



Ein cyf/Our ref MA-L/ARD/0420/17

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Dear Lynne,

## **ADDITIONAL LEARNING NEEDS AND EDUCATION TRIBUNAL (WALES) BILL**

Further to my letter of 7 June, I would like to thank the Children, Young People and Education Committee once again for its comprehensive scrutiny of the Additional Learning Needs and Education Tribunal (Wales) Bill during Stage 1 of the legislative process. I am delighted that the general principles of the Bill have been agreed and I thank the Committee for its recommendation in this regard.

During the general principles debate on 6 June and in my earlier letter, I signalled my intention to write to you with a detailed response to each of the 48 recommendations made in the Committee's report. This response is provided below; it is based on careful and detailed consideration and reflects my current position on the key issues. It will, of course, be subject to further discussions to be held throughout the remainder of this term, work to be carried out over the summer recess, and further scrutiny of the Bill at Stage 2.

The response to each recommendation sets out whether I accept or accept in principle (subject to further consideration and discussion) the recommendation. Where I do not accept a recommendation I have set out my rationale for that decision. In a small number of cases I am still considering a recommendation and have yet to decide whether or not it can be accepted. I have also indicated, where relevant, where accepting a recommendation will require amendment to the Bill.

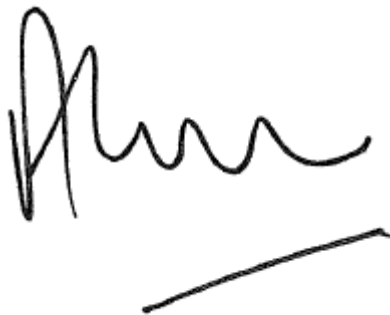
As you will see, I am accepting or accepting in principle the vast majority of the recommendations. Indeed, a number of the key issues raised in your report align with Government amendments already tabled. I intend to address other

recommendations via amendments to be tabled in subsequent tranches before the tabling window for Stage 2 Government amendments closes on 25 September.

I hope you agree this information demonstrates my commitment to listening and to working collaboratively to deliver an effective piece of legislation that will genuinely improve the lives of children and young people. I look forward to continuing to work with Members as the Bill progresses through the Assembly process.

I will also be writing to the Chairs of the Finance Committee and the Constitutional and Legislative Affairs Committee with regard to their Stage 1 reports. I am copying each of the letters to all three Committee Chairs.

Your ever,

A handwritten signature in black ink, appearing to read 'Alun', with a horizontal line underneath it.

**Alun Davies AC/AM**  
Gweinidog y Gymraeg a Dysgu Gydol Oes  
Minister for Lifelong Learning and Welsh Language

## **Welsh Government's response to the Children, Young People and Education Committee's Stage 1 report on the Additional Learning Needs and Education Tribunal (Wales) Bill**

### **Recommendation 1**

*That the Assembly agrees the general principles of the Additional Learning Needs and Education Tribunal (Wales) Bill.*

I am grateful that the Committee was able to recommend that the general principles of the Bill be agreed and that the Assembly voted in support on 6 June.

### **Recommendation 2**

*That the Minister provides regular updates to the Committee, and the Assembly as a whole, on the implementation of the wider ALN Transformation Programme.*

I **accept** this recommendation. It is my intention to provide the Committee with quarterly updates on our ambitious Transformation Programme, with the first formal update in September.

### **Recommendation 3**

*The Minister should ensure that the Additional Learning Needs Code clarifies that:-*

- a. a child is not required to have a significantly greater difficulty in all areas of their learning to fall within Section 2 (2) (a) of the Bill; and*
- b. in the context of children under compulsory school age, the reference to 'learning' in section 2(2)(a) of the Bill includes more informal types of learning, such as learning through play and social interaction.*

I **accept** this recommendation. The draft Code is already clear that learning should be interpreted in its widest sense and includes play and experimental learning, which are the basis of the Foundation Phase. We will review how this might be made even more explicit. I am also content to explore Estyn's suggestion that the Code makes clear that it is not necessary to have "significantly greater difficulty in all areas of learning" in order to have additional learning needs.

