

## Agenda – Y Pwyllgor Plant, Pobl Ifanc ac Addysg

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Lleoliad:	I gael rhagor o wybodaeth cysylltwch a:
Ystafell Bwyllgora 1 – y Senedd	Marc Wyn Jones
Dyddiad: Dydd Mercher, 18 Tachwedd 2015	Clerc y Pwyllgor 0300 200 6565
Amser: 09.15	<a href="mailto:SeneddPPIA@Cynulliad.Cymru">SeneddPPIA@Cynulliad.Cymru</a>

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### Cyfarfod preifat cyn y prif gyfarfod – 09.15 – 09.30

#### 1 Cyflwyniad, ymddiheuriadau a dirprwyon

(09.30)

#### 2 Bil Anghenion Dysgu Ychwanegol a'r Tribiwnlys Addysg (Cymru) drafft – Sesiwn dystiolaeth 1

(09.30 – 10.30)

(Tudalennau 1 – 38)

Cynghrair Anghenion Ychwanegol y Trydydd Sector (TSANA) a SNAP Cymru

CYPE(4)-28-15 – Papur 1 – TSANA

CYPE(4)-28-15 – Papur 2 – SNAP Cymru

Catherine Lewis, Swyddog Datblygu Plant yng Nghymru a Chadeirydd TSANA

Catrin Edwards, Swyddog Polisi ac Ymgyrchoedd Sense Cymru ac aelod o TSANA

Debbie Thomas, Swyddog Polisi ac Ymgyrchoedd NDCS Cymru ac aelod o TSANA

Denise Inger, Prif Weithredwr a Chyfarwyddwr SNAP Cymru

Lindsay Brewis, SNAP Cymru

#### 3 Bil Anghenion Dysgu Ychwanegol a'r Tribiwnlys Addysg (Cymru) drafft – Sesiwn dystiolaeth 2

(10.30 – 11.30)

(Tudalennau 39 – 44)

Cymdeithas Llywodraeth Leol Cymru / Cymdeithas Cyfarwyddwyr Addysg Cymru a

Confederasiwn GIG Cymru



CYPE(4)-28-15 - Papur 3 - Cymdeithas Llywodraeth Leol Cymru

Dr Chris Llewelyn, Dirprwy Brif Weithredwr a Chyfarwyddwr Dysgu Gydol Oes,  
Hamdden a Gwybodaeth - Cymdeithas Llywodraeth Leol Cymru

Catherine Davies, Swyddog Polisi Addysg - Cymdeithas Llywodraeth Leol Cymru

Nichola Jones, Pennaeth Cynhwysiant, Cyngor Sir Penfro - Cymdeithas

Cyfarwyddwyr Addysg Cymru

Dr Alison Stroud, Pennaeth Therapi Lleferydd ac Iaith, Bwrdd Iechyd Prifysgol

Aneurin Bevan a Pennaeth Swyddfa Cymru Coleg Brenhinol y Therapyddion

Lleferydd ac Iaith

Philippa Cotterill Arweinydd Proffesiynol ar gyfer Gwasanaethau Therapi Lleferydd  
ac Iaith i blant Oedran Ysgol, Bwrdd Iechyd Prifysgol Aneurin Bevan

#### **4 Papurau i'w nodi**

**Llythyr gan y Gweinidog Cymunedau a Threchu Tlodi yn dilyn y cyfarfod ar 22  
Hydref**

(11.30)

(Tudalen 45)

CYPE(4)-28-15 - Papur i'w nodi 4

#### **5 Cynnig o dan Reol Sefydlog 17.42(ix) i benderfynu gwahardd y cyhoedd o weddill y cyfarfod:**

(11.30)

#### **6 Ymchwiliad i Waith Athrawon Cyflenwi - trafod yr adroddiad drafft**

(11.30 - 12.00)

(Tudalennau 46 - 104)

CYPE(4)-28-15 - Papur preifat 5

Mae cyfyngiadau ar y ddogfen hon

## CYPE(4)–28–15 Papur | Paper 1

### **TSANA:** evidence for CYPE Committee consultation on Additional Learning Needs and Education Tribunal (Wales) Bill

TSANA agrees to this evidence being made available publically

1. The Third Sector Additional Needs Alliance (TSANA) is a group of voluntary organisations which seek to protect and promote the rights of children with additional needs in Wales. Members include:
  - Action for Children
  - Afasic Cymru
  - Barnardo's Cymru
  - Contact a Family
  - Children in Wales
  - Learning Disability Wales
  - Mencap Cymru
  - Mudiad Meithrin
  - National Autistic Society (NAS) Cymru
  - National Deaf Children's Society (NDCS) Cymru
  - RNIB Cymru
  - Sense Cymru
  - SNAP Cymru
  - The Down's Syndrome Association
2. TSANA welcomes the opportunity to contribute evidence to the National Assembly for Wales Children, Young People and Education Committee as part of its consultation on the draft Additional Learning Needs and Education Tribunal (Wales) Bill.
3. This evidence primarily refers to the draft bill in question but is also informed by, and makes reference to, the accompanying draft Code of Practice and draft Explanatory Memorandum where this serves to illuminate commentary on the bill.
4. TSANA's evidence aims to inform scrutiny of the overarching principles of the bill and how it will impact children and young people with Additional Learning Needs (ALN). TSANA member organisations may submit evidence which informs scrutiny of the bill with that organisation's specialism in mind.
5. **Context – TSANA's recommendations to the Minister for Education and Skills**
6. TSANA submitted recommendations to the Minister for Education and Skills and his officials on the ALN bill and Code of Practice in July 2015 following joint engagement in a Task and Finish Group between January and July 2015.

