

Additional Learning Needs and Education Tribunal (Wales)

Bill: Stakeholder Event, 26 January 2017

Y Pwyllgor Plant, Pobl Ifanc ac Addysg
Children, Young People and Education Committee

Summary of evidence

On 26 January 2017, the Children, Young People and Education Committee held an **event with stakeholders** to obtain their views as part of the Committee's scrutiny of the general principles of the *Additional Learning Needs and Education Tribunal (Wales) Bill*.

Approximately **80 people attended** the event, providing a **range of perspectives** including from, amongst others: the third sector; local government; the NHS; schools and colleges; teaching unions; and parents. Discussions centred around **six main topics**, which form the structure of this paper.

This is a **summary of the key points** raised at the event. It is not an exhaustive list of all comments made by participants, nor does it mean there was unanimous agreement on each point amongst all present. It is **intended to provide a general picture of the views expressed** by the stakeholders.

The comments listed below are not those of the Assembly's Research Service and are a paraphrasing of what participants said.

1. Overall views

- Stakeholders expressed **general support for the aims** of the Bill but warned **greater clarity and transparency is needed**, such as how the Bill will address existing problems.
- The Bill is generally welcomed but stakeholders find it **difficult to understand or scrutinise it fully without having the Additional Learning Needs (ALN) Code**.
- The new ALN system needs to be inclusive and **reflect an inclusive society**.
- **More clarification** of the **roles** of those **involved in delivering** the new system is needed.
- There should be **more training for all professionals** who come into **contact with learners with ALN**, even those who do not have an obvious teaching role (the example of staff delivering school lunches was given). However, stakeholders recognised this might not always be possible due to resources.

- Participants concurred with the Welsh Government’s acknowledgement that the system is not fit for purpose. However, there was some **divergence in views on whether the system is ‘broken’, or not working** because it is not being implemented properly.

2. Replacing the three–tier system with Individual Development Plans (IDPs) for all learners with ALN

2.1 General points

- The **current system is not fair**. Often, a child needs a statement of Special Educational Needs (SEN) to get proper support and focus. This means **parents have to ‘fight’** for statements and those who do not have the necessary time, confidence and resources to do so miss out. Stakeholders suggested this goes **against the United Nations Convention on the Rights of the Child (UNCRC)**.
- The **Individual Development Plan (IDP) is a great concept** and should hopefully shift the focus onto ‘needs’ rather than diagnosis. A **needs–based approach is to be welcomed**. However, it **needs adequate person centred planning**, otherwise the IDP will just become another piece of paper.
- The removal of the three tiers should help to **reduce stigma** and the labelling of children. Ending the terms ‘statementing’ and ‘having a statement’ is welcome as these were often perceived as stigmatising.
- In principle, there is a clear advantage of a **simpler system**. However, there are **workload implications** for teachers of providing statutory IDPs for a **greater number of pupils**.
- The new framework needs to have a **stronger focus on outcomes** for learners with ALN.
- There will still be the problem of parents not engaging or not getting what they need. The Bill provides an opportunity to improve things but we all have to be realistic; there is **no ‘silver bullet’**.

2.2 The ability of IDPs to meet varying levels of needs

- A non–graduated system, covering pupils with a range of severity in their conditions, **risks leading to those with the greatest needs missing out** on the support they need (e.g. if resources are spread too thinly). At least the current three–tier system recognises the differences in complexity of need. **Will IDPs be able to address the full range of needs**, from very complex needs to a single issue such as dyslexia?
- It is possible some children with low–level dyslexia or low–level dyspraxia will not necessarily need an IDP. We **need to be careful the system does not unnecessarily escalate cases** that do not require an IDP.
- There is concern that **IDPs will not be a sufficiently strong replacement** for statements. There is a risk that some parents of children with statements will **not have enough confidence** in IDPs.