### **Recommendation 4**

*The definition of Additional Learning Needs on the face of the Bill should be amended to provide clarity that a person has additional learning needs where he or*

*she has a medical condition which causes them to have a significantly greater difficulty in learning than the majority of others of the same age, or the medical condition is a disability which prevents or hinders the pupil from making use of facilities for education or training of a kind generally provided for others of the same age, and such learning difficulty or disability calls for additional learning provision.*

I am still considering this recommendation.

Children and young people who have a medical condition, which contributes to an additional learning need, are entitled to additional learning provision under the new system. I am pleased the Committee has specifically recognised this in its report.

I am considering the benefits and risks of an amendment to the definition of additional learning needs in section 2 of the Bill to demonstrate its scope in relation to medical conditions. This is a fundamental section of the Bill and requires a full and careful consideration.

### **Recommendation 5**

*Section 4(4) of the Bill should be amended to require that the Additional Learning Needs Code stipulates timescales for undertaking assessments and preparing IDPs.*

I **accept** this recommendation.

It has always been our intention to use the Code to set out clear timescales for deciding on additional learning needs and preparing individual development plans. An amendment is being considered so that the Bill requires this. The draft Code sets out our current thinking on these timescales following engagement with practitioners.

### **Recommendation 6**

*The Minister should strengthen the Code to provide greater clarity on where the responsibility for Individual Development Plans lies. In particular, there should be more clarity over the circumstances when a local authority rather than the governing body is responsible for an IDP.*

I **accept** this recommendation. The balance of responsibilities around IDPs is a significant issue and getting it right is critical to the effective operation of the new system. I agree, therefore, that clear guidance in the Code is essential. The published draft Code has started to explore this but I recognise it can be strengthened. It is my view that arbitrary thresholds will not work and that flexibility is needed to reflect local contexts and ensure a truly person-centred approach. The IDP Expert Group, comprised of practitioners working in the field, is considering this issue and will advise on the development of the Code. Ultimately, professionals will need to make a call – based on their professional judgement and the particular circumstances – but they need clear guidance in the Code to inform that decision.

### **Recommendation 7**

*The Minister should consider further the lack of provision within the Bill for local authorities to direct FEIs.*

I **accept** this recommendation and will consider the issue further.

However, the relationships between authorities and schools and between authorities and colleges are different and that must be reflected and respected in the Bill. Given that FEIs are fully autonomous of local authorities it would not be appropriate for local authorities to direct FEIs. Any amendment to this effect would undermine the current arrangements. My consideration will therefore focus on potential alternative solutions to the issues identified by the Committee.

### **Recommendation 8**

*The Minister should clarify during the Stage 1 debate how and in what circumstances the Welsh Ministers might use their regulation making powers under section 34 of the Bill and/or intervention powers under section 57 of the Further and Higher Education Act 2002.*

This matter was not addressed during the General Principles debate, but I am happy to **accept** this recommendation by taking this opportunity to set out my thoughts on these matters.

My current thinking is that section 34 regulations are likely to include provision to enable responsibility for maintaining an IDP to transfer from a local authority to the governing body of an FEI in particular circumstances (which could involve both parties agreeing that responsibility should transfer).

With regard to section 57 of the Further and Higher Education Act 1992, the basis on which the Welsh Ministers can use their intervention powers are clear. In the context of ALN related issues under the system provided for in the Bill, we can use them where we are satisfied the FEI's governing body has:

- failed to discharge any duty imposed on them by this Bill; or
- acted or was proposing to act unreasonably with respect to the exercise of any power conferred or the performance of any duty imposed by this Bill.

Any intervention could include issuing a direction as to the exercise of the governing body's powers and performance of its duties. However, it would not be appropriate for me to comment on the precise circumstances in which we would exercise this power in the case of ALN related issues, as these matters are always judged on a case by case basis. It is worth noting though that the mere existence of such powers is usually enough to ensure that bodies act responsibly.

### **Recommendation 9**

*The Minister should explore the possibility of using grant funding conditions to ensure FEIs take responsibility for IDPs where that is considered appropriate.*

I **accept in principle** this recommendation.

