

CYPE(6)-20-23 - Paper to note 4



19/06/2023

Dear Chair and members,

Please see enclosed a copy of a joint paper on the provision of Additional Learning Needs (ALN) through the medium of Welsh. As new commissioners, we are acutely aware of the need to protect the independence of our institutions, but we also recognise we have a duty to work in collaboration on issues if in so doing will drive positive improvements in the lives of children and young people in Wales. Here's our first joint piece of work on a matter that has been of concern to both institutions recently.

The language medium of ALN provision is integral to the effectiveness and quality of the provision itself. The report concludes that the ALN system in Wales does not currently reflect the needs of a bilingual nation. Whilst the Additional Learning Needs and the Education Tribunal (Wales) Act 2018 establishes the principle that the ALN system in Wales should be bilingual, the report shows that there is a long way to go to realise this vision.

Based on the evidence presented, the report includes a series of recommendations including a call on the Welsh Government to establish a national task force that would be responsible for co-ordinating efforts to improve Welsh Medium ALN provision at a local, regional, and national level. The report identifies the main issues the task force should prioritise:

- Ensure that local authorities have fully reviewed their Welsh-medium ALN provision in 2023
- Ensure that reviews of local ALN provision are used to formulate and direct strategic plans to strengthen Welsh-medium ALN provision
- Develop the evidence base and contribute to the planning of Welsh Ministers' 5-year review of Welsh-medium ALN provision
- Develop proposals for formalising effective collaboration between local authorities on a regional basis
- Leading the development of national interventions in areas such as workforce planning, resources, and professional learning

We hope you find the report and its recommendations of interest. We know that the Committee is monitoring the implementation of the Additional Learning Needs and the Education Tribunal (Wales) Act 2018 and are collecting stakeholder evidence to this effect. We therefore ask the Committee to consider the report in question as evidence to this inquiry.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Efa Gruffudd Jones'.

Efa Gruffudd Jones
Comisiynydd y Gymraeg

A handwritten signature in black ink, appearing to read 'Rocio Cifuentes'.

Rocio Cifuentes
Comisiynydd Plant

The Welsh Language in the Additional Learning Needs System



The Welsh Language Commissioner was created by the Welsh Language (Wales) Measure 2011 with the aim of promoting and facilitating the use of the Welsh language.

The Children's Commissioner for Wales was created by the Care Standards Act 2000 and its remit is laid down in the Children's Commissioner for Wales Act 2001. The principal aim of the Commissioner is to safeguard and promote the rights and welfare of children.

Whilst we are independent and have distinct statutory powers, we also recognise that where there are shared concerns and ideas for improvement, there is merit in us shining a light on those issues as one. Children and young people and their families in Wales should expect no less from us. We share an ambition to strive for tangible, positive changes in the lives of children and young people in Wales. This briefing highlights the barriers some children and young people face receiving education through the medium of Welsh.

