

Committee	Education and Economy
Title of Report	Consultation on the Draft Additional Learning Needs Code and the Proposed Regulations
Date	21.03.19
Relevant Officer	Ffion Edwards Ellis
Cabinet Member	Gareth Thomas
Context	
<p>The Additional Learning Needs Bill became legislation in 2017. In December 2018, the Draft Code, Education Tribunal for Wales Regulations and the Regulations for ALN Coordinators were issued.</p> <p>Following a period of consultation on the Code (that ends on 22nd of March) it is expected that the Code will come into effect in September 2020, with a transitional period up to 2023.</p> <p>Although there will be definite challenges in terms of presenting the changes, the work within the ALN & I Strategic Review has ensured that the Authority will be pioneering in terms of implementing the legislation principles.</p> <p>The following information summarises the main principles, the planning work and the risks to the authority.</p>	
Main Principles	
<p>Individual Development Plan (IDP) - the same form across the need levels, to be reviewed within 12 months or earlier if required.</p> <p>Based on the rights of the individual; identifying and providing for ALN early, close collaboration between all concerned, fully include individuals, bilingual provision available, minimise disputes.</p> <p>Extend the age range from 0-25.</p> <p>Speed up the process: 6 weeks to create IDP to commence when the ALN have been identified; 12 weeks for the Authority to make a decision regarding the contents of the IDP in usual cases. The Educational Psychologist has to be involved in each case.</p> <p>Duty to favour mainstream education and to include pupils with ALN in all aspects of the School's activities.</p> <p>The NHS will be required to provide any service/treatment usually available concerning ALN.</p>	

No provision **higher** than what is required should be provided.

LAC definition is narrower than what is used in the Well-being Act (2015) (see 1.24).

Increase provision **resolve disputes** and extend the **Tribunal right**.

Chapter	Key information	Local Context	Risks/Cost Increase	Action
2 Main Principles	<ul style="list-style-type: none"> - A rights-based approach - Early ALN identification, intervention and transition - Collaboration - Inclusive - Bilingual Provision - Advocacy <p style="text-align: right;">2.2</p>	<p>Person-centred planning</p> <p>Multi agency links</p> <p>Great deal of preparatory work has occurred in planning the Gwynedd and Anglesey ALN & I service.</p>	<p>Provision of an independent Advocacy Service likely to be at a higher cost than the current provision.</p>	<p>Continue to develop and incorporate the principles.</p>
3 Involving and supporting Children, Carers and Young People	<p>The child and the family at the centre of every process (3.5, 3.10) - Person-centred planning</p> <p>Consent - individual's right to refuse IDP (3.18)</p>	<p>Ensure that processes to give information, hold meetings, prior preparation correspond to the needs of the family.</p> <p>Suitable communication and information available.</p>	<p>The learner and the family do not participate in the process.</p> <p>Unable to provide due to no consent - need to identify other ways of responding to the learner's needs.</p>	<ul style="list-style-type: none"> - A range of methods are required - Suitable information on the website - Suitable training for Schools

<p>4 Duties on local authorities and NHS bodies to have regard to the United Nations Convention on the Rights of the Child and the United Nations Convention on the Rights of Persons with Disabilities</p>	<ul style="list-style-type: none"> - Ensure that leaders and staff involved in the delivery of services relating to ALN are aware of the relevant rights - Involving children and young people in strategic planning - Undertaking impact assessments - Reviewing ALN services and resources to identify any barriers to children’s and young people’s access to these services, and provide opportunities for children and young people with ALN to contribute to policies and services concerning ALN (4.17) 	<p>Planning</p> <p>Training</p>		<ul style="list-style-type: none"> - Ensure that this is incorporated in the central training programme for schools and staff. - Include the principles within the procedures to review provision.
<p>5 Duty to keep additional learning provision under review</p>	<p>Regular and continuous review of our processes and provisions at LA level</p>	<p>Involve Stakeholders, including parents and learners, in a Review of the provisions</p> <p>Look for good practice</p> <p>Review the quality of the provision in schools</p>	<p>Insufficient provision leads to an increase in dispute and Tribunals</p> <p>Need to ensure capacity to continue with the work that already occurs.</p> <p>Schools not responding to needs</p>	<ul style="list-style-type: none"> - Specific role for the Quality and Data Service (5.12) - Need to respond by adjusting the provision if required

6 Advice and information	Information regarding the provision and systems need to be available in multiple formats .	Information available on the website, in paper form, in public places Information is required on the Authority and Schools' provision which includes admissions procedure, what is available, how to appeal if discontent	Information free of charge sufficiently updated	<ul style="list-style-type: none"> - A central website is in the process of being developed. Needed to ensure administrative support to keep the information up to date.
7 The definition of ALN and ALP	Key sections (see the following) ALN Definition - 7.3, 7.6 ALP Definition – 7.9 Children under compulsory school age – 7.13, 7.14, 7.16 Healthcare Needs - 7.32 Referral Point for advice from agencies - 7.47, 7.56	Difficulties that are significantly higher than peers No differentiated teaching in ALN, neither Welsh or English as an additional language Assistance for healthcare needs is not in ALP unless it contributes towards the ALP - matters for specific conditions currently receive support. School makes a judgement that a case should be referred on to the LA.	Unclear Criteria for what is 'significantly higher' - open definition that can be interpreted in various ways. Insufficient differentiated teaching or targeting levels means that a higher number are subject to School IDP, and then to Authority IDP. School does not refer on to the authority or excessive referrals.	<ul style="list-style-type: none"> - Training for School staff from the ALN Service (also regional approaches) - Ensure that provision maps for each School reach the expected standards - Need a strategic discussion with the DECLO

