

**Consultation response by Third Sector Additional Needs Alliance (TSANA) on
The Additional Learning Needs and Education Tribunal (Wales) Bill**

This response has been submitted on behalf of TSANA a group of voluntary organisations which seek to promote and protect the rights of children with additional learning needs in Wales. Members include: Afasic Cymru, Barnardo's Cymru 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.

We wish to draw the Committee's attention to complimentary and more detailed responses from individual organisations who are also members of TSANA .

TSANA's response does not follow the questions as set but highlight issues of main concern.

Multi agency working.

TSANA welcomes the attempt to strengthen the duty on health bodies to “to consider whether there is any relevant treatment or service that is likely to be of benefit in addressing a child's additional learning need” and that “any treatment or service so identified must be included in the learner's IDP, and that the health body must secure the provision of the treatment or service”. However if no treatment or service is identified, none will have to be provided. It is accepted that many practitioners will base their decision on clinical judgement but others may not identify a service because they believe that there is a lack of funds to provide it. The reference to treatment could also imply a clinical need where what is required is a more holistic focus on supporting social and developmental requirements. Other concerns TSANA has around health provision include the following:-

- Section 18 (2) must be amended to ensure that a local authority can also refer an early years case to a NHS body to ask them to consider if there's any health support from which the child's learning might benefit
- Section 18 (3) outlines actions that must be taken prior to a local authority/governing body making a referral to a health body to consider a learner's support needs. It is important that these actions do not cause substantial delays to the IDP process.
- The Bill does not appear to enable a governing body to request information for an IDP from health. This needs to be rectified.
- The new role of a Designated Education Clinical Lead Officer (DECLO) in each health board must be clearly defined as a strategic role.
- The duty placed on health bodies in section 58 (2) is weak. It would be easy for a health professional to decline a request to provide information for an IDP with little reasoning
- Clarification is needed seeks clarification on the relationship between IDPs and IHPs (Individual Healthcare Plans).
- Section 19(6) states that if NHS request removal of their provision, “the governing body or local authority **must** comply with the request”. The use of

'must' is worrying as it implies there is no need for further discussion before vital support is removed from a learner.

- Section 57 (4) states that health bodies 'may' bring to attention of a local authority that they consider a child could have ALN. This is weak considering the key role that health play in the lives of many learners with ALN, especially within the early years when health professionals are those most likely to identify a hearing loss. This requirement should be a "must", as in the equivalent duty on English health bodies (see [section 23 of the Children and Families Act 2014](#)).

Under the ALN Bill, the LA can approach health for information and support but schools cannot. Clarity is therefore needed on how information from health can be accessed. Health accountability is also an issue and TSANA is disappointed that the role of the Education Tribunal isn't being expanded to cover health. Instead complaints will continue to be investigated under "Putting Things Right" and this means that families will have to go to different places to appeal one IDP which is confusing.

Fundamentally TSANA believes this is a child rights and entitlement issue. Children aren't going to learn if their health needs are not being met. The Rights of Children and Young Persons (Wales) Measure places a clear duty on all Welsh Ministers, in exercising their functions, to have 'due regard' to the UNCRC.

Needs Assessment / Provision Pathway and the Individual Development Plan

Under the reformed system, schools will be responsible for identifying which specialist professionals need to be involved in a learner's assessment and in determining whether or not the IDP should be the responsibility of a local authority. It is important that this does not become a barrier to children with low incidence disabilities accessing specialists like teachers of the deaf due to a lack of awareness on a school level. TSANA acknowledges the development of disability specific pathways would help schools to identify when to pass IDPs on to a local authority and also which specialist professionals should be involved. We strongly urge that TSANA members are consulted on the development of these crucial resources, and that they are placed on a statutory footing.

A mandatory IDP template is required to ensure that the IDP is consistent and portable, legally accountable, and transparent across Wales. TSANA would welcome the opportunity to work with the Welsh Government on the development of such a template. See appendix for a paper written by TSANA on the IDP, which outlines the content we would wish to be included.