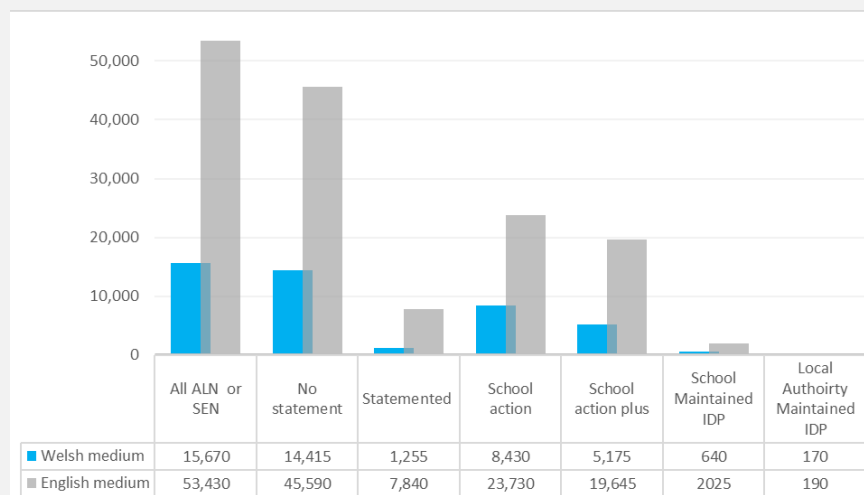
June 1, 2023

Summary

- This paper shares evidence on Additional Learning Needs (ALN) provision through the medium of Welsh. The evidence is based on the Welsh Language Commissioner's role as a statutory consultee on local authorities' Welsh in Education Strategic Plans (WESPS), and on the Commissioners' respective case work.
- ALN provision in Wales should reflect the needs of a bilingual nation, and under the United Nations Convention on the Rights of the Child (UNCRC), children have the right to be educated in their own language.
- The evidence demonstrates that there is a long way to go to realise the vision of an ALN system that is available through the medium of Welsh. There are significant challenges, which we acknowledge will take time and resource to overcome.
- It is essential that the Additional Learning Needs and Education Tribunal (Wales) Act 2018 is fully implemented and stimulates purposeful planning and action to ensure Welsh-medium ALN provision is equal to the English provision.
- To do this effectively, local authorities need to review in full ALN provision through the medium of Welsh, focusing on the needs of Welsh speakers and the extent to which these needs are currently being met. The evidence suggests that this has not happened in all cases, which also raises questions regarding the planning processes of local authorities for improving their Welsh-medium provision.
- We ask the Welsh Government to prioritise its duty to organise a national review of ALN provision through the medium of Welsh. We also call on the Government to start the process of resolving some of the national challenges that exist, including the lack of Welsh-speaking workforce, a lack of Welsh-medium resources and standardised assessments, and inconsistencies in arrangements for regional collaboration.

Key facts

Table 1: Pupils with Additional Learning Needs (ALN) or Special Educational Needs (SEN) in primary, middle and secondary schools by year, Welsh/English Medium and type of ALN/SEN provision, 2021/22 – based on Pupil Level Annual School Census (PLASC) data.



- Around 20% of pupils in Wales have additional learning needs.
- Under the new system, every pupil with ALN, and who require additional learning provision, must receive an Individual Development Plan (IDP). As the data demonstrates, the task of moving pupils to the IDP system is just starting. The intention was to originally do this by August 2024, but this has been delayed and the intention is now to complete this by August 2025.
- A Welsh-medium learner in this data refers to those pupils in Welsh-medium, dual-stream or bilingual schools. It does not necessarily describe the language of ALN provision.

Background

The language medium of Additional Learning Needs (ALN) provision is integral to the effectiveness and quality of the provision itself. Currently the ALN system in Wales does not reflect the needs of a bilingual nation. Passing the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (the Act) was a turning point in this context and established the principle that the ALN system in Wales needs to be bilingual, and therefore that Welsh-medium provision is equitable to the English-medium provision.

The Act includes several important requirements in terms of the Welsh language:

- A requirement for those providing ALN to consider whether support should be given through the medium of Welsh, and if so to take all reasonable steps to ensure such provision
- Powers for Welsh ministers to remove the ‘all reasonable steps’ clause above, and place an absolute duty to provide through the medium of Welsh
- A requirement for Local Authorities to keep under review the sufficiency of Welsh-medium ALN provision
- A requirement for Welsh ministers to organise a review of the sufficiency of Welsh-medium ALN provision every 5 years

The Act took effect in September 2021, and the focus is now on its implementation.

A children’s rights approach...

A bilingual approach...



Children have human rights under the United Nations Convention on the Rights of the Child. Article 30 of this Convention states that children have the right to use the language of their choice. The UN Committee on the Rights of the Child have stated in General Comment no. 11 that ‘In order to implement this right, education in the child’s own language is essential’. Welsh Government Ministers are under a duty to pay ‘due regard’ to the Convention when making policy decisions under the Rights of Children and Young Persons (Wales) Measure 2011.

The above rights need to be considered in the context of the Welsh Language (Wales) Measure 2011, which gives the Welsh Language official status in Wales, and establishes the principle that the Welsh language should be treated no less favourably than the English language in Wales.

Evidence from the Welsh in Education Strategic Plans and the Commissioners' Case Work

As a statutory consultee, during 2021-22 the Welsh Language Commissioner provided feedback on each local authority's Welsh in Education Strategic Plan (WESP). Local authorities in Wales are under statutory duty to produce and publish a WESP, which outlines their targets and plans for improving the provision of education through the medium of Welsh in their area. One key section of the strategic plans is focused on improving and enhancing ALN provision through the medium of Welsh. The points below summarise the evidence that emerged from the Welsh Language Commissioner's scrutiny of the WESPs and draws on both the Welsh Language Commissioner's and Children's Commissioner's case work.

