bach a'u teuluoedd i orfod aros, mewn achosion lle mai Awdurdodau Lleol yw'r corff cyfrifol. Ein cwestiwn mwyaf ydy beth fyddai'n digwydd yn ystod y cyfnod hwn pe na bai lleoliad blynyddoedd cynnar yn gallu darparu cefnogaeth addas i'r plentyn - a fyddai'n rhaid ei atal dros dro neu a fyddai ei oriau yn y lleoliad yn cael eu lleihau? Ni fyddai hyn yn dderbyniol ym marn Mudiad Meithrin.

8.15 Hoffai Mudiad Meithrin weld mwy o bwyslais ar lais y rhiant (ar gyfer y blynyddoedd cynnar). Nid yw defnydd o'r gair 'cynnwys' yn ddigon cryf. Dylai'r rhiant (fel y plentyn ei hun pan yn hyn) fod yn bartner yn y broses o wneud penderfyniadau yn hytrach na bod yn rhywun sydd ar gyron proses wedi ei yrru gan bobl broffesiynol.

8.22 Nodwn yr un sylwadau ynglŷn â diffyg manylder am sut i weithredu'r canllaw hyn. Beth yw gwir ystyr "Rhaid ystyried"? Ar gais pwy? Ar ba sail gellid gwrthod?

8.26 Nid yw'r frawddeg olaf yn berthnasol i blant 0-3 oed. Mae sefyllfa'r plentyn 3 oed sydd yn gymwys i dderbyn addysg yn berthnasol yma a gresynwn yn fawr i weld gorfodaeth i leoli plentyn mewn ysgol cyn unrhyw ddarpariaeth arall os oes modd. Ydy hyn yn golygu ysgol neu leoliad nas cynhelir ond cyllidir? Dylid bod yn eglur am hyn. Hefyd ofnwn am oblygiadau hyn oherwydd yn aml, yn enwedig yn y blynyddoedd cynnar, nid ysgol yw'r lle gorau i'r plenty sydd ag ADY bob tro. Os yw plentyn eisoes yn derbyn gofal mewn lleoliad gofal plant nas cynhelir ac mae'n hapus ac wedi setlo gyda staff a ffrindiau, gall cael eu gorfodi i symud lleoliad (oherwydd y Cod Drafft hwn) fod yn andwyol i'w ddatblygiad.

Swyddog Arweiniol ADY y Blynyddoedd Cynnar

Rydym o'r farn y dylid fod gan y Swyddog Arweiniol y gallu i gynghori, gweithredu a chynllunio gwasanaethau cyfrwng Cymraeg. Dylai'r rhain fod yn sgiliau hanfodol ar gyfer y swydd hon. Rydym hefyd o'r farn y bydd heriau yn codi oherwydd capasiti un person i gyflawni pob agwedd o'r swyddogaeth yma.

Penderfynu a yw'n 'angenrheidiol' i awdurdod lleol baratoi a chynnal CDU ar gyfer person ifanc nad yw mewn ysgol a gynhelir neu SAB- Proposed regulations to be made under Adran 46 o Ddeddf 2018

Cwestiwn 17 - Ydy'r gofynion a chanllawiau arfaethedig ym mharagraffau 12.22 – 12.51 y fersiwn ddrafft o'r Cod ADY ynghylch pryd mae'n angenrheidiol i awdurdod lleol gynnal CDU ar gyfer person ifanc nad yw mewn ysgol neu SAB yng Nghymru yn briodol?

Ydyn	<input type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Nid yw'n berthnasol i Mudiad Meithrin ymateb am hyn.

Pennod 13 – Cynnwys CDU

Cwestiwn 18 - Ydy elfennau cynnwys gorfodol CDU sy'n ofynnol o dan y Cod ADY yn briodol?

Ydyn	<input checked="" type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Cwestiwn 19 - Ydy'r ffurflen safonol orfodol sydd mewn golwg ar gyfer CDU (wedi'i chynnwys yn Atodiad A y fersiwn ddrafft o'r Cod ADY) yn briodol?

Ydy	<input checked="" type="checkbox"/>	Nac ydy	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Cwestiwn 20 - Ydy'r canllawiau ym Mhennod 13 y fersiwn ddrafft o'r Cod ADY yn glir?

Ydyn	<input type="checkbox"/>	Nac ydyn	<input checked="" type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Nid does eglurhad o'r term 'galluedd' a sut y dehonglir ac asesir hyn.

Nid ydym o'r farn fod paragraff 13.30 yn addas at blant yn y blynyddoedd cynnar

Nid yw'r canllawiau a ddyfynnir yn 13.32 yn addas ar gyfer y sector nas cynhelir ond cyllidir, nac at blant bach, erf od y teitl yn awgrymu ei fod ar ein cyfer.

Cludiant

Cwestiwn 21 - Ydy'r canllawiau ar gludiant ym mharagraffau 13.74 - 13.76 y fersiwn ddrafft o'r Cod ADY yn briodol?

Ydyn	<input type="checkbox"/>	Nac ydyn	<input checked="" type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Mae angen ystyried trefniadau trafndiaeth i gefnogi CDU yma gan gynnwys mynediad i leoliad gofal plant neu leoliad nas cynhelir ond cyllidir.

Pennod 15 – Dyletswyddau ar gyrff iechyd a phersonau perthnasol eraill

Ceisiadau statudol gan awdurdodau lleol i bersonau perthnasol am wybodaeth neu help arall - Proposed regulations to be made under Adran 65(5) o Ddeddf 2018

Cwestiwn 22 - Ydy'r amserlen a'r eithriadau sydd mewn golwg yn achos personau perthnasol yn cydymffurfio â chais awdurdod lleol am wybodaeth neu help arall (o dan Adran 65 Deddf 2018) yn briodol?

Ydyn	<input type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Nid ydym yn gallu ateb ar ran Cyrff eraill

DDdY i'w sicrhau gan gyrff y GIG - Proposed regulations to be made under Adran 21(10) o Ddeddf 2018

Cwestiwn 23 - Ydy'r cyfnod a'r eithriad arfaethedig y mae'n rhaid i gorff y GIG hysbysu eraill am ganlyniad atgyfeiriad iddo (o dan Adran 20 o Ddeddf 2018) i nodi a oes triniaeth neu wasanaeth perthnasol yn briodol?

Ydyn	<input type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Nid ydym yn gallu ateb ar ran Cyrff eraill

Y Swyddog Arweiniol Clinigol Dynodedig Addysg ("SACDA")

Cwestiwn 24 - Ydy'r canllawiau ar rôl, profiad ac arbenigedd y SACDA a nodir ym mharagraffau 15.37 – 15.53 y fersiwn ddrafft o'r Cod ADY yn briodol ar gyfer cyflawni'r amcanion (bod y rôl yn un strategol a bod gan swyddogion o'r fath brofiad ac arbenigedd priodol)?

Ydyn	<input type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Nid ydym yn gallu ateb ar ran Cyrff eraill

Adrannau 15.48 – 15.50

Ein dealltwriaeth ni ydy bydd dwy system gwyno yn cyd redeg i ddelio gydag anghydfod. Mae perygl y bydd hyn anodd i rieni a phlant i ddeall. Mae pryderon ganddom fod materion yn ymwneud a'r iaith Gymraeg mewn perygl o gwmpo rhwng dwy system a fyddai yn gwanhau a tansellio hawliau ieithyddol siaradwyr Cymraeg i dderbyn gwasanaethau, hyd yn oed pan eu bod wedi eu nodi mewn CDU.

Pennod 16 – Adolygu a diwygio CDU

Cwestiwn 25 - Ydy cynnwys a strwythur Pennod 16 y fersiwn ddrafft o'r Cod ADY yn glir?

Ydyn	<input type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Er fod y cynnwys a'r strwythur yn weddol glir rydym yn synnlu nad oes cyfeiriad yma o gwbl i'r arfer dda o benodi gweithwyr allweddol i weithio gyda theuluoedd. Hefyd nid oes unrhyw gyfeiriad at geisio sicrhau cysondeb mewn staff sydd yn gweithio gyda theuluoedd er mwyn lleihau ar faint asiantaethau a gweithwyr proffesiynol mae'n rhaid iddynt ddelio a hwy.

Cwestiwn 26 - Ydy'r cyfnod a'r eithriad arfaethedig ar gyfer cwblhau adolygiadau mewn ymateb i gais gan blentyn, ei riant, person ifanc neu gorff y GIG (a nodir ym mharagraff 16.18 y fersiwn ddrafft o'r Cod ADY) yn briodol?

Ydyn	<input checked="" type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Pennod 17 – Ailystyriaethau awdurdod lleol ac ysgwyddo cyfrifoldeb am CDU

Cwestiwn 27 - Ydy cynnwys a strwythur Pennod 17 y fersiwn ddrafft o'r Cod ADY yn glir?

Ydyn	<input checked="" type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Cwestiwn 28 - Ydy'r cyfnod a'r eithriad arfaethedig ar gyfer awdurdod lleol sy'n ailystyried CDU ysgol (a nodir ym mharagraff 17.20 y fersiwn ddrafft o'r Cod ADY) yn briodol?

Ydyn	<input type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input checked="" type="checkbox"/>
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Sylwadau cefnogol

Pennod 18 – Cyfarfodydd am ADY a CDU

Cwestiwn 29 - Ydy'r egwyddorion a'r canllawiau a roddir ym Mhennod 18 y fersiwn ddrafft o'r Cod ADY ar gyfarfodydd am ADY a CDU yn briodol?

Ydyn	<input type="checkbox"/>	Nac ydyn	<input checked="" type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Mae manylder y canllawiau yn y bennod yma yn fanwl dros ben, bron yn rhy fanwl mewn gwirionedd o'i gymharu gyda phenodau blaenorol lle nad oes digon o fanylder. (e.e. sut i ddiwallu anghenion ieithyddol plant a'u teuluoedd)

18.11 Dylai'r paragraff yma fod yn RHAID nid DYLAID

18.13 – 18.16 Dylai'r dyletswyddau hyn fod yn orfodol RHAID nid DYLAID

Pennod 19 – Cynllunio a chefnogi pontio

Cwestiwn 30 - Ydy'r canllawiau ym Mhennod 19 y fersiwn ddrafft o'r Cod ADY ar gynorthwyo plant a phobl ifanc gyda phontio effeithiol yn briodol?

Ydyn	<input checked="" type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

19.1 Mae angen diwygio hwn gymryd ystyriaeth o'r ffaith bod plant o dan 3 a 4 oed yn mynychu lleoliadau gofal ac addysg gynnar. Dylid cyfeirio atynt.

19.4 Awgrymwn newid y rhestr hon i:

- Lleoliadau Blynyddoedd Cynnar a Gofal Plant
- Lleoliadau addysg nas cynhelir
- Ysgol Gynradd
- Ysgol Uwchradd
- Addysg ôl-16
- Addysg ôl-19
- Lleoliadau addysg arbennig a phrif ffrwd

Bydd hyn yn sicrhau cydraddoldeb i blant sy'n cael eu trosglwyddo mewn lleoliadau gofal plant a lleoliadau nas cynhelir wrth wahaniaethu rhwng lleoliadau yn y blynyddoedd cynnar sy'n darparu gofal plant neu addysg (neu'r ddau).

19.16 Dylid defnyddio'r rhestr uchod am yr un rhesymau a nodwyd eisoes.

Mae'r pwynt bwled yn nodi bod addysg orfodol (Blwyddyn 1) Mae addysg orfodol yng Nghymru o'r tymor ysgol yn dilyn pen-blwydd y plentyn yn bump oed, sydd fel arfer o fewn y flwyddyn Derbyn. Byddem yn awgrymu:

- i'r ddarpariaeth Blynyddoedd Cynnar a Gofal Plant
- i addysg feithrin (mewn darpariaeth a gynhelir neu ddarpariaeth nas cynhelir)
- i addysg orfodol (o'r tymor ysgol yn dilyn pen-blwydd y plentyn yn bump oed)
- o'r cyfnod sylfaen i gyfnod allweddol 2 (o Flwyddyn 2 i Flwyddyn 3)
- o gyfnod allweddol 3 i gyfnod allweddol 4 (Blwyddyn 9 i 10)
- i addysg ôl-16 (Blwyddyn 11 i 12)
- o addysg orfodol i fyw'n annibynnol.

Mae trawsnewidiadau yn ystyriaeth bwysig wrth gynllunio gofal plant sy'n sensitif i anghenion emosiynol babanod, plant ifanc, a phlant ag anghenion dysgu ychwanegol. Gan fod nifer o raglenni a mentrau yn cael eu gweinyddu ar wahân, mae perygl y gall plant agored i niwed, gan gynnwys y rhai ag ADY, fynd drwy nifer o drawsnewidiadau rhwng

gwahanol ddarparwyr gofal plant yn eu blynyddoedd cynnar. Ein hargymhelliad ni fyddai rhoi dewis i rieni a galluogi plant i gael mynediad at ofal plant ac addysg gynnar a ariennir lle maent eisoes wedi setlo. Dylai bod amod bod y lleoliad wedi'i gofrestru ac yn gallu bodloni'r gofynion ansawdd perthnasol.

Pennod 20 – Trosglwyddo CDU

Cwestiwn 31 - Ydy cynnwys a strwythur Pennod 20 y fersiwn ddrafft o'r Cod ADY yn glir?

Ydyn	<input type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Dim Ateb

Trosglwyddo CDU - Proposed regulations to be made under Adran 36(3) o Ddeddf 2018 ac Adran 37 o Ddeddf 2018

Cwestiwn 32 - Ydy'r gofynion y bwriedir eu cynnwys mewn rheoliadau i drosglwyddo CDU i SAB (fel y'u disgrifir ym mharagraffau 20.12 - 20.17 y fersiwn ddrafft o'r Cod ADY) yn briodol?

Ydyn	<input type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Dim Ateb

Cwestiwn 33 - Ydy'r trefniadau y bwriedir eu cynnwys yn y rheoliadau mewn perthynas â'r holl achosion eraill o drosglwyddo (fel y'u disgrifir ym mharagraffau 20.18– 20.21 y fersiwn ddrafft o'r Cod ADY) yn briodol?

Ydyn	<input type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Dim Ateb

Pennod 21 – Rhoi'r gorau i gynnal CDU

Cwestiwn 34 - Ydy cynnwys a strwythur Pennod 21 y fersiwn ddrafft o'r Cod ADY yn glir?

Ydyn	<input type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Dim Ymateb

Cwestiwn 35 - Ydy'r cyfnod o amser ar gyfer gwneud cais am ail ystyriaeth (a ddisgrifir yn 21.18 y fersiwn ddrafft o'r Cod ADY) yn briodol?

Ydy	<input type="checkbox"/>	Nac ydy	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Dim Ymateb

Pennod 22 – Plant a phobl ifanc sy'n destun gorchmynion cadw

Cwestiwn 36 - Ydy cynnwys a strwythur Pennod 22 y fersiwn ddrafft o'r Cod ADY yn glir?

Ydyn	<input type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Dim Ymateb

Cwestiwn 37 - Ydy'r cynigion ar gyfer y rheoliadau mewn perthynas â phenderfynu a fydd hi'n angenrheidiol cynnal CDU ar gyfer plentyn neu berson ifanc dan gadwad pan fydd yn cael ei ryddhau yn briodol?

Ydyn	<input type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Dim Ymateb

Cwestiwn 38 - Ydy'r cynigion ar gyfer y rheoliadau mewn perthynas â phlant neu bobl ifanc sy'n destun gorchymyn cadw a dan gadwad mewn ysbyty o dan Ran 3 o Ddeddf Iechyd Meddwl 1983 (fel y disgrifir ym mharagraffau 22.45 – 22.74 y fersiwn ddrafft o'r Cod ADY) yn briodol?

Ydyn	<input type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Dim Ymateb

Cwestiwn 39 - Ydy'r gofynion o ran amserlenni ar gyfer gweithredu'n "brydlon" mewn perthynas â phenderfyniadau am ADY a pharatoi CDU ar gyfer plant a phobl ifanc sy'n destun gorchmynion cadw (fel y nodir ym Mhennod 22) yn briodol, yn hytrach na chael gofyniad hefyd i gydymffurfio o fewn cyfnod penodol yn amodol ar eithriad neu eithriadau?

Ydyn	<input type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Ydy o fewn rheswm. Bydd angen rhyw fath o safon tu ôl i hyn fel nad oes camddefnydd o'r cysyniad yn digwydd.

Pennod 23 – Plant a phobl ifanc o dan amgylchiadau penodol

Cwestiwn 40 - Ydy'r canllawiau ym Mhennod 23 y fersiwn ddrafft o'r Cod ADY ar blant a phobl ifanc o dan amgylchiadau penodol yn briodol?

Ydyn	<input type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Pennod 24 – Rôl y Cydlynnydd Anghenion Dysgu Ychwanegol

Cwestiwn 41 - Ydy'r wybodaeth a nodir ym Mhennod 24 y fersiwn ddrafft o'r Cod ADY am rôl a chyfrifoldebau'r Cydlynnydd ADY yn briodol?

Ydy	<input type="checkbox"/>	Nac ydy	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Pennod 25 – Osgoi a datrys anghydfodau

Cwestiwn 42 - Ydy'r gofynion a osodir ym Mhennod 25 y fersiwn ddrafft o'r Cod ADY ar awdurdodau lleol mewn perthynas â threfniadau i osgoi a datrys anghydfod yn briodol?

Ydyn	<input type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Nid oes unrhyw hawliau i eiriolaeth cyfrwng Cymraeg yn yr adran hon sy'n syndod. (25.55)
Ni all rhieni gael gafael ar eiriolwyr eu hunain pan fydd eu plant yn rhy ifanc i fynegi eu barn eu hunain.
Mae disgwyl i Awdurdodau Lleol roi trefniadau ar waith ar gyfer osgoi a datrys Anghydfodau. Yn wyneb y ffaith y bydd llawer o'r anghydfodau yn ymwneud ag agweddau ar eu gwasanaethau eu hunain, ni fydd hyn yn darparu llwybr diduedd o gefnogaeth ar gyfer datrys anghydfodau. Nid yw'n briodol i Awdurdodau Lleol gyflogi eu gweithwyr datrys anghydfod eu hunain a disgwyl y gallant fod yn ddiuedd mewn mater sy'n ymwneud â'u cyflogwyr.

Oni bai bod y Cod yn nodi y dylai'r gwasanaeth gael ei ddarparu gan drydydd parti, bydd yn amhosibl anrhydeddu'r egwyddorion a nodir yn adran 25.34 - 25.36.

Cwestiwn 43 - Ydy'r gofynion a osodir ym Mhennod 25 y fersiwn ddrafft o'r Cod ADY ar awdurdodau lleol mewn perthynas â darparu gwasanaethau eirioli annibynnol yn briodol?

Ydyn	<input type="checkbox"/>	Nac ydyn	✓	Ddim yn siŵr	✓
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Sylwadau cefnogol

Ein dealltwriaeth ni ydyw nad oes hawl gan rieni i gael eriolwyr ar ran eu plant (pan mae'r plant yn rhy fach i ofyn am y gwasanaeth hwn)

Pennod 26 – Apelau a cheisiadau i'r Tribiwnlys

Cwestiwn 44 - Ydy'r wybodaeth am apeliadau a'r broses apeliadau a nodir ym Mhennod 26 y fersiwn ddrafft o'r Cod ADY yn briodol?

Ydy	<input type="checkbox"/>	Nac ydy	<input checked="" type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Ar hyn o bryd mae'r Cod yn nodi y gellir gwneud apeliadau am:

- y ddarpariaeth ddysgu ychwanegol mewn CDU, neu'r ffaith nad yw'r ddarpariaeth ddysgu ychwanegol mewn CDU, gan gynnwys a yw'r cynllun yn nodi y dylid darparu DDdY yn Gymraeg;
- dylai fod yn bosibl apelio hefyd pan fydd y CDU yn nodi y dylai'r ddarpariaeth ddysgu ychwanegol fod yn Gymraeg ond nad yw'r ddarpariaeth wedi'i darparu yn Gymraeg

Pennod 27 – Cyfeillion achos ar gyfer plant â diffyg galluedd

Cwestiwn 45 - Ydy'r wybodaeth am gyfeillion achos, yn cynnwys y dyletswyddau ar y Tribiwnlys i benodi a dileu ffrindiau achos, yn cael ei hegluro'n glir ym Mhennod 27 y fersiwn ddrafft o'r Cod ADY?

Ydy	<input checked="" type="checkbox"/>	Nac ydy	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Unrhyw sylwadau eraill

Cwestiwn 46 - Rhowch unrhyw sylwadau eraill yr hoffech eu gwneud ar y fersiwn ddrafft o'r Cod ADY. Os yw'ch sylwadau'n ymwneud â phennod neu baragraff penodol yn y fersiwn ddrafft o'r Cod ADY, nodwch hynny yn eich ymateb

Sylwadau cefnogol

Mae ieithwedd y ddogfen yn hirwyntog ac anodd ei deal ar brydiau. Mae darllen bron cyn waethed â darn o ddeddfwriaeth gynradd, Ceir enghreifftiau di-ri o baragraffau hir allai fod wedi cael eu crynhoi i ddwy frawddeg.

Byddai defnydd o siartiau lliw a hysbysluniau yn helpu'r darllenwr. Byddai crynhoi gwybodaeth fesul pennod sydd yn cyd fynd gyda chyfnod bywyd y plentyn yn eu gwneud yn haws o bosibl i weithiwr i weld beth yw eu cyfrifoldebau.

Rhan 2 yr ymgynghoriad: Rheoliadau Tribiwnlys Addysg Cymru drafft

Yr hyn rydym yn ei gynnig

Cwestiwn 47 - At ei gilydd, ydy'r rheoliadau Tribiwnlys Addysg drafft yn darparu prosesau a gweithdrefnau clir ar gyfer apelau a hawliadau i'r Tribiwnlys Addysg?

Ydyn	<input type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Cwestiwn 48 - At ei gilydd, a fydd y prosesau a'r gweithdrefnau a amlinellir yn y rheoliadau Tribiwnlys Addysg drafft yn galluogi'r Tribiwnlys Addysg i ymdrin ag achosion yn deg ac yn gyfiawn?

Bydd	<input type="checkbox"/>	Na fydd	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Cwestiwn 49 - Ydy'r broses arfaethedig ar gyfer datganiadau achos (rheoliadau 12-21 y rheoliadau Tribiwnlys Addysg drafft) yn briodol?

Ydy	<input type="checkbox"/>	Nac ydy	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Cwestiwn 50 - Ydy'r amserlenni arfaethedig ar gyfer pob parti yn y broses datganiadau achos (rheoliadau 12-21 y rheoliadau Tribiwnlys Addysg drafft) yn rhesymol?

Ydyn	<input type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Cwestiwn 51 - Ydy'r amserlen lle mae'n rhaid i gyrrff y GIG adrodd i'r Tribiwnlys Addysg o fewn 6 wythnos i argymhelliad (rheoliad 65 o'r rheoliadau Tribiwnlys Addysg drafft) yn briodol?

Ydy	<input type="checkbox"/>	Nac ydy	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

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Cwestiwn 52 - Ydy'r amserlenni ar gyfer cydymffurfio â gorchmynion y Tribiwnlys Addysg yn briodol?

Ydyn	<input type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

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Cwestiwn 53 - Ydy'r dull gweithredu mewn perthynas ag amserlenni (rheoliad 66 y rheoliadau Tribiwnlys Addysg drafft) yn briodol?

Ydy	<input type="checkbox"/>	Nac ydy	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

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Cwestiwn 54 - Ydy'r rheoliadau arfaethedig yn ymwneud â chyfeillion achos (rheoliadau Tribiwnlys Addysg drafft 64 i 68) yn briodol?

Ydyn	<input type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

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Rhan 3 yr ymgynghoriad: Fersiwn ddrafft o'r Rheoliadau Cydlynnydd ADY

Cwestiwn 55 - Ydy'r cymwysterau rhagnodedig i fod yn Gydlynnydd ADY a nodir yn y rheoliadau Cydlynnydd ADY drafft yn briodol?

Ydyn	<input type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

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Cwestiwn 56 - Ydych chi'n cytuno â'r tasgau y mae'n rhaid i Gydlynwyr ADY eu cyflawni neu drefnu i gael eu cyflawni yn y rheoliadau Cydlynnydd ADY drafft?

Ydw	<input type="checkbox"/>	Nac ydw	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

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Rhan 4 yr ymgynghoriad: Plant sy'n derbyn gofal

(a) Rheoliadau arfaethedig i'w gwneud

Cwestiwn 57 - Ydych chi'n cytuno y dylai rôl Cydgysylltydd Addysg Plant sy'n Derbyn Gofal fod yn rôl statudol?

Ydw	<input type="checkbox"/>	Nac ydw	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

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(b) Pennod 14 y fersiwn ddrafft o'r Cod ADY – Cynnwys CDU ar gyfer plentyn sy'n derbyn gofal

Cwestiwn 58 - Ydych chi'n cytuno y dylai fod ffurflen safonol ar wahân ar gyfer plant sy'n derbyn gofal ac Ydy'r ffurflen safonol arfaethedig, ynghyd â'r canllawiau a'r gofynion sy'n gysylltiedig â hi, yn briodol?

Ydw/Ydy	<input type="checkbox"/>	Nac ydw/ Nac ydy	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

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(c) Diwygiadau arfaethedig i'r Cod Rhan 6

Cwestiwn 59 - Ydy'r diwygiadau drafft i'r Cod Rhan 6 yn rhoi esboniad clir o'r dyletswyddau ar awdurdodau lleol mewn perthynas â'u swyddogaethau gwasanaethau cymdeithasol ar gyfer plant sy'n derbyn gofal sydd ag ADY a beth mae'r dyletswyddau hyn yn ei olygu yn ymarferol?

Ydyn	<input type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

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Cwestiwn 60 - Yn gyffredinol, ydych chi'n cytuno â'r dull a ddefnyddir yn y fersiwn ddrafft o'r Cod Rhan 6 diwygiedig i egluro'r newidiadau deddfwriaethol, yn cynnwys integreiddio cynlluniau addysg personol a CDU a chynnwys gorfodol cynlluniau addysg personol? Ydy'r gofynion a'r disgwyliadau a'r hyn maent yn ei olygu yn ymarferol yn cael eu hesbonio'n glir?

Ydw/Ydyn	<input type="checkbox"/>	Nac ydw/ Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Cwestiwn 61 - Ydy'r newidiadau sydd wedi eu gwneud i'r cod Rhan 6 yn egluro rôl y Cydgysylltydd Addysg Plant sy'n Derbyn Gofal yn glir o ran goruchwyllo'r trefniadau ADY ar gyfer plant sy'n derbyn gofal a beth mae hyn yn ei olygu'n ymarferol?

Ydyn	<input type="checkbox"/>	Nac ydyn	<input type="checkbox"/>	Ddim yn siŵr	<input type="checkbox"/>
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Sylwadau cefnogol

Rhan 5 o'r ymgynghoriad: Effaith cynigion

Effaith rheoliadau arfaethedig

Cwestiwn 62 - Pa effaith ydych chi'n rhagweld o ganlyniad i'r rheoliadau arfaethedig?

Sylwadau cefnogol

Effaith ar y Gymraeg

Cwestiwn 63 - Pa effaith y byddai'r cynigion yn y fersiwn ddrafft o'r Cod ADY a'r rheoliadau arfaethedig yn ei chael ar y Gymraeg yn eich barn chi?

Sylwadau cefnogol

Mae'n debygol o hyrwyddo datblygiad mwy o ddarpariaeth Gymraeg i blant ag ADY. Os gwneir gwaith cynllunio gofalus a chyda chefnogaeth yr holl gyrff perthnasol, dylai fod cynnydd mewn arbenigeddau sy'n gallu gweithio trwy gyfrwng y Gymraeg ac felly cynnydd yn nifer y plant sy'n gallu cael mynediad i ddarpariaeth addas yn yr iaith briodol iddynt

Cwestiwn 64 - Sut ydych chi'n credu y gellid llunio neu newid y cynigion yn y fersiwn ddrafft o'r Cod ADY a'r rheoliadau arfaethedig er mwyn:

- iii) cael effaith gadarnhaol neu fwy o effaith gadarnhaol ar gyfleoedd i bobl ddefnyddio'r Gymraeg a sicrhau nad yw'r Gymraeg yn cael ei thrin yn llai ffafriol na'r Saesneg?;
- iv) sicrhau nad oes effaith andwyol ar gyfleoedd i bobl ddefnyddio'r Gymraeg ac ar sicrhau nad yw'r Gymraeg yn cael ei thrin yn llai ffafriol na'r Saesneg?

Sylwadau cefnogol

- i) Byddai cryfhau'r ddyletswydd i gynllunio ar gyfer mwy o gapasiti cyfrwng Cymraeg mewn arbenigeddau perthnasol, o dan arweiniad Llywodraeth Cymru, yn fuddiol ac i blant ag ADY yng Nghymru
- ii) Byddai sicrhau bod methiant i ddarparu gwasanaethau yn Gymraeg yn sail i apelio i dribiwnlys yn cynyddu'r tebygolrwydd o gynllunio sgiliau iaith yn ddigonol
- iii) Gallai fod mwy o gyfleoedd ar gael ar gyfer gwella sgiliau a dysgu iaith i ateb y galw am wasanaethau

Cwestiwn 65 – Rydym wedi gofyn nifer o gwestiynau penodol. Os oes unrhyw faterion cysylltiedig nad ydym wedi cyfeirio'n benodol atynt, nodwch nhw fan hyn.

Respondent Details

Information	
Name	James Donaldson
Organisation (if applicable)	Cardiff and Vale College

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

Any wording around said command verbs needs to give clarity over the specific action, which it is seeking to do. Examples of the case law, whether in the code or an addendum around how these words have been interested would help providers and practitioners.

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

Any nationally mandated set time frame, whilst important to ensure delay does not defeat any equity in securing the most appropriate support, the proposed timeframes may be difficult given that learners may only attend an FE provider for an academic year, which equates to 35 teaching 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 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

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. Post 16 is interleaved amongst the chapters, would it be appropriate for a post 16 section?

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

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

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

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

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

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

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

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

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Chapter 6 - Advice and information

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

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

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

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

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

7.3 and 7.6: Definition of ALN - 'significant greater difficulty' - is there a universal understanding of this? The understanding of 'significant greater difficulty' may be different from person to person, organisation to organisation, service to service. Issues may arise on what people/services agree is a significant greater difficulty.

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.

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

7.7 ii: Does the learning difficulty or disability call for ALP? - There are a percentage of learners whose needs can be met through a vocational curriculum offered at a FEI which would mean they do not require ALP and in effect, an IDP should not be maintained for them. Families often have to 'fight' for their child or young person to be recognised as needing ALP while at school – this may cause a capacity issue when the FEI is having to maintain IDP's for learners that do not require them to meet the demands of the family.

7.64: Specialist Services – the Majority of FEI's don't have direct access or a service level agreement with the LA to access specialists. Time taken to find, and access services may impact on learner progress when they're sometimes only enrolled for one year. Reliability on external services and their own time frames may impact on putting in place appropriate interventions/ALP as well as commissioning budgets to procedure specialist support.

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

Early Years ALN Lead Officer

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

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

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Duties on schools, FEIs and local authorities

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

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

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

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

10.23: IDP – The FEI must make the decision on ALN, prepare the plan and give a copy of it promptly and in any event within the period of 35 term time days from the young person consenting to the decision being made - Does the FEI have the capacity to reasonably do this within 35 term time days? How appropriate is it to register a student with ALN in such a short timeframe if despite having attended school regularly there has been no previous identification?

If the FEI needs to access specialist services whose timescales are greater than this, what action and decision should the FEI make and should they provide interim ALP?

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

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

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

12.22: What is a 'realistic prospect' and 'reasonable time period' - The outcomes for learners with ALN will sometimes be holistic in nature – does this match the needs and objectives for the FEI? Learners with ALN often take longer to learn and reach their full potential – what is a reasonable time period regarding this? How will the FEI fund extended placements for learners with ALN who require longer than their non-disabled peers to achieve their intended outcomes? Will FEI's be under pressure to take learners on by the LA? Can FEI's place learners on alternative curriculums and still achieve main qualifications and access funding for this?

12.27: Reasonable period - "this reflects the general position that provision at mainstream FEI's usually span no more than two academic years". - As above and, is this accurate? Some mainstream learners have been studying for up to 4 years at the FEI if they complete level 1, 2 and 3.

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

Transport

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

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

Chapter 15 – Duties on health bodies and other relevant persons

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

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

Yes	<input type="checkbox"/>	No	<input 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 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 checked="" type="checkbox"/>
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Supporting comments

16.7: Impact on staff resources when planning reviews - FEI's do not yet know the full impact on staff resources will be when undertaking reviews of IDP's. This includes the ALNCo's, Transition and Review Officer's, support staff, teaching staff and specialist tutors.

16.11: The FEI should talk to the young person and/or their parent regularly in order to discuss their progress with them - Some FEI's do not have a formal process to do this. School's generally have greater contact with learners with ALN and their parents – historically, this is not always replicated in the FEI. There needs to be a consistent approach in relation to learners with an IDP and guidance available for this.

16.12: Review period – an IDP must be reviewed before the end of each review period - Most annual

reviews happen during the first term in schools – it may be difficult for FEI's to schedule, plan and prepare for a full scale person-centred review at this time of the year. Smaller-scale reviews may be more manageable. If a school undertakes an annual review in September, the FEI would be in the position of having to undertake a review for a learner who may have just enrolled in the FEI (in effect and interim review), which would seem unproductive and potentially doubling the costings as another review at the end of the academic year may be required.

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

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

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

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

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

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Chapter 18 - Meetings about ALN and IDPs

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

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

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Chapter 19 – Planning for and supporting transition

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

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

19.56: FEI staff should be invited to Year 10 and 11 reviews - This should be a must if the school is unsure on the learner's next steps or they have shown an interest in college to ensure that learners do not slip through the net. Any outcomes should be discussed with the FEI to ensure that the young persons can be met by the FEI and the ALP can be secured.

19.62: A review meeting of the IDP should usually be conducted as soon as possible, with a reconsideration of the young person's ALP - It may be difficult for FEI's to schedule, plan and prepare for a full-scale person-centred review at this time of the year.

19.71 should be move to earlier in the chapter/before 19.45

Chapter 20 - Transferring an IDP

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

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

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

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

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

20.12: The local authority may request that the FEI becomes responsible for maintaining the IDP - What information does the LA need to provide the FEI to prove that they can maintain the IDP? How do they outline their rationale for making the request? Proforma?

20.14: The local authority may refer the matter to the Welsh ministers - There are no exceptional circumstances outlined that would explain why it was not possible for the FEI to respond within 20 term time days.

20.18: The old body must send a copy of the IDP to the new body promptly - What is considered prompt? Does there need to be a clear timescale for this? Is there an official mechanism and process of transferring the duties? I.e. will there be a register of all learners with an IDP and whose duty it is to maintain them, so they don't get 'lost in the system'?

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

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

Chapter 21 - Ceasing to maintain an IDP

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

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

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

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

Chapter 22 – Children and young people subject to detention orders

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

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

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

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

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

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

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

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

Chapter 23 - Children and young people in specific circumstances

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

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

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

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

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

27.7: The ALNCo should form part of the SLT or have a clear line of communication - The ALNCo should be part of the SLT (this refers to head teachers and senior managers, who share collective responsibility of all aspects of leadership and management)

24.10: Learning support staff can aid the ALNCo in ensuring that teachers are supported and the needs of all learners are met - This implies that there is a weight of responsibility on the learning support staff and doesn't reflect the need for teachers to take responsibility for students with ALN with regard to directing support workers in the classroom. There should be emphasis on working together towards the same intended outcomes and the support worker supporting the learner through the direction of the teacher/ALNCo

24.16: ALNCo's must liaise with the young person on a regular basis about their ALN, IDP and the ALP - In a large FEI it is not feasible for the ALNCo to have sole responsibility for liaising and providing information to a young person or parent. What is defined as 'regular basis'?

24.17: ALNCo must promote the learners inclusion - In a large FEI it is not feasible for the ALNCo to have sole responsibility... This should include ALNCo's (plural if applicable) must promote, advise and guide on appropriate inclusion and access o settings.

24.19: ALNCo must advise teachers at the FEI - In a large FEI it is not feasible for the ALNCo to have sole responsibility The ALNCo must supervise and arrange for support for teachers in differentiated teaching methods appropriate for individual pupils with ALN.

24.23 (4): 'ALNCo should support learners with an IDP with their transition between education settings or into adulthood' - Not feasible in a large FEI. ALNCo should supervise and arrange support for learners with an IDP. For example, the College employs a designated Transition Officer, who reports in to the ALNCo and is responsible for the transition between education settings or into adulthood, further study or work. Depending on funding and College structures this may not be possible in other colleges.

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

25.15: Local authorities are responsible for ensuring that the arrangements for avoiding and resolving disagreements are appropriate and of suitable quality - Should this be moved to sooner in the Chapter? Should this section be a must? Should there be an independent body to ensure that arrangements are 'appropriate and of suitable quality'

Chapter 26 - Appeals and applications to the Tribunal

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

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

Chapter 27 - Case friends for children who lack capacity

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

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

Any other comments

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Part 3 of the consultation: Draft ALNCo regulations

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

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

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

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

Part 4 of the consultation: Looked after children

(a) Proposed regulations to be made

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

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

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

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

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

(c) Proposed revisions to the Part 6 Code

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

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

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

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

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?

The Code will require a greater emphasis on the Welsh Language provision, and thus will have an impact on provision (including staffing where provision is requested through the medium of Welsh, and/or if a learner is progressing through the system)

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

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

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

- i) The increased requirement for provision through the medium of Welsh will lead to an increased positive effect for the use of Welsh, and will ensure Welsh is treated no less favourably than the English language. However, as mentioned in Qu. 63 there needs to be a process to monitor this to ensure consistency at transition points (eg if moving from a Welsh medium school to a FEI)
- ii) As per the above, if implemented correctly the code will have no adverse effects on opportunities for people to use the Welsh language. Once again, monitoring will be essential so as to avoid any complaints re: the lack of provision or consistency of provision throughout the age spectrum.

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	Rob Williams
Organisation (if applicable)	NAHT Cymru

Part 1 of the consultation: The draft ALN Code

Chapter 1 - Introduction

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

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

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

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

We would support the principles of early identification and prompt support. However, the timescale set out in the Code will be very challenging to deliver, particularly in more complex cases. Achieving compliance with such timescales, particularly in light of the extended age range, will require significant additional funding for schools, LAs and all partner agencies.

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

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

It is a 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. it would be impractical for the body responsible for the IDP, to issue the IDP without relevant input from partner agencies such as Health.
It would also be helpful to set a statutory timescale on partner agencies responding to a request for a report / evidence

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

Although we agree the structure of the draft ALN Code and the separation of the chapters is appropriate, clear and easy to follow we would suggest that there are particular sections included that, whilst important to understand, are not necessary required within the ALN Code itself.

The Code should seek to act as the practical application handbook of the new legislation. Welsh Government (WG) should consider whether the following sections could be produced in a separate guidance document that sits alongside the code and must be included in any relevant professional learning for all those involved in the ALN / Education system:

- Chapter 2 – ‘Principles of the Code’;
- 1.10 – ‘Interpretation of key terms used in the Code’ (and relevant definitions up to and including 1.30)
- 1.31 – 1.37 ‘Timescales’
- 1.38 – ‘Giving notice or documents’ (up to and including 1.43 Cross-references to other parts of the Code)
- All sections from 1.43 up to and including 1.73.

Structure of the Code section – 1.74 up to and including 1.101 could then be the expanded Contents at the start of the code itself.

Chapter 3: ‘Involving and supporting children, their parents and young people’ would then be the start of the code.

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

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

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

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

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

Management committees do not 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 type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

Whilst we are supportive of the principles without funding they are no more than fine words. Given the parlous state of school funding in Wales and our analysis that this act is anything but 'cost neutral' and cannot be delivered at present.

Delivery of ALN is difficult enough but for some areas of Wales to deliver ALN provision bilingually is impossible.

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

Putting the child at the centre is a principle we endorse. However, early pilots by schools show that proper PCP takes hours and schools have not got the capacity to carry this out. The failure of WG to identify a threshold for an IDP further exacerbate this difficulty and will set up a post code lottery for provision.

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

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

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

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

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

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

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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

This chapter is well advised and most needed, however, it is certainly not cost neutral and will require resources, training and officer time to set up and maintain. It would be helpful if Welsh Government were able to produce information on parts of the Code and Act that could be used or adapted.

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 definition is weak and is open to wide interpretation
The result of this will be conflict and a wide variation in provision based on resource available locally, in effect a 'post code' lottery.

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

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Whilst 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 failure of WG to impose statutory duties on partner agencies (such as health) will result in incomplete evidence and wide variation in provision.

