

Agenda – Children, Young People and Education Committee

Meeting Venue:

Committee Room 1 – Senedd

Meeting date: Wednesday, 22 March
2017

Meeting time: 09.30

For further information contact:

Jon Antoniazzi

Committee Clerk

0300 200 6565

SeneddCYPE@assembly.wales

Pre-meeting (09.15 – 09.30)

- 1 Introductions, apologies, substitutions and declarations of interest**
(09.30)

- 2 Additional Learning Needs and Education Tribunal (Wales) Bill – evidence session 16**
(09.30 – 10.30)

(Pages 1 – 86)

Denise Inger, Chief Executive – SNAP Cymru

Cath Lewis, Development Officer – Children in Wales

Debbie Thomas, Policy and Campaign's Officer – National Deaf Children's Society

Dr Stephen Beyer, Senior lecturer at Cardiff University

Attached Documents:

Research Brief

CYPE(5)–10–17 – Papur | Paper 1 – Third Sector Additional Needs Alliance

CYPE(5)–10–17 – Papur | Paper 2 – SNAP Cymru

CYPE(5)–10–17 – Papur | Paper 3 – Children in Wales

CYPE(5)–10–17 – Papur | Paper 4 – NDCS Cymru



Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales

3 Motion under Standing Order 17.42(ix) to resolve to exclude the public from the meeting for the next item.

(10.30)

4 First 1,000 Days Consultation – agree an approach

(10.30 – 10.50)

(Pages 87 – 107)

Attached Documents:

CYPE(5)–10–17 – Preifat Papur | Private Paper 5

Break (10.50 – 11.00)

5 Additional Learning Needs and Education Tribunal (Wales) Bill – evidence session 17

(11.00 – 12.30)

Alun Davies AM, Minister for Lifelong Learning and Welsh Language

Emma Williams, Deputy Director, Support for Learners

Tania Nicholson, Head of Additional Learning Needs Legislative Programme

Mair Roberts, Lawyer

Catherine Lloyd, Lawyer

6 Paper(s) to note

(12.30)

Letter from the Cabinet Secretary for Education – further information following the session with Estyn on 15 February

(Pages 108 – 109)

Attached Documents:

CYPE(5)–10–17 – Papur | Paper 6 – i'w nodi | to note

Additional information from Estyn following the meeting on 15 February

(Pages 110 – 116)

Attached Documents:

CYPE(5)-10-17 – Papur | Paper 7 – i'w nodi | to note

Document is Restricted

**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

SNAP Cymru evidence to the National Assembly for Wales Children, Young People and education Committee. Consultation on the general principals of the Additional Learning Needs and Education Tribunal (Wales) Bill.

SNAP Cymru calls for the committee to consider that:

1. Section 61 of the bill (avoidance and resolution of disagreements), subsection 3 should read 'The arrangements under subsections (1) and (2) must include provision for parties to a disagreement to access help in resolving it from persons who are independent from the Local Authority.'
2. Families should receive information from Local Authorities that is clear, transparent and about the law, regulations and the code rather than their own local policies.
3. Policies and provision across Wales should not be a post code lottery and should be delivered on a policy and a procedure for Wales. Good practice should be better shared and provision must be enhanced, accepting that the whole transformation agenda will take time. (Points 48 to 50 of this document)
4. SNAP Cymru disputes the information found in the ALN and ET (Wales) Bill Explanatory Memorandum incorporating the RIA and explanatory notes (specifically section 8) and calls for the committee to urgently scrutinise the document and its findings. (Paragraphs 51 to 68 of this document which covers the number of cases involved and the actual costs and funding from local authorities)

SNAP Cymru's Charitable Objectives are:

5. To provide or assist in providing information, advice and support to enable children and young people and their parents or guardians to participate fully and equally in society.
6. To assist parents and guardians in their understanding of relevant legislation and through this to facilitate their children's contribution and involvement in life choices.
7. To facilitate the partnership of young people, parents and professionals in decisions relating to education and inclusion.
8. Independent Social Return on Investment analysis (SROI) estimates that for every £1 invested in SNAP Cymru activities there is £20.61 of social value created. (Wavehill, SNAP SROI Model, March 2014)
9. SNAP Cymru services are Quality Assured. We hold the Community Legal Services Specialist Quality Mark in Education Advice; The Investors in People (Bronze); Investing in Volunteers quality Award; The Queens Diamond Jubilee Award for Volunteering. Our training unit is accredited by Agored Cymru to level 4, and our website has been selected as an example of excellence in bilingual contemporary media in Wales as part of the Digital National Archive.

Services for families

10. SNAP Cymru is a Welsh Charity that provides a range of services to support children, young people and families. We help families solve their problems and empower them to move on with their lives. We are best known for our Parent Partnership Service which is currently a statutory duty S332A, Education Act, 1996 and SEN COP 2:16. This service provides independent accurate information, advice and support for parents, children and young people (0-25) who have additional learning needs, or problems that are preventing them reach their potential. The advice we provide is accurate, impartial, honest and reliable, and is provided through our national helpline, interactive website, and for those that need more support, through our specialist casework and advocacy services.
11. We aim to promote partnership between children, young people, families and professionals, helping them to seek agreement on the provision of support for children and young people. By encouraging open dialogue and negotiation real conflict is avoided, leading to better outcomes for children and young people.
12. Working throughout Wales from SNAP Cymru offices, drop in centres, surgeries, telephone support and home visits SNAP Cymru works holistically with families using a partnership and empowerment model. By providing key working, accurate information, objective advice, direct independent professional specialist advocacy, support and training we empower families and promote true partnership between all stakeholders. The focus of our work encompasses a range of issues including: assessments, statements of special educational needs, barriers to communication, bullying, school attendance, exclusion, health, and training, transition, preparing for adult life, work and social care. We also help parents, carers, children and young people to understand and complete forms/reports, with preparing and attending appointments, meetings, appeals, and tribunals.
13. SNAP Cymru is rooted in local communities across Wales, giving us extensive local knowledge of local policy and practice as well as legislation and national policy. SNAP Cymru's flexible staff and volunteers are able and willing to work collaboratively and quickly to identify and respond to emerging need and trends.

Casework information. The evidence base for this information is derived from the SNAP Cymru database including the feedback from families and professionals who have accessed the service.

14. There has been a significant increase in the number of families SNAP Cymru are working with. This increase is a trend across Wales.
15. The number of referrals received in the first two quarters of 2016/17 is equivalent to the number of referrals received for the whole of last year, 2937. Each referral raises two or more problems to deal with.

16. SNAP Cymru understands there are a number of reasons for the overall increase in referrals with the main reason being reported by families is anxiety and uncertainty by parents and carers about the measures in the ALN Bill. Staff and volunteers have responded to the increase in referrals in a timely and effective manner. The significant increase in demand and the feedback from families illustrates the need for an independent service works that can work holistically with families using a partnership and empowerment model that includes key working.
17. The number of problems presented in the first two quarters of 2016/17 has risen to 7,290 from the whole year total 2015/16 of 5,579. This is a significant increase. If this trend continues to the end of the year we will have dealt with more than twice as many problems as last year.
18. There was a minimum of two problems presented per referral, the problems presented included: Access to Services, Education, Access to Services, Health Access to Services, SSD, Advocacy, Amendment to Statement, Annual Review, Appeals, Admission, Appeals Exclusion, Appeals - SEN Tribunal, At Risk of Exclusion, Benefits & Grants, Bullying, Cease To Maintain Statement, Communication Breakdown, Complaints, Local Authority, Complaints School, Disagreement Resolution Informal, Discrimination, Early Years Provision, Educational Provision, Exclusion, Fixed, Exclusion Illegal, Exclusion Internal, Exclusion Permanent, Home Education, Home Tuition, IEP / IDP, NEET, No Placement, Non Attendance, Note in Lieu, Placement, Proposed / Draft Statement, Refusal to Assess, Refusal to undertake Statutory Assessment, School Assessments, Statement, Statutory Assessment, Transition, Transport.
19. By providing key working, accurate information, objective advice, direct independent professional specialist advocacy, support and training SNAP Cymru has empowered families and promoted true partnership between all stakeholders. The majority of families SNAP has worked with reported increased confidence to advocate effectively on behalf of their child and improved relationships with professionals with the majority of children and young people reporting that they were actively supported to participate in decision-making about their future and where appropriate, to make choices

Scope of SNAP Cymru's Activities

Informal dispute resolution (SNAP Cymru and Local Authority practice of 'Early avoidance of Disagreements')

20. In 67% of cases actioned by SNAP there is evidence that there was an avoidance of escalation to formal disagreement. SNAP Cymru has helped by building trust and understanding bringing all sides together in mutual trust and respect. Communication can be a major barrier, our officer's and volunteers have worked informally to resolve issues, plan and facilitate meetings, empowering and supporting both parents and professionals, encouraging partnership working. These crucial activities have helped to avoid disagreements escalating, and reduced conflict. This work has also helped to avoid

escalation to formal processes including complaints and appeals to the Special Educational Needs Tribunal Wales (SENTW). Most Local Authorities in Wales have an open-door policy in relation to working with SNAP Cymru and are eager to meet with families at the earliest possible time to avoid dispute and conflict.

School Exclusion

21. The number of referrals received where the problem presented concerned exclusion in the first two quarters of 2016/17 is nearly double the number of referrals received for the whole year of 2015/16. The total referrals for Q1 and Q2 were 697 and for the referrals 2015/16 were 338. Problems concerning exclusion issues represent 23% of the total referrals. The children and young people concerned have Additional Learning Needs.