- The **current definition of SEN is not sufficiently clear**, which has led to schools and local authorities interpreting it differently and providing support in different ways. A **clearer definition of ALN is needed with a threshold**, which everyone clearly understands and which entitles pupils to additional support.
- There **may be a reluctance amongst parents to formally sign up** for their child to have an IDP when they may have an early years development issue that soon eradicates itself. On the other hand, where a young child does have an IDP but their need in early years is resolved, **parents may not want to give up the IDP** even though their child no longer needs it.
- **Communication is key**. Parents need to understand that the ceasing of an IDP can be a good thing if it means their child no longer needs it.
- It is **important that the new universal system is still responsive** to higher levels of needs and can **provide tailored support**. Person-centred planning can play a big role in this and can be a big step forward. It is important the new system has the child and the **child's interests at the centre** of everything.
- Some stakeholders like the **current three-tier structure** as it provides more certainty. They feel it generally provides a **clearer, graduated pathway** and it is easier to know when to move onto the next 'level'. Who will decide when the next 'step' is reached under the new system?
- Parents currently understand the three-tier system. Removing the graduated three tiers is **likely to cause worry and confusion**.
- In terms of transitioning learners from the current three-tier system to IDPs, there is a risk that it will be **learners who are currently between the three levels** who are the last to have an IDP drawn up for them.

2.3 The definition of ALN

- The definition of ALN is **too focused on educational/learning needs**, with a significant number of stakeholders believing ALN **should also include healthcare needs**. Anything that affects a child's ability learn should be included, therefore the Bill should include medical needs.
- Some stakeholders believe the Bill should include a **statutory duty to support children's healthcare needs**. Children should have a statutory healthcare plan as well as a learning needs plan.
- There needs to be a proper understanding of the **difference between healthcare and learning needs**, for example a medical professional might recognise medical or developmental issues but not learning needs and vice-versa for an educational professional. Officers from the **health and education** sectors would benefit from having **training in each other's area**.

- There are **concerns that medical conditions such as epilepsy and diabetes will not be covered** under the Bill. These are dealt with under the current system of statementing (even if they are not intended to be). This poses a **potential ‘wrecking ball’** to the support young people currently receive with their medical conditions. Medical conditions were described by some stakeholders as a **‘massive missing aspect of the Bill’**.
- It was suggested that **Ireland has clear and very detailed guidance** on SEN and medical conditions, which Wales could learn from.
- **A clearer definition of ALN is needed** in order to provide more consistency.

2.4 Template

- There is **overwhelming support for a template for the IDP**; a standard format but individualised content.
- Stakeholders believe there needs to be a template to **ensure consistency** across Wales and **portability should a learner with ALN move** between local authority areas. It would also help consistency across different ages and key stages.
- A template would be also be particularly **useful for the health sector**. A local health board usually works across several local authority areas so would find a consistent approach and template useful.
- Having a template does not have to mean a blanket ‘one size fits all’ approach; the **content of an IDP should be personal and tailored to the individual learner but within a standard template**. A template is a critical component of improving the standard of support.
- It would help people follow the new system and **make introducing IDPs far easier**.

2.5 Accountability

- Stakeholders like the idea that giving a learners with ALN a statutory IDP provides greater protection, but there is **no clear idea of what an IDP will look like**. This is not a new problem. Children’s statements of SEN are too generic at the moment. One individual commented they are sometimes ‘not worth the paper they are printed on’. The system needs improvement and stakeholders feel it **all boils down to the discretion of local authorities** who ‘feel they can do what they like’.
- The system **needs greater oversight and better scrutiny and accountability** of local authority decisions. How will performance and success be measured and monitored?
- The **reforms in England have done little to improve accountability**. The new system there has not delivered on promises of more accountability and transparency and the problems for parents are still the same.
- The right of families and learners with all degrees of ALN to **appeal to the Tribunal should help to make local authorities more accountable** right from the start.

- The current system is complicated and long. However, there are **concerns that the removal of tiers might actually increase the time taken for referrals.**

2.6 Resources

- The new IDP process is based on **person centred planning**. Stakeholders generally **welcome this but it will need sufficient resources**. Local authorities are clearly stretched already.
- Resources is a big issue when **moving from 13,000 to 105,000 statutory plans**. In England only those who had statements have an Education, Health and Care Plan (EHC). The Welsh Government is attempting something **more ambitious**.
- There is concern over the **amount of time that will be needed to draw up IDPs for all the 105,000 learners** currently in the ALN system.
- One SENCo reported their **caseload would rise** from 30 children to 250 with no prospect of additional resources to support this. A primary school teacher highlighted their school will have to create 240 IDPs while a further education (FE) college representative said they may have to create around 400.
- While IDPs will vary in level of detail, **stakeholders fear the time needed** to arrange meetings, conduct those meetings, draw up IDPs and then implement and review them will be **much higher than at present**.
- Stakeholders reported that there is **currently a rationing of services**, with support for those that need it most rather than everyone who needs it. **Without additional resources, the Bill will not change this.**