The engagement we have had with colleges gives me every confidence they will take responsibility for plans where appropriate. However, we will consider further the options available to allay concerns and ensure the effective operation of this particular element of the new system.

### **Recommendation 10**

*Within 12 months of the full introduction of the new system, the Minister should review the level of IDPs that are, or become, the responsibility of a local authority, including the impact on the local authority's resources, to ensure that there is an appropriate balance in where responsibility for an IDP lies.*

I **accept** this recommendation. As is standard practice, a full post implementation review will take place in due course, but the impact of the Bill will be monitored on an ongoing basis ahead and alongside the formal review. This will enable us to make changes, where necessary, to the way the reforms are being implemented. We are currently laying the groundwork to ensure the review is informed and worthwhile, with a baseline study of the current SEN system currently underway. We also plan to undertake further research and collect data in the future that will enable us to track the impact of the Bill over time. I am grateful for the information provided by the Committee on this point, which will help to develop the scope and approach for the review.

### **Recommendation 11**

*The Minister should consider whether the Code needs to include more specific reference to the involvement of educational psychologists and whether the Bill or Code should be strengthened to place a duty on governing bodies of schools to seek the advice of an educational psychologist before referring a case to the local authority.*

I **accept** this recommendation in terms of the Code. In my view, it is not appropriate to use the Bill to describe the role of Educational Psychologists. I have been clear on the fundamental role Educational Psychologists will continue to play in the new system and that the mechanics of this should be set out in the Code. I am happy to consider what more can be done to strengthen the Code. I have met with the Association of Educational Psychologists to discuss this issue and we have agreed an approach to development of the Code.

### **Recommendation 12**

*The Minister should develop an all-Wales template for IDPs with a standardised format but allowing for personalised content.*

I **accept** this recommendation. I recognise that the majority of practitioners want a standard form and I am happy to agree to the calls for a national, mandatory individual development plan template. An amendment to the Bill is being considered

to require the Code to include a template or templates and place requirements on local authorities and governing bodies to use the appropriate one.

I have always been clear of the need for consistency and portability – my concern was that mandating a template might detract from the person-centred nature of plans and result in a tick-box exercise. With the input of the IDP Expert Group we are building on the suggested template included in the draft Code to develop template/s that recognise this and strike the right balance in different situations.

### **Recommendation 13**

*The Welsh Government should consider how travel needs of learners can be incorporated into an IDP.*

I am still considering this recommendation.

The provision of transport will be a key element in facilitating the participation in education of some children and young people with additional learning needs. Whilst the current legislation and guidance around learner travel is not the subject or focus of this Bill, I will explore how the Code can make the necessary links between the provision of transport and planning for the needs of learners under the new system.

### **Recommendation 14**

*The Minister should reconsider his approach with regard to qualifications for ALNCoS, and make it clear that going forward, a Master's qualification should be desirable and not required.*

I **accept** this recommendation. The ALNCo is a fundamental role within the new system. Our aim is for ALNCoS to provide leadership for additional learning needs within and across settings. A progression pathway that will allow study at post graduate certificate and diploma level, with the option of progressing to a masters level qualification is expected.

We have assured SENCoS that the pathway will be phased over a reasonable and feasible period. Detailed consideration of the issues is underway.

### **Recommendation 15**

*The Minister should consider whether it would be desirable for other qualifications and skillsets, of a similar level to Master's, to be considered as appropriate for an ALNCo.*

I **accept** this recommendation. One of my priorities is ensuring the existing experience and qualifications of practitioners are recognised and valued. The specific details are being worked on with practitioners and will be set out in the regulations, which will be consulted upon in due course.

### **Recommendation 16**

*The Minister should review the impact of the new ALNCo role on resources and capacity within 12 months of the full introduction of the new system.*

I **accept** this recommendation, in line with my response to Recommendation 10. The ALNCo role is central to our reforms and we will monitor its implementation as part of our planned post implementation review. This will provide us with the opportunity to make adjustments to implementation, if necessary. We will invest in the training of ALNCoS through the progression pathway to provide them with the skills and confidence to undertake their new role. The effectiveness of the training will also be assessed as part of the evaluation of the Bill to ensure continuous improvement of the pathway as the system is implemented.

