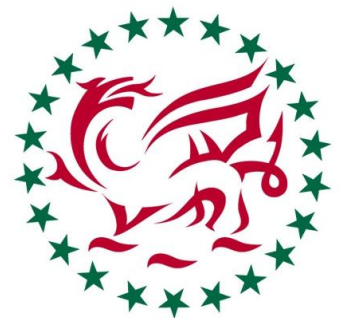


Draft Additional Learning Needs and Education Tribunal (Wales) Bill

November 2015



WLGA • CLILC

INTRODUCTION

1. The Welsh Local Government Association (WLGA) represents the 22 local authorities in Wales. The three fire and rescue authorities and the three national park authorities are associate members.
2. It seeks to provide representation to local authorities within an emerging policy framework that satisfies the key priorities of our members and delivers a broad range of services that add value to Welsh Local Government and the communities they serve.
3. The WLGA is guided by a number of key principles which underpin the work of the Association. The WLGA believes that decisions about services should be taken as close point of delivery as possible and that the people and communities using those services should be as engaged as possible in their delivery. It is also our belief that local services should be provided within a democratic framework of local accountability.
4. The WLGA recognises that it is the role of the Welsh Government to set the strategic framework and policy direction for services at a national level and that it is the role of local government to deliver those services taking account of the local circumstances and pressures. It is also recognised that services must be provided within a proportionate but effective regulatory framework to ensure that public resources are used appropriately and that services are delivered effectively and efficiently.
5. The WLGA has consistently argued for an un-hypothecated revenue support grant (RSG) as the best way of funding local government and any new responsibilities or additional burdens placed on local government should be fully costed and appropriately funded.
6. The WLGA recognises that some policy initiatives or strategies need to have funding attached to them for specific periods of time to make sure that they become embedded and are delivered as intended. For this reason, the WLGA, by exception, supports the use of specific grants or the ring fencing of revenue funding for specified purposes on the understanding that funding will eventually return to the RSG.
7. The WLGA is pleased to be able to respond to the Children, Young People and Education Committee's consultation on the draft Additional Learning Needs and

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Education Tribunal (Wales) Bill. The Welsh Government is also consulting on the draft Bill and the WLGA in partnership with ADEW will be responding in more detail to that consultation ending 18th December.

8. The WLGA supports in principle the overarching policy objectives and core aims of the draft Bill. The Association welcomes the continued engagement of education and social services professionals in informing and developing the legislation and guidance.
9. The new statutory ALN Code will be paramount to the delivery of the Bill's provisions. It is helpful that a first draft of the Code has been made available to help inform consideration of the Bill. The WLGA and local government are pleased to be represented on the Welsh Government's ALNET Code Content Development Group and look forward to working on the detail of the draft Code over the coming months. It will be important to ensure that the Code provides clarity on the role and duties of local authorities as well as on the Individual Development Plan (IDP) process and taking into account the voice of learners and parents, multi-agency working and disagreement avoidance and resolution.
10. Local authorities are currently facing an extremely challenging financial situation. The WLGA estimates that £720m has been cut from local services in Wales since 2010 and further huge cuts are expected, putting an unprecedented strain on authorities' finances. All authorities are looking to make savings to enable the continuation of delivery of essential services. The WLGA has consistently made the point – most recently in responding to the Welsh Government's consultation on the ALN White Paper in 2014 - that the financial impact of the Bill and any subsequent changes to delivery introduced as a result must be fully costed and financed.
11. Having considered the draft Bill and accompanying draft Explanatory Memorandum (EM) – which includes the Regulatory Impact Assessment - and the first draft of the new Code, the Association has concerns about resource and capacity issues resulting from the proposed new duties and expectations on local authorities. There are a number of areas where the WLGA and local authorities would like to work further with Welsh Government to identify more accurate costings and to clarify what resources will be put in place to ensure timely, quality and appropriate provision.
12. **Unified legislative framework:** Local government supports a unified legislative framework to support children and young people aged 0-25 years who have ALN. However it is essential that both the practical and financial impact of extending the age range is fully considered and costed. For example, in relation to the provision of information and advice services by local authorities, the EM states (paragraph 7.144)

that these will need to be “refreshed” to reflect the new ALN system and also extended to ensure they cover the rights of children and young people up to the age of 25. The EM rightly acknowledges that there is the potential for a larger caseload in catering for the extended age range but states *“it is not possible to quantify a cost to local authorities for this”*. The WLGA would wish to explore these costs in more detail with local and central government colleagues.