7. The purpose of the Task and Finish Group was to bring together TSANA representatives with Welsh Government officials to act as a critical friend by providing ideas, proposals and suggestions to support the development of the proposed Bill on ALN and, in particular, the accompanying draft Code of Practice on ALN.
8. The recommendations paper can be found at appendix 1. TSANA's concerns about the draft bill and Code of Practice are consistent with those highlighted in the recommendations paper. For this reason, we ask that the CYPE committee consider this paper as the basis of TSANA's written evidence to this inquiry.
9. **Key concerns**
10. To supplement the attached paper, TSANA would also like to highlight key areas of concern in the light of its reading of the draft Additional Learning Needs and Education Tribunal (Wales) Bill and accompanying draft Code of Practice.
11. **The Definition of Additional Learning Needs.** The definition used is medically focused and refers only to education and not learning in its wider sense.
12. **Multi-Agency Working.** Effective multi-agency working for the benefit of the child goes beyond information sharing. There must be a duty to deliver multi-agency services, underpinned by local protocols between Health, Social Services and Education. Examples of successful programmes promoting multi-agency working exist – eg the Early Support programme and Real Opportunities and learning from these should be adopted. We are also very concerned at the lack of involvement placed on Health by the draft Bill. This is a missed opportunity.
13. **Early Years.** The new legislative framework is from 0-25 years of age but there is a lack of information in the draft Bill and the Code of Practice about children in the early years. Learning begins from birth and ALN reform should consider the implications for children from 0-2 in particular, who are likely to be supported primarily by colleagues in health rather than the local authority. The early years are crucial in a child's development and it is imperative that children of this age with ALN have access to an IDP. This must include recognition of the role of play in learning. There is no reference in the Code of Practice to structures used within the 4 year positively evaluated WG funded Early Support programme which offered improved coordination and multi-agency support for disabled children under the age of 5 and their families. TSANA is concerned that learning from the programme is being lost.
14. **Post Compulsory Education.** As the SEN/ALN framework is extended to the 16-25 age group there are wide-ranging implications for the delivery of support to young people with ALN in FEIs and specialist placements. The new arrangements must be clear about funding devolved to local authorities for specialist placements and funding for delivering the framework in FEIs. Further information is needed regarding expectations on FEIs for planning the young person's transition following their time at the FEI. TSANA is disappointed that the IDP will be limited to further education settings. We are concerned that young people with ALN wishing to pursue alternative

learning paths, such as those undertaking apprenticeships, will not be afforded the same support as their peers in further education.

15. **Transition to Adulthood.** The draft Bill and Code of Practice gives little information about this and makes no reference to the Welsh Government funded Transition Key Worker programme which ran from 2008 – 2013 or to the convergence funded Regional SEN Transition to Employment Initiative Real Opportunities Programme which ran from 2011 to 2014. Both programmes were positively evaluated and TSANA is concerned that learning from the programmes is being lost.
16. **The duty to favour the education of children at mainstream maintained schools.** It is concerning that the Code of Practice mentions that the child with ALN must be educated in a mainstream school except “where such mainstream education would be incompatible with the provision of efficient education for other children”. This makes no reference to the fact that the child with ALN themselves may require provision in a specialist placement because their needs are not being met in a mainstream school or indeed to the views, wishes and feelings of the child or young person.
17. **Additional Learning Needs Coordinators (ALNCo).** We agree that an ALNCo should be appropriately qualified and experienced; form part of the senior leadership team; and have sufficient time and resource to undertake their responsibilities effectively, including time away from teaching. However TSANA feels that the workload, expectations, roles and responsibilities of the ALNCo are onerous and wonder whether an ALNCo, especially in a small rural primary school, would be able to fulfil this role. We therefore suggest that an ALNCo could possibly cover a number of schools within a region.
18. **The Individual Development Plan.** As no template is being proposed for the IDP, each setting will potentially develop their own. This will result in extra work for professionals and make the IDP less portable across settings. Additionally if each IDP is different, agencies who support children and young people to achieve their rights, will find it difficult to check whether the IDP contains all the required information. TSANA is also concerned about the action plan aspect of the IDP and recommend that ongoing support needs are separated out from short term and specific learning objectives. If these are not separated, key ongoing support could be missed out of the statutory plan when reviewed. Another concern is that although health bodies will be required to deliver any Additional Learning Provision it has agreed to secure, health could potentially negate any involvement by not agreeing to any provision.

## Appendix 1

### Task & Finish Group on Additional Learning Needs Reform: TSANA final report

This paper has been prepared by the Third Sector Additional Needs Alliance (TSANA) following its participation in the Task & Finish Group on Additional Learning Needs Reform with Welsh Government officials, as established by the Minister for Education and Skills on 3 December 2014.