2.7 ALNCos

- ALNCos will have a **vital role** under the new system. They must be free to concentrate fully on their role and **should not have any teaching duties**, otherwise they will be overburdened. The ALNCo role **needs a higher status**. Currently, SENCos are sometimes not a member of the school's management board.
- There is a **need for more funding to build ALNCo capacity**. There is a debate over the **qualification requirements**, for example whether a Master's is really necessary. This alone will not guarantee the skills and qualities that are needed.
- The **role of ALNCos needs to be clearly defined**. They will have an **important role in co-ordinating IDPs** as health professionals will not always know what is best practice in supporting learning outcomes. This demonstrates the importance of their liaison with health boards' Designated Education Clinical Lead Officers (DECLOs).
- The removal of the three-tiers **may make ALNCos' task more difficult**. It could be more difficult for them to gauge how severe a learner's needs are.

2.8 Assessments

- The Bill, or the Code if more appropriate, should require **assessments to be carried out by qualified professionals**. There may be **lots of demands** for new assessments upon transfer to the new system of IDPs. The appropriate professional will need to be available for each assessment. There are **big workforce capacity implications**.
- Assessments need to be carried out by someone who is **independent** of the organisation that would be expected to fund any provision which is identified as necessary. This is to **avoid a potential conflict of interest**.
- From a parent's perspective, there can be lots of assessment but then very little detail of provision included in the statement. There needs to be **clarity over who does what**.

2.9 Involvement of parents

- Parents can often be **left out** of the process of designing support programmes, despite often **knowing the most** about their child's needs.
- **Parents are the 'missing link'**, with decisions being made without their input. The new process should address this. However, this will need more than parents simply being notified about decisions; they **must be able to play an active part**.

3. Responsibility for Individual Development Plans: Governing body or local authority

3.1 Ambiguity

- The **definition of where responsibility lies in the Bill is very ambiguous**. It is very subjective and open to interpretation. This maintains current ambiguity, for example where will the key worker role lie?
- **Without the Code**, the Bill can be **read in many different ways**.
- The **respective roles** of schools and local authorities **need to be more clearly defined**. Schools need to know when to refer cases to the local authority.
- The terminology in the Bill is unclear. **What is meant by 'cannot adequately determine' or 'not reasonable'?** (These are the circumstances in which schools and colleges' duties to prepare and maintain IDPs do not apply.) These terms will **need to be explained**.

3.2 Prospects for more tension and challenge

- Stakeholders expect some **families of learners currently supported under School Action and School Action Plus to want to move on to a local authority IDP**. (The Welsh Government has previously said it anticipates a similar balance between the number on School Action/School Action Plus, and those on statements to the new balance between school/college IDPs and local authority IDPs.) Stakeholders believe it may settle down in the future but that there will be a **rise in appeals in the short term and people will want to test the system legally**.

- There will be **additional work for local authorities** in reviewing school governing bodies' decisions. If they uphold schools' decisions there will be **resource applications** in fighting appeals.
- This all runs **contrary to the objective of taking adversity out of the process**. It could be an unintended consequence and create tension between schools and local authorities.
- There is a **potential conflict of interest** if the organisations responsible for funding ALN provision are also the ones who decide who is eligible for support. There is a **risk that the budget**, and not the child, will be the **primary concern of decision makers**.

3.3 Implications for schools and colleges

- There will **need to be a lot of training** for schools and their governing bodies. There will need to be additional training for teachers and teaching assistants to **ensure they can identify and respond to ALN**. This should be included in teachers' professional development and in their initial training. Small schools in particular could have difficulty in building expertise.
- There are concerns about **whether schools will have the capacity** to meet the new requirements. The minimum required for an IDP is **now more complicated** and school staff will not have the time or skills to do this properly. There is a risk teachers may look to identify ALN through behaviour and not by proper assessment. This could mean children still have to 'prove' they have a need by 'failing first'.
- The changes risk exacerbating the **existing problem of teacher workload**.
- The Bill has **implications for the way that schools are funded**. Local authorities currently delegate a high proportion of funding to school, including SEN funding. How will this be affected if local authorities are responsible for more IDPs?
- The **current system of school funding does not work for learners with SEN/ALN**. The main driver for funding is deprivation, yet conditions such as autism do not have a link with socioeconomic factors. Schools with a good reputation for ALN provision attract more ALN learners but they are not compensated for the additional burdens.
- There is **currently very little relationship between local authorities and FE colleges**. Under the new system, this will be needed.

