

AEC 69

Ymateb gan: Cyd-undebau llafur  
Response from: Joint trade unions

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## **Additional Learning Needs and Tribunals (Wales) Act**

### **Joint union positions – May 2023**

#### **Background**

Following the introduction of the Additional Learning Needs and Tribunals (Wales) Act, education professionals have been faced with significant challenges in terms of implementation.

The reforms to Additional Learning Needs (ALN) legislation have been wide ranging, and had a huge impact on the education system in Wales, at a time when there are other significant systemic changes, including the introduction of the Curriculum for Wales.

The joint trade unions agree with the principles behind the legislation, and would value a system with early intervention and support for children who have, or may have, additional learning needs. However, “early, timely and effective interventions”<sup>1</sup> are only possible if there are education professionals there to support them – not spending precious time completing paperwork, when they could be supporting children and young people.

The 2022 School Census Data<sup>2</sup> shows us that around 18,000 fewer children are identified as having additional learning needs than under the previous system, and that:

“Schools were [...] asked to stop using the ‘General learning difficulties’ category and to reassess an appropriate category of need for such pupils.”

Yet these children and young people will still need support.

Below we have set out a series of areas which urgently need addressing in order to improve provision for children and young people, and free up the workforce to focus on “effective interventions”.

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<sup>1</sup> EM 3.3 <https://www.gov.wales/sites/default/files/publications/2018-04/additional-learning-needs-and-education-tribunal-wales-act-2018-explanatory-memorandum.pdf>

<sup>2</sup> <https://www.gov.wales/schools-census-results-february-2022-html>

## **Funding**

Our members tell us that there are variable funding arrangements in place across Wales, in order to access support for children with ALN. A small number of members tell us that schools are being well supported with requests for support for children with additional learning needs, whilst others tell us there is pressure to save money.

Funding should be clear, and universal access to specialist support services is critical to help identify a child's needs and the right provision for them should be available to all schools.

Further more, if a teacher decides (and it is their duty to 'decide' within the Act) that a child with ALN needs certain ALP, then it should be for the local authority to fund. We can not have a situation where schools are disincentivised from identifying a child's additional learning needs.

## **Workload**

We welcome that the Welsh Government has recognised the impact the implementation of the Act is having on workload for staff across the education sector, and as part of the pay deal, has agreed to set up a Task and Finish Group to this end. We have presented extensive evidence to the ALN Implementation team in WG about the challenges around workload which the Act creates.

Members are consistently telling us the workload is unmanageable, and they want to be focusing on delivering the early interventions to children, which is meant to be a core aim of the Act, rather than filling in paper work, without sufficient time, training, or resource.

The Task and Finish Group needs to be established with haste, and all trade unions must be represented on it. Our members voices need to be heard on this critical issue. They want to support children and young people, and tackling the workload crisis in ALN reform is critical to this.

## **ALNCo role**

We are particularly concerned regarding the current inconsistencies in non-contact allocation, remuneration and duties of the new ALNCo role.

If the Act is to fulfil its aims and improve provision for children with additional learning needs, then significant challenges must be acknowledged and addressed by the Welsh Government.

Whilst we welcome the Government's commitment to review these matters, it is critical that schools are enabled (including funded) to pay

ALNCOs appropriately for the important and substantial role they undertake. ALNCOs need to see swift action on this, and as trade unions, we anticipate full involvement in the swift response to the work of the Task and Finish Group.

### **Involvement of health**

There is currently an imbalance of duties within the legislation, which means that health bodies are essentially in a voluntary arrangement, and do not have to support schools or local authorities in identifying ALN and securing Additional Learning Provision (ALP), even when children need input from health in order to access their learning because they have a specific condition.

Members tell us that a duty to make a decision without the input of health and LA services isn't working, and health should be compelled to provide information to inform deciding on an ALN and providing ALP in a consistent and timely manner.

For some young people, their learning needs are hugely impacted by their medical needs, and schools alone cannot support children without input from health – including the vital support of CAMHS, which needs to ensure it is able to deliver timely support to our children and young people, in order to help them access their education.