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

Whilst the Early Years ALNLO 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 recognition, however, that this is a post that does not currently exist. Given the expectations of the role it will need significant funding.

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

There is over reliance on the phrase ‘all reasonable steps’.

There are no identified thresholds. Would it not be simpler to consider that if an individual needs a short-term intervention to catch up then no IDP is required. If an individual has a long term, possible lifelong, learning need then an IDP is required.

Governors and head teachers of individual schools are able to provide what they feel is adequate, which may well be determined by budget and teacher skills, rather than the needs of the school population. Further guidance is required on what ALPs / provision would be expected in a mainstream school.

Samples and proformas in relation to communication would be helpful.

9.40 The usefulness of dual registration in maintaining children and a young person in mainstream education is questionable if the IDP is automatically picked up by the local authority. The IDP process should revolve around the pupil, and thus should be written by the mainstream school involving any other institutions where the child / young person is

attending. If the mainstream funding is given to the school, it should be the school who maintain the IDP unless the child / young person's needs are complex.

In paragraph 9.44 it is stated that "The circumstances of the school (i.e. its location, size, budget, experience etc.) could affect the school's view on whether it would be reasonable for it to secure the ALP. This is unacceptable as it suggests that the level of support that a pupil can expect will vary from school to school. Would a similar rationale be used for the delivery of literacy or numeracy, i.e. there must be an expectation that all schools are able to deliver the same level of provision for all learners. It is for Welsh Government to ensure that all schools are equipped (taking into account location, size, budget, experience etc.) to secure the ALP.

9.45. The need for a set of principles to decide who would secure an ALP is clear, however, this would surely be the same for all local authorities and would thus lend itself to national guidance. Without such guidance access to ALP may vary according to where a person lives leading to a "postcode lottery" determining a learning access to support.

Chapter 10 which related to the duties of FEI's and local authorities in relation to young people at an FEI is problematic. At present FEIs are not under any compunction to engage with this process.

LA's do not fund or have any jurisdiction over FEI's and the Code does not in any way recognise this.

It is therefore highly problematic to state as in 10.1 that an FEI can refer a young person's case to the local authority if the FEI considers that it would not be reasonable for it to secure or that it cannot adequately determine the extent of nature of the ALN, or that it cannot adequately determine the ALP.

In short the FEI becomes able to independently decide whether it can meet the ALN of a young person and if the decision is that it cannot, all the responsibility transfers to the local authority. The consequences of this would be that a local authority would be responsible for funding the assessment and provision for young people attending an institution which it does not fund or have any jurisdiction over and indeed may be compelled to make a provision that does not exist.

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 timescales set out are very challenging and will require significant further funding to have any chance of success. There is another significant issue in the way in which health organisations function, for example, in terms of medical practitioners operating on a 6-weekly clinical commitment – the ALN / IDP timetable does not take into account this current way of working and the potential barrier it presents in adhering

to ALN / IDP timescales.

Time limits on responses from professionals and parents need to be included and duties placed upon health to support the process. WG need to work with health organisations to identify ways of restructuring current systems to enable this to happen.

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

12.22 This is extremely subjective and unachievable. It is very difficult to imagine being able to defend a decision at tribunal based on these measures. In what circumstances could it be argued that a young person does not have a reasonable need for education?

Chapter 12 – do we have responsibility for privately educated pupils/university

Although 12.19 states that “there is not entitlement to continuous education or training from when a person ceases to be of compulsory school age up to the age of 25 and nor is there an entitlement to the provision of the young person’s choice (although the young person’s views, wishes and feelings must be taken into account)

As stated in 12.19 the intention underlying this is to give young people with ALN equitable access to education or training, compared to young people who do not have ALN. If this is the case, it is well documented that young people with ALN can take longer to learn, why are they having the same timescale as mainstream young people? See 12.27

The amount of input, resources, coordination required through this chapter in order address the needs of young people up to the age of 25, needs further consideration, detailed guidance and funding.

Chapter 13 - Content of an IDP

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

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

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

Pilots in CSC have shown that the forms are confusing and poorly thought through. They are neither family nor child friendly. They do not help parents to understand or know what is needed for their child. In short, they appear to have been written to meet the needs of lawyers rather than the children and young people whose needs they should address.

Given that this form is THE output of the entire process it is of very poor quality and is not fit for purpose. It should go back to the expert group for amendment.

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

Pilots have shown that is less than clear and we strongly advise that the IDP expert group looks at this. They haven't to date.

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 very general and lacks detail.

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

Within this section there are too many 'get out' clauses.

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

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

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

The most problematic paragraph in the Draft Code is 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, an NHS body is not required to secure the revised ALP unless it agrees to do so” and that the body maintaining the IDP should 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.

WG has primary legislative powers and time and again LAs and special schools report that lack of health provision impacts massively on learner progress.

WG should make it statutory that provision is made by health bodies.

As it stands a refusal from health will result in the school or LA having to make a health provision.

The Designated Education Clinical Lead Officer (“DECLO”)

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

Yes	<input 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

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

There should also be a limit on the number of reviews during any one year.

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

This places an unreasonable burden on LAs.

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

These are unmanageable for schools, particularly given the current financial climate.

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

Transition to post 19 remains very problematic. Provision in the main does not exist. Neither is it funded. Will LAs have to find, secure, setup and fund post 19 provision?

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 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.

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 issues around directing FEIs have already been covered.

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

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

As IDPs and provision will be set locally by level of resource then this section is not reasonable and is at odds with the failure of WG to ensure a consistent approach for the process and the outcomes especially in terms of provision.

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

See previous notes on timescales. The impact on staffing and resources is considerable, the timescales are unrealistic.

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

There is a lack of compulsion on health bodies to ensure that this happens. We could foresee a situation where an LA has to purchase provision from health.

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

See Q36

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

See Q36

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

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

Chapter 23 - Children and young people in specific circumstances

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

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

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

It is but the role is unaffordable for many schools in Wales.

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

FEIs are a particular issue here as they are outside LA control.

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

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

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Chapter 26 - Appeals and applications to the Tribunal

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

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	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 tribunal. This is of great concern to NAHT Cymru as defending such appeals is a very costly, time consuming and bureaucratic process.

The reduced timescales for preparing case statements together with the likelihood of increased number of appeals is very likely to overwhelm LAs / Schools and potentially lead to a breakdown of the system.

Chapter 27 - Case friends for children who lack capacity

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

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

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Any other comments

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

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

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

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

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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

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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

However, previous comments related to NHS bodies and current structures need to be acknowledged.

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

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

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

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Part 3 of the consultation: Draft ALNCo regulations

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

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

<p>There is insufficient funding for the role – either to be established or to be professionally developed.</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 checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

<p>See question 55</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

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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

One document should be all that's required

(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

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

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

Part 5 of the consultation: Impact of proposals

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

Further pressure on headteachers and staff who are already bowed down by other reform. Widespread conflict as aspirations are raised and provision is unable to meet those aspirations. Schools in conflict with LAs. Tremendous difficulty in filling the post of ALNCo. A system thrown into chaos.

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

NA

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?

NA

Our school leadership membership are concerned if any impact of the Code upon the Welsh language draws the attention of WG away from the Code's fundamental impact upon the lives of all children and young people with ALN.

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.

There is insufficient funding to address the needs of this bill and its guidance. As a consequence, and without an ongoing, significant injection of sufficient funding, school leaders feel it will fail to achieve its aims for all children and young people with ALN.

Respondent Details

Information	
Name	Anonymous
Organisation (if applicable)	

General section

I am beginning to believe as my knowledge regarding education develops that Education should be given the same status and gravitas as Health. I.E. Health is split off from the Local Authorities as a separate delivery arm. Education should be separated away from Local Authorities given its own governing body and direct leadership and development directly led by the Cabinet Secretary for Education.

I believe that the individual has the rights to own this ALN and ALP for themselves. It is not owned by the Local Authority but is produced on behalf of the individual by the local authority or its representative. This is not what you have written.

My largest general comments which has not been answered within the documents I have read. How does the Welsh Government consider that this process can be delivered with the current level of knowledge within our teaching staff and the facilities and resources that are currently available and how much money will it cost to make this transition? This document reads more like an aspirational document in some places especially when I compare the current funding arrangements and shortfalls which I have experienced with these additional requirements that have not been stated to be funded with additional teacher training and additional teacher resources. And additional administrative resources to ensure that the paperwork is completed within the timescales that are contained within The Code. Which leads me to the point I make later to your question Q2 and Q3. What is this document really? Is it a live document which actually belongs to the individual in question and therefore similarly to the health board debates regarding personal funding. Should these documents be owned by the child, young person with the independent body being the administrator and coordinator which removes the conflict of interest of the school/ FEI/LA in terms of the funding limitations that Welsh Government are inherently responsible for.

I would suggest that the code itself should include a section on continuous Improvement with a suggestion of a 5 year review with an additional re-consultation refresh. This topic is a dynamically changing, behaviour changing process that will need to be reviewed as our rights and our countries identity develops. I have considered how this can be achieved with an on-going support from professionals, parents and students alike. There can be the consideration of Area working parties to include government bodies, independent associations, teachers and parent committees. Welsh government could lead across Wales with an all school conference to ensure consistency. The need for consistency or approach and application is important but the code does not state how this will be achieved or whether consistency is a key Aim of the Code. I am concerned that forums are not currently occurring to create that continuous improvement cycle within this aspect or to provide the forum where best practice can be shared within Wales. Once again I refer to the conference situation where Wales can lead on this aspect and develop an integrated

approach which bring together all parties to provide for the future of our children and our children's children.

Some additional information is contained within the consultation report which is not contained within The Code. E.g. section 1.8 but other instances are also valid. The consultation report has allowed me in some cases to understand The Code. I would suggest that the additional information be transferred into The Code where possible.

In Section 1.33 the paragraph makes reference to the action and in section 1.36 the paragraph makes reference to the thing. These terms are not helpful and need further clarification maybe with an example. The use of these terms is as an example but without being specific.

There is a word missing in section 3.5 "upon is more likely to effective" add the word **be** "to be effective". There are other typos and missing words. I am not going to list them or it will take me longer than I have to get this response to you.

The Code is such that simple easy generalisation could have been made in some areas but due to the nature of UK legal documentation the most intricate repeating nature occurs. Please try to get a plain English award of this document it may just fail the test. Couldn't the process have been written as a single process followed by examples where specific changes had to be made. I feel I am reading the same process all the way through but with tiny little changes here and there. Please try to simplify. Life is too short for this type of argument. This administrative burden could cost more than a teacher's salary in some instances just for 1 child or young person.

Where reference has been made to Welsh in all cases does this refer to the documents being written or to the provision of the need specified on the documents. It is not clear all through the document.

Answers to questions

Q1 Is the explanation in paragraphs 1.10-1.16 of the draft ALN Code of the use of meaning of different terms must, must not, ,may, should, should not, clear?

These terms have a meaning in law, as long as the meaning has not been changed by stating this within the code than the manner of their use and explanation is enough to be understood. The definition within the document is one thing but the application off these definitions within the document has not been applied correctly example in section 5.38.

There is also the consideration of other terms which have been used within this document which have not been chosen to be defined and I propose that these additional words are also defined here or their use within the document is reconsidered and narrowed to the used of these predefined words. They are Could and Ought. 1.14-1.16, 7.69 state the word Could and section 1.65 and 2.23 use the word ought. Can this be cleared up and defined.

Q2 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?

Is PROMPTLY a legal term? This too has not been defined in The Code. The Term As soon as reasonably practicable is a legal term which is well known. This term would not allow some inefficient process to allow any delay in terms of the child or young person. But I do agree that a MUST be completed by timescale SHOULD be used to ensure that all

parties know their responsibility and will ensure that parties work together. What has not been mentioned within this code is how any non-compliance or inefficiencies will be monitored or improved. This is a large omission from this code as it does not set out how Welsh Government will ensure compliance by the LA and all parties that are now subsequently being given these legal responsibilities.

The application of the timescale also needs to be split into two sections. What can be done immediately and what needs to be carried out when additional information arrives. I am concerned that just in the case of the SEN this task will become only a paper exercise and a tick process that it has been completed and it has been completed within X weeks. I prefer to think of the process as a continuous process which is reviewed during every parent teacher meeting and at the annual Update. This more integrated document will ensure that the document is a live document and not an administrative burden solely put on the ALNCo but for every person with the school who comes into contact with that child or young person.

Q3 IA the general exception which applies in the case of timescales, as described in paragraphs 1.33-1.35 of the draft ALN code, appropriate?

As stated in my answer to question 2. The use of a timescale can be used to delay the implementation of the process in principle. No delay must be allowed as a consideration due to waiting for a response from others i.e. beyond the control of the responsible party. The mitigation will need to be actioned immediately without delay and when the additional information arrives or is chased then the ALN is revised which is a normal process when documents are considered to be a live document. I.E. there is an annual review and an update driven when new information is received. This section also goes on to talk about inclusion. I think that all children will benefit from an ALN at some time in their life. Too much time may be considered in this Code about how not to create an ALN when the child or young person may need help. The help should be provided as part of inclusion and documented to ensure that the help provided is maintained and continues to be appropriate.

Q4 Is the structure of the draft ALN Code and the separation of the chapters appropriate, clear and easy to follow?

Section 1.30 this paragraph states the word "below" this can be changed to the actual location 1.103 which helps the reader find the list. However this list is actually a list of definitions and I suggest that a list of acronyms be added to the document in a more appropriate place like the end of the whole document, as the document is not expected to be read as continuous pro's therefore the naming of some terms will not be understood to the reader within the usual process of changing the phrase to letters at first instance. For example IPSI

Q5 Is the draft ALN codes focus on describing and explaining the function and processes appropriate?

The code is at an appropriate level but there is a risk that the obvious best practice guides and internal procedures will not be publically available and closed to only the Local authority staff increasing the animosity between students, parents, case friends and school staff. Increasing the need for resolution and advocacy services. Can some reassurance be made that all procedures and best practice guides are jointly developed between all parties and officially published after an appropriate consultation period.

Q6 Do you agree with the proposal to use regulations to delegate functions from a local authority to a Management Committee of a PRU?

Firstly section 1.19 of the consultation report has inappropriately listed incorrect sections. E.g. 1.56-1.57 the relevant section is 1.57-1.58. It is however easy to interpret this error.

The Code refers to The Education Act 1996 within the footnote as the legal precedent in place regarding Management Committees' The Code however, if I have interpreted this correctly, should have made reference to Education (Pupil Referral Units) (Management Committee etc.)(Wales) Regulation 2014. I think the powers of a Management Committee are given as a similar status to a school governing body. Therefore the question is not needed as the management activity of these PRU's are exactly the same as any maintained school. Please correct me if I am wrong.

Q7 Are the principles set out in Chapter 2 of the draft ALN Code the right ones?

The principles stated in section 2.2 as 5 different strategies. The strategy has not however been discussed or made reference elsewhere within this code. As these principles are not all within one plane but can overlap and be prioritised separately I can see a time where a hierarchy will fall out of this list and not all principles will develop at that same rate.

I would like to see how the code will manage these sometimes conflicting principles.

To further explain my concern. Using section 1.65 of the Code Teaching Practitioners. This is where the use of Ought has not been defined see Q1. "Teaching practitioners ought to undertake regular professional learning In relation to ALN". The majority of this paragraph refers to teachers and their personal development which is inappropriate to be commented on here unless it is referenced within the principles in Chapter 2 as a MUST or SHOULD. The strategy which is missing here for Inclusive education will need to make reference to Teaching practitioners and their personal develop and how the strategy will influence the CPD of teachers to improve the variety of teaching skills to allow for more inclusive teaching with schools thus reducing the need for some ALN requirements as the skills to teach alternative methods and approaches become widespread and usual proactive in mainstream school.

Section 2.16 refers to transition but only is stated as SHOULD. Lanning is a requirement for Local Authorities and the majority of Current SEN and future ALN will be known and plans can easily be arranged if appropriate resource is provided to carry out that duty. Therefore SHOULD is an incorrect use within this paragraph and I can only imagine that it has been used in this context to allow for inefficient planning. Some reference however should be made to the ever changing level of diagnosis which highlights the need for Education and Health to be linked closely as part of the Public Service Board planning requirements. E.G. where Health is increasing their diagnosis departments then evidence will be available and more students will require ALN due purely driven by the increased diagnosis process.

Section 2.18 Collaboration

Reference has been made her within the bullet point below to funding.

- "clearly identify which agency will be responsible for providing and funding each element of provision"

This is the first reference to cost within the ALN. This should not be made here within the Code. The Code should be the pure document and not sullied by limitations and issues of cross department arguements. These issue need to be sorted within Government and not allowed to provide a substandard approach.

A bilingual system section 2.24 -2.26

The strategy from Welsh Government or link to it is missing here. The ability for Local Authorities to plan for bilingual teaching has its foundation elsewhere. It is contained in the beliefs and fundamental understanding in the Welsh Population and identity of a Welsh person. Provision of bilingual system is a must but funds to provide the teaching capability and the additional resources to provide for this needs to be part of that strategy. The mimic of English type education needs to be replicated in the Welsh medium and resources and capability to teach bilingually is inherent in that approach. The strategy needs to be part of this Code reasonable steps will include responses such like e.g. "A PRU is not available in the medium of Welsh therefore your child will have to attend an English only speaking unit will be your only option" The principles of the student and their belief will not be met and the needs of the current population and the future generations needs to build the welsh Language will fail. This links to Chapter 5 on Local Authority Planning.

Q8 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?

The role of Parent has not been mentioned thus far within The Code and is not a defined term or stated role. It would be appropriate for this role to be defined in terms of the Child and the difference that this role takes for young persons. This may help parents to migrate from being responsible during the early years of a life to sitting back and supporting an individual as they develop and grown into an adult even if that adult still requires support. The individuals rights can be defined here and sort out issues that can arise later on in the delivery of this Code.

Q9 Is Chapter 4 of the draft ALN code clear about what is expected of local authorities and NHS bodies when discharging their duties to have due regard to the UNCRC and UNCRPD?

This seems reasonable and clear no further comment.

Q10 Is the guidance provided in Chapter 5 of the draft ALN Code in relation to the duties to keep ALP under review appropriate?

This is only partly clear. Initially I considered that the Chapter was talking about the Code and its review and it is not about keeping the individual documents updated but on reading over it is not about these at all. The chapter need to be put somewhere else. This is about how the LA manages the process. I have refereed to this already above. The best practice guides and consultation with organisation and parents. I have already said that the Code itself needs to be a process that develops and does not stagnate. Chapter 5 is being made to include reviews where Welsh Government should also instigate the higher level review to then filter down to the Local Authorities for them to include and review. In my opinion one document cannot be considered without the other. A review at a lower level may be hindered in its development by the parent document and this process needs to be changed to include continuous development right through our countries legislative and statutory process. As in Industry which has embraced the continuous improvement cycles our government processes need to speed up and include provision for continuous improvement. It was suggested by SNAP Cymru and reiterated by the Local Authority representative that this Code will not be updated within their lifetimes so get your comments to government when you can. This belief by representatives that are within the organisation identifies an issue relating to change and continuous improvement which I can only conclude to be inherent in the education sector of Welsh Government.

Q11 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?

The chapter states the requirements that Local Authorities are required to provide information and advice. This is where I believe that Welsh Government has a role to play in providing Advice and information to the people of Wales. Firstly Welsh Government can remove any ambiguity and conflicting messages provided by differing Local authorities and provide economies of scale when producing the material and ensure that provision is provided to a minimum standard across our country of WALES. This message can only be made by Welsh Government and I look forward to seeing such messages relating to education going forward and that this ownership is not transferred to deferred to Local Authorities. However Local Authorities and the whole chain of involved organisations and bodies all need to provide information and advice in a proactive environment to support the Child, The Parent and the Young Person and any person or organisation that the child or Young Person employs on their behalf to navigate them through this onerous process.

Q12 – Is this explanation of the definition of ALN provided in paragraphs 7.4-7.32 of the draft ALN Code clear?

Q13 – 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?

Firstly the questions refers to 7.4-7.32 when it actually refers to Section 7.24 – 7.32. This however was easy to correct.

I will answers these questions together below.

This chapter to me is muddled by including too much detail. I can understand why in its creation the additional layers have been included but I feel that some key generalisations can be drawn from these sections that apply to all. The flow charts are very simple where the chapter is cumbersome. Is the point of the chapter to reduce the number of ALN requirements or to clarify with a yes or no as per the flow chart that the need is required. As each individual will be taken on its own merits and evidence the explanation here can be simplified. For the later i.e. to reduce the number of applicants being considered then I move to repeat from above in the general section. At some point in a student's life the need for additional support will be required. Why shouldn't this apply to more students if it supports the student to attain their capability? It is only the cost of producing and manging the ALN and ALP that would provide the need to include a limit to the number of students that the system supports. The system should not be about who is entitled but about providing needed support when and how it is required for all that need additional support.

Question 14 IS the guidance on the role experience and expertise of the early years ALNCO set out in paragraph 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)?

No comment on the role as written but I do wonder if the role is applicable. This role seems to be too wide for 1 person and too targeted on an area where no strategic planning assumptions can be made. It would be unlikely that this person could inform the Local authority how many children will need ALN one reason most diagnosis is carried out later.

Planning for this type of thing really needs to be carried out by research and health organisation as to why the numbers are changing year on year or increasing since a baseline year. In other words to make strategic provision for the future this person will be too close to the year 1 admission that would aid strategic planning too late.

Q15 Is the structure and content of Chapters 8 to 12 of the draft ALN code clear?

I think this Chapter 8 to 12 could be simplified. There are flow charts which simplify the code then the words should be the same simple. The exceptions could be written in one chapter on exceptions. With best practice guidance written to aid decision making.

Q16 Are the timescales for decisions by schools, FEI and Local Authorities on ALN and preparing an IDP as set out in Chapters 8-12 appropriate?

Timing as mentioned previously timescales should be **as soon as reasonably practicable** for all cases. Where a timescale is given it should be the exception and not the rule. Unless of course the timescale has been included because you know there are not enough people to make this timescale any shorter. An IDP should be a live document and not be administrative therefore there should not be any timescale needed. I.E. when changes occur the documents are updated. Part of normal work not left until later.

Chapter 9

9.11 The word should has to be MUST. Whose document is this? It's time the child was the owner of their destiny and the LA or its representative in the school supported the individual with the document. If something is written about that student then the right should be with the student to get a copy of it and be informed of its content.

9.13 Once again the term should is just not appropriate. The meet has to be organised but the attendees may not participate. But the meeting goes ahead noting who attended and who did not. The terms should is being used to accommodate people not attending and this must not be allowed at this point. Every opportunity has to be made and shown to have been made for all parties to make their representation.

9.18 To aid the reduction in advocacy services it would be more beneficial to change the phrase helpful to should offer. A parents frustration of being turned away at this point will inevitably lead to a referral to the Local authority and then to advocacy. If the meeting could talk through the alternative arrangements from the teacher/school can offer without taking the next steps then the frustration for the parent can be removed and the costs to the Local authority reduced by proactive management of a situation.

9.23 and 9.24 The terms used in while preparing the draft show that this code does not really consider the Child Parent or Young person of any importance within this process as the word Should does not given enough status to the draft and enough involvement or empowerment to the child parent or young person. By using the term Must in the following section that concludes the documentation to final this reinforces that the decisions are already made and that no comment from the child parent or young [person is of any consequence. It doesn't matter what the intent of these paragraphs where the reflection in the definition and hierarchy of those definitions indicates that the process is a forgone conclusion and made entirely by the school. Thus leading directly to advocacy for parents etc. that are of a more proactive background.

9.26 It would be useful to add in here the process of asking the Local Authority to takes over responsibility. Hopefully this process is explained in a later chapter as it is not contained in

Chapter 1 -9. It has also not mentioned when a reassessment can be made and how a Parent young person can do this. Which leads this back to 9.23 and 9.24. This process should be about the child or young person and not about proving the school or local authority has met its obligations. People centred approach should do more than just tick the box.

What is an EHC. A definition would be useful!

Chapter 9 using the term ought which has not been defined in chapter 1.

9.39 First bullet point refers to whether “it would be reasonable for it to secure” the term reasonable is very ambiguous. What does this refer to? Is this a cost implication or even a resource implication? This could be different for each school leading directly to the inconsistency that occurs when answers are qualitative rather than quantitative. Either define reasonable or change it. The term reasonable is also made in 9.42

The concept of creation of these document and having timescales for these to be created to me is an administrative limit and not helpful to the child. This is just recording what was agreed and the way forward for later. What is more important is that different solutions are tried and tested until the correct options become known that will help the child young person to attain learning and skills for life. This seems to have been forgotten while creating the Code and may have been forgotten when creating the Act that this code translates.

Paragraph 9.44 needs to be prior to paragraph 9.39 i.e. the use of the term “reasonable” this one paragraph shows me that nothing has changed from one process to another. The experiences I have had over the past 3 years regarding financial arrangements to buy and obtain resource to teach a child with ALN impacts every decision. I still believe the answer is to start building into every school a higher standard of knowledge for every teacher and assistant, change the way schools are operated and organised to allow greater flexibility in the class room.

9.45 has to be turned from a “should” to a MUST. Yet again this is about consistency. It is also however about transparency. Without this being published as previously mentioned like best practice guides etc. a parent or case friend would not be able to discuss with the LA or School on the same terms as half of the information will be missing or not attainable.

9.63 The term “prepare an IDP for them” this is much friendlier and refers more appropriately to the proactive standpoint of inclusion and person centric planning approach. Use this and this type of phrase elsewhere.

Many of the comments that have been made within Chapter 9 can also be considered applying to Chapter 8, 10 11 and 12. This also are applicable to other sections of Chapter 9. Please note that My comments are to be considered against each of these chapters in the same way that your comment regarding examples in one chapter can also be applied to other similar chapters.

9.78 This paragraph also intimates that less credence is given to child, parent and young persons' comments. Change the “should” to must.

Flow chart of Page 109 is not correct. First box asks if you are a young person you answer no then it takes you to no decision required. Child needs to be contained within the first box.

Q17 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 Wakes Appropriate?

This leads me to discuss the problem with education as we see it now. Education is compulsory for people of an age range. Then when at school teachers state basically every time I ask questions that children develop at their own rate and each child is different. Taking this into consideration, I challenge why a child has to stop education just because he or she is now at end of compulsory school age. If that child is still learning at what ever pace then that child should be allowed to continue if it wants to further attain its potential. What does it say about us as a society that when a child can develop we turn our backs on them. Funding is not the only thing in the world. We need to decide what type of country we are and develop our country into a more progressive place than we currently are. Starting here. If a Child is now deemed a young person but would benefit from additional education so they can participate as a citizen in society then maintain the IDP. Pass the responsibility to the FEI if you must but extend them this support as actually what more likely happen they will need money from social services instead which is also underfunded and undermanned.

Q18-19, 20

I don't care what the form looks like. Other people no doubt will comment on this. The content has to be quantifiable. If the spaces on the form allow for qualitative responses then the form isn't doing enough. If the form is too long and onerous then the process is administrative. The form may be part of the Code and other shave no doubt argued for its inclusion. But Please make sure that it can develop over time. I.E. as stated within the code and within the 5 year continuous improvement cycle. Without the cycle the form will be stagnant and could hinder. The transition section however could help to strategically inform the Local authority of the needs for later stages of education and should be sent to the LA in a way that the LA can forward plan.

Q21 IS the guidance on transport in paragraph 13.74-13.76 of the draft ALN Code appropriate?

Not really. Firstly its only a should. Secondly it depends whether the LA can make a parent pay for the transport to a school it is forcing on a parent?

Q22 Q23

It would be more than useful to make other bodies such as health and social services and educational psychologies employed by the local authority respond to parents with questions quicker so if this code improves that then the code is fine. If your intention is to halt this process by saying the parent is not responding quick enough then the code is poor in its intention. As stated a number of times. This document needs to be a live document that is updated when information arrives. timescales should not really be the way forward. Resources are always at the bottom of delayed responses or no response at all. Correct the resource issue then the timescale issue goes away.

Q24 For DELCO see early years ALNco. Similar type of response.

Q25 and Q26

In my opinion there does need to be a set time for a review but the document has to be a live document otherwise its just an administrative burden and a tick exercise. Government

needs to make these codes something that improves our lives and not makes them a hindrance. WE as a country need to do the right thing for all our students.

Q27-28

This code makes a big thing about LA taking over responsibility at certain points. The LA is responsible for all children and it seems as if that has not changed. The only thing that seems to have changed is the fact that the administrative burden has been passed on to the school. The school gets an average fund pot rather than making a claim. By moving the ALP to the LA does the school get more money? Does the child get more support financially What does this really do? I am concerned that reconsiderations will be carried out with funding in mind as it currently is while we are waiting between law changes. And funding mechanism changes.

Q30

19.23 how can this paragraph only state Should. E.G. Both schools the one from and the one to has to be involved otherwise transition cannot take place. In fact transition planning should be carried out by the LA. The child has been developing with an ALP the requirements are likely to be known for a few years before the transition occurs plenty of time to build in to the educational requirements for the schools. This is where a specialist strategic planner should be working. Its here that the details of the needs can be gathered and collated and requirements as provision readied for the student and transition will then be much easier as the facilities and teachers required will already be available. Transition cannot only be about a meeting. Meetings are very costly and could be minimised again with the live document and the strategically positioned coordinator in the LA.

Q34

Opinion only here as I am running out of time. An IDP ALN or ALP should not stop. It should be handed to the student as they grow up as it belongs to them. It could be passed on to social services or to the careers service. The information it contains is still relevant to the individual and would also be useful to the services that follow. As stated this document ownership is at question for me. What is the real aim and objective of this document it doesn't look to me that it is for the benefit of the individual but for the benefit of the LA. The question regarding ceasing to maintain the IDP is back to an administrative end. But the individual is likely still to need support just not from education.

Chapter 27 - Why is case friend only referred to children who lack capacity? Young persons could also be in the same state and could also need a case friend?

Q63 and 64

I am Welsh and I believe that if you live in Wales then your child should be bilingual. English the language of the UK and Welsh the language of the country you reside. I believe that all children should be taught bilingually these two languages in our schools. In your term "no less favourably" These comments tend not to point at this code but toward the strategy for Welsh Education and the funding that delivers teachers and resources to make this level of education a reality. In the meantime in this current state where we have separate English and Welsh medium schools the provision in every council should be that whatever is available in English is also available in Welsh and this extends to the separation of PRU and specialist schools for Autism and other needs.

Respondent Details

Information	
Name	Respondent requested anonymity
Organisation (if applicable)	

Part 1 of the consultation: The draft ALN Code

Chapter 1 - Introduction

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

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

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

I think the least clear terms are 'should' and 'should not'. e.g. who will judge whether there are 'exceptional circumstances'? Where children/young people (CYP) and their families disagree, who will arbitrate and what are the systems in place to resolve this?

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

I think the timescales seem reasonable, though they should be broken down further so that two deadlines are set. E.g. In the case where a Local Authority (LA) must decide whether to prepare and maintain an IDP, within the 12-week period there should be a deadline to:

- collect evidence and decide if an IDP will be prepared/maintained;
- issue the IDP after consultation with parents/child or young person.

I think this would prevent the current situation I have direct experience of where there is significant drift in timescales.

I also think that while the definition of 'promptly' is welcome, I expect that statutory guidelines on timescales will become the default in ALN administration. It is unclear what the route for redress would be if CYP and parents do not consider that decisions or actions have been taken 'promptly'.

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

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

The code says “This is to allow for exceptional situations, such as where a child or young person is unavailable for a substantial period due to illness, absence from the country or some other reason, such that it is impossible to gather evidence (e.g. through observations or clinical or other assessments) at a time that would enable it to comply with the fixed time period.”

I would also like to see explicit guidance on how deadlines would apply in “exceptional circumstances”. E.g. if the child is absent or otherwise unable to take part, is the clock simply stopped on the 12-week timescale until the child is available?

Experience suggests that any potential loopholes need to be closed, to ensure that the deadlines in the Draft Code are upheld and to prevent drift in timescales. Simply saying “the duty to act promptly requires it to progress the matter without further delay” is too vague and I would suggest is practically unenforceable.

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

Looking for information relevant to my child has not been easy to navigate in the document, though I struggle to see how else it could be set out.

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

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

Insufficient detail is provided in parts.

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

I have no direct experience of PRUs and so have not considered this.

Chapter 2 - Principles of the Code

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

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

The document does not include important principles that I would expect to see as part of a ‘rights based’ approach to educational provision. e.g. the code states as a principle that “Inclusive education where children and young people are supported to participate fully in mainstream education, wherever feasible, and a whole setting approach is taken to meeting the needs of learners with ALN.”

Article 24 of the United Nations Convention on the Rights of Disabled People (UNCRDP) is unequivocal on the right to inclusive education. Article 24(2) states that:

‘2. In realizing this right, States Parties shall ensure that:

- a) Persons with disabilities are not excluded from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability;
- b) Persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live;
- c) Reasonable accommodation of the individual’s requirements is provided;
- d) Persons with disabilities receive the support required, within the general education system, to facilitate their effective education;
- e) Effective individualized support measures are provided in environments that maximize academic and social development, consistent with the goal of full inclusion.’

In my view the addition in the draft of “wherever feasible” in practice limits these rights for CYP requiring complex support, rather than making mainstream education in their own communities accessible for them if this is requested.

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

One of the principles underpinning the ALN reforms was to avoid disagreements escalating to formal appeals to the Tribunal. In my experience, this means that CYP/their parents need to be fully informed of their legal rights and have access to all relevant information (e.g. about alternative ALN provision, settings, etc.) before and during all meetings held to discuss ALN matters.

To uphold this principle, I think that they should have access to highly skilled independent advocacy services from the outset, including access to an advocate to attend meetings to support them in upholding their legal rights and to support disagreement resolution.

There seems to be little recognition in this chapter that the most vulnerable CYP may not understand what it means to exercise their rights under ALN legislation and will be reliant on their parents to do this on their behalf.

In connection with this, I would also like to see reference to the difficulties that some professionals appear to have in accepting that CYP and their parents have valuable information to contribute and should be treated as full and equal partners in decisions about provision. In my view it is impossible to arrive at a 'best interests' decision without this.

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

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

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

In my view, it is unclear what is required. It is disappointing to see that the principles are not to be routinely considered at an operational level.

Even at the strategic level, it appears there is insufficient consideration of how the perspectives of CYP with complex support needs will be considered, who may lack understanding of what it means to have such rights in the chapter. Consulting with CYP with ALN who can self-advocate is welcome, though there is no mention of how the perspectives of CYP who are unable to self-advocate will be represented e.g. in consultations relating to ALN provision. I am concerned that these perspectives may well be marginalised or excluded. I would argue that my own child's best hope of having a voice in such discussions would be to involve parents to advocate for him directly.

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

In my view, 'ALN transformation' must include innovation and a commitment to meeting the needs of CYP more effectively. In my view, this must include a commitment to offer a broader range of evidence-based interventions to address each individual child or young person's

needs for ALN provision.

If the process for commissioning provision remains unchanged at LA level, I do not see how there will be any meaningful change in provision offered. I think that there is a missed opportunity here to provide guidance to support this.

There is no mention of LAs having to consider the cases of CYP with ALN who have been excluded from school, supposedly 'electively' home educated, attending education outside maintained schools or otherwise withdrawn from LA educational provision. I think this would provide a powerful insight into where existing services are demonstrably failing to meet the needs of CYP in each LA area.

I think that LAs should also be under a duty to learn from all the disagreements they have had with CYP/parents regarding educational provision, from those settled by informal/formal mediation as well as those decisions they have chosen to defend at a formal Tribunal appeal. At present, it appears (from direct experiences) that lessons are not learned even at a process level, let alone in terms of what such appeals might mean for strategic planning. I think there should be a requirement for LAs to report publicly on this and explain what actions they have taken in response.

The process outlined in this Chapter does not go far enough in explaining how each LA's performance would be evaluated, or by whom. It appears to provide for maintaining the 'status quo'.

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

I think that the arrangements described are inadequate. In my view, advice and information not only needs to be independent, it needs to be seen as independent by all those who need to use it. There appears to be little understanding throughout this Chapter that when parents are in disagreement with LAs, they are effectively the opposing party in the dispute. I think it follows from this that it is entirely inappropriate that LAs should be involved at all in advice and information services for ALN. It appears to embody a very obvious conflict of interest.

At para 6.5, I do not think that LAs will be regarded as able to provide advice in 'an impartial manner'. In my view, LAs should have no role in either funding or providing advice and information. This role should be provided by a truly independent third party.

At para 6.7 and 6.8, any directory and other information generated should be maintained by an independent third party and not an LA.

At para 6.9, there appears to be an obvious conflict of interest for an LA to 'determine and monitor the overall standard of the service' and 'ensure appropriate governance

arrangements are in place for the service’.

At para 6.11, LAs would effectively be marking their own homework in terms of whether the signposting provided is adequate. If the LA retains this function, it requires oversight.

At para 6.12-6.21, these functions should be outsourced to an independent third party.

At para 6.22, this is again a function that should be outsourced to an independent third party.

At para 6.23-6.26, the information should be linked to from school/FEI ALN policy and prominently displayed.

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 definition for children under compulsory school age is confusing and it seems requires making judgements about the child’s future performance at school age, which appears to be purely speculative. Further clarification and guidance would seem to be required.

For children under 3, I note that reference is made to ‘Flying Start’ provision. I think this is based on postcode and therefore not universally available. I think there needs to be a specific duty to provide comprehensive early intervention across health and education (e.g. based on the evidence based ‘Early Start Denver Model’), particularly for those children with complex support needs.

I found the discussion on healthcare needs quite confusing and it suggests case by case decision making, which may lead (depending on how this is implemented) to desirable levels of personalised provision or to significant inconsistency. This appears to require clarification.

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

I think that these sections, while they may be sufficient for some CYP, do not provide adequate guidance to LAs on assessment and provision required for CYP with more complex support needs and significant ALN, such as those who currently have Statements of SEN.

The section dealing with ‘Multi-Agency Working’ appears particularly weak. It has been

suggested in previous Parliamentary inquiries to reform the SEN system in England and Wales (e.g. in 2006) that there is an inbuilt conflict of interest where the same bodies assessing levels of need and provision also hold the budget available for provision. This does not appear to have been addressed.

There also appears to be no mandatory guidance on assessments or statutory consultees. If parents disagree with the range of professionals involved and that their CYP have been assessed robustly, there appears to be little that will change the current burden on parents to arrange for their CYP to be assessed privately, in order to characterise the nature of their SEN/ALN and recommend appropriate provision to be made.

I think that CYP and parents will need to have access to high quality advocacy services throughout the process, in order to challenge any decisions made about which professionals are required to provide assessments and advice. This indicates both the need for advocacy services to be available throughout the process, as well as for those services to be truly independent of LAs.

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

I have not reviewed this.

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

In commenting, I have looked in depth at Chapter 11. As a general comment, the depth of information is welcome. The issue for me is that the chapter seems to lack clarity in parts.

The structure in Chapters 8-12 does not appear to deal directly with anomalies such as:

- Attending two different placements in different schools (e.g. part time special school/mainstream).
- Part time mainstream school and EOTAS.

It would be helpful to explain which body would be responsible in such cases, or to set out a flow diagram to aid decisions on this.

At para 11.5, “a local authority must seek advice from an educational psychologist. This advice should relate to:

- the educational, psychological or other features of the case which appear to be relevant to the child's educational needs (including their likely future needs);
- how those features could affect the child's educational needs; and
- the provision which may be appropriate for the child in light of those features of their case, whether by way of ALP or other provision."

Where children need complex support, I think that this alone will not be sufficient. EPs do not have the expertise to assess e.g. speech and language disorders.

At para 11.6, the duties to involve other professionals must be strengthened to ensure that a full multidisciplinary assessment is carried out. Otherwise, parents will be, as now, left to consider if they can fund an independent assessment to provide a second opinion. As above, the guidance on multi-agency working in Chapter 7 appears weak.

From experience, it is also clear that LA EPs are in a 'gatekeeping' role for LA resources as well as carrying out assessments of need. I think this represents a clear conflict of interests that may serve to constrain assessments of need and decisions on ALP. The wider issue is that consideration should be given to ways of guaranteeing independence in assessment and specifying ALP.

At para 11.8, the timescale for steps in the process must be clear, in my view. Similarly, 11.9 and 11.10 are 'musts' rather than 'shoulds'.

Para 11.12: 12 weeks should be ample time to complete any assessment if notice is given to any consultees promptly. The particular circumstances accepted as 'beyond control' should be very clearly stated to avoid drift in timescales. It is also unclear how problems experienced with timescales would be addressed and what the remedy is.

Paras 11.14 and 11.15 are 'musts' where a child has complex support needs.

Paras 11.17-11.23. Where a child has complex support needs, these are all 'musts'. I think it must also be made clear that where the NHS does not provide the service that the child requires as ALP, the LA must provide it e.g. interventions based on applied behaviour analysis, sensory integration therapy, etc.