3.4 Higher-level needs and specific groups

- There **should be a presumption that local authorities are responsible for IDPs of learners with low-incidence complex needs** such as hearing and visual impairments. Schools do not have the skills or knowledge to accommodate these on their own or to know when to make suitable referrals to specialist services.
- There is concern about how the Bill will apply to particular groups. Where will responsibility for the following groups lie – Education Other Than At School (EOTAS), home educated pupils, excluded pupils, pupils who are Not in Education, Employment or Training (NEET), hard to reach groups, and those with health needs.

- This demonstrates the **importance of person-centred planning**.

4. A comprehensive, age 0–25 system

- Stakeholders generally **welcome the aspiration to establish an age 0–25 system**. However, this **may result in a dilution in provision**.
- Many stakeholders believe the Bill will not create a comprehensive, age 0–25 system. It is **mainly focused on pupils of statutory school age** and those who actually attend school (it does not focus enough on learners EOTAS and those who go in and out of the school system).

4.1 Early Years

- There is **not enough focus within the Bill on early years**. However, what is meant by ‘early years’ **lacks definition** and more clarity would **be useful**.
- Early years **provision is currently patchy** and ‘hit and miss’. There needs to be greater collaboration between agencies to ensure ALN are identified as early as possible.
- There needs to be **statutory training for early years providers**, information on referral routes need strengthening and there should be **obligations on health visitors** as they are the main point of contact.
- The **definition of education or learning may need to be reconsidered** to ensure adequate focus on developmental aspects in early years.
- **How will childcare providers be covered** under the Bill? (The Bill only covers maintained settings and non-maintained settings that receive local authority funding.) Private nurseries will get funding but will only need to pay regard to the IDP. This needs addressing.
- The Bill provides for a **referral by health at age 0–3, but not for education referral**.
- Young children’s ALN may be identified by Flying Start but **what about children who do not live in a Flying Start area?** Children from all levels of household income can have ALN as this does not depend on socioeconomic circumstances.
- There should be opportunities for a full assessment for children aged 0–3, rather than wait until they reach school-age. **How will needs be identified at ages 0–3?**
- The provision for **referral by health is important**. Health professionals need to be involved in the ALN framework **from a child’s birth**.

4.2 Post-16

- The Bill will **hopefully improve transition to post-16**. Changes such as having a list of approved specialist FE colleges should help.
- Making greater provision at age 18–25 will have **workforce and resource requirements**. There are doubts about how ALN support would be provided to this age group.
- The Bill is a **‘missed opportunity’** to support young people with ALN into post-16 **training and employment**.

- **Work-based learning should not be excluded** but stakeholders understand that extending duties to private sector businesses would **make the Bill more complicated**. It is not clear how such a system would work. Would businesses be willing to participate or would it have the **unintended effect of making them less likely to take on an apprentice with ALN**? There was a suggestion that responsibility for an IDP could be shared between the FE college providing the qualification/course of study and the employer, rather than all the onus and risk being on the employer.
- **Higher Education (HE) should also be covered** by the Bill.
- **FE is generally not sufficiently resourced**, meaning that a child could receive adequate support when in school only for this **support to disappear when they enter FE**. There is a seamless transition for pupils going from Key Stage 4 to Sixth Form yet if they go to a different school or an FE college, the whole process has to start from scratch again.
- It is positive that FE colleges are included but there are **concerns they do not have skilled staff** to implement the requirements. There is also a **risk that local authorities and FE will be battling with each other over who has responsibility** for an individual learner.
- The **Code must provide adequate information** on how to manage learners' **transition into adulthood**. The latter years of an IDP during statutory schooling should include plans for potential transition to employment as well as continuing in education.
- Stakeholders highlighted the **overlap between ALN and Child and Adolescent Mental Health Services (CAMHS)**.

4.3 Other age 0–25 issues

- The Bill has the potential to make an **impact in tackling child poverty** if the new system works effectively at early years.
- The new system must fully factor in **mental capacity issues**. There needs to be a formal assessment of whether a learner over 16 or over 18 has the capacity to make their own decisions. Under the Bill, young people aged over 16 must give their consent to being assessed or accessing provision. **What happens when they cannot make decisions properly themselves?** (The Bill makes provision for 'case friends'.)
- The Bill covers young people up to age 25, but paediatric services only run up until age 16 or 18. **Adult health and social care services have not been engaged with this Bill at all**. There will be difficulties of transition between the child and adult legal systems.
- The Bill needs to be stronger on **transition from primary to secondary school**.