TSANA supports looked after children with ALN being entitled to an IDP. We also recommend that the care leaver's pathway plan and the care and support plan, under Part 6 and Part 4 of the Social Services and Well-being (Wales) Act respectively, link to the IDP.

Advocacy

Advocacy provision should operate to a minimum standard and TSANA strongly recommends **national statutory guidelines** to ensure transparency and consistency. TSANA is disappointed that there is no provision in the Bill for access to independent advocacy at the information and advice stage. If this happened disagreements could be rectified at an early stage, which would also be cost

effective. TSANA recommends that whenever a family are notified of any changes in the IDP process, they are informed of their rights and how they may access advocacy. Also that any information provided to families is accessible, i.e. in plain language which meets any communication and access needs.

The Bill places a duty on local authorities to refer children and young people to an independent advocacy service on request, but it does not explicitly provide for the provision of advocacy for parents, this in spite of the Code informing that " *the child, child's parent or young person should be enabled to participate as fully as possible in the decision making processes.*" TSANA believes it is imperative that the new ALN system does not disadvantage children and young people of parents less able to navigate the system. We therefore, strongly recommend that parents can access advocacy support themselves.

Early years

TSANA is concerned that there is still a lack of detail in the Bill about how the system will work in an early years' context. This must be rectified. In addition, the Explanatory Memorandum states that maintained nurseries must follow the statutory Code of Practice, while private nurseries will only have to pay regard to it. However some private nurseries receive state funding to provide pre-school places on behalf of local authorities. As these nurseries will therefore be in receipt of public funds, they must be under the same statutory obligations as maintained nurseries. If this doesn't occur, the quality of ALN provision for families within the same local authority could be subject to inequalities and post-code lotteries. It is also important to consider how the legislation will affect pre-school playgroups and other early years' settings such as childcare.

As the **First 1,000 Days** of parenting are now accepted to be the most significant in a child's development, it is especially important that parents are given appropriate support during this time. Health professionals, including health visitors and GPs, are the main universal professional contact for families in the early years and TSANA therefore recommends that it is important to raise awareness of the new ALN systems among these professionals.

Monitoring / Data Recording

Members of TSANA are aware that there is an increasing number of cases being referred to the Tribunal because the needs of children with specific learning difficulties are not being met. TSANA therefore recommends that The Tribunal, Welsh Government and the Regional Consortia could have a role in reviewing data and consider how to deal with any recurrent issues. Estyn should have a role in monitoring ALN provision, assessment, IDPs, support systems, complaints and disputes framework. The establishment of a process for stakeholder feedback and monitoring of the Bill is recommended.

Workforce Issues and training

In order to implement the reforms, professionals working with children and young people with ALN will require appropriate training and capacity building. This must include general disability equality training as well as basic awareness training on the specific disabilities of individual children and young people plus training on the IDP process. Initial teacher education must also include basic awareness raising of

additional learning needs so they are better able to identify and refer on children who may have these needs.

Transition to Adulthood

The Bill gives little information about young people who leave school, do not go onto further education but do require support from social services, health and other agencies. Previously many young people in this position were supported through the Welsh Government funded Transition Key Worker programme which ran from 2008 – 2013 and the convergence funded Regional SEN Transition to Employment Initiative from 2011 – 2014 and TSANA is concerned that learning from these programmes is being lost. TSANA also recommends that support is also offered to young people who are approaching the end of their IDP age range.

Further Education Institution (FEIs)

These institutions are independent and outside the control of LA. Currently FEIs largely support young people with high incidence and low level needs. However as a result of the transfer of post 16 funding from WG to LA revenue support grant, and more detail is required on how the IDP process will operate for such learners during the application process. TSANA also recommends that there are clear systems and structures for the FEIs to operate within.

Apprenticeships and work-based learning

TSANA is disappointed about the non-inclusion of apprenticeships and work-based learning opportunities in The Bill. Some pilots including e.g. Project SEARCH through the Engage to Change project are taking place in Wales and learning from these could be rolled out to cover the whole of Wales.

Response submitted by Catherine M. Lewis, Chair of TSANA
Catherine.Lewis@childreninwales.org.uk