I think there is also a missed opportunity to determine if children require support outside 'educational' hours and who should provide this.

Para 11.26. This appears to allow a local authority (LA) to argue that a child should be placed in a special school (or other non-mainstream) placement if this passes an undefined "best interests" test and is compatible with the efficient education of other children. The parents' expressed preference for a named mainstream school does not appear to be considered relevant. The current principle of presumption in favour of parental preference for a named school in the Education Act 1996 appears to be substantially undermined.

Para 11.29. It is very disappointing to see this bullet point:

"the extent to which the step is compatible with the needs of the child – for example, in the case of some children with ALN, the provision of full time one to one support may facilitate their presence in a mainstream school or classroom, but would reinforce dependency and

hinder the acquisition of independence.” In my view, this shows little understanding of the role of 1:1 support for CYP with complex support needs, which may be needed in any environment and not just in mainstream schools. If dependence rather than independence is fostered by 1:1 support, there appears to be a serious problem with the quality and delivery of support, rather than with all 1:1 support as a general principle. I think it is an inappropriate example and should be redrafted or removed.

It rehearses the spurious argument made by some professionals that full time 1:1 support (e.g. teaching assistant, ABA therapist, etc.) provided by someone who knows the person with complex needs well and is well-trained in supporting their individual needs jeopardises their independence. To achieve true independence, I think that CYP need to have gained proficiency in a range of adaptive and social skills. Until they have, they may need to be taught these skills on a 1:1 basis by someone who understands their needs and this provision will need to be specified and quantified in an IDP to ensure that it is delivered.

CYP with complex ALN will also generally be far behind their typically developing peers in terms of skill development and do not have time to waste in unproductive activity. Providing 1:1 support with someone they know and trust in these circumstances should allow CYP to focus on purposive activities and minimise barriers to learning such as self-stimulating behaviour or acute anxiety. Failing to provide reliable, well-trained 1:1 support for a child or young person where these skills are not established sets them up to fail, with consequences for their mental health as well as skills development.

Paras 11.35-11.47. The process by which a school (or EOTAS) is named in an IDP remains unclear. This also appears to very clearly diminish CYP/parents rights in comparison with the current system of Statements of Special Educational Needs. Clearly, all mainstream and special schools are not created equal in terms of their support for CYP with significant and complex support needs. I think the naming of a school for such CYP is also required, to prevent schools using the argument that they are ‘full’ (as referred to in Para 11.42) as a reason not to admit them.

Para 11.61. As the parent of a child with complex needs who currently has a statement requiring part time mainstream school and EOTAS provision, this clarification is welcome. I think that it should also, as in the paragraph referring to residential schools (Para 11.52) require LAs to ensure that any additional services required alongside education and ALP are set out clearly e.g. health care, personal care, social care, any miscellaneous other support required and transport.

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

I am commenting solely on Chapter 11: also see comments made on specific paragraphs in Question 15. 12 weeks should be ample time.

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

I have not reviewed this chapter.

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

Para 13.3. While the requirement to write plainly is desirable, specificity would seem to require that 'jargon' can be necessary, particularly when describing needs and provision for CYP with complex support needs. In these cases, perhaps a glossary could be included rather than 'dumbing down' the document and risking a lack of specificity.

The references to 'flexibility' are worrying in the introductory paragraphs. A particular problem that arises for parents after statements have been issued at present is enforcing the provision in the statement, i.e. ensuring that support is delivered as set out in the statement. This is particularly the case if statements are poorly and ambiguously worded, allowing LAs to effectively fail to deliver the required provision. Any plans, therefore, to allow "flexibility" to LAs or schools in defining provision I would regard as a retrograde step. It also follows that the content of IDPs must be written unambiguously to carefully specify and quantify any provision to be made, so that there can be no doubt on reading it what support needs to be delivered (as I think would be required by case law). For example, if a child needs 1:1 support, I think this must specify the hours of support, the qualifications/experience of the person providing support, as well as what that support will entail (e.g. interventions used) and its purpose. To allow the "flexibility" to remove reliable, well-trained 1:1 support where skills are not established sets them up to fail, with consequences for their mental health as well as skills development. It is abandoning the child rather than promoting greater independence in my view.

The mandatory IDP form should only include information that can be the subject of an appeal to the Tribunal. The commentary at Paras 13.6-13.9 seems to allow other information to be included, which I think will simply be confusing for CYP/parents. If other information that cannot be appealed needs to be included, this should be in a non-mandatory annex and not mixed in with the mandatory IDP form.

Para 13.8. If CYP require transport or other miscellaneous services to access the provision or placement specified in their IDP and/or this is of a specialist nature, I think this should be mandatory. One of the enormous frustrations with the current statementing system is that such provision is dealt with separately, increasing the administrative burden for families.

One page profiles: while this would be included with the best of intentions, I think there is an inherent risk that this profile will be used by professionals as a substitute for reading the whole IDP. I would also question the value of gathering this under the headings in Para 13.24-13.26 for CYP with complex support needs, based on prior experiences where this has not worked effectively. I think it needs to impart useful information that is used to provide ALP, rather than simply being 'positive'.

Section 2A

Para 13.27-13.28 are 'must' statements and not 'should'. I think the description of ALN must be clear in this section, so that the ALP in Section 2B is drafted to meet each of the needs described. While diagnoses may be helpful, individual needs must also be specified, so that support can also be clearly specified to meet them. Similarly, reasons should be given if there are differences of professional opinion and how the description of ALN was arrived at.

Section 2B 1)

In my view for CYP with complex support needs, intended outcomes should be clearly separated by timeframe:

- General, long term outcomes required from ALP
- Specific outcomes expected during the period until the next annual review of the IDP

I think it should also be possible to appeal against the general long-term outcomes if they are not considered suitable.

Section 2B 2)

Para 13.34-13.39: I think far greater specificity is required to be compliant with previous case law on statements. All provision should be specified and quantified precisely in the IDP so that there can be no doubt on reading it what should be provided (e.g. see L v Clarke and Somerset [1998] ELR 129). This should include where appropriate hours of provision, how frequently (daily, weekly etc.), what the provision is, specific interventions, who will provide it, the qualifications and experience of the person providing it, any programmes to be developed, any training required etc. This is required so that it is clear what is to be provided and CYP/parents can hold professionals to account if that provision is not delivered (though I also note that no specific means to do so has been provided in this Code). Para 13.38 needs to be strengthened to reflect the need to be very specific.

Para 13.42: I think that reasons must be given for decisions on ALP for reasons of transparency.

Section 2C

Paras 13.44-47: it is unclear why the NHS appears to have been given a separate opportunity to have different start and end dates from the duration when the IDP will be made and then reviewed. This seems entirely inappropriate to me.

Para 13.46 should also spell out the level of specificity and quantification required, as in my experience the NHS does not do so at a level required by Statements of SEN at present.

It is not clear in Sections 2B and 2C if, in the case where a therapy is required to meet needs and the NHS will not provide it, that the LA is responsible for making the provision. This needs to be absolutely clear.

Section 2D

All decisions and the reasons for them must be recorded in this section, in my view. It is also unclear, in the case of LA providing EOTAS provision in a child’s home, if this would be recorded in this section. At present, Part 4 of a Statement of SEN may record schools or EOTAS attended. Further clarity on this issue is required.

Section 3A/3B

I think that the evidence considered must be included here, along with differences of opinions and the reasons for those views. This must include all arguments made and evidence supporting them, including any private assessments obtained, provided directly by CYP/parents.

Section 3C

Unless this support for transitions is mandatory and part of Section 2B, it is unclear what its value is as it appears there will be no means to hold professionals to account to provide it.

Non-mandatory IDP content

I think that there should be consideration here of whether it is possible to deliver the ALP in the absence of any ‘non mandatory’ provision like transport. E.g. if the child cannot access the provision without specialist transport provision, being provided, I would like to see this included as ALP. It cannot be right that CYP and parents have to address ALP and transport via 2 separate processes, where successful delivery of ALP is dependent on the transport being available.

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

I think there needs to be very clear separation between the content that can be the subject of an appeal to the Tribunal and other information. There is great scope for confusion in simply marking the text, as well as typographical errors in preparing IDPs.

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

In my view, it is not specific enough.

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

This does not provide clarity and in my view leaves the current, unsatisfactory processes in place unchanged from the SEN system. If CYP require specific transport arrangements to be made in order to access ALP and/or their placement, this should be arranged specifically for them as part of the ALP in the IDP process.

Chapter 15 – Duties on health bodies and other relevant persons

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

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

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

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

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

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

Given that the timeframes involved in IDPs, allowing 6 weeks to determine the matter seems too long a timescale.

There also seems to be a lack of clarity about evidence-based services that are not currently provided by the NHS. Is there a duty to identify such services if a child is assessed by an NHS allied health professional, even though the NHS cannot currently provide the service? Other professional obligations on professionals (e.g. registration with HCPC and professional bodies) would suggest that they should. I observe that this is one of the reasons why previous reviews have called for separation of assessments and resource decisions in current SEN processes.

Para 15.34 appears to suggest that NHS professionals can ask for an IDP to be reviewed at

any time. As a veteran of the current statement of SEN system, this is extremely concerning. This seems to allow that even if an IDP has been the subject of an appeal to Tribunal, the NHS can then seek to overturn the ruling at any time, ultimately resulting in the IDP having to be appealed again for the exact same reasons? If this is a correct interpretation, this can only cause harm to CYP and will no doubt add to the number of appeals made to the Tribunal. ‘Flexibility’ should only work in the best interests of CYP and not to allow bodies to reduce support if their resource levels change. Appropriate safeguards seem to be absent from this paragraph.

The Designated Education Clinical Lead Officer (“DECLO”)

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

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

The description of the DECLO role appears very strategic. In practice, I think that what is required is a much more hands on role, to provide advice on therapy provision available for specific cases.

There appears to be no mention of any role in commissioning therapy interventions to meet the needs of CYP with ALN. There appears to be no mechanism to review whether the support provided by the NHS is actually meeting the needs of the population served, or whether new services need to be commissioned to do so. Workforce planning would also seem to be an important function, which is overlooked.

The role seems to be a ‘post box’ and managerial role rather than one seeking to improve the range of interventions provided and innovative approaches to meet stated needs. It seems to perpetuate the ‘status quo’ in terms of therapy delivery. From experience, we have found this is inadequate to meet needs.

I would suggest that using ‘putting things right’ system is ineffective as a means to resolve ALN complaints. I think one key issue is that it lacks independent oversight from those with appropriate expertise and the NHS should not be allowed to ‘mark its own homework’ on ALN provision. It is also entirely unfair and disproportionate for CYP and parents to have to use two separate administrative routes (‘putting things right’ and Tribunal appeals) to address difficulties with therapy provision in IDPs. This seems to perpetuate the problems with the existing SEN system, resulting in an unacceptable administrative burden for families.

Part of the argument for changing the current statementing system was, as I recall, to simplify the system for CYP and parents. This does nothing to simplify administration in my view and retains a ‘twin track’, confusing and inadequate system for redress. I think this needs urgent reconsideration.

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

I welcome the clarity on timescales for IDPs to be reviewed annually and that an IDP is deemed reviewed following the implementation of a Tribunal order (Para 16.13-16.14). I also welcome that CYP and parents can request reviews at any time and that decisions not to undertake a review can be the subject of an appeal to the Tribunal (Para 16.17). The clear timescale to complete an IDP review is welcome (Para 16.19). This appears to directly address significant problems we have experienced in the current statementing system.

Para 16.23 appears to allow the NHS to unilaterally change its ALP independent of consideration at the IDP review. This appears to undermine multidisciplinary consideration of ALN, since presumably other views should be considered within an IDP review. If CYP and parents disagree (possibly supported by other parties at the IDP review), this will presumably mean they will need to obtain a second opinion from another professional and appeal to the Tribunal. I think this could result in an increase in appeals. It also underlines the need to make funding available for independent advocacy and for additional assessments to those seeking to appeal a decision.

It is less clear in what circumstances an LA or NHS bodies can request earlier reviews, and does not explain what CYP and parents can do if they do not agree that a review is necessary. As someone familiar with the current SEN system, the proposed reviews seem to amalgamate the existing statement of SEN and IEP reviews.

In one sense, this appears to give enhanced accountability by providing more opportunities to appeal to the Tribunal. The considerable downside for those CYP requiring long term ALP is that potentially ALP will always be regarded as 'flexible', so that additional Tribunal appeals for CYP with significant ALN may be increasingly necessary to secure provision for any reasonable length of time. This may significantly increase the number of appeals made for each child and those made in aggregate.

I am not sure how one would address this issue satisfactorily, though perhaps there could be an 'triage' or review of some sort introduced by the Tribunal when appeals are lodged, to determine if early reviews are being used to circumvent a previous Tribunal order.

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

In my view seven weeks is ample time to complete an IDP review. It is right that only a very narrow set of circumstances should be allowed to delay this.

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

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

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

Have not considered this chapter in detail as it is not within my child's experiences.

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

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

Here I am writing as a parent of a child with complex support needs and who currently has a statement of SEN. I think there should be minimum timescales prescribed for actions involved e.g. to send information to parents ahead of meetings.

Para 18.12: I think that reports must be sent to CYP and parents well ahead of the meeting, if they are to have a hope of contributing on an equal footing. Also, if there are matters of concern in a professional report, I disagree that the LA is the first point of contact to discuss it. In a therapeutic relationship, the therapist is directly accountable to the therapy client for assessment and treatment: i.e. to the child, young person or those acting on the client's behalf if they are too young or lack capacity (parents). I think that matters of concern must be taken directly to the professional who has written the report.

Para 18.15: I think there should be a requirement to give reasons for all decisions made and to explain them clearly, with evidence as necessary.

Para 18.16: I think that independent advocacy services must be available to CYP and parents before, during and after meetings, to support them in exercising their legal rights.

Reviews of IDPs

The guidance here appears to be insufficient for children with complex support needs and I do not think it will provide sufficient scrutiny for a review of an IDP. Examples follow.

Para 18.22: I think that parents and CYP should be involved in deciding who will be invited to

attend an IDP review meeting. If there is a difference of opinion how will this be addressed? E.g. parent thinks communication needs have changed, LA disagrees and therefore does not invite the speech and language therapist.

Para 18.24: I think that the professionals working with a child should be required to provide a report as in 18.12 and copies must be sent to CYP/parents. I would not want to receive a report on progress from the LA caseworker: in my view this would not be sufficiently detailed to allow a review of the IDP.

I think this whole section needs to be significantly strengthened. Again, independent advocacy services must be available to CYP and parents before, during and after meetings, to help them exercise their legal rights.

Coordinating meetings

I think this section should be strengthened to make clear that while this may be desirable in some cases, in others it may not be. I would also like to see an explicit statement that this must not be used as an excuse to delay an IDP review meeting.

Chapter 19 – Planning for and supporting transition

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

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

It is good to see the importance of planning for transitions highlighted. In my experience, this is a significant weakness in the current statementing system.

Throughout the chapter, I think it is not specific enough about what the duties are. There are also no prescribed timescales. In the current statement system, there is guidance to complete reviews before February where a child or young person is making a significant transition in September later that year. I would like to see similar guidance on timescales included here, where that also considers that transitions may happen at times other than the beginning of a school year in September.

Chapter 20 - Transferring an IDP

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

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

This is beyond my direct experience. I welcome Para 20.19, which clearly requires that existing IDPs are maintained where a child moves LA area.

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

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

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

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

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

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

This is beyond my experience and I have not considered this chapter.

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

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

Chapter 22 – Children and young people subject to detention orders

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

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

This is beyond my experience and I have not considered this 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

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

I have only commented on CYP receiving EOTAS outside a PRU, as the other situations are beyond my direct experience. My child has a dual placement: part time at mainstream school and the remainder EOTAS. Both are supported by provision not available in local maintained or independent schools and the provision in the Statement has been ordered by SENTW.

In a similar situation with an IDP, I think it is appropriate to expect that the LA must maintain the IDP and ensure the ALP is delivered effectively. I therefore question why Para 23.7 appears to allow prevarication about whether this provision should be made. At Para 23.11, I agree that the professionals involved may be different (as some are in our case). I think it should be made clear that all professionals involved in ALP should be invited to be involved in IDP processes, including submitting reports to and attending meetings.

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

I have not read this chapter in detail. I do not understand the rationale, however, as to why special schools are not required to have an ALNCo. I think that they should be required to have one.

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

I think that the arrangements described are inadequate. In my view, arrangements to avoid and resolve disagreements not only need to be independent and impartial, they need to be seen as independent and impartial by all those who need to use them.

There appears to be little understanding throughout this Chapter that when CYP and parents are in disagreement with LAs, they are effectively the opposing party in the dispute. I think it follows from this that it is entirely inappropriate that LAs should be involved at all in such services for ALN. This appears to embody a very obvious conflict of interest.

In my view these services, their funding, the skills and qualifications of those involved and any reviews of their effectiveness should be entirely independent of LAs. They should have no involvement at any level in disagreement resolution or advocacy services.

Arrangements to avoid disagreement

Para 25.52: independent advocates must be made available to uphold CYP rights throughout such processes. From experience, there may be situations where an advocate might advise that there is no benefit in taking part in such processes and that an appeal is the correct place to address any dispute. Consequently, I think the arrangements should run in parallel to appeals, to avoid any delays.

Interrelationship with the Tribunal

The difficulty I see with disagreement resolution is that the settlement appears to be non-binding. I have heard of cases where settlements have been reached before appeals have been heard, resulting in parents thinking they have reached agreement in part and later finding that the agreement reached has not been honoured. I think the guidance should directly address this problem, otherwise it would appear there is no benefit to taking part.

Other means of challenge

It appears to me that the situation facing families remains unchanged from the Statementing

system. If ALP is not delivered as stated in an IDP, CYP and their families appear to be faced with the same bewildering (and perhaps inadequate) routes for redress. I see nothing here that will change the current situation, where CYP and their families are the only parties holding anyone to account for quality of services and delivery.

For example, I am astonished that Judicial Review is apparently seen as a routine way of challenging decisions made. I am not sure that the practicalities involved and the expert support required (even to establish that there is an actionable case) has been considered.

Independent advocacy services

Para 25.55: I think it is disgraceful that these services are not available to parents. CYP with the most complex ALN are those least likely to be able to exercise rights and therefore in many cases, their parents will seek to do so on their behalf. This appears to effectively deny legal support to the most vulnerable CYP unless their parents can afford their own advocacy.

Para 25.57: I think advocacy services should be available at all stages of the IDP process, not just for appeals. Many disagreements and misunderstandings of legal requirements (on the part of professionals) could be avoided by providing legal support to CYP and their parents throughout.

Para 25.64: where advocacy is requested, this must surely be provided.

Para 25.67: since an LA will be a party to an appeal, this surely underlines that any advocacy service should have no involvement from the LA.

Para 25.71: I think the advocate must have the requisite knowledge, skills and experience in ALN. If they do not, they will not be able to provide the support required.

Para 25.72: it should be clarified if parents are able to act as case friends to CYP (see comments later).

There may often be situations where CYP and parents do need access to specialist legal support. This seems to be implied by the reference to Judicial Reviews and may well be the case during appeals. Any advocacy service must include the requisite legal support to make such claims or appeals successfully, in my view.

As part of this, there is no mention of any means for CYP and parents to obtain independent assessments of need and provision, where there are disagreements with professionals providing reports to the IDP process. The professionals would also be required to give evidence at a hearing. The Code is silent on this issue.

I strongly suspect that CYP and parents, as now, would be expected to have to pay for these reports. This is simply beyond the means of most parents. As an example, an assessment report from a reputable educational psychologist may cost in the region of £1500-2500, depending on type of assessment, visits required, etc. There would be an additional fee for appearance at the hearing, upwards of £1000 plus expenses. Where children have complex needs, similar reports would almost certainly be required from multiple professionals. In my experience, appeals have little chance of success without such evidence. The Code should specify if the advocacy service would arrange and fund this.

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

See response in 42 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

Para 26.5: the addition of the right to appeal if there is a disagreement that there ‘has been no material change in needs’ is welcome.

Para 26.7 and 26.10: some guidance would be appreciated on when this application should be made, what evidence should accompany the application and what the consequences are for parents and their CYP. For example, if the application is accepted by the Tribunal, can the parent then apply to be a ‘case friend’ for their child?

Para 26.15: I do not understand why the LA (respondents) should receive the whole of the appellants’ case statement before having to submit its own. They should be submitted at the same time. I think that if an LA stands by its own arguments/evidence and its decisions are defensible, it should be able to do so without seeing the entire case submitted by the appellants first. All this does is allow LAs a ‘second bite of the cherry’ and to arrange for further assessments to try to support its own position. It does not seem at all fair that the appellants must disclose their whole case before seeing the case made by the respondents.

Para 26.18: what action would a Tribunal take, if the report was not submitted, the Order had not been complied with, or the respondent claimed that the Order had been implemented but it had not been implemented in full? In the latter case, how would they know? Similarly for NHS at Para 26.21?

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

Para 27.4: I think it should be made clear if a parent can apply to act as a case friend for a child who lacks capacity. Para 27.7 and 27.28 seem to suggest that they can.

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 have already responded to previous consultations. Below are some of the issues that I think should have been addressed in the ALN reforms. I would be grateful if you could consider whether it is possible to address any points raised that are not already addressed in the draft Code. Where relevant, I have indicated the relevant chapter in the draft Code.

Background

1. I am the parent of child with complex special educational needs (SEN) and have made several appeals to the SEN Tribunal for Wales (SENTW) on behalf of my child. Many of the points I have raised here were also raised during the previous ALN consultations.
2. In responding, I have been guided by the following two principles. The proposed changes should: 1) improve or at least maintain my child's ability to access support and maintain the legal rights afforded to children and young people (CYP) and their parents; 2) identify and address the current problems encountered by CYP and parents in the existing SEN system.

Identifying issues with the current SEN system to be addressed by the ALN Reforms

3. *Problems currently encountered with practice in assessing SEN needs, provision and placements include:* lack of adherence to the Code of Practice; time delay and bureaucracy in dealing with assessments; use of "SEN panels" of unknown membership to determine provision, with processes that lack transparency; relevant practitioners failing to specify exactly what provision a child should receive, to leave "flexibility" to remove provision if resources change; offering CYP placements based on their diagnosis, rather than their needs; adversarial approach throughout, despite talking the talk of negotiation; paying lip service to parental involvement, while ignoring their input; unwillingness to innovate by providing access to alternative evidence-based SEN provision, even where these alternatives are demonstrably more efficient and cost-effective for an individual child e.g. provision based on Applied Behaviour Analysis (ABA) interventions.
4. *Issues with the current SENTW Appeal process include:* insistence that tribunals are parent-friendly, informal "inquisitorial" processes, when they are highly adversarial and formal legal processes; lack of appropriate, free to access legal support for parents before, during and after the Tribunal appeal process; lack of independent assessment of children leads to parents having to commission independent experts to prepare professional reports to provide evidence for their case, which are very costly e.g. £1.5-2.5k for an educational psychology assessment report, plus another £1-2k for a Tribunal appearance as a witness (NB most CYP with complex support needs will need multiple reports from different specialists) which is beyond the means of most parents and should be available irrespective of ability to pay; lack of feedback to SENTW on the consequences of the decisions it has taken, to inform future decision making.
5. *Problems with securing the provision in the Statement include:* statement wording is too vague to enforce the Statement when the provision is inadequate; lack of means to enforce provision, other than judicial review which is not readily available, either due to weak statement wording, prohibitive expense or unsuitability of the case; problems for parents accessing information

about what provision is being made by schools and healthcare providers for CYP, even where subject access requests are made.

6. Because of such issues as these (and others), only the most tenacious parents with access to professional support will attempt to question poor SEN practice and make appeals to SENTW. One should also remember that parents of disabled children are already battling many other systems for support for their children (e.g. social services, Department for Work and Pensions, etc.), as well as dealing with the additional demands that their children make on family life generally. As a result, only the most determined will realise that they are legally entitled to adequate SEN provision, let alone find the time, courage, energy and resources to attempt to secure it. I think what is needed is a system that involves CYP/parents as “experts by experience” in ALN and provides a level playing field for all to challenge poor ALN decisions, irrespective of ability to pay or personal circumstances.
7. The basis for the ALN reforms is that the existing legislation is “no longer fit for purpose”. As the parent of a child with complex SEN, I cannot disagree with this more. While any administrative system is imperfect, the reasons that the current system does not work effectively, in my view and from our direct experience, is largely due to the manner in which institutions within the system have chosen to implement the provisions. Of particular note is the widespread failure to consider CYP and parents as “experts by experience” in SEN processes and the lack of transparency in decision making. I remain unconvinced that the “Transformation Programme” will effect the necessary cultural and structural changes required, particularly the need for greater transparency and candour, given the apparent lack of parental representatives involved to provide a “user” perspective.

Educational rights not needs

8. “Additional learning needs” is a weak term and the issue is one of the right of disabled children/young adults to a decent education and to suitable provision (across health, education and social care) to make this happen. The opportunity has been missed to change the discourse around provision for disabled children and young adults to one of “rights” rather than “needs”. This has long been argued for by those campaigning for the rights of disabled children to equality of opportunity in education¹. The argument is that a discourse based on needs is exclusionary by its very nature and that a system based on asserting disabled children’s rights would be more empowering and inclusive. The principles in **Chapter 2** refer to rights under relevant UN conventions, though they do not appear to require direct consideration in operational decision making.

Erosion of existing rights for CYP and their parents

9. *Rights of CYP with complex needs to be included in mainstream*: section 51 states that parental preference for a mainstream setting will not apply when “[...] educating the child otherwise than in a mainstream maintained school is appropriate in the best interests of the child and compatible with the provision of efficient education for other children” (see **Chapter 2** and **Chapter 11**). This appears to allow LAs/schools to argue that a child must have a special school placement if the decision passes an undefined “best interests” test and is administratively easier. In comparison with current legislation, the position of parents who want their children to receive an inclusive education at their local school and to thereby achieve better social

¹ See for example RUNSWICK-COLE, K and HODGE, N (2009). Needs or rights? A challenge to the discourse of special education. *British Journal of Special Education*, 36 (4), 198-203.

integration into their local community appears to be weakened. Essentially, the burden of proof appears to be reversed, so that parents must prove that a mainstream placement would be in the child's best interests, instead of the current situation where LAs must show (with a high bar) that it is either not compatible with the efficient education of other pupils or it is not possible to make reasonable adjustments to allow the child to attend. This appears to allow for discrimination on the grounds of disability, which I think is incompatible with other legal rights of CYP with SEN.

10. *Parental preference for a named school appears to be undermined*: the process by which a school is named in an IDP is unclear and seems to remove established legal principles of presumption in favour of parental preference. Parents of children with statements currently have a right to appeal against a refusal to comply with their parental preference to SENTW, if the school or setting otherwise than at school (including home-based provision) that they think best meets their child's needs is not named in the statement.

Principle of replacing the three-tier system with IDPs for all CYP with SEN from 0-25 years

11. Extending the age range from 0-25 years is welcome, though without additional funding, I think this will inevitably reduce the funding available to individual children and will affect those with complex SEN disproportionately and adversely.
12. Since the need for learning and support will not stop at 25 years for CYP with complex SEN, it would also be prudent to consider how provision will be kept in place as they enter adult services. At the moment, parents describe CYP with complex SEN "falling off the edge of a cliff" as they enter adult services. Moving this cliff edge from 19 to 25 years, without considering how best to resolve this issue, represents a lost opportunity to strengthen support for the most vulnerable people with complex SEN (**Chapter 15** and throughout the Code).
13. The extension of IDPs to cover all CYP with ALN also represents a significant change. First, the need to produce an IDP for all of these learners will result in a greatly increased administrative burden for LAs, schools and health boards. Second, it is not clear how a single defined IDP process can meet the needs of this very diverse group, particularly those with complex SEN who need expert assessment of needs and provision. Third, while superficially the removal of the three-tier system (school action/school action plus/statements of SEN) seems superficially attractive, there will be no clear signposting for parents as to when they have exhausted school-based provision and should be requiring the LA to take over responsibility for the IDP. It seems naïve to imagine that there will be no disagreement between parties about this issue. This serves to underline the need to ensure that independent advocacy services free at the point of access are available to CYP/parents before and during IDP processes and to ensure that the system is adequately funded. These services also need to be entirely independent of LA control (**Chapter 25**).

The IDP process

Assessments

14. It appears that the legal right for parents to request an assessment of SEN has not been replicated. I think **Chapter 11** should be stronger on the 'duty to decide' if CYP have ALN when it is brought to their attention by CYP themselves or parents.
15. It is worrying that there is little compulsion or specificity in the draft Code to seek particular

expert professional advice during the assessment process (**Chapter 11**). Schools and LAs alone do not have (nor could they ever have) the necessary expertise to make diagnoses and provide advice on every possible condition that may give rise to ALN.² The reference to involving educational psychologists is welcome, though other experts are a crucial part of the assessment process, particularly for CYP with complex support needs, and it is concerning that they are not considered an integral part of the IDP assessment and review process. In my view there is therefore no comparison to be had between the rigour of the current assessment processes for statements of SEN for CYP with more complex support needs and the planned IDP process.

Format of IDPs

16. The format of IDPs must be set out clearly, to avoid unnecessary complexity if each school or LA area develops its own format. I have described in Q 18 how the description in **Chapter 13** seems unsuitable for CYP with complex needs.
17. There appear to me to be two issues with the IDP form and process: the IDP seems to conflate the existing IEP and statementing processes; and the system appears to have been designed primarily for the population of CYP who currently do not have statements. While this may well prove effective for the majority of CYP who do not have complex ALN, I do not think it follows that this is an appropriate approach for CYP with more complex ALN.

Multi-agency collaboration

18. While **Chapter 13** appears to be based on good intentions, there are multiple issues arising from the measures for health boards in the legislation, which appear not to have been considered. Firstly, it is unclear who is responsible for provision, if the health board does not have a current service to meet the needs identified. It is not clear in the event of a disagreement between the health board and LA, how issues would be resolved e.g. it appears that any complaint by parents about therapy provision would need to be made via the Health Board while also lodging an appeal to SENTW.
19. From experience, the administrative complexity is bewildering where several different public bodies are involved in service provision. In the case of therapy provision, I think in practice this would require complaints to be made via LA and Health Board (to allow the Public Services Ombudsman to investigate the matter at a later stage if necessary), as well as appealing to the Tribunal. This is clearly unsatisfactory and may obviously result in an overwhelming administrative burden for families. I think that the approach to providing routes for redress for failures in ALN provision requires urgent reconsideration, to streamline the process as it is experienced by CYP and their parents and to rectify any problems experienced quickly.
20. At the moment, LAs would be responsible for securing provision directly from independent professionals if a health board cannot provide it, which should be maintained for IDPs to ensure a simple “one stop shop” process of appeal for parents.

² That a good proportion of teachers in a recent poll appear to think that they are qualified to do so only serves to underline the potential problems. A YouGov poll found that 57% of teachers thought that SEN was misdiagnosed and that 54% thought that parental pressure leads to unnecessary SEN categorisation. This has been roundly condemned by thought leaders in SEN provision for perpetuating harmful stereotypes of “sharp elbowed” parents and led others to question the basis on which teachers are qualified to question medical diagnoses. See https://www.gl-assessment.co.uk/media/2190/gl1670_hooked-on-labels-not-on-need_february-2017_final.pdf

21. While the assumption seems to have been made that multi-agency working benefits CYP and parents, there is an alternative view. There is great potential for confusion around responsibility for provision in specific cases. For example, I think that case law has established that speech and language therapy is an educational provision, if it is required to access education. Therefore, there is no doubt in the current system that LAs are responsible for stated provision. It is not clear to me in the Code if the LA, health board or both would be responsible for SLT provision in an IDP in future. The Code should retain the clarity of keeping the LA primarily responsible legally for delivering the provision in the IDP, in my view.
22. Data protection will continue to be a significant issue, in my view. I think that no information about CYP or their parents should be held or be changing hands without their knowledge and they should at least be asked to give consent on each occasion: “nothing about us without us” is the principle that needs to be upheld. It would also be good to see plans to make full disclosure of information held about parents/CYP to parents/CYP common practice, so that parents/CYP do not have to resort to subject access requests (which attract a fee) to see their own files and data, as they do currently.

Addressing fundamental conflicts of interest in assessment and provision for SEN

23. I think there are significant issues that have been barely considered in **Chapter 13** with respect to how agencies work together now and in assuming that the Code will result in better collaboration. In 2006, the House of Commons Select Committee recommended that: “The landscape of local authorities and local health organisations is continually changing which makes it difficult to make specific individual recommendations about the way they should work together. We consider, however, that assessment of SEN should not be made directly by the bodies that fund the provision, and any revision of the system overall should take this principle on board. (Paragraph 161)” (recommendation 37).³ In my view, the recommendations made in this report should be considered in full, which seem comprehensive and relevant to defining a better system of assessment and provision for ALN in future.
24. The principle of separating the assessment of SEN from processes of funding and resources in LAs and Health bodies has been recommended many times before by those representing the rights of parents and disabled children in SEN issues. This is absolutely crucial in ensuring that assessments are accurate and sufficiently detailed to reflect needs and the provision required. At present, there is a perverse incentive to downplay support required and to fit CYP to whatever service is available, rather than carefully assessing and documenting what each person requires and making provision to meet those needs. I think this requires consideration in the Code.
25. I think that the potential for appropriate and timely ALP to reduce the lifetime costs of each individual’s need for educational, health and social care support should also be considered explicitly in ALN decision processes.

Disagreement resolution

26. In determining appropriate frameworks for resolving disagreement in **Chapter 25**, it appears that the Welsh Government has not attempted first to find out why it is that CYP and parents currently find themselves in disagreement with their LA, schools and often NHS professionals

³ Select Committee on Education and Skills. Third Report : Special Educational Needs, HC 471 (2006). <https://www.publications.parliament.uk/pa/cm200506/cmselect/cmmeduski/478/47802.htm>

regarding assessment and planned provision for SEN. These issues are very well documented across numerous sources over a very long time period. The metaphor of “fighting” is often used by parents to describe the process of dealing with LAs, schools and the NHS to secure SEN support⁴. Parents’ views, when documented by researchers over time, remain remarkably consistent in the problems they have identified in the SEN system⁵.

27. The attitudes of professionals involved in provision of services within SEN processes has also been shown to present a barrier to working effectively with parents in the interests of their children⁶. I think that large scale cultural changes will be required for such professionals to view parents as full partners in decision-making, bringing their own expertise to the process (derived from their own lived experiences of managing their child’s condition). I think that to imagine that this will happen without excellent advocacy support for CYP and parents is wholly unrealistic. In my view regulation is also needed to ensure that best practice is adhered to at all levels, bringing accountability into a system where the vast majority of the actors have traditionally acted with impunity.
28. A particular issue from the perspective of parents concerns the current lack of transparency in current SEN decision processes in LAs and health boards, which contributes to creating the conditions for disagreements to occur and mitigates against resolution. For example, it is common for the needs of CYP to be considered by LA SEN Panels of unknown membership, where decisions are made regarding SEN provision and placements. The Panel meetings are held *in camera* and minutes are not generally made available. Michael Charles, legal expert and CEO at SinclairsLaw has recently called for complete transparency in these SEN processes. He states in commentary on one LA that has opened the process to public scrutiny: “I truly believe that the time has come for absolute transparency. By adopting this method less people will wish to burden the courts or tribunal with claims that could have been avoided. Mediation services will be less strained and more resources will be available to actually provide for our children. I welcome this local authority approach as a refreshing change in protocol. It is important that other sensible local authorities follow the lead. It is far better to properly pay regard, at the outset to the voices of parents, who not only know their child the best but who can relay the truth about all of their child’s needs. Better to allow parents to hear the deliberations than to seek to bury them under a bureaucratic procedure leading to costly legal proceedings in which the truth is likely to ultimately prevail.”⁷ I think that the Welsh Government should ensure that these principles of absolute transparency, candour and meaningful involvement of parents in decision processes are mandatory in ALN processes, in the interests of minimising the potential for disagreement from the outset and reducing the need for mediation and legal action.
29. It is also concerning that “disagreement resolution” is being mooted as a way to reduce reliance on tribunals, in my view without fundamentally addressing the problems that lead to disputes

⁴ E.g. see Duncan, N (2003) Awkward Customers? Parents and Provision for Special Educational Needs, *Disability & Society*, 18:3, 341-356.

⁵ See Chris Gravel’s summary article for Network 81 in 2000 here <http://www.zen123082.zen.co.uk/Articles/tribunal.htm>. More recently, two further research reports into disagreement resolution via the tribunal process and mediation were conducted by Merton branch of Mencap in 2013 (see <http://www.mertonmencap.org.uk/pdfs/SEND-Tribunal-Survey-Results-August2013.pdf>) and SOS!SEN in 2014 (http://www.sossen.org.uk/information_sheets/SOS!SENResearchReport18Feb14.pdf). All documents were last accessed 14 December 2015 and it is remarkable that similar issues arise in all publications.

⁶ Bezdek, J, Summers JA, and Turnbull A (2010). Professionals’ Attitudes on Partnering with Families of Children and Youth with Disabilities, *Education and Training in Autism and Developmental Disabilities*, 45(3), 356–365.

⁷ See commentary on the benefits of greater transparency in LA SEN Panel decisions here: <http://www.sinclairsLaw.co.uk/news/panel-decisions-should-not-be-behind-closed-doors/>

arising. I think it is a leap of faith to imagine that a more formal process for mediation will have a different result without the widespread cultural changes I have described.

30. I think that disagreement resolution may be effective in a set of very limited circumstances: the ALN system has an appointed regulator to ensure that best practice is more commonplace; the LA has no role in funding or appointing independent advocates or mediators, to ensure their independence and that they are funded at an appropriate level, since organisations funded by LAs may be compromised in their ability to support parents/CYP and reluctant to undertake true advocacy e.g. representing them against the LA at mediation and Tribunal; independent advocates or mediators are very highly trained specialists in disagreement resolution, legislative requirements and in the technical detail of SEN provision; independent mediators are appointed on the basis that they are seeking consensus and a fair outcome for all parties, particularly ensuring equality of opportunity to put a case forward e.g. all parties have access to the same information; independent advocates are very clear that their role is to support parents/CYP in mediation, including fighting their corner as necessary and helping them to construct legal arguments/ detailed cases to defend educational rights; a mediation process should run in parallel with an appeal process leading to Tribunal i.e. it is not a substitute for the appeal process; if the LA and parents' positions are already so entrenched that no compromise is possible (which will always be a common position), there should be a means of refusing mediation on the basis that there is no opportunity for formal agreement; should the mediation process fail or be incomplete in any way, the independent advocate will continue to support the parents/child in constructing their case for the Tribunal, including appearing as an advocate for the parents/CYP if this is necessary.

Implementation and enforcement of statements: lessons learned for IDPs

31. With reference to **Chapter 25**, particular problem that arises after statements have been issued at present is ensuring that provision is delivered as set out in the statement. This is particularly the case if statements are poorly and ambiguously worded, allowing LAs to effectively fail to deliver the required provision. Any plans, therefore, to allow "flexibility" to LAs or schools in defining provision I would regard as a retrograde step. I think it also follows that the content of IDPs must be prescribed by statute and should be written unambiguously, so that there can be no doubt on reading it what support needs to be delivered (as I think is required by case law).
32. As an example where "flexibility" can compromise making adequate provision to meet identified needs, one can consider the spurious argument made by some professionals that full time 1:1 support (e.g. teaching assistant, ABA therapist, etc.) provided by someone who knows the person with complex needs well and is well-trained in supporting their individual needs jeopardises their independence. To achieve true independence, CYP need to have gained proficiency in a range of adaptive and social skills. Until they have, they may need to be taught these skills on a 1:1 basis by someone who understands their needs and this provision will need to be specified and quantified in a Statement or IDP to ensure that it is delivered. CYP with complex SEN will also generally be far behind their typically developing peers in terms of skill development and do not have time to waste in unproductive activity. Providing 1:1 support with someone they know and trust in these circumstances allows CYP to focus on purposive activities and minimises barriers to learning such as self-stimulating behaviour or acute anxiety. To allow the "flexibility" to remove reliable, well-trained 1:1 support from a child or young person where these skills are not established sets them up to fail, with consequences for their mental health as well as skills development.