#### Recommendations for the Additional Learning Needs Bill and Code of Practice

1. **A wide ranging definition of learning that spans the 0-25 age range** should be adopted that recognises a child or young person's social and emotional development, the role of play in learning and the importance of learning skills for life, in addition to more formal curriculum-based learning.
2. **A Human Rights based approach should be evident in ALN provisions and processes.** In order for the promotion of an individual's potential, hopes and aspirations the child or young person must be the clear and unequivocal focus of ALN development and delivery.
3. **There should be a presumption of support need in order to promote a Human Rights based approach** to ensure children and young people do not have to be seen to be failing before accessing an IDP. Children and young people with certain specific disabilities should always be entitled to an IDP.
4. **Additional Learning Provision should encompass the multi-agency support children and young people may require to access learning**, including supporting their communication, physical, sensory and environmental needs.
5. **The full ALN framework must be Person Centred and involve children, young people and families** in all decisions that affect them, including the use of Person Centred Planning in the co-production of the IDP.
6. **The ALN framework should ensure consistent access to Welsh language specialist assessments and services** through encouraging regional commissioning and provision.
7. **The IDP should be a uniform statutory template that clearly details agreed ALP** to aid consistent presentation of information, improve clarity of entitlement for children, young people and their families, portability and the dispute and appeals process. Recommendations about format can be found in Appendix 2.

8. **Training on PCP and specific disabilities** should be delivered to all staff involved in the IDP.
9. **There must be clarity with regards to the local authority's duties to meet the ALN of children in the early years**, specifically in relation to delegated functions to other agencies, including health, in the 0-2 age range and in non-maintained settings.
10. **There must be clarity for local authorities and Further Education Institutions with regards the duties to develop IDPs** and meet the needs of all learners 16-25, including extending entitlement to IDPs for those who pursue learning through apprenticeships.
11. **There must be clarity for all agencies about the support needed at key transition points** by children and young people.
12. **ALNCOs and their equivalents in all settings should be adequately resourced, have appropriate qualifications, training and expertise and should be allocated specific time** to fulfil their ALN duties.
13. **Disability-specific provision pathways should be developed** that support professionals to ensure the involvement of the right agencies at the right time.
14. **Guidance should be provided to local authorities on maintaining central provision of support for low-incidence conditions**, such as sensory loss. This should include guidance on delegation of budgets to schools and the promotion of greater regional working for very low incidence conditions.
15. **The assigning of a support co-ordinator** should be a standard offer from local authorities to all children, young people and families to act as a single point of contact in developing, co-ordinating and driving forward the IDP.
16. **Specialist independent advice and support should be available to both young people and families as an integral aspect of local authority Dispute Resolution Services.**
17. **The Dispute Resolution Service should be accessible concurrently with appeals to Tribunal and streamlined with Putting Things Right.**
18. **The remit of Education Tribunal Wales should be extended, including having powers to sanction, and should be renamed** to better reflect this remit and the age range of those who will receive an IDP.
19. **Estyn should have a role in monitoring** ALN provision, assessment, support systems, complaints and disputes, including within their inspection framework of pupil well-being.



20. **TSANA should act as an advisory group to the Children, Young People and Education Committee** in order to provide support and advice as the Bill progresses through the Committee stage.

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## Background to the Task and Finish Group on Additional Learning Needs Reform

### Purpose

The purpose of the Task and Finish Group was to bring together TSANA representatives with Welsh Government officials to act as a critical friend by providing ideas, proposals and suggestions to support the development of the proposed Bill on Additional Learning Needs and, in particular, the accompanying draft Code of Practice on ALN.

Full membership of TSANA can be found in Appendix 1.

### Structure

Six meetings were held between January and June 2015, each with a particular area of focus:

1. Involving children, young people and families in developing the ALN Bill and Code of Practice
2. Principles
3. Roles and responsibilities
4. Individual Development Plans and the planning process
5. Advice, disagreement resolution and Tribunal appeals
6. Key recommendations

Welsh Government officials shared a briefing paper ahead of each meeting. TSANA prepared a detailed paper responding to this brief, which was discussed at the meeting.

Established and agreed in the early meetings was the need to ensure a proper consideration of Human Rights and due regard to the UNCRC and UNCRDP throughout and that this should be appropriately reflected in the draft Codes of Practice.

All TSANA papers and Minutes from meetings are available in the public domain and can be obtained on request.

## **Key areas of discussion and concern**

### **1. Early years**

The new ALN framework must recognise that learning begins from birth and that ALN reform should consider the implications for children from 0-2 in particular, who are likely to be supported primarily by colleagues in health rather than the local authority.

The early years are crucial in a child's development and it is imperative that children with additional learning needs have access to an IDP. TSANA therefore recommends that an IDP referral is made following identification of ALN to ensure appropriate support is in place at the earliest opportunity; waiting for an assessment should not be a barrier to a setting providing suitable provision.

Families must have clarity regarding the agencies responsible and involved in ensuring that young children with additional needs receive support in pre-school settings; families need to know who is responsible for the funding if required; and who is responsible for initiating an IDP, for example, a Health Visitor.

The Bill must clarify the IDP process in the early years (outside the school setting), including proposals for cooperation between agencies in identifying ALN and delivering ALP, the ultimate responsibility of the local authority to meet the needs of all children with ALN and the role of maintained and non-maintained nurseries.

## 2. Post-compulsory education

As the SEN/ALN framework is extended to the 16-25 age group, there are wide-ranging implications for the delivery of support to young people with ALN in FEIs and specialist placements. The new arrangements must be clear about funding devolved to local authorities for specialist placements and funding for delivering the framework in FEIs.

Clarity is needed with regards identifying who is responsible for IDPs in FEIs. Further information is needed regarding expectations on FEIs for planning the young person's transition following their time at the FEI.