Formal Appeals and Complaints

22. SNAP has de-escalated the situation in respect of possible formal appeals to SENTW. In 12% of the referrals received by SNAP Cymru families the possibility of appealing to SENTW was discussed of which 71% were considering appeal to SENTW with only 22% of those considering an appeal actually lodging an appeal with SENTW. SNAP Cymru has helped by building trust and understanding bringing all sides together in mutual trust and respect. Communication between families and professionals can be a major barrier, our officer's and volunteers have worked informally to resolve issues, plan and facilitate meetings, empowering and supporting both parents and professionals, encouraging partnership working. These crucial activities have helped to avoid disagreements escalating, and reduced conflict. This work has also helped to avoid escalation to formal processes including complaints and appeals to SENTW.

Grievance against Local Authority or School

23. There is a significant increase in the number of parents expressing a grievance against the LA or the school, it is a trend across Wales. The total number of complaints about the school or LA in 2015/16 was 177 approximately 20% of the number of complaints of Q1 and Q2. SNAP Cymru sees this as a response to parents' anxiety and uncertainty about the provision in the Education Bill as one of the reasons for the significant increase.

Hours of support evidenced on individual named case files

24. Minimum of 3 Hours per case. This represents 35% of the cases worked on during Q1 and Q2. These were the lower input cases which most often were handled from start to finish through the Telephone help centre and/or via email from the SNAP Cymru website. This service has been provided to triage, listening and understanding problems offering early advice and guidance and referring more complex or contentious cases to our Casework Teams. The aim has been to reduce conflict through early intervention.
25. Over 7 Hours per case. This represents 32% of the cases worked on during Q1 and Q2. These are generally the cases where families required a listening ear and support with filling in forms and reports, and with preparing for appointments, meetings, appeals, and tribunals. Most of these cases were forwarded from the telephone help centre to the casework service for more intensive support.

26. Up to 20 Hours per case. This represents 21% of the cases worked on during Q1 and Q2. Some families required more specialist support with complex problems, or they needed more help with understanding their child's ALN, and developing positive relationships with school and the professionals working with their child. SNAP Cymru caseworkers worked with the families to help them understand the issues, their rights roles and responsibilities of all partners in the process. We helped them understand reports and fill in forms, and explained about the benefits of working together in partnership, about the avoidance of disagreements, and gave information and helped with appeals, discrimination issues and complaints.
27. More than 20 Hours per case. This represents 12% of the cases worked on during Q1 and Q2. Cases of over 20 hours represented a smaller number. However, these were usually very complex, time-consuming cases requiring specialist support from skilled and experienced staff. The type of casework included Pupil Disciplinary Committee/ Independent Appeals, SENTW Appeals, Discrimination and Complaints. The kind of work carried out included preparation, advocacy, and facilitation of meetings, and in some cases, support at appeals and tribunals.
28. SNAP Cymru calls for fairness, transparency, access to information, advice, advocacy, avoidance of disputes and dispute resolution in the new additional learning needs system.
29. SNAP Cymru believes in strong, empowered and resilient families. Providing support for families when they need it most. Providing Independent Advice, Information, Dispute and Avoidance Services.
30. SNAP Cymru believes that free impartial advice is crucial and valued by the people receiving it. The significant increase in demand and the feedback from families illustrates the need for an independent service that can work holistically with families using a partnership and empowerment model that includes key working. It is vital that families receive accurate information and advice about ALN legislation and the code. We believe that information, advice, support, advocacy and dispute resolution services should be wholly independent.
31. Many families perceive and report that Local Authorities prefer their own interpretation, their own policies and procedures rather than legislation, regulation and the code. Their experience to date has not given them confidence in a new system. Many report that they have been pushed into accepting provision that falls short in meeting their children's needs and have been left with no right of appeal. Under the current system where parents have accepted provision without a statement and things have gone wrong for their child they tell us that they feel disempowered and hopeless, passed from school to Local Authority and back again, one blaming the other, sadly wasting precious time for their child or young person. Unfortunately, we have evidence that many parents have been unaware of their rights prior to a consultation with SNAP Cymru. Parents need transparency, need information and explanation, expect to be told of all options open to their child. Our

experience is that this does not always happen. Parents report that they have had to give up as they feel that they cannot compete with the Local Authority. Schools too report that they are not always happy with arrangements and have spoken to SNAP and parents stating that often any additional funding attached to the arrangement is minimal and only agreed for a very short block of time; that it often comes with no additional advice, training or EP time, and that often the child or young person's needs are such that they require a full assessment which should include outside agencies assessment and advice and does not.

Evidence to Support Independence

- 32. In response to the information found in the ALN and ET (Wales) Bill Explanatory Memorandum incorporating the RIA and explanatory notes: Page 98 7.41 – 7.43
- 33. 7.41 Evidence from a local authority which has introduced the role of additional learning needs family support officer as a way to avoid disagreements has seen a significant fall in the number of appeals to tribunal.
- 34. 7.42 The additional learning needs family support officer is responsible for providing advice and support with assessments, statements and annual reviews, including preparation for and support at meetings.
- 35. 7.43 Children and young people should also benefit through having a more efficient and less formal approach to resolving disagreements.

SNAP Cymru Response

- 36. Whilst we recognise the benefits of having Local Authority personnel with time, patience and an in-depth knowledge of rights in legislation, we present a wider picture for Carmarthenshire. We bring to the attention of the committee that there has been an increase in referrals to SNAP Cymru in all LAs across Wales. Carmarthenshire receives 6 monthly reports from SNAP Cymru relating to the annual SLA for Parent Partnership Services including Disagreement Resolution.

Example 'SNAP Cymru Executive Summary' report for Carmarthenshire for the period 1st April 2016 to 30th September 2016.

- 37. The evidence base for the report is derived from the SNAP Cymru database including the feedback from families and professionals who have accessed the service.
- 38. There has been an increase in demand for the services available from SNAP Cymru from families in Carmarthenshire. There has been an increase in the number of referrals received. This increase is a trend across Wales.
- 39. The number of referrals received in the first two quarters of 2016/17 is 86, 62% of the number of referrals received last year, 139. Each referral raised a minimum of 2 problems.

40. There has been a significant increase in the numbers of problems presented. The numbers of problems presented in the first two quarters of 2016/17 exceeds the number of problems presented for the whole year of 2015/16 by 38 to 177. The total for last year was 139.

Highlights from the Carmarthenshire report:

41. In 98% of cases actioned by SNAP there is evidence that there was an avoidance of escalation to formal disagreement. SNAP Cymru believes that it is essential that each of the parties involved understand the problems each other's point of view, SNAP Cymru has helped by building trust and understanding bringing all sides together in mutual trust and respect. Communication can be a major barrier, our officer's and volunteers have worked informally to resolve issues, plan and facilitate meetings, empowering and supporting both parents and professionals, encouraging partnership working. These crucial activities have helped to avoid disagreements escalating, and reduced conflict. This work has also helped to avoid escalation to formal processes including complaints and appeals to SENTW
42. SNAP has de-escalated the situation in respect of possible formal appeals to SENTW. In 33% of the casework families discussed the possibility of appealing to SENTW of which 14% stated they were considering appealing to SENTW. Of the 28 cases only 6, 21%, lodged an appeal with SENTW. (some of these cases may be withdrawn from SENTW through informal or formal disagreement resolution)
43. SNAP Cymru provided avoidance of dispute at local level in 96% of cases to help resolve matters. SNAP believes that it is essential that each of the parties involved understand the problems of each other's point of view, SNAP Cymru has helped by building trust and understanding bringing all sides together in mutual trust and respect.
44. 60% of the cases in Q1 and Q2 had a complaint against the school or the LA on one of the matters. There is a significant increase in the number of parents expressing a grievance against the LA or the school, in Q2. Whilst there is a trend across Wales the number of complaints and the increase in Q2 is particularly significant in Carmarthenshire. (SNAP Cymru Interim Report to Carmarthenshire Local Authority, Executive Summary, P.2)

Independent information, advice, dispute, avoidance, and advocacy

45. Whilst we believe the introduction of Carmarthenshire's family support officer role is effective in so much as we cannot provide sufficient services for families on the current rate of commissioned services from Carmarthenshire. We can also evidence an increase in referrals to SNAP Cymru's independent service from the same Local Authority over the same time period. Parents perceive the service from SNAP Cymru as independent and tell us they are more confident when using our service. Evidence from the stakeholder events has been

overwhelmingly in favour of independence when it comes to delivering information, advice, dispute, avoidance, and advocacy.

Supporting Evidence

46. During the recent participant events in Cardiff and Llandudno parents and carers said: 'This needs to be really tight'. 'Local Authorities often put their own policies before the law'. 'There would be more of an adversarial situation without SNAP Cymru support.' 'Independent support is badly funded.' Parents state that Local Authorities have not been truthful with information to them in the past and expressed how difficult and stressful a time they had trying to get LAs to commit support for their child. They also felt strongly that: Advice and avoidance and resolution services and advocacy should be independent and not funded by LA- should be funded directly by Welsh Government directly. 'Disagreement resolution-parents want someone on their side'. 'We need honest Options/choices identified-informed.' 'Catching early years is so important, we need early information, mediation rather than tribunal.' 'Early information provision and dispute resolution – 'should not be an LA person.'