- **In general, examples of where the WESPs provide a clear and detailed overview of ALN provision through the medium of Welsh are few and far between.** The strategic plans tend to focus on the provision that is available but fail to discuss this in the context of all the provision available in English. As a result, it is very difficult to understand whether the needs of Welsh learners are being met or not.
- Section 63 of the Act requires local authorities to keep ALN provision under review, including the sufficiency of ALN provision through the medium of Welsh. **Nonetheless, several local authorities readily admit in their WESPs that they do not have a full understanding of the need for Welsh-medium ALN provision, and thus cannot determine if these needs are being met.** Many of the plans include a commitment to conduct a comprehensive review in the future but they have failed to do this as part of the process of forming the WESP.
- Standardised assessments used to assess ALN are not always available through the medium of Welsh.
- As in the case of assessments, a lack of resources and training opportunities through the medium of Welsh remains a problem across Wales. Whilst there are pockets of good practice, it is not clear that this is shared at a national level.
- There are some excellent examples of local authorities working in collaboration on a regional basis. Such examples are limited however, and the lack of formal collaboration arrangements is a weakness in most of the WESPs.
- Whilst some local authorities report that they can provide for all ALN needs through the medium of Welsh, **most local authorities report that they cannot provide through the medium of Welsh for many additional needs.** The general pattern indicates that most local authorities have some general Welsh-medium provision (whether based within schools or provided by outreach teams). As the needs of pupils become more complex and specialised, it seems that the capacity of most local authorities to provide support through the medium of Welsh diminishes significantly.
- Several local authorities admit that ALN provision through the medium of Welsh does not meet the needs of learners. **Either Welsh-medium learners must receive support through the medium of English, do not receive the support required, or, as in the case of some learners with more complex needs, choose English medium education from the outset, as they are already aware of the lack of Welsh-medium ALN support.** This evidence from the WESPs confirms some of the evidence we have received from complaints and enquiries from parents and is clearly reflected in the case study below.

Table 2: Reports of ALN or SEN in primary, middle and secondary schools, Welsh/English medium, and type of need, 2021/22, based on PLASC data.

Type of need	Welsh medium	English medium
General learning difficulties	3,545	10,130
Speech, language, and communication difficulties	4,780	15,875
Behavioural, emotional, and social difficulties	4,360	16,230
Moderate learning difficulties	2,980	8,685
Autistic spectrum disorders	1,090	6,455
Physical and medical difficulties	1,005	3,915
Dyslexia	1,345	4,130
Attention deficit hyperactivity disorder	430	2,175
Severe learning difficulties	260	860
Hearing impairment	410	1,635
Visual impairment	230	710
Dyspraxia	215	495
Profound and multiple learning difficulties	110	235
Dyscalculia	80	285
Multi-sensory impairment	30	140

- It seems that two key challenges exist in providing ALN through the medium of Welsh. **The first is the lack of a specialised workforce who have the requisite linguistic skills.** The size and capacity of the ALN workforce able to provide through the medium of Welsh is a problem raised by all local authorities, especially in areas such as neurodiversity, and emotional, social, and behavioural difficulties. Even those local authorities who can provide all ALN support through the medium of Welsh raise concerns regarding sufficient expertise in areas such as psychology and sensory impairments. **Secondly, offering specialised Welsh-medium provision is difficult when the numbers likely to take advantage of such provision is comparatively low in many local authorities.** That is, local authorities may accept that their Welsh-medium provision is lacking but fail to see viable solutions considering the clear financial and resource constraints they face, and the need to provide ALN support in a way that meets the needs of the majority. In this respect, it should be emphasised that practitioners with bilingual skills could provide for both Welsh-medium, bilingual and English-medium sectors.
- Despite the clear deficiencies in Welsh-medium ALN provision across Wales, **the WESPs also include numerous examples of good practice.** There are several excellent projects across Wales, for example those focused on arrangements to share resources between local authorities, plans to improve the skills of the ALN workforce, and plans to train teachers and support staff in the Welsh-medium and bilingual sector. Nonetheless, it does not seem that such examples of good practice are shared across all local authorities and on a national basis.



Case Study

A parent contacted the Children’s Commissioner for Wales (CCW) office regarding their child, who had been diagnosed with attention deficit hyperactivity disorder (ADHD) and an autistic spectrum disorder (ASD). The child in question attended a mainstream Welsh-medium school but did not have an ALN statement nor an Individual Development Plan (IDP).

The parent expressed concern that the school was unable to cater for their child’s needs. The child was often removed from the classroom and their peers, and the parent was frequently asked to collect the child during school hours as the school could not deal with the child’s behaviour. The school suggested that the parent should move the child to another school, even though there wasn’t another Welsh-medium school in the area. The child could not access a full education to which all children are entitled and require.

CCW contacted the school and local authority to establish their perspectives on the situation, and to discuss how the child could be supported. CCW discussed the situation with the head teacher, who confirmed that the school had asked the parent to collect the child early from school. CCW reminded the head that the practice of informal suspension is illegal, and as a result the head teacher confirmed that any further suspensions would be formal and would lead to an evidence base for the Local Authorities’ ALN panel. The head also confirmed that the child had been placed on a restricted timetable, and that they had asked the local authority to develop an IDP for the child as the school did not believe their provision catered for the needs of the child.