TSANA is disappointed that the IDP will be limited to further education settings. We are concerned that young people with ALN wishing to pursue alternative learning paths, such as those undertaking apprenticeships, will not be afforded the same support as their peers in further education.

## 3. The IDP

The Bill must clarify entitlement to the IDP to ensure that: learners should not have to "fail" before accessing an IDP; some children and young people with specific disabilities (e.g. sensory loss) will always need an IDP; families or the professionals working with children and young people must be able to request an assessment for an IDP; those with a temporary disability likely to impact on their learning experience over a sustained period should be entitled to an IDP.

TSANA feels strongly that the IDP must not represent a step backwards in entitlements and clarity in comparison with the current SEN framework, especially for those children and young people who currently have Statements of SEN. We therefore welcome that the IDP will be a statutory document.

There must be a uniform statutory template to aid consistent presentation of information, portability and the dispute and appeals process.

**We strongly recommend further amendments to the current draft layout of an IDP, in line with recommendations made in Task and Finish Group paper 4 (please see Appendix 2).** The IDP must record the agreed ALP a child or young person is entitled to. Whilst there is merit in recording the agreed actions each professional will take, as proposed in the draft IDP, this does not guarantee access to services or ALP in the same way as does the current Statement document.

## 4. Coordination and planning

Disability-specific provision pathways would support colleagues to ensure that the appropriate professionals are consulted in the assessment process. They would also help determine when IDP development should be delegated to a school or college and

would support education institutions in identifying the relevant agencies that should be involved in developing the IDP and delivering its content. TSANA has specific concerns around low incidence needs, such as Multi-Sensory Impairment, Visual impairment, Hearing impairment, Specific Language impairment, and believes there is a strong case for disability specific provision pathways in these cases.

A support co-ordinator should be assigned to children, young people and families to act as a single point of contact in developing and co-ordinating the IDP, This will ensure that children, young people and families have access to information and are appropriately involved in the process. The impact of this support has been demonstrated in the Welsh Government funded pilot projects on transitions for young people 14-25<sup>1</sup> and the Welsh Government funded Early Support programme.<sup>2</sup>

Key staff involved in the IDP process and supporting systems should have training in PCP and how it relates to the IDP process, as well as training and awareness of specific disabilities.

ALNCOs should have appropriate qualifications, training and expertise. ALNCOs must also be allocated specific non-contact time to fulfil their ALN duties. The ALNCO role will likewise need to be funded appropriately. There is need for specific funding to be allocated for the provision of ALNCO, and greater clarity about the hosting agency for ALNCOs, in the early years. Likewise clarity is needed for the development of the ALNCO in further education settings.

## **5. Specialist placements**

Children and young people with additional learning needs must be supported to access and participate in the educational provision that best meets their needs, whether this is in mainstream or special education provision.

A learner's needs must be established following an assessment by a suitably qualified person. This assessment will determine whether the learner's needs can be appropriately met by participating in mainstream education and through accessing the national curriculum. Consideration should be given to the learner's wider development, including access to appropriate peer groups and specialist curriculums. For those learners for whom assessment has deemed mainstream education and participating in the national curriculum as appropriate, the feasibility of their full participation will be dependent on: having trained staff, including mainstream teachers, specialist advisory teachers holding the mandatory qualification for sensory impairment, and learning support staff; as well as the provision of communication aids and accessible educational materials.

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<sup>1</sup> Holtom, Duncan and Sarah Lloyd-Jones, 'The costs and benefits of transition key working: an analysis of five pilot projects', Welsh Government Social Research, 2012.

<sup>2</sup> <http://www.earlysupportwales.org.uk/> accessed 16.06.15

Children and young people whose needs can best be met in a special school or an Independent Specialist Colleges should be supported to access out of county and/or cross border placements. Local authorities must arrange the timely funding of placements to enable children, young people and their families to positively manage transition.

## **6. Low-incidence conditions**

Support for low-incidence conditions, such as sensory impairments, should be maintained centrally by local authorities. More information and clearer guidelines are needed on the delegation of budgets by local authorities to nurseries and schools to ensure provision for low-incidence needs is protected. For very low incidence needs greater emphasis should be placed on regional working to make best use of expertise and to promote consistent access to specialist assessments and services across Wales.

## **7. Information, advice, assistance and dispute resolution**

The availability of reliable and specialist information, advice and independent advocacy should be a feature of the whole ALN system, not only in relation to dispute resolution. Specialist advice must be independently provided by a body that is able to act entirely in the client's interests and is independently audited.<sup>3</sup> Independent Family Supporters should be available to accompany the young person and/or the family on the whole of their journey and be seen by the family to be independent of any interested party.

We recommend that national guidelines are developed to ensure that Independent Advocacy Services, Family Partnership Services and Dispute Resolution Services are appropriately distinct, independent and of a consistent minimum standard and that there are guidelines for consistency in complaints mechanisms. As many children and young people will require input from health as part of their journey through the ALN system, clarity is needed with regards streamlining DRS with Putting Things Right.

To prevent mandatory dispute resolution being used as a delaying tactic, we recommend that the tribunal appeal process can be concurrent.

## **8. Tribunal**

The tribunal must have power to affect change and TSANA recommends that it is given powers of sanction. These could be similar to those of the Welsh Language Commissioner.

The current proposed name, Education Tribunal Wales, does not feel appropriate in the 0-25 context, especially given the adoption of 'learning' elsewhere in this framework for this very reason. We therefore recommend that the tribunal be renamed to reflect the remit and the age range of those who will receive and IDP.

