

**Cynulliad Cenedlaethol Cymru | National Assembly for Wales**  
**Y Pwyllgor Plant, Pobl Ifanc ac Addysg | Children, Young People and Education Committee**  
**Blaenoriaethau ar gyfer y Pwyllgor Plant, Pobl Ifanc ac Addysg |**  
**Priorities for the Children, Young People and Education Committee**

**CYPE 72**

**Ymateb gan : Cymdeithas Genedlaethol Ysgolion Annibynnol ac Ysgolion Arbennig Nas Cynhelir (NASS)**

**Response from : National Association of Independent Schools and Non-Maintained Special Schools (NASS)**

**Introduction**

The National Association of Independent Schools and Non-Maintained Special Schools (NASS) is a membership organisation for special schools which cater for over 10,000 very vulnerable children and young people. It provides information, support and training to its members in order to benefit and advance the education of children and young people with SEND.

NASS is the only national organisation representing special schools in the voluntary and private sectors. NASS works in partnership with key national and regional organisations and acts as the voice for Non-Maintained and Independent Special Schools (NMISS). NASS has 288 members, with seven located in Wales. NMISS cater for around 13,000 of the most vulnerable children in the UK, with wide ranging but complex needs. Over 99 per cent of places in NMISS are funded indirectly by the public purse, through Local Authorities (LA) making placements.

**The Additional Learning Needs and Education Tribunal (Wales) Bill**

Having studied the Bill in its draft form, we feel strongly that scrutinising this Bill will be the most important task facing the committee over the next twelve months. We wish to both highlight our concerns over the draft of the Bill, which was published last year, and note some of our experiences of the SEND provisions of the *Children and Family's Act 2014* - legislation that was designed to perform a similar task to this Bill in England. Our key concern is that the draft Bill is retrogressive in removing parental choice for an independent special school, even if that school best meets a child's needs.

## **The role of independent provisions**

As an association for schools outside of LA control, we are concerned that the draft Bill did not set out registered independent provision as being covered by the Code of Practice. This is a significant departure from the UK legislation and we believe this must be covered. It is also unhelpful not to include independent schools in the section on different types of provision and their role in IDPs. In English legislation, there has been recognition of the role of independent provision within the ‘continuum of provision’ and this is reflected across the *Children and Families Act 2014* and secondary legislation. We think it is unhelpful to deal with independent provision in the Act as separate to all other types of provision. We are extremely disappointed to see the choice of independent provision appearing to rest solely with the LA, rather than being an actively supported parental choice. We are keen to see further details on how schools are registered to appear on the list of independent provision that might be considered for a child.

Additionally, NASS is concerned by the provision within the Bill that abolishes the power of Welsh Ministers to approve the creation of non-maintained special schools (NMSS) in Wales. While we are aware that there are currently no NMSS in Wales, it would seem that removing the ability of ministers to approve their opening appears to limit the scope for new provisions to be created at a time of increasing demand. Many Welsh authorities purchase placements from English NMSS and it is unclear why it was felt necessary to make this change.

## **Individual Development Plans**

NASS endorses the general principles and intentions of the Bill. In particular, as an organisation that supports children during their transition to adult services, we are in favour of the unification of the system of assessing CYP and providing them with an Individual Development Plan (IDPs) up to the age of 25. We believe this will create the potential for a greater degree of continuity in providing appropriate support as young people move into to adulthood.

We are also satisfied that the language contained within the draft Bill presents a broadly clear outline of the duties and responsibilities of schools, Further Education (FE) institutions, LAs and Local Health Boards/NHS Trusts with regards to the preparation, execution and review of IDPs. However, our experience in England in relation to the transition from statements of SEND to Education, Health and Care Plans (EHCP) illustrates that LAs often lack the resources to support both the transition to and sustainment of the new, more comprehensive system. In practice, the responsibility for managing transitions has fallen mainly to schools. We would also note that the vast majority of EHCPs are focused only on a child’s education, as opposed to wider needs.

NASS welcomes the clear legal responsibilities for the delivery of services for children and young people with ALN set out in the draft Code. We would strongly support the incorporation of this approach into the final ALN Code. However, adequate resources must also be provided to ensure that legal responsibilities are deliverable on a practical level. The lack of staff resource in LAs, schools, colleges, and health and care teams to coordinate, contribute to and deliver the support in EHC Plans has been a major stumbling block in implementing the new English SEND system. For example, our experience in England leaves us unsure whether it will be possible to field sufficient numbers of suitably qualified ALN Coordinators (ALNCos) in an acceptable timeframe.

It is vital that adequate resources are allocated for these sound theoretical plans to be transformed into tangible results.

### **Child and parental preference**

We are concerned that the language in the draft Bill relating to how CYP participate in the formulation and review of their IDP is not sufficiently robust. Every effort must be made to ensure that the Bill and its accompanying Code of Practice make clear the requirement to facilitate the participation of CYP in the formulation and review of their IDPs. This must include granting the ability of CYP (and their parents/carers) to - where necessary - offer input into decisions regarding which school or other institution the CYP will attend.

Our experience with EHCPs in England has shown that it is very rare for our members to see evidence of the LA engaging with the child's views and preferences, then promoting them in the EHCP transfer process. We see engagement as essential for helping young people to progress, both within school and when they make a transition to further/higher education or work. Many of the young people attending our schools will require care and support as adults, and there have been specific challenges in planning transition for these young people in the absence of LA engagement and the subsequent lack of linkage between children's and adults' services.

### **Conclusion**

NASS will be submitting a response to the consultation that will accompany the publication of the full Bill. However, we felt that the committee's consultation over what its priorities should be provided an opportunity to inform its members of our members' views regarding the importance of this forthcoming legislation and our initial concerns over the current approach. The *Additional Learning Needs and Education Tribunal (Wales) Bill* will shape the SEND provisions in Wales for decades to come, and will have a significant impact on the lives of tens of thousands of the country's most vulnerable people. Removing choice from families about which school best meets their child's needs seems a retrogressive step, and as such we are keen for the committee

to look at this part of the legislation again. It is imperative that the Bill is subject to the highest standard of scrutiny, and that the lessons of similar reforms in England are taken into account in its legislative passage and practical implementation.