The evidence from the stakeholder event of 26th January also supports independence:

47. 'Families need information, advice and advocacy support as early as possible. The independence of this advice is vital.' 'Parents are more likely to accept decisions they may not necessarily like if an explanation comes from an independent, credible source.' (6.3 P.12) 'Advocacy to support should be available from an independent source from the early disagreement avoidance stages through to the dispute resolution stages. Families need support 'from start to finish, including when attending tribunal.' (6.4 P.13) 'The Bill does not include provision for parent partnerships'. 'Currently, local authorities contract with organisations such as SNAP to provide parent partnership services.' (6.4 P.13)

SNAP Cymru calls for the committee to consider that:

48. Section 61 of the bill (avoidance and resolution of disagreements), subsection 3 should read 'The arrangements under subsections (1) and (2) must include provision for parties to a disagreement to access help in resolving it from persons who are independent from the Local Authority.'
49. Families should receive information from Local Authorities that is clear, transparent and about the law, regulations and the code rather than their own local policies.
50. Policies and provision across Wales should not be a post code lottery and should be delivered on a policy and a procedure for Wales. Good practice should be better shared and provision must be enhanced, accepting that the whole transformation agenda will take time.

Funding Disagreement Resolution Services

51. SNAP Cymru disputes the information found in the ALN and ET (Wales) Bill Explanatory Memorandum incorporating the RIA and explanatory notes (Pages 115 onwards incorporating 8.72 – 8.103):
52. RIA 8.76 states: During the 30-month period October 2013 to April 2016, SNAP Cymru dealt with approximately 12,600 cases on behalf of 20 local authorities. The following is disputed:
- a. For information the 12,600 refers to the number of cases available to the responder from the electronic data base and the source of the percentages given, and not the number of cases received in a 30 month period.
53. RIA 8.77 states: The primary reason for 3,485 of these was the resolution of disagreements around wanting or having a statement of SEN. The average cost per case, where appeal to SENTW is avoided, is £2,000. Thus, 20 of the 22 local authorities in Wales spent an average of approximately £2,788,000 a year funding disagreement resolutions services for 1,394 disagreements around wanting or having a statement. Grossing these figures up from 20 local authorities to 22 local authorities equates to £3,066,800 per year for funding disagreement resolutions services for 1,533 disagreements across 22 local authorities. This is equivalent to £3,164,000 in 2016-17 prices.

SNAP Cymru Response

54. The above implies that the 20 Local Authorities have funded SNAP Cymru (as the major provider) to provide disagreement resolution services at the total cost of £2,788.000 per year (2013 – 15 prices) and £2,876.400 (2016 -17 prices) (Table 15 Page 139).
55. This is not the case and brings this and further sections of the assessment report into disrepute. Clearly there has been misunderstanding in the information gained which is disappointing to SNAP Cymru as the misinformation /interpretation has set our service practice in a very poor light in relation cost implications for Local Authorities and families. The committee should consider the following:

True cost of supporting families

- 56.1 where a case progresses to SENTW - Average cost of supporting a family from their initial concerns or complaints through to SENTW appeal is £4,125 (118 hours average)
- 57.2 where a case is resolved through formal disagreement resolution without recourse to tribunal - Average cost of supporting a family who want to appeal to tribunal but where we provide a successful formal mediation session (average 57 hours) £2000. Total number of cases in these two categories in the period described - 30 months, was 20

NB. PLEASE NOTE THIS IS THE COST TO SNAP CYMRU BASED ON INDICATIVE STAFF COSTS AND NOT THE AMOUNT BEING PAID BY THE LOCAL AUTHORITIES IN WALES.

58. The costs to Local Authorities for Formal Disagreement Resolution is £600 for each case. These are very few. Of the fewer cases where SNAP Cymru has been involved in Tribunal

there has been no additional costs to the Local Authority above the agreed SLA commissioned services for Parent Partnership Services. All services provided by SNAP Cymru have been free at the point of delivery for the last 30 years. The vast majority of cases brought to SNAP Cymru are resolved informally at local level. We have delivered a successful avoidance of formal dispute service through an independent, objective but impartial services. Practice is based on an empowerment model providing key working and or advocacy when required and as funding allows. The Parent Partnership Services have been enhanced by additional funding including fundraising, volunteering and Welsh Government/Local Authority Family First and Disability Discrimination Advice funding.

Looking back 30 months from February 17.

59. Almost all cases - totalling 7,135 were resolved in times ranging from 2 to 180 hours, without appealing to SENTW, at a cost of £70 to £4,400 to SNAP Cymru. The average case time is around 10 hours outside of Families First contracts. Of the 7,125 cases that did not result in an appeal to SENTW around 71% received informal disagreement resolution. These cases brought 17,000+ matters seeking resolution: ranging from education provision and exclusion through to complaints and appeals.

60. The costs to Local Authorities for Formal Disagreement Resolution is £600 for each case (17/18 cost to LA.) This cost is split between preparatory casework with all parties including administration and the dispute resolution session with all parties. These Formal sessions are very few and some of these can be resolved at the preparatory stages, reducing the costs to LAs by 50%. On the fewer cases where SNAP Cymru has been involved in Tribunal there has been no additional costs to the Local Authority above the agreed SLA commissioned services for Parent Partnership Services including volunteer Independent Parental Supporters (IPS). All services provided by SNAP Cymru have been free at the point of delivery for the last 30 years. The vast majority of cases brought to SNAP Cymru are resolved informally at local level. We have delivered a successful avoidance of Formal Dispute service through an independent, objective but impartial service based on an empowerment model providing key-working and or advocacy when required and as funding allows. The Parent Partnership Services have been enhanced by additional funding including fundraising, volunteering and Welsh Government/Local Authority Family First and Disability Discrimination Advice funding.

61. This case load, when costed at a true cost of fully funded service delivery, should cost over £1.6 million per year but as it is supported by volunteering activity plus subsidised by other charitable giving, grants and sale of services and goods it is delivered at well below these costs to LA Commissioners. However, in these past two years SNAP Cymru has used its reserves to continue to provide services in each of the last two financial years and will do so again in this current financial year:

14/15 = - £40,548

15/16 = - £21,680

62. The use of reserves to subsidise Local Authority work is unsustainable, our reserves are now depleted to 3 months running costs. We are running a very tight ship and getting

exceptional value for every £ spent. The actual costs funded by local authorities in 2014-2015 was £720,000 and £823,000 in 2015-16. Thus it is clear that local authorities are getting amazing value for money but also that their level of funding will need to increase if they want the same number, or more, cases dealt with in the future. SNAP Cymru's total income for the 30-month period specified in the RIA document was £2,502,057

63. Within the Welsh Government Explanatory Memorandum and Regulatory Impact Assessment dated December 2016 it is stated that Local Authorities have been funding SNAP Cymru to the tune of £2.7 Million pounds, per annum, strictly for the handling of approximately 1,394 cases per annum. Unfortunately, this is not possible. Whilst we would dearly love to be so well funded, it is not a reflection on reality. Within the time-period specified (30 months), SNAP Cymru has received, from all sources (Including grants, fundraising, donations & Charity shops), 2.5 Million pounds in income. This 2.5 million pounds has provided casework, advice and disagreement resolution services to 12,600 cases across Wales. It is simply not reasonable to suggest that 1,394 instances of disagreement resolution, has cost Local Authorities 2.7 Million pounds per year, when the total amount of money they provide to the purveyors of this service is, on average, £574,434 per annum. This is the amount of money we receive for provision of Parent Partnership services from Local Authorities. This service is enhanced by funding from the Families First project which enables us to provide additional support for the most vulnerable families. However, even with this included, the total funding for the Provision of all Parent Partnership Services, including disagreement resolution, is just £814,201 per annum.

64. The figures arrived at within this report form the basis for a great deal of mathematical calculations made regarding how much services cost and projections about how much money could be saved under alternative models. However, as demonstrated above, the central claim regarding the amount of cost incurred by local authorities, is not backed up by any evidence. The attribution of a £2.7 Million pounds cost per annum for services provided to 1,394 cases has absolutely no basis in reality and is in fact an order of magnitude away from offering even a partial representation of the true funding picture. Reliable data is the cornerstone of good decision making. As such, all conclusions drawn from this grossly misrepresentative figure, cannot be considered sound.

Cost

65. The actual costs funded by local authorities in 2014-2015 was £720,000 and £823,000 in 2015-16. Thus it is clear that local authorities are getting amazing value for money but also that their level of funding will need to increase if they want the same number, or more, cases dealt with in the future.

66. The actual total funding received from Local Authorities in relation to Parent Partnership Services and Disagreement Resolution is:

2012/2013	£678,800.88
2013/2014	£674,786.48
2014/2015	£554,840.74

2015/2016 £591,482.10

2016/2017 £595,465.39

67. Additional funding from a range of source including fundraising, shops and Welsh Government, (Disability Discrimination Advice, Inclusive Play, Families First) enhances this service.

2012/2013 £166,354.50 + ESF Convergence £430,245.00 (2012/2013 only)

2013/2014 £221,398.67

2014/2015 £203,419.54

2015/2016 £227,141.67

2016/2017 £214,921.00

Audited accounts available upon request from Denise Inger, Chief Executive Officer, SNAP Cymru email denise.inger@snapcymru.org and, also available via the Charities Commission website as public documents.

68. SNAP Cymru calls for the committee to have significant scrutiny to the findings in the ALN and ET (Wales) Bill Explanatory Memorandum incorporating the RIA and explanatory notes, specifically 115 onwards incorporating 8.72 – 8.103 which are factually incorrect.

Funding advice, information, avoidance of disagreement and advocacy services

69. Many families tell us that they would not have resolved their problems without our support. However, we can only do this if we receive sufficient funding. Whoever provides information, advice, dispute resolution and advocacy services, they will need to be consistently highly trained and adequately resourced in order to deliver and meet demand.

70. In just two quarters of this year SNAP Cymru has received nearly 3,000 referrals to the service and worked with over 7,290 problems. This in just 6 months!

71. 75% of referrals required the support from a caseworker - 2,250 cases. This is double the workload expected of each skilled and experienced caseworker. So, putting it quite simply we need more capacity to meet demand, adequate funding to provide the quality of service expected.