### **Recommendation 17**

*The Minister should provide further explanation as to why special schools have been removed from the list of schools for which the duty to designate an ALNCo would apply.*

I **accept** this recommendation. We removed the requirement for special schools to have a coordinator following the draft Bill consultation and following discussions with special schools who, at the time, felt a duty was not necessary given the nature and set-up of special schools. The focus of special schools is entirely about supporting those with additional learning needs and so to have one designated coordinator felt unnecessary and inappropriate. I am open to reconsidering the issue, however, and have asked my officials to write to special schools to seek their views on the appetite for a statutory requirement for such schools to have an ALNCo.

### **Recommendation 18**

*The Code should provide clarity that assessments for ALN in respect of children under compulsory school age must take account of how infants develop, including learning through play, and their needs for stimulation, encouragement and social interaction.*

I **accept** this recommendation, in line with my response to Recommendation 3.

### **Recommendation 19**

*Section 57 of the Bill should be amended to place a duty on health bodies to bring to the attention of local authorities concerns they have that a child under compulsory school age has Additional Learning Needs.*

I **accept** this recommendation. An amendment to this effect is under consideration.

### **Recommendation 20**

*The Bill or the Code should provide a clear route for professionals working in early years settings to refer any concerns they have that a child in their care may have ALN. Local authorities should be required to consider any referrals in a similar way to how they respond to referrals from health bodies.*



I **accept** this recommendation. I recognise the general calls for a strengthening of the early years elements of the new system and have already tabled amendments in this area, including one to require local authorities to designate an “early years lead officer”. I am aware that similar roles exist in some authorities already, with responsibilities, for example, for managing referrals received by the authority, including from the NHS. My vision is for a greater focus on prevention and early intervention, with the existing good practice mainstreamed and made consistent across Wales. This new role will be key to delivering this. Practitioners are feeding into development of the role, which will be outlined in the Code in due course.

### **Recommendation 21**

*The ALN framework in the Bill should be extended to include work-based learning.*

I **do not accept** this recommendation. I recognise that we need to be more creative when it comes to the role of work based learning providers in the new system, but do not believe that is appropriate to extend the Bill to include them or for the Bill to place duties on employers.

It is important that IDPs incorporate aspirations for work and adult life and so the Code will place this as a mandatory feature for IDPs at an appropriate point. Work based learning providers have indicated that they would welcome the information the IDP contains, however this would be voluntary and subject to the agreement of the young person.

It is important to note that certain statutory duties already exist for employers (including employers of apprentices), for example under employment and disability legislation. Furthermore, when the student is enrolled in an FEI, they will fall within the scope of the Bill.

### **Recommendation 22**

*The Minister should work to ensure that weaknesses in collaboration within the current SEN system are not imported into the new ALN system.*

I **accept** this recommendation. It goes to the core of what the ALN transformations are seeking to achieve and will be the ultimate success factor.

### **Recommendation 23**

*The Minister should provide further clarity on the nature of the DECLO role, especially how they will work with other health professionals, including the new health co-ordinator role.*

I **accept** this recommendation. I agree greater clarity should be provided on the role of the DECLO and surrounding model, including the coordinator. I have written separately to the Committee with an update on thinking regarding the DECLO model, including the role of the health co-ordinator, and the related pilots. Whilst this is just the latest position, I hope that it provides the requested clarity.

#### **Recommendation 24**

*The Minister should provide further information on the role of a 'health co-ordinator' within the ALN Code, and within the revised Explanatory Memorandum following Stage 2, including detailed costs within the Regulatory Impact Assessment.*

I **accept** this recommendation. As noted above I have written to the Committee with further information on the DECLO model and pilots. I accept that the role of the health co-ordinator will need explaining in both the revised Explanatory Memorandum and the Code in due course. A full review of the Explanatory Memorandum, including the regulatory impact assessment, is underway with the emerging thinking around the DECLO model to be reflected in this.

