

Cynulliad Cenedlaethol Cymru | National Assembly for Wales  
 Pwyllgor Plant, Pobl Ifanc ac Addysg | Children, Young People and  
 Education Committee  
 Y Bil Drafft Anghenion Dysgu Ychwanegol a'r Tribiwnlys Addysg  
 (Cymru) | The Draft Additional Learning Needs and Education Tribunal  
 (Wales) Bill

ALN 21

Ymateb gan : Cyngor Sir Ceredigion

Response from : Ceredigion County Council

What are your views on the draft Bill? Please outline below any concerns you have, or areas that you think the Committee should explore further before the Bill is formally introduced.

See attached response.

Please highlight below your main concerns in relation to the Additional Learning Needs system. Let us know whether, in your view, the Bill addresses these concerns or if further work is needed.

See attached response.

Do you have any other comments or issues you wish to raise that have not been covered above?

See attached response.

These questions should be read in conjunction with the draft Bill, draft Explanatory Notes and the draft Explanatory Memorandum.

**Question 1 – The introduction of the term ALN and a 0–25 age range**  
 Do you agree that the definitions of ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

<b>Agree</b>	<b>X</b>	<b>Disagree</b>	<b>X</b>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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## Supporting comments

We feel that this includes several separate questions rather than one!

### 1. ALN

- We agree with the use of the term ALN, providing it is used to replace SEN only and is not expected to include a wider range of needs/vulnerable groups that ALN was used to refer to.
- However, the definition of the term ALN as “significantly greater” is open to interpretation and possible abuse. Is it intended to refer to statistical significance or is it intended as a more subjective descriptor? How would this definition be applied with regard to behaviour?

### 2. ALP

- Achieving consistency across settings is likely to be difficult according to the level of differentiation practised across classrooms, schools and LAs.
- If a school has the resources to meet needs, they maintain ownership and responsibility. If schools don't feel they have the resources, they pass the responsibility on to the LA. Again, this is open to interpretation as well as abuse.
- The definitions used in the Bill (and Code) need to be more specific and precise in order to be more consistent across schools and LAs. We need measurable criteria that teachers, parents, pupils and LA officers can recognise and agree on.

### 3. 0-25 age range

- While we agree with the principle of extending the age range for young people with SEN/ALN we do not feel that this is feasible in the current economic climate.
- Unless additional funding and provision is made available then extending existing provision and funding to cater up to 25 will be ineffective.
- Pursuing this principle without sufficient funding will dilute the provision for children and young people from 0-19.

## Question 2 – A unified planning process with increased participation by children and young people

Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<b>X</b>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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## Supporting comments

We do not agree that the draft Bill is robust enough in its present form.

We have concerns regarding:

- IDPs - It is still not clear what an IDP document will look like. From the information available it appears that they may be very lengthy documents. The plans will also tie ALNCOs and LA officers up in IDP reviews for an enormous amount of their time which will have a knock on effect on standards.
- Responsibilities - We have concerns regarding the crossover between the responsibility of schools and the responsibility of LAs – we feel this is not robust enough. The risk is that schools may not take enough ownership of meeting needs.
- Widening the right to appeal - Increasing the legal accountability from statements only to the whole range of SEN/ALN is highly likely to lead to a sharp increase in the amount of time which LA officers spend in Tribunal hearings. This will take them away from being able to spend time on supporting schools and teachers in meeting pupils' needs and raising standards. It will also have implications for the use of funding – at the same time as raising the expectations for young people up to 25.
- Accountability - We are concerned that there is a lack of clarity with regard to the position with FE colleges. They can make referrals for provision to LAs but LAs are unable to monitor the provision available in FE colleges.

**Question 3 – High aspirations and improved outcomes**

Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<b>X</b>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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**Supporting comments**

While we agree that the interests of children and young people with ALN are promoted through the Bill (and Code), we do not agree that they will be adequately protected by it. High aspirations will only result in improved outcomes if the processes and strategies are effective enough.

