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Welsh Government

Consultation – summary of response

Additional Learning Needs: Review of the Legislative Framework

Summary of responses to the request for information
to inform the review

14th October 2025

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
This document is also available in Welsh.

Overview

This document provides a summary of responses to the Welsh Government's request for information to inform its review of the additional learning needs (ALN) legislative framework.

Action required

This document is for information only.

Further information and related documents

Large print, Braille and alternative language versions of this document are available on request.

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This summary of responses is published in electronic form only and can be accessed on the Welsh Government's website.

Link to information about the review: [Additional Learning Needs \(ALN\) legislative framework review | GOV.WALES](#)

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Introduction

The Additional Learning Needs and Education Tribunal (Wales) Act 2018, ('the Act') Additional Learning Needs Code for Wales 2021 and The Additional Learning Needs (Wales) Regulations 2021 makes the provision for a unified legislative framework to support all children and young people aged 0–25 years with ALN.

The legislative framework aims to improve the planning and delivery of additional learning provision (ALP), through a person-centred approach to identifying needs early, putting in place effective support and monitoring, and adapting interventions to ensure they deliver desired outcomes.

The movement of learners from the Special Educational Needs (SEN) system to the additional learning needs (ALN) system began in January 2022. Following two extensions to the implementation timeline, as a response to workload pressures and to create more flexibility, learners were moved from the SEN to the ALN system by 31st August 2025.

In October 2024, in response to evidence and concerns that some parts of the ALN legislative framework are complex and unclear, the Cabinet Secretary for Education [announced](#) a review of the legislative framework. The review considered the clarity, ease and consistency of understanding of the legislative framework to inform policy and legislative solutions on areas of the Act, Regulations and Code that were considered complex.

In early 2025, to understand their experience of delivering the ALN system and the practical challenges they face, key delivery partners and stakeholders were invited to provide information to inform the review. Fifty-four written responses were received by mid-April 2025. Fifty responses were received in English and four received in Welsh. A full list of organisations that responded can be found at Annex 2.

The Education Tribunal Wales (ETW) was also invited to provide information. They were asked for the experience of the ETW centred on cases registered by ETW, enquiries and those that don't reach a valid appeal. Their comments are published on the ETW website and are not included in this summary.

The Welsh Government welcomes the responses to the request for information and would like to thank all those who responded. This summary highlights the extensive feedback received. All the responses are under consideration and will inform policy and legislative solutions on areas of the Act, Regulations and Code, and inform ongoing quality and improvement of the ALN system.

This document is intended as a summary of the written responses received and comments made during the request for information. It does not aim to capture in detail every point raised by respondents. Twenty-five questions were asked and the responses to the questions are summarised below. Responses to questions that are closely related have been amalgamated. Due to the free-text nature of responses, multiple themes could be assigned to a single response, which has resulted in overlap between responses to questions. Issues raised that did not have a direct bearing on the request for information have been noted but have not been included

as part of this summary of responses. The request for information can be found at Annex 3.

Call for information questions

Question a - Definition and identifying additional learning need (ALN)

There were forty-four responses to this question, many of the comments crossover with responses received to question b.

Mixed views were expressed in response to this question. Some felt that the definition within the Act is clear, while others felt that it is open to interpretation leading to variation between settings. There was general agreement to the need for a clear and consistent definition of ALN, as responses perceived contradictions between guidance in the ALN Code and the provisions in the Act.

There was general agreement with the principles of the ALN system, and of the benefits of a person-centred based approach that ensures learners receive the necessary support to succeed in their educational journey.

Some responses drew attention to a struggle in defining 'significantly greater difficulty in learning', in that interpretations vary across settings and of a lack of confidence in 'benchmarking' to determine ALN. Reference was made to the fact that the differences in what may be considered 'significant' can lead to challenges. Responses also highlighted the challenges of predicting 'significantly greater difficulty' for children under compulsory school age.

There is also a perception that a 'label' of ALN is the only way needs will be met.

Respondents suggested a need for better understanding of the relationship between 'reasonable adjustments' and the need for an individual development plan (IDP) for disabled learners. Some respondents questioned the need for an IDP if a learner's needs can be met through a 'reasonable adjustment'.

Others suggested the development of a standardised ALN assessment tool to ensure consistent identification and support for learners.

The statutory timeframes for deciding on ALN were identified as challenging and not always achievable or practical and that they do not align across sectors, such as health and education. It was also noted that the timeframes do not allow adequate time to trial different support strategies before having to decide.

Respondents from the further education sector, shared that the volume of new learners enrolling on courses can make meeting deadlines difficult and assessing learners on short duration or part-time courses is also challenging. Respondents stressed the importance of regular reviews of decisions regarding whether a learner has ALN, as support needs can vary between different classes and contexts. In early years, learners often move settings before ALN is identified or it remains unidentified.

Responses from the health sector raised the importance of ensuring equity of responsibility for National Health Service (NHS) input in the identification of ALN for all children and young people and suggested strengthening and standardisation of multi-agency working across Wales.

The lack of formal communication and documentation of decisions on whether a child or young person has ALN was raised as a concern, as this leaves families without clear understanding of the decision-making process, the reasons for the decision and a clear understanding of their rights of appeal.