#### **Recommendation 25**

*The Minister should provide a detailed outline of the DECLO pilots, as well as a more precise timeline. Any findings from the pilots should be made available before Stage 3 of the Bill.*

I **accept** this recommendation. The letter referred to above provides details on the design of the DECLO model and the piloting of this model by two health boards in order to test approaches for NHS input into the new additional learning needs system. The pilots will test the current thinking behind the role and provide the evidence required by the Health Expert Group to further develop the role and surrounding model. The findings are unlikely to be available by Stage 3. However, I will keep the Committee updated on progress, including during the quarterly transformation programme updates I have committed to provide.

#### **Recommendation 26**

*Section 62 of the Bill should be amended to ensure that a local authority must also be required to provide independent advocacy services to parents who are not case friends.*

I **do not accept** this recommendation. The Bill provides that independent advocacy services must be available for children, young people and case friends. It is right that the child or young person themselves – or a case friend on behalf of a child who lacks capacity – should be the 'user' of the service.

#### **Recommendation 27**

*The Minister should ensure that the Bill and/or the Code ensures that independent information and advice is available for children, young people and parents at the earliest opportunity.*

I **do not accept** this recommendation.

Whilst I agree entirely with the recommendation that impartial information and advice must be provided at the earliest opportunity; I do not agree with the principle that information and advice must be independent.

The Bill places a requirement on local authorities to make arrangements to provide people with advice and information. That information and advice must be objective and impartial. I think that this is appropriate at the initial stage. Furthermore, in addition to this, it also places requirements on local authorities to make arrangements for provision of independent advocacy services for children and young people where they might disagree with a decision. I think this strikes an appropriate balance. The draft Code published in February already provides some of the detail of how these duties should be delivered but this will continue to be developed over the coming months.

### **Recommendation 28**

*The Minister should ensure that the arrangements for the provision of independent advocacy services do not make it possible for a charge to be made on those requesting the service.*

I **accept** this recommendation and we will ensure that it is not possible for local authorities to make a charge for independent advocacy services.

Section 4(4) allows the Welsh Ministers to impose requirements on local authorities in respect of arrangements they must make for independent advocacy services, which could include a requirement that no charge be made to the end user of the service. We will consider this further as we prepare the Code for public consultation.

### **Recommendation 29**

*The Code should be strengthened to require information and advice at key stages of the learner's education, key stages of the ALN process, and through key transitions to be actively promoted, and readily available and accessible to children, young people and parents. This should include the points at which young people exit the education system.*

I **accept** this recommendation. I will review the guidance and requirements around information and advice in the draft Code and consider what more might be helpful in this respect.

### **Recommendation 30**

*The Bill and/or the Code should ensure that independent information and advice is offered to children, young people and parents on each occasion that an IDP is reviewed, or ceased, rather than solely at the beginning of a local authority's engagement with a family.*

I **accept in principle** this recommendation.

It is clear from the Bill that children, their parents and young people should be provided with information and advice. As I have stated above, information and advice must be impartial, and the Code will require this, but it does not necessarily need to be independent. Advocacy services (under section 62), on the other hand, which can also include providing advice, must be independent.

That aside, I accept the principle that information and advice, including on rights of appeal, must be offered following the making of key decisions. The draft Code already includes requirements and guidance on this and template notification letters.

### **Recommendation 31**

*The Bill should be amended to include a specific duty on relevant bodies to have due regard to the UN Convention on the Rights of the Child.*

**I do not accept** this recommendation.

The Committee is aware of the Government's position on this and will have seen the exchange of correspondence between the First Minister and Children's Commissioner<sup>1</sup>.

I consider that the Bill's provisions provide for the rights of children and young persons. The Code and our plans for professional learning and awareness raising will further help ensure that the system is delivered in a true "rights based" way.

### **Recommendation 32**

*The Bill should include a specific duty on relevant bodies to have due regard to the UN Convention on the Rights of Persons with Disabilities.*

**I do not accept** this recommendation.

Where a child or young person's disability results in additional learning needs he or she will be entitled to additional learning provision under the Bill. There are further protections in the Equality Act 2010 under which claims for disability discrimination in schools are currently heard in SENTW. Under the new Bill, these will continue be heard in the Education Tribunal.