33. Parents should not be charged alone with ensuring that the actors in the ALN system remain accountable, as I think happens now. At present, parents can only bring tribunal appeals in a number of very restricted circumstances and otherwise, the only available legal remedy is a Judicial Review. Neither process brings swift resolution and leads to delays in addressing urgent problems with provision. Since the tests for legal aid and the circumstances in which a case can be brought are so stringent, I think Judicial Review is actually not available in all circumstances anyway, often leaving parents with no available legal remedy. It is astonishing to see that Judicial Review has apparently been regarded as an ordinary and commonplace route for redress in the Code.
34. I think the whole system should be regulated by an overseeing body to ensure legislative compliance and that best practice is adhered to, backed by the legal powers to enforce this. For example, I would suggest a single body is required with a remit to ensure best practice in the ALN system beyond appeals relating to IDPs, such as dealing with non-delivery of provision in IDPs, having powers to investigate swiftly and to make orders requiring that the IDP is delivered in full.
35. From experience, such disputes can take years to resolve, requiring simultaneous legal/procedural actions. I think that the lack of accountability and transparency causes procedural problems and delays in resolution. The CYP involved will also never get back the time wasted where they could have been making progress.

Case friends

36. With reference to **Chapter 27**, in most circumstances, it is difficult to understand why CYP with complex SEN would be encouraged to bring cases without the support of their own parents. There are serious questions to be asked regarding the ability of parents to discharge their own responsibilities to ensure that their children receive a suitable education in the situation where a case friend is supporting their child. I think it is wrong to side line parents in this way from the process of determining what educational provision is in the best interests of their child. I think it is a situation that would never be tolerated generally by parents in the case of typically developing children, so one has to wonder why it is deemed especially important for CYP with SEN to determine their own provision.
37. I think this is also open to manipulation. I think that responses from any child are malleable, depending on how questions are asked of them. For CYP with learning disabilities, there are also issues around comprehension that would need very careful consideration. In most circumstances, I think that a case friend would not be as effective as a parent in supporting a child to genuinely express their opinions. I think that the role and function of case friends requires scrutiny, to ensure that the existing rights of parents and CYP are not jeopardised.
38. I also think that parents should be able to apply to act as case friends for CYP, where the Tribunal has already decided that their child or young person lacks capacity for the purposes of the ALN system. It is not clear in the draft Code if this is permitted. If the intention is that parents are able to act as case friends. I think this should be made explicit.

Concluding remarks

39. I sincerely hope that the Welsh Government will consider how the proposed ALN system (as set out in the Code) should operate to provide the support required by all CYP, and particularly those with complex support needs. As drafted, it is not clear that support will be maintained at the current level for CYP with complex SEN, let alone fulfilling the promise of ‘statements or something better’.

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

NB to be clear, I comment here on the proposed process/procedures relating to appeals against the contents of an IDP. I have experience of appealing against the contents of a Statement of SEN but not of bringing a claim of disability discrimination.

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

In general, the regulations appear to provide a broadly similar process to the current appeals against the contents of a Statement of SEN.

There are some very significant changes that remain entirely unclear. For example, the draft Code (Para 26.14-26.15) seems to state that:

- **the appellant’s appeal application, reasons for appeal and case statement must be submitted together to the Tribunal within 8 weeks of the disputed decision being issued;**
- **the respondent receives all of the above and then has 4 additional weeks to submit its own case statement.**

This does not seem to be the same as the process outlined in the draft Regulations:

- **Reg 14-15 seem to require the appellant to submit an application and reasons for appeal within 8 weeks of the decision;**
- **If the application is complete, notice of the appeal is sent to both parties and the respondent receives a copy, with any attachments (Reg 15 (1) and 15 (2));**
- **For the appellant, the case statement period is 8 weeks from this date (Reg 19(2));**
- **For the respondent, the case statement period is 4 weeks from this date (Reg 19(4));**
- **At the end of each case statement period, the Tribunal sends copies of case statement and evidence received to the other party.**

I therefore think that the draft Code incorrectly interprets the draft regulations.

The wider issue is that I think the draft Code needs to provide accurate and useful guidance on the draft regulations for the benefit of all parties to appeals.

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	✓
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Supporting comments

I would like the regulations to address issues that we have experienced with in the current SEN appeal process. I would consider it fair and just if they deal with the following:

- Requiring all written evidence submitted by professionals to be accompanied by a statement of truth, not just that of independent professionals;
- Where there are no obvious reasons why evidence could not have been sought and provided within the case statement period, preventing use of the late evidence procedures to effectively extend the case statement period;
- Requiring initial working documents (i.e. setting out the changes sought to IDP wording) to be provided with each party's case statement. I think this should not preclude making changes right up to the appeal hearing, though would at least give each party an opportunity to consider the other party's position well ahead of the hearing. E.g. the parties could then consider if mediation was an appropriate option prior to the hearing, to narrow the issues in dispute;
- Respondent not disclosing who the professionals are that they wish to attend the hearing (i.e. only giving a title like 'educational psychologist');
- Ensuring that 'observers' at private hearings are requested for legitimate reasons e.g. as training for inexperienced staff;
- Active case management during the case statement period.

I am not clear if they are dealt with within the draft regulations.

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	✓
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Supporting comments

If the interpretation of the regulations I have made in Q 47 is correct (i.e. not the process as described in the draft Code), I think this appears satisfactory.

I think that the respondent should already be in possession of all the relevant evidence and therefore should have a shorter period (4 weeks) to prepare a case statement. Presumably, if the decision in dispute has already been made confidently by the respondent and on the basis of sound evidence and reasoning, no additional evidence should be necessary for the respondent to make its case. Likewise, preparing the case statement should be straightforward if the original reasoning was sound.

Appellants may need more time to prepare a case statement for several reasons, recognising that CYP and parents do not routinely deal with appeals and may lack the resources necessary to prepare a case statement:

- to understand what is required by the legal process, without the benefit of any prior experience of making an appeal, or an 'in-house' legal team's support (as is available freely to LAs during appeals);
- to write the case statement and prepare documentation themselves, since they will not enjoy the administrative support freely available to the respondents;
- to investigate and make arrangements for adequate advocacy and legal advice, which may not be available immediately or be available free of charge;
- to collate evidence to support the case statement, including arranging for professional assessments to provide a second opinion on the matters in dispute.

I think it is just and fair to provide additional time for appellants, given what I see as the structural inequality of arms between appellants and respondents in appeals. I am not sure that this issue has been addressed more generally by the ALN reforms either. I do not think it has been fully recognised how much effort, courage and resources (time, expense etc.) is required on the part of appellants to bring an appeal to the Tribunal. As a result, I would also suggest that the decision to make an appeal to the Tribunal would not a decision taken lightly by appellants.

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

Yes: see Q49 above.

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

A period of 6 weeks is a school half term without provision being made: a significant period for CYP to be without the requisite provision. If the NHS reports that it has not made the provision, what would be the result?

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

Seven weeks seems to be a long time to issue an IDP reflecting the order.

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

It appears reasonable to allow extensions where good reasons are given and it is fair to do so. I think it would be helpful to provide some examples of situations that would be considered as good reasons within the draft Code.

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

I think clarity is required that parents can be appointed as case friends if they meet the criteria to take on this role, where CYP lack capacity to understand and exercise their rights in in the ALN system.

Part 3 of the consultation: Draft ALNCo regulations

NB: I have not responded to this as it is outside my direct experience.

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

NB I have not responded to this as I have no direct experience.

(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?

I think the number of appeals necessary to secure ALP for CYP with complex support needs may increase, since IDP reviews may be called more frequently than for Statements of SEN in the current system.

The new ALN system appears to allow LAs to name a maintained special school placement in

an IDP against the wishes of CYP or their parents. I think this is inconsistent with the rights to a mainstream education set out in the UN Convention on the Rights of Persons with Disabilities. I think that this may lead to an increasingly segregated and less inclusive education system, with fewer opportunities for CYP with complex ALN to be educated alongside their peers in mainstream schools. I also anticipate that there may also be an increase in appeals related to this issue.

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

Not sure.

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?

Ensure that processes and provision are available in Welsh to those who require it.

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	Mary van den Heuvel
Organisation (if applicable)	NEU Cymru

Our response

NEU Cymru welcomes the opportunity to respond to this consultation. We would like to welcome the inclusion of an IDP template. The WG listened to practitioners for the need for a template. However, the template as set out in the Code is extremely long, and may prohibit the work of schools and FEIs supporting children and young people with an IDP – as the IDP itself will take up so much time.

We note that the Code is a lengthy document, which has obviously taken a lot of work. We would however like to highlight some issues which we believe would make the Code more usable as a working document – which we believe is the way it has been intended.

To that end we have highlighted a range of issues which have come about through the drafting of the Code. We believe that education professionals will do everything to ensure they are working within the aims of the Code, but that as drafted it is not sufficiently worded as a practical document.

The Current System

It is critical that communication remains consistent with roll out of the new system, especially regarding Local Authorities' (LA) role within the current (SEN) system in statementing until full roll out. We have concerns that LAs in particular are avoiding the 'statement' process of the current system. They appear to be using the introduction of a new system to pass responsibility on to schools. This is not acceptable. Schools and FEIs need huge amounts of training before full roll out of the new system. How LAs are acting now also contains lessons about how they will approach the new system – and risks schools being over whelmed, without sufficient funding to support learners.

To that end, reference to other legislation needs to be increased. As does considering an amendment to the Social Services and Wellbeing (Wales) Act to ensure that disabled children are identified as Children in Need. We believe this would provide a better safeguard for the LA to ensure they are planning sufficiently to meet the needs of children and young people in their area – identified under both this Act and the SSW Act.

Drafting

We recognise the Code has taken time and effort to write. However, there remains some work to do in terms of tightening the Code and cutting unnecessary paragraphs. For

example, there is a lot of repetition and some aspirational elements, which although relate to WG policy, do not need to be included as the Code.

It should be remembered this is a document meant to be used daily by a range of professionals. That would be impossible in its current format.

As drafted, this Code requires professionals to cross reference with the Act itself. For example, in relation to the term 'lacks capacity', that is set out more clearly in the Act than in the Code.

Safeguarding education professionals

In some instances, the Code says that 'teachers' will undertake actions in relation to ALN. However, this is misleading if read in isolation, and should emphasise that the **duty rests with the governing body**.

Indeed, there are many examples of using class teachers in the Code, where it seems more appropriate they would undertake this work alongside or in consultation with an ALNCo. We also note that the Code does not express who in a LA will be undertaking the duties placed on them. Therefore, we strongly believe that in order to safeguard individual education professionals in the system, the Code should say "governing body", even if it is understood an ALNCo or class teacher are undertaking that duty.

Making a decision

There is no assessment process set out in the Code, for schools, FEIs or LAs. This places individuals within the education profession in a difficult situation, especially given parental/ carer expectation has been raised significantly by this process. We believe there should be a formal 'assessment' process, undertaken by the LA.

We are concerned that the way the Code is currently drafted, LAs will be able to pass decisions back to schools and FEIs, where recourse will be taken up in disagreements with governing bodies. There is a real risk this will increase the numbers of Tribunals. In WG's recent research, mainstream schools felt the 'statutory assessment process' helped avoid disagreement.⁸ This is important, and has not been considered as part of this Act.

ALNCos

There is much concern that the role of the ALNCo is unworkable. We are also concerned that the role of the ALNCo is being changed without regard to the current pay arrangements. In short, the changes will effect the conditions of service for ALNCos, and yet this is not subject to the formal process set up by WG.

Currently, there is a lack of consistency about whether ALNCos, and the ALNCo role receives appropriate TLRs and whether the new Regulations mean they will be considered

⁸ Figure 9, "Research to establish a baseline of the special educational needs system in Wales": <https://gwedhill.gov.wales/docs/caecd/research/2019/190228-research-to-establish-a-baseline-of-the-special-educational-needs-system-in-wales-en.pdf>

on the Leadership Pay Scale, especially as the Code implies this will be the case. We have heard that many ALNCos will have less (if not, no) teaching time with children and young people. We therefore have concerns about how the Professional Standards will be applied to ALNCos, especially those with little or no teaching time. This has not been addressed here.

The role of support staff needs to be given more priority in the Code. 'Differentiated teaching' will not mitigate the need for tailored support for individuals and small groups. Support staff play a vital role and should be given sufficient training to help meet the requirements of the new system.

Funding

We are extremely concerned that the implementation of the Code has serious cost implications – both whilst the new system is being introduced and once it is introduced. There is the extra cost associated with more children and young people being on an IDP. School Action and School Action Plus are currently not such a formal, legal process. If WG is serious about it's aims for the Act, funding is key.

Training

We believe that training is critical to ensuring this Code, and indeed the Act itself, will fulfil the aims set out by WG – both within and alongside the Code. We are concerned that the current proposals around training alongside this Code are not consistent enough to ensure WG's aims.

We have concerns that the current approach, in which different consortia areas are using different models to apply for different 'pots' for training could lead to inconsistency. In North Wales our members are pleased to have the chance to apply for funding to attend courses and see other settings in which 'high quality inclusive learning' are taking place. But these should not be available through applying for money, but be guaranteed to all practitioners as part of WG roll out of the Code.

Workload

The Code needs to be workload impact assessed more thoroughly – both for ALNCos and for education professionals more widely. The amount of extra work involved in fulfilling the duties of the Act and Code will have a significant impact on workload. It is essential that we are mindful of this as the system will experience a huge amount of change in relation to the new Curriculum in particular, but the reform agenda in Our National Mission more widely.

Our members tell us they are considering giving up their roles as ALNCos. These roles are inconsistently recognised, both financially, and within the structure of the organisation. They raise concerns about workload as a particular worry in relation to IDPs and the Code more widely. They also highlight the challenge in relation to managing expectations of parents and carers and negotiating with LAs and health bodies as prohibitive to supporting children and young people with ALN.

Governing Bodies

With no changes planned for Governing Bodies either⁹, they need support – **including training and funding** - to ensure that they are able to understand and meet the duties placed on them by the Code.

We have answered the questions below which are most relevant to us.

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 this is clear.

However, what is less clear is where these are referenced to the Act – this should be clear in all cases. We know this creates more footnotes, but sometimes the Act is clearer than the Code, for example in relation to 'lacks capacity'. To read the Code here without the Act, it is more confusing than the Act itself.

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

We have concerns about the timescales, in relation to information which would support a 'decision' on whether a child has ALN, and needs an IDP. We are concerned that education professionals will be under pressure to decide within the timescales, whilst information which is critically held by health, for example, will not be available.

We think this risks education professionals being put in an unacceptable position in terms of making a decision. The expectations of parents have been hugely inflated by this Act, and yet education professionals will be left to have extremely challenging conversations with parents without sufficient training, support or funding to meet expectations.

⁹ Written Statement 2.4.19 <https://gov.wales/written-statement-school-governance-next-steps>

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

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

It could be made clearer using examples. Eg. If a school is made aware of a possible ALN the day before the summer holidays, for example, it would not be expected to decide in the usual way. This should be highlighted.

Also, if an NHS body takes longer to respond, is it reasonable to delay a decision? We believe it should be.

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

Whilst the Chapters themselves are acceptable to follow in the way they are set out, there is a huge amount of cross-referencing involved. This, together with the length of the Code, makes it unworkable as a Code of practice. There is no way that any chapters can be understood in isolation, and the whole Code needs to be made clearer and reviewed to ensure there is no repetition.

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

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

Whilst the Code is clear in places, overall, it does not clarify the Act, and as we have already said, can not always be read and understood without the Act.

This Code should be a working document, and needs to act as such. In being so, it should be short and succinct. It cannot be an overarching document reflecting the aims of the WG’s reform agenda. It should be a clear working document, setting out how the Act is to be used in practice.

The Act itself describes the Code as a Code of Practice – this should be the 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	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The position of a PRU in relation to ALN is a concern. We know there are a high proportion of young people in PRUs who have additional learning needs. We therefore think it would be more appropriate for LAs to keep their duties in relation to young people with ALN in a PRU. This would safeguard both the child and the PRU.

Chapter 2 - Principles of the Code

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

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

Whilst the principles of the Code are all exhaustively drafted, this is not helpful for a Code of practice. This section should be much shorter. For education professionals this should be a working document. It is not the place for WG to set out their ALN ambitions. This is a specific document which should show how the Act operates in practice. Not a policy position.

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

Again this should work better for education professionals. Whilst there is a duty is to 'involve', it is not clear to either party how this should be done. If an education professional talks to a parent but does not agree with them, they would be within their duty to 'decide'. Yet this is not clear. That this is not clear leaves education professionals in a difficult position in relation to parents in particular, and, is especially difficult given that expectations have been raised by this Act.

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

We are concerned about the asymmetrical duties which the Act places upon health bodies – indeed the duties placed on individual governing bodies are far greater.

Throughout the consultation process many of our members have attended consultation events including health representatives. Whilst we sympathise with concerns raised by them – especially in relation to waiting list targets and priorities – we are doubly concerned about the duties and expectations placed on education professionals.

Since there are so few duties placed on health here, our members believe that they will not participate within the ALN process, especially within the timescales.

This leaves education professionals open to criticism, and having to ‘make a decision’ based on less than the full picture about a child. This is not acceptable.

We are also concerned that clinicians are using the term ‘clinical judgement’ to avoid any duties. Whilst we recognise this is important to the health professions, we would be concerned that the same approach has not been used towards education professionals. ‘Clinical judgement’ within the NHS works within a framework. The ALN framework should be looked at with health professionals, so that it is not undermining them, but could operate in the same way as AWMB or NIHCE.

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

Given the current level of resource, which is falling, we would have huge concerns about the sector’s ability to fulfil this duty. Whilst expectations are so high, there is a real risk here that these duties will not be met.

5.12 needs revising – ‘high quality differentiated teaching’, whilst key to ensuring the WG vision is enacted, is not enacting the Act. We would be concerned that this is not a supportive way to help schools and FEIs with the new duties. There is also concern that this highlights the way in which Consortia, LAs and Estyn can have contradictory roles.

Training is critical for education professionals, and should be included in an indicative list.

5.22 needs to make clear that regardless of how ALP is secured it is still the LA's duty.

Chapter 6 - Advice and information

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

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

Provision of advice and information is extremely important, and will be critical to ensuring the system works. We believe advice should set out what to expect and what not to expect from a school/FEI so that children, young people and their parents know from the outset who to approach.

We would welcome the Code including LAs 'should' provide advice to schools and FEIs. Particularly given the situation in relation to advice for governing bodies in Wales¹⁰, we believe this is key.

We also note LAs only have to provide advice to 'people', which is very different in law than 'persons'. It is not clear how an individual gains specific advice from a LA.

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

Our members are concerned that the term 'significantly greater difficulty' is too ambiguous and will lead to disagreement between, in particular, parents and education professionals. Whilst we recognise the Act contains the definition, the Code does not give sufficient worked examples of how the Act works in practice. We believe this would be extremely helpful.

As we have already stated, our members are extremely concerned about the expectations which have been generated by the 'buzz' around the Act.

A clear assessment process should be set out in the Code. Currently the idea an education practitioner 'makes a decision' is open to challenge. In a sense the LA becomes the judge and jury – they must set up a process to review an IDP decision if asked, resolve disagreement, but also can direct a governing body following their decision. There should be a means by which governing bodies can challenge a decision.

¹⁰ <https://gov.wales/written-statement-school-governance-next-steps>

Without setting this out in the Code, the Tribunal will interpret what it considers to be a 'good' or 'just' decision, and the future will not depend on the law as passed, but on case law. This is not the aim of the WG and is not helpful to our members.

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

As we have previously stated, the asymmetrical duties placed here on governing bodies to decide, does not reflect how important the input from health is for children and young people with ALN.

Whilst we accept that an education professional can make a judgement without the input of health, or other services, we believe it is going to be extremely difficult for parents to accept this.

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

Early Years ALN Lead Officer

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

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

As with the whole system, funding and training are critical to this role working. Early years practitioners are often poorly paid, and should be given opportunities to undertake training within their roles.

Some young children will have needs which are more easily identified and articulated. Others may need a range of services to input their views on how best to help them make progress

Duties on schools, FEIs and local authorities

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

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

As already stated, the content of the Code as drafted is largely unworkable as a Code of practice. The length is inhibitive. The aspirational content should not be included – this is not

related to the Act, which is about how to identify children and young people with ALN and create an IDP etc. This is WG policy, not for the Code.

The way in which a LA takes over an IDP should be much clearer, or will lead to conflict and increased use of Tribunals.

Worked examples would help.

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

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

We have already set out how the duties make it difficult, given there are not parallel duties on health.

Our members are especially concerned about the long waits for CAMHS referrals. Children and young people with mental health difficulties are especially ill served by the current system and there is no attempt to change that under this system. Schools and colleges will have to support children and young people with mental health difficulties. However, without expert input from health the children, and the education professionals, could be in a vulnerable situation.

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

We are concerned this is not a holistic approach to education. The Act, as well as the Social Services and Wellbeing Act, are set out to support people up to 25. Reading this, it looks like a young person will have to prove their right to education. We do not believe this is equitable with non-disabled young people, and could increase the numbers of NEETs.

An indicative list of criteria, if there are to be some, would be more helpful to practitioners.

Without more funding in the system there is a very real risk that young people will not be supported to undertake education up to the age of 25. This goes against the Minister’s approach to Life Long learning – in that learners should be able to access it ‘throughout their lives’.

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

There are too many elements set out in this mandatory IDP. An IDP has the capacity, if as described, to have a huge impact on workload. We believe more work needs to be done in streamlining this process.

The Person-Centred Plan also could be removed from the IDP section, and set out as a document which is there to help education practitioners speak to the child or young person and their parents. Person Centred Practice comes from the care sector, where it is used as a tool for care sector professionals who are 'new' to working with a disabled person, so they can get to know their needs quickly.

In that way, the PCP would be useful for supply teachers, and those education professionals who don't work with a child or young person often. For an education professional who is working on a daily basis with a child or young person, the PCP contains information they would be using (and adapting) daily.

Firstly, it is important to note that the definition of ALN is different at the start of Chapter 13 than elsewhere in the Act – this is extremely unhelpful and needs to be changed to ensure consistency.

The list in 13.3 needs to also separate out aspiration from the requirements of the Act. It is not to be 'created through collaboration' – elsewhere the Code states that the 'views, wishes and feelings' must be considered. However, these are very different things.

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

Please see comments above.

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

Whilst this is clear, it needs consideration in light of the comments above.

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

This section needs to be clearer – it is not the responsibility of the school to set transport arrangements within an IDP. The LA must be consulted however and ensure they can make provision for a child or young person to travel to the most suitable school for their needs.

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

See comments above.

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

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

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

See comments above.

The Designated Education Clinical Lead Officer (“DECLO”)

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

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

We believe the expectations of what this role will achieve are not sufficiently clearly communicated, and have been used throughout this process to reassure those with

concerns about the involvement of health.

During the consultation events it has been clear that health do not believe ALN is their responsibility and see Referral to Treatment targets as their priority – not responding to a request on ALN.

We do sympathise with health colleagues in terms of their conflicting priorities. However, under the Act a governing body must make a decision about ALN regardless of what information they hold.

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

There are huge concerns about the provision of ALP which should be secured from health. As with comments above, it is hard to see that the timings will work without health's commitment.

Because of the asymmetrical duties on health and education, the workload implications for education professionals are huge, and could prohibit experienced practitioners from taking on the role of ALNCo.

We would welcome clear buy-in and commitment from health bodies and believe that if this is not given voluntarily then there should be an amendment to the Act.

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

Please see comments above.

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

As stated elsewhere, we are concerned that there is no clear criteria for a LA to take over a plan. They will be able to decide what 'severe and complex' looks like – and direct a school

if they consider that they should not take over a plan. The school's method for recourse is unclear, with the FEIs ability to challenge a LA even more unclear.

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

As we have already stated, as there are not symmetrical duties on health, it is difficult to see how this will work in practice. It should also set out more clearly the expectations placed on a school or FEI whilst the LA is considering.

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

We welcome the inclusion of good practice examples, and believe this would be helpful throughout this document.

However, we believe this Chapter does not really help to enable the Act, and needs to be considered more as a means of doing so for education professionals.

Information from health will be critical for these meetings and we are concerned that education professionals will be forced to make a decision without all the information about the person with ALN. This too, may mean that those who are most able to gather information themselves, or for their child, will be better supported. That is not the aim of this Act.

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 are extremely concerned that this part of the Code is both workload intensive for education professionals, but also sufficiently unclear in terms of individuals' roles.

19.60 needs to make clear who decides if an independent specialist placement is needed. The criteria for this should not disadvantage any young person from staying in education beyond 16. The provision should be found to best meet their needs, and cost should not be the primary priority for a LA.

Chapter 20 - Transferring an IDP

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

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

See comments above.

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

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

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

It reads as though a school cannot transfer an IDP to and FEI – therefore we presume that only an IDP looked after by the LA will be transferred. Whilst this is welcome in some ways, there needs to be a mechanism by which a young person leaving school, and attending an FEI, may share the contents of their IDP if they wish. FEIs are dealing with young adults, who will have a range of ALN. However, here again, the issues with CAMHs services (as in long waits etc) will have a particular impact.

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

As already stated we believe that young people should have access to education which best meets their needs.

Chapter 21 - Ceasing to maintain an IDP

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

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

We believe more guidance for education professionals is needed in terms of handling difficult conversations. This is where training will be absolutely critical to ensuring that the system works.

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

As already stated, without buy-in from health, this is going to be extremely difficult.

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

The guidance for children in specific circumstances needs to have more emphasis on the role of LAs. We need to avoid the rise of home educated children, highlighted in the press recently¹¹ –particularly those with ALN.

A register of children and their educational circumstances could help safeguard children and LAs should be funded to undertake this work. It would also help identify children with ALN, and make sure that the LA was providing any appropriate ALP.

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

Please see our comments at the start. We are concerned that there is a risk of real differences in terms of school-by-school and different FEIs approaches to the ALNCo role.

We would also point out that 24.10 in relation to an ALNCo ensuring ‘the needs of all learners are met’ needs clarity. The financial position of the school should be taken into account. The Act and the Code are looking at the reasonable needs of learners. The LA should be ensuring the needs of all learners in its area are met.

The role of support staff should also be recognised and the ALNCo’s role in relation to them.

We have commented on Professional standards for assisting teaching, which should be read alongside this document.

Chapter 25 - Avoiding and resolving disagreements

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

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

We have already stated that the LA can act as both judge and jury and there is nowhere for schools to challenge their decision. Because LAs can direct schools, there should also be a duty on LAs to ensure schools have sufficient funds to pay for ALP.

¹¹ <https://www.walesonline.co.uk/news/education/awful-price-paid-children-permanently-15934942>

We are also concerned that with challenging times in terms of funding, LAs are going to be looking to save money. Our experience of the consultation events relating to ALN is that LAs see the Act as passing many more responsibilities onto schools, which LAs can direct.

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

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

As stated above we are concerned about the Tribunal acting as judge and jury. We are also concerned that with challenging times in terms of funding. LAs are going to be looking to save money. Our experience of the consultation events relating to ALN is that LAs see the Act as passing many more responsibilities onto schools, which LAs can direct.

The role of the Tribunal in hearing cases of disability discrimination should be set out in the Code. This is an instance where the Code could work better as a working document. This is extremely important for governing bodies when making decisions in relation to ALN.

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

We are concerned that there are too many people in the Code named as being able to decide who 'lacks capacity'.

For a disabled child, for example, to be designated as 'lacks capacity' could have huge implications if it is confused with this term under the Mental Capacity Act. We are concerned that in order to safeguard both children and young people, and the education professionals involved, this be given a clearer name. This is also an instance in which the Act is clearer than the Code – which should not be the case.

Any other comments

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

Please see the start of this document.

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

As stated above we have concerns about health buy-in.

Whilst it is welcome that health bodies must respond to the Tribunal, it is disappointing that this is in a situation where previous decisions have been challenged. Health have been clear they see RTT a priority.

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

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

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

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

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

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

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Part 3 of the consultation: Draft ALNCo regulations

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

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

Whilst we would welcome some of the explanation set out in the Code of the ALNCo role, we are extremely concerned this is not part of the formal pay process. WG is setting pay for teachers for the first time, and the ALNCo role should form part of that process to ensure it is sufficiently rewarded.

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

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

See comments above.

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?

We have made comments above about workload being an extremely prohibitive impact of the new Code and would ask what WG is going to do to help mitigate this, without sufficient funds in the system.

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

We believe that the Code could have a positive impact on the Welsh language, as requirements are set out in the Code and on the face of the Act. However, we would highlight that in order to fulfil these aspirations funding and training is needed.

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.

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.

See comments at the start.

Respondent Details

Information	
Name	Meri Huws
Organisation (if applicable)	Comisiynydd y Gymraeg / Welsh Language Commissioner

Ymgynghoriad ar y Cod Anghenion Dysgu Ychwanegol drafft

Diolch am y cyfle i gyfrannu at yr ymgynghoriad ar y Cod Anghenion Dysgu Ychwanegol drafft.

Rydym wedi dilyn a chyfrannu at ddatblygiad Deddf Anghenion Dysgu Ychwanegol a'r Tribiwnlys Addysg (Cymru) ac yn falch iawn fod ystyriaethau am y Gymraeg wedi bod yn rhan ganolog o'r trafodaethau a'r gwelliannau a gafodd eu hystyried. Yn gyffredinol, mae'r Ddeddf yn gam pwysig tuag at sicrhau fod unigolion â'r hawl i ddarpariaeth anghenion dysgu ychwanegol cyfrwng Cymraeg. Ymatebodd y Llywodraeth yn gadarnhaol i fwyafrif helaeth ein pryderon wrth lunio fersiwn derfynol y Ddeddf. Roedd amryw o bwyntiau yn parhau y cytunom y byddai modd i'r Cod eu hegluro ymhellach.

Gan fod mwyafrif ein sylwadau yn ymwneud â materion cyffredinol sy'n berthnasol i amryw o benodau'r Cod, rydym wedi cynnwys ein sylwadau fesul thema. Lle bo hynny'n bosibl, rydym wedi cyfeirio at gwestiynau penodol yr ymgynghoriad sy'n berthnasol i bob thema.

1. Asesu ADY (cwestiwn 12)

Mae pennod 7 y Cod drafft yn trafod y broses o benderfynu os oes gan unigolyn ADY ac os ydynt felly angen DDdY. Mae paragraff 7.37 yn trafod y gwahanol ffynonellau tystiolaeth y gellid eu defnyddio er mwyn mesur cynnydd plant, ac o bosib i wneud penderfyniad ynglŷn â ADY a DDdY. Mae ein hymchwil mewnol ni (yn rhannol seiliedig ar gwynion rydym wedi'u derbyn, a hefyd ar ymchwil a gynhaliwyd ar y cyd gyda Chomisiynydd Plant Cymru) yn awgrymu nad yw'r asesiadau safonol a ddefnyddir i asesu

anghenion dysgu ychwanegol ar gael drwy gyfrwng y Gymraeg bob tro. Gan nad yw'r asesiadau yma ar gael bob tro, mae rhai awdurdodau lleol yn cynnal asesiadau yn y Gymraeg drwy arsylwi yn unig. Mewn achosion eraill mae rhaid i rai siaradwyr Cymraeg ifanc gymryd prawf neu wneud asesiad trwy gyfrwng y Saesneg, ac mae risg amlwg y gall hynny effeithio ar effeithiolrwydd a chanlyniadau'r prawf neu asesiad. Mae rhai awdurdodau lleol wedi cyfieithu rhai asesiadau, ond nid yw'r cyfieithiadau hyn wastad wedi'u dilysu ac mae hyn eto yn peri pryder ddilysrwydd canfyddiadau'r asesiadau hyn. Ar y cyfan felly, ymddengys fod gallu awdurdodau lleol i gynnal asesiadau trwy gyfrwng y Gymraeg yn gyfyngedig. Yn sgil hyn, efallai bod gwerth ystyried darparu arweiniad pellach yn y Cod ac o bosib gynnig cyngor arfer da.

2. Dyletswydd i lunio CDU (cwestiwn 15)

Mae amryw o benodau'r Cod drafft yn amlinellu dyletswyddau llunio CDU ar gyfer plentyn neu berson ifanc. Mae fformat y brawddegau a'r canllawiau'r un fath o un bennod i'r llall, a'r hyn sy'n wahanol yw'r corff y gosodir y ddyletswydd arno (awdurdodau lleol, ysgolion, neu sefydliadau addysg bellach). Er enghraifft, mae pennod 8 yn amlinellu dyletswydd awdurdodau lleol i lunio

CDU ar gyfer plentyn o dan oedran ysgol orfodol nad yw'n mynychu ysgol a gynhelir. Yn fwy penodol, mae paragraff 8.22 yn nodi:

Rhaid i'r awdurdod lleol ystyried a ddylai rhoi DDdY i'r plentyn drwy'r Gymraeg. Os bydd yn penderfynu y dylid darparu math arbennig o DDdY drwy'r Gymraeg, rhaid i'r awdurdod nodi yn y cynllun y dylid ei ddarparu drwy'r Gymraeg.

Yn ystod y broses ymgynghori ar y Bil, fe wnaethom gwestiynu ar sail pa wybodaeth fydd y penderfyniad hwn yn cael ei wneud? Nid yw'r Ddeddf na'r Cod yn cynnig arweiniad i sefydliadau perthnasol ar sut i benderfynu ar iaith y ddarpariaeth. Nid oes cyngor ar y materion y dylid eu hystyried wrth wneud penderfyniadau ar hynny. Byddai'r materion hynny'n cynnwys, o bosib, ddymuniad y plentyn, person ifanc neu riant; iaith y cartref; cyfrwng iaith addysg neu ofal plentyn neu berson ifanc; ac yn achos plant ifanc iawn nad ydynt wedi cyrraedd oed ysgol, ddymuniadau'r rhieni ynghylch cyfrwng iaith y plentyn i'r dyfodol. Er mwyn sicrhau bod y sefydliadau perthnasol yn gwneud y penderfyniadau cywir ynghylch iaith y ddarpariaeth, bydd angen iddynt dderbyn arweiniad ar sut i benderfynu ar hynny. Fe fyddem ni yn dymuno gweld mwy o gyfarwyddyd yn y Cod ynglŷn â hyn.

3. Dyletswydd i gynnal CDU a sicrhau DDdY (cwestiynau 10, 15)

Mae amryw o benodau'r Cod drafft yn amlinellu dyletswyddau i gynnal CDU a sicrhau DDdY. Mae fformat y brawddegau a'r canllawiau'r un fath o un bennod i'r llall, a'r hyn sy'n wahanol yw'r corff y gosodir y ddyletswydd arno (awdurdodau lleol, ysgolion, neu sefydliadau addysg bellach). Er enghraifft, mae pennod 8 yn amlinellu dyletswydd awdurdodau lleol i gynnal CDU a sicrhau DDdY ar gyfer plentyn o dan oedran ysgol orfodol nad yw'n mynychu ysgol a gynhelir. Yn fwy penodol, mae paragraff 8.33 yn nodi:

Os yw'r CDU yn nodi'n benodol y dylid cyflwyno math arbennig o DDdY drwy'r Gymraeg, rhaid i'r ysgol (neu'r corff GIG lle bo'n berthnasol) gymryd pob cam rhesymol i sicrhau ei bod yn cael ei chyflwyno drwy'r Gymraeg.

Yn ystod datblygiad y ddeddfwriaeth, fe wnaethom nodi'n gyson ein pryderon nad yw'r Ddeddf yn ddigon cryf i sicrhau bod modd i blant a phobl ifanc dderbyn DDdY drwy gyfrwng y Gymraeg. Rhaid cofio bod y Ddeddf hon yn ymwneud â maes lle mae darparu'n unol ag anghenion iaith unigolion yn gwbl allweddol i safon ac effeithiolrwydd y ddarpariaeth dan sylw. O ran egwyddor rydym o'r fan y dylai'r Ddeddf osod dyletswydd absoliwt ar ddarparwyr i ddarparu yn Gymraeg lle mai dyma yw iaith plentyn neu'r person ifanc sydd angen cymorth. Yn hytrach na gosod dyletswydd absoliwt, mae'r Ddeddf yn gosod dyletswydd amodol drwy nodi y dylai cyrff gymryd 'pob cam rhesymol' i ddarparu yn Gymraeg os mai dyma mae'r CDU yn nodi.

Y broblem gyda'r ddyletswydd fel y mae wedi'i geirio yw y bydd sefydliadau yn rhydd i ddehongli beth sy'n rhesymol, ac mae'n bosib y byddai rhai yn penderfynu ar 'resymoldeb' ar sail eu gallu presennol i ddarparu yn Gymraeg. Nid ydym o'r farn ei bod yn dderbyniol mai'r sefydliad sydd dan ddyletswydd i 'gymryd pob cam rhesymol' i ddarparu yn Gymraeg sydd hefyd yn dyfarnu a yw'n cydymffurfio â'r ddyletswydd neu beidio. Rydym yn derbyn yr her anferthol sy'n bodoli mewn rhai rhannau o Gymru, ond drwy osod disgwyliadau cryf mewn deddfwriaeth mae modd gyrru'r newidiadau sydd eu hangen. Heb osod disgwyliadau cryf a phendant mewn deddfwriaeth, y peryg yw y bydd sefyllfa lle mae diffyg gweithlu a diffyg darpariaeth yn parhau, a hynny'n cyfiawnhau peidio â gwarantu hawliau i unigolion dderbyn gwasanaethau sylfaenol yn y Gymraeg mewn rhai ardaloedd yng Nghymru.

Ein dealltwriaeth ni yw mai'r bwriad tu ôl i'r cymal hwn yn y ddeddfwriaeth yw cydbwysu'r dyhead i osod disgwyliadau pendant o ran darpariaeth cyfrwng Cymraeg, a hefyd sicrhau bod y Ddeddf yn ymarferol a ddim yn gosod disgwyliadau a fydd yn amhosib i rai ardaloedd yng Nghymru eu dilyn yn y tymor byr. Yn y cyd-destun hwn, deallwn mai'r bwriad yw bod y Ddeddf

yn arwain at gynnydd mewn darpariaeth cyfrwng Cymraeg fel y gellid, yn y dyfodol, osod dyletswyddau absoliwt am y math hwn o wasanaeth ar draws Cymru. Yn ôl y Llywodraeth, yr uchelgais hir dymor yw cael gwared â'r cymal 'pob cam rhesymol' wrth symud at system sy'n gwbl ddwyieithog ym mhob agwedd. Er ein bod yn gweld problemau â hyn, rydym yn derbyn sail ymarferol llunio'r Ddeddf yn y modd hwn. Er hynny, fe wnaethom yn eglur y byddem yn disgwyl cyfarwyddiadau ac arweiniad clir yn y Cod ynglŷn ag ystyr 'pob cam rhesymol'. Yn ystod y broses graffu ar y Ddeddfwriaeth fe ddywedodd y Gweinidog y byddai swyddogion yn archwilio'r posibilrwydd o gynnwys canllawiau i gyrff yn y Cod ADY ynghylch yr hyn y gallai 'pob cam rhesymol' ei gynnwys.

Mae rhywfaint o fanylder yn y Cod sy'n lleddfu rhywfaint ar ein pryderon. Er enghraifft:

- Mae pennod 5 yn trafod dyletswyddau awdurdodau lleol i adolygu'n rheolaidd y trefniadau a wneir gan awdurdod a chan gyrff llywodraethu.
- Mae paragraff 5.3 y Cod yn nodi'r ddyletswydd ar awdurdodau lleol i ystyried digonolrwydd y DDdY a gyflwynir drwy'r Gymraeg, a hefyd y gweithlu cyfrwng Cymraeg. Yn ôl y Cod *'bydd cofnodi gwybodaeth fel hyn yn galluogi Gweinidogion Cymru i asesu addasrwydd y cymal 'pob cam rhesymol' i sicrhau DDdY, yn enwedig mewn perthynas â darpariaeth drwy gyfrwng y Gymraeg, yn ogystal â sicrhau bod adolygiadau awdurdodau lleol yn gwbl gydnaws â'u Cynlluniau Strategol y Gymraeg mewn Addysg.'*
- Mae paragraff 2.25 yn ail bennod y Cod hefyd yn nodi os bydd awdurdod lleol yn ystyried nad yw'r DDdY sydd ar gael drwy'r Gymraeg yn ddigonol, rhaid iddo gymryd pob cam rhesymol i unioni'r mater.
- Mae paragraff 2.25 hefyd yn nodi bod rhaid i Weinidogion Cymru drefnu i adolygu digonolrwydd y DDdY drwy'r Gymraeg bob pum mlynedd a chyhoeddi adroddiadau yn dilyn yr adolygiadau hyn.

Er bod y camau hyn yn mynd rhywfaint o'r ffordd, rydym o'r farn bod angen canllawiau yn y Cod sy'n amlinellu dealltwriaeth fwy gwrthrychol ynghylch beth sy'n rhesymol. Hynny yw, mae angen amlinellu beth yn union sy'n rhesymol a beth yw'r disgwyliadau ar awdurdodau a darparwyr eraill i gydweithio, rhannu adnoddau, datrys problemau, ystyried gofynion staffio'r dyfodol, ac yn y blaen. Byddai'n ddymunol hefyd cael rhywfaint o fanylder am yr hyn fydd yn digwydd wedi cyhoeddi adroddiad y Gweinidogion bob pum mlynedd. Hynny yw, a oes dyletswydd i weithredu ar sail canfyddiadau'r adolygiad yn hytrach na dim ond ysgrifennu adroddiad? Er enghraifft, a fydd yr adroddiad cynnig argymhellion penodol os nad oes cynnydd digonol yn cael ei wneud er mwyn gwella darpariaeth cyfrwng Cymraeg gyda'r golwg yn y pen draw i ddileu'r cam 'pob cam rhesymol' a gosod dyletswydd absoliwt?