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<sup>3</sup> Recommendation accepted by the Welsh Government from 'Review of advice services in Wales', Independent Advice Providers Forum, 2013.

In addition to the areas identified by the Welsh Government as being within the jurisdiction of the ETW (background paper 5), the following areas should also be considered for jurisdiction:

- a. transport/accommodation needs associated with a placement
- b. failure to provide what has been outlined in a plan
- c. IDP objectives/outcomes
- d. The way in which an IDP assessment was conducted.
- e. Disability Discrimination claims 0-25

## **9. Monitoring and accountability**

Estyn should have a role in monitoring the ALN framework. This could be as part of their inspection framework of pupil wellbeing.

The substance and quantity of disputes/appeals should be monitored, identifying any recurring issues within an area. Support systems such as the FPS and the DRS should be subject to quality assurance.

Local authorities, regional consortia and Welsh Government should have duties in relation to collating data and quality assurance of the new system.

## **Appendix 1: About TSANA**

The Third Sector Additional Needs Alliance (TSANA) is a group of voluntary organisations which seek to protect and promote the rights of children with additional needs in Wales.

### **Members:**

Action for Children  
Afasic Cymru  
Barnardo's Cymru  
Contact a Family  
Children in Wales  
Learning Disability Wales  
Mencap Cymru  
Mudiad Meithrin  
National Autistic Society (NAS) Cymru  
National Deaf Children's Society (NDCS) Cymru  
RNIB Cymru  
Sense Cymru  
Shine Cymru  
SNAP Cymru  
The Down's Syndrome Association



## **Appendix 2: Recommendations on IDP format**

Excerpt from TSANA's paper for Task & Finish Group meeting 4

### **5. The IDP**

5.1. TSANA believes it is essential that the IDP is regarded as statutory and that the plan clearly identifies the provision the child/young person is entitled to. The child's support needs must be clearly identified to ensure the IDP has integrity as a legal document. In order to achieve this clarity, we recommend that there is a common statutory layout for the plan.

5.2. TSANA also considers that clear guidance on drafting an IDP is essential as this should help to provide a more consistent standard throughout the country.

5.3. **One Page Profile:** TSANA welcomes the concept of the One Page Profile as one of many aspects of a person-centred approach to IDPs. Given the fluid and flexible nature of the One Page Profile, we strongly urge that families and children/young people are provided with guidance and support to understand what type of information may be included within this section. In previous conversations with the Welsh Government, TSANA understood that this role would be fulfilled by a support co-ordinator. TSANA would welcome more information as to whether or not this role is still part of the proposals.

5.4. Given the nature of the One Page Profile, it is important that this information is reviewed and content updated appropriately. Children/young people and their families should be supported to update the profile accordingly and as frequently as required.

5.5. **Record of discussions at the meeting:** TSANA notes that early proposals called for families and relevant professionals to have the opportunity to view each others' comments/assessments in advance of the meeting. We recommend that this would help all parties to plan constructively for the meeting.

5.6. **Priorities and Intended Outcomes:** TSANA agrees that outcomes listed should be SMART (specific, measureable, achievable, realistic and time-bound). We believe that guidance is required to help provide consistency in setting SMART outcomes. These outcomes should be informed by the views of the family and child/young person and the professionals working with them, as well as by assessments.

5.7. The IDP should also include clear information on how the outcomes will be measured. TSANA considers that subsequent measurements against listed outcomes must be shared with families and the child/young person and should form addenda to the IDP.

5.8. **Action Plan:** TSANA agrees it is important to have an action plan in order to meet intended outcomes, and that it should be clear who has responsibility for these actions.

5.9. However, we are concerned about placing short-term actions in the same section as details of specialist provision. TSANA strongly recommends that distinct sections are included for actions and support/provision. Whilst these sections may help to inform each other, they represent different types of information. Keeping this information distinct will ensure that details of specialist support are clearly identified and transparent.

5.10. This would also safeguard against details of ongoing specialist provision being “lost” as shorter term actions are reviewed. Indeed, some learners with ALN will require ongoing support throughout the entirety of their educational career, for example communication support or specific teaching strategies. Of course, the nature and effectiveness of such ongoing support must be regularly reviewed (i.e. a BSL user may initially require a communication support worker and later a BSL interpreter); but changes to ongoing support resulting from such reviews are likely to be less frequent than changes to short term actions and, as such, could become “lost” if these two sections are combined.

5.11. TSANA recommends that a clear and distinct section is added for summarising specialist provision/support. Such a section must include headings/subheadings on each of the following:

Support:

- Type of support (e.g. Speech and Language Therapist, support and training for school staff)
- Provider and level of support (e.g. Communication Support Worker qualified to minimum of BSL level 3)
- Frequency of support (i.e. daily, weekly, termly)
- Hours/length of sessions (i.e. two hours)
- Which agency is responsible for providing/funding the support

Equipment:

- Any specialist equipment that is required.
- Relevant maintenance details (i.e. ensuring that class teachers are aware of how to change a battery in a radio aid).
- Which agency is responsible for providing/funding, repairing, insuring the equipment.

Adaptations:

- Space to clearly record any other key information around ongoing specialist needs. For example, seating arrangements, adapting font size on learning resources, creating good acoustics for teaching environments.

5.12. TSANA also questions whether the action plan is the appropriate place within the IDP to name a school or placement. Again, for clarity it would be preferable to have a discrete section where a child's named placement can be outlined. There should also be clear sections to outline transport and boarding arrangements, should this be applicable.