### **Recommendation 33**

*Sections 10(5), 12(5) and 18(5)(c) should be amended to remove the discretion for the governing body, local authority and health bodies to decide in the first instance whether provision should be made in Welsh. If a learner or their parent requests that provision is made in Welsh, this should be the starting point. The bodies concerned should then be required to take all reasonable steps to secure that the provision is made in Welsh.*

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<sup>1</sup> The Children's Commissioner for Wales wrote to the First Minister on 31 March:

<http://www.senedd.assembly.wales/documents/s63307/Letter%20from%20the%20Childrens%20Commissioner%20for%20Wales%20to%20the%20First%20Minister%20UNCRC%2031%20March%202017.pdf>

The First Minister replied on 8 May:

<http://www.senedd.assembly.wales/documents/s63308/Letter%20from%20the%20First%20Minister%20to%20the%20Childrens%20Commissioner%20for%20Wales%20UNCRC%208%20May%202017.pdf>

I **do not accept** this recommendation.

There is already a duty in the Bill to decide whether the provision should be made in Welsh, not a discretion, as the recommendation states. The Bill puts in place a system that is person centred – section 6 requires regard to be had to the views of the child, their parents or the young person, and to the importance of their participation in decisions. In every case, there must be consideration as to whether additional learning provision should be provided in Welsh, irrespective of whether or not this has been requested. Where it is decided that it should be provided in Welsh, there is already a duty to take all reasonable steps to secure that it is provided to the child or young person in Welsh. The Code will provide further guidance on this issue.

#### **Recommendation 34**

*Section 56 of the Bill should be amended and strengthened to remove reference to the “desirability” of ensuring that additional learning provision is available in Welsh, with the inclusion instead of the term ‘wherever possible’.*

I **accept in principle** this recommendation. I will give full consideration to this section and to potential amendments in the context of the overall scheme outlined in the Bill in terms of the language.

#### **Recommendation 35**

*The Minister should consider whether section 56(3)(a) could be extended to cover languages other than Welsh, that over time could be included within the Bill’s provisions.*

I **do not accept** this recommendation.

I am not currently convinced that an amendment to the Bill is appropriate or necessary. It may be that this can be more appropriately dealt with in the Code and I am happy to consider what guidance this might include.

#### **Recommendation 36**

*The Minister should adopt an eleventh core aim for the Bill to ensure the delivery of bilingual ALN services.*

I **accept** this recommendation. I will ensure that the revised Explanatory Memorandum, to be laid ahead of Stage 3, is updated to include an eleventh core aim.

#### **Recommendation 37**

*The Bill should contain specific provisions that require that, in future, the workforce must have the capacity to deliver additional learning provision through the medium of Welsh in all cases where this is required. The Minister should also prepare and*

*publish a strategy to indicate how this provision would be met and the timescales in which it would be implemented.*

I **do not accept** this recommendation. I fully agree with the sentiment behind it; however, there are existing provisions in the Bill and wider activity seeking to achieve these strategic aims.

Section 44 of the Bill already makes amendments to the Learning and Skills Act 2000 to put duties on Welsh Ministers to take into account the education and training required to ensure employees and potential employees are able to deliver additional learning provision in Welsh, and to take account of the education and training required to ensure facilities for assessment of additional learning needs in Welsh. Strategic duties therefore already exist to drive improvements in terms of the capacity of the workforce to support learners through the medium of Welsh.

Additional activity outside of the Bill might be more appropriate and beneficial and I am happy to consider what further might be done. We are already assessing what workstreams might be included in the wider transformation programme to drive forward the Welsh language elements of our reforms; this includes activity in relation to professional learning. I will keep the Committee updated as this work is progresses.

The Welsh in Education Strategic plans are another important mechanism to drive improvements across the wider Welsh in education landscape. I will also ensure alignment with the Government's forthcoming strategy for a million Welsh speakers by 2050.

### **Recommendation 38**

*The Bill should be amended to provide the Tribunal with remit over the decisions and actions of health bodies, and with the power to direct health bodies, in relation to Additional Learning Needs. In the event that any changes require Secretary of State consents this should be sought in the usual manner.*

I am still considering this recommendation.