Other comments received included, a perception that there is an increase in demand and complexity of need; that transition arrangements for learners between education settings needs improving; and a call for a national ALN transition framework to ensure consistent and timely transfer of ALN records. It was also suggested that additional guidance and support is required for learners whose mental health difficulties may require ALN provisions.

Question b - Definition and identifying additional learning provision (ALP)

There were fifty-four responses to this question many of the comments crossover with responses received to question a.

Defining and identifying ALP was a key area of concern with most responses calling for greater clarity. Some respondents suggested that providing clear terminology and guidance along with clear examples and flowcharts would simplify the process of identifying ALN and ALP.

There was a general feeling that the definition of ALP ignores the changing and developing nature of mainstream education in Wales. Curriculum for Wales allows for adaptations to learning, delivery and development of school-owned curricula and assessment measures, which poses a challenge to consistent interpretation of what constitutes ALP. It means that provision made generally in one school may differ from that in another which makes it challenging to clearly identify a threshold for provision that is considered additional on a national basis.

More clarity is required in respect of what is deemed to be 'additional to, or different from', to that provision made generally for others of the same age,' and clarity on what the expectations are for what is/should be made generally for others.

Terms such as 'universal provision', 'targeted provision' and 'specialist provision' are increasingly being used and are not in the Act or Code. Some respondents thought the term 'universal provision' should be embraced despite not being in legislation. This was thought to increase clarity, as it helps distinguish learning provision made generally for others of the same age from additional provision.

Respondents felt that enhancing multi-agency collaboration between local authorities (LAs), NHS, schools and Further Education Institutions (FEIs) would ensure learners

receive necessary support and address the disconnect between schools' ALP and FEIs' ALP thus reducing prolonged uncertainty for learners and their families.

Respondents also expressed the need for further clarity over what constitutes ALP that must be secured by NHS bodies to ensure consistent collaborative working arrangements between education and Health Boards.

Some responses called for more support in identifying appropriate ALP for post-16 learners to take into account the differences in provision between schools and FEIs. Others asked for more clarity around whether additional aids for disabled learners are classed as ALP or a 'reasonable adjustment'. There is still a great deal of confusion in relation to the provision required to give access to the curriculum for disabled learners.

There were several comments relating to ALP for children under compulsory school age. It was considered that this is open to interpretation and clarification is needed between 'education of any kind' and 'childcare'. There was also a call for clarity around funding streams for ALP for children who are under compulsory school age and not in a maintained school setting.

Questions c&d – United Nations Convention on the Rights of the Child (UNCRC) & United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)

There were twenty-nine combined responses to these two questions.

Respondents noted that the principles of the Code sit within a clear rights-based approach, with person-centred practice embedded throughout the Code. Person-centred practice is seen as a positive development that takes account of individual needs and aspirations, with a focus on early identification and intervention. One respondent said they were making links with the Children's Legal Centre to support future collaboration. Including the Children's Commissioner for Wales' five principles in the Code were considered helpful.

Responses noted other challenges including, being clear when a child's view should have primacy in decision making over those of parents; concerns about learners' ability to give informed consent for the IDP when they reach 16 years old and engaging parents and children who are hard to reach, such as travellers, refugees, and asylum seekers, due to language and cultural barriers.

Respondents found that delays in assessments, appeals, or funding decisions could hinder immediate access to education, contradicting the UNCRC's requirement for education to be provided effectively and without unnecessary barriers. It was suggested that education providers and LAs would benefit from clearer guidance on what having 'regard' to UNCRC and UNCRPD means in practice.

Concern was expressed about the lack of consistency across Wales on what is considered as ALP for learners with low incidence disabilities that require specific specialist input and that the route to specialist provision is not equitable for a small,

but vulnerable group of learners and that financial pressures may risk decisions being based on available funding.

Question e – Advice and information about ALN and the ALN system

There were thirty-five responses to this question.

Most respondents agreed that providing comprehensive advice and information about ALN and the ALN system is important. However, there are challenges in ensuring consistent messaging by all stakeholders because of the differing interpretations of the Act, Code and Regulations which lead to a lack of clarity and uniformity of messages.

The challenge of producing information for children, young people, parents and carers that captures all the different legal duties in a way that is meaningful and easy to understand, without oversimplifying, was expressed. Other responses identified the need to promote that Welsh education reforms and ALN system is different to that in England.

It was mentioned that many schools and settings provide workshops and coffee mornings to support parents and carers to understand aspects of ALN and ALP. Some LAs hold regular support groups for parents and carers of children and young people with ALN and in the most successful instances have established family liaison officers and case workers.

The importance of equitable access to information, advice, support and independent advocacy was identified. The variability in the current provision across Wales was recognised with a two-tier system being described by families in certain areas, receiving impartial support and others relying on in-house provision by LAs.

The importance of early intervention, access to support and independent advocacy to resolve disagreements was seen as a way of making the system less adversarial, for the benefit of the child or young person. It was noted that parents questioned the independence of advocacy provision funded by a LA.