5.13. **Timeline:** TSANA welcomes the idea of including a section to record dates of IDP meetings and other dates relevant to the child's ALN. We agree that other relevant information could be entered with the agreement of the young person or their parents.

5.14. **Other sections:** In addition to the above sections which are outlined within the Welsh Government background paper, TSANA also considers that the following sections are essential within the IDP:

- a) Description of needs – it is important that clear and succinct information is available on a child's needs. For example, a child's level of deafness and whether they are a hearing aid/cochlear implant user.
- b) Child/family's first language and additional languages
- c) Child/ young person's date of birth
- d) The name of person with parental responsibility for the child; their relationship to the child; and their contact details
- e) Any key information about the child/young person's communication needs
- f) Any key information about the parents/carers' communication needs. It is important that correspondence/meetings with parents/carers meet any access requirements.
- g) Any key information about access needs and adaptations (i.e. seating arrangements). As outlined above, this could be covered as a subheading within a section on ongoing specialist provision.
- h) The names and contact details of professionals and family involved in the plan
- i) The date that the plan was written and the date of the annual review
- j) Include both long-term and short-term actions/objectives within the IDP.
- k) A section on Transitions /Transition Planning. Throughout their education, a child will experience numerous transitions; for example moving to a new class, moving from primary to secondary school, moving on to further education. TSANA believes that the inclusion of a distinct section on transitions within the IDP will help to prompt and facilitate important discussions around how such transitions will be appropriately managed.
- l) As outlined within the "Impact monitoring" section of this paper, TSANA feels it is important to include details of a child's attainment levels; assessments of how actions from the previous IDP were met; and details of any other assessments which have helped to inform the decision around a child/young person's provision. Such information is vital for determining whether inputs have been successful, but is also important for transparency and open communication with families.

## CYPE(4)–28–15 Papur | Paper 2

### Written submission on behalf of SNAP Cymru

SNAP Cymru is an independent organisation, unique to Wales offering a range of services to families, professionals, children and young people. The organisation was established regionally in 1986 and became a Wales national charity in 1996. All services offered are impartial and objective and free at the point of delivery to families and young people. SNAP Cymru offers a constructive professional partnership, working with other local and national agencies in Wales. Areas of activity include SEN and disability related information, advice and training, Parent Partnership Service, Pupil Participation and Advocacy, Disagreement Resolution and Representation in relation to School Exclusion, Admissions, SEN and Discrimination Appeals and Tribunals. The services are managed and delivered by skilled experienced staff supporting regionally based, local staff and volunteer teams across Wales.

SNAP Cymru holds the SQM (Education Advice), Investors in People (Bronze) and Investors in Volunteering awards. The organization was recognized for its services and volunteering with the Queens Diamond Jubilee Award for Voluntary Services (2012).

#### **We are pleased with the Bill's intentions regarding:**

- 0-25 age range and unified approach
- Replacing the artificial and contentious divide between young people who receive a statement and the statutory protection it affords and those with needs that do not
- Person Centred approach which will allow discussion, negotiation and challenge
- Avoidance and resolution of disagreement at an early stage as well as at the time of appeal by persons independent of the parties involved
- Independent Advocacy and Case Friends
- Extension of the age for appeal to tribunal and the ability to enforce compliance through a fine not exceeding level 3 on the standard scale
- Clarity on what and when disagreements can be appealed
- Designated medical or clinical officer
- A statutory ALN Code
- The high aspirations and the monitoring of impact from interventions
- Workforce development to meet the needs of learners with ALN
- The provision and requirements for the ALNCo whom we hope will be given sufficient time and resources to perform this essential senior role

## **We have concerns**

That the description of ALN has not changed from the previous SEN description in the Education Bill 1996. This description was used in the Code of practice for meeting SEN to describe children throughout the graduated response. This Bill is unclear about the scope of application of the IDP process but appears to include those currently at School Action and School Action+. We believe the graduated response from Early Year to FE can be retained through the IDP process and give children, young people and parents a degree of certainty they have not had previously. We hope to see this clarified in the CoP.

This Bill makes the right to an avoidance and resolution of disagreement service clear. However it is not yet clear how the child, young person or parent would access this service and whether this would be an open access process or it would have to be referred by an institution or health professional.

That Independent advocacy of itself will be insufficient to enable appropriate challenge to be made if the advocates do not have to have expertise in the matters under disagreement. It will be important for the advocates to have expert knowledge of the areas of educational legislation and regulation in dispute as well as a sound knowledge of local policy and provision.

That while there is the intention to ensure that needs are assessed and to meet needs in a more collaborative, consistent and equitable way. We would like to see “fully met” rather than met and a commitment to full and timely assessments by an Educational Psychologist where interventions are not having the required effect on progress. We see a mandatory role for Educational Psychologists.

Multi Agency working is currently very difficult to secure for children and young people who require it. Children, young people and their parents will continue their quest to achieve the timely assessments and interventions they see their child needing. Parents and professionals need clarity on who will secure and fund:

- Educational Psychology
- Speech and Language assessment and therapy
- Physiotherapy
- Occupational therapy
- ABA
- ASD and ADHD assessments and interventions
- Etc.

Will securing these interventions rely on first getting a multi-agency review or will the review follow a long journey to secure the assessment or intervention? Whichever course SNAP Cymru is struggling to see what is in this Draft Bill that will make this more likely to happen.