5. Multi-agency collaboration

- This is the one of the **most important issues** for stakeholders. They believe the new system of IDPs bring an **opportunity to strengthen collaboration and information sharing**.

- One of the long-standing problems has been an **artificial distinction between health and education**. It should be one system from the perspective of the family.
- The Welsh Government needs to **align targets and objectives across education, health and social services** if this Bill is to have any impact at all.

5.1 Contributions from health bodies

- The **language** in the Bill is quite **ambiguous**. The wording of section 18 is still open to interpretation e.g. the term 'likely to be of benefit'. There **needs to be a clear definition of the role health boards will have**.
- There were some conflicting views on whether placing more statutory duties on health boards **could create more confusion** and more 'ping pong' for families between organisations pointing to each other. (Arguably, this is the case now which the Bill seeks to address.)
- There are concerns that the Bill just formalises what happens now and will not positively take things forward. The Bill is **not strong enough in bringing organisations together**.
- The Bill needs to **define what is meant by a health need**. **More clarity is needed over what health is responsible for**. For example, is speech and language therapy the responsibility of education or health?
- Generally stakeholders did not challenge the principle that health professionals' **clinical judgement should determine what health services are provided**. However, there needs to be a mechanism for **getting the right people involved in an assessment**. There was some disquiet that the health sector's involvement is still down to their discretion.
- The most common issue and **biggest obstacle** encountered by dispute resolution processes is where **education services have no access or influence over health delivery** and health will not or cannot come to the table. The problem has always been **how to get the health sector to the table** and to engage properly.
- Health professionals often make a diagnosis but **do not follow this up with the provision of services**.
- A health representative expressed concern that there will be **significant costs for health boards** from the Bill. It was also suggested that the **Bill is not a sufficient priority for health boards**. There is a general feeling that the new arrangements are being imposed on health sector and they are **not really involved or signed up to them**.
- Health services should have **greater involvement in schools**. This could be based on a school nurse model, whereby the nurse plays a role in managing pupils' medical needs.
- Involving the right health professionals is key. However, there is a **shortage of workforce capacity** across the board, particularly in terms of speech and language therapists, educational psychologists and those involved with school outreach and engagement. The child protection and safeguarding model of working was mooted as the ideal approach, given the open, cross-cutting collaboration it entails.

5.2 DECLO role

- Stakeholders **welcomed the Designated Education Clinical Lead Officer (DECLO) role**, which has the potential to be important but a lot will depend on the detail of what it is they will do. A health representative did not expect it to be a full-time role and there is **a risk it might just be seen as an add-on**.
- The DECLO role requires a **highly skilled and qualified person** whom health boards may have **difficulty recruiting**. Stakeholders felt the job specification looks reasonable but there is not enough resources for the role. There was some feeling that it **might not be the best solution for LHBs** to give the role to one DECLO, rather than having specialist staff across a region.
- The **DECLO needs to be free to do the job**. There is concern that they will have other work responsibilities.
- **How will they be appointed?** Will there be new staff or a new role for existing staff?

5.3 Benefit the service user not providers

- In England, the experience has been that assessments are made on the basis of providers' capacity rather than the child's need. It must be the other way round. A recurring theme was that **too often the offer of provision** is based on what is available or what suits the local authority or health board, rather than what is best for the child.

5.4 Other collaboration issues

- It is **not clear how the multi-agency collaboration will work** where there is a need to commission some therapies and equipment; for example where provision is needed from an independent provider (e.g. extensive physiotherapy) or a wheelchair with an adjustable seat (which was described as being partly health and partly education related).
- The Bill **needs to fully factor in mental health needs**. Will CAMHS be covered within the ALN framework?
- The Bill **only enables local authorities to make a referral to health**. Schools cannot do so. If a local authority made a referral to health on behalf of a school, would it need to take responsibility for the whole IDP?
- Getting multi-agency collaboration right is **particularly important for transition and post-16**.

5.5 Information sharing

- There can be difficulties in sharing information and hesitance among health bodies due to **NHS confidentiality rules**. There will **need to be further detail/guidance** about information sharing protocols.