Comments were received about a lack of impartial advice and guidance and fair access to post-16 options for young people, with experiences differing vastly across Wales. Awareness of advocacy and understanding of a 'local offer' appears to be lacking, with both families and professionals not having a full awareness of the provision and offer available. It was expressed that learners with low incidence complex ALN and their families should be able to easily access information and guidance on post-16 options.

Responses included suggestions for improving the quality and availability of information including developing a national standard for ALN information provision with a central source that could be accessed by all stakeholders. Other suggestions included enhancing the capacity of Additional Learning Needs Co-Ordinators

(ALNCos) within schools and FEI, along with providing ALN information in multiple formats, to improve accessibility for all stakeholders.

Further development of the ALN Post 16 Pathfinder website and the establishment of regular forums and workshops to promote effective communication and collaboration among stakeholders was also suggested.

Question f – Duty to prepare an individual development plan (IDP) - to include the duty on schools, FEIs and LAs

There were fifty-four responses to these two questions.

It was suggested that this is one of the most understood areas of the Code, however the distinction between which IDPs should be maintained by a school, and which should be maintained by a LA is open to interpretation, resulting in significant policy variation across Wales. Respondents also made similar comments about the lack of clarity around responsibilities for preparing and maintaining IDPs between FEIs and LAs. The point was made that the Code does not take into consideration the different funding mechanisms within LAs and how this influences decisions regarding who prepares and maintains an IDP.

It was reported that because schools lead on the person-centred practice process it has built capacity and confidence in schools and created a good basis for the school decision making process. However, it was suggested that some parents feel that the provision of a LA IDP is more secure and has a stronger legal status.

As mentioned in responses to other questions, a common view is that the statutory timescales are often unrealistic, placing considerable pressure on ALNCos, LA statutory teams and health professionals. The deadlines are difficult to meet given factors such as needing to gather multi-agency information and adhering to the ethos of person-centred practice. Failure to meet the timescales and disagreement on whether and what kind of support is needed for a child or young person can put a strain on relationships between parents, schools, and LAs. Comments on managing large numbers of IDPs in FEIs were repeated here. Other comments include the difficulty of preparing an IDP for learners on short-term and part time courses.

There were many comments about the bureaucracy of the system and burden on staff. Some felt that IDPs have become too long, and others called for training on how to complete an IDP. It was felt that the process is cumbersome and bureaucratic which may impact the effectiveness of IDPs in supporting learners' needs, taking the focus away from early and timely intervention.

Others commented on the increased pressure of the bureaucracy and meeting timescales on the ALNCo, listing the many meetings involved in preparing and reviewing an IDP coupled with their role supporting other staff. Other comments included the lack of clarity around duties for post-16 learners in the independent sector, that the frequency and unpredictability of parental requests for IDPs place significant pressure on schools. In cross-border situations the need for clearer

guidance on what information must be included in an IDP and who prepares IDPs for looked after children (LAC) was raised.

Question g – Children under compulsory school age – LA duty to maintain an IDP

There were fifteen responses to this question.

There were some positive comments about the role of the Early Years Additional Learning Needs Lead Officer (Early Years ALNLO) enabling stronger partnerships and improved relationships with parents and LA early years teams. However, several challenges were noted in responses. One significant issue is the practical challenges of identifying ALN and ALP and maintaining IDPs for children under compulsory school age.

Concerns were expressed about the need to 'predict' a child's future learning need rather than provide for their current need saying that in some cases, it is difficult to fully ascertain if the child's needs are long-term or not. The Code does not acknowledge that children need opportunities to access early intervention and to evidence its impact before ALN can be considered.

There is a lack of clarity whether intervention from health-based services, before three years of age, constitutes the need for an IDP. Confusion was expressed around what constitutes 'education' for children under compulsory school age, particularly for very young children who are not in an educational setting and how 'educational' relates to 'childcare'. It was thought that the Code does not reflect the reality of childcare provision in Wales where children may transition to multiple settings during a day or week.

A lack of clarity around the definition of 'non-maintained' settings is identified, as this is interpreted differently across LAs. LAs reported challenges to ensure that early year's settings are equipped to support children with ALN in a complex landscape of small scale, private settings were also noted. Many commented on the lack of funding mechanisms for ALP for children under the age of two years and for those aged between three to five years in non-maintained settings.

Additionally, it was mentioned that the process of maintaining IDPs for preschool children creates expectations among parents that these plans should continue to be maintained by the LA once the child enters mainstream education, leading to potential conflicts and tribunal appeals. Children receiving funding for additional support in early years programmes can also create an expectation that this will continue in the educational setting.

Other comments included the lack of clarity on who provides ALP if a parent has already decided they will electively home educate their child before they are of statutory school age. The lack of clarity regarding the meaning of a 'looked after child' under the provisions of the Act a need for more clarity when the 12-week timeframe for preparing an IDP is activated and clarity on the roles and responsibilities of non-maintained settings.

Question h – Children over compulsory school age - LA duty to maintain an IDP

There were twenty-five responses to this question many comments crossover with the responses to questions f, i and j.