The implementation of this bill will fall mainly on schools and FEI with the LA taking on a wider and therefore greater workload. The time required for these more personalised discussions will be greater than current IEP and Annual Review processes. The workforce development and timed change-over will mitigate this to

some extent but there is a problem with 22 authorities working to a system that, at present, does not appear to be centralised. We need a system that is transparent, portable and equitable across Wales. Professionals, Parents, children and young people would all benefit from less jargon and simple systems.

Whether or not we can achieve an on-line product we need to be producing clear, simple templates followed in every LA, every school and every FE! In Wales. The introduction of an online system should be our aim so that these templates can be prepopulated with what is already known thus reducing the burden on administration.

# Draft Additional Learning Needs and Education Tribunal (Wales) Bill

November 2015



WLGA • CLILC

## **INTRODUCTION**

1. The Welsh Local Government Association (WLGA) represents the 22 local authorities in Wales. The three fire and rescue authorities and the three national park authorities are associate members.
2. It seeks to provide representation to local authorities within an emerging policy framework that satisfies the key priorities of our members and delivers a broad range of services that add value to Welsh Local Government and the communities they serve.
3. The WLGA is guided by a number of key principles which underpin the work of the Association. The WLGA believes that decisions about services should be taken as close point of delivery as possible and that the people and communities using those services should be as engaged as possible in their delivery. It is also our belief that local services should be provided within a democratic framework of local accountability.
4. The WLGA recognises that it is the role of the Welsh Government to set the strategic framework and policy direction for services at a national level and that it is the role of local government to deliver those services taking account of the local circumstances and pressures. It is also recognised that services must be provided within a proportionate but effective regulatory framework to ensure that public resources are used appropriately and that services are delivered effectively and efficiently.
5. The WLGA has consistently argued for an un-hypothecated revenue support grant (RSG) as the best way of funding local government and any new responsibilities or additional burdens placed on local government should be fully costed and appropriately funded.
6. The WLGA recognises that some policy initiatives or strategies need to have funding attached to them for specific periods of time to make sure that they become embedded and are delivered as intended. For this reason, the WLGA, by exception, supports the use of specific grants or the ring fencing of revenue funding for specified purposes on the understanding that funding will eventually return to the RSG.
7. The WLGA is pleased to be able to respond to the Children, Young People and Education Committee's consultation on the draft Additional Learning Needs and



## CYPE(4)–28–15 Papur | Paper 3

Education Tribunal (Wales) Bill. The Welsh Government is also consulting on the draft Bill and the WLGA in partnership with ADEW will be responding in more detail to that consultation ending 18<sup>th</sup> December.

8. The WLGA supports in principle the overarching policy objectives and core aims of the draft Bill. The Association welcomes the continued engagement of education and social services professionals in informing and developing the legislation and guidance.
9. The new statutory ALN Code will be paramount to the delivery of the Bill's provisions. It is helpful that a first draft of the Code has been made available to help inform consideration of the Bill. The WLGA and local government are pleased to be represented on the Welsh Government's ALNET Code Content Development Group and look forward to working on the detail of the draft Code over the coming months. It will be important to ensure that the Code provides clarity on the role and duties of local authorities as well as on the Individual Development Plan (IDP) process and taking into account the voice of learners and parents, multi-agency working and disagreement avoidance and resolution.
10. Local authorities are currently facing an extremely challenging financial situation. The WLGA estimates that £720m has been cut from local services in Wales since 2010 and further huge cuts are expected, putting an unprecedented strain on authorities' finances. All authorities are looking to make savings to enable the continuation of delivery of essential services. The WLGA has consistently made the point – most recently in responding to the Welsh Government's consultation on the ALN White Paper in 2014 - that the financial impact of the Bill and any subsequent changes to delivery introduced as a result must be fully costed and financed.
11. Having considered the draft Bill and accompanying draft Explanatory Memorandum (EM) – which includes the Regulatory Impact Assessment - and the first draft of the new Code, the Association has concerns about resource and capacity issues resulting from the proposed new duties and expectations on local authorities. There are a number of areas where the WLGA and local authorities would like to work further with Welsh Government to identify more accurate costings and to clarify what resources will be put in place to ensure timely, quality and appropriate provision.
12. **Unified legislative framework:** Local government supports a unified legislative framework to support children and young people aged 0-25 years who have ALN. However it is essential that both the practical and financial impact of extending the age range is fully considered and costed. For example, in relation to the provision of information and advice services by local authorities, the EM states (paragraph 7.144)

that these will need to be “refreshed” to reflect the new ALN system and also extended to ensure they cover the rights of children and young people up to the age of 25. The EM rightly acknowledges that there is the potential for a larger caseload in catering for the extended age range but states *“it is not possible to quantify a cost to local authorities for this”*. The WLGA would wish to explore these costs in more detail with local and central government colleagues.