As I indicated at the General Principles debate I recognise the call for further consideration of options around health and dispute resolution. However, there is no straightforward solution to this complex issue and full consideration of the risks and knock-on effects of any amendment is needed. I have committed to do this on a cross-party basis over the summer.

### **Recommendation 39**

*The Minister should consider how the composition of the Tribunal can be altered so that it sufficiently incorporates clinical judgment and expertise. The Minister should also consider whether any other changes to the Tribunal composition are needed so that it maintains an appropriate balance between health and educational expertise.*

I am still considering this recommendation.

As per my response above, consideration of this recommendation will form part of the Welsh Government work and subsequent cross-party work I intend to undertake over the summer.

**Recommendation 40**

*The Minister should consider the experiences of the tribunal system in England following the introduction of reforms there, to help mitigate any similar impact in Wales.*

I **accept** this recommendation. Whilst the reforms being implemented in England are not directly comparable to ours, there may be useful lessons to learn and my officials will continue to work closely with their counterparts in the Department for Education.

**Recommendation 41**

*The Minister should revisit and provide clarity on its cost and saving estimates before bringing forward a revised Explanatory Memorandum following Stage 2.*

I **accept** this recommendation. I have written to all Assembly Members to confirm that a revised Regulatory Impact Assessment will be available in September. I have agreed to attend Finance Committee following its publication and will then move the Financial Resolution motion.

**Recommendation 42**

*The Minister, through the Distribution Sub Group, should consider alternative mechanisms for funding post-16 specialist provision*

I **accept in principle** this recommendation. I am grateful to the Committee for the options it puts forward around funding alternative mechanisms. I intend to consider these options fully as part of the ongoing discussions with the Distribution Sub Group. I would like to point out at this stage though, that ring fencing within the Revenue Support Grant is not possible, but there are ways of building in checks and balances to ensure local authorities have clear obligations.

**Recommendation 43**

*The Minister should give full consideration to the recommendations made by the Finance Committee.*

I **accept** this recommendation.

**Recommendation 44**

*The Minister should table amendments to the Bill to require that the ALN Code is made using a super affirmative procedure. Any revisions to the Code must also be made using the super affirmative procedure.*

I **accept** this recommendation in that I have already tabled an amendment to make the Code (and any revised Codes) subject to the affirmative resolution procedure.

I would also like to see a role for the Committee in the Code's further development and consideration. I expect a revised draft of the Code to be ready early in 2018 at which point a full public consultation will be undertaken by the Government as required by section 5(1) of the Bill. The input of the Committee during the consultation phase would be very welcome and I would be grateful for the Committee's views on an appropriate approach.

**Recommendation 45**

*The Children, Young People and Education Committee should be provided with a copy of the final draft of the ALN Code to consider prior to any statutory consultation required under the Bill.*

I **do not accept** this recommendation. The proposed approach would effectively result in two consultations on the Code, given that the Government is already required to undertake one by the Bill. However, a role for the Committee in the consultation phase is essential and I would be grateful for the Committee's views on the approach outlined above.

**Recommendation 46**

*The Minister should give full consideration to the recommendations made by the Constitutional and Legislative Affairs Committee.*

I **accept** this recommendation.

**Recommendation 47**

*The Minister should consider aligning the 'Supporting learners with healthcare needs' guidance with the new ALN system, by extending the age range of learners covered by that guidance.*

I **accept** this recommendation to consider this issue. Were the guidance to be extended to older learners, it would need to be appropriate and proportionate to the post-16 context where, for example, the consent of the young person is paramount. There are different considerations for different age groups and we are considering further.

**Recommendation 48**

*The ALN Code should be strengthened to add clarity about where medical needs fall under the definition of ALN, and the Welsh Government should work with stakeholders in this regard.*

I **accept** this recommendation. This will be factored into ongoing work to develop the Code. My officials are already working on flowcharts and illustrations to clarify the relationship between the ALN system and healthcare needs. These materials are



due to be tested with the Health Expert Group and will be shared with the Committee once this testing has been completed.