13. **Communication and awareness raising:** rightly, one of the key principles of the draft implementation plan is that there should be sufficient time for learners, families and relevant professionals to become aware of the Bill’s proposed changes and to prepare for their impact. The costs and benefits section of the EM makes some estimates of the costs to Welsh Government in developing/promoting the new Code, revising governor training materials and providing awareness sessions to local authorities and ALNCO networks. The WLGA would like to see greater recognition of the resource and capacity issues for local authorities of raising awareness of the new system among parents/carers, and in managing their perceptions and expectations during the transition phase, which will need to be done carefully and sensitively.
14. **Training staff in schools, local authorities and other partners in relation to developing and assessing IDPs.** This is the cornerstone of the legislation so it is essential that all staff are fully and appropriately trained. There will be a significant impact in terms of training school staff in particular. The aim of the IDP process should be to create a simple and accessible process to support, and provide clarity, for parents, children and young people and practitioners involved. One of the stated principles of Welsh Government’s draft implementation plan is that there should be *“a programme of training delivered to professionals who will be actively engaged in delivering IDPs”*. As yet there are no details of this programme or how it will be funded. Local authorities and the local authority school improvement consortia will be keen to discuss options and costs for this training with Welsh Government colleagues.
15. **Post-16 specialist placements:** the Bill provides for the current duty on Welsh Ministers to secure specialist post-16 education for a child or young person where the IDP indicates this is necessary to meet their needs to transfer to local authorities. There is a need for further consideration of how this will work in practice; the transition process needs to be managed carefully and local authorities given the necessary time and resources to adapt. The costs associated with supporting these pupils can be substantial. Whilst WLGA welcomes the proposed transfer of funding (currently £10.4m annually) from Welsh Government to the RSG for this purpose,

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along with the funding for the administrative element of the role (£179k per annum), there is a risk that the current quantum of funding will be less able to meet the needs of relevant learners once spread across 22 local authorities. The WLGA and authorities look forward to working with Welsh Government to agree the distribution of this funding through the Distribution Sub-Group. The WLGA would like Welsh Government also to consider transferring into the RSG the annual costs which the EM identifies will be saved by Careers Wales in no longer having to prepare Learner Support Plans (LSPs) for this category of learner or support their applications to Welsh Government for funding (£147,530 and £32,600 respectively – paragraph 7.172).

16. **Disagreement avoidance/resolution and Education Tribunal:** Tribunals are timely, costly and stressful for both families and the local authority and it can lead to a breakdown in the relationship between the two parties. The WLGA supports the proposals that local authorities should put in place arrangements to avoid and resolve disagreements before progressing to a tribunal. As noted above, further consideration needs to be given to the costs to local authorities of reflecting the changes to the ALN system and the extended age range. In relation to tribunals, the EM notes (paragraph 7.146) that the person-centred practice (PCP) approach and greater involvement of learners and their parents in decisions should result in a reduction in Tribunal appeals. However, later on (paragraph 7.180 in relation to Tribunal costs) the EM recognises *"There is a possible risk that the PCP and disagreement resolution service will not deliver the intended positive impact in reducing the number of appeals arising"*. The WLGA welcomes Welsh Government's stated commitment to ongoing monitoring of appeal rates this but would make the point that any rise in the number of appeals would impact equally on local authorities' resources and costs as on the Tribunal's.
17. The health service is a key partner in the delivery of some of the services required to support children and young people with ALN, particularly learners with more complex needs and also in early identification of needs in the 0-3 age range. The WLGA welcomes the new duty on LHBs to appoint a Designated Medical or Clinical Officer to have responsibility for coordinating the LHB's function in relation to ALN. It will be vital that the new Code, in laying the path for collaborative working, sets out clearly the roles and responsibility of health services, in line with resources. This will provide parity of provision across authorities. The Code needs to be explicit on the role that health services play and how they input into the IDP and delivery.
18. Finally, the WLGA welcomes the outline of plans for implementation and looks forward to further discussions on it with Welsh Government. The outline draft implementation plan suggests a three-year transition period. It is vital that transition is planned and

managed effectively. The WLGA would make the point that depending on future events, it is possible that implementation will take place over the same time frame (in part) as local government reorganisation in Wales. If so, the backdrop of change and uncertainty that will beckon will make that transition even more challenging.

CONCLUSION:

19. The Bill is an important piece of legislation, the principles of which are welcomed by local government. Much of the detail will be contained in the new ALN Code. The WLGA and local government welcome Welsh Government's commitment to continued engagement with all stakeholders to shape the legislation and guidance, and look forward to playing their part to ensure the new system leads to improved outcomes for children and young people with additional learning needs in Wales.

For further information please contact:

Dr Chris Llewelyn, Director Lifelong Learning, Leisure and Information
chris.llewelyn@wlga.gov.uk

Welsh Local Government Association
Local Government House
Drake walk
Cardiff
CF10 4LG

Tel: 029 2046 8600