- The Bill should put in place consenting arrangements for information sharing. It was suggested there could be **one system containing information on an individual's ALN**, which all professionals interacting with that student could access.

6. Fairness, transparency and dispute resolution

6.1 The Tribunal's lack of remit over the health sector

- Stakeholders have **concerns about the two separate procedures for complaints and appeals**: via the Tribunal if relating to the local authority and via the NHS redress procedure if relating to health boards. Stakeholders believe the **Tribunal needs to be a 'one stop shop'** that can deal with all complaints over ALN so there is one ALN complaints and appeals process. The Bill makes a range of agencies responsible for meeting ALN needs but the Tribunal only has remit for education. **Health bodies should also be accountable to the Tribunal.**
- However, there was **some acknowledgement that the WG probably have good reasons** for not including health in the Tribunal's remit.
- A two-track complaints and appeals procedure may be convenient for organisations but it is not for the service user.

6.2 The role of governors

- Some stakeholders felt that the **governor/teacher/leader relationships do not have the suitable professional distance** to ensure that each holds the other to account. This can lead to them 'sticking together' when pressed over a potential dereliction in their duty to those with ALN. The Code could specify that schools should have an **ALN focused governor** and that they get **clear and appropriate training.**

6.3 Support for families

- Stakeholders believe **the Bill does not go far enough** to make the system less adversarial. There will be still be a feeling of parents vs the local authority. At present, parents see the system as a 'battle' and feel they need to be 'ready for a fight'.
- Families need **information, advice and advocacy support as early as possible.** The **independence of this advice is vital.** Parents are more likely to accept decisions they may not necessarily like if an explanation comes from an independent, credible source.
- **Families do not know where to go** for information and advice. The situation is even **worse at post-16, which is like a 'black hole'**. Parents should have access to guidelines setting out what they can expect from an IDP. This would enable them to understand their rights better and the options available to them should they have concerns about school or local authority actions and decisions in relation to their child.
- **Advocacy is needed for parents as well as children,** particularly as the parents of children with ALN will sometimes also have ALN themselves.

- **Changes to legal aid were a big blow** to families in accessing advocacy support and representation. There are some concerns over the level of access in Wales to legal representation specialising in the Welsh system. **The new system needs to be more proactive** in offering early independent advice and information.
- Local authorities need to provide more information about what the law is and what rights learners with ALN, and their families, have. **The key to avoiding complaints is to work with the families right from the start**, however this requires time.

6.4 Access to independent advice

- Advocacy to support **should be available from an independent source** from the early disagreement avoidance stages through to the dispute resolution stages. Families need support ‘from start to finish’, including when attending tribunals.
- The Bill should **define what is an ‘independent’ person**. There is concern that solicitors or paid experts could try to take the role of an ‘independent person’ in giving advice, which **should not be allowed to happen**.
- The system and the provision that is offered is too often based around the provider rather than the **learner, so the learner has to fit into whatever is available**. Person-centred planning should improve this.
- Access to an advocate or case friend to act on the learner or family’s behalf **can help de-escalate conflict**.
- The **Bill does not include provision for parent partnerships**. Currently, local authorities contract with organisations such as SNAP to provide parent partnership services.

6.5 Implications for the Tribunal

- There are likely to be a **lot more demands on the Tribunal**, particularly in the short-term, **from families for local authorities to take over their learner’s IDP**. There is currently a **small pool of Tribunal members**. This raises implications for resources and perceptions of impartiality and fairness, particularly if the volume of cases increases.
- There is also a feeling that **dispute resolution panel members are not sufficiently experienced in ALN matters** and this impacts on the fairness and credibility of their rulings. They will need more training.
- The number of cases going to the Tribunal could be reduced if there was more **mediation to de-escalate conflicts**.
- The volume of work for the Tribunal has **risen markedly in England, where the tribunal system is ‘collapsing’**, with around 300 appeals each month.
- There should be **timescales for the Tribunal’s work**. The Bill should state how long the Tribunal’s consideration of case should take (this could be in the Code).
- The Tribunal **needs to have sufficient teeth and enforcement powers**. There are insufficient powers in the Bill for Tribunals to enforce their orders.

6.6 Other models

- It was suggested that Scotland has a good tribunal system, which the Welsh Government could use to inform the arrangements in Wales.

7. Implementation and financial implications

- There were three main recurring themes: **money, human resources and workload**.
- Almost all of the participants had concerns that there will be **insufficient resources to implement the reforms**, in which case the Bill will not have the intended effect.