The confusion regarding the criteria for maintaining an IDP, leading to significant differences across Wales, is a recurring theme. There is confusion among FEIs regarding their duties to prepare and maintain an IDP with examples cited, such as when the level of need might prohibit a learner engaging or accessing mainstream FEI provision. Health Boards also call for more clarity on who should maintain an IDP, as this impacts on their statutory duties to respond to requests for information and referrals under section 20 and section 65 of the Act.

It was felt that there are gaps in provision for learners who may need more support and bespoke courses than are available at FEI, but who do not need the level of support that is provided in an independent specialist post-16 institution (ISPI). It is not clear what ALP is reasonable to expect an FEI to provide and what should happen if the ALP is unattainable. Responses also asked for clarity on whether an IDP should be maintained for EHE young people and those accessing home tuition or online learning that does not fall under LA or FEI provision.

Many responses referred to the need to improve communication and the sharing of information during the transition of learners between schools and FEI, although it is recognised that relationships are strengthening and there is joint working between LAs and FEIs to expand local post-16 offers in parts of Wales.

Other comments included the need for further clarity on the roles and responsibilities for post-16 learners who are LAC and the disparity between the Social Services and Wellbeing Act and the ALN Act; the challenge when young people do not provide consent for transfer of their IDP to a post-16 provider; a need for clarity around who should fund specialist support in FEI such as sensory input and the lack of a published list of independent schools and the type of ALP they provide.

Question i – Young people at FEIs – Duty on FEIs and LAs to maintain an IDP

There were twenty-eight responses to this question. Many responses support those received in questions f, h j and n.

Uncertainty about how to calculate the entitlement of two years further education particularly for learners who remain in mainstream specialist provision beyond sixteen was raised. Significant concern was also raised about how to interpret 'reasonable need for further education and training' in relation to the eligibility for extended educational support, as well as the perception that IDPs will continue until age twenty-five.

Other concerns raised included post-16 entitlement and parental expectation for full-time, five-day provision creating disputes over funding responsibilities and the lack of clarity around FEI learners' ability to access intervention and resources from health services.

FEIs mentioned the increased burden of attending school review meetings, complicated by different review cycles in different LAs and the urgent need for an electronic system to transfer information between settings.

Responses mentioned the differing statutory obligations of what an FEI must provide compared to that provided by schools leaves LAs to fill funding gaps for therapies and specialist interventions and an increased request for ISPI placements. Uncertainty around what is considered beyond the reasonable capacity of a LA to deliver was also mentioned.

Attention was drawn to the inconsistency in procedures for reviewing the IDP of a learner with ALN who leaves an FEI study programme which can result in the learner becoming 'Not in Education, Employment or Training (NEET).

Question j – Young people not at a maintained school or FEI – Duties on LAs

There were fifteen responses for this question, many of the comments support those received for questions f, i and h.

Additional issues to those previously mentioned were that the differences in duties on LAs, independent schools and ISPIs place additional pressure on LAs to prepare and maintain IDPs for learners attending these provisions.

LAs identified the challenges of preparing IDPs for learners who are EHE or in independent provision as they have no cumulative and longitudinal knowledge of the young people. The increase in requests for LAs to consider ALN for self-funded learners in mainstream independent schools and the pressure this creates to prepare and maintain an IDP was noted and also ambiguity about when a young person reaches the criteria for post-16 EOTAS.

The interaction between the Act and the requirement in regulations governing independent schools, for an independent school to be suitably registered to admit a child or young person with a particular ALN was raised.

Question k – Content of an IDP including ALN Sections 2a, 2b, 2c, 2d and Provision in Welsh

There were ninety-six responses to this set of five questions.

Section 2a – Description of the child or young person’s additional learning needs

Respondents noted that there is significant variability in practice between schools and LAs regarding the quality and level of detail in this section of the IDP. FEIs said that the variation and inconsistencies in the accuracy, quality and sufficiency of information and the timeliness of receiving the documents created many challenges.

Responses indicated a need for guidance on the consideration of privately commissioned reports; when to include health needs; the impact of health conditions on learning; the difference between ALN, behavioural need and physical or sensory need and reasonable adjustments and ALP.

Health Boards called for strengthening of the Code by providing greater clarity on how to request information (section 65) in a targeted manner, by asking focussed questions whilst providing sufficient information about the barriers to learning and reducing the number of requests for information when preparing an IDP.

Section 2b – Description and delivery of the child and young person’s ALP

The comments received about this section relate to the challenge of creating good quality person-centred outcomes that are specific, measurable, achievable, relevant and time-bound (SMART), which align with the aspirations of the learners.

There were comments that schools find it challenging at times to be specific with ALP. FEIs noted that for learners transitioning from school to post-16 provision, often IDPs did not acknowledge the transition and reflect the significant differences between school and FEI learning environments and learning pathways.

Views were offered on the need for ongoing training on preparing IDPs and to align person-centred outcomes and SMART target expectations to create good quality outcomes. Concern was expressed about the ability to oversee the progress of learners with ALN when the funding has ceased.

Section 2c - Description and delivery of ALP to be secured by an NHS body

One of the main challenges noted by respondents is the lack of clarity around what constitutes NHS ALP within the Code, leading to confusion. Responses sought clarity in relation to NHS ALP and whether it should only include treatments or services that educate or train, as opposed to wider treatments or services such as those that do not educate or train, but that are likely to be of benefit in addressing learning needs.

