

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

**ALN 37**

**Ymateb gan: Cymdeithas Genedlaethol Awtistiaeth Cymru**

**Response from: National Autistic Society Cymru**

## **1 About NAS Cymru**

1.1 We are the leading charity for people on the autism spectrum, including Asperger syndrome, and their families. Since we began over 50 years ago, we have been pioneering new ways to support people and understand autism. We continue to learn every day from the children and adults we support in our schools and care services. Based on our experience, and with support from our members, donors and volunteers, we provide life-changing information and advice to millions of autistic people, their families and friends. And we support professionals, politicians and the public to understand autism better so that more autistic people of all ages can be understood, supported and appreciated for who they are. NAS Cymru works across Wales alongside our 14 volunteer-led branches and members. We also provide support and specialist services for adults across Wales in a number of settings including residential care, supported living, community-based resource centres, at university and in people's own homes

1.2 Around 34,000 people in Wales are autistic. Together with their families and carers, they make up around 136,000 people for whom autism is a part of their daily lives.

## **2 About Autism**

2.1 Autism is a lifelong developmental disability that affects the way a person communicates with, and relates to, other people. It also affects how they make sense of the world around them. It is a spectrum condition, which means that, while all people on the autism spectrum share three main areas of difficulty, their condition will affect them in different ways. The three main areas of difficulty are:

- Social interaction: children on the spectrum can have difficulties recognising and understanding their own and other people's feelings. They may sometimes find it hard to manage stress and frustration in ways that are socially appropriate. They may not always understand the 'social rules' of school and how to interact appropriately with their peers. This can make it hard to form friendships.
- Social communication: children with autism may have difficulties understanding both verbal and non-verbal language, such as people's gestures, facial expressions and tone of voice. They may need support to express themselves and, equally, to understand what is happening during lessons, or what is being asked of them by school staff.
- Social imagination: this affects children's ability to imagine situations outside of their normal daily routine, to plan ahead and to cope with change. Many children on the autism spectrum like set routines, familiar people and environments, and they may have very strong special interests and repetitive behaviours. They may find unexpected changes to the school timetable, for example, hard to cope with. Unstructured break times can be particularly difficult for autistic children and young people. Organising and planning can be hard which can affect schoolwork or homework. They may also struggle to understand and predict other people's intentions.

2.3 Some people on the autism spectrum are able to live relatively independent lives but others may need a lifetime of specialist support. Autistic people may also experience some form of sensory sensitivity or under-sensitivity, for example to sounds touch, tastes, smells, light or colours. This might mean that sensory input such as a ticking clock or screaming in the playground can be highly stressful. Asperger syndrome is a form of autism.

### **3 Introduction**

3.1 NAS Cymru welcomes the opportunity to respond to the Additional Learning Needs and Education Tribunal Bill and the accompanying Draft Code. As a member of the Third Sector Additional Needs Alliance, [TSANA] we also support its written submission and the two oral evidence sessions given to the Children, Young People and Education Committee.

3.2 We have made a number of recommendations on how the Bill should be amended as part of this response, but our key recommendations are:

- Placing a clear duty on health to work with social services and education to meet peoples' additional learning needs, including autism;
- Ensuring that there is a national template for an Individual Development Plan;
- Introducing a single point of appeal to resolve disputes across education, health and social services provision; and
- Introducing mandatory autism training for the education workforce.

#### 4 General Principles

4.1 We welcome the Bill's intention to reform the law on education and training for children and young people with additional learning needs, including those with autism. In a survey that we published last year, four fifths of those who responded identified as receiving additional support at school because of their autism under the current system. However only two children in five whose parents responded said that their children were receiving all the provision outlined in their statement or plan. For autistic children with additional learning needs to thrive, we believe that there should be clear duties on health, social services alongside education, to realise the Welsh Government's transformation agenda in this area.

#### 5 The Individual Development Plan [IDP]

5.1 We are pleased that the draft Code notes that consideration is being given to a standard template for an IDP. We would strongly urge the Committee to recommend in its report that there is a national IDP template for the whole of Wales, as a means to ensure consistency and portability of an IDP. We would however seek assurances from the Welsh Government that it makes sure that the provision attached to an IDP is also portable. We would want to ensure that all parts of the IDP are statutory, *including* the duties on health and social care so that they are fully engaged.

5.2 We would also seek clarity on who will be entitled to an IDP under the new system. There is an assumption that an IDP will replace the current system but it is not explicit that all those currently receiving support through

School Action, School Action Plus and a Statement will all migrate to having an IDP. In England, the policy expectation was that only those with a statement would likely be eligible for an Education, Health and Care Plan. NAS Cymru would urge the Welsh Government to make it absolutely clear that all children and young people who currently receive support under the current system will receive an IDP, including the more than 2,200 autistic children on School Action and School Action Plus.

5.3 More broadly, we would welcome timely and appropriate guidance on the transition arrangements to the new system so that the teaching profession, children, young people and their parents are kept updated. We would also seek clarity on any additional costs that may arise as the new system is implemented.

5.4 We also note our reservations on making the IDP wholly electronic, given Wales' broadband and mobile 'not-spots'. A 'living' document can and should be available in paper form alongside electronic versions.

5.5 NAS Cymru calls on the Welsh Government to:

- Introduce a mandatory national template for an IDP;
- Amend the Bill so that there are statutory duties on health and social care as well as education;
- Give clarity on who will be entitled to an IDP; and
- Produce clear guidance on the transition arrangements and additional costs.