4. Y tribiwnlys, apeliadau a datrys anghytundebau (cwestiwn 42)

Yn gysylltiedig â'r pryderon am y cymal 'pob cam rhesymol', nid yw'n ymddangos bod y Ddeddf na'r Cod yn gosod trefn glir a hygyrch ar gyfer gwneud sefydliadau perthnasol yn atebol am fethu â chydymffurfio â dyletswydd yn ymwneud â darpariaeth gyfrwng Cymraeg. Hynny yw, nid yw'n glir pa lwybr sydd yn agored i unigolyn os ydynt yn teimlo nad yw'r corff sydd dan ddyletswydd yn cymryd camau rhesymol i ddarparu gwasanaeth cyfrwng Cymraeg. Heb drefn glir a hygyrch ar gyfer gwneud sefydliadau'n atebol, bydd llai o bwysau ar ddarparwyr i sicrhau cydymffurfiaeth â'r ddyletswydd yn y Ddeddf i gymryd 'pob cam rhesymol' yn y lle cyntaf.

Er y gall unigolyn apelio i'r tribiwnlys os nad yw CDU yn nodi y dylid darparu DDdY yn Gymraeg, ni fyddai modd apelio i'r tribiwnlys ynghylch p'un a yw sefydliad wedi cymryd pob cam rhesymol i ddarparu'r gwasanaeth hwn yn Gymraeg ai peidio. Mae pennod 25 y Cod yn amlinellu ffyrdd eraill o ddatrys anghytundebau, sy'n cynnwys cwyno i Ombwdsmon Gwasanaethau Cyhoeddus Cymru, gwneud cwyn i Weinidogion Cymru, neu

ofyn am adolygiad barnwrol. Yng nghyd-destun ein pryderon am ddehongli'r cymal 'pob cam rhesymol' fe fyddem yn dymuno i'r Cod ei gwneud yn glir ym mhennod 25 y byddai modd herio cyrff sydd dan ddyletswydd os nad ydynt yn cymryd camau rhesymol i ddarparu gwasanaeth yn Gymraeg os yw'r CDU yn nodi hynny.

5. Gwasanaeth eirioli (cwestiwn 42)

Yn ystod datblygiad y Ddeddf fe wnaethom nodi'n gyson ein pryderon ynglŷn â diffyg hawl i wasanaeth eirioli drwy gyfrwng y Gymraeg. Er y cynigwyd amryw o welliannau i'r Ddeddf yn ystod y cyfnod craffu, roedd y Gweinidog o'r farn ei bod yn fwy perthnasol cynnwys canllawiau ar hyn yn y Cod. Yn ystod y cyfnod craffu ar y ddeddfwriaeth fe bwysleisiodd y Gweinidog y byddai canllawiau ynghylch sicrhau gwasanaethau eirioli drwy gyfrwng y Gymraeg yn y Cod. Er hynny, nid oes dim manylder wedi'i gynnwys ym mhennod 25.

Mae'r Gweinidog wedi nodi yn y gorffennol bod Rheoliadau Safonau'r Gymraeg (Rhif 1) 2015 yn gosod rhwymedigaeth ar awdurdodau lleol mewn perthynas â darpariaeth gwasanaethau eirioli yn Gymraeg. Rydym yn anghytuno â hyn. Er ei bod yn bosib y byddai cynnal y trefniadau a'r cyfarfodydd cychwynnol yn Gymraeg yn ddarostyngedig i ofynion y safonau, ni fyddai'r gwasanaeth eirioli ei hun yn disgyn o fewn y diffiniad.

6. Casgliadau

Hyderaf y bydd fy sylwadau a'r awgrymiadau uchod o ddiddordeb i chi, a gofynnaf yn garedig i chi eu hystyried wrth ddatblygu'r Cod terfynol. Rwyf yn fwy na parod i drafod y sylwadau hyn mewn mwy o fanylder os bydd angen.

Respondent Details

Information	
Name	David Teague
Organisation (if applicable)	Information Commissioner's Office (Wales)

The Information Commissioner (the Commissioner) is pleased to respond to the Draft Additional Learning Needs (ALN) Code.

The Commissioner has responsibility for promoting and enforcing the EU General Data Protection Regulation (GDPR), the UK Data Protection Act 2018 (DPA 2018) and other information rights legislation.

The Commissioner is independent of government and upholds information rights in the public interest, promoting openness by public bodies and data privacy for individuals. The Commissioner does this by providing guidance to individuals and organisations, solving problems where she can, and taking appropriate action where the law is broken.

Comment relating to all parts of your consultation

The Commissioner notes that she is responding to a general public consultation and would remind the Welsh Government that under Article 36(4) of GDPR, Member States are required to 'consult the supervisory authority during preparation of a proposal for a legislative measure to be adopted by a national parliament, or of a regulatory measure based on such a legislative measure, which relates to processing'. The matters covered within this public consultation appear to fall within scope of that statutory requirement for Welsh Government to consult the ICO. [Guidance on the application of Article 36\(4\)](#) has been published by DCMS. Paragraph 2.10 of the guidance states "Article 36(4) applies directly to the UK, and therefore the requirements of this provision also apply to legislative and statutory measures adopted by the devolved legislatures". Notwithstanding comments contained in this response, the Welsh Government should ensure that it complies with Article 36(4) by consulting directly with the ICO as laid out in that Guidance.

Comments on Part 1 of your consultation

The Draft ALN Code clearly requires a considerable amount of processing of personal and special category data about children and their families. Special category data includes information revealing racial or ethnic origin, religious or philosophical beliefs, health or sexual orientation, among other issues less likely to be relevant to this consultation. In addition Article 10 of GDPR provides for additional protections for the processing of any data relating to criminal offences.

The Commissioner would emphasise that a significant proportion of the data required by these proposals relates to children, who are an inherently vulnerable group and whose data is given additional protections under GDPR and DPA 2018.

Given the centrality of such data to the draft Code, the Commissioner would expect to see due consideration given to the data protection implications of the proposals.

Therefore, a Data Protection Impact Assessment (DPIA) should be undertaken on the proposals to ensure that the desired aim of the policy is being achieved with the minimum necessary impact on individuals' information rights. Our guidance on undertaking a DPIA can be found [here](#).

The various responsibilities set out in the Code for the assessment of needs and development and maintenance of interventions fall to local authorities, schools, further education institutes (FEIs), the NHS and a range of others who may be involved in providing support or professional advice in relation to the child. It therefore seems inadequate given the complexity of the proposals for the only reference to data protection in the draft code to be aimed at reminding the professionals involved to act in compliance the law (ALN Code para 7.65).

The Commissioner believes that whilst Local Authorities, Health Boards and many FEIs have in house professional data protection support, capacity for data protection compliance in schools is often very low. The GDPR requires certain organisations, including maintained schools in Wales, to appoint a Data Protection Officer, part of whose role is to provide data protection advice to the organisation. The Code should remind schools and other public bodies on whom duties fall that they have relevant data protection responsibilities and should work with their Data Protection Officer to ensure the actions necessitated by the Code are taken forward in a compliant way.

The Code could also usefully prompt organisations to think about the data protection rights of the child and those with parental responsibility – perhaps in Chapter 2 where there is considerable focus on taking a 'Rights Based Approach'. The information rights set out in the GDPR and DPA 2018 give structure in the UK to the human right of privacy and respect for correspondence.

Throughout the Code all organisations will need to bear in mind their responsibility to manage the personal information in compliance with data protection laws, and their responsibility to ensure the individual's information rights are respected. Individuals' rights of particular relevance to this Code include:

1. The right to be informed about how their data is being used by each organisation, and what their rights are with regard to that information. The GDPR 'right to be informed' includes a list of issues that must be included in what are called 'privacy notices'. This includes providing child friendly versions of the notices wherever children's data is used. Our guidance can be accessed [here](#).
2. Individuals also have rights to have incorrect / inadequate data rectified, and – unless an exemption applies – a right to access the data held about them.
3. Depending on the circumstances, the individual may have a right to object to the use of their data for the particular purpose, and in some circumstances may even have a right to have it erased.

Guidance on these and other individual rights under GDPR can be found [here](#).

All organisations undertaking functions under the Code will need to identify an appropriate lawful base under GDPR to legitimise the processing of the personal information. Under GDPR, for any use of personal information to be lawful it must comply with at least one of the 'lawful bases' set out in Article 6. If special category data is to be used, then in addition to an Article 6 basis a second basis from Article 9 will also be required, many of which are interpreted for the UK in DPA 2018. Where the personal information to be used relates to criminal issues then in addition to a lawful base in Article 6, the processing must also comply with Article 10 of the GDPR and relevant parts of DPA 2018.

Given the complexity of the data exchanges proposed, it would be advisable for Welsh Government to undertake a data mapping exercise at this stage. One aim of this exercise should be to ensure that appropriate lawful bases for processing from GDPR Article 6 and where appropriate Articles 9 or 10 are available for use by the organisations being asked to undertake the functions. Schools and other smaller organisations involved in the assessment of need and development and maintenance of interventions will welcome guidance from Welsh Government on the lawful bases that they are likely to be able to rely on to deliver the tasks allotted to them under this Code. This need for guidance may be strongest for organisations and individual specialists who may be asked to provide information in response to requests made by those organisations taking forward their public tasks under this Code.

Clarity will also need to be established on where 'data controllership' sits for the processes set out in the Code. This may fall to one organisation, or to a number working in partnership. Under GDPR the 'data controller' is "the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data" (Article 4(7)). Some organisations addressed by this Code are under a statutory obligation to process personal data for the purposes set out in the Code. Section 6(2) of the DPA 2018 states that anyone who is under such an obligation and only processes the data to comply with it will be a controller. Clarity on data controllership will help ensure that the information rights of the individual can be properly coordinated and communicated.

Another function of the proposed data mapping exercise would be to ascertain the extent to which the data sharing required by the Code is likely to involve either joint data controllership, or partnership working between separate data controllers. [The Wales Accord on Sharing Personal Information](#) (WASPI) toolkit may be a useful resource in these scenarios, and depending on what data sharing is identified through the data mapping, it may be that Welsh Government could bring together a group of relevant stakeholders to develop WASPI ALN template data sharing / data disclosure agreements that could be used by relevant organisations across Wales to support delivery of the functions set out in this Code.

Comments on Part 4(c) of your consultation

Paragraph 480 states 'Authorities will need to satisfy themselves that they are complying with the Data Protection Act when sharing information'. The Commissioner recommends that this is updated to refer to The GDPR and DPA 2018. It should also be amended to remind authorities to comply with these laws at

all times when implementing the Code – the need to comply with data protection is not limited solely to data sharing circumstances.

Comments on Part 5 of your consultation

The Commissioner notes that an integrated impact assessment has been undertaken on the draft ALN Code, the ALN Coordinator Regulations and the draft Educational Tribunal for Wales Regulations. She notes that none of these impact assessments include any reference to data protection matters, or indicate that a separate DPIA has been undertaken. Whilst a DPIA by Welsh Government during the development of legislation and Regulations is not a statutory requirement, it would be good practice in identifying possible data protection problems in the policy proposals, and ensuring that mitigations are built in at an early stage. In addition, GDPR Article 35(10) allows that where a DPIA has been carried out in the development of law that regulates a specific set of processing operations, the requirement on each data controller to undertake a DPIA before starting the relevant processing will not usually apply. Taking a 'once for Wales' approach to DPIAs in relation to Welsh Government legislation and Regulations would significantly reduce the duplication of work required by each affected data controller involved in implementing the policy. Such DPIAs could be developed through consultation with intended data controllers to ensure that their front line experience is reflected.

Respondent Details

Information	
Name	Jane Houston
Organisation (if applicable)	Children's Commissioner for Wales

Overview of key areas covered in consultation response

As Children's Commissioner for Wales I aspire to a Wales where all children and young people have an equal chance to be the best they can be. The Additional Learning Needs Code and regulations are key documents in determining whether all children and young people in Wales have this chance. At the very heart of these documents should be the driving aim that every child or young person with Additional Learning Needs can develop their talents and skills to the full, as guaranteed by the UNCRC.

I have kept this vision at the centre of my assessment of the potential implementation and impact of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 for children and young people, as specified through the Code and regulations. The documents have strengths but there are several important ways they can be improved, as explained throughout my response to the sixty six consultation questions. I summarise my response below.

Key strengths

- The articulation of the due regard duty to the UNCRC in regards to the local authority planning for additional learning provision;
- The powerful explanation of meaningful participation as an underpinning principle of a rights-based approach;
- The emphasis on a bilingual system;
- The inclusion of the five principles of a children's rights approach as outlined in my guidance [The Right Way: A Children's Rights Approach in Wales](#);
- A focus throughout on clear and appropriate information and advice for children, parents and young people;
- A focus on prompt and timely intervention and decision making, with specified maximum timeframes;
- The focus in the IDP on needs-led education, person centred outcomes and the participation of the child in this process, including the flexibility that the IDP is written in a style and form appropriate to the child or young person;
- The inclusion of person centred practice and the requirement to ensure appropriate communication in meetings;
- The power and duty to share information between agencies to support the early identification of ALN in young children and ensure early intervention;
- The acknowledgement that transition happens at several points throughout a child / young person's development and the necessity for clear information around transition;
- Clear and appropriate processes of review and appeal;
- The process to appoint a case friend to ensure representation of children who lack capacity;

Key considerations for improvement

- Opportunities are missed to mainstream the due regard to the UNCRC into the everyday experiences of children and young people in their education settings. I have indicated throughout my response where the Code could better fulfil the rights-based approach as one of the core aims of the Act;

- I am not reassured that the Regulatory Impact Assessment that accompanied the Act takes full account of the resource impact of the ALN Act across the system to fulfil the requirements specified in this Code and regulations, this includes in schools, early years settings and FEIs, at a local authority level and in NHS bodies. There needs to be a wider funding review of the education system to ensure that an equity of approach is developed and the impact of funding for ALP and the new ALN system should form a key part of this review;
- Significant consideration needs to be given to making the Code and its descriptions of functions and processes more straightforward for frontline practitioners, as this is essential for transformation across the system and for this to impact the everyday experiences of children and young people with Additional Learning Needs;
- Processes around identification of ALN and the preparation of the IDP need to be more strongly underpinned by the principles of Article 29 of the UNCRC to help ensure a needs-led approach. This needs-led approach should be emphasised more strongly throughout the entire Code;
- At publication the Code must link to practice guidance around the assessment of whether ALN is present and the implementation of the Code needs to be substantiated with significant professional learning to enable both this identification and to enable greater professional understanding around appropriate differentiation approaches and appropriate ALP;
- There is a need to ensure portability, consistency and equity of approach by articulating a set of nationwide principles for when IDPs are maintained by a setting and by a local authority;
- There needs to be stronger requirements to integrate decisions about transport into the preparation of IDPs;
- Clarity needs to be provided in the Code as to the duties of the setting or local authority when young people do not consent to an IDP. This needs an increased emphasis on a requirement to still provide ALP in this instance and a more active duty to continue to offer young people the opportunity to reconsider whether they wish to be part of the ALN system;
- The home should receive greater prominence as a setting of learning, reflecting the importance of the home environment in supporting learning, particularly in the early years when some children will not be attending any settings. ALP for the home context should be a key consideration in the development of the IDP;
- Multi-agency approaches need more careful mapping and integration into the process. The Code should either establish pathways between agencies through specified roles (e.g. ALNCO; ALNLO; DECLO; LACE Co-ordinator) or should require that a locally agreed pathway must be in place. Responsibility to ensure multi-agency communication and agree communication channels must be integrated into job descriptions for these key roles;
- Currently the code does not take the opportunity to bring about a holistic transition plan for a child/young person between the age of 14-25, which integrates multi-agency working so that transition encompasses planning for education, health, social care and housing. Careful consideration needs to be given as to developing this within the code and specifying responsibility for this into appropriate key roles;
- The role of Careers Wales must not only be required but must be integrated into the person-centred planning around transition between the ages of 14-25. I recommend that Careers Wales are a required professional presence at IDP review meetings from year 9 onwards;
- Regulations around the role of Welsh Ministers in transferring an IDP to an FEI are not inclusive of the young person and fail to ensure that the young person is informed and able to consent to their information being shared.
- Throughout the Code advocacy is presented primarily as a means of resolving disagreement and this does not reflect the important role that advocacy plays in decision making;
- The securing of assessment and provision in Welsh is essential for effective ALP for Welsh speaking children, and also essential for equity of opportunity to a Welsh medium education for children with ALN from non-Welsh speaking homes. More specificity is needed around 'reasonable steps' in relation to this.

Part 1 of the Consultation: The draft ALN Code

Chapter 1: Introduction

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?

- Highlighting the different words in colours is useful and explanations given of must, must not and may in 1.10-1.12 are clear. But consideration needs to be given to this section as paragraph 1.13 is confusing and could lead to misinterpretation of **must** as a far weaker instruction.
- It would be helpful to specify in 1.10 that there are different sources for **must**: that the authority to do this can be stated in the Act; the Regulations; or the Code itself, as granted under Section 5, but that regardless of the source, the requirement is of equal weight.
- The explanation of **must** in 1.10, *a person or body must comply with the requirement*, is clear and straightforward. However the clarity of definition is lost by the use of an underlined **must** on the same page in 1.13. This paragraph states: *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 that decision.* This paragraph then goes on to explain **should**. Although these sentences are not intended in this way, it is easy to read this as an alternative definition of **must**, meaning that the code is giving two contradictory definitions. Therefore, I suggest the reference to **must** in 1.13 is removed.
- The explanation of **should** in 1.13 is clear, and shows clearly that in order not to follow **should** the person must be able to demonstrate why they have not done so. Similarly, the explanation of **should not** is straightforward.

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?

- I agree with this general approach. Including maximum timescales is very important for families and children to have an understanding of where they are in a process, and this will ensure equity in response across Wales and gives clarity to professionals about how to proceed. It also should mean that different bodies have clear timescales to work together and it will therefore assist multi-agency working.
- These paragraphs could be made clearer, in terms of definitions, for example it should be made explicitly clear in this section how timescales would apply in periods of school holiday so there is no confusion.
- A general approach to timescales which requests practitioners to act promptly also seems sensible. I understand that it is difficult to give an indication of timescale for promptly as it will depend so much on each circumstance. The illustrative examples given in 1.32 are helpful and could be expanded to include others.
- 1.32 could direct practitioners to page references for the maximum timescales. Currently the timescales for different decisions and actions are found in different places throughout the document and it would also be useful to include these as flowcharts in one place, e.g. a chapter or appendix.

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?

- The illustrative examples of when exceptions to timescales can be made in 1.34 are helpful and it is understandable that in these circumstances exceptions could apply. However, the fuller explanation in 1.34 needs to be applied throughout the Code rather than using the more curtailed explanation 'to circumstances beyond its control'. This will help avoid a situation in which this exception could be used to cover a wide range of circumstance, and could be inappropriately applied.

- In these two paragraphs it could also be made clearer that the IDP should be needs-led and not diagnosis led. Some children and young people never receive a diagnosis and it should be made clear that practitioners shouldn't be waiting for this in order to develop the IDP or to put the ALP into place.

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

- The separation of Chapters as laid out in 1.73-1.100 is straightforward. But the overall structure of the Code as described in this chapter is not easy to follow, as explained in the points below.
- Within Chapter 1, from 1.3 onwards this chapter reads confusingly and seems to be:
 - from 1.30-1.72 an explanation of how the code applies in relation to key terms and this includes some inconsistent indexing in relation to topics and audience (e.g. no indexing in relation to timescales but indexing in relation to different audiences);
 - from 1.72-1.100 a contents list with a brief explanation of chapters;
 - then a glossary of some key terms.

This section is introduced under 1.29 where it states, *a glossary of key terms is provided below*, but immediately below is a section on timescales and the glossary appears at the end of the chapter. It would help clarity to organise these three different elements into clearly separate sections and would be particularly useful to include a full index at the end of the code with main sections relevant highlighted in bold.

- Signposting different audiences as is done in 1.30 – 1.72 is helpful and will make the Code more usable by audience. The current Special Education Needs Code of Practice for Wales does separate into different sections according to audience and this helps usability for practitioners. Consideration should be given as to how this signposting can be done more obviously in the new code so that the different professional audiences can easily find the sections relevant to them.
- It would also be useful to include a glossary of acronyms.

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

- This is an appropriate focus given the role of the Code to establish enduring legal requirements. The effect of this is that the Code states what needs to happen but is at many points lacking in detail around how this can be done. I understand that practice guidance and case studies will be made available to practitioners online, to be updated dynamically. This additional resource will be essential for successful implementation. [This website](#)¹² to support practitioners to implement the Social Services and Wellbeing (Wales) Act 2014 might be a useful reference point as an example of a resource base to support an Act.
- However, despite this, significant consideration needs to be given to making the Code and its descriptions of functions and processes easier to understand. The current style of presentation and language requires readers to cross reference between different chapters and footnotes in a 294 page document and is written in dense, legal language. For a real transformation to happen for children and young people with Additional Learning Needs the code needs to be a document that is accessible to all teachers as they all have important responsibilities under the Act. Without greater accessibility built into the Code there is a risk it will only be understood by specialist professionals with designated responsibilities, e.g. the ALNCO. This could hinder its effective implementation and is a situation that could be exacerbated if a practice-focused online tool becomes the default resource for teaching practitioners to use. If a practice-focussed online tool is intended as the main tool for the majority of the profession, consideration needs to be given as to how guidance presented online will effectively inform all teachers of their duties as well as give practice guidance.

¹² <https://socialcare.wales/hub/resources>

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.

Chapter 2: Principles of the Code

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

- These clearly reflect the principles of the Act.
- I welcome the clear explanation of a rights-based approach, which gives clear and explicit reference to the United Nations Convention on the Rights of the Child (UNCRC) and the United Nations Convention on the Rights of Disabled People (UNCRDP). This chapter is clear in intention and gives a succinct explanation of the relationship of internationally guaranteed rights to the principles of the Act.
- I welcome the cogent and full explanation of participation and the emphasis that participation principles **must** be followed in 2.5
- 2.12 contains a spelling error and should read, rights-based approach.
- It is heartening to see the best interests of the child, a guiding principle of the UNCRC, reflected in paragraph 2.18
- I welcome the emphasis on a bilingual system and understand that elements of the Act are aimed directly at advancing the availability of ALP in the medium of Welsh, with national reviews of sufficiency every five years. However, this chapter should specify the actions that will be followed after such a sufficiency review to ensure this is meaningful. This emphasis should also be linked to Article 30 of the UNCRC, which guarantees that children and young people have access to education in indigenous languages.
- I would also note that it is increasingly difficult for children and young people to transition from an English medium to a Welsh medium setting as their education progresses and I would urge government to take considerable steps to ensure that sufficient Welsh medium provision is available for children at the start of their education.
- 2.16: the emphasis in this requirement on multi-agency planning is not reinforced by Chapter 19, which has a strong focus on education bodies and needs more development to fully integrate an multi-agency approach – this is explained further in my comments on Chapter 19.

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?

- Chapter 3 is a powerful explanation of children’s rights to participate, and is in accordance with our international obligations to children through the United Nations Convention on the Rights of the Child.
- I question why, in 3.4, should is used instead of must. Currently the draft states, *bodies should, when making decisions about a child or young person’s ALN, ALP or IDP:*
 - *seek the child or young person’s views on how they wish to participate in the decisions to be made ahead of those decisions being made;*
 - *provide information to the child or young person in a way which enables that child or young person to understand it;*
 - *encourage the child or young person to participate fully in the process;*
 - *use the child or young person’s views to inform the decisions being made.*

However, in 2.5, very similar requirements are described as a **must**. This seems inconsistent and I would advise that must is used in both instances. The only point of 3.4 to which I see there could be a

reasonable exception would be the last one, if a child or young person has not given their views despite efforts made. This could be accounted for by altering the final point to read, - *use the child or young person's views, when these have been given, to inform the decisions being made.*

- Similarly, duties to understand communication requirements would be strengthened if should used in 3.8 is replaced with must. I cannot see a reasonable exception to using information about communication needs, when given, to ensure young people and their families can best participate in meetings and this is important to avoid inappropriate arrangements that might prevent participation.
- I suggest an explanatory note is added in section 3.13-3.14 to explain that participation is voluntary on the part of the child or young person. Though all efforts should be made to support their participation they should not be made to participate in the process if they do not want to.
- I recommend that in the section about providing information, 3.15- 3.18, a note is added referring to the need to supply clear and appropriate feedback after decisions have been taken which communicate how the views of the child or young person have helped to inform decisions. Good practice examples of this could be shared in the separate good practice / case study guidance.
- 3.18 additional clarity is needed here to direct local authorities and education bodies to provide appropriate ALP to support a young person's education even if the young person withdraws their consent to be part of the ALN process and does not have an IDP. The need for young people to consent to taking part in the ALN system after compulsory school age does concern families and professionals, with valid worries that many young people may not wish to self-identify as having ALN, and that a withdrawal of consent to the ALN and IDP process may mean that young people do not receive any appropriate support. These concerns can be mitigated if the Code includes guidance at this point and throughout (when discussing consent processes) that responsible bodies must offer any ALP they think is appropriate to a young person in education or training if that young person might have ALN, even if the young person has chosen not to have an IDP. At present there is no guidance in the Code that ALP to meet identified needs should be made available even when the young person does not want to take part in the wider IDP and review process.
- In relation to this there should also be a more active duty on settings and local authorities to offer young people the opportunity to reconsider this decision. The Code should establish a requirement that the offer of participating in the ALN system is made again within a specified time, and I suggest this should be no longer than six months. This should be specified at this point in the document and referred to throughout Chapters 9-12 when describing processes around consent. It can also be specified in processes around review in Chapter 16.

Chapter 4: Duties on local authorities and NHS bodies to have regard to the United Nations Convention on the Rights of the Child and the United Nations Convention on the Rights of Persons with Disabilities.

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 UNCRC and UNCRPD?

- This sets out what the due regard duty to the UNCRC means at a local authority level in planning for ALP and it is heartening to see this consideration reflected in this way. It could be further understood by local authorities and NHS bodies through case studies that illustrate this practice. I recommend that such case studies are included in the planned separate guidance and **my office would be willing to support this.**
- Consideration could also be given to whether the Code should refer in more detail to the processes that can inform a due regard duty. Case law prior to the Equality Act 2010 provided a set of principles describing the legal expectation of due regard as set out in section 149 of the Equality Act, and through this NHS bodies and local authorities already have familiarity with these principles. The Brown Principles (established by [Brown, R v Secretary of State for Work and Pensions \[2008\] EWHC 3158 \(Admin\)](#)) state that in order to meet a due regard duty public bodies must ensure:
 - Knowledge: decision makers understand the implications of the duty when making decisions about policies and practice.

- Timeliness: the duty arises before and at the time that a policy is under consideration and a decision is taken (not retro-fitted to decisions).
- Analysis must be rigorous and must include meaningful consultation and engagement with interested parties.
- Non-delegated: the duty rests with the public body even if functions have been delegated to another organisation.
- A continuous duty: must be revisited and borne in mind throughout decision making.
- Record keeping: the law requires transparency about how decisions are reached. So the reasons and evidence used in developing and reviewing policies and practice are recorded.
- The rest of the Code is missing several opportunities to mainstream this rights-based practice into the everyday experiences of children and young people in their education settings. The due regard duty rests with the local authority, but in practice several functions of the local authority described in this code will be delegated and discharged within the education setting. In keeping with the Brown Principle of non-delegation the authority is still responsible to ensure that the due regard duty is fulfilled when other bodies are carrying out actions on its behalf. I have indicated throughout my response where the UNCRC could be integrated throughout the Code to strengthen the fulfilment of the rights-based approach as one of the core aims of the Act. This is particularly the case in the following sections of the Code:
 - in relation to Welsh Language provision in Chapter 2;
 - in relation to identifying ALN and ALP in Chapter 7;
 - strongly in relation to Chapter 13 and the development of IDPs;
 - on the IDP proforma in Annex A.

I have explained in my response to questions on each of these Chapters how this can be done.

- In this chapter, under 4.10 there should be a link added to the complete Convention so that practitioners can access the full list of rights and can also access the full description of each of the listed articles. Article 4 and Article 17 should also be added to the list of articles as both are highly relevant to the functions and processes of local authorities and NHS bodies.
- I welcome the inclusion of the five principles of a children's rights approach and the inclusion of my guidance for public bodies, *The Right Way: A Children's Rights Approach in Wales*, and my guidance for education settings, *The Right Way: A Children's Rights Approach to Education in Wales*. **My office is already working with local authorities to support them to embed a children's rights approach in their planning, and I would be willing to support a local authority to develop a children's rights approach to their additional learning provision so that this can be used as an illustrative case study of this approach in practice.**
- Under 4.17 the following could be added:
- *'Carry out a children's rights impact assessment of current ALN services and resources to audit how far the provision in the authority meets children's rights. This will help to identify strengths and highlight changes that are needed.'*
- *'Conduct children's rights impact assessments of changes proposed to ALN services, resources or authority-wide provision.'*

Chapter 5: Duty to keep additional learning provision 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?

- The guidance sets out that a local authority must keep under review the arrangements made both by the authority and by the governing bodies of maintained schools in its area, but does not state how frequently this review should be undertaken as part of the authority's strategic planning. Timescales for review should be provided to ensure frequency of review, as is the case, for example, with the need for Welsh ministers to review Welsh language provision across Wales every five years. This would also enable transparency for all professionals working within the system and for families and

young people in understanding how frequently the sufficiency of authority-wide provision will be reviewed.

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?

- Under 6.12 it would be helpful to illustrate ‘reasonable steps’ in this instance through practice guidance. It would also be helpful if minimum steps were outlined in this code.
- 6.10 The current requirement that information ‘should’ be clear and accurate, should be replaced with ‘must’, and this could be issued as a ‘requirement under the code’. Children, young people and their families hugely value accurate and timely information, and too many times do not receive this. This is reflected both in the [Edge Hill Rapid Review Report](#) and my [Don’t Hold Back](#) report into transitions for young people with Learning Disabilities.

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?

- I have general concerns about this Chapter. It is currently attempting to specify several areas of the ALN process, alongside setting out a multi-agency approach. My overall concerns are:
 - first, the processes specifying the identification of ALN and deciding on ALP are not linked to specific timelines and I think this process would be better integrated into Chapter 8-12, so that the factors of this decision making are clearly linked into a time specified process;
 - second, the multi-agency involvement in this chapter should also be linked into the time-bound decision making specified in Chapters 8-12;
 - third, the multi-agency approach in this Chapter does not specify sufficient routes of communication or specify which key professionals are responsible to ensure this multi-agency approach. It would be more effective if this is also integrated into the processes around decision making and that it is made clear at each point which professional is responsible for ensuring that this happens.
- The subtitle of this section should use the language of the Act. The current subtitle is: *Children of Compulsory School Age and Older Persons*. A young person is clearly defined for the purposes of the Act and this title should read, Children of Compulsory School Age and Young People.
- The guidance in paragraph 7.5 is vague and unclear, for example: *‘the test for this varies slightly according to the age of the person’* (it is unclear as to what test this refers to and how it would vary); I suggest this paragraph is deleted and the text cuts straight to 7.6, which outlines the key questions.
- References to definitions of ALN and ALP should refer to the Act in footnotes, for consistency.
- Under 7.10 differentiation is described as *‘something which is generally made available in schools and FEIs in Wales’*, this should be replaced with *‘should be available in all schools and FEIs in Wales’*. Successful differentiation at a classroom level is essential for the success of the Act and I have outlined in my introduction that I consider it essential that this element of teaching is supported through continuous professional learning and effectively monitored and evaluated across Wales.
- I am concerned by section 7.3 about children that are under compulsory school age. I understand that this definition of ALN for children younger than compulsory school age comes directly from the Act but it seems inappropriate to direct practitioners to anticipate what the needs of the child will be in the future. In this instance the practitioner will be guessing. The risk of this separate ‘test’ is that practitioners could delay a decision until the child reaches compulsory school age and this may mean that young children that would have significantly benefited from an IDP and access to ALP do not receive this support during the crucially formative stages of early years and the first part of the Foundation Phase. This approach also contradicts the importance of early intervention emphasised

elsewhere in the Code and Act. I would urge that the response of practitioners to children under compulsory school age should be needs-led. The code should direct decision making in this instance so that practitioners respond to the needs with which a child presents, meaning that a child of pre-school age that would benefit from an IDP or ALP at that point in their development (regardless of years into the future) receives the support that they need.

- The lack of reference to timescales from 7.19 means that it is possible to read this Chapter of the code and not realise that specific timescales apply to this decision making. More clarity is needed.

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?

- The guidance around evidence for ALN needs revision. This section of the Code does not currently refer to Article 29, the right of all children to develop their talents and skills to their full potential, as guaranteed by the UNCRC. In contrast, the current SEN Code of Practice does implicitly, through reference to the need to support children and young people with Additional Learning Needs to develop to their full potential. Article 29 should be made explicit in the decision around ALN so that it is understood by all practitioners as a means to ensure every child or young person has the equal opportunity to develop their talents and skills to the full. Equally the provision of ALP should fulfil the same purpose and the duty on responsible bodies to have due regard to children's rights reinforces this as a requirement. It is important to include direct reference to this important provision of the UNCRC as key to informing these decisions.
- I understand that practice guidance will be given elsewhere and it is crucial that this guidance includes more information about how a practitioner assesses whether ALN is present. External expertise is listed in this chapter but in addition to this every classroom teacher needs more information about the most effective and appropriate ways to gather evidence, over what time period, and assessed against what markers. Similarly, there should be substantial professional learning and resourcing to enable professionals to test the effectiveness of differentiation approaches for individual children and young people. Without this guidance available the explanation given in 7.43 needs to be either deleted or changed, as without reference to how to gather appropriate professional evidence this could be misinterpreted.
- Consideration needs to be given as to where the possibility of ALN can be raised to trigger the decision making process. The current guidance from 7.33 – 7.51 suggests that the onus is on the education setting to raise the initial concern, to then make the decision if the child / young person has ALN (seeking external advice if they think necessary) and to then to seek additional information to inform the ALP. My office has several cases in which educational settings have overlooked the presence of ALN, sometimes for several years, and where parents have sought statutory assessment to enable the provision of needed support. This section should make it clear as to how other agencies should respond if they also think a child or young person has ALN. Listing different agencies in this chapter is only the first step to establishing multi-agency approaches and consideration needs to be given to which professionals should ensure that evidence from different agencies is shared. There is an information sharing duty and powers given in relation to children in the early years, but consideration should be given to whether a link should also be established if ALN is identified by other statutory services for children of compulsory school age, for example, in Care and Support referrals made by social services or in medical referrals. There is a possibility within the DECLO role that there could be a responsibility to streamline different referral processes, including for older children and young people.

Chapter 8: Duties on local authorities in relation to children under compulsory school age and not attending a maintained school in Wales

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)?

- There is a potential conflict of interest in the role of the ALNLO in terms of their role in coordinating IDPs and their strategic role in terms of budgeting across the local authority. This leads to the possible risk that advice provided by the ALNLO around IDP decisions are led by availability and not needs-led. I would like to see some mitigation of this built into this role by further stressing the needs for needs-led determination of ALN for children under compulsory school age, as outlined by my answer to Question 12.
- I am concerned about the manageability of this role, particularly given the offer of increased childcare. It would be useful to specify in Chapter 8 that in order to fulfil these duties local authorities will need to review childcare uptake in light of the Welsh Government funded offer of increased childcare for 3 and 4 year olds. There may also need to be a re-evaluation of the resource impact assessment of this element of the Code in line with increased uptake. It may also be useful to specify in the Code that this may be a role held by more than one designated professional as needs require.

Chapters 8 - 12

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

- It is helpful to split chapters according to age and education setting for ease of use, but these chapters are particularly dense and difficult to understand. It would be really beneficial if timescales are included on flowcharts.
- The current flowcharts are very reductive of the process. I suggest an illustrator or graphic artist is commissioned to show the narrative process of each chapter so that each chapter includes a one page artwork describing the process, which includes timeframes.
- Information from Chapter 7 could also be included in each of the Chapters as it pertains to audience, to integrate multi-agency working as a more integral part of the decision making.

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?

- These are appropriate in terms of securing timely decision making and support and the 35 day period is an achievable timeline for settings to evaluate their own data and prepare an IDP if they are already familiar with a child or young person and already have significant knowledge of how they learn and make progress.
- However, given current shortages in local authority specialist workforce, and predicted shortages for the future¹³, Welsh Government and local authorities need to assure settings that there will be increased access to specialist professionals to enable decisions in which specialist support is required. This is particularly the case as the code specifies that when schools or FEIs seek to refer a case to a local authority they should consider consulting an educational psychologist. The timeframe for this referral is 20 term days from the date of first notification in most instances and it may present significant difficulties for specialist services to be secured in this period unless access to these services is increased.

¹³ <https://beta.gov.wales/sites/default/files/publications/2018-07/local-authority-special-educational-needs-specialist-services-workforce-data.pdf>

- It should also be noted that effective participation and person centred planning as outlined in Chapter Three requires time: it is necessary to plan how and in what format information is best provided; to determine how children, young people and their families can best participate in meetings; to enable sufficient time for children, young people and their families to consider information and develop their own views around the type of ALP that may be most helpful; to enable time for discussion so that all participants can contribute to decisions and understand why the decision has been made. Settings will need to be assured of sufficient resource to fully realise the principle of participation in the 35 day time constraint. Please note my concerns about whether the RIA that accompanied the Act sufficiently assessed the requirements of the ALNCO and ALNLO role in my answers to Questions 56 and 62.
- It should be highlighted that the 35 period for FEIs begins the day after the young person gives consent, and similarly for young people in school settings. This is included at both 9.14 and 10.13, but it is easy to lose this detail and assume that the period starts at point of initial notice as with other settings.
- There is not an indicated timescale for putting ALP in place. Given the varied nature of equipment, staffing, building adjustment and therapies I understand it is challenging to set a timescale for this, but there should be an expectation that ALP is secured promptly and in a
- reasonable timeframe. There is a requirement stated that settings ‘should not wait’ until the IDP is prepared to secure the ALP (9.33; 10.31) but the code should also indicate a requirement for prompt action once the IDP is prepared.
- 9.11 indicates that children, young people and families can request that a decision is reviewed but that a school does not need to review this in the absence of any new information. It may be useful here to include a timeframe for when a school should review this decision if requested at a school level, without the possible context of an appeal process. Of course, the appeal process could still remain an option should the decision be disagreed.
- There should be established a broad set of principles for when a local authority maintains an IDP and when the IDP is maintained by the education setting, which are consistent across Wales. This will greatly support portability of IDPs between authorities should children move, and will also enable equity between the experiences of different children, and parity between schools across Wales and what they are expected to meet within their budget and expertise. 15.26 clearly shows one principle, in that any child, or young person in a maintained education setting, who requires a referral to an NHS body must have an IDP held by the local authority, as it is only local authorities that are able to refer matters to NHS bodies to consider whether they have treatments or service that can meet needs. Other principles across Wales should also be set. This will not preclude the ability to work with these principles to enable local decision making relevant to individual children and settings.

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?

- Setting the precedent that local authorities should set objectives initially and then work from these to determine / allocate placement is welcomed and should ensure that educational placements are objective led. This could also be used by local authorities to strategically plan for the provision available for young people, for example, if there are objectives that are difficult to meet then this information can be used to review the type of provision that is developed in the future. It might be helpful to include this information as a consideration for local authorities in reviewing their ALP provision as in Chapter 5.
- Though the chapter makes clear that young people would not repeat or extend courses / placements unless in exceptional circumstances, it is unclear in the current chapter whether young people can do subsequent courses between the ages of 16-25, when each course is meeting new objectives. Clarity around this is needed.
- The code also could make explicit that it does not apply to young people in Higher Education Institutions as the 0-25 age range may lead some families to believe that an IDP will be maintained

also in HEIs – queries to my office have reinforced that this is assumed by some families at present so clearly stating this is not the case will be helpful.

- Paragraph 12.37 states when local authorities will not prepare and maintain an IDP, but does not state that in this instance an FEI will be directed by the local authority to maintain the IDP. This is stated in 12.70 and presumably would apply in the process described on 12.37 – it would be helpful to include here to avoid the conclusion that no IDP would be prepared in this instance.
- 12.45 focusses on the importance of effective participation in the context of deciding provision away from families, this is an important point and could be given greater prominence by integrating more guidance about participation in the description of the whole process.