There was also a call for providing clarity regarding the roles and responsibilities of health and education bodies in relation to securing NHS ALP, including where Health Boards secured ALP should be recorded in an IDP and if it needs to be recorded in sections 2b or 2c or both.

Other respondents stated the challenge around inconsistency in multi-agency collaboration, which can lead to delays in securing appropriate provision.

Section 2d - Places at a named school/institution or board/lodging

Respondents highlighted difficulties in understanding and applying the guidance in the Code, indicating a need for further clarification on when to name the placement, whether to name a specific school or a specific provision within a mainstream school and which independent schools can be named.

There was demand for more guidance and clarification following Education Tribunal and Upper Tribunal rulings relating to the naming of schools. Some responses questioned the need for both sections 2d.1 and 2d.2, suggesting that the IDP could be simplified to make it clearer for all stakeholders especially parents and young people. Financial challenges faced by LAs in responding to the increasing number of ALN learners accessing specialist placements was mentioned.

Provision in Welsh

Responses highlight that significant challenges persist in providing ALN support in Welsh, including the lack of standardised assessments, difficulties in recruiting staff for Welsh-medium roles, and the unavailability of specific types of ALP in Welsh. Other respondents highlighted that securing appropriate health ALP through the medium of Welsh remains difficult due to resource availability. The scarcity of Welsh medium advocacy for parents and children was also identified.

Respondents sought further clarification regarding the meaning of 'take all reasonable steps' in relation to providing ALP in Welsh and others advocated removing the phrase from Regulations.

The benefits of appointing the ALN National Implementation Lead (Welsh Language) to lead a strategic response to improving Welsh medium provision was acknowledged in responses.

Question I – Children and young people resident in Wales but educated in England

There were sixteen responses to this question.

Comments suggest that the procedures for LAC, and cross-border arrangements are complicated and confusing. The biggest perceived issue was the interplay between the different systems in Wales and England. That these differences are not always clear to parents and that English LAs, maintained schools in England and social care practitioners are not necessarily aware of the different legislation in Wales. Also, that understanding responsibilities for funding provision can cause delays in admissions and accessing provision for vulnerable learners.

It was mentioned that the disconnect between the two legislative systems (Social Services and Well-being (Wales) Act 2014 and the Act) at an operational level is exacerbated for post-16 learners to the point where there are cases of LAC

learners having both an IDP and an Education, Health and Care plan (EHCP) to ensure that no duty is missed or neglected.

Welsh Health Boards called for clarity regarding their responsibilities under Section 20 referrals, particularly in cases where a learner is registered with and receiving healthcare from an English health provider or trust but is educated in Wales.

Question m – Children and young people receiving education other than at school (EOTAS)

There were twenty-three responses to this question.

Respondents raised that the increasing expectations and demands for EOTAS is creating pressure on LAs to provide. Clarity is sought on what is ALP in EOTAS settings with respondents citing requests for packages of bespoke provisions which are not necessarily educationally focused and point to examples of therapeutic interventions being agreed as ALP at Tribunal. Some of the therapies are unregulated and lack an evidence-base to demonstrate educational outcomes, questioning if this is a defensible use of public funds.

It is felt that the Code is not sufficiently nuanced to recognise that there are many reasons a learner may receive EOTAS, and not all are related to ALN. The challenges of managing IDPs and timescales were raised for learners who access EOTAS for short periods of intervention which require an IDP review. This can result in several reviews within a year which increases workloads.

Clarity is sought on the expectation that all learners accessing EOTAS due to health care needs require an IDP, despite not having an identified ALN or an IDP previously. Some LAs suggest there needs to be a wider, national discussion on EOTAS, individual health plans and ALN.

FEIs note the lack of information and support available to young people who have been in an EOTAS provision or EHE when transitioning into further education. Many young people do not have IDPs but have support needs. It is difficult to determine whether the support required is due to a learning difficulty or for other reasons.

Question n - Children and young people Electively Home Educated (EHE) and looked after children (LAC)

There were twenty-eight responses to this question with some crossover with responses for question i and with others relating to post-16 learners.

The lack of clarity regarding LA duties in respect of EHE was a recurring theme in responses leading to inconsistent interpretation of the legislation across Wales. It was noted that the Code raises parents' and young people's expectations around the ALP available to them when EHE. Comments were made about the difficulties in identifying ALN for children who are EHE and are not known to services and

deciding on what ALP is 'additional to and different from' what is generally made can be difficult.

Other comments included that engaging with some parents can be challenging and there is a lack of clarity on how LAs should support EHE learners after compulsory school age.

Health Boards in their response identified a need to strengthen the legislation by placing duties on Health Boards to inform LAs of possible ALN concerns about a child who is EHE.

Many responses noted the lack of clarity around roles and responsibilities when children and young people are placed out of county in Wales and cross border into England. The interplay between ALN Act and the Social Services and Wellbeing Act was raised, as was the inconsistency in the understanding of responsibility for IDPs for children under compulsory school age. It was also noted that the processes for a young person who is subject to a Deprivation of Liberty Safeguards is not clear.