72. SNAP Cymru is presently receiving less than half the funding it needs to meet current demand. We know we are not alone, and that we all must work within very limited resources, however, if Welsh Government and Local Authorities are committed to ensuring the rights of children and families and equality for the most vulnerable in Wales a fair funding formula needs to be agreed for whoever provides it.

73. SNAP Cymru believes there will be an unavoidable surge of anxiety from families and professionals. Change is always difficult to achieve and it will take considerable time before the transformation agenda is achieved. Effective communication and engagement of all

stakeholders will be key and it will be vital for schools FEI's and LAs to have transparent systems, clear consistent messages across Wales and sign up from all professionals involved.

74. Whilst statutory IDPs are welcome they will not remove all the problems experienced in the current system. Costs savings identified are grossly overestimated and whilst we would wish for a smooth transition to include young people up to 25 we do not envisage that the systems will not be challenged. There is likely to be difficulties between Local Authorities and FEI's and schools and this will not be missed by young people and families, resulting in low confidence and anxiety which in itself will cause dispute. The assumption of there not being any disagreement or appeals because there is no statement is not the reality. We do believe the legislative changes will bring about a fairer system over time but this will not be without costs.
75. SNAP Cymru welcomes the considerations to early years and all our young people 0-25 within our education systems with ALN to have an IDP where needed but we must recognise that this will have additional risks of disagreements and appeals and that young people and families must have independent information advice, support and advocacy where required.
76. SNAP Cymru notes the WLGA responses and agree that it is 'highly likely that the system will be tested in the short to medium term and there is a risk that local authority resources could be stretched if the full implications of extending the statutory system in terms of additional disagreements/appeals are not properly addressed now. It is equally the case that any rise in appeals will have a significant impact on the Education Tribunal'.

Children in Wales is the national umbrella organisation in Wales for those working with and for children and young people, bringing organisations and individuals from all disciplines and sectors together. Children in Wales also ensures that children and young people's voices are heard by decision makers. One of our core aims is to make the United Nations Convention on the Rights of the Child (UNCRC) a reality in Wales. Children in Wales campaigns for sustainable quality services for all children and young people, with special attention for children in need and works to ensure children and young people have a voice in issues that affect them.

Children in Wales works closely with its member organisations and has established working relationships with the Welsh Government and other funders. A key role for our organisation is to maintain a constructive flow of information between those working to develop policy and legislation and those working directly with children and young people. Our conference and extensive training programme, together with the forums and networks that are supported or managed by Children in Wales, serve as a means for ensuring that our members and Welsh Government officials are kept informed of current and evolving developments in the field, and that these developments help shape policies and enhance practice. Children in Wales membership covers a vast array of organisation who work to improve the lives of children in Wales and includes voluntary/third sector organisations, professional associations, local authorities and health bodies, as well as many smaller community groups, schools and individual members. At the time of writing, there are over 260 members. For further information on the work of Children in Wales, please see www.childreninwales.org.uk and www.youngwales.wales

In addition to this response Children in Wales wishes to draw the Committee's attention to the response from the Third Sector Additional Needs Alliance (TSANA) and the UNCRC Monitoring Group. Children in Wales welcomes the opportunity to respond to this consultation.

Are the Welsh Government's three overarching objectives for the Bill the right objectives and is the Bill sufficient to meet these?

Overall Children in Wales welcomes the three overarching objectives of the reforms. However we believe that the Bill does not fully deliver on these objectives in a satisfactory way.

Are the Welsh Government's ten core aims for the Bill the right aims to have and is the Bill sufficient to achieve these?

Children in Wales believes that the ten core aims for the Bill are the right aims to have, but again we are concerned that the Bill will not sufficiently deliver on these intended aims.

The remainder of our response highlights areas of concern within the Bill which explains our reasons for the above responses.

Increased participation of children and young people and Children's Rights

Children in Wales welcomes the Welsh Government's commitment to ensure that children have a voice when adults are making decisions that affect them (UNCRC Article 12, UNCRDP Article 7.3). We believe it is essential that children are fully involved, engaged and heard during every stage of the ALN process, and that robust monitoring arrangements are in place so that improved child rights based outcomes are achieved. Reasonable adjustments, including an appropriate allocation of time, support and encouragement to enable a child to express their views and actively participate, must be in place. Participation must be compliance with the recently refreshed Welsh Government's National Participation Standards for Children and Young People. It is vital to ensure that the child fully understands the process and that appropriate methods of communication are used and are fully understood by the individual. The child should always be at the centre of the process and all appropriate language support for children and young people with additional learning needs or whose first language is neither English nor Welsh, must also be made available.

Children in Wales strongly believes that the Bill should include provision for a duty of due regard to the United Nations Convention on the Rights of the Child and the United Nations Convention on the Rights of Disabled People on the face of the Bill. Given the objectives and principles of the Bill, it appears strange that the Bill was tabled without these duties. This represents a missed opportunity to help ensure that the conventions are fully embedded

in the legislation. We believe the Bill would be better and more likely to deliver its principles and aims for its inclusion if this occurs.

Multi Agency Working

The Bill aims to support early identification and timely intervention to ensure that every child and young person with an Additional Learning Need can achieve their full educational potential. The Welsh Government considers that sharing information between agencies is essential in terms of early identification of needs and that the right support is put in place for every child to enable children and young people to achieve their best possible outcomes. Children in Wales believes the requirement for organisations to share information could be made stronger and recommend that there should be a duty to work in a multi-agency way which is underpinned by local protocols between health, social services and education to assess and deliver provision.

Health

Children in Wales welcomes the significant attempt to strengthen the duty on health bodies “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”, 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.

Health accountability is also an issue and Children in Wales 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” which isn’t independent of health and has no timescales attached. We would also question whether the power of the NHS, to decline a tribunal order to revise an IDP in order to secure the revised additional learning provisions, undermines the power of the tribunal.

Children in Wales welcomes clarification on the following sections of The Bill:–

- Section 18 (2) should be amended to ensure that a local authority can also refer an early years case to a NHS body to consider if there's any health support which will support the child's learning.
- The Bill states that once an IDP outlines that a service is to be provided by a health body, the local authority/governing body loses responsibility for it (section 19 (4)). The Tribunal has no jurisdiction over health (section 19 (7) and (8)). This could mean that so any provision named within an IDP loses legal enforceability which is a retrograde step from current legislation.
- 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 an additional need.

Children in Wales believes that there is insufficient accountability on health in the Bill, in relation to children's rights and entitlements. Children will be unable to learn and develop 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. The Bill therefore has to evidence due regard to the UNCRC, and Children in Wales would advocate for this duty to be extended to health provision.

Other Agencies

Children in Wales recommends that the Bill should also be strengthened in relation to other multi-agency relationships, particularly around key transition points to ensure that appropriate bodies from early year and post-16 settings work with local authorities. We are concerned that 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 Children in Wales is concerned that learning from these programmes is being lost., when evidence from practice could be used to inform the development of future services.

The relationship between the Bill and the Social Services and Wellbeing Act should be enhanced. Children in Wales supports looked after children with ALN being entitled to an IDP and recommends 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. Part 9 (Co-operation and Partnership) of the Social Services and Well-being Act. This would ensure that provision is made for partnership arrangements between Local Authorities and Local Health Board, including pooled budgets. Cooperation and partnership working could be further reinforced by the introduction of a duty to work in a multi-agency way, underpinned by local protocols between health, social services and education to assess need and deliver provision.

Needs Assessment / Provision Pathway and The Individual Development Plan

Children in Wales welcomes that every child and young person with an Additional Learning Need will be entitled to a statutory Individual Development Plan (IDP) to support their learning. We note that the Bill requires that the child or young person's voice should be at the heart of the decision making process, and to support this, a person centred planning system is being introduced to ensure that their views, wishes and feelings are fully taken into account when preparing and reviewing an IDP. To fully support this, all information within the plan must be fully understood by those children, young people and parents that it relates to.

Children in Wales is concerned that a statutory template, which is consistent, legally accountable and portable, is not being proposed. We believe that without a mandatory IDP template the Bill will not be able to deliver on many of its core aims. The development by local authorities or schools of their own IDPs could result in a multitude of templates in use which would not assist with multiagency working or assessing for compliance.

Children in Wales welcomes clarification on the following sections of The Bill:–

- Section 21 of the Bill should reference the role of families and professionals within the review process.
- Section 23 allows for an IDP to be prepared, reviewed or revised at the same time as another document for a learner. While there are benefits to combining the timing of certain plans, it is important that this is only permitted to happen if it does not cause unreasonable delays in creating an IDP.
- Before directing governing bodies to prepare/maintain an IDP (Section 12 (2b)), Children in Wales believes local authority should consider whether the school has the relevant expertise around the learner's needs to do so.

Children in Wales welcomes the inclusion of detained young people within the Bill. However we have a concern that Section 37 refers to “keep(ing)” IDPs for detained young persons, to be maintained again upon their release, rather than ensuring the continuation of an existing plan during the period of detention. This process will not provide constancy for detained children and young people with additional learning needs, which is required during their detention. Children in Wales recommends that young people are assessed for ALN upon entry into the secure estate. This will ensure that the significant proportion of young people who have been detained and have additional learning needs that have not previously been recognised, will receive the appropriate support at an earlier stage.

The capacity of the workforce to deliver the new arrangements

Children in Wales believes that the main barriers to implementation of the Bill will be lack of knowledge and awareness of the reforms among key professionals. We are aware that the Welsh Government has developed a Transformation Programme to support implementation that includes training. However we recommend that –training includes:–

- Training for multi-agency professionals, such as health visitors, GPs, early years' providers, so that they are able to recognise when a child may have an ALN and make a referrals for an IDP.