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?

- This is a key document that will inform the ALN process as experienced by the child or young person. As such there is an important opportunity to overtly underpin the IDP and the accompanying Chapter 13 with the provisions of the UNCRC to ensure the realisation of the core aim of the Act to ensure a rights-based approach. This would also be an important mechanism to fulfil the duty of due regard to the UNCRC. Local authorities will be directly responsible for the maintenance of IDPs and in line with the Brown Principle of non-delegation the authority is still responsible to ensure that the due regard duty is fulfilled when other bodies, such as education settings, are carrying out actions on its behalf. I propose the following ways in which the IDP can be used to strengthen the rights based approach through the whole ALN process:
 - There should be an emphasis on the participatory rights of children in the section around 13.26 around the preparation of Section 1C. Section 1C is a key part of the document for the child as a mechanism by which they can exercise their participatory rights to express themselves. To ensure this section reflects their shared ownership in the decision making process this section should include a particular emphasis on Article 12. This could also be reflected on the template of the IDP itself. The title box to IC should state, 'I have the right to have my say'.
 - Section 2B: should include reference to the UNCRC Article 29, the right of all children to develop their talents and skills to their full potential. The IDP itself should include reference to this Article in the same way as in Section 1C, including in the box title: 'I have the right to develop my talents and skills to the full.' Using the first person and the language of rights throughout the IDP will not only guide the discussions that happen at this point, but will also guide shared decision making throughout the process and ensure that children and young people's ownership is integrated into the whole IDP. This will avoid participation only being focussed in the first section of the plan – a situation that has been highlighted by families in England in their response to Education Health Care Plans¹⁴. At paragraph 13.30 all intended outcomes should include reference to the focus on Article 29 (above), that children and young people are supported to develop their talents and skills to their full potential. The statement 'minimising the impact of an impairment on their learning' should be deleted and re-phrased positively, e.g. 'enabling the full development of their talents'.
 - 13.42 The word should needs to be used here, so that the IDP **should** always reflect the child's view of their ALP – what they think about the decisions that have been reached, not only of the process that led to that decision. This is an important way to ensure that their view is sought at this point and also to enable shared ownership and an honest, reflective process about the decision that has been made, which can then inform the review process in the future.
 - Consideration also needs to be given in this Chapter as to the privacy of the child, as guaranteed by Article 16 of the UNCRC. Head teachers at the All Wales Special School Conference raised

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/709743/Experiences_of_EHC_plans_-_A_survey_of_parents_and_young_people.pdf

with me the issue of the privacy of children and young people and who should be given access to the IDP in the school. Head teachers also discussed what personal information is shared at review meetings, for example, toileting needs. This chapter must give guidance so that professionals have regard to the privacy of the child so that any information of a highly personal nature is only shared on a need-to-know basis, rather than all information being shared without this consideration. This chapter would be a useful place to specify guidance around who where and how the IDP should be kept, linking to relevant data protection regulations. It should also specify the need to obtain consent from young people to share their IDP with their parents.

- 13.40 The securing of provision in Welsh is essential for effective ALP for Welsh speaking children, and also essential for equity of opportunity to a Welsh medium education for children with ALN from non-Welsh speaking homes. This should be related to Article 30 of the UNCRC. I also relate this to my response to questions 63 and 64, about my concerns about the definition of 'reasonable steps' and the need to be more specific in this. On the template this can be included in Section 2.B.3 'I have the right to use my own language'.

In addition to strengthening the rights based content:

- It would be beneficial to see the skill and importance of the IDP creation acknowledged at the outset of this section, so that it is recognised that the creation of an IDP requires detailed understanding of effective means of support for specific additional learning needs, in addition to highly developed skills to enable a participatory decision making process through person centred practice.
- Additional sections that would be beneficial to include on the IDP are around provision beyond the school setting. For example, ALP that be used for learning within the home. The home is an important learning environment and pupils / students with ALN should be enabled to support and augment their school learning with appropriate equipment available at home. This should be a mandatory consideration in the development of every IDP.
- 13.3 Positive to see a description of the process by which the content is prepared to include participation and also including the flexibility that the IDP is written in a style and form appropriate to the child or young person. It would be beneficial to share anonymised versions of customised IDPs on the associated practice guidance website to show how children and young people's shared decision making related to their IDP is reflected in the document, and how the document can be written in a way that encourages the child's sense of ownership. I welcome the development of this point in 13.7.
- 13.9 Helpful to see how elements that can be appealed will appear clearly. Chapter 13 should also include a requirement to ensure that this information is shared with children, parents and young people.
- 13.14 1A 4) It would be useful to include a specific note in the code that gender should be the gender with which children and young people identify and children and young people should be enabled to identify as transgender on the form if this is their gender identity.
- 13.15 I welcome the inclusion of creative methods of communication in this section, it may be helpful to have resources about how participation can be enabled through these creative methods such as play or art available on the supporting website.
- Section 1B is clear. 13.26 indicates the different ways that the one-page profile could be developed and presented and I would also suggest including the option that a mix of text and picture can be used.
- Paragraph 13.27 should make clear that the IDP is needs led and not diagnosis / condition and should specify 'it is the identified need(s) that should be captured in this section, which could include a description of the learning difficulty or disability' rather than, 'it is the learning difficulty or disability which is to be captured...'
- 13.28 I welcome the inclusion of narrative around different factors that were considered during the decision making process.
- 13.32 This link to guidance in setting person centred outcomes is welcomed and further practitioner focussed support like this would be a welcome integration throughout the code, particularly in

relation to guidance around deciding whether needs call for classroom based differentiation or whether they would be defined as Additional Learning Needs under the Act. This could also be linked to guidance in 13.33 around monitoring progress towards outcomes.

- 13.34 This should include that it is necessary to **be specific** in the regularity of ALP where necessary, casework through my Investigations and Advice service indicates that there can be confusion when the specific duration and regularity of provision is not clearly spelled out, e.g. rather than ‘weekly’, ‘for two hours every week in term time’.
- 13.38 It is positive to see a requirement for specificity described here. This should be stated more clearly, using a bold and underlined **should**.
- Section 3C: 13.67: It is beneficial that there is provision to record forthcoming information but there is a risk that this may be confusing for practitioners or families. Parents or young people could misinterpret this as ALP that is secured as part of the IDP, and not realise that this is not a statutory part of the IDP. I suggest this could be mitigated by including a note on the form itself – as specified in my answer to question 19.
- 13.69: In the context of Chapter 19 proposing a wide frame of transition points throughout a child or young person’s education, it would seem that this comment should be removed as it would always be appropriate to plan for transition – even between year groups.
- 13.76: If the local authority is making travel arrangements under the Learner Travel (Wales) Measure 2008 then the local authority **must** consult with transport officers and this must be a required consideration in developing an IDP, ‘should’ in this instance should be replaced with ‘must’: I explain this further in my response to Question 21. This can again be a requirement imposed by the Code.

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

- Section 1B: This should include contact details and a named person with responsibility for maintaining the IDP.
- Section 1C is a key part of the document for the child as a mechanism by which they can exercise their participatory rights to express themselves. To ensure this section reflects their shared ownership in the decision making process this section should include a particular emphasis on Article 12. This could also be reflected on the template of the IDP itself. The title box to IC should state. ‘I have the right to have my say’.
- For the entire IDP it should be made clear that the boxes are modifiable so that there can be as much text included as necessary, and also so that additional rows can be added where necessary. This could be reflected in Chapter 13 but it may also be helpful to add a footnote to the IDP document itself.
- Section 2B: This section should include reference to the UNCRC Article 29, the right of all children to develop their talents and skills to the full. The IDP itself should include reference to this Article in the same way as I suggest as in my answer to Question 18, including in the box title: ‘I have the right to develop my talents and skills to the full’.
- Using the first person and the language of rights throughout the IDP will not only guide the discussions that happen at this point, but will also guide shared decision making throughout the process and ensure that children and young people’s ownership is integrated into the whole IDP. This will avoid participation only being focussed in the first section of the plan – a situation that has been highlighted by families in England in their response to Education Health Care Plans¹⁵.
- Section 2.B.3 Include ‘I have the right to use my own language’.
- Section 2 B. 7) *Rationale for the ALP listed above* – this should include a field to capture the child / young person’s view on this. This is to reflect what the young person thinks about the decisions that have been reached, not only to reflect the process that led to that decision. This is an important way to ensure that their view is sought at this point and also to enable shared ownership and an honest,

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/709743/Experiences_of_EHC_plans_-_A_survey_of_parents_and_young_people.pdf

reflective process about the decision that has been made, which can then inform the review process in the future. It is also an important way to ensure a sense of continued ownership of the IDP. Guidance in Chapter 13 could include that this view can be captured in writing or even pictorially (e.g. smiley face / neutral face / sad face).

- The 3c box on the form should include a reminder section so that it is clear for families and practitioners that this does not relate to ALP that is secured by the IDP. This is to avoid this being misinterpreted. A reminder should convey that this section is to inform future planning and must not be used to secure any needed ALP – that is for section 2B.
- Transport should appear as a mandatory content field for the IDP, as explained further in my response to Question 21. Transport should always be considered as part of planning the ALP. As with other sections, where this is not applicable to the child or young person there is no need to complete this section. The danger of not including this as a mandatory field is that it will be overlooked.

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

I do not consider this guidance appropriate for the following reasons:

- 13.75 Transport should appear as a mandatory content field for the IDP. Casework received by my Investigation and Advice service shows that a lack of timely decisions about transport can lead to disputes and delays in planning ALP. As with other sections, where this is not applicable to the child or young person there is no need to complete this section. The danger of not including this as a mandatory field is that it will be overlooked. The wording of 13.74 is also weak, *'might find it helpful to record an additional section of the IDP any arrangements for the child or young person's travel'*. In order to ensure that this vital planning element is considered I suggest this is replaced with an instruction that ensures transport needs **should** be discussed as part of planning the ALP to ensure that children and young people are able to travel easily and appropriately.
- 13.75 Guidance relating to the Learner Travel (Wales) Measure 2008 only applies to children and young people up to age 19. As the Act applies up to age 25, consideration must be given to how transport for young people between 19-25 will be arranged. I note from the consultation document that work is 'underway' to refresh the guidance that sits under this Measure, in light of the 2018 Act, and that a formal consultation will follow 'in due course'. It is important that this work is done in a suitable timescale in order to fit with the progress of this Code and prevent this aspect being overlooked.
- 13.76: If the local authority is making travel arrangements under the Learner Travel (Wales) Measure 2008 then the local authority **must** consult with transport officers and this must be a required consideration in developing an IDP. 'Should' in this instance should be replaced with 'must'. This can be a requirement imposed by the Code.

Chapter 15: Duties on health bodies and other relevant persons

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

- The timescale of 6 weeks seems appropriate, particularly as they are a reflection of existing arrangements for health authorities to provide information to local authorities under the Education (Special Educational Needs) (Wales) Regulations 2002. It is appropriate to extend this duty with the same timescale so it would also apply to other relevant bodies as outlined, and thus enable information to be shared between other agencies. Whilst I accept that a Local Authority covers the entire functions of the corporation, it may be helpful here to specify that different functions of the Authority would fall under this request and to outline which departments this could include, so there is clarity that a multi-agency approach within an authority is necessary.
- The exception listed at 15.12 is vague and needs more clarity, perhaps through providing examples. The current wording, that the exception *'does not apply if it is impractical for the relevant person to do so due to circumstances beyond its control'*, is open to many interpretations of both 'impractical'

and 'circumstances beyond control'. 'Impractical' seems to imply that little additional effort is required and it would be easy to claim that something wasn't practical even if it was possible within the timeframe. To avoid a situation in which this exception could be over-applied, further clarity is needed and this could be provided if the fuller explanation of this exception (with examples), which is included at 1.34 is referred to or used, or if the standardised phrase for this is expanded to include a fuller explanation.

- It would also be more consistent if the same timeline applied at 15.13. I appreciate that this relates to general requests not directly linked to an individual case, so the same urgency may not apply. However it would be helpful to stipulate a maximum time for the body to respond to the request rather than leaving this open. Sharing information about the examples given, e.g. information about a request relating to 'a review of arrangements' or 'a mechanism for effective communication' may have broad impacts for many children and young people and six weeks also seems a reasonable time to share information in response to such a request. If the relevant body is continuing with ongoing work related to the request this can simply be reflected in the response.

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?

- Proposed period seems appropriate and aligns with other timescales for other bodies to take forward decision making.
- Paragraphs 15.27 / 15.28 would benefit from specifying what information should be contained in the referral in order for the considerations outlined in 15.28 to take place. NHS bodies should be consulted to determine exactly what this information entails and how it is most clearly presented, and information from local authorities will also need to contain details about language use and preference
- The exception listed in 15.31 is vague (similarly to my answer to Question 22) and would be clearer and avoid inappropriate application if the full wording at 1.34 is used, or the standardised phrase for this is expanded to include a fuller explanation.

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)?

- 15.44 Clarity could be provided about whether the requirement that the ensure the DECLO works with both children's and adults' services to ensure successful arrangements are in place for the transition from children's to adults' services relates to all elements of health related to transition or just to that secured under the Act.
- 15.47 The list of agencies included that need to form the DECLOs establishment of consistent systems should also include a link to the free and independent advocacy service provided by the local Community Health Council to support patients to raise a concern or make a complaint through [Putting Things Right](#). My general concerns about the place of advocacy in this code (as outlined in my response to Chapter 25) are also relevant here because the omission of this in the DECLO role shows how advocacy is not currently being integrated across the agencies and process. As outlined in this answer, the role of advocacy is to amplify the voice of the child throughout the process, in addition to amplifying the child or young person's wishes, thoughts and feelings in complaints and disputes. Within this list it would also seem prudent to include the ALNLOs of relevant local authorities so that a clear pathway of communication between these key strategic roles is specified to enable multi-agency working to secure appropriate ALP in early years.
- 15.49 This paragraph or wider section should also refer explicitly to advocacy, and the DECLO role should also have responsibility for ensuring that children and young people have access to advocacy at this point.
- 15.50 Consideration needs to be given to whether the DECLO should also be promoting the Education Tribunal for Wales as a mechanism for dispute resolution. Although the Education Tribunal

does not have authority to direct NHS bodies, a dispute related to a health provision could relate to the quantity of provision rather than quality of provision. This decision can be made within an IDP that has been made at a Local Authority or FEI, over which the Tribunal does have authority. Therefore, the Education Tribunal may be a more appropriate route for dispute or appeal. This is of course complicated if NHS has requested that an ALP it secures is removed or changed, with which the FEI or local authority must comply. As it could be difficult for families to know which route to follow an important part of the DECLO role is to understand the most appropriate route for families to appeal or complain and to ensure that this information is shared clearly with families and young people.

- Consideration should be given to whether a link should also be established if ALN is identified by other statutory services for children of compulsory school age following a medical referral. There is a possibility within the DECLO role that there could be a responsibility to streamline different referral processes, including for older children and young people within health.

Chapter 16: Review and revision of IDPs

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

- 16.6 This process should also be reflected more clearly in Chapter 13 as it is important to know how and when to set a review date when the IDP is prepared.
- 16.6 within the guidance around setting a date for review, the following should be included: - *after a period sufficient to test the suitability and outcomes of a particular ALP*. It is important to include this as a year is a long time for a child to have sub-optimal or inappropriate ALP in place. Alongside this should be the guidance that professionals can test and try different ALP to ensure they are using that which best enables the child or young person but that this approach requires a shorter review date and clear objectives against which ALP can be measured and assessed.
- 16.11 This paragraph is weak on its relation to the participatory process. In this paragraph it should be made clear that rather than ‘talking to the child, child’s parent or young person’; the child, parent or young person should be engaged in a participatory process where they can share decision making (as guaranteed by Article 12). This process should include:
 - the provision of clear and accessible information about the child / young person’s progress and how ALP may or may not be contributing to this;
 - the provision of opportunities for the child, parent or young person to discuss their opinions about the approaches and strategies being used;
 - the provision of opportunities for the child, parent or young person to discuss when they think a review of an IDP may be beneficial and why.
- 16.12 It may be clearer if this section comes sooner in the chapter (and before 16.6) so it sets out the maximum timeframes that can apply prior to giving additional guidance about what factors should be considered when deciding when to set a review date within this maximum timeframe.
- 16.17 This should specify that a child, parent or young person can appeal to the Education Tribunal for Wales if there is a decision not to revise an IDP and make this more explicit in 16.20 e)
- 16.26 An additional purpose of completing a review should be to enable the child and young person to express their view about their ALP. This should be added clearly to the purposes listed.
- 16.33 The alignment proposed between the reviewing of IDPs and the reviewing of care and support plans, and encouragement to hold one meeting is not consistent with the guidance in the Amended Part 6 Code, please see my comments in relation to this section.
- The flowchart on p. 198 should amend information in the box beginning ‘No review is needed,’ to read, ‘No review is needed before the date already specified on the IDP.’
- In addition frequency of reviews can present clear opportunities to discuss provision with a young person who may not have consented to the IDP process previously, as noted in my answer to Question 8 above, so this should be considered for inclusion in this section.

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) appropriate?

- 16.18 The same comment applies to clarity around the exception in 16.18 as in 15.31 and 15.21 and would be clearer and avoid inappropriate application if my suggestion in my answer to Question 3 is applied, that is, to use the following wording: *'circumstances in which the child is unavailable that are beyond the responsible body's control'*. 21
- Timescales here are consistent with those used at other points in the code around the initial preparation of IDP and this consistency is helpful.

Chapter 17: Local authority reconsiderations and taking over responsibility for IDPs

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

- This chapter should be clearly referenced in Chapter 9 and 10 so it is clear that a request to the local authority to revise decision about ALN or the IDP is a step that needs to be taken prior to making an appeal to the Education Tribunal for Wales.
- 17.1 This should also refer to the provision of advocacy in initial discussions with a school as this enables the effective participation of the child in decision making and can obviate the need for disagreement arrangements. Local authorities should make their advocacy arrangements accessible to their schools so that families can access these at a school level.
- There is no reference to participation or person centred practice in the decisions taken by the local authority relating to any of the following: revising decisions about whether the child/ young person has ALN; reconsidering the IDP; taking over responsibility for the IDP. Including the participatory process as part of this revision request will offer a means to enable effective participation of children and young people throughout the consideration of ALN and could also reduce the decisions of the local authority being appealed at Education Tribunal. It will also support children and young people (and their families) to see that their request is being fully and fairly considered. Reconsideration should be given to including specific instructions in this chapter to ensure that local authorities take a participatory process during this revision and hold meetings in the way outlined in Chapter 18.
- I support the inclusion at 17.30 that local authorities must consult an educational psychologist before making this decision, as this may be the first specialist input into this process and it is important there is a mechanism for this at this stage. As it is also the case that local authorities must consult an educational psychologist for all IDPs they maintain, this will mean that all children will have this specialist input at this stage before Tribunal.
- With regards to local authorities taking over an IDP, a set of nationwide principles for when local authorities hold IDPs would be helpful. First because this will mean that there are principles in place for the initial decision around whether an IDP should be maintained by a school or a local authority in the first place. Second it will mean that families and professionals in schools are better enabled to understand the types of circumstances in which a local authority would have responsibility for an IDP so will enable them to assess the likelihood of their request being granted. Third it will give a set of principles that can help inform a local authority's decision to take over an IDP and could be a helpful way of communicating that decision to the school, family or child. Again, principles would not preclude local decision making and each case being assessed on its own basis.

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?

- The same comment applies to clarity around the exception in 17.20 as in 16.81, 15.31 and 15.21 and would be clearer and avoid inappropriate application if my suggestion in my answer to Question 3 is applied, that is, to use the following wording: *'circumstances in which the child is unavailable that are beyond the responsible body's control'*.
- Timescales here are consistent with those used at other points in the code around the initial preparation of IDP and this consistency is helpful.

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?

- The approach advocated in this chapter should also apply to meetings taken by a local authority to revise decisions about ALN; the IDP; or to take over the IDP. This should be made clear in the introduction to this chapter and referenced in Chapter 17 also. The section 18.22 – 18.28 is titled ‘Meetings to review and revise an IDP’ but all content refers to meetings to review not to revise.
- 18.23: this reference to multi-agency specialists is vague and needs clearer pathways and requirements.
- The suggested headings given in 18.5, which all draw on person-centred practice, are a mixture of questions that focus on the thoughts, opinions and feelings about the co-ordinator, in which the child or young person is described in the third person (e.g. *What do you like most, admire or appreciate about the learner?*), and questions that appear to be focussed on the child (e.g. *Do you have any questions you wish to ask?*). They should perhaps be split into a section that is directed at professionals, and a section directed at the child themselves. The danger of not explicitly directing some questions for the child is that many of these questions can be answered in theory without any direct involvement of the child or young person. Also the order of the headings given are that the professional orientated questions generally seem to appear first and are followed by those directed to the child/young person. This should be re-ordered so that the thoughts of the child and young person help the co-ordinator to answer questions directed to them.
- I suggest that 18.5 advises that first the co-ordinator asks a clearly marked section of questions for the child / young person directed to the child in the second person. This will better support the realisation of the fundamental principle of the ALN Act that the child or young person is at the heart of the process. Subsequent to this should be the list of questions directed to the professional about the child. This is a re-framing rather than a re-wording of questions, so corresponds with rather than contradicts Welsh Government’s guidance documents on person-centred practice.¹⁶
- The multi-agency working described between 18.8-18.15 is appropriate but it will be extremely challenging for this guidance to be met within timelines given current workforce pressures, particularly on the specialist workforce¹⁷. Government must give serious consideration as to how there is capacity within the specialist workforce to respond to meeting requests within timeframes so that this is in place prior to the implementation of the Act and Code. Without this, there is a significant risk that meetings will not be attended by all relevant professionals within the timeframe. This will make it more difficult for the child / young person to remain at the centre of the process, as meetings are an important opportunity for all professionals involved to meet with the child and hear their views. It will also increase the risk that timeframes are not met. It may also affect the quality of decision making and the quality of the IDP, as not all relevant professionals have been able to fully contribute. All of these factors may lead to a less robust process and a developing lack of confidence in the process from individuals, families and society more generally, which will in turn lead to increased appeals to Tribunals.
- I am pleased to see a rapidity of response in developing IDP recommended at 18.20 and also to see that consideration has been given to how to support families, outlined at 18.21. I suggest that guidance also suggests signposting families to support networks and information services at this point, including the mandatory local authority information and advice service described in Chapter 6.
- 18.29-18.32 Please refer to my answers in Section 4 of this consultation around alignment proposed between meetings related to IDPs and meetings related to other planning and review processes related to the child or young person, for example around care and support plans.
- 18.34 states that alignment between reviewing processes is encouraged but this should not result in a delay. I suggest this should be replaced with a must.

Chapter 19: Planning for and supporting transition

¹⁶ <https://learning.gov.wales/docs/learningwales/publications/150909-reviews-toolkit-en.pdf>

¹⁷ <https://beta.gov.wales/sites/default/files/publications/2018-07/local-authority-special-educational-needs-specialist-services-workforce-data.pdf>

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

- There needs to be greater clarity throughout the chapter around what transition planning is for, as the main focus of the chapter implies that transition planning is focused around educational transition (with a predominant focus on education bodies) rather than holistic transition between developmental stages of childhood, adolescence and early adulthood. However, this is unclear, as there are several suggestions that a more holistic approach is beneficial, for example, at 19.10 and 19.23, which picks up on the requirement specified in 2.16 around a multi-agency planning for transition. Currently the Code does not take the opportunity to bring about a holistic transition plan for a child/young person between the age of 14-25, which integrates multi-agency working so that transition encompasses planning for education, health, social care and housing. The Edge Hill report suggests that significant changes are needed to ensure this: “Fully integrated transition planning across health, social care, education and employment is extremely rare.” This vision would also bring the code in line with the aspirations of The Improving Lives Programme, described by the then Minister for Children, Older People and Social Care with a stated aim to ensure ‘services are seamless and work together.’¹⁸ The Improving Lives Programme has also recommended that multi-agency transition appears in the ALN Code: *Provide guidance on effective multi-agency planning to support a smooth transition from 14 -25 years old through the ALN code.*¹⁹ I suggest that the Learning Disability Ministerial Advisory Group would have a role in monitoring whether this is happening sufficiently in this draft of the Code and should be consulted in this regard.

The following elements need strengthening and clarity for effective multi-agency transition:

- **Define a responsibility for transition within a key role.** The mention of a single person at 19.11 and reference to a “transition key worker” is helpful but vague and further clarity is necessary. As Commissioner I have called for key workers at transition in my Don’t Hold Back report. This code could establish a requirement for a “transition key worker” as a specific role or it could be a requirement built into the role of the ALNCo; ALNLO, or LACE Co-ordinator. Currently co-ordinating a multi-agency approach to plan for transition does not currently appear as a clear duty in the description of these roles. This risk of not specifying this role in a way that it will fail to be a part of anyone’s role. The Improving Lives Programme recognises the need for a key role for the Code to lead multi-agency working in their recommendation: *Ensure there is a champion for the rights of children and young people with ALN and Learning Disability in schools and health through the ALN Code’s guidance on the role of the ALN Coordinator and DECLO, including their roles in supporting effective multi-agency working.*²⁰ This needs strengthening in this chapter and in the Chapters around the ALNCO and DECLO, but also in the description of the ALNLO and LACE Co-ordinator. This is important so that this is not only applied for some children and young people but to all children and young people with an IDP.
- **Clarify how transition to independent living is conveyed.** This is mentioned, e.g. at 19.52, but does not appear throughout the Chapter as a developing theme and this reflects the wider lack of clarity about the other aspects of the transition from child / young person / young adulthood. To effectively co-ordinate educational transitions into a wider multi-agency approach then this needs to be much clearer throughout the Chapter as a shared aim of transitional planning. At 19.66 ‘services and provision’ is very vague. What services does this mean? What is the role of education settings in ensuring for this wider holistic transition – information providing, or helping in decision making? More guidance needs to be given.
- 19.10 give clarity about whether this refers to educational transitions or all transitions between different services. This is the first mention of integrated support but it is unclear as to who (which role / which agency) would have responsibility for ensuring this multi-agency approach and this approach needs ownership if it is to be successful.

¹⁸ <https://gov.wales/newsroom/health-and-social-services/2018/learning-disability/?lang=en>

¹⁹ <https://gov.wales/docs/dhss/publications/learning-disability-improving-lives-programme.pdf>

²⁰ <https://gov.wales/docs/dhss/publications/learning-disability-improving-lives-programme.pdf>

- 19.24 Recording transition arrangements: it should be noted here which agencies need to be notified and made aware of the arrangements in the IDP. Current guidance in the SEN Code of Practice is to notify health and social services to ensure that any necessary assessments are triggered.
- 19.26 Consideration should be given specifically within the ALNLO role as to how to enable frequent setting visits around transitions.
- 19.29 'school' staff should be altered so it also applies to staff in early years' settings.

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In addition the following points can be strengthened:

- **Ensure that the document clearly defines transition.** Not only does there need to be clarity about what transition is for (education or wider) but also at what points it occurs. It is positive that the code acknowledges that transitions can occur at several points within the child/ young person's development, and that this happens at the outset of the document at 19.1. There are some ways that this chapter could be made clearer so that this is not confusing. First, the list at 19.4 does not include transitions out of education into independent living or the world of work, whereas the list at 19.16 does. This means that the meaning of transition could be misinterpreted. I would advise that there is one list of transition points at the outset of this chapter which makes it clear that transition can happen within and between educational settings but also that it occurs at the end of education too. This list should also include transition between year groups as these can be significant changes for children and young people.
- **Ensure effective participation.** Information shows that currently children and young people in transition to adulthood do not have the levels of engagement that would be beneficial, as shown through the Edge hill report "The numbers of young people actually involved in transition planning through person-centred planning processes however still appears to be low" and reinforced by my Don't Hold Back report, which suggested both that many children and young people did not feel they were involved with planning, and importantly, that where they did feel their views were listened to this was valued. This would also align the Code with The Improving Lives Programme and its aim to "*put people and their families at the centre of our services, and give them a say in the services they receive.*"²¹ The Chapter can be strengthened in the following paragraphs in this regard:
 - 9.7 Acknowledge here that children and parents can have different concerns and aspirations: research conducted by my office to inform my Don't Hold Back report showed that this can be the case at certain times of development and there may be a specific role for professionals in helping to support decision making in this instance. The current Special Education Needs Code of Practice for Wales acknowledges this and gives practitioner guidance around supporting transitions planning in Year 9 ("*Relationships between parents and pupils may be sensitive at the time of the year 9 review where transition planning is an integral part of the process. Many parents will feel anxious about post-school options and may be worried about their children's expectations being raised unreasonably about post-school provision and career choices. Other parents may be anxious about the level of support available in the post-school sector. Parents and pupils should have their views listened to and recorded separately and with respect for any differences of opinion.*") The inclusion of similar guidance could be considered in this chapter.
 - This chapter should also give more specific reference to the rights based participatory approach laid out in Chapters 3 and 4.
 - The section from 19.41 around moving from primary to secondary settings should also address effective participation in decision making about the most appropriate school as we know that participation in this is a source of concern for children and families.
 - 19.52 and 19.71 I fully support the inclusion of raising aspirations but it is important that these aspirations are backed up by accurate information about available opportunities and it should be specified within the transition key worker responsibilities that this information is sourced and shared. Families involved in my Don't Hold Back report described the frustration and disappointment when aspirations were unsubstantiated with genuine opportunity.
 - 19.53 It is positive to see this important point included.

²¹ <https://gov.wales/newsroom/health-and-social-services/2018/learning-disability/?lang=en>

- 19.63 remove the term ‘disclose’ and replace with a more neutral word.
- **Timescales around decision making:** The speed of decision making is hugely important to children and young people, and their families, research informing Don’t Hold Back indicated that decision making was perceived as slow and that this was a source of anxiety for young people – so while at 19.9 and at other points the necessity of advance planning is specified there needs to be consideration given to how young people and their families understand this and are involved so that they don’t feel that the decision making process is slow. At 9.18 the two year requirement is reasonable but this point should refer to the specific timescales set out later in this chapter from 19.47 to avoid misunderstanding. Clear visual representation may be helpful. 19.20 Given that young people and families have reported to my office that delays in decision making are a key issue leading to uncertainty and anxiety, leaving the decision about continuing to maintain an IDP until the last year of compulsory education seems late. As there is provision in this paragraph for the decision to be revisited if circumstances change I would suggest this decision in principle is made two years in advance, as with the general two year planning requirement, but that the ability to review this decision is retained. Pathway planning for the transition point at age 18 for children and young people in local authority care starts from before their 16th birthday, so a two year ongoing process to plan for a major transition has precedent elsewhere in young people’s lives.
- **Integrate Careers Wales** I am concerned about the potential reduced involvement of Careers Wales specified. I would like to see the ‘may’ at 19.55 altered to ‘**must**’. The current SEN Code of Practice is stronger on the necessity to involve Careers Wales than this guidance. This is an omission. The evidence review summary for Don’t Hold Back shows, *"The literature specifically mentions the critical role careers services play in transition planning and the evidence is not clear whether careers services meet their obligations of delivering meaningful career advice to young people with learning disabilities consistently. It appears that where careers services are proactively part of the transition planning and develop meaningful options for young people’s post-school placements, transition outcomes improve and are seen as positive by young people and their families. Where careers services fail to be part of a person-centred planning process, their service is perceived as largely redundant."* With this in mind the role of Careers Wales must not only be required but must be integrated into the person-centred planning around transition. I recommend that Careers Wales are a required professional presence at IDP review meetings from year 9 onwards. Without this the information described at 15.58 will not be incorporated into planning. Employment and work experience opportunities are identified by young people as highly important²², and it is also essential that aspirations are informed and supported by genuinely available opportunities and provision.
- **Information for children, young people and parents** is generally well covered in this chapter, which is essential. The Edge hill report shows that important part of all successful transition planning is for young people and their families to be kept informed throughout the process in a timely manner with full information about the options available.
- **Advocacy** services should appear as a resource that can support young people through transitional planning. Please see my comments regarding advocacy in relation to Chapter 25.

Chapter 20: Transferring an IDP

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

- The structure of this chapter is clear.
- Content needs further clarity at 20.11 around the duties that apply when a child ceases to be looked after. This specifies that a local authority responsible for the child must maintain the IDP when they cease to be a looked after child. Clarity is needed as to who which authority in this instance maintains the IDP, whether it is the responsibility of the authority in which the child is receiving their education, or the authority that was (or continues to be under the SSWB Act in the case of a young person over 16) the corporate parent. It should also be specified whether responsibility in this instance would lie with the LACE Coordinator, or whether it can be another role. It should also be made clear about whether the authority can delegate this responsibility to the school or FEI and link

²² <https://www.childcomwales.org.uk/wp-content/uploads/2018/07/Dont-Hold-Back.pdf>

to the descriptions of transfer at 20.12. This is made clear at 21.6 but not in Chapter 20 so this should be referenced here. Without this clarity it could be misunderstood from this paragraph that the local authority would maintain responsibility for the IDP indefinitely, until the young person is 25. This clarity should also be reflected in Chapters 9-12, so schools and FEIs are aware of any transfer processes when children cease to be looked after or reach the age of 16.

Question 32. Are the requirements that are intended to be included in regulations in relation to requests to transfer an IDP to an FEI (20.12-20.17) appropriate?

- The current specifications around this process are not inclusive of the young person and fail to ensure that the young person is informed and able to consent to their information being shared. 20.15 states that Welsh Ministers should inform the young person that they have received a referral but there is no requirement that the local authority informs the young person prior to referral or that they seek the consent of the young person to share their IDP with Ministers in this process. In accordance with Article 16 of the UNCRC, the young person should be given the opportunity to give or withhold consent for their IDP to be shared with Welsh Ministers. In instances where the young person does not consent the local authority should retain responsibility for the IDP. It is inappropriate and could be distressing or confusing for young people without any prior understanding of this process only to be made aware that Ministers have a copy of their IDP by the Ministers themselves. Welsh Ministers also have a duty to have due regard to the UNCRC when exercising their functions under the Rights of Children and Young Persons (Wales) Measure 2011 and will need to be careful to take account of Article 16 themselves in these circumstances. Regulations that are developed must reflect a need to inform and obtain consent from the young person. The content of these Regulations are not included in the consultation document for children and young people and I strongly recommend that young people's views are sought in forming these Regulations.
- It is appropriate that a timeframe is specified for local authorities to make a referral but a timescale must also be specified for the Welsh Ministers to make the decision. This is essential to avoid lengthy waits for decisions that could both affect the provision of suitable education and create anxiety for the young person. Regulations that are developed must reflect the need for a timely decision by the Welsh Ministers.

Question 33. Are the arrangements that are intended to be included in regulations in relation to all other transfers (20.18 – 20.21) appropriate?

- 20.20 I am concerned that the exception at point b) which states that 'in light of the circumstances which have given rise to the transfer, it is no longer practicable for the child or young person to attend the institution, the local authority's duty to secure the place at the school or institution does not apply until such time as it is possible to revise the plan.' Examples from my case work service show that when children transfer between authorities they can miss an appropriate education or even miss education entirely while they are waiting for their new home authority to conduct reviews. In a current case a child has not had a school place for four months, while they await a statutory assessment to transfer an Education and Health Care Plan from England to a statement under the current SEN system. This exception is not linked explicitly to a timeframe at 20.20, I assume the 12 week review timeframe would apply, but this should be directly referenced either in the Code or included in the regulations. However, it should also be clearly specified what interim measure the authority needs to put in place during the review process, by including in the regulations that a duty to meet the needs of the child and to secure ALP applies during the period of review. Determinations about circumstances and practicability in this instance are also subjective so again guidance in the Code should be referenced around how to involve families by clearly linking to the participatory processes that are part of review. The need to include families in this process should also be specified in regulation.

Chapter 21: Ceasing to maintain an IDP

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

- 20.11 should be cross referenced with bullet 4 at 21.5 to enable more clarity around which authority should hold an IDP in the case of a child that ceases to be looked after. My comments around greater clarity needed in the arrangements for this in response to Question 31 also apply here. Bullet five of this paragraph around duties that cease to apply when a looked after child is placed in England also needs to be explained more fully in a section of the code that clearly specifies how duties apply in cross-border placements. Please see my response to Section 4, Question 59 for further details about these concerns.
- 21.6 b) should be made clear at 20.11 too – as currently 20.11 gives a partial explanation which is then elucidated in 21.6 without cross reference.
- 21.12 ‘this would include for example where a young person has already undertaken a course at post-16 education or training and it is proposed they do a new and different course.’ The Code is unclear regarding how many new and different courses a young person can undertake between the age of 16-25 – could they take subsequent new courses, where these all responded to different training objectives? This needs clarity here and in Chapter 12.

Question 35. Is the period of time for making a reconsideration request (21.18) appropriate?

- I would expect the decision about whether the four week period of time is appropriate to be guided by the responses of families, children and young people at consultation events – and if there is not sufficient evidence collected on this issue Government should hold more specific targeted discussion events with families, children and young people to inform this decision. It is important that families, children and young people feel that this period enables enough time for them to reflect on the decision. There will need to be enough time to reflect on the quality of information, advice and alternative support they receive (as indicated at 21.9) to enable an informed process of decision making that gives sufficient time for families to decide if they should request reconsideration.
- Advocacy services should be referenced in 21.20.

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.

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?

- I would prefer paragraph 22.16 to suggest that when a young person consents to an IDP being prepared there is a duty to prepare the IDP as young people with ALN that are in detention must be given every opportunity to pursue education and training on release, providing the young person consents to this. However, I accept that the need to ‘consider whether the person will be likely to have reasonable needs for education or training on release’ is a direct reflection of Section 40 of the Act. This is potentially a missed opportunity for this young person as preparation of the IDP in the first instance could be an important way of enabling young people to explore the possibility of a range of education and training, including part time arrangements, and it will be relevant to explore this support even where young people are intending to work or engage in higher education after detention. After release, through the review process, the IDP can change or cease to be maintained, and the young person can also withdraw their consent at this stage. But the opportunity to explore and understand the offer of support through the development of the IDP is important for every detained young person with ALN. Every effort should be made to support young people by planning for education or training on their release from detention.
- I am pleased to see the local authority’s duties to arrange ALP during the period of detention as specified in 22.26-22.36.
- Arrangements required in 22.37 – 22.38 are appropriate, but further consideration needs to be given to transition planning around release, and how education transition planning fits into the wider planning for the release of a young person from detention. It will be important to specify a multi-agency approach here and to designate responsibility for co-ordinating that approach. Linking this approach to Chapter 19 (noting my concerns about how holistic planning needs to be better

integrated into this chapter) and including release from detention as a potential transition point in Chapter 19 may also be helpful.

Question 38. Are the proposals for the regulations in relation to children and young people who are subject to a detention order and detained in hospital under Part 3 of the Mental Health Act 1983 (22.45-22.73) appropriate?

- As in my answer to Q37 above, I would prefer 22.58 to state that when a young person consents to an IDP being prepared there is a duty to prepare the IDP. But I accept that the wording given reflects requirements under Section 46 of the Act. Again I feel this is a potential missed opportunity. Young people with ALN that are detained in hospital under Part 3 of the 1983 Act should be given every opportunity to pursue education and training on release and I would prefer local authorities to work on the basis that this is always a reasonable need of this group of young people, providing the young person consents to this.
- Section 22.71 – 22.73 should, as in my answer to Q37, show a stronger emphasis on multi-agency planning and again more consideration needs to transition planning for children and young people detained in hospital and how educational planning can be part of a holistic process.

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 appropriate, rather than also having a requirement to comply within a fixed period subject to an exception or exceptions?

- I am cautious about a requirement to act ‘promptly’ without specifying a maximum timeframe for this action. I understand that in the case of young people that are detained there may be a higher frequency of situations meaning children and young people are not available for education (for example they are unwell or receiving treatment) and that this may mean that it is more difficult for local authorities to complete the preparation of IDPs in more instances than is usually the case. However, these instances seem to be to be covered by the general exception used in other parts of the Code, as explained at 1.34 (and please see my response to Question 3 regarding how this could be strengthened). There seems an inconsistency in approach in not specifying a timeframe: there are equivalent circumstances outside of detention situations to those described at paragraph 1.109 in the consultation document. Here, as an example, it states, ‘if there is a prospect of more certainty as to the length of a young person’s detention or the outcome of treatment shortly, it might be better to take a decision on whether an IDP is necessary when these things are known’. Equivalent situations could arise for children not in detention: for example a child may be about to move house out of the authority, may be about to change educational setting, or may also be awaiting the outcome of therapeutic or medical treatment. In these cases there would still be a duty to provide the IDP within the timeframe according to the presenting need. It is notable that duties under the Act apply equally in respect of a child or young person in EOTAS because of healthcare needs, as specified at 23.14, and this includes because of admission to Hospital under Part 2 of the Mental Health Act. I see no reason why children who are admitted under Part 3 of the Mental Health Act should be treated differently. Children and young people in detention should receive equity and the same approach, of a fixed period subject to an exception, should apply.