Question o - Ceasing to maintain an IDP

Many respondents felt that guidance around 'Ceasing to maintain an IDP' is understood, but it can be a difficult decision for parents to accept, especially when they fear that their child might lose support and regress in skills. It was felt that the process is clear in the Code, but there are challenges in its implementation.

Some respondents believed that there is often a reluctance to cease an IDP for school-age learners due to concerns about legal challenges.

FEIs alluded to the difficulties in deciding whether to cease an IDP when it is not clear if a learner plans to stay on or leave a course or if a learner is not engaging in provision or the person-centred process. They also asked for more clarity on the status of an IDP and their responsibilities when a learner withdraws from a course.

The misconception of a right to continuous education up to age 25 and that IDPs follow people to work, and higher education was also raised in response to this question.

Question p – Children and young people lacking mental capacity

There were fifteen responses to this question.

Several respondents drew attention to the challenge around the lack of clarity and guidance on assessing capacity and determining who should undertake assessments, as staff involved in making judgments are not always trained, leading to inconsistencies and potential misjudgements. Some responses called for clearer guidance and clarity on the roles and responsibilities during the assessment.

Ensuring that the views and aspirations of the child or young person are distinguished from those of others involved in their care and access to independent advocacy was deemed a critical issue in responses.

Others felt that the complexity of the system and processes, particularly the transition to post-16 education, poses a challenge and that improved information and stronger transition arrangements are needed to support these learners and their families. A few indicated that the involvement of various agencies, such as social care and health professionals, helps gather valid and listened-to contributions from the child or young person.

The devolution of specialist FEI funding to LAs was identified as a risk, disadvantaging young people lacking mental capacity compared to their peers, and the need to ensure that all professionals understand the scope of further education for young people lacking mental capacity and are fully informed of all available options.

Question q - Transition of SEN provision to ALN

There were nineteen responses to this question.

Respondents commented on the positive impact of the person-centred approach giving learners a greater voice and involvement in the planning and review of their support and provision.

The provision of grant funding by Welsh Government and the extension of the implementation period was acknowledged as important in ensuring an effective and smooth transition, enabling schools to develop their practices and LAs to respond to the changing needs of ALN learners.

Other challenges were identified, including different interpretation of the terms ALN and ALP, lack of clarity regarding the conversion of Individual Education Plans (IEPs) to IDPs creating confusion and placing a strain on the system, as has maintaining the dual system of SEN and ALN.

Responders also highlighted that the transition has created additional pressure on ALNCoS. There is no consistency in the time given to ALNCoS to fulfil their duties, which has in some instances caused a decline in job satisfaction, with many expressing a desire to leave their roles due to increased anxiety and workload. It was also said that the role of the ALNCo and their position as a member of the Senior Leadership Team (SLT) requires ongoing funding and clarity on their responsibilities.

Respondents from FEIs noted the increase in the administrative burden on FEIs as they have had to establish new processes under the new legislation. They added that the lack of a pan-Wales IDP electronic platform for recording and transferring information has compounded workload pressures.

There was a call for clarity on the position of post-16 learners who were too old to fall under the mandatory transition years during the implementation period and a need to identify children who lost out on support during the transition, to ensure they are given sufficient support to enable their progress. Other comments included the need to align ETW procedural guidance and the Code; and a need for more training for teachers, senior management, and governors to change attitudes and culture within schools.

Question r – Education Tribunal Wales procedures and powers

There were twenty-two responses to this question with most focusing on the Tribunal's procedures.

It was acknowledged in responses that there has been clarity from the President of the Tribunal on the need to focus on the Act and Regulations, rather than the Code and that the Code provides clarity about where appeals can be made and decisions the Tribunal can make. However, it was noted that this hierarchy caused confusion regarding the status of the Code.

Many concerns were raised about the Tribunal procedures. Respondents felt that the system is inherently adversarial and does not mirror a person-centred approach and that some of the language used is unhelpful with some suggesting that mediation should be a required step before appealing to the Tribunal. Many responses referred to the variation in processes and focus of different Tribunal chairs and inconsistency in Tribunal decisions. Some believed this inconsistency leads to a lack of confidence among LAs, who may feel compelled to seek legal representation due to the perceived adversarial nature of a Tribunal.

Respondents felt that the Tribunal decisions were often weighted towards parental preference and private therapies, displacing the presumption for mainstream education and outweighing objective professional advice.

Concern was expressed that timeframes for preparing information for the Tribunal is often short, creating pressure on resources. Respondents also observed that the delay in publishing decision information is unhelpful for LAs considering similar cases. Health Boards asked for more clarity on Tribunal recommendations to NHS bodies.

Observation 1 - The status of the ALN Code, and the interplay between the ALN Act, the ALN Regulations and ALN Code in decision making and application of the law

There were eleven responses to this question. Many of the comments cross over with those received for Observation 2 and other questions.