- The Bill places a great deal of responsibility on school governors. Children in Wales is concerned that governors will not have the expertise in ALN, particularly in relation to low incidence needs. Failure to identify lower incidence needs, such as deafness, could prevent governing bodies from passing a case on to a local authority. It is therefore important that they receive training on ALN and the IDP process.
- The Additional Learning Need Coordinators (ALNCOs) also have a prominent role in the new system and need to have a basic understanding of specific disabilities as well as the IDP systems and structures to ensure that they can provide training, mentoring and capacity building to other staff. It is essential that ALNCOs have designated time to fulfil their role.
- Given the potential difficulties around capacity to deliver the system for all staff, section 56 of the Bill would benefit from a clause promoting forward planning mechanisms in local authorities.
- Initial teacher training must include an increased focus on children with additional learning needs as well as including training on person centred planning.

A 0–25 system

Children in Wales welcomes that The Bill covers children from birth to 25 years of age. However in its current format, we are concerned that the Bill does not deliver on a genuine 0–25 system.

Early Years

Children in Wales remains concerned by the lack of detail in the Bill about how the system will deliver for families in relation to the early years. 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 significant inequalities. Consideration must be given in relation to

the impact of the legislation on pre-school playgroups and childminder provision.

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 support from health professionals including health visitors and GPs who are the main universal professional contact for families in the early years. Children in Wales therefore recommends that it is important to raise awareness of the new ALN systems among these professionals and that education services and health child and development teams form positive working relationships.

Post 16

Children in Wales notes that Further Education Institutions (FEIs) 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 the Local Authority revenue support grant, many young people with complex needs will attend FEIs rather than accessing residential placements. Children in Wales recommends that further clarity is provided within the Bill on how FEIs can be supported under the new system.

Children in Wales is disappointed that the Bill does not include those young people who are on training placements work based learning or apprenticeship schemes which reflects the options available to other young people above compulsory school age.

Advocacy

Children in Wales welcomes the provision within the Bill for children and young people with ALN to have access to an independent advocate. However, it will be important that all children, parents and young people with ALN are informed and regularly reminded of the entitlement to independent advocacy from the start of the process and not just upon their request.

The Bill 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.' Children in Wales believes it is vital that the new ALN system does not disadvantage the children and young people, due to the challenge faced by parents of in navigating the system. We recommend that parents must be able to access advocacy support themselves.

Monitoring / Data Recording

Children in Wales recommends that ALN systems and structures form part of Estyn's core inspection of schools, FEIs and local authorities. Statistics on The Education Tribunal and local authorities Dispute Resolution Services cases should be reported to the Welsh Government so that any areas where there may be recurrent issues of a similar nature are identified and addressed.

Children in Wales notes that much responsibility is placed on schools within this Bill. It is important however that local authorities retain a degree of responsibility for monitoring schools and ensuring that they are delivering their duties effectively.

About Us

National Deaf Children's Society (NDCS) Cymru is the national charity dedicated to creating a world without barriers for deaf children and young people.

We represent the interests and campaign for the rights of all deaf children and young people from birth until they reach independence.

In referring to deaf, we refer to all levels of hearing loss including mild to profound, unilateral and temporary.

Response

The Bill will affect deaf children and young people across the nation. We welcome many aspects of the Bill and acknowledge that some steps forward have been taken.

However, many of the concerns we have previously highlighted and recommendations made by the former Children, Young People and Education Committee have not been fully addressed in this iteration of the Bill.

Our response has been arranged around the headings provided within the Committee's consultation letter.

Whether the Welsh Government's three overarching objectives are the right objectives and if the Bill is sufficient to meet these

NDCS Cymru has always welcomed the overarching objectives of the reforms. However, as detailed within this response, we are concerned that the draft Bill does not fully and adequately deliver on any of these important objectives.

Whether the Welsh Government's ten core aims for the Bill are the right aims to have and if the Bill is sufficient to achieve these

NDCS Cymru does not object to any of the core aims. However, as above, we are concerned that the Bill will not sufficiently deliver on these intended aims.

Any potential barriers to the implementation of the key provisions

NDCS Cymru considers that the main barrier to effective implementation of the key provisions is lack of awareness among professionals. In particular, the following training is required:

- Awareness raising among key multi-agency professionals so that they are able to competently make relevant referrals for an IDP. This includes health visitors, GPs, early years providers and audiologists.
- Training on ALN and the IDP process is required of school governors. Much responsibility is placed upon these individuals who are essentially volunteers and may have no experience of ALN.
- Training is required to ensure that those conducting IDP assessments are able to effectively deliver “Person-Centred Practice”.
- Given the prominent role they are to play in the new process, ALNCos must have a good understanding of the IDP systems and structures, but also a basic understanding of specific disabilities, including deafness. We would welcome the opportunity to work with the Welsh Government in this regard.
- Training for frontline education staff is essential to ensure the new systems operate effectively. Indeed, in its pre-legislative scrutiny, the former Children, Young People and Education Committee stated: *“It is essential that the new arrangements for ITT and CPD fully take account of proposals for ALN and enable the education workforce to acquire and develop the skills required to deliver the new system effectively.”*

In spite of this, draft Welsh Government documents on Initial Teacher Education (ITE) accreditation (January 2017) are not sufficiently robust to ensure that ITE providers cover detailed information on ALN, the IDP process and basic awareness training in specific disabilities such as deafness. Ensuring that such training is in place within ITE would assist with the long-term delivery of the reformed process.

NDCS Cymru is also aware that many local authorities have developed their own IDP templates and processes. These templates vary in format, detail and quality. We deem this to be unacceptable and a barrier to the satisfactory implementation of a transformed system. It is imperative that, in delivering the new transformed system, clear directives are given to local authorities in order to avoid further confusion.

Whether there are any unintended consequences arising from the Bill

NDCS Cymru has many concerns in relation to unintended consequences of the Bill:

- NDCS Cymru strongly believes in the need for a single national statutory template for an IDP. Without such a template, we consider that the Bill will not be able to deliver on many of its core aims. A statutory template is imperative to ensure consistency, transparency and legal enforceability. With the potential for local authorities – and even schools – to develop their own IDPs, there could be a multitude of templates in use which would not assist with multiagency working.

NDCS Cymru would welcome the opportunity to be involved in discussions around the development of such a template. NDCS Cymru is a member of TSANA (Third Sector Additional Needs Alliance), which has produced a list of key sections that should be included within a template IDP.

- We acknowledge the importance of learners with ALN being able to participate in all school activities. However, section 46 (1) fails to acknowledge that discreet provision and activities for learners with ALN can be equally important, as is the case for many deaf pupils in Wales who attend hearing impaired resource bases within mainstream schools. Such bases enable learners to benefit from specialist staff as well as the peer support of other hearing impaired pupils, whilst still being able to participate in wider school life.
- We are concerned that the descriptors within section 50 (6) of the Bill may not cover key institutions such as Mary Hare School and Exeter Royal

Academy for Deaf Education, which deaf pupils from Wales currently attend. We seek clarity on this point.

- Following concerns that the last iteration of the Bill did not address issues around mental capacity, the latest draft contains more information around mental capacity of learners and families to make decisions and to contribute to the IDP process. However, the definition on Section 75 (8a) is problematic. It implies that a person is deemed to lack mental capacity if they do not understand the materials presented to them. **The definition does not allow for the fact that materials should be adapted to plain language and meet any access or communication needs.** If this clause is not amended accordingly, it provides a loophole enabling involvement of families to be easily dismissed.
- The Bill places much emphasis on the need for a young person to consent to entering the IDP process. In theory this is fine, but in practice, statutory guidance is required to ensure that young people are **appropriately and fully informed** before declining an IDP. This is a particular concern for the young deaf population, as many young deaf people may not wish to be labelled “deaf”.
- Urgent clarification is needed over whether section 62 (4) relates to local authorities paying for advocacy services. It is important that these services are free of charge for families.
- The Bill places great responsibilities on school governing bodies to determine learners’ needs and to decide which cases require consideration by a local authority. NDCS Cymru is concerned that governors will not have the expertise in ALN, but especially in low incidence needs. This presents a danger for lower incidence needs, such as deafness, where a general lack of awareness could prevent governing bodies from passing a case on to a local authority.

In order to safeguard against this, NDCS Cymru is calling for clarity within the Code of Practice that deafness constitutes a low incidence need and requires school governing bodies to pass cases onto local authorities. We have also been calling for a deaf specific provision pathway to clarify the assessment of deaf learners. We are pleased that the Welsh Government

has taken our calls for a provision pathway on board and NDCS Cymru wishes to be consulted on the development of this important document. We are also keen to ensure that provision pathways are placed on a statutory footing, so that the guidance receives the attention it requires.

NDCS Cymru also seeks clarification that by placing the emphasis of the duty on governing bodies of schools and FEIs, the development of IDPs will not be subjected to time-delays related to governor meetings.

- NDCS Cymru would question the emphasis placed on the efficient use of resources in Section 46 (2c) of the Bill.
- Section 20 (1) refers to the need to include parents in the IDP process for cases concerning children. However, the inclusion of parents (or at least a case friend or advocate) can be important for a young person too, if they consent to this or if they lack mental capacity to engage in the system.