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?

- It would be helpful if 22.3-22.4 took all the relevant information from Chapters 9, 10 and 17 regarding the duties of local authorities with regards to children and young people that cross the border into Wales to attend schools / FEIs and specified this as simply as possible in one place, so there is a single reference point to understand this. It would also be helpful if the converse was spelt out, that is, children and young people that live in Wales but attend schools in England. As with the duties that apply to looked-after children with cross-border placements, it is hard to understand the implications of cross-border duties as they appear at several places in the current Code and are often unclear.

- 23.17 consideration should be given here to transition planning between settings, linking to an improved multi-agency approach in Chapter 19.
- 23.17 exploration needs to be given to how local authorities will be able to comply with the duties specified in Chapters 11 and 12 in instances where families of home educated children do not consent to all or parts of the ALN process.

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?

- 24.4 This point needs to come through more strongly around the identification of ALN in the regulations (see my response to Question 56), but could be made clearer here by moving this point to greater prominence in the Chapter, either by including it in 24.1, or directly underneath as a new 24.2
- 24.7 This would be better supported by including this requirement in sections 5 and 6 of the Additional Learning Needs Co-ordinator (Wales) Regulations 2019.
- 24.11 should include learning support workers so that these key professionals also benefit from professional guidance.
- In the section, **Duties on ALNCOs** (24.12 onwards), it should also be included that ALNCOs **must** ensure the effective participation of children and parents / carers in the preparation and review of IDPs and that in FEIs ALNCOs **must** ensure the consent of young people to the ALN process and ensure the effective participation of young people in the preparation and review of IDPs. 24.16 only refers to providing information and this should go further.
- 24.23 the point about transition should be expanded so that the ALNCOs key responsibility is also to co-ordinate a multi-agency approach to ensure effective transition planning.
- It should also be included in key responsibilities that ALNCOs understand the role of advocacy as a means to amplify the child / young person's voice in decision making and liaise with the local authority advocacy services to provide children and young people with this support at a school level where necessary.
- It should also be noted that this role entails significant duties and responsibilities, and that the post-holder will need to maintain sufficient and continuous professional learning to implement up-to-date knowledge, skills and approaches in their schools. As indicated by 24.5, many ALNCOs will also be combining this with their own teaching timetable, and as indicated at 24.6, some ALNCOs will also be combining this role with other non-teaching responsibilities. In light of significant concerns about school funding and the consequent impact of this on the capacity of professionals (outlined in my response to Question 62), and also in light of the wider educational reforms, there will need to be careful planning, resourcing and support for the ALNCo role as a key component of the new system. Whether ALNCOs have the capacity to deliver their duties and responsibilities must be monitored well in advance of the planned five year review of the whole system. I am not reassured that the Regulatory Impact Assessment that accompanied the Act takes full account of the resource impact of this new role in schools, as I understand that auditing the current spend on SEN under the current system proved too difficult to achieve and this information was not available to inform the RIA. I suggest that the specific resource impact of the ALNCo role is revisited in the specific Regulatory Impact Assessment for the ALNCo regulations that will be produced when the regulations are laid for approval.

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?

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?

I am answering the two questions related to this chapter together:

- Throughout the Code advocacy is presented primarily as a means of resolving disagreement and this does not reflect the important role that advocacy plays in decision making. A definition of advocacy as a means to ‘amplify the voice and wishes of the child in decision making’ should be included at the outset of this chapter and at the outset of the Code itself in Chapter 1. This definition should also refer to the participatory rights of children under the UNCRC, in particular Article 12, the right of children to share decision making in matters that affect their lives. It should be made clear that advocacy services can be involved throughout the ALN process as a means of enabling the child or young person’s voice to be heard. This should be centrally communicated and understood by all parties at the outset of the process, and there should be a more active offer of advocacy in the decision making process at a school / local authority level. Throughout the Code, in particular in Chapters 8-12, the duty to share information about advocacy is **after** key decisions have been made, e.g. after the decision whether the child has ALN; after the preparation of the IDP; after the decision to cease to maintain an IDP. In this context advocacy is always described in relation to disagreements: ‘*details of the local authority’s arrangements for the avoidance and resolution of disagreements and its independent advocacy services*’. Similarly at 25.57 there is not sufficient explanation of how independent advocacy services can be involved in avoiding disagreements by inclusion in decision making processes. There is some reference to including advocacy around review of IDP at 25.64 but this active offer needs to be more clearly stated (for example, the stipulation at 25.64 is not included in the list of when an advocate may be involved at 25.57) and this should also be referenced in Chapter 16.
- Therefore, the Code portrays only a partial representation of what advocacy is and largely discards the importance of advocacy in initial decision making. This should not only be clearer in this chapter but also in chapters 8-12 around the IDP preparation; and in chapter 16 around IDP review; and in chapter 19 around transition. In these chapters there is also an important consideration that should be given to the role of advocacy in consent processes for young people, and that should also be reflected in Chapter 25. Principles of the Independent Professional Advocacy National Standards and Outcomes Framework for Children and Young People should be applied in this chapter and also in the description of decision-making processes throughout the Code.
- In addition to the serious omission of advocacy throughout decision making there is also not a strong enough inclusion of advocacy as a mechanism of successfully avoiding disagreement. Although this chapter is titled ‘Avoiding and resolving disagreements’ there needs to be a stronger portrayal of advocacy in avoiding decision making in the first section of the chapter. It does not appear until 25.20 and it should appear at the outset.
- The portrayal of Advocacy in Chapter 25, e.g. at 25.58 should refer to the UNCRC and Article 12.
- I have noted the concerns of Snap Cymru²³ around the impartiality of disagreement resolution if it is provided by staff employed directly by the local authority itself, and whether this may be in breach the requirements of the Act under Section 68 (3) and 69 (3). The questions raised here are valid and should be considered by government and their legal team in the development of this chapter, and whether more specific detail needs to be given at 25.12 around whether the need for impartiality precludes the service being provided by the local authority in this way. At 25.34-36 it should also be specified if ‘independence of the parties’ precludes the service being provided by staff of the local authority.
- Under the current SEN system my Investigation and Advice Service has worked with both disagreement resolution services that are provided by agencies external to the local authority (including Snap Cymru) and with services that are provided by the local authority itself. The cases that we have received indicate that both arrangements have been able to provide effective support to children and families but further evidence would be needed to evaluate this comprehensively. I am in agreement with Snap Cymru that families need to have confidence in the disagreement resolution system from the outset, and the responses of children, parents and young people to this question in consultation events should be given close attention in determining the appropriateness of arrangements in this chapter.

²³ <http://www.senedd.assembly.wales/documents/s84619/CYPE5-07-19%20-%20Paper%20to%20note%2010.pdf>

- Consideration should also be given in this chapter to avoiding and resolving disagreements specifically about transport, and this should refer to the need to include local authority transport officers. My casework service shows that failure to agree transport is often a cause of delays and anxiety around the securing of ALP. Decision making about transport should also be a stronger part of the IDP planning process reflected in Chapter 13.
- I agree it is appropriate that Putting Things Right should be directed as a potential disagreement route for services provided by the NHS, as this will in many instances be a quicker and more appropriate process. However, I am concerned about the time period that it may take for families to get answers and resolutions through this service and whether this could preclude families from having sufficient time to appeal to the Tribunal. Sometimes it will not be clear to children, young people and families if a service they receive is a health provision or an education provision. This may be particularly the case when provision is received in an educational setting (for example physiotherapy received in school settings, which can sometimes be delivered by school staff under the guidance of a physiotherapist) or when the content of provision is interdisciplinary and holistic, and again can involve delivery by both health and education professionals (for example speech and language provision). It could be that the Putting Things Right process is followed and at the end of that process it is decided that if the concern relates to a decision of the local authority responsible for the IDP and it is more appropriate that it be appealed at Tribunal. To mitigate this there should be a need for information to be shared between the local authority and the health body (through the DECLO) when a complaints process is initiated along either route, so that the family can receive immediate professional advice from the named person responsible in the local authority for maintaining the IDP about whether this is the correct route to follow in this instance. There should also be an exception built into the Tribunal timeframe which means that if a family have registered a complaint with Putting Things Right but are advised during or at the end of this process that it is more appropriate for them to take this complaint as an appeal to Tribunal they are enabled to do this even if it is beyond the timeframe of the eight weeks since the decision.
- Under 'other means of challenge' (from 25.47 onwards) my office should also be included as a means of supporting and challenging decisions. I suggest the following text: *The Children's Commissioner for Wales safeguards the rights and welfare of children and young people in Wales. The Children's Commissioner has a free Investigation and Advice service that can provide assistance on complaints and issues relating to the ALN system.* This text can be linked in footnotes to the contact details on my website: <https://www.childcomwales.org.uk/about-us/investigation-advice/>
- The inclusion at 25.68 around the independence of advocacy services from the commissioning service is important and should be retained.

Chapter 26: Appeals and applications to the Education Tribunal for Wales

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

- Consideration should be given to widening the right to appeal in the case of looked after children, currently those able to appeal are 'children, parents and young people'. As outlined in my response to Part 4 of the Consultation, this group of children may be particularly at risk of decisions not to maintain an IDP, if they are placed cross-border, or at risk of revisions of their IDP to fit with available provision in placements. It is unlikely that different departments of local authorities will appeal against each other and children and young people themselves may struggle to appeal decisions without adult support or initiation, which their parents may not be able to provide. Consideration could be given to including carers of looked after children as a group that can also take an appeal to Tribunal and reflecting this in the Code and Regulations. Advocacy support would also be highly beneficial in these circumstances.
- 26.14 I am also concerned that the timeframe is insufficient to make an appeal if the family first took a complaint with Putting Things Right but are advised during or at the end of the Putting Things Right process that it is more appropriate for them to take this complaint as an appeal to Tribunal. An exception to the timeframe should be made in this instance, or the Tribunal should be instructed

through the Code and regulations to use their discretion to enable the appeal in this case. As explained in my response to Question 43, some families may initially follow this complaint route inappropriately due to the confusion about whether NHS or education bodies are responsible for different decisions. Families should be enabled to appeal at Tribunal if this is the case.

- Timeframes established in the code at 26.16 are in line with other timeframes in the Code and seem appropriate.
- The Code should also reflect point 8 of the draft Regulations and should specify that the Tribunal must inform parties of the local authority and NHS resolution procedures.
- As the purpose of the Education Tribunal is also a key way in which the system is accountable to the children and young people it is set up to serve I would also like to see a greater emphasis on accountability to children and young people in the Code and regulations. It should be stipulated that key information about the tribunal process is shared with the child / young person at the outset of proceedings so they can understand the process to the fullest extent appropriate. The information about the Tribunal's decision also needs to be provided to the child / young person in a way that is most appropriate and accessible to them. This information should explain how the decision making process has happened, what factors have been key considerations and why the final decision was reached. This information should also inform the young person what they can expect to happen next.
- Decisions about the child or young person is at the heart of the Tribunal proceedings and to ensure this managed in a way consistent with the rights of the child, as guaranteed by the UNCRC, this chapter should recommend that the Tribunal embeds a children's rights approach into its work. This chapter should recommend the Tribunal adopts the Children's Rights Approach developed by my office for public bodies.²⁴

Question 45. Is the information about case friends, including the duties on the Tribunal to appoint and remove case friends, clearly explained in Chapter 27?

- It should be noted at 27.17 that while a case friend is distinct from an advocate under the Act, the advocate's role as defined under Section 69 of the Act does include ensuring the representation of the child, an important part of this is ensuring the amplification of the child's voice through representing their views and wishes. This should be made clear throughout the Code, including at this paragraph. The Independent Advocate that can be made available for the case friend (paragraph 27.22) will help the case friend amplify the child's voice as they will be able to use their understanding of the ALN system to ensure the considerations around decisions are the most appropriate given the views and wishes of the child. This can be conveyed more strongly at 27.22 also, so that case friends further understand the benefits of Independent Advocacy.
- At 29.29 it is stated that the application must contain the views of the child and their parent in relation to the person applying to act as their case friend. But to ensure consistency with the approach throughout the Code, consent should be obtained from young people in order for the case friend to be appointed, and this should be stated in the code and under regulation 62, so that this consent is recorded in the application process. This would not need to be in the form of a signature. Young people should be informed and enabled to agree or disagree this application as their capacity allows.
- The type of evidence needed in the application to be a case friend described in regulation 62 (7) and 64 (2) to be specified in the Code, at present it is not. However, the Code does mention that an application form will be used, so there is potential to make these specifications here.

Question 46. Please provide any other comments you would like to make on the draft ALN Code.

Please see my introduction to this response, which highlights the key strengths and key improvements I would like to see in the Code.

In addition, there is a specific section of Chapter 15 that does not fall under any of the questions but to which I would like to make the following comments regarding ways in which the multi-agency approach around the duty to identify and notify about ALN could be strengthened:

²⁴ <https://www.childcomwales.org.uk/wp-content/uploads/2017/04/The-Right-Way>.

- 15.16 should include a broader considerations of how this duty may apply in different settings. For example: midwifery, pre and peri-natal services; General Practitioners; and Early Years community settings in which health professionals practise. It could also specifically mention community nurses that engage with children through routine vaccinations.
- 15.18 and 15.19 state that the health body should only notify the local authority if it is satisfied this is in the best interests of the child. I am unclear as to when this notification would **not** be in the child's best interests. Early support for families and for children enables relationships to be established and the most appropriate provision to be determined and provided earlier, this will enable the child the greatest opportunity to thrive, develop and learn during the highly formative early year period. Health bodies should always notify and this unnecessary step of deciding whether this is in the child's best interests should be removed.
- 15.19 as in my response to Question 18 around the IDP, I would like this section to explicitly consider the home as a setting of learning, reflecting the importance of the home environment, particularly in the early years when some children will not be attending any formal or informal education settings. My Annual Report 2016/17²⁵ recommended the need to provide opportunities for families to learn BSL to communicate with children. Early opportunities for families to learn how to communicate best with their child with ALN are essential and should be part of the consideration of ALP provided in the early years. Paragraph 240 of the Part 6 code of Practice indicates that this may be provided in the home context, 'Children with special needs ALN frequently can involve extra expense and require special equipment, and it should be made clear to carers of children with ALN how this additional expense is going to be covered and who will provide and maintain any equipment.' I would like to see consideration given to this for all children and young people covered under the provision of this Act. This is also reinforced at 245 in the Part 6 Code which points to a duty to inform carers of their important role in supporting the provisions of the IDP. Again I would like to see this replicated for all children and young people in the ALNET Code.
- This section should also stipulate who in the local authority the health body should inform, and it may also be helpful to state a pathway within the health body. For example, does a practitioner first inform the DECLO, who would then inform the ALNLO? Stating this, or an alternative pathway as appropriate, will clarify for frontline health professionals the concrete steps they need to take. Alternatively it should be a requirement of the code that a locally agreed pathway must be in place.

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

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

- Overall yes, but greater clarity needs to be included around who can make an appeal application. Reiterating my response to question 44, regulations need to specify which persons exactly can make an appeal application, and consideration should be given to potentially widening the right to appeal in the case of looked after children to include carers. It is unlikely that different departments of local authorities will appeal against each other and children and young people themselves may struggle to appeal decisions without adult support or initiation, which their parents may not be able to provide.

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?

- I am particularly pleased to see that requirements under regulation 6 direct against unnecessary formality in proceedings, and that requirements under regulation 48 mean that evidence can be provided through any means of communication. This is important as the child is able to give evidence where appropriate.
- As the purpose of the Education Tribunal is also a key way in which the system is accountable to the children and young people it is set up to serve I would also like to see a greater emphasis on accountability to children and young people in the regulations. In particular under regulation 54 it should be stipulated that the information about the decision needs to be provided to the child /

²⁵ <https://www.childcomwales.org.uk/wp-content/uploads/2017/10/A-Year-of-Change-CCFW-Annual-Report.pdf>

young person in a way that is most appropriate and accessible to them. This information should explain how the decision making process has happened, what factors have been key considerations and why the final decision was reached. This information should also inform the young person what they can expect to happen next.

- Regulations could also be included to ensure that key information about the tribunal process is shared with the child / young person at the outset of proceedings so they can understand the process to the fullest extent appropriate. These regulations should be reflected in the Code.

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

- It seems sensible and appropriate that the case statement process is sequential and that the respondent can see and respond to the appellant's case statement under regulation 19.

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

- To reiterate my response to Questions 43 and 44, **under regulations 12 and 19** the 8 week timeframe may in several instances be insufficient for families to commence an appeal and provide a full case statement if the family first take a complaint after a decision to the Putting Things Right process. Families may be advised during or at the end of the Putting Things Right process that it is more appropriate for them to take this complaint as an appeal to Tribunal. An exception to the timeframe should be made in this instance, or the Tribunal should be instructed through regulation 16 to use their discretion to enable the appeal in this case. This should also be reflected in the Code.
- The four week timescale for the respondent to submit their own case statement seems appropriate and would not wish to see an extension of this timescale, in recognition of the fact that the Tribunal process can be an anxious time for children, young people and their families, and that timeliness is essential to ensure a quick resolution and ensure that appropriate ALP is in place.

Question 51. Is the six week timescale within which NHS bodies must report to Education Tribunal in response to a recommendation (regulation 65) appropriate?

- This seems an appropriate time. It is consistent with timescales for other requests to the NHS body established by the Code. Longer than this six weeks may cause a delay in action and a failure to improve the provision the child or young person receives. Any extension to this timescale could also lead to a longer period of uncertainty for the child / young person and their family.

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

- Timeframes established in the code under regulation 60 are in line with other timeframes in the Code and seem appropriate. Again, I would not wish to see any extension to these timescales as it is essential that timely action occurs in response to these orders to ensure that the needs of children and young people are met.

Question 53. Is the approach to extensions to timescales (regulation 66) appropriate?

- As stated I think that regulation 16 should state an extension is appropriate in this instance if a family have been directed to follow the Putting Things Right process first but subsequently need to apply to the Tribunal.
- I can see that the possibility of extension in regulation 66 does enable the President to use discretion to allow for exceptional circumstances that may arise, and that this may be a more practicable approach than attempting to list these exceptions in the regulations. However, to give an additional layer of reassurance in these instances consideration could be given to if an extension of time can be appealed to the Upper Tribunal as a point of law and this could also be clarified in the Code.

Question 54. Are the proposed regulations relating to case friends (61-64) appropriate?

- Regulation 61 is important and entirely appropriate. It is also important that enhanced disclosure certificates are built into the process, as is the case under regulation 62. However as disclosure

certificates are not required for family members (under 62 (5)) it is important to consider whether the application process to be a case friend is sufficient to ensure suitability under regulation 61, which applies to all case friends, including family members. Currently applicants need to self-declare and I would like consideration to be given to whether this information needs to be cross-referenced.

- To ensure consistency with the approach throughout the Code, consent should be obtained from young people in order for the case friend to be appointed, and this should be stated under regulation 62, so that this consent is recorded in the application process. This would not need to be in the form of a signature. Young people should be informed and enabled to agree or disagree this application as their capacity allows. This should also be specified in the Code.
- I would expect the type of evidence needed under regulation 62 (7) and 64 (2) to be specified in the Code, at present it is not. However, the Code does mention that an application form will be used, so there is potential to make these specifications here.

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?

- The regulations set out that the person designated as ALNCo must be either a) a school teacher; or b) a special educational needs co-ordinator within the school immediately prior to the coming into force of these Regulations. At FEIs this should be a further education teacher as registered with the Education Workforce Council. This seems appropriate as enabling existing SENCOs who are not teachers to take the ALNCo role is important to retain the expertise of well-established and effective SENCOs. However, consideration could also be given to enabling professionals who have strong previous experience in supporting children and young people with ALN, but who do not have a teaching qualification, to take the role in the future too. Such professionals could bring much to this role from other sectors, for example well-developed skills in person-centred practice, partnership working with families or the leadership of other colleagues. I would question whether the long term requirement must be for a qualified teacher in every circumstance. It is also important that the ALNCo role has sufficient status within a school as this role has a strong focus on leadership (as detailed at 24.7), with the aim of leading a whole school approach to ALN. In recognition that this will be a change for several settings, in that some current non-statutory SENCOs do not have a leadership role to the degree proposed, it should also be explored whether the regulations can support this better by including a requirement for the ALNCo to represent the needs of pupils with ALN as part of the Senior Leadership Team of a school at Section 5 or an FEI at Section 6. It is also important that there is fair system of remuneration and access to professional learning and support for all designated ALNCOs so that those that are not teachers are appropriately enabled and recognised for the responsibilities and duties they undertake in this role.

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

- Section 5 and 6 should also add a requirement that ALNCOs advise other teachers and learning support workers about identifying ALN. The current requirement at 5 a) and 6 a) indicates this would be entirely the role of the ALNCo, which is not as effective as describing this as the role of all teachers in daily contact with pupils.
- There should be an additional requirement either that the ALNCo represents the needs of pupils with ALN to the leadership team of the school, or that the ALNCo should be part of the leadership team of the school. This is to enable ALNCOs to lead a whole school approach to ALN as envisaged in Chapter 24 of the Code.
- At 5(g) and 5(i) add 'school learning support workers' and 6 (g) and 6(i) add 'further education learning support workers', so that these key professionals also receive advice and training.
- Include an additional requirement to 5 to 'ensure the effective participation of children and parents / carers in the preparation and review of IDPs in compliance with the Code'

- Include additional requirements to 6 to ‘ensure the consent of young people in compliance with the Code’ and to ‘ensure the effective participation of young people in the preparation and review of IDPs in compliance with the Code’.
- Include a requirement around transition to both 5 and 6 (in reference to my response to Chapter 19) and this should link to external agencies. There should be a clearly held responsibility within this role to liaise with external agencies to ensure effective transition planning for pupils / students both joining the setting and moving out of the setting, in compliance with the Code.

Part 4 of the Consultation

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

Yes. The LACE Co-ordinator role should be a statutory role. In addition to creating a statutory footing for this role in the intended Regulations it is important that this role and the role of the post-holder under the ALN Act are also clearly stated in both the ALNET Code and the Part 6 Code. This is to ensure that looked after children receive equity in the processes around their ALN. I expand this answer in my response to Question 61.

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?

I do not agree that looked after children should have a separate form. This is for the following reasons:

- It will be more straightforward for settings to work with a single standard form for all children and young people and this will help ensure an equity of approach.
- There is nothing specific to looked after children on their IDP, or in Chapter 14. Chapter 14 is a replication of sections of Chapter 13 with some slight language modifications to remove certain settings and to remove ‘young people’. However, the language of Chapter 13 is already inclusive of looked after children and Chapter 13 would simply need to add the requirement that for looked after children the IDP is added to the PEP. The IDP form only requires minimal language tweaks to be suitable for all (and this is also needed on the IDP for looked after children as it stands): this is altering ‘parents’ to ‘parents/carers’.
- The rationale for a separate IDP is to avoid the duplication of information on the IDP and the PEP. However, removing section 1 means that the section reflecting a large part of the person centred practice around ALN and also the section enabling the expression of the child’s own priorities is lost from the IDP form. The risk of not including this on the form is that it is not as integrated into the meetings and decisions around ALN and ALP – the impact of this risk is far greater than that of the impact of potential duplication of information.
- There is also a risk that if the form is seen as different by education settings, professionals in these settings may be dissuaded from engaging with a form that looks different and is described differently, particularly as responsibility for maintenance of this lies with the local authority. This may reinforce the impression that the IDP should be entirely prepared and completed by the local authority rather than the professionals in the setting, who can have the best knowledge of the child’s educational needs. This could lead to a risk of inequity, with these well-placed professionals less involved in the development of the IDP than with another child who is not looked after.
- The standard IDP form can still be attached to the PEP so they can still be kept together in the same way as currently proposed.
- If a child with ALN is no longer looked after this means their IDP can be easily separated as a single document.
- Similarly, if a child becomes looked after (and has an IDP) their IDP can be easily attached.
- As there is flexibility around reviewing the PEP and reviewing the IDP, including these as complete documents is important, particularly to help ensure the person centred practice that is reflected in Section 1 is part of the IDP review.

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?

Further clarity is needed as outlined below:

- **9.** Suggest this reads, 'where relevant', rather than 'where appropriate', as it is always appropriate to follow the Code (s).
- **102 and 106.** Ensure that messaging at 102 about the LACE Coordinator working with the school and especially the designated person in creating the PEP is replicated in instruction at 106 so that school professionals understand the LACE role as an overseeing role, and understand that they have a role in developing the IDP in addition to a role in the delivery of ALP (reinforcing my answer to question 58). Currently paragraph 106 reads as advisory describing the linkage between LACE Co-ordinator and designated person as 'essential', and 'fundamental', but does not establish a 'should' or a 'must' around the role of the school in preparation. This should be made stronger using should or must to set a clear expectation. This should also be clearly conveyed in the ALN Code itself so that it is understood by professionals in education settings.
- **196 – 200:** Consideration must be given to providing clarity in this section around the duties of local authorities under the ALN Act when children are placed in receiving authorities outside of Wales, particularly English local authorities. Similarly, there needs to be clarity provided here around the duties of local authorities receiving children that are placed in a Welsh local authority. There is currently a lack of clarity around this in the ALNET Code and the amended Part 6 Code of Practice. The requirements imposed by the 2018 Act need to be explored further to ensure that all children looked after by a Welsh local authority, even if placed cross-border, receive the provisions of the 2018 Act to the fullest extent possible, and that where jurisdiction issues apply (for example under Section 18. 2 c of the 2018 Act; and Section 19. 6 a of the 2018 Act;) there is mitigation in place to ensure that these children have decisions made about their ALN and appropriate provision is made. For example, in bullet 5 in paragraph 21.5 of the Code it is stated that authority duty to maintain an IDP ceases when a child is placed in England. This instance must refer to what mitigation is in place to ensure that their needs are met and also how this sits when the IDP is incorporated into the PEP, for which the authority retains responsibility under the 2014 Act. Similarly, I would expect all children receiving their education in Wales to be protected by the provisions in the Act (as indicated by Section 19 (2) of the 2018 Act). It is essential that this also clearly specified in the ALNET Code. References to this currently are spread throughout the Code and I suggest a specific section detailing the duties of authorities for looked after children, which is very clear around cross-border issues, is introduced. Also at paragraph 199, current regulations governing care placements that are made outside of the local authority area will need also need to be amended to reflect the requirements of the ALN Act, as currently these refer to arrangements under the special educational needs system.

Question 60. Overall, do you agree with the approach taken in the 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?

- As previously outlined I agree the IDP should be attached to the PEP but it would be beneficial if they were complete forms, and that the IDP is the same template for a looked after child as any other child.
- I agree PEPs should include mandatory content and suggest it would be helpful to have a national template to ensure consistency of content across Wales.
- The review process is also very unclear in this Code and the ALNET Code, see Part 6 Code: 37; 228. 37 indicates that IDP review 'should' take place at the same time as the overall review of the Part 6 care and support plan for the child. However, this is inconsistent with the guidance in Chapter 16 of the ALNET Code which simply states, at 16.32, that integration of the review process 'will often be appropriate'. And inconsistent again with 228, which states, 'the review of the child's PEP **must** include a review of their IDP.' There needs to be consistency within and between the two Codes and the approach taken to the review process needs to be made far clearer in both. I would suggest that the

approach that is eventually specified needs to be guided by relevant professionals: it may be most appropriate to retain flexibility and enable professionals to make decisions on a case by case basis as to the review process in the best interests of the child. Different professionals may be needed for the different reviews and it may not be appropriate to share the content of a Part 6 care and support review with the professionals that might be needed in the review of an IDP.

- I reiterate my point that significantly more clarity needs to be given to the requirements and expectations around cross-border practice.

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 arrangements for looked after children and what this means in practice?

- I think far greater clarity is needed, not only in the Part 6 code but also in the ALNET Code.
- **The ALNET Code.** The ALNLO, DECLO and ALNCO roles are given a detailed explanation in the ALNET code and similarly should be done for the LACE role in relation to their role and responsibilities in the ALN process: this role holds responsibility for co-ordinating the decision about whether the child has ALN and also the preparation, maintenance and reviewing of IDPs, therefore their role is equivalent in its impact for looked after children with ALN as that of the ALNLO and ALNCO for children with ALN who are not looked after.
- **The ALNET Code** should also require that this post-holder engages with a list of external agencies, roles and departments within a local authority in the preparation, maintenance and review of IDPs. This should include the designated person, the educational setting; social care; social services; education; and health if necessary. The Code should either establish a clear route for doing this or require that establishing a locally determined communication channels between agencies is part of the post.
- **The ALNET Code** must make clear to education settings that although the Local Authority may be responsible for the preparation and maintenance of the IDP, the LACE co-ordinator role is an overseeing role and it will often be entirely appropriate for professionals in the education setting to work with the child to determine the ALN and develop the IDP, working with the LACE co-ordinator as securing the ALP is the responsibility of the local authority. It is essential this is made clear to enable looked after children with ALN to receive the most appropriate expertise in the development of their IDP. Education professionals in the setting that the child attends daily will often know the child and their learning needs best, and will in many cases be more able to test and assess the effectiveness of ALP. Professionals in the education setting will also be better placed in many instances to determine the child's own opinions and feelings about their IDP and ALP. Therefore the education settings must understand that although the local authority has responsibility for the IDP, they have an important role in determining the IDP for looked after children.
- This should be in the **ALNET Code** as this is the document that professionals in school settings will be familiar. Without this understanding there is a risk that looked after children do not receive equitable expertise and that their right to experience the optimum development of their talents and skills (Article 29) is curtailed, they may also have reduced access to their participatory rights in the ALN process.
- This information can also be replicated in the **Part 6 Code** for clarity. **Specifically at 102 and 106,** messaging at 102 about the LACE Coordinator working with the school and especially the designated person in creating the PEP should be replicated in instruction at 106 so that there is an understanding of the LACE role as an overseeing role, that works alongside other professionals, not just in the delivery of ALP but also in the decision making process and in the development of the IDP.
- **The Part 6 Code:** A description of the new LACE role needs to be given. This could be cross-referenced with the description of the LACE co-ordinator role in Making A Difference but importantly it should add the specific responsibilities of this role in relation to the ALN Act. The qualifications or experience necessary for this role should also be outlined.
- As the LACE Co-ordinator will have new functions under the 2018 Act, training needs should be determined and national training made available.

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?

- I am not reassured that the Regulatory Impact Assessment that accompanied the Act takes full account of the resource impact of the ALN Act across the system, this includes in schools, early years settings and FEIs, at a local authority level and in NHS bodies. I understand that auditing the current spend on SEN under the current system proved too difficult to achieve and this information was not available to inform the RIA. Therefore the RIA was based on the assumption that the current system, under its current resources, is delivering a process and provision that is entirely compliant with the current legislation and in line with the currently used SEN Code of Practice. Cases received over the last few years through my Investigation and Advice Service shows this is not the case. In the last two years I have received over 200 cases relating to the education of children and young people with additional learning needs.
- This is underlined by the insufficient funding of Special Educational Needs workforce provision highlighted by Welsh Government's analysis of the local authority special education needs workforce.²⁶ This analysis of workforce reveals that there are many children and young people in schools that will not have adequate support, both in provision, and in securing timely assessments. Local authorities overwhelmingly feel that their specialist services are not currently meeting the needs of young people in their areas and they have concerns for meeting future demand. Significantly, the majority of local authorities cited finance as their greatest challenge. This gap in current provision will impact the sufficiency of school funding when it results in schools stretching their own resources, for example, the deployment of staff, in order to try and meet the needs of their pupils.
- The impact of funding for ALP and the new ALN system specified by the Act also needs to be part of a wider funding review of the education system to ensure that an equity of approach is developed. The need for a review into school funding has been highlighted by the OECD²⁷ with evidence that differences in local funding models are causing unequal treatment of schools in similar circumstances. The OECD advice focuses on equity, recommending, "*Review the school-funding model to realise Wales' commitment to equity and student well-being. The Welsh Government should consider conducting an in-depth analysis of school funding in Wales to explore a funding model that promotes greater equity and efficiency.*"²⁸ Addressing this identified inequity is in line with our obligations under the UNCRC, General Comment 19, which instructs that, "*States parties are required to address inequalities among children by reviewing and revising relevant legislation, policies and programmes, by increasing or reprioritizing certain parts of the budget, or improving the effectiveness, efficiency and equity of their budgets.*"²⁹
- The implementation of the proposed regulations is also within the context of well documented pressure on school budgets, which will affect the flexibility of education settings to respond to new duties. As highlighted by the OECD in their recent report into the abilities of schools to respond to government priorities, there is a trend of a decrease in the education budget alongside a sustained period of change for which schools must prepare and deliver.³⁰ Welsh Government statistics³¹ show that since austerity measures there has been an increasing number of schools with negative or lower level of reserves and a decline in the number of schools with reserves over 10% of expenditure. 146 primary, 79 secondary, 8 special, 1 nursery and 7 middle schools in Wales had negative reserves totalling £25 million. The remaining 1,328 schools had positive reserves, 171 of which had reserves in excess of 10% of their total delegated expenditure. These figures reinforce the inequity within the funding model and point to an uneven picture across sectors, showing that the secondary sector in

²⁶ <https://beta.gov.wales/sites/default/files/publications/2018-07/local-authority-special-educational-needs-specialist-services-workforce-data.pdf>

²⁷ <http://www.oecd.org/education/Developing-Schools-as-Learning-Organisations-in-Wales-Highlights.pdf>

²⁸ *ibid*

²⁹ https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f19

³⁰ <http://www.oecd.org/education/Developing-Schools-as-Learning-Organisations-in-Wales-Highlights.pdf>

³¹ <https://gov.wales/docs/statistics/2018/181017-reserves-held-schools-31-march-2018-en>.

particular will lose flexibility in school level budgeting: reserves in secondary schools decreased over the last year, as they have done in recent years, and are now in deficit by £2.4 million.

- This will impact school's abilities to respond to duties under the new ALN system and is another compelling reason why a review of ALN funding must be part of wider funding review. An essential outcome of a new funding model is that ALP is funded and made available without delay when it is needed. In order to do this the funding model will need to sufficiently enable the implementation of the decided provision, but will also need to account for children moving between schools, and moving between local authorities, to ensure a continuous education. Delayed or disputed decisions about funding lead to increased difficulty for children, young people and their families and can also lead to disruption in education provision. It is important that the funding model of the new system is designed with sufficient funds and enough flexibility to meet the needs of children and young people quickly and equitably. The funding deficit currently carried by many schools, particularly in the secondary sector, must be factored in to this model as it indicates that some schools have little flexibility in their annual budget to respond to pupils who require additional support joining the school mid-year.
- Government should develop a funding model for the ALN system in the context of the wider budget for children and young people. To enable a government and wider society to have a transparent understanding of the cumulative impact of policy decisions on the rights of children, it is necessary to see a Children's Rights Impact Assessment (CRIA) that analyses the impact of the funding model for ALN and wider school funding as an integral part of the whole budget. While acknowledging the real pressures on Welsh Government funding levels, it is still the case that decisions should be made with transparency and after assessing the likely impact on children, including potential differential impacts on different groups of children. Since I became Commissioner I have not seen a single example of a Children and Young People's Budget Statement from the Welsh Government, despite the Government's acceptance in November 2010 of many of the recommendations of the CYPE Committee 2009 report *Children's Budgeting in Wales*,³² including that recommending the preparation of children and young people's budget statements.
- I suggest that the specific resource impact of all regulations are revisited in the specific Regulatory Impact Assessments that will be produced when the regulations are laid for approval in the National Assembly for Wales. A full analysis of this resource impact should be part of a wider school funding review. This school funding review should then, on a yearly basis, be situated within the context of a CRIA to analyse the annual budget and its cumulative impact on children and young people.

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

- In general the Act is an important step in ensuring the realisation of Article 30 of the UNCRC in Wales, which protects the rights of children and young people speaking indigenous languages to receive their education through the medium of their own language. Casework received through my Investigation and Advice service shows that in Wales children with additional learning needs do not have equal access to this right compared to those without: due to a shortage of Welsh language additional learning provision and Welsh language specialist support in some parts of Wales, children and young people are often encouraged or directed to an English language education as the only way to meet their Additional Learning Needs.
- Due to the inclusion of the eleventh core aim of a bilingual system, the Act has become a step to ensure that children and young people with ALN have the right to an education through the medium of Welsh, particularly through the inclusion in the Act of the mechanism to remove the 'all reasonable steps' test so to ensure that the duties to provide ALP through Welsh become absolute over time. The adoption of the principle of this core aim is present in the Code and requirements outlined in Chapter 2 form a basis to outline how this will be implemented.

³² <http://www.assembly.wales/Laid%20Documents/CR-LD7749%20-%20Children%20and%20Young%20People%20Committee's%20Report%20on%20Children's%20Budgeting%20in%20Wales-19102009-148251/cr-ld7749-e-English.pdf>

- To ensure that the next steps along this journey are taken, Government should clarify a timescale for the removal of the ‘all reasonable steps’ clause so that local authorities can plan accordingly and resources can be allocated to enable this to be achieved.

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 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 affects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

- Further detail can be provided in Chapter 5 to link the sufficiency of ALP made in Welsh to the due regard duty to the UNCRC. Due regard to Article 30 is a mechanism by which local authorities should assess the suitability of local provision and plan for future needs of their current and future ALN learners. This adds further strength to the requirement for an authority to take all reasonable steps to remedy any deficit in Welsh-language provision, and to link this to their Welsh in Education Strategic Plans.
- Further guidance is needed in the Code around the meaning of ‘all reasonable steps’ both in how it relates to the provision of ALP across an authority area and in how it relates to the securing of ALP for individuals as specified in their IDP.
- A lack of Welsh language professionals in the specialist workforce³³ mean that children and young people are not always able to receive an assessment of their ALN in Welsh, which risks the validity of evidence to determine ALN (as listed in Chapter 7). This will have knock-on effects not only in the robustness of that decision but also in the effectiveness of the IDP, which may be based on this evidence. First, considerable effort must be put into developing Welsh language capacity in the specialist workforce. Second, the Code could specify that translation is provided to enable an assessment in the first language of the child. This is a practice used currently for children whose first language is neither English nor Welsh, outlined in the Good Practice for Speech and Language Therapists Working with Clients from Linguistic minority Communities, endorsed by the Royal College of Speech and Language Therapists. Specification of this in the Code could be an interim measure for Welsh speaking children as the workforce develops language capacity, but it would also be of benefit to all children and young people with English and Welsh as additional languages.
- The Code does not specify (in Chapter 8 – 12) what information is needed to make the decision whether ‘ALP should be provided to the child in Welsh.’ Further guidance is needed and this guidance should ensure equity with the duty to provide education in Welsh medium for children without ALN.
- Chapter 25 should refer to a requirement to provide Independent Advocacy in Welsh where this is the preference of the child or young person, so that this becomes a requirement of the Code.

³³ <https://beta.gov.wales/sites/default/files/publications/2018-07/local-authority-special-educational-needs-specialist-services-workforce-data.pdf>

Respondent Details

Information	
Name	Kate Fallon
Organisation (if applicable)	The Association of Educational Psychologists

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

These definitions are helpful and help to make sense of the rest of the document. The meaning of the terms is clear in most instances in the draft code itself (please see subsequent answers for further details). However, the exact distinction between the terms “should” and “must” is not clear. At a recent ALN consultation event which the AEP was invited to attend, the audience was informed that “should” will be treated the same as “must”. We would like to see clarification of the implications of this. If this is indeed the case, we would question whether there is a need for two separate terms at all, as this will increase the potential for misunderstanding and confusion in interpreting the Code and associated documents. If this is not the case, then further explanation of what “should” means in practice, including circumstances in which this would not be the case, will be required.

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 in principle with the general approach taken to setting timescales for compliance with duties. Some of our members felt that the definition and implications of the term “promptly”, which is used throughout the document, are not clear and require further information and guidance. Please note our concerns about the appropriateness of the timescales set, which are detailed in subsequent answers.

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 support the principle of this general exception however we feel that it is not entirely clear in what circumstances this would apply. This section may need to be supplemented by guidance which provides further, detailed examples to ensure that ambiguity is minimised. Here, and throughout the document, the meaning of “circumstances beyond its control” is not entirely clear.

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

We received mixed comments on the structure of the draft ALN Code. Members felt strongly that the document is too repetitive and contains conflicting and/or contradictory information in different chapters. There is a general consensus that the document would benefit from revision, streamlining, and clarification in these respects. Our members felt that as a whole the document is complex and difficult to follow, leaving open the possibility for confusion, misunderstanding, and misinterpretation. Further details of particular instances are provided in subsequent answers, including both positive and negative examples.

