

## CYPE(5)-06-21 - Paper to note 5

Senedd Cymru

**Y Pwyllgor Plant, Pobl Ifanc ac Addysg**

Welsh Parliament

**Children, Young People and Education Committee**

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Kirsty Williams MS, Minister for Education

Dyddiad | Date: 19 February 2021

Pwnc | Subject: **Implementation of the Additional Learning Needs and Education Tribunal (Wales) Act 2018**

Dear Kirsty,

Throughout this Senedd term, the Children, Young People and Education Committee has taken a keen interest in the development and implementation of the Additional Learning Needs and Education Tribunal (Wales) Act 2018.

The Third Sector Additional Needs Alliance (TSANA) has written to the Committee this week, outlining its concerns relating to both the ALN Code and to the legislation's implementation more broadly. A copy of TSANA's correspondence is attached as an Annex to this letter.

In advance of laying the Code before the Senedd, the Committee would be grateful if you could provide a response to the points contained in the Annex, and would welcome reassurances that you and your officials are working with TSANA to address the concerns raised.

Yours sincerely,



**Lynne Neagle MS**

**Chair**

Cc Karen McFarlane, Chair of TSANA

Croesewir gohebiaeth yn Gymraeg neu Saesneg | We welcome correspondence in Welsh or English.



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## **ANNEX – Correspondence received from Chair of TSANA, 17 February 2021**

**From / Oddi wrth:** Karen McFarlane <karen.mcfarlane@childreninwales.org.uk>

**Sent / Anfonwyd:** 17 February 2021 15:09

**Subject / Pwnc:** Concerns related to the ALN Code

Dear Children and Young People Committee

Following our meeting with Committee Chair, Lynne Neagle, on 16 February we write to reiterate TSANA's concerns on the implementation of Additional Learning Needs (ALN) Transformation prior to the laying of the ALN code next month.

TSANA recognises that the current statementing system is not sufficiently supporting our learners, and that there is a need for change. For this reason, there are many aspects of the reforms that we welcome and look forward to seeing implemented. Nevertheless, there remain a number of points that were mirrored in key concerns raised by the Children and Young People Committee in its scrutiny process, that we believe remain unaddressed and could have grave consequences.

Prior to the Covid-19 pandemic, learners with ALN were already experiencing significant attainment gaps and we are profoundly concerned that existing inequalities will be exacerbated by the ALN reforms. It is well recognised that throughout the pandemic, ALN learners have faced additional barriers in terms of a lack of access to the specialist support they would usually receive, as well as problems around the accessibility of remote learning resources. Despite best efforts, the experiences of children and young people with ALN have shone a light on the barriers within our systems preventing effective support. TSANA believes that if we are to move toward a system that places more emphasis on individual teachers, Additional Learning Needs Co-ordinators (ALNCos) and schools, then more must be done at a statutory level to ensure staff are equipped to fulfil their duties effectively.

Key issues relating to the ALN Code are outlined below followed by related concerns that sit outside the code.

### **Code related concerns**

**The ALN Code is not a code of practice.** In communication with civil servants, we have, on numerous occasions, been referred to the principle that as the ALN Code is not a code of practice comparable to that implemented by the Department for Education following special education needs and disability (SEND) reform in England or the existing SEN Code of practice in Wales, that amendments we have sought have been disregarded.

That the Code constitutes statutory guidance but does not offer guidance on implementation will, we believe, result in great disparity and unequal access for children and young people to appropriate additional learning provision (ALP). This is of relevance to how the role of the ALNCo is implemented, access to information and advice, and post-16 options for young people whose ALP requires specialist placements.

**Information and advice.** We remain hugely disappointed that the ALN Code backtracked on a commitment to invite a careers advisor to attend an annual review from year 9. Children and young people with ALN and their families require more specialist support on careers advice and post-16 options, not less. That

there are only limited stipulations on how schools, FEIs and local authorities manifest the requirement to provide information and advice is likely to result in inequitable access to such support across Wales. Despite repeated concerns on this matter and the recommendation of the Committee, our discussions with civil servants lead us to believe little has been done to address this fundamental concern.