The appropriateness of the powers in the Bill for the Welsh Ministers to make subordinate legislation

- The Bill enables the Welsh Government to put in place a national statutory template for an IDP, but **only** if it chooses to do so. As outlined elsewhere in this response, we feel this must be amended to ensure that a national statutory template is in place. This is fundamental to the transparency, portability and legal accountability of the IDP.
- There is **no** clause within the Bill to enable the Welsh Government to make statutory national guidelines on advocacy services. We feel that such national guidelines are imperative in order to secure consistency and quality assurance in these vital services. Without the existence of such key statutory guidelines, we believe the reforms will not deliver on many of the Welsh Government's ten core aims (i.e. Increased participation of children and young people; A simpler and less adversarial system; Increased collaboration; Avoiding disagreements and earlier disagreement resolution and Clear and consistent rights of appeal.)
- The Bill makes changes to the present system for registering independent schools. In removing section 347 in favour of a single section 160

application to register a special school/FEI, the ability for the Government to set regulations is lost. Current corresponding regulations refer to the qualifications of teachers employed to support pupils with a hearing impairment, visual impairment or a multi-sensory impairment (see *The Education (SEN) (Approval of Independent Schools) Regulations 1994, Schedule 1 part 2 – 4.*) As such, we are disappointed that regulations placed on registering independent schools are to be lost.

- NDCS Cymru has long called for “disability specific provision pathways” to help ensure that frontline staff who have little or no awareness of specific disabilities are able to identify which professionals and assessments are required for a learner’s IDP. The Welsh Government has recently tendered for the development of such a pathway for sensory impairments. This is a great step forward. However, in order to ensure that such a pathway is effective it is imperative that the third sector are consulted on the development of the document and that the provision pathways have a statutory footing.
- Section 5 (1) of the Bill outlines those that must be consulted before making changes to the Code of Practice. NDCS Cymru would urge that consultation with third sector organisations and families is also imperative.

The provisions for collaboration and multi-agency working, and to what extent these are adequate

Provisions to encourage multi-agency working within the Bill are weak and inadequate.

The Welsh Government had initially planned for the reformed ALN system to strengthen collaboration with health, but NDCS Cymru considers that this Bill does not deliver on this aim. In particular:

- The Bill states that once an IDP outlines that a service is to be provided by a health body, the local authority/governing body loses responsibility for it (section 19 (4)). The Tribunal has no jurisdiction over health (section 19 (7) and (8)), so essentially any provision named within an IDP loses legal enforceability. This represents a **backward step from current legislation**

and would be a particular problem for speech and language therapy, a service that is especially important to many deaf learners.

- 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. NDCS Cymru seeks assurances that:
 1. This new role will not detract from the importance of frontline staff and specialists in assessment and identification of need. There is a risk, particularly for lower incidence needs such as deafness, that support needs could be poorly understood by a person in a generic role spanning a range of additional learning needs.
 2. The DECLO does not have to approve every decision. It is imperative that the role does not become a barrier to timely health participation in an IDP by over-reliance on one individual.
 3. A detailed person specification, job description and dedicated time for the role are provided.
 4. Larger health boards/populations should consider the appointment of more than one DECLO.
- 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.
- In the 2015 consultation, many people raised concerns about the tribunal's lack of power over health matters. However, this issue remains

in this iteration of the Bill. NDCS Cymru recommends that consideration is given as to whether the Education Tribunal Wales could consider health matters.

- NDCS Cymru 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](#)).

Aside from collaboration with health, the Bill should also be strengthened in relation to other multi-agency relationships:

- More detail on collaboration between agencies at transition is required. As an example, regulations highlighted at section 34 (2) do not cover the co-ordination of services to ensure smooth transitions between settings. Greater detail is needed within the Bill to ensure that appropriate bodies from early year and post-16 settings work with local authorities.
- Section 11 (2e) highlights that a local authority does not have a responsibility to assess a potential ALN case brought to its attention if the learner is already enrolled at an FEI. However, this clause should be accompanied by a duty for the local authority to signpost the case on to the relevant FEI.
- Section 16 (2c) of the Bill appears to absolve local authorities of the responsibility to consider an ALN referral for one of its looked after children if “the child is in the area of a local authority in England”.

However, in this case, there should be a responsibility to alert the English authority to the need to assess whether the child requires an ECHP.

- The relationship between the Bill and the Social Services and Wellbeing Act would benefit from clarification.

Whether there is enough clarity about the process for developing and maintaining IDPs and whose responsibility this will be

NDCS Cymru considers that greater clarity on the process for developing and maintaining IDPs is imperative. Without such clarity, we are concerned that the reformed system will fail. In particular, we would draw the Committee's attention to the following:

- The development of a **national statutory template** for an IDP is essential to ensure that the process is clear. The existence of different templates across schools and local authorities would undermine the consistency and, as such, the IDP process would lack fundamental clarity.

It is also worth noting that Section 23 (b) enables the IDP to be included within another document. Whilst NDCS Cymru appreciates the importance of ensuring relevant plans are linked and attached to one another, it is imperative that the IDP document is not subsumed by a different plan altogether. This could result in a lack of transparency, clarity and indeed, legal protection of a learner's Additional Learning Provision.

- NDCS Cymru demands greater clarity on how the system will operate for learners within both the early years context and post-16 context.
- We are particularly concerned about young people who are in the process of applying for a college place. The system is structured so that local authorities will assume responsibility for IDPs where a young person is attending a sixth-form college or a specialist placement, but that an FEI will be responsible for funding a learner's support who attends a mainstream placement. A recent change to structures means that non-ring fenced funding for this support has been provided from the Welsh Government to local authorities within its Revenue Support Grant and to FEIs within general settlements. Measures must be in place to safeguard

against these learners being referred back and forth between FEIs and local authorities. In addition, for learners considering applying to specialist placements, clarity is required over who is responsible for the IDP while these decisions are being made.

- More detail is required to ensure that clear systems and structures are in place for learners who leave the education system, but return before they reach the age of 25.
- As identified elsewhere within this response, NDCS Cymru is particularly concerned that governing bodies require information on low incidence needs such as deafness to ensure that such cases are referred and assessed appropriately.
- The Bill mentions the need to name a school and boarding requirements in an IDP where a special placement is needed to meet a learner's need, but there is no mention of the need to outline transport needs. Transport needs must be met for learners attending provision away from home (see section 12 (7) and section 17 (6).)
- In deciding whether or not an IDP should be reviewed a governing body/local authority has to consider whether a child/young person's needs have changed (e.g. section 9 (3b)). A clearly defined process is required for making such decisions and families must have the opportunity to express their views within this process, as should professionals working with young people.
- It will be imperative that the final version of the Code of Practice includes clear and robust time limits to ensure that the IDP process works effectively.
- We recommend that section 10 (2) of the Bill clarifies that low incidence needs are also to be referred to a local authority.
- It is imperative that the Code of Practice clearly states the need for Teachers of the Deaf to be involved in developing/advising on IDP if a child is deaf.

- NDCS Cymru believes that in addition to those already outlined within section 21, a request to review a learner's IDP should also be able to be made by professionals working directly with the child. It is essential that this section of the Bill references the role of families and professionals within the review process. The Code of Practice must clearly detail procedures on how reviews are to operate to ensure that decisions are made following appropriate consultation.
- Section 23 allows for an IDP to be prepared, reviewed or revised at the same time as another document for a learner. While there are benefits to combining the timing of certain plans, it is important that this is only permitted to happen if it does not cause unreasonable delays in creating an IDP – a clause is required to this effect.
- A clear procedure is needed within the Code of Practice to outline processes for ceasing to maintain an IDP in order to ensure transparency.
- NDCS Cymru requests that the definition of ALP (section 3 (1)) would be clearer if school/FEI learners had the same definition as children aged under 3.
- Before directing governing bodies to prepare/maintain an IDP (Section 12 (2b)), NDCS Cymru believes the local authority must consider whether the school has the relevant expertise in the learner's needs to do so.

Whether the Bill will establish a genuinely 0–25 system

NDCS Cymru believes that one of the greatest merits of the new Bill is the concept of a system that reaches from birth to 25. Under the existing systems and structures, educational support in the early years is often overlooked, much to the detriment of the child's long-term educational development. In addition, the different systems for supporting learners at school and in post-16 education have led to a disjointed and confused experience for learners during a significant transitional time.

Unfortunately, in its current format, we are concerned that the Bill does not deliver on a genuine 0–25 system.

- Within its pre-legislative scrutiny letter to the then-Education and Skills Minister (December 2015), the former Committee stated that “early years collaboration is vital, but the draft Bill and Code are very vague on what this means and how it will work in practice.” Unfortunately this issue has not been addressed in this version of the Bill and there remains a lack of reference to the early year context throughout the Bill. Provision for under-3 is not detailed or linked to the variety of settings in which they might be accessing child-care and early learning. It is imperative that this issue is addressed.
- The Explanatory Memorandum states that the Bill will require maintained nurseries to follow the statutory Code of Practice, but that private nurseries will only have to pay regard to it. Many private nurseries across the country receive state funding to provide pre-school places on behalf of local authorities. Since these nurseries are in receipt of public funds to provide this service, they must be under the same statutory obligations as maintained nurseries. Otherwise, the quality of ALN provision for families within the same local authority could be subject to inequalities and post-code lotteries. It is also worth considering how the legislation will affect Meithrin operated nurseries.
- In addition, section 18 (2) seems to be saying by omission that a local authority could not refer a 0–5 year old to a NHS body to ask them to consider if there’s any health support from which the child’s learning might benefit. It is imperative that this is amended as health support in the early stages, particularly speech and language therapy and audiology for deaf children, can be essential in establishing the foundations of a child’s educational development.
- It will be fundamental that education services and health child and development teams form positive working relationships.
- Aside from provisions within the Bill, NDCS Cymru believes that raising awareness of the new ALN systems among health professionals will be essential to securing referrals for IDPs in the early years. Indeed, health

professionals such as a GP, audiologist or health visitor are likely to be the main point of professional contact for families of children with ALN in the early years.