It seems puzzling to our members that England has Education and Health Care Plans (EHCPs)<sup>3</sup>, but there are no significant duties on health in Wales, despite the NHS having significant resources, when compared to schools and colleges.

### **Statutory assessments**

Our members would welcome statutory assessments, carried out by the local authority at the request of schools or parents. The current duty to decide if a child has ALN does not cover the complexity of some children's needs. Those with more complex needs should have their IDP decided and looked after by a local authority, but there is no clear threshold for this.

Children with significant additional learning needs should have a statutory assessment, undertaken by people with appropriate expertise. The duty to decide for schools/ALNCOs is an asymmetric duty, which

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<sup>3</sup> "Section 42 of the Children and Families Act 2014 creates a legal duty on the CCG to ensure that health care provision specified in the EHC plan is made available to the child or young person."

<https://councilfordisabledchildren.org.uk/sites/default/files/uploads/files/Health%20duties.pdf>

places too much responsibility on schools and individual teachers. Our members believe independent assessments would help produce clarity within the system, and should include clear guidance for when a local authority is responsible for a plan.

### **Duties on local authorities**

The duty to decide ALN and ALP for schools/ALNCoS is an asymmetric duty, which places too much responsibility on schools and individual teachers.

Our members believe local authorities should have clear duties, and should not be able to pass decisions back to schools and instruct them on what ALN to provide, without clear support, including financial assistance. This places too much power in the hands of local authorities.

LAs need to be part of proactive solutions for children with ALN, and help provide the ALP which schools alone cannot, rather than simply determining that a solution must be found by schools. Working more collegially to find a solution would help fulfil the aims of ALN reform.

### **Individual Development Plan**

Currently the lengthy IDP process is inhibitive, and is causing significant workload challenges for our members. Whilst the aim to avoid an adversarial relationship between parents and schools and local authorities is important, the current system is not working.

Many members tell us it is taking 7 hours to complete one plan, with teachers struggling to coordinate all the essential experts who need to feed in, before having to exercise their duty to decide.

We know that there are many children who have not been given an IDP who were previously on a 'School Action' or 'School Action Plus' plan. Practitioners have been encouraged to make provision for these children outside of the IDP system<sup>4</sup>.

We believe a shorter non-statutory plan for those children who do not have an ALN, but may need some extra support in school, including for behavioural issues, would be a benefit children and their parents to know what support they are having, whilst freeing up teachers from writing lengthy IDPs.

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<sup>4</sup> <https://www.gov.wales/schools-census-results-february-2022-html>

## **Training**

Better training is needed on the new ALN system for everyone across education – including teachers and support staff. Whilst there are some pockets of good practice, members tell us that everyone has not had access to the training they need to embed the system within schools.

Members tell us they need more training on completing IDPs, and are very conscious they are a legal document, which they believe should be completed by someone with legal training.

Members especially tell us that they need more training on inclusive teaching, so they can ensure that the “holistic provision” they provide caters for a range of learning needs across their classes, which is an aim of the Curriculum for Wales.<sup>5</sup>

Headteachers in particular need training on the requirements under the ALN system, and their role in facilitating whole school engagement in the implementation of the new system. For example, heads need to be aware of the need to release classroom teachers to participate in multi-disciplinary team meetings and for completion of the IDP.

## **Longer implementation period**

Members have welcomed the longer implementation period for children moving to the new system, announced by the Minister in March<sup>6</sup>. This means there is more time available for practitioners to move children and young people to the new system in a meaningful way.

However, it is worth reflecting that our members told us they needed a much slower phasing in period for – in fact they asked for a year for every year group in school. If we are going to do this well, then we need to ensure that the education workforce has the space and time to implement the Act – including the lengthy IDP process.

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<sup>5</sup> <https://www.gov.wales/schools-census-results-february-2022-html>

<sup>6</sup> <https://www.gov.wales/written-statement-additional-learning-needs-and-education-tribunal-wales-act-2018-implementation>