This is also of particular concern when considering post-16 options for young people with low incidence and complex needs in light of planned changes to funding mechanisms for specialist placements. The arguments are well rehearsed that the devolution of funding from a centrally administered reserve will disincentivise local authorities from securing placements for children and young people at specialist institutions. We believe it is wholly unacceptable to systematically disadvantage children and young people in this way by the nature of their ALP. TSANA has not yet seen any details of how the Code will seek to address this issue. We recognise that the Act cannot at this time, be altered and to this end have sought that the Code be amended to ensure the provision of '*quality assured*' impartial information and advice'.

**Post-16 learners with ALN.** We remain extremely concerned about how plans will be co-ordinated for learners transitioning to FEIs and specialist further education colleges in circumstances whereby it is disputed whether their needs can be met by an FEI or not, or in circumstances when attendance at an FEI is contingent upon on learners getting requisite grades and on the timely co-ordination of specialist equipment.

To be able to meet their education and training needs and best prepare them for their post-college adult lives, young people with ALN require collaborative and well-planned transitions to new providers of ALP. We have not yet seen any details of transition guidance in the Code, but based on our correspondence, we are concerned that accountability mechanisms in this regard could be weak. We believe that a lack of firm arrangements outlined in the Code will lead to late decision making, poorly planned transitions, the danger of placement breakdowns and an increase in Tribunals and the number of young people not in education, employment or training.

**ALNCo guidance.** We believe that the chapter which sets out the duties on ALNcos, alongside guidance on how this role should be fulfilled, should include more detail on the specific skills, knowledge and experience that ALNcos are expected to have, or acquire. We are concerned that the additional responsibilities on ALNcos are not matched by further training. In particular, we believe that ALNcos should have a basic awareness of individual ALN types, as well as clear pathways through which they can access more specialist advice and expertise as required. In our view, it is crucial that the Code is amended to reflect this necessity.

### **Key concerns outside the Code**

**Reasonable adjustments allied to the Equalities Act.** We are aware of regional ALN Transformation Leads implying that where a learner has accessed reasonable adjustments under the Equalities Act, this could negate a requirement for them to receive an Individual Development Plan (IDP). Legal advice offers that this is completely inappropriate. It is a point that the National Deaf Children's Society is currently liaising with the Welsh Government on and is an issue of grave concern as the implementation of the reforms draws closer.

### **Investment in professional development**

TSANA has growing concerns that workforces are not being invested in to deliver for the extended age range under the reforms. TSANA has always welcomed the 0-25 age range and regards statutory support from the early years as crucial to the success of children and young people. However, on the ground there is much talk of not investing in or expanding workforces and instead of only moving over those with the

most complex needs onto IDPs. This is outside of the spirit of the reforms and we are very concerned that those with less complex needs will fall through the net and be very vulnerable.

TSANA has long been discussing with the Welsh Government the need for training on specific ALN types given the increased responsibilities at the door of mainstream education professionals. We have been delighted to start working with the Welsh Government on an e-learning module to this end. We are keen to push for some mandatory status to this training.

### **Post-16 Pathways**

**Engagement and access to pathways post 16 is reliant on identification and support through the IDP. For young people to access support and provision through apprenticeships and supported internships, both leading to sustainable employment, they will need an IDP. Successful claims for job coaching and work place adaptations within the Access to Work programme currently require a copy of a young persons statement. It is therefore vital that young people are supported through to 25 providing opportunity for further education and pathways into employment alongside their non disabled peers.”**

This is not an exhaustive list but it does recognise some of our key concerns. We appreciate the attention that you and the Children and Young People Committee can give to these matters and are keen to work with you in any way we can.

We acknowledge that the demands of the pandemic have increased pressures and that the time available to for the Code to pass through the Senedd is limited. However, we believe that there may be some small amendments that could make a significant difference to the delivery of the reforms and would welcome any support you can provide in this regard. Given the complexity of the issues outstanding, TSANA would also be keen to secure a commitment from the Welsh Government to review the Code’s effectiveness and make necessary amendments where needed within a relatively short time frame following the implementation of the reforms.

Yours sincerely

Karen McFarlane  
Chair of TSANA

Karen McFarlane  
Policy Officer / Swyddog Polisi  
Children in Wales / Plant yng Nghymru