Given that health visitors are the main universal professional contact for families in the early years, NDCS Cymru recommends that health visitors have a firm duty to engage with the new system.

- NDCS Cymru considers that more detail around how systems and structures will work within a post-16 context is also required. Indeed, a recent survey conducted by NDCS Cymru of FEIs in Wales revealed that current systems for supporting learners with ALN in FEIs vary across the nation. As such, a clear steer is required in the Code of Practice to secure a consistent approach to ALN across FEIs.
- There is an unresolved issue in relation the fact that FEIs have responsibility for IDP assessments where a young person will be attending mainstream college and a local authority where there will be a specialist placement. This divide is of little help in assisting a young person through the application process before placement decisions are made.
- Section 11 (2e) removes a local authority's responsibility for considering an ALN case referred to them where that young person is already enrolled at an FEI. However, this could hinder a young person who is struggling at a mainstream placement and wishes to consider other options.
- It is disappointing that the IDP will only be available to 16–25 year olds who are in further education. Despite widespread calls within the December 2015 consultation process, the Bill does not cover those undertaking work-based learning.
- Section 32 sets out when a local authority/ governing body responsibility to maintain an IDP ceases as the learner reaches the upper age limit. However, it is important that if local authorities and governing bodies do decide to cease an IDP at this point, measures are taken to prepare the learner.

- Sections 42 (4b) and 47 (2) refers to local authorities making specialist placements at schools but not at FEIs.
- At present the Bill does not cover learners in higher education. NDCS Cymru is aware that the Welsh Government is currently considering changes/restrictions to DSA. Should these changes go ahead, we urge that this point be reconsidered.

The capacity of the workforce to deliver the new arrangements

Undoubtedly capacity of the workforce is an issue in delivering the new arrangements. In particular:

- NDCS Cymru provided information to the Welsh Government's *Workforce planning of special educational needs (SEN) specialist services* and is pleased the Welsh Government has acknowledged that many Teachers of the Deaf across Wales are due to retire within the next few years. This is a serious issue that must be addressed. NDCS Cymru seeks a firm commitment from the Welsh Government to this end.
- Further consideration is required on access to specialist professionals within FEIs. A survey conducted by NDCS Cymru revealed that many FEIs in Wales do not employ specialists to support deaf learners.
- NDCS Cymru calls for the availability of Communication Support Workers in Wales with an appropriate British Sign Language level 3 qualification to be reviewed. This support is crucial for meeting the needs of deaf learners who use British Sign Language (BSL).
- Greater planning is also required to ensure that Welsh medium ALP is available where required. Section 56 (3a) requires local authorities to "have regard to the desirability of ensuring that additional learning provision is available in Welsh", but without greater work around more detailed Welsh in Education Strategic Plans and workforce planning, the availability of services in the family's preferred language will remain an issue.

- The Bill places a great deal of responsibility on school governors. The frequency of governor meetings could place restraints on a school's capacity and timely delivery of IDPs and decisions on ALN.
- Clarity is required on the need for low incidence needs, such as deafness to be passed on to local authorities. Holding such cases at school level will further restrict a school's capacity.
- The ALNCo will take on a great deal of responsibility within this reformed system. It is essential that those performing this role have appropriate and designated time.
- Given the potential difficulties around capacity, section 56 of the Bill would benefit from adding in clause around local authorities forward planning.

The proposed new arrangements for dispute resolution and avoidance

Advocacy and an awareness of rights are imperative if the new system is to work effectively for families. However, we are concerned that the Bill does not provide sufficient measures for an effective DRS and advocacy service. In particular, we have the following concerns:

- There is no clause in the Bill to allow for the Welsh Government to make statutory national guidelines on advocacy services. We feel that such national guidelines are imperative in order to secure national consistency and standards in these vital services.
- The Bill clearly states that any provision outlined in the IDP as provided by health will not be a legal responsibility of the local authority. Since the Tribunal will not have any jurisdiction over health matters, this means that families could face two different appeals/complaints systems within one IDP – the Education Tribunal Wales and Putting Things Right. This is confusing for families and contradicts the Welsh Government's core aim to develop "clear and consistent rights of appeal".
- The Bill does not mention advocacy services for parents – just young people. This is of great concern. It is imperative that the new ALN system

does not disadvantage young people born to parents less able to navigate the system.

- It is of great concern that, throughout the Bill, when LAs/governing bodies are required to inform families of key decisions (such as a decision to review, or cease to maintain an IDP), they are not also required to inform families of appeal rights and access to advocacy.
- Clarification is needed over whether section 63 (4) relates to local authorities paying for advocacy services. It is important that these services are free of charge for families.
- All information must be provided to families in plain language in a format that meets any communication/access requirements. This is not outlined in the Bill and is a glaring omission.
- Clarification is required on case friends. As an example, it seems that they are only available for young people who lack capacity, but NDCS Cymru believes they should also be available to young people who lack confidence.
- Section 29 of the Bill states that families should be notified of a proposal to review/cease to maintain an IDP. However, a firm procedure must also be in place to ensure that they can participate in discussions around such decisions.
- Within its pre-legislative scrutiny on the former Draft Bill (letter to the Minister for Education and Skills, December 2015), the Committee wrote that *“the Bill could be used to provide greater powers to the Tribunal in a number of specific areas, including: The ability to deal with persistent offenders and dealing with inaction after tribunal decisions; To promote more focussed multi-agency working; To offer a conciliation procedure following the tribunal decision; To be able to address failures or lack of compliance by health authorities.”*

NDCS Cymru is disappointed that these points have not been taken on board in the latest draft of the Bill.

- NDCS Cymru considers that rights to appeal to the Tribunal, as listed within Section 63 (2), should also include; failure to provide the provision in the plan; the objectives set; the nature of the assessment and whether it was conducted as person centred planning. Clarification is also required on whether appeals on accommodation or transport needs would be covered within the right to appeal on ALP. It is important that appeal rights on these needs are also included.
- The Bill (at section 69 or elsewhere) does not appear to provide the Tribunal with any powers to sanction should a body fail to comply with a tribunal order.
- NDCS Cymru strongly recommends that local authority Dispute resolution services and the Education Tribunal Wales be required to provide data to the Welsh Government on a regular basis. This would enable any recurring patterns of appeal and dispute cases within an authority to be identified and addressed.
- Given the particular vulnerability of looked after children, and the conflict of interest within the local authority's dual role as guardian and IDP co-ordinator, consideration should be given as to whether these learners are automatically appointed an advocate.
- NDCS Cymru notes that the Code of Practice is described as a document for professionals. We recommend that a Code of Practice for Families is also developed to help ensure families understand and are able to engage with the process. Indeed, current information provided by local authorities to families on the Statementing system varies in quality.
- NDCS Cymru seeks clarification on whether parents of young people will be able to take forward an appeal on their behalf.

Monitoring and Inspection

In addition to the points covered within the questions set by the Committee, NDCS Cymru also wanted to take this opportunity to highlight the importance of ensuring that appropriate measures are in place to ensure that the ALN

systems and structures are operating effectively. In particular, we would suggest the following:

- That section 56 of the Bill should include the need for local authorities to seek the views of families and learners on the sufficiency of provision when conducting its review. Indeed, [section 27\(3\) of the Children and Families Act 2014](#) places a firm need for local authorities in England to consult appropriately.
- We would also recommend that ALN systems and structures form part of Estyn's core inspection of schools, FEIs and local authorities.
- We also recommend that statistics on tribunal and DRS cases should be reported to the Welsh Government so that any areas where there may be recurrent issues of a similar nature are identified and acted on.
- Much responsibility is placed on schools within this Bill. NDCS Cymru believes it is important that local authorities retain some level of responsibility for monitoring schools and ensuring that they are delivering their duties effectively.

Document is Restricted

Agenda Item 6.1

Kirsty Williams AM
Ysgrifennydd y Cabinet dros Addysg
Cabinet Secretary for Education



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref: MA–(P)/KW/0988/17

Lynne Neagle AM
Chair
Children, Young People & Education Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

14 March 2017

Dear Lynne,

Thank you for your letter dated 21 February. I would like to thank the Children, Young People and Education Committee for their work reviewing Estyn's Annual Report 2015/16 and Teachers' Professional Learning and Education.

The Committee has requested an update on Key Stage 4 Performance Measures. We have made some initial changes. The reduction in emphasis on the revised Capped Points Score as the headline indicator will result in a greater variety for pupils in terms of programmes of study. The decision to reduce the focus of the Capped Point score, but to retain it alongside other measures such as the Level 2 inclusive, as part of a whole range of performance measures, will enable us to maintain a better perspective on pupil attainment. It will also give us some insight into achievement of higher level awards, above those currently indicated by the threshold measures alone.

However I have concerns with the current accountability system with issues on coherence, unintended consequences and the relationship between teaching assessments and accountability. These have been shared with us by head teachers.

I have announced a fundamental review of our accountability system which will be shaped by the teaching profession and other stakeholders. I want an accountability system that is:

- Fair – so that we promote equity, inclusion, choice, individual pathways to learning and never losing sight of the children
- Coherent – to allow each part of the system to work together without overlapping, with clear roles and responsibilities

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1NA

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400
Correspondence.Kirsty.Williams@gov.wales

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.

- Proportionate – ensuring that the implementation of the new system and process is manageable and makes a difference and subsidiarity allowing responsibility for accountability for schools to be local, led by self-aware schools
- Transparent – recognising the breadth of learning experience across schools and the value added by teachers in class
- And a system based on our shared values for Welsh education – advocating and helping to realise the four purposes of education described in Successful Futures.