7.1 Resource implications

- There was broad agreement that **resources is a major issue** and the ‘**elephant in the room**’. There are not enough resources at present and certainly will **not be enough to deliver the Bill unless additional resources are made available**. Implementing the reforms at a time of funding constraints makes it more challenging.
- Stakeholders **disputed** the Welsh Government’s projection that the reforms will be **cost neutral** and even save money.
- There could be long-term benefits and savings if the reforms really work, but there will **need to be a lot of upfront investment** to realise this.
- SENCos are continually fighting for scarce resources. It is **difficult to see how the Bill will change** that unless there is also an increase in funding.
- The arrangements and **formula for local government funding** need to fairly reflect the resources that are needed to make ALN provision.
- **Funding needs to follow the child** so there is minimal disruption should a child move between schools.
- Health representative expressed concern that there will be **significant costs for health boards** from the Bill.

7.2 Long-term planning

- The Bill is **widely welcomed in principle but needs resources and training** if it is to be implemented effectively.
- The timing of the transition to the new arrangements is important. A desire to get the new system in place quickly could mean a **short timescale for roll-out and increase pressure on those responsible for delivery**.
- Overhauling the system **needs solid foundations and proper planning**. Moving to a model of co-production takes time.
- The reforms **cannot be ‘done on the cheap’**. They need proper funding and resources. We need to invest in our children and young people who have ALN and help them reach their full potential. This will have **economic and fiscal benefits in the long-term**, for example potentially reducing the prison population.

- What happens during transition? There is the **potential problem of local authorities already moving away from the current system.**

7.3 Significance of the ALN Code

- A mandatory code is **key to getting consistency** and desired outcomes, rather than the discretionary code there is at present. The Code **needs to be sufficiently prescriptive**, for example **using ‘must’ rather than ‘should’.**
- The ALN Code will **need to be scrutinised thoroughly** to understand how the framework set by the Bill will work in practice.
- There is **general concern about the level of detail which is being left to the Code.** Some delegates suggested a lack of transparency about the process of developing the Code. The Code needs to be subject to consultation and scrutiny. (The Bill requires consultation on the Code but it will be made under the Assembly’s Negative procedure.)
- **How involved will the third sector be** in implementation?

7.4 Condition of schools

- The **physical facilities of schools** were flagged up as a **barrier to implementation.** One parent reported that some schools are not **disability friendly** due to their age. Some do not have disabled toilets and those that do are not always close to the rooms where the ALN students are taught.

7.5 School accountability

- Schools are usually judged on their Year 11 outcomes and attendance records. ALN pupils can affect these outcomes, which can lead them to feel marginalised and stigmatised, by the school. It was argued that there **needs to be an accountability opt out system**, whereby a **school’s statistics are not adversely affected** by having ALN students on the roll.

8. Other issues

- **Welsh language provision** has been strengthened since the draft Bill but **needs to be strengthened further**. The term ‘reasonable steps’ should be replaced with ‘best endeavours’. There was an anecdotal example of local authorities encouraging parents to register children at a English–medium school when their preference is for Welsh–medium.
- How will the new system established by the Bill account for the **increasing number of pupils with English or Welsh as an additional language?**
- The **child’s views** over what school they wish to attend **should be given a stronger status** in decisions over school admissions.
- There is generally **insufficient access to Educational Psychologists**.
- **Disability specific guidance / pathways** for schools is needed. A requirement for this should be on the face of the Bill. Without it, there will be little accountability.
- There is **very little mention of social care in the Bill**. There needs to be an effective interface between education and social services.
- The Welsh Government should **look at how the reforms are working in England**. There is a good opportunity to learn from mistakes and from what has worked well. For example, it was felt that the guidelines on how the health and education sector should collaborate with each other are clearer in England.
- The Bill **needs to be considered from a children’s rights perspective**. The new system needs to make sure every child who needs an assessment gets one and the timescales need to dramatically improve. The **Bill/Code needs to set firm timescales** otherwise the current problem of time taken will not be overcome.
- Some stakeholders believe the Bill **needs to be stronger in respect of looked after children**.
- It was commented that ALN are now more common due to higher rate of premature survival. ALN **needs to be made a higher priority** amongst schools and head teachers.
- Terms such as ‘if appropriate’ should be avoided in the Bill and Code as they are open to wide interpretation.