The importance of capturing the pupils' voice and ensuring that the child is at the centre of all decisions and processes has certainly been strengthened. We applaud this. However, we feel that the previous legislation was based on very sound principles of thorough assessment, early identification and regular and manageable review. We are of the opinion that the draft Bill loses the element of robust assessment and allows schools to absolve themselves of the responsibility by passing it on to the LA. This is unlikely to be in the best interests of children and young people.

In its current form, it appears that the processes will end up being even more bureaucratic than the current system – leaving little time for the delivery in order to meet children/young people's needs outside of formal meetings.

There is also a real danger that key staff may not be able to actually attend all

of the different meetings that would be required by the processes. This situation may render any action plans drawn up during meetings ineffective – and possibly necessitate another meeting as a result. The burden on ALNCo and LA officers' time needs to be considered realistically in terms of the number of children/young people involved.

**Question 4 – Increased collaboration**

Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

<b>Agree</b>	<input checked="" type="checkbox"/>	<b>Disagree</b>	<input type="checkbox"/>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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**Supporting comments**

We applaud the appointment of a designated officer from Health services. This will undoubtedly aid increased collaboration. However, we do have concerns about the detail that may be involved in these individual job descriptions. We also have continuing concerns regarding the realism of collaboration as far as funding is concerned with all services facing severely reducing budgets.

There is a difference between agreeing the prescriptions required to meet the needs of children and young people and agreeing the funding contributions from each stakeholder. This element needs to be strengthened within the draft Bill.

In addition, we feel that there is likely to be inequality resulting from the option of a DMO or DCO with different labels. One level or the other should be decided upon so that the impact of this development is equal across all LAs.

**Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal**

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

<b>Agree</b>	<input type="checkbox"/>	<b>Disagree</b>	<input checked="" type="checkbox"/>	<b>Neither agree nor disagree</b>	<input type="checkbox"/>
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**Supporting comments**

On the contrary, while we support parents' rights to challenge decisions in principle, widening the right to formal appeal across the entire range of ALN is going to result in increased disagreements and adversarial standpoints. It is more likely to hinder co-operative working and resolution. It will form additional barriers between parents and schools and between schools and LAs and between parents and LAs. This, in turn, will take up a great deal

more of the budget and staff time in negative negotiations. This, again, is unlikely to be in the child/young person's best interests.

We would prefer to see the right to Tribunal appeal limited to those with the most complex and severe needs as is the case currently. This would necessitate a criterion referenced cut-off point for recognition of such needs.

#### **Question 6 – Supporting documents**

Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

We do not recognise the reference to “draft Explanatory Memorandum (including the Regulatory Impact Assessment)” if such a supporting document exists, we are either unaware of it or do not recognise it using these terms.

We agree with:

- the principles laid out in the draft ALN Code of practice but feel that these are achievable under the current legislation;
- the principle that meeting the needs of learners with ALN should be part of whole school improvement and welcome the fact that it has been specified so overtly in the Draft Bill/Code;
- the emphasis on the fact that meeting the needs of children should take place in a mainstream setting wherever possible. We welcome this and the clarity with which it is stated;
- putting the child at the centre of all decision making. We welcome this shift.

Our concerns are:

- the draft framework is too woolly and will therefore lack effectiveness in terms of meeting the aims;
- the lack of clear definitions and criteria that would ensure equitable provision across different schools and LAs;
- the lack of additional funding to enable LAs to extend provision and inclusion;
- when we look at the reforms in England, the concerns that have been raised there centre around what they have lost and we would be concerned about Welsh reforms repeating the same mistakes.

We feel that a criterion referenced cut-off point for the recognition of where and when schools' responsibilities end and LA responsibilities begin is required.

**Question 7**

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

We strongly feel that a criterion referenced cut-off point for the recognition of where and when schools' responsibilities end and LA responsibilities begin is required. Ceredigion currently operate a system where schools are responsible for meeting the needs of all pupils on School Action and School Action Plus thresholds via delegated SEN funding. Where additional funding/resources are required, clear criteria are in place whereby the LA takes responsibility via a resourced agreement contract (SAPRA). We would be happy to share our strategy with Welsh Government officers.

This would also help ameliorate a lot of the concerns we have listed in response to the questions above.