This review will result in a system that has clear roles and responsibilities, which promotes inclusion and equity, and recognises the value that is added by teachers in the classroom, across the system. Revised accountability processes and performance indicators will provide evidence for, and drive improvement in the attainment and progress of every learner.

I will provide progress updates to Assembly Members.

The committee also requested an update into teacher education incentives following the publication of the Teaching Tomorrow's Teachers. This is a key time for us to consider all aspects of teacher recruitment, retention and development and the incentives that are in place both to attract and retain quality teachers in Wales. As part of their wider work programme, supporting the implementation of Initial Teacher Education (ITE) reform in Wales, our ITE Expert Forum Chaired by Professor John Furlong will be reviewing aspects of teacher recruitment, retention and development.

I recently received an internal review on the operation of teaching incentives which I have referred to the ITE Expert Forum for consideration. I have agreed that the existing ITE financial incentives scheme will continue in 17/18. The Expert Forum will also review evidence of best practice for alternative routes into teaching, exploring in full their potential to support teacher recruitment and retention.

The new curriculum is now under construction in Wales and we will be rooting professional learning for all in the best practice available, building the future upon professional standards that inspire teachers to work together towards excellence – we need to continue to build our unique offer to attract the best into teaching and make it a life long career.

Yours sincerely



Kirsty Williams AM/AC
Ysgrifennydd y Cabinet dros Addysg
Cabinet Secretary for Education

Cynulliad Cenedlaethol Cymru | National Assembly for Wales
CYPE(5)–10–17 – Papur | Paper 7– i'w nodi | to note

1. A note clarifying the data on the proportion of schools in follow-up

Number of maintained schools that went into follow-up at the time of their core inspection							Inspections placed into SM/SI/EM categories at core inspection		% of total inspections placed into all follow up categories at core inspection
Year	Special measures	In need of significant improvement	Estyn monitoring	LA monitoring	Total in follow-up	Total number of inspections	Number	%	
2010-2011	4	10	51	40	105	279	65	23%	38%
2011-2012	7	14	75	37	133	266	96	36%	50%
2012-2013	11	14	75	34	134	265	100	38%	51%
2013-2014	8	14	98	62	182	279	120	43%	65%
2014-2015	12	20	71	68	171	274	103	38%	62%
2015-2016	9	9	61	61	140	223	79	35%	63%
<i>Source: Estyn's Follow up Database</i>									

For clarity, we have added columns to Figure 3.22 from HMCI's Annual Report for 2015-2016 to show the proportions that Mr Llyr Gruffydd referred to during Committee (see rightmost columns). The proportions for 2010-2011 were lower compared with the rest of the cycle. However, the data for 2010-2011 are anomalous. The reason for this is that Estyn introduced in-housing of school inspections in September 2010, but 2010-2011 was a transitional year, when half of inspections were still contracted out to independent inspectors. Since that year, the proportion of schools placed in the follow-up categories of special measures, significant improvement and Estyn monitoring have remained broadly constant – the total proportions for these categories being 36%, 38%, 43%, 38% and 35% for the last five years (a slight increase followed by a decline over the most recent years). It is these proportions that explain why we feel there is no significant increase in the level of follow-up, although the level itself is a cause for concern. For information, the local authority (LA) monitoring category has been discontinued during this present academic year (2016-2017). This is because this category was always intended as a reminder to LAs of their responsibility to monitor progress made by low-risk schools in addressing recommendations made during inspection – a role that they and regional consortia are now undertaking more effectively than in the past.

2. A note on community focused schools including examples of good practice of what makes a good community focused school.

The following summarises findings from inspections over the last five years in schools across Wales regarding partnership work between schools and their communities. Appendix 1 identifies best practice case studies that further illustrate the work of effective community-focused schools. Generally, schools place a high priority on developing and strengthening community links. Schools main purposes in establishing these links is to improve outcomes for pupils, particularly disadvantaged pupils, and also to provide services to the communities they serve. Schools that are successful in establishing effective community partnerships:

- Establish and implement a vision that places the school at the heart of the community
- Ensure the school has a welcoming ethos to all stakeholders, in particular parents and carers
- Create effective community engagement plans that focus on improving outcomes for pupils
- Use specific activities to improve educational outcomes and wellbeing, such as family learning projects and workshops to help parents know how best to help their children to improve key skills or in particular areas of the curriculum
- Engage with parents and carers of disadvantaged learners successfully to help them and their children to overcome barriers to learning and wellbeing
- Engage in 'Team around the family' approaches, using the pool of skills within the team to address the health, domestic and social welfare concerns of learners and their families
- Support pupils and their families well to engage with specialist services, for example when pupils have special educational needs. These often include educational psychologists, speech therapists and physiotherapists
- Identify specific challenges in their local areas and strengthen community links to tackle these. For example, raise attendance rates, improve behaviour, raise the level of parental support and reduce the incidence of vandalism
- Provide pupils with special educational needs with valuable opportunities to engage with their local communities to develop life skills
- Establish effective arrangements to provide care facilities before and after the school day, for example through breakfast club (usually primary schools)

The above approaches often have a positive impact on outcomes for pupils and for parents. These include:

- Improvements in pupil attendance
- Improved standards of behaviour
- Improved literacy and numeracy skills
- Improved parental capacity to support their child at school
- Improved relationships between parents and schools and between parents and their children
- Supporting parents to access education and employment to improve their family circumstances
- Supporting parents that are new to the country to find a 'place' in the community support their children successfully
- Enable parents to work in the knowledge that their children are well looked after before and after school

Estyn has produced several reports on pupil deprivation. The main findings of these reports are summarised in 'Pupil Deprivation' (Estyn, May 2014), which is available at:

<https://www.estyn.gov.wales/sites/default/files/documents/Pupil%20deprivation.pdf>

<https://www.estyn.gov.wales/sites/default/files/documents/Pupil%20deprivation%20cy.pdf>

The report notes that schools alone cannot break the link between disadvantage and achievement. Although the school has an important role to play in improving the achievements of disadvantaged learners, research stresses the need for broad-based approaches that involve a number of agencies working together to address community-based issues. In addition to the school, these include other educational, social and health services.

Some of the multi-agency strategies used by schools for this purpose are summarised in the following diagram from the report:

Ten multi-agency strategies:

Community leadership

Nurture groups

Team around
the family –
support for
vulnerable pupils

Family learning

Pooling resources
and use of Pupil
Deprivation Grant

Ten in-school strategies:

- Whole-school approach
- Using data to identify and track progress
- Literacy and learning skills
- Social and emotional skills
- Attendance, punctuality and behaviour
- Tailoring the curriculum
- Enriching experiences
- Listening to learners
- Engaging parents
- Developing staff expertise

Parenting
programmes

On-site
services

Community
participation

Out of school
hours learning

Evaluation

Appendix 1

Name of School	Case Study/inspection report	Link
Cefn Hengoed Community School, Swansea	A holistic approach to improving attendance	https://www.estyn.gov.wales/best-practice/holistic-approach-improving-attendance
Treorchy Comprehensive School	3.3 Partnership working	https://www.estyn.gov.wales/sites/default/files/documents/Treorchy%20Comprehensive%20School.pdf
Tredegaville Primary School, Cardiff	Effective partnerships that engage children and enrich the curriculum	https://www.estyn.gov.wales/best-practice/effective-partnerships-engage-children-and-enrich-curriculum
Ysgol Gynradd Gymraeg y Castell, Caerphilly	Improving outcomes for pupils receiving free school meals	https://www.estyn.gov.wales/best-practice/improving-outcomes-pupils-receiving-free-school-meals
Monkton Priory CP School, Pembrokeshire	Supporting adult learning and skills acquisition	https://www.estyn.gov.wales/best-practice/supporting-adult-learning-and-skills-acquisition
Ysgol Maesglas, Flintshire	Building partnerships with families	https://www.estyn.gov.wales/best-practice/building-partnerships-families
St Helen's Primary School, Swansea	Engaging with parents to improve pupil attendance	https://www.estyn.gov.wales/best-practice/engaging-parents-improve-pupil-attendance-0

Garnteg Primary School, Torfaen	Working in partnership with parents to raise learner literacy and numeracy	https://www.estyn.gov.wales/best-practice/working-partnership-parents-raise-learner-literacy-and-numeracy
Severn Primary School, Cardiff	Finding new ways to widen pupils' experiences	https://www.estyn.gov.wales/best-practice/finding-new-ways-widen-pupils%E2%80%99-experiences
Wrexham early years centre, Wrexham	Engaging and supporting parents and families	https://www.estyn.gov.wales/best-practice/engaging-and-supporting-parents-and-families

More case studies are available at www.estyn.gov.wales

Further reading

Leadership and primary school improvement – September 2016

<https://www.estyn.gov.wales/thematic-reports/leadership-and-primary-school-improvement>

Best practice in leadership development in schools - June 2015

<https://www.estyn.gov.wales/thematic-reports/best-practice-leadership-development-schools-june-2015>

Twelve secondary school improvement journeys - December 2013

<https://www.estyn.gov.wales/thematic-reports/twelve-secondary-school-improvement-journeys-december-2013>

Working together to tackle the impact of poverty on educational achievement - December 2013

<https://www.estyn.gov.wales/thematic-reports/working-together-tackle-impact-poverty-educational-achievement-december-2013>

Effective practice in tackling poverty and disadvantage in schools - November 2012

<https://www.estyn.gov.wales/thematic-reports/effective-practice-tackling-poverty-and-disadvantage-schools-november-2012>

Tackling poverty and disadvantage in schools: working with the community and other services - July 2011

<https://www.estyn.gov.wales/thematic-reports/tackling-poverty-and-disadvantage-schools-working-community-and-other-services-july>