

Children, Young People and Education Committee
Welsh Parliament
Cardiff Bay
Cardiff
CF99 1SN

Dear Chair,

Thank you for the opportunity to provide evidence as part of a 'check in' in your inquiry into the implementation of the Curriculum for Wales and the new Additional Learning Needs (ALN) system. The following response was prepared on behalf of the seven Health Boards by the four Designated Education Clinical Lead Officers (DECLOs) and has been submitted by the Welsh NHS Confederation.

Question 1

We would be grateful for your perspective on the extent to which the new ALN system has brought about the intended improvements to joint working between schools, local authorities and the NHS. For example, how much of a difference is the statutory DECLO role making on the ground?

There has been a long and positive history of joint working between a range of NHS health services, education settings and Local Authorities prior to the advent of the Additional Learning Needs and Education Tribunal Act (ALNET) and the introduction of the DECLO role. This is evident in the range of services providing interventions in education settings including therapy, nursing, psychology as well as medical services. In addition, some Local Authorities and education settings have commissioned services from NHS Wales to provide enhanced partnership working. Without question, the ALN Transformation Programme and the implementation of the ALNET Act has brought a renewed energy and shared commitment to further improve collaborative working. Health Boards and their partner Local Authorities have remodelled existing processes and developed new approaches to meet the statutory requirements of the ALNET Act and to support its underpinning principles.

There are four DECLOs in post covering the seven Health Boards in Wales. The appointments of the majority of the DECLOs during the winter of 2020-2021, meant that they joined part-way through the ALN Transformation Programme (2018 –2022). The implementation of the ALNET Act started in September 2021.

The DECLO post is a strategic role. Each DECLO has strong links with multiagency groups at a strategic level (with variation across Wales due to differing local structures). DECLOs are often members of relevant sub-groups of the Regional Partnership Boards in addition to being integral members of well-established Regional ALN Strategic Groups (involving Health Boards, Local Authorities and Further Education Institutes). The Regional ALN Strategic Groups have functioned as one of the mechanisms for joint working under the ALNET Act with 'flow through' to groups supporting operational delivery.

Due to the strategic nature of the DECLO role, the DECLO is not directly involved in operational matters 'on the ground'. However, DECLOs have built upon existing approaches to establish processes through which Health Board operational services collaborate with education partners under the ALNET Act. They have also worked hard to be visible to education settings via a range of means including attendance at ALNCO and Special School

fora, visits to individual education settings, delivering training, supporting contact with services, and presenting at education conferences. In addition, DECLOs serve as a central point of contact for education colleagues within their respective Health Boards, channelling enquiries to the relevant service/department/speciality and supporting joint problem solving. Whilst the aim is to build upon DECLO interaction and visibility to education settings as part of their role, any work of this nature must be framed within a context of size and scale. The ratio of DECLOs to Local Authority-maintained schools is approximately 1:365 (based on 1463 Local Authority maintained schools in Wales as sourced via the Schools' census result: January 2023 (revised)). Since their appointment, the DECLOs have received feedback from a variety of sources highlighting the value of the DECLO as a point of contact and support for developing joint solutions between Education and Health Boards, facilitating improved collaboration.

As mentioned above, joint working between Education and Health Boards has a long history for all learners who have a health need, regardless of whether they have ALN. With the facilitation, co-ordination and oversight of the DECLOs, operational NHS services are building upon this good collaborative working under the ALNET Act. However, it needs to be recognised that their endeavours in this area have been impacted by the legacy of the pandemic. Many services now have long waiting times which they did not previously have; increased referral rates; and Health Boards face severe financial pressures requiring services to deliver cost improvement plans despite waiting time challenges, increased demand and the new requirements of the ALNET Act.

In relation to the ALNET Act, a particular and growing demand on services is attendance at person-centred meetings (PCMs) to either support the identification of ALN and the subsequent development of an IDP, or for the review of the IDP. This has the greatest impact on children's therapy services. While attending PCMs is not a statutory requirement for Health Board staff under the ALNET Act, in practice attendance is often vital to ensure a truly joined-up and person-centred approach to meeting a child or young person's additional learning needs. The value of such meetings in supporting better outcomes and better experiences for children, young people and their families is becoming increasingly clear. However, this places an additional demand on stretched NHS services that needs to be recognised. Preliminary evidence from one Health Board in Wales, based upon the number of PCM invitations received by one service during the academic year 2021-2022, showed that 465 clinic appointments would have been lost if all PCMs had been attended. It should be noted that whilst invitations to annual reviews under the previous SEN legislation were for a proportion of the 2-3% of statemented pupils (i.e. those with significant healthcare needs), the percentage of pupils with ALN is likely to be close to 15%, with a significant proportion of these having healthcare needs that are relevant to their ALN. This is based on recent data showing that 13.5% of pupils currently have either SEN or ALN (Schools' census result: January 2023 (revised), published 16/08/2023).

To re-iterate: the benefits of NHS professionals' participation in these meetings to support children and young people getting to their person-centred outcomes is becoming increasingly clear. Positive feedback regarding the involvement of NHS professionals in PCMs has been received from NHS professionals, education partners and children and their families. However, it needs to be recognised that operational NHS services are required to manage this additional demand within existing resources, requiring difficult decisions to be made about the relative prioritisation of effective collaborative working through the ALNET Act and the provision of clinical services to children and young people.