13. **Communication and awareness raising:** rightly, one of the key principles of the draft implementation plan is that there should be sufficient time for learners, families and relevant professionals to become aware of the Bill’s proposed changes and to prepare for their impact. The costs and benefits section of the EM makes some estimates of the costs to Welsh Government in developing/promoting the new Code, revising governor training materials and providing awareness sessions to local authorities and ALNCO networks. The WLGA would like to see greater recognition of the resource and capacity issues for local authorities of raising awareness of the new system among parents/carers, and in managing their perceptions and expectations during the transition phase, which will need to be done carefully and sensitively.
14. **Training staff in schools, local authorities and other partners in relation to developing and assessing IDPs.** This is the cornerstone of the legislation so it is essential that all staff are fully and appropriately trained. There will be a significant impact in terms of training school staff in particular. The aim of the IDP process should be to create a simple and accessible process to support, and provide clarity, for parents, children and young people and practitioners involved. One of the stated principles of Welsh Government’s draft implementation plan is that there should be *“a programme of training delivered to professionals who will be actively engaged in delivering IDPs”*. As yet there are no details of this programme or how it will be funded. Local authorities and the local authority school improvement consortia will be keen to discuss options and costs for this training with Welsh Government colleagues.
15. **Post-16 specialist placements:** the Bill provides for the current duty on Welsh Ministers to secure specialist post-16 education for a child or young person where the IDP indicates this is necessary to meet their needs to transfer to local authorities. There is a need for further consideration of how this will work in practice; the transition process needs to be managed carefully and local authorities given the necessary time and resources to adapt. The costs associated with supporting these pupils can be substantial. Whilst WLGA welcomes the proposed transfer of funding (currently £10.4m annually) from Welsh Government to the RSG for this purpose,

along with the funding for the administrative element of the role (£179k per annum), there is a risk that the current quantum of funding will be less able to meet the needs of relevant learners once spread across 22 local authorities. The WLGA and authorities look forward to working with Welsh Government to agree the distribution of this funding through the Distribution Sub-Group. The WLGA would like Welsh Government also to consider transferring into the RSG the annual costs which the EM identifies will be saved by Careers Wales in no longer having to prepare Learner Support Plans (LSPs) for this category of learner or support their applications to Welsh Government for funding (£147,530 and £32,600 respectively – paragraph 7.172).

16. **Disagreement avoidance/resolution and Education Tribunal:** Tribunals are timely, costly and stressful for both families and the local authority and it can lead to a breakdown in the relationship between the two parties. The WLGA supports the proposals that local authorities should put in place arrangements to avoid and resolve disagreements before progressing to a tribunal. As noted above, further consideration needs to be given to the costs to local authorities of reflecting the changes to the ALN system and the extended age range. In relation to tribunals, the EM notes (paragraph 7.146) that the person-centred practice (PCP) approach and greater involvement of learners and their parents in decisions should result in a reduction in Tribunal appeals. However, later on (paragraph 7.180 in relation to Tribunal costs) the EM recognises *"There is a possible risk that the PCP and disagreement resolution service will not deliver the intended positive impact in reducing the number of appeals arising"*. The WLGA welcomes Welsh Government's stated commitment to ongoing monitoring of appeal rates this but would make the point that any rise in the number of appeals would impact equally on local authorities' resources and costs as on the Tribunal's.
17. The health service is a key partner in the delivery of some of the services required to support children and young people with ALN, particularly learners with more complex needs and also in early identification of needs in the 0-3 age range. The WLGA welcomes the new duty on LHBs to appoint a Designated Medical or Clinical Officer to have responsibility for coordinating the LHB's function in relation to ALN. It will be vital that the new Code, in laying the path for collaborative working, sets out clearly the roles and responsibility of health services, in line with resources. This will provide parity of provision across authorities. The Code needs to be explicit on the role that health services play and how they input into the IDP and delivery.
18. Finally, the WLGA welcomes the outline of plans for implementation and looks forward to further discussions on it with Welsh Government. The outline draft implementation plan suggests a three-year transition period. It is vital that transition is planned and

managed effectively. The WLGA would make the point that depending on future events, it is possible that implementation will take place over the same time frame (in part) as local government reorganisation in Wales. If so, the backdrop of change and uncertainty that will beckon will make that transition even more challenging.

## **CONCLUSION:**

19. The Bill is an important piece of legislation, the principles of which are welcomed by local government. Much of the detail will be contained in the new ALN Code. The WLGA and local government welcome Welsh Government's commitment to continued engagement with all stakeholders to shape the legislation and guidance, and look forward to playing their part to ensure the new system leads to improved outcomes for children and young people with additional learning needs in Wales.

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### **For further information please contact:**

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Llywodraeth Cymru  
Welsh Government

Ein cyf/Our ref: MA-P/LG/0432/15

Ann Jones AC/AM  
Chair, Children, Young People and Education Committee  
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November 2015

Dear Ann,

During my attendance at the Children, Young People and Education Committee on 14 October, I agreed to update Committee regarding discussions with the Children's Commissioner on the opportunities for her to have an early role in policy development. As I stated at Committee, I am meeting scheduled with the Commissioner on 25 November where I will raise this matter. I will also discuss other recommendations from the review, including when and how she intends to respond more fully to the recommendations which are wholly for her. This will inform when we, as a Government, will respond, as it is only right we allow the Commissioner time to consider carefully how any changes will impact on her and her office will write to you on these points following our meeting.

However, I can respond to your final point. The Wales UNCRC Monitoring Group has not sent me a copy of their report. I understand it has been published and have asked my officials to locate a copy.

Regards

Lesley

**Lesley Griffiths AC / AM**  
Y Gweinidog Cymunedau a Threchu Tlodi  
Minister for Communities and Tackling Poverty

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

**Tudalen y pecyn 45**

# Eitem 6

Yn rhinwedd paragraff(au) vi o Reol Sefydlog 17.42

Mae cyfyngiadau ar y ddogfen hon