Many respondents highlighted the lack of clarity and consistency between the Code and the Act, leading to confusion among LAs and schools resulting in varying interpretations and inconsistent application of the law. Additionally, respondents felt that the Code's "must" duties are perceived to have equal status as the Act, however the Tribunal has stated that there is a hierarchy, where the Act and Regulations take precedence over the Code, which is causing confusion about the status of the Code.

It was also said that there continues to be confusion regarding the status of the Code due to what is described as 'mixed messaging' over time from the Welsh Government, transformation leads and ETW. Tribunal decisions suggest that all children who were on the SEN system should have an IDP by default, which contradicts the direction of travel during the transformation phase of increasing inclusive provision within schools.

Several respondents highlighted that it is crucial to provide clearer definitions and guidance on key terms and provisions to reduce the scope for interpretation and legal disputes. For example, the term ALP needs to be more precisely defined to distinguish it from generally made provision, which is available to all children. Respondents felt this clarity would help LAs and schools make more informed decisions and reduce the likelihood of Tribunal appeals. Additionally, they would like the Code to be revised, making it more user-friendly and practical for users, eliminating unnecessary complexity and repetition and set out so it follows the journey of the ALN process from start to finish.

Observation 2 - Any apparent mismatches between the Act and the ALN Code, or any confusion in respect of the ALN Code's meaning

There were nine responses to this question. The comments made cross over with other questions and repeat the comments made in Observation 1.

Observation 3 - Any other observations that fall outside the headings and issues raised above

There were twenty-seven responses to this question. Many of the responses raised issues that are covered in other questions.

Health Boards raised several issues relating to their duties, including the lack of clarity in the Act regarding the expectation for NHS bodies to clinically prioritise assessments or treatments for children under section 65 requests and section 20 referrals, the challenge of assessing children not currently known to their services and the implications of long waiting lists for interventions.

They mentioned concerns about the interpretation of the 'incompatibility' clause in relation to section 65 requests, stating that the absence of examples for what constitutes 'incompatible with its own duties' may lead to inconsistent responses from Health Boards, particularly in extraordinary circumstances such as pandemics.

The misalignment between the timescales required by NHS bodies under sections 65 and 20 of the Act and those adhered to by educational institutions was raised. They noted that the established practice of issuing section 65 requests before section 20 referrals is not explicitly supported by the ALN Code, leading to varied interpretations and the uncertainty surrounding the review of IDPs, particularly regarding whether a section 20 referral is necessary for renewed provisions.

The responses also highlighted that the implementation of the Act has generated additional workload for health services, including attending planning meetings and responding to requests for information and emphasised the need for consideration of the impact on NHS resources, particularly in light of no additional funding being provided.

Other comments covered the need to ensure equitable access to ALN support across different regions and settings, addressing resource constraints and providing ongoing professional development for educators and support staff including legal training.

Concern was expressed about the extent of the two-tiered role of Early Years ALNLO managing the statutory element along with supporting childcare settings.

The need for a mechanism to record and monitor learners who may need support but do not have an IDP was raised.

Reference was made to confusion around what parental consent is required for processes to continue and what happens when parents do not want the process to start or continue or do not consent to the involvement of professionals.

Responses also covered a range of other issues including, that the ALN Code complicates the process for reintegrating learners in EOTAS and Pupil Referral Unit (PRU) into mainstream provision. The need for more clarity for detained learners; the lack of clarity on issues relating to transport for post-16 learners; the need for clear understanding of the term 'disability' under the Equality Act; and it is unclear if there will be a range of qualifications available in Welsh which is restricting the Welsh offer. The need for more awareness training and experience of the ALN process in initial teacher education and early teacher training was also raised.

Next steps

The Welsh Government would like to thank all those who took the time to respond. As this summary demonstrates, a significant amount of feedback has been received in response to the request for information. The comments will be considered and used to inform next steps, policy and legislative solutions on areas of the Act, Regulation and Code.

In the meantime, the Welsh Government will continue to work closely with delivery partners and stakeholders to ensure ongoing quality and improvement of the ALN system so that all learners, including those with additional learning needs, are inspired, motivated and supported to reach their full potential.

Annex 1

Glossary

ALN – Additional Learning Needs

ALP – Additional Learning Provision

ALNCo – Additional Learning Needs Co-ordinator

DECLO – Designated Educational Clinical Lead Officer

EHCP – Education, Health and Care Plan

EHE – Elective Home Education

EOTAS – Education Other Than At School

ETW – Education Tribunal for Wales

Early Years ALNLO – Early Years Additional Learning Needs Lead Officer

FEI – Further Education Institution

IDP – Individual Development Plan

IEP – Individual Education Plan

ISPI – Independent Special Post-16 Institution

LA - Local Authority

LAC - Looked After Child/ren

NEET – Not in Education, Employment, or Training

PCP – Person-Centred Practice

PRU – Pupil Referral Unit

SEN – Special Educational Needs

SLT – Senior Leadership Team

SMART – Specific, Measurable, Achievable, Relevant, Time-Bound

UNCRC – United Nations Convention on the Rights of the Child

UNCRPD – United Nations Convention on the Rights of Persons with Disabilities

WG – Welsh Government

Annex 2

List of respondents

Local Authorities:

Blaenau Gwent County Borough Council
Bridgend County Borough Council
Caerphilly County Borough Council
Cardiff Council
Carmarthenshire County Council
Ceredigion County Council
Conwy County Borough Council
Denbighshire County Council
Flintshire County Council
Gwynedd Council
Isle of Anglesey County Council
Merthyr Tydfil County Borough Council
Monmouthshire County Council
Neath Port Talbot Council
Pembrokeshire County Council
Powys County Council
Rhondda Cynon Taf County Borough Council
Swansea City and County Council
Torfaen County Borough Council
Vale of Glamorgan Council
Wrexham County Borough Council

Further Education Institutions:

Adult Learning Wales
Bridgend College
Cardiff and Vale College
Coleg Cambria
Coleg Gwent
Coleg y Cymoedd
Gower College Swansea
Grŵp Llandrillo – Menai
Merthyr Tydfil College
NPTC Group of Colleges
Pembrokeshire College
St David's Catholic College

Health Boards in Wales / Designated Educational Clinical Lead Officers (DECLOs):

Aneurin Bevan University Health Board
Betsi Cadwaladr University Health Board
Cardiff and Vale University Health Board
Hywel Dda University Health Board
Cwm Taf Morgannwg University Health Board
Powys Teaching Health Board
Swansea Bay University Health Board

Individual responses:

Careers Wales

Childcare Wales Learning and Working Mutually (CWLWM)

Estyn – the education and training inspectorate for Wales

Welsh Language Commissioner

Medr – Commission for Tertiary Education and Research

National ALN Implementation Lead (Welsh Language)

SenCom – Sensory and Communication Support Service - hosted by Torfaen

Council working regionally with Blaenau Gwent, Caerphilly, Monmouthshire, Newport and Torfaen councils

SNAP Cymru - a national charity advancing education and supporting inclusion in Wales

Third Sector Additional Needs Alliance (TSANA)

Teaching unions:

Association of School and College Leaders (ASCL)

Community Trade Union

National Association of Schoolmasters and Union of Women Teachers (NASWT)

National Education Union (NEU) – Undeb Cenedlaethol Athrawon Cymru (UCAC)

Annex 3

Letter sent to Local Authorities



Llywodraeth Cymru
Welsh Government

January 2025

Dear (Key delivery partner/stakeholder)

In October 2024 the [Cabinet Secretary for Education announced](#) her intention to review the Additional Learning Needs (ALN) legislative framework. The review is considering the clarity and accessibility of the legislative framework to inform policy and legislative solutions on areas of the ALN Act, Regulation and Code. This is alongside the detailed research activity and findings of the four-year evaluation of the ALN system, undertaken by Arad Research. This includes the scoping report, a practitioner survey (due in February 2025) and a survey of parents and carers that is underway.

An iterative process of evidence gathering has commenced which aims to bring together evidence from different perspectives to examine a range of issues including;

- Considering the clarity and accessibility of the Act, Regulations and Code
- Making sure that it reflects the policy intent
- Any inconsistencies and areas where greater clarity may be required
- Understanding how the legislative framework translates into practice
- Identifying policy and legislative solutions

As a (key delivery partner/key stakeholder), I am inviting you to contribute evidence to the review.

You are encouraged to organise your response under the headings provided below, using the ones which are relevant to you. Please be as specific as possible about which areas of the Act, Code or Regulations you are referring to. If it is helpful, you are welcome to include anonymised practical examples of the challenges encountered and the experiences in relation to all children and young people, with ALN. Please consider the age range 0–25 as it is relevant to your work.

The suggested headings are;

- a) Definition and identifying ALN
- b) Definition and identifying Additional Learning Provision (ALP)
- c) UN Convention on the Rights of the Child
- d) UN Convention on the Rights of Persons with Disabilities
- e) Advice and information about ALN and the ALN system

- f) Duty to prepare an Individual Development Plan (IDP). To include the duty on schools, further education colleges (FEI) and local authorities (LAs)
- g) Children under compulsory school age – LA duty to maintain an IDP
- h) Children over compulsory school age - LA duty to maintain an IDP
- i) Young people at FEIs – Duty on FEI and LA to maintain an IDP
- j) Young people not at a maintained school or FEI – Duties on LAs
- k) Content of an IDP
 - I. ALN Section 2A
 - II. ALP Section 2B including outcomes
 - III. ALP Section 2C to be secured by an NHS body
 - IV. Education placement Section 2D
 - V. Provision in Welsh
- l) Children and young people resident in Wales but educated in England
- m) Children and young people receiving education other than at school (EOTAS)
- n) Children and young people Electively Home Educated (EHE) and child/ren looked after children (LAC)
- o) Ceasing to maintain an IDP
- p) Children and young people lacking mental capacity
- q) Transition of SEN provision to ALN
- r) Tribunal procedures and powers

We are also interested in your observations on;

- 1) The status of the ALN Code and interplay between the ALN Act, the ALN Regulations and ALN Code in decision making and application of the law.
- 2) Any apparent mismatches between the ALN Act and the ALN Code, or any confusion in respect of the ALN Code's meaning.
- 3) Any other observations that fall outside the headings and issues raised above.