CCW challenged the local authority regarding the lack of support available to the child and emphasised that the school had requested further support. CCW was informed that the local authority would contact the school as there were some confusions regarding the evidence shared with the local authority.

In discussions with CCW, the parent remains concerned that any specialist provision for their child will be through the medium of English. The family in question faces a difficult and unacceptable decision: either they keep the child in Welsh-medium education and accept a severely compromised timetable and educational experience or they can decide to send the child to English-medium provision, where the child might have a full education, albeit not through the language of choice.

Key Conclusions and Recommendations

It is important to recognise the fundamental injustice that exists within the current ALN system. There is unequivocal evidence that a significant number of Welsh-medium pupils either receive support through the medium of English, or do not receive the full support they need. This is unacceptable in a bilingual nation.

The Act's provisions have the potential to be a significant turning point in moving towards a fully bilingual ALN system in Wales. Whilst we accept that implementing the Act will take time, the danger with any piece of legislation is the gap that can emerge between the intention and the reality of implementation. The evidence presented in this paper underlines the challenge that exists in attempting to realise the objectives of the Act in relation to the Welsh language. It is two years since the Act took effect, and there is now a need for specific focus on Welsh-medium provision, to ensure that the Act's requirements in terms of the Welsh language are implemented to their full potential.

Considering the above, it is encouraging that the Welsh Government's Welsh in Education Workforce Plan includes several objectives and actions which focus on improving ALN provision through the medium of Welsh. For example, objective 2.3(1) of the plan commits to establishing a sub-group to the National ALN Network which would focus specifically on issues such as workforce skills, professional learning opportunities, recruitment, and learning resources in relation to Welsh-medium and bilingual ALN provision. Objective 2.3(2) of the plan commits to funding a Welsh language national implementation lead to provide advice, support, and challenge to the sector in implementing their responsibilities under the Act in relation to the Welsh language.

We believe that the above commitments should be strengthened further and should form the basis of a centralised and national taskforce responsible for coordinating efforts to improve Welsh-medium ALN provision at local, regional, and national levels. The main issues that ought to be prioritised include:

- **In accordance with Section 63 of the Act, ensuring that all local authorities have fully reviewed their Welsh-medium ALN provision this year.** Although the Act places a duty on local authorities to keep ALN provision under review, evidence suggests that many local authorities do not fully understand the extent to which the needs of Welsh-medium learners are currently being met. Addressing the challenges that exist is only possible based on a full and detailed understanding of the current situation.

- **Ensuring that the process of reviewing Welsh-medium ALN provision locally is used as a basis for shaping and directing plans for strengthening Welsh-medium ALN provision, whether it be through the WESPs or wider ALN strategic plans.** The Additional Learning Needs Code emphasises that the process of reviewing Welsh-medium ALN provision should feed into the process of formulating the WESPs. In many cases this has not happened, and it undermines the potential of the WESPs as a forum for planning, reviewing, and monitoring progress in Welsh-medium ALN provision. We call on all local authorities, once they have complied with duties from Section 63 of the Act, that they update their WESPs and/or wider ALN strategic plan.
- **Developing the evidence base and contributing to the planning of the Welsh Ministers' 5-year review of ALN provision in Welsh.** The evidence clearly shows that many of the challenges that exist in providing ALN through the medium of Welsh are national and systemic. The Welsh Ministers' 5-year review of ALN provision in Welsh will form the key evidence base for designing interventions and leading change at a national level. **We ask the Government to prioritise its work in relation to this duty, publishing a detailed timetable for the work without delay (at the latest prior to the end of 2023).**
- **Developing proposals for formalising effective collaborative arrangements between local authorities on a regional basis.** Given that the two most obvious challenges for local authorities are a lack of a specialist workforce with Welsh language skills as well as a lack of dedicated Welsh-medium specialist provision, promoting collaborative arrangements and sharing resources is crucial. There is a strong case for considering developing regional strategic plans for Welsh-medium ALN provision, which would sit above local authority plans. We call on all local authorities to consider developing regional strategic plans.
- **Based on local and national reviews of Welsh-medium ALN provision, lead the process of developing national interventions in areas such as workforce planning, resources, and professional learning.** Building on objective 2.3(1) of the Welsh in Education Workforce Plan, we ask the Government to establish a timetable for developing national interventions and to publish its plans in areas such as workforce planning, resources, and professional learning.