Question 2

We would be grateful for your perspective on the extent to which NHS bodies are fully complying with their statutory duties to secure provision where they consider it is likely to be of benefit, and to provide information and help in the process of assessing learners' needs and identifying suitable provision.

Statutory duties for Health Boards under the ALNET Act include the duty to comply with section 65 requests from Local Authorities and the duty to respond to section 20 referrals from Local Authorities and Further Education Institutes. There are no statutory duties for Health Boards in relation to section 65 requests made by education settings, and section 20 referrals cannot be made by schools. This, however, is not always understood by all stakeholders, as evidenced via feedback received. This can lead to misalignment of expectations.

To address the question above, the response has been broken down into two parts, firstly addressing statutory requirements under section 20 of the Act before turning to requirements under Section 65. Some final thoughts are offered in closing.

Securing of NHS ALP and identifying suitable provision (section 20 of the ALNET Act):

Health Boards have a statutory duty to respond to referrals from Local Authorities under section 20 of the Act requesting them to consider whether there is a relevant treatment or service that is likely to be of benefit in addressing a child or young person's ALN. The DECLOs, in collaboration with Education partners, have developed a national approach to what constitutes NHS ALP and how this is captured within IDPs. Any NHS Additional Learning Provision identified through a section 20 referral is a treatment or service that the NHS would normally provide as part of the comprehensive Health service in Wales in accordance with the NHS (Wales) Act 2006 (c42). The statutory duty on Health Boards to secure the relevant identified treatment or service becomes active once the final IDP is issued. Based upon the evidence available, the number of section 20 referrals received from Local Authorities varies significantly between Health Boards across Wales. Evidence that is available demonstrates that section 20 referrals are responded to in most cases within the statutory six-week timeframe and that NHS ALP is secured, unless exceptional circumstances apply. However, it should be noted that there are currently some gaps in the data that is available, for reasons that are outlined below (Final Remarks).

It should be noted that most learners in the ALN system have IDPs that are maintained by education settings, not the Local Authorities. As mentioned earlier, schools are not able to make section 20 referrals under the ALNET Act. This has resulted in different approaches across Wales leading to inconsistencies nationally as to whether learners have NHS ALP identified within their IDP or not. The DECLOs have escalated this issue to Welsh Government to support a nationally consistent approach.

Providing information and help (section 65 of ALNET Act)

Health Boards have a statutory duty to respond within 6 weeks to requests for information or help received from Local Authorities under section 65 of the ALNET Act. Whilst Health Boards do not have a statutory duty to respond to requests for information made by education settings, education settings may also request information, and evidence available indicates that Health Boards respond in most cases. Based upon feedback, some education

settings believe that Health Boards are required to respond in accordance with the same statutory timeframe as if the request had been made by the Local Authority. This perception can lead to a misalignment of expectations. Over the past two years, DECLOs have worked with education to ensure that section 65 requests are relevant and focussed to support more meaningful responses.

Based on evidence available, compliance with the six-week statutory response timeframe for section 65 requests from Local Authorities is relatively high, but there are variances across the Health Boards. Compliance with the six-week statutory response requirement has improved since the start of the implementation of the ALNET Act and the DECLOs expect further improvement as processes continue to be embedded. As with section 20 referrals, there are gaps in the data that is available, for reasons outlined below (see Final Remarks below).

The 12-week period afforded to Local Authorities for their decision making and the 6-week timeframe for the Health Board to respond to a section 65 request for information, potentially followed by a 6-week timeframe to respond to a section 20 referral, are not aligned. This can lead to an expectation on Health Boards to respond earlier than the six-week timeframe which is not always possible and may lead to Local Authorities to issue the IDP in the absence of information from the Health Boards.

Final remarks

The initial implementation of the ALN Act has stimulated considerable and positive collaborative work as Health and Education partners have strived to deliver on the strategic intentions and operational requirements of the ALN Act. Key principles of collaboration, person-centred practice, early identification of need and early help, and supporting a bilingual system have underpinned this work. Alongside this, it needs to be recognised that under the ALNET Act additional demands and expectations are being placed upon Health services, which will grow as implementation continues. The impact of these additional requirements is especially challenging in the post-pandemic context. Whilst some financial support was provided to Health Boards as part of the Additional Learning Needs Transformation Programme (2018 –2022), prior to its launch it was considered that the implementation of the ALNET Act would ultimately be resource-neutral for NHS Wales. Growing evidence demonstrates that this is not the case and that the implementation of the ALNET Act will place new and additional demands on Health Boards that they have not been resourced to meet.

While all Health Boards have established internal assurance processes, to date there has been no requirement for Health Boards to externally report on compliance with their statutory duties under the ALNET Act. In most parts of Wales, there have been challenges in establishing the informatics and staffing infrastructure that is needed to enable reliable data capture regarding compliance. The DECLOs and Welsh Government are currently collaborating to develop a national assurance framework with key performance indicators and associated data definitions. Infrastructural challenges noted above will need to be escalated and addressed as part of this work. Once completed, this will enable consistent, regular and reliable reporting regarding Health Boards' statutory activity and will thus provide assurance regarding Health Boards' compliance with their legal duties under the ALNET Act.