## **6 Collaboration and Multi-agency Working**

6.1 We are pleased that Section 6 of the Bill includes a duty to involve and support children, young people and their parents. However, as the Bill is currently written this duty does not read as if they are a core part of the decision making processes. The Bill states a person 'must have regard to the views, wishes and feelings of the child and the child's parent or the young person' and is far weaker than a duty on local authorities and governing bodies to involve them.

6.2 Moreover there are a number of occasions where children, young people and parents are 'notified' of decisions, rather than 'participate' in decisions.

Crucially, when it comes to the IDP itself, Section 20 says that a governing body or local authority must give a copy of any plans to a child, young person or parent but is not explicit about collaborating on the content of the plan itself.

6.3 We are also concerned at the lack of opportunities for parents and children to make specific representations to the relevant authorities. For example, Section 24 (3) says that governing bodies are invited to make representations to local authorities when they are reconsidering decisions about whether a child or young person has Additional Learning Needs. We would like to see the Bill strengthened to include representations from children and young people when it comes to the decision making processes.

6.4 We have concerns that this iteration of the Bill still does not adequately enforce multi-agency working, in particular between Health and Local Authorities. In Section 18 as currently written, Health would only be involved if firstly a decision to make a referral is made from a local authority or governing body and then the obligation is for Health to 'consider' if a treatment or service is available that is 'likely to be of benefit.' We would urge the Welsh Government and this Committee holds urgent talks with colleagues in Health as well as Local Authorities on how they must work together, define responsibilities – for example if providing Speech and Language Therapy is an education or a health need, and to strengthen the duties on Health Boards to meet the health needs of people with disabilities, including autism.

6.5 NAS Cymru calls on the Welsh Government to:

- Provide clarity in the Bill to ensure that children, young people and their parents play a full part in the whole of the decision making process; and
- Strengthen the duty on Health so that it must be involved.

## **7 A System for 0–25**

7.1 We have concerns that the focus of the legislation is very much based on the school environment and does not adequately provide for those between 0–3 and post 16. Early years settings need to be fully accessible for children

with special educational needs and disabilities including autism, with providers able to access additional funds to meet their needs.

7.2 We would want to see the section on transition within the IDP to be mandatory to ensure better planning processes around key stages for children and young people with additional learning needs, including autism.

7.3 Given the commitment in the 'Taking Wales Forward' report to create a minimum of 100,000 high quality all-age apprenticeships we would urge Welsh Government to consider ways to include Apprenticeships within this Bill so that autistic people can learn new skills and play a part in Wales' economic development.

7.4 The National Autistic Society recently launched a UK wide campaign on getting more autistic people into work. As part of the campaign we have recommended that employment as an outcome needs to become a key part of assessments and educational support plans. We have also recommended that the Welsh Government look at the findings of the Maynard review on apprenticeships in England and scope out the possibilities of taking them forward in Wales.

## **8 Workforce Capacity**

8.1 We welcome the recognition within the draft Code in particular that meeting the needs of pupils with additional learning needs is a responsibility on the whole school. Given this, we would urge the Welsh Government to introduce mandatory disability training, including training in autism, for all teachers in Wales, along similar lines to what was announced recently in England<sup>1</sup>. The Bill should also require regulations setting out the expected level of training and understanding of different disabilities among all teaching staff.

8.2 It remains unclear what the disability training requirements of Governing Bodies will be, given the new emphasis on them to determine whether a child

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<sup>1</sup> In July 2016 the UK Government published its Framework of Core Competency for Initial Teacher Training. This means that from September 2018 every new teacher will have to learn about the needs of autistic children and young people as part of their teacher training programme.

or young person has an additional learning need. We recommend that volunteers on Governing Bodies undertake disability training, including autism awareness.

8.3 NAS Cymru calls on the Welsh Government to:

- Amend the Bill to require new regulations to set out expected level of training and understanding of different disabilities, including autism among all teaching staff, and in particular the ALNCo.

## **9 Dispute Resolution**

9.1 We welcome the duty to provide people with information and advice about additional learning needs and the system itself. However we would like to see the Bill strengthened so that all relevant information and advice is provided by an independent organisation. Local authorities should be required to give parents and carers information about independent sources of advice, advocacy and support. We would also want to see independent advocacy made available for parents under Section 62 who may have different support needs from children and young people. We would also seek assurances from the Welsh Government that signposting to websites is one only part of a plethora of tools a local authority has as part of its advice and information service.

9.2 We have further concerns that the Education Tribunal Wales will not be the body responsible for making binding decisions relating to health and social care aspects of the IDP. We would urge that the Welsh Government reviews this decision and seeks to bring all issues around ALN disputes under one system encompassing health and social services as well as education.

9.3 NAS Cymru call on the Welsh Government to:

- Ensure that all information and advice is independent and comprehensive;
- Expand the role of the Tribunal to include the health provision within the IDP; and
- Ensure parents can access independent advocacy.

## 10 Code of Practice

10.1 We welcome the fact that the Draft Code was published during the Committee's consultation on the Act and appreciate the extra time given to consider both documents together. We note however that there are a number of key areas that are still subject to on-going discussions. These include key decisions relating to the IDP itself, the timescales around an IDP and the key issue of transport. We would urge the Welsh Government to have robust conversations with stakeholders in order to ensure that the next iteration of the Code is more advanced in its policy intent.

10.3 Section 1.12 of the draft Code is clear that it has been primarily designed for the 'relevant' persons' listed in Part 2 of the Act. We believe that this disenfranchises parents and young people in particular and prohibits them from finding out about a system which impacts them directly. We would urge the Welsh Government to reconsider this and introduce a version of the code that is accessible to all so that parents, children and young people are informed and can participate fully.