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

We are supportive of many of the principles set out in Chapter 2. We advocate strongly for the person-centred approach, recognising and including the rights of the child, and welcome the acknowledgement that the views, wishes and feelings of the child and the child’s parents should be taken meaningfully into account. We are also in favour of the emphasis placed on the need to

understand the child’s strengths, potential, ambitions and aspirations. However, we would like to see further clarification of the meaning of a “rights-based” approach to ensure that this is linked explicitly to the needs of the child or young person, and not only what is wanted by them or their parents.

We are pleased to see that the Code promotes an inclusive, tailored education system, of which we are supportive. It is the experience of our members that schools want to be able to deliver this now, but they simply do not have the resources or staff to do so. In order for this vision to be fully realised all school staff must receive sufficient training to ensure that they are equipped to deliver this effectively.

We recognise the importance of bilingual service and believe this should be central to the Code.

However, we have some concerns about how this will be delivered effectively. We know that there is a shortage of Welsh-speaking EPs and recruitment in North Wales is particularly difficult. We support the focus on early identification and intervention, and EPs can play a central role in delivering this.

Collaboration should be encouraged where possible, however we would like to see lessons learned from the current system, within which effective collaboration can be challenging.

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

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

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

As outlined above, the AEP believes that it is a positive move to promote the involvement of children and young people and their parents, focusing on the needs of the child. Concerns have been raised by our members about where the responsibility will lie for ensuring this. Some have suggested that a particular individual or professional should be responsible for ensuring that children, young people and their parents are adequately involved. Certainly, training should be given to ensure this happens effectively. Further detail is needed on what this duty means in practice and what is expected of the professionals who are involved. It should also be clarified how the child or young person signals that they do not consent. For example, is a signature or agreed document needed, and is there a need or requirement to have this checked again with the child or young person in the future.

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

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

This section is clearly written and lays out the responsibilities of the LA. We agree that the ALP should be kept under constant review. We would envisage difficulties with obtaining relevant updated information from NHS bodies in terms of what support they can provide. Our members have also raised concerns around the additional demands on LA resources, for example where Welsh speaking Educational Psychologists (EPs) may need to travel to neighbouring authorities to satisfy the demand for Welsh language provision. In some authorities the ability to work through the medium of Welsh is an essential requirement for the post and this leads to problems with recruitment for those authorities. If Welsh speaking EPs are then “loaned out” to authorities who do not specify that Welsh language is an essential requirement for their own authorities, then this disadvantages the “lending” authority (section 5.23) - from more limited resources they will be required to share those specialists, leaving their already depleted staff to cover for other authorities. Also, given the timescale demands on EPs providing advice to LAs, it will be difficult for small authorities to meet their duties if Welsh speaking EPs are required to work across borders also.

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

This is well written and lays out the responsibilities of the LA clearly.

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

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

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

Some of this section is good. For example, the clarity and MAT and EAL/WAL is very helpful, and the flow chart is useful. However, some parts are complex and do not read easily. For example, members have raised several questions about the meaning of sections 7.2 and 7.3. It is therefore our view that this section requires further clarification.

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

Generally this section contains clear and comprehensive information. We would like to see clarification of the term “reasonable” and its implications and definition. Our members have indicated that without further information, this term may be too subjective, leading to further difficulties. Furthermore, the implications of section 7.61 are unclear. It states that EPs “should” consult other psychologists, but there is little information as to in what circumstances this would not be the case and whether and how EPs will have to justify their decision. Concerns were raised about the definition of ALN and additional provision in the early years.

Members reported that the following sections required further clarification:

- In section 7.16, where mother and child groups are identified as additional provision, it is noted that the parent does not have to pay for provision. Members are concerned that it is not clear how the LA will monitor and provide this.
- In section 7.32, further clarification should be provided about medical needs which affect ALN and those which do not. Information on where ALN legislation and equality legislation abut would be welcome.
- Within section 7.35, further detail on the implications and definition of terms like “not making much progress” and “significantly lower levels” should be provided. The same applies to the following terms:
 - “Did not raise one outcome / level following school intervention appropriate to the child's area of difficulty”
 - “Assessment in the mother tongue suggests that he / she is working on outcomes / levels which are two lower than the expected outcome / level within these learning areas”
- Section 7.57 (the meaning of “body”).
- Section 7.64 (the meaning of “specialist services”).
- Section 7.69 (the meaning of “could”).

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

AEP members felt that this section was detailed and clear about the role of the Early Years ALNLO. However, we received feedback that this is a large role for one individual to take on, and an unrealistic timeframe. Members suggested that strategic and operational duties could be separated and felt that there will be an increased responsibility on the ALN lead. Members would like to see a

clear, consistent understanding of ALN achieved across all schools, and it is not clear how this would be achieved. It is also not clear why the LA should be responsible for dual registered pupils. In section 8.40, members raised the question as to whether experience of education systems should be an additional requirement.

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

We have received a mixed response to this section from AEP members. As such, we feel that a number of issues should be examined and addressed.

Even though the most likely route of referral is via the school, the fact that parents, external agencies and the child or young person themselves can refer to the LA, if there is a belief that an ALN exists, is likely to result in an increased number of requests for EP assessment. In order to manage workload and mitigate capacity concerns, we strongly recommend including provisions for a “filtering” mechanism, such as a moderation panel, which could help to ensure that the system runs smoothly and does not become “clogged up”.

There is a particular need for training around the identification of ALN in pre-school settings. This would be helpful to ensure consistency and appropriate referrals. EP involvement is particularly critical in early years settings to ensure early intervention. However, the implication of section 8.9 appears to be 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. We would advise consideration of an initial “triaging” moderation panel to decide whether a referral is appropriate and whether the level of need warrants EP involvement. Such a panel could also involve EPs. In section 8.2, members were not clear as to who within the LA will have responsibility for identifying 0-3 ALN, particularly within private nurseries or care only nurseries. Consideration should also be given as to the training needed for whoever holds this role, and who within the LA will prepare, maintain, and review IDPs.

Members felt that examples of good practice and case studies would give context to ALNCO’s, teachers, and the senior management team about what delivery should look like in the “real world”. Members reported that the following points may require further clarification:

- Further information on the role of a “case friend” should be included. Please see subsequent answers.
- Whether every pre-school child must be assessed by the LA, and if there is scope for or should be a role for a moderating panel if this is the case.
- What is the process for a child or young person who may not have capacity and how will it be ensured that they are kept at the centre of the process.
- It is not clear whether it is possible for an FEI to refuse to maintain an IDP if requested by the LA who has produced the IDP. If this is possible, further information is requested on the admissible grounds for this decision.
- Further information about the implications and definition of the terms “seeking advice” and “consulting” would be welcome. Our members feel that the expectations around these are not clear.
- Many members raised questions about the funding mechanisms for FEIs. For example, will FEIs be expected to buy-in EP consultation in line with the ALN Code requirements, or would LAs be required to make the mandatory external advice and specialist support services available for access to all 0-25-year olds with ALN.

Our members provided the following comments on specific sections:

- In sections 8.11 and 8.12, where an officer and a co-ordinator are referred to, it is not clear if this is one job and if it is referred to by council staff or location staff.
- Section 10.16 is a helpful outcome of a decision that a young person does not have ALN. Similarly, members are in favour of the provisions in section 10.54.
- In section 10.19 a), a very clear “local offer” will be required from the FEI in order to determine and agree what ALP it would not be “reasonable” for it to secure. The use of the term “reasonable” is open to different interpretations.

- Section 10.43 states that the FEI should consider consulting an EP. It must be noted that FEIs currently do not have routine access to EPs. In this instance, the use of the word “should” is unclear in its meaning (please refer to other responses). Further information is required on what should be considered when deciding whether or not to consult an EP.
- Our members feel that section 10.26 - 10.31 outlines a pragmatic response and are pleased to see it set out in the Code. However, they would like to see clarification on the following points:
 - o Is this also replicated for schools when children and young people move in with previously identified ALN?
 - o Would this approach also be advocated for a young person who does not consent to an IDP being considered or maintained but is known to have ALN or who decides to withdraw consent at some point when an IDP is in place for it being maintained?

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

Our members feel that a 7-week timescale for EP involvement is short. Many of the provisions in the Code and associated documents rightly emphasise the importance of the role of EPs. Coupled with existing workforce and capacity pressures, this will have an impact on an EP’s workload. We call on the Government to consider options to mitigate the impact of the changes, such as the use of a moderation panel (please see previous answers) and increased resources for the profession, for example by increasing funded training places for trainee EPs.

We are particularly concerned that local authorities are not given an exception for the summer holidays, as school staff and pupils will be away from school and therefore not available for assessment. It is very important that children and young people are assessed in their school environment. There may be an extended discussion between the LA and parents to agree outcomes and best strategies, and this should be taken into account. Children in early years, who will likely not have an IDP in place, may need a longer period of assessment.

We feel that schools will struggle to write IDPs for all pupils with ALN, even if they are full time non-teaching – this will be an expensive role for schools. With local authorities and schools both experiencing staffing and funding pressures, some of our members are concerned that there will be disagreement about the level of complexity of an individual’s ALN. This, in turn, will have implications for the child or young person concerned. Concerns have also been expressed that parents may approach an LA directly if they are not happy with the response received from schools. This could potentially mean that pupils without ALN, but with concerned parents, are assessed, taking time away from more needy pupils.

Finally, in this section a definition of “brought to the attention of” should be included and for the avoidance of doubt a request for an assessment should be made formally and in writing.

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	✓
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Supporting comments

Our members have raised several concerns about this section, including:

- The lack of clarity around the implications and definition of the term “reasonable”.
- It is not clear if private schools are subject to the same duties as maintained schools regarding ALN decisions.
- Some members questions which children and young people are being referred to in this section, for example, does it include private school pupils, NEETs etc.
- In section 12.3, it is not specified whether the person responsible would be an LA employee or a school employee.
- Similarly, in section 12.26 it is not specified who will decide on capability and how this will be decided.

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 AEP and its members are concerned that the new IDP template does not sufficiently support person-centred outcomes and practice. We feel that this is at odds with the aims of the Act and the Code, and will not support the culture change that is clearly intended by both. Members noted some inconsistency in the language used in the IDP document and in Helen Sanderson training and WG guidebooks and toolkits. Section 2B.1 refers to the “intended outcome”, and section 2B.7 to the “rationale of the ALP”. Members questioned the consistency in terms of language previously used, noting that the word “rationale” does not appear in PCP training or WG guidance. They felt that this could be confusing for schools and practitioners.

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

Members made the following suggestions:

- We suggest that both forms include a consent section for the parents/carers of a child or young person who does not have “capacity” to consent as well as the young person who does.
- We would welcome more information about how, when and by whom “capacity” is to be assessed.

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

Transport

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

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

Chapter 15 – Duties on health bodies and other relevant persons

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

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

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

In principle our members feel that these timescales are reasonable. However, in practice they believe this will be difficult for NHS bodies to adhere to. Experience shows that it is already very difficult to obtain advice and information from these organisations within the current timescales.

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

Some of our members feel that it would be helpful for health bodies to be required to give a deadline by which a response will be given, if the 6-week timescale is impractical. As it currently stands some education services may have to wait several months for a response, thus delaying the completion of an IDP. In England, experience of reforming the system has shown that EHC plans (which are equivalent to the proposed IDPs) are now being completed over much longer time periods because there is a new emphasis on all agencies involvement to contribute. The practicalities of multi-agency working and workload demands have had a significant impact. Our members feel that IDPs are likely to take longer to complete for similar reasons.

Some members report that DECLO's have stated that health professionals will not provide information about a child's health needs for the current statementing process and will not be providing information for the new IDP system. It has been suggested that education services will be provided with information already on file. This raises concerns, as that information may be out of date and irrelevant. It has also been suggested that further assessments will not be undertaken as a result of a request from the LA. In order to encourage collaboration and avoid these outcomes, firmer and clearer directions for the DECLO should be included.

Our members have also raised a further issue relating to funding streams for NHS bodies providing a relevant treatment or service and call for clearer direction and guidance on this. It has been noted

that, 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. Members feel that the Code fails to consider the implications of this and does not offer clarity on which agency is responsible for funding the provision of a child with ALN.

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

It is the feeling of our members that in order to truly encourage a collaborative approach to supporting children with ALN, it is likely that more than one DECLO per Local Health Board is needed. This will 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, including 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 type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

As raised previously, we would ask for further clarification about the definition and implication of the word “reasonable” (paragraph 16.6). Again, as raised in the answer to previous questions, our members have some concerns about the number of IDP reviews that local authorities will ultimately be responsible for and the practicality of delivering this within current staffing and resourcing levels. Further information is needed on how and when revisions can be requested, and measures to “filter” requests should be considered.

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

It is the view of our members that a 7-week timescale for local authorities is not sufficient. Timescales for schools, LA's and FEIs should be equitable and members suggest that these should therefore all be extended to 35 days. Children and young people need to be assessed in situ in order to get a reliable understanding of their needs. It would be far preferable if local authorities were also given an exemption over the school holidays. Should an EP be required to make an assessment over the school holidays, this will be done 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. In addition, it may not always be possible to assess a child over the holiday period if

they are away from their home during that time.

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

Many of our members reported that the language in this section is not as “user friendly” as the current Code, making it more difficult to understand and interpret. It was felt that some simplification of the language, sentence-structure, and wording is required.

We agree with the sections of this chapter which require consultation with an EP. We would like to see more emphasis on the importance of ongoing consultation, not simply a one-off. There were some concerns that schools would not be incentivised to take responsibility for ALN if the LA could be asked to do this. In addition, members were concerned about the rights of parents and children and young people to request an assessment/IDP if the school declines, as this would not be in line with a graduated response.

Some members questioned why local authorities can be taken to tribunal, whereas schools cannot. Care should be taken to clarify whether or not the LA would then hold responsibility for the schools’ approach to ALN. This chapter would benefit from further guidance on what evidence and documentation is needed to support a request for an LA to take responsibility for an IDP. Further clarification should be given on when an IDP should be the responsibility of the LA, and what remains the responsibility of schools. As it stands, the LA will be obliged to undertake assessment for every parent requesting that an IDP be made their responsibility. This could take up too much EP time, which could be better spent supporting schools to manage ALN. Our members would also like to see greater clarity with regards to the mediation process required by schools prior to the case being escalated to the LA, as well as further clarification of the responsibilities of the Health Board.

AEP members felt that the following points should also be addressed:

- In section 17.5, the implications and definition of the word “request” are not clear and should be given in more detail.
- In section 17.11, if an LA prepares an IDP for a child or young person in the area of an LA in England and cannot describe other provision in it, what would happen if the young child or young person requires that provision, and who is responsible for this?
- In section 17.12 it is not clear what would happen in the case of non-maintained schools. Further clarification throughout the chapter on this is required.
- In section 17.22 there should be guidance about what course of action to take if the LA disagrees. Again, there is scope for variation and understanding of the term “reasonable” as it is used here, which should be addressed.
- There is no mention of early years providers in this chapter.
- In section 17.25, we are supportive of the statement that schools/FEI’s should consider consulting an EP when considering asking an LA to take over responsibility for maintaining an IDP. However, this language must not be interpreted so that the EP has a gatekeeper role. The EP role should be to provide expert consultation only.
- In section 17.29, further clarification is required on who and what representations this may mean.
- In section 17.33 it is not clear what constitutes “circumstances beyond its control”. Please also see answers to previous questions on this point.
- It is not clear how the LA will decide who writes the IDP.

The ALN CoP has as its vision that CYP’s ALN should be met in mainstream settings as far as is

possible. This depends on the level of protected funding that is made available to do so and the specialist training, advice and support. The LA should therefore only need to maintain the IDPs of a very small percentage of those with ALN, where specialist education is required or the level of provision in mainstream is exceptionally high. This needs to be additionally funded by the LA centred funding. Clear LA expectations re ALP that we would expect to be available in inclusive mainstream educational settings needs to be set out in 'local offers' if this system is to provide equity across Wales. This will support the process that Chapter 17 refers to. Without these frameworks and processes in place there is a concern that the LA may be overwhelmed with such requests and indeed that appeals to the tribunal will increase significantly unless the LA is willing to take over a significant number of IDPs.

Our members would like some acknowledgement and clarity within the Code around the expectation that schools and LAs should seek advice from educational psychologists who are employed by the LAs for that purpose.

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

Please also refer to previous comments on the proposed 7-week timescale. It is our view that this timescale is too short for statutory work and will have an impact on the EP service's ability to maintain their service to schools, training, supporting the LA, and early intervention. Moreover, members felt that, without prior notification, 7 weeks is not long enough to carry out a proper assessment which would include meeting with the parents, the child or young person and school staff. As well as finding and processing information from other professionals, completing observations, and individual assessment. This timescale is especially unrealistic if it falls around the school holidays (please refer to previous comments around exceptions for school holidays). In addition, 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. Members are also unsure what the process set out in this section would mean in practice, for example would the LA carry out their own assessment, or simply refer to the IDP paperwork and amend it.

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

Our members feel that the principles and guidance in this chapter are largely appropriate, but we would like to draw attention to a number of potential issues. Requiring the co-ordinator to attend every meeting has the potential to overload that individual with statutory attendance at many meetings. In addition, members feel that this chapter should reflect the fact that it may not always be appropriate for the child to stay in the meeting for the entire time. It may also be helpful to consider referencing a support worker/advocate to speak on the child's behalf. Further guidance is requested on how often to hold meetings and if other methods of review, such as email or telephone, can be used.

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

Our members feel that the principles and guidance in this chapter are largely appropriate. However, we would like to draw attention to the following points:

- Section 19.4 should include PRUs and EOTAS settings as this is a significant transition for some students.
- Section 19.16 and 19.36 should refer to Donaldson’s phases of education or it will quickly become outdated.
- In section 19.44, we would emphasise the importance of consulting schools and agreeing staffing and buildings availability before this is explicitly included in the code.
- In section 19.48, what consideration and reference has been made to young people who are not Gillick competent?
- In section 19.49, the meaning of “...or the young person objects” should be specified and qualified to give clarity on what level of objection is considered relevant.
- We would like to see more explicit reference to EP involvement and input at transitions.
- The commitments in sections 19.52 – 19.61 could be strengthened.

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

Members feel that much of the text in this section is complex and hard to follow, making it difficult to interpret in practice. Simplification of the language, sentence-structure and wording is required. The use of more diagrams and infographics would help to improve the usability of this section.

We would like to draw attention to the following points, raised by our members:

- There is no guidance given about the transfer of an IDP to an EHCP should the child continue education in an English LA.
- 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.
- There are some concerns about how this would fit with the Belongings Regulations.

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

Our members raise the following concerns:

- 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 regulate how the LA should determine if the FEI can meet the young person’s needs from their own resources.
- There should be a “middle ground” option put in place if the FEI declines to implement the IDP, rather than going straight to the Ministers.
- Concerns were also expressed that the process of referral to Ministers could be punitive, and questions were raised as to whether Ministers have adequate knowledge and training to make this decision.
- Unlike the LA there is no deadline given for Welsh Ministers to make a decision.

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

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

Our members raised the following points:

- It is not clear why the LA should take responsibility for dual registered pupils.
- It is not clear whether the LA will be part of discussions before a decision is made.
- It is not clear what would happen if cross-boundary arrangements in counties bordering several LAs need to be made.
- In section 20.18, the use of the word “promptly” is not specific enough. Please also see previous comments on this.
- Section 20.20 is unclear, and a practical example or flow chat would be useful.
- The instructions in section 20.21 are unclear and should be revised to be more specific. It is not clear which LA is being referred to.
- There are practical concerns around arranging board and lodging for a child or young person, and a time limit is not set on this process.

Chapter 21 - Ceasing to maintain an IDP

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

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

Our members provided mixed comments on this chapter. The general consensus is that some sections are clearer than others and some revisions are required. For example, the entry and exit criteria are difficult to follow. The sections using bullet points and shorter sentences are clearer, and this was viewed positively by members.

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

Members felt that changes to the process around reconsideration requests may have a significant impact on LA or EP time, depending on the volume of requests. Our members consider the timescales to be generally appropriate, but again there is the potential for an increase in tribunal appeals which must 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

As with previous sections, generally the content and structure were considered clear. However, there were concerns about the complex nature of some sections and whether it is accessible for multiple audiences. Some members reported that ambiguities in the document could 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 type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

We feel that there should be a presumption that an IDP will be 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

Our members report that there may be issues around appropriateness of consent. They raised questions about the capacity of the child or young person to make an informed and rational decision at this point, when in a state of emotional arousal and personal upheaval. Some members suggested that it may be more appropriate for their views to be 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 type="checkbox"/>
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Supporting comments

Further clarity on timescales is required. The definition and implications of the word “promptly”, as reported in previous answers, is not clear.

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

It is the view of our members that the chapter is repetitive and it is not always clear what responsibility rests with whom.

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

Our members agree that the ALNCo is a strategic role and it should be part of the SLT, rather than simply a line of communication. ALNCOs should also contribute to the development and implementation of appropriate ALN procedures and systems, including strategic financial planning, effective deployment of resources, and data collection and analysis. In section 24.23, the suggestion that staff may undertake whole school/FEI tracking and be supported to manage good target setting is welcomed.

However, members felt that the scope of the ALNCo role is very wide and will not be cost neutral. They raised concerns about the availability of suitably qualified school staff to fulfil this function. In addition, members would like to see further thought given to the need for ongoing CPD, networking with other ALNCOs and keeping up to date with legislation and good practice.

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

Our members feel that section 25.44 should have a greater emphasis on actively encouraging parents to resolve issues locally. They also raised concerns about the workload and capacity impact of EPs being involved in increasing numbers of dispute resolutions and tribunals than is currently the case, taking time away from other duties and responsibilities.

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

Our members had mixed views about the appropriateness and clarity of this chapter. Once again, members expressed concern at the inequitable nature of the timescales for schools, local authorities, and FEIs. This is of particular concern. Members felt that the flow chart used at the end of the chapter was very useful. However, within this, it is unclear as to whether parents will follow the NHS complaints procedures, given that doing so currently does not appear to allow parents to challenge clinical decisions made with regards Health Board provision. Members felt that expectations with regards the mediation process required are not clear enough. Again, members raised their concerns that LAs may be held accountable for school decisions at tribunal, putting schools and LAs into potential conflict. Some felt that it was not clear how “capacity” will be determined. Please also refer to previous answers on this point. Similarly, the implications of the term “sufficient information” should be explained more fully. Members reported that this chapter suggests that the points at which parents, carers or young people can appeal to tribunal will increase. Again, this would raise serious questions about the capacity of LAs to deal with this.

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

Feedback from our members suggests that the information about case friends, their duties, and when they should get involved, are not clearly explained. There should be greater clarity as to the difference between a case friend and advocate. They also raised the following points:

- In section 27.6, determining whether or not a child or young person has capacity could be too simplistic a measure. Capacity can vary dependent on context. Should it be decided that a child does not have capacity at a given time, they will potentially lose all of their rights. The possibility of reviewing capacity does not appear to be included and this should be given some consideration.
- There appears to be an assumption that if a parent is making an appeal then a case friend is not required. Our members feel that a case friend may still be required to help support the child through the process and some consideration should be given to this.
- Members feel that there should be greater clarity regarding the needs of children who are looked after or detained and whether they will have access to a case friend.
- In section 27.29 clarification is required as to whether a young person may disagree with their parents and request a case friend.

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 AEP and its members are pleased that the role of EPs is emphasised throughout the Code, recognising the central role the profession will play. We are very supportive of the fact that EPs are written into the Code to ensure that they must be consulted at crucial points.

It is clear that the Code will have implications for the EP role and staffing levels. There is concern that the referral system suggested will have an impact on the capacity of EPs to deliver the valuable preventative work currently taking place. The nature of work may shift from early intervention and systemic work, to ALN assessments. We recommend further consideration of appropriate “filtering” mechanisms, as outlined in previous answers, as well as further investment from the Government in training new EPs to increase the capacity of the workforce.

Again, throughout the document our members have raised their concern that little consideration is given to the funding mechanisms that will be used. Please refer to previous answers for further detail.

We also received the following comments from members:

- The form in Annex C requires some clarification as to what it is for and who should complete it.
- Members noted that in the IDP form for looked-after children Part 1 is omitted and raised the question as to whether the consent section is included in the PEP.
- In Section 2C, Description and Delivery of ALP to be secured by NHS Body, the form is not mandatory. Clarification is required on this point.
- In Annex A, section 1A. 12) (and similarly where this phrase is used throughout) members felt that the term “capacity issues” should be re-worded, as this could be interpreted negatively. Members suggested that “capacity considerations” would be more appropriate. There were also concerns raised as to who determines capacity, and how to ensure that an understanding of capacity, which is dependent on context, is consistent and equitable.
- Members raised concerns about the sections on tribunal appeals and would like to see mention of mediation prior to appealing to tribunal.
- Our members responded positively to the emphasis on question. However, they would like to see further detail in these sections of the draft.

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

Our members would like to see a less adversarial process and feel that the procedures outlined remain biased towards parents and are therefore unlikely to encourage this. Please see answer to question 42.

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

Please see previous comments on proposed timescales.

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

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

Please see answer to question 48. We would like to see more emphasis on a less adversarial process in which there is greater parity between parties.

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

Our members agree that there should be a strong focus on leadership and that minimum requirements should be to be a qualified teacher or previous SENCo. There should be further clarity on qualifications beyond QTS and it is not clear legally what the requirements are.

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

Our members generally agree with these tasks. However, we would like to reiterate the point made previously that the time commitment will be significant, and it is not clear how this will be managed with teaching commitments. It is felt that this role should 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	<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

Our members feel that it is not clear who is responsible, what training this person will have, and what the school's role is. They feel that looked after children should have an IDP that is as close to that of

other children as possible and has maximum opportunity for person-centred reviews. Duplication is unnecessary, and schools may feel that they can delegate responsibility to others in the LA.

(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

In general, members felt that this section was clear. However, it was noted that it is not obvious what is meant by “social services functions”. In section 226, the meaning of “careful consideration” is vague and should be further specified. Finally, the phrase “children with ALN frequently involve extra expense” should be reworded to avoid dehumanising language. We suggest “meeting the needs of children with ALN frequently involves extra expense”.

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

Our members feel that this question is unclear and that the legislative changes are not explained sufficiently. It is felt that it is unclear when IDP/PEP would be separate and when not separate.

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

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

Our members feel that the role is clear but there could be further information and detail on what this means in practice and what their responsibilities are and are not. For example, would it be the LACE who writes the PEP and IDP, what does the use of the term “co-ordinating” mean in practice? It is not clear what the LACE would do in decision-making around whether a child has ALN or not.

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?

Our members foresee that the LACE co-ordinator will likely spend a lot more time collaborating with schools around ALN and that IROs and LACEs may need training in PCP approaches. The nature of the LACE role will have an impact on the person specification and current personnel may need further training as the role expands. There are some concerns that schools may feel they are less responsible for identifying ALN for LAC children than they are for other children. This goes against the principle of developing a sense of belonging for LAC children.

As outlined in previous answers, the impact on an EP's workload should be highlighted. The increased number of IDPs and associated recommendations for intervention and teaching approaches will require EP input. There will be an increased need for EP attendance at PCP meetings and for advice on transitions in the FE sector. We also foresee an increased involvement in dispute resolution and demand for LSA training, as well as more advice and support for the new ALN system. This will have an impact across all EP services and careful consideration of how best to manage this is required.

Our members also made the following comments:

- There are concerns that if the IDP is completed with information missing from a body that has not provided it within the timeframe, this would not provide the fullest picture of a LAC child.
- It is a good idea to have a mandatory LACE Co-ordinator. A person with the most relevant skills would need to be identified, and training implications considered. The new role will be much greater than the existing role.
- There is no individual identified for the LACE co-ordinator to liaise with in schools.
- In relation to delegation of funding to PRU's management board, while this is a good idea, it does not account for the fact that some PRUs work on the basis of dual registration. The CoP suggests that all dual registered IDPs becomes an LA IDP, presumably for all children, including LAC. It is not clear whether children looked after by the LA should have an IDP if they attend a PRU where the functions are delegated to the management board. Members question whether LAC children become exceptional cases where the IDP is not delegated to the PRU management board and felt that this was not clear in the document.
- Members also suggested that it not clear whether the IDP should be incorporated within the PEP or the other way around?
- The list of those who are provided a copy of the Part 6 Care and Support Plan must include the LACE Co-ordinator as the PEP incorporates the IDP.
- Members felt that it is unclear whether the LA only maintains an IDP looked after children, or whether they also prepare the IDP.

Positive impacts raised by members include the early identification of needs and effective coordination of ALP. Members also report that they are pleased that the new ALNCo role will be undertaken by suitably qualified individuals and anticipate that this will raise the standards of those providing support to learners with ALN.

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

Additional pressures on services and LAs are to be expected in terms of the tribunal process, as parents will be able to appeal that ALP is provided in Welsh, requiring them to provide appropriately trained and qualified staff. This will be difficult without additional funding. As outlined in previous questions, recruitment of Welsh-speaking staff is already difficult. Staffing implications must be considered. The impact on translation units should also be considered.

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

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

There should be more funding available for LAs to train and employ staff that are skilled at delivering provision through the medium of Welsh, including EPs.

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.

Reflecting previous comments, members felt that much the text in the Code and associated documents was difficult to read and not easy to interpret. A clearer, more user-friendly version is required. The definition of ALN should be considered, as members felt it could be too vague. Similarly, the guidance on when an LA adopts the IDP is too vague and undefined. There were particular concerns about the removal of the graduated response which could have a significant impact in both schools and LAs. Members pointed out that it is already difficult to recruit ALNCOs and that with increased workloads, shorter timescales, legal culpability, and no extra money this will become increasingly difficult, and perhaps unworkable, for many schools. We would like to re-emphasise the concerns of our members regarding timescales.

Respondent Details

Information	
Name	Tom Embury
Organisation (if applicable)	British Dietetic 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 commentsTimescales

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 important that the response times requested do not create the unintended consequence of creating conflict between ALN and other clinical priority response targets. We would not this to encourage more people into the ALN route in the hope of a quicker response from healthcare services.

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

"Circumstances beyond the responsible body's control" could be open to a wide interpretation. In the case of healthcare services, would this include other clinical priorities?

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

However, this is a long and technical document. Healthcare professionals and others would no doubt appreciate supporting worked examples or case studies to illustrate how certain processes would work.

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

Again, there is a lack of practical advice on how the code will be implemented in different situations. Supporting documents may be necessary to provide this.

Chapter 2 - Principles of the Code

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

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

We support the principles of the code. We would particularly highlight the importance of both the UNCROC duties and a collaborative approach which ensures that those with healthcare expertise are able to contribute to the support of students with ALN. We hope these principles will be amplified as part of the roll out of this code.

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

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

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

We believe the code could be stronger in setting out how local authorities and NHS bodies will be expected to discharge their duties. Point 4.16 states that "It is for the local authority or NHS body to decide how to exercise its functions and how it does so will depend upon the context", which leaves considerable wriggle room.

Chapter 6 - Advice and information

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

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

We would argue that sections 6.8-6.11, relating to information provided about ALN, “must” rather than “should” be clear, accurate and use language that children, their parents and young people can easily understand. We believe this would be keeping with the requirements of section 9 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018.

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

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

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

We remain concerned that Supporting Learners with Healthcare Needs guidance 2017 is described as setting out the arrangements for supporting children under 18 with healthcare needs as part of that definition. This guidance was drawn up before the passing of the ALN Act and therefore uses the term SEN rather than ALN throughout. We are also concerned that the SLHNG leaves the decision on whether or not a healthcare need requires a plan to be put in place in the hands of headteachers exclusively, even if that was at odds with a healthcare professional’s advice. The guidance needs to be updated urgently.

We also believe there needs to be clarity over the difference, or lack thereof, between an Individual Development Plan as required under the ALN Act, and an Individual Health Plan as laid out in SLHNG. If a child has an IHP but it is also determined that they have an ALN and therefore require an IDP, will these two be merged or in some other way specifically connected? We believe this needs to be clarified, and that one unified IDP would be the most logical approach.

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 are concerned that under section 7.60 that what appears to be a very comprehensive list of agencies, professionals and individuals does not include dietitians or a number of other healthcare professionals. While we recognise that the list is probably not intended to be exhaustive, the length of the list could create the impression that this is an official list of those that must be considered, which may mean those not included are not considered. We would prefer a more general list (for example a description of “Allied Health Professionals” or “Therapy services such as...”

We believe that the requirements outlined in points 7.57 and 7.58, regarding input and involvement from child, child’s parents or young person and any suitably qualified professionals working with the child should have a stronger statement of “must” rather than “should”. Ensuring that the decision over whether a child has an ALN must involve those with the appropriate expertise in their medical

condition.

Specific 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 disabilities/medical conditions (e.g. severe food allergies, diabetes) 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 of the Welsh Local Government Association's (WLGA) Food in Schools Coordinator on this matter. There is also no national dietetic resource to support this much needed work.

Chapter 13 - Content of an IDP

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

Yes	✓	No	□	Not sure	□
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Supporting comments

We support the mandatory content, including the description under 13.3 that the IDP should be created collaboratively and in language that reflects the child whose plan it is. We would suggest that this might also be a “must” rather than “should” requirement.

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

Yes	✓	No	□	Not sure	□
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Supporting comments

The form has a separate part for input from an ‘NHS body’ it will be important not too separate this out into education input and health input. The focus should be on how the child accesses learning in the environment with therapeutic strategies to support. Health input is not always separate, it is integrated in the child’s occupations enabling them to participate.

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	✓	Not sure	□
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Supporting comments

The six week timescale may be too short for many healthcare professionals to provide information or other help, given that typical referral targets for diagnostic services are eight weeks and 14 weeks for therapy services - <https://www.gov.uk/government/statistics/nhs-diagnostic-and-therapy-service->

[waiting-times-june-2017](#). We are sure that all HCP would make every endeavour to respond in a timely manner and provide support, but there may be situations or professions for whom a six week timescale is unrealistic.

We would want to ensure that “if request is urgent”, as mentioned under 15.14, this will not be utilised in order to receive assessments more quickly. Urgent needs to be more clearly defined.

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

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

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

See response to question 22

The Designated Education Clinical Lead Officer (“DECLO”)

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

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

We welcome the specific recognition that this role should be open to Allied Health Professions and Public Health Practitioners with appropriate experience and expertise. We hope all Boards will be encouraged to consider a broad range of applicants for these roles. It will be vital that the DECLO role can influence strategic consistency in implementation of the Code across Wales. It is essential that the DECLO operates at a level enabling them to champion ALN and engage executive teams and service managers for a multitude of services. There will need to be cohesion and learning from test cases.

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

We welcome the inclusion of NHS bodies as an organisation that can request a review. However, we are concerned that any changes to provision must be accompanied by a review meeting. Changes to therapy intervention/ ceasing of intervention may be frequent. There are concerns about the pressures this may place on health professionals where reviews are regular..

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

See response to question 22

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

We support the involvement of other professionals, in particular healthcare professionals, in meetings, but would again raise concerns about reasonable timelines for participation as discussed in Q22.

It may be useful to restate the principles here (which we assume are the same as for the Act as a whole).

Again we would emphasise the possible difficulties with timescales for healthcare staff.

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

Ensuring health and care transitions are well managed in all settings is essential to ensure good continuity of care and avoid negative impacts. We would urge the Welsh Government to ensure that these this code is aligned with other guidance on transitions in care, such as that proposed relating to transitions within Welsh healthcare settings.

We believe 19.10 should state “must” work together and not only “**should**”

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

These arrangements are welcome. As highlighted in our response to question 12, we would like to see a clearer process in place for healthcare needs, rather than the much more limited process outlined in the Supporting Learners with Healthcare Needs guidance 2017.

Local authorities and health boards require joined up complaints systems to ensure that learning is shared across both agencies in the best interests of developing a less divisive system of identifying ALN and meeting ALP (not your problem, or my problem, but **our problem**), moving towards shared accountability for solution focussed agency interventions with families.

Respondent Details

Information	
Name	Anonymous
Organisation (if applicable)	

A comprehensive and informative document that provides the necessary changes and updates to the current Code of Practice that has been in place since the initial Code of Practice from 2002. As a once in a generation document we feel it essential that it is appropriate and robust update of what is required to support ALN.

The Code appropriately highlights the rights of each individual child and places their needs at the core of the Code.

The continuum of support from 0-25 is a welcome addition

ALN Code sets out the general principles underpinning the ALN system, which are reflected 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**—all to be applauded. Grounded in foundation phase principles the Code recognises the importance of support from the outset.

Q1) Terminology used within Draft clarifies both mandatory requirements and statutory guidance essential to the delivery of support

Q2/3) Timescales given are appropriate in ensuring early response. We appreciate the difficulties that can be encountered in reality and particularly given current financial constraints. There may be barriers in securing support from outside agencies.

Q4) The structure of the Code is appropriate, clear and easy to follow

Q5) The Code clearly identifies the processes for supporting ALN children and the duties inherent within that process.

Perhaps in the future it would be beneficial if guidance and support for best practice could be shared with example case studies as this can often provide clarity to the process.

Q6) N/A

Q7) At its core the Code is based on the needs/rights of the individual child which highlights the underlying principles of the Code which is welcome

Q8) The new Code gives increased emphasis on the wishes and feelings of the child and the child's parents

Q9) The Code clearly states what is expected of the LA and the NHS

Q10) Anything that contributes to effective planning to meet the needs of all ALN children into be welcome and minimises unnecessary beaurocracy,

Q11) Any information that helps all stakeholders is really important

Q12/13) The definitions are *very* clear

Q14) An essential part of the support system especially with children under compulsory school age but all involved

need to have appropriate experience and expertise. This crucial stage lays the foundations for children's future learning.

Q15) Proposed format for IDPs very different from current phased approach. It will be interesting to see how this works in reality

Q16) Within the constraints of reality the timescales are appropriate. There may be some issues inherent in the three steps approach but interesting to that schools may proceed with the information they have to hand at the time. Any subsequent information which may alter the IDP would lead to further review.

Q17)N/A

Q18-20) The new format for the IDP appears comprehensive in regard to personal information but unclear about how this relates to a personal plan of support (current format identifies specific needs and support— SMART targets)

Q21)N/A

Q22-23) Unable to comment but recognise as a crucial aspect of integrated support and important that there is a consistency within timeframes

Q24) DECLO— Health Service Co-ordinator adds weight in support of ALN and an important aspect

Q25) Some ambiguity and unclear— the musts and the should. On one had notes requirement but on other notes advisory guidance

Q26) Appropriate— see answer to Q2

Q27) If re-considerations keep the child at the centre fine but not if decisions affected by financial constraint. Can this really be a cost neutral document as advised?

Q28) Could be appropriate but could lead to difficulties between school and LA and other Authorities when transition is key to continuity

Q29) Mindful of additional responsibilities this places on the ALNCo. The principles and guidance are most comprehensive and lengthy.

Q30) Transitions - important that arrangements are put n place to support this key aspect of support for children with ALN and stated clearly

Q31-33) Important that Local Authorities have close links to support transition and should this not include cross border co-operation.

Q34) Clear — regular reviews essential and reviewing process key

Q35) Period of time appropriate

Q36-40) N/A

Q41) We are pleased to see that under 24.5 the role and responsibilities of the ALNCo is highlighted and that this emphasises the need for provision of sufficient time and resources in order to fulfil their responsibilities effectively. We agree with the links to senior, management of the school —this is not an aspect that has previously been recognised but feel it an essential element in support of the role and acknowledging its importance.

24.19 would highlight the importance of appropriate training to cover differentiated teaching methods.

The role of the ALNCo is huge and looking at the number of regulatory requirements highlights the importance of support for this role both within the school and from the LA.

Q42) Quite clear guidance

Q43) An independent advocacy service is to be welcomed

Q44) All laid out clearly

Q45) Case friends are an important part of the process and should be encouraged

Q46). See all above responses

Q47-54) Draft Education Tribunal for Wales regulations provides clear information re process and procedures relating to appeals and claims. If this streamlines the process and avoids delays this to be welcomed.

Q55-56) Totally agree that the role of the ALNCo is key and is undertaken in a consistent and effective way to support children with ALN.

Q57-61) We agree that a LACE Co-ordinator is essential for this cohort of children and should be a statutory role within each Authority to offer support to the ALNcos when carrying out their role. Any element that further supports LAC should be welcome

Q62) There is the potential for increased training needs to develop awareness and understanding of ALN children. Where possible this should include all stakeholders ie: parents, governors. Putting the child and parents at the centre of the decision making process should bring greater understanding and may lead to less need for tribunals or other interventions. Emphasis is placed on the role of the parents that further emphasises their unique importance.

Q63,64) Where this is appropriate and when requested it is right that the Code makes due provision for the use of Welsh and does not place the Welsh language less favourably than that of English. Consideration would need to be made to financial implications and reasonable adjustment ie: non Welsh medium settings

In conclusion an appropriate update which should benefit all children and young people 0-25 with ALN and which importantly highlights an integrated, child centred system of support.