<p>8 Children under compulsory school age</p>	<p>Every child identified with ALN who is under compulsory school age in the Authority's IDP. (8.1)</p> <p>Learners who are referred for the attention of the authority by various workers (e.g. health), parents</p> <p>The Educational Psychologist has to be involved (8.9)</p> <p>A parent should not have to pay for any additional provision (8.34)</p> <p>When a child reaches compulsory school age the authority can refer the School to conduct the IDP.</p> <p>The Authority needs to appoint an Early Years ALN Lead Officer (EYALNLO)</p>	<p>Training required on IDP administration and use of Person-centred planning</p>	<p>Increase in the need for the ALN workforce to be involved and the need to provide in the early years.</p> <p>Increase in IDP coordination work in the administrative service</p> <p>Unclear systems in terms of provisions in the early years sector is a risk for suitable provision.</p> <p>Additional provision cost</p>	<ul style="list-style-type: none"> - Pilot the Early Years Coordinator post as part of Transformation Grant in order to scope the work - Need a discussion regarding the training rate of Welsh medium Educational Psychologists nationally and regionally. - Need further strategic discussions in order to identify where the roles of the Lead Officer currently lie.
<p>9 Duties on maintained schools</p>	<p>Most of the IDPs will be School IDPs, apart from profound and complex needs and LAC (9.2)</p> <p>Any looked after child identified with ALN in the Authority's IDP - It is the Authority's LAC Coordinator who is responsible for coordinating these</p>	<p>High likelihood that LAC also has ALN - increase in the need to coordinate</p>	<p>Lack of clear systems lead to a failure to keep within time restrictions</p> <p>Increase in workload of the specialist teams, especially Educational Psychologists with extending the age range.</p>	<p>Increase in workload of Psychology Team - this needs to be discussed at a national level.</p> <p>Action that deals with Chapters 1-8 is also relevant here.</p>

	<p>School to refer IDP to the Authority if they feel that they cannot provide, or are unclear regarding the required provision.</p> <p>The authority can adopt or order the school to continue to support</p> <p>Health role (see Chapter 15)</p>	<p>The school has to ensure that it has made a request for information/input for an expert, and that this advice is required within a time limit.</p> <p>The role of the DECLO is vitally important</p>		
<p>10 Duties on Further Education Institutions and Local Authorities</p>	<p>The majority of the IDPs will be the responsibility of the institution. (in the same way as schools) (10.1. 10.2)</p> <p>Any individual undertaking a higher education course is not suitable to be subject to a IDP (10.3)</p> <p>The institution should consult an educational psychologist (10.43)</p>	<p>The Authority can refer the institution to provide</p>	<p>Increase in applications for the LA to provide</p> <p>Increase post 16 disputes and tribunals</p> <p>Educational Psychologists workload</p> <p>Finance released to the Authority based on a formula of use of specialist colleges - number in Gwynedd and Anglesey significantly lower than other Authorities.</p>	<p>LA Post 16 Transformation Officer collaborating with colleges to look at their provision and differentiated systems.</p> <p>Phase 2 Group already looking at the systems and planning</p> <p>Consider formula at regional level</p>

			Increase in workload of the Educational Psychologists Team at Authority IDPs level and FEIs IDPs.	Need regional and national level discussion.
11 Duties on local authorities in relation to children of compulsory school age not attending a maintained school	<p>As part of the process of deciding whether a child has ALN, a local authority must seek advice from an educational psychologist (11.5).</p> <p>Each one has a right to appeal (11.6)</p> <p>The Local Authority should favour mainstream education unless the authority considers that the provision is unsuitable</p> <p>11.3 is unclear in terms of the parents' choice</p> <p>11.66 The local authority must not charge for any provision described in the IDP.</p>	This section of the Code will require a response in the consultation in terms of duties, difficulties to ensure the quality of provision in non -maintained /independent schools, and home educated pupils (EHE)	<p>Higher number of Authority IDPs and workload of Psychologists - expenditure on provision in non-maintained locations increasing</p> <p>Higher number of tribunals</p> <p>Risk of additional cost for provisions within homes and independent schools</p>	-Regional discussion essential - local matters have led to tribunals recently

<p>12 - Duties on local authorities in relation to learners not at a mainstream school or FEI</p>	<p>In a case whereby a child's ALN is drawn to the attention of the LA it is necessary to consider if a IDP is required if "the young person has reasonable needs for education or training and if so, what are they; what provision may be available to meet those needs; and is it necessary for the local authority to prepare and maintain an IDP in order to meet those needs." (12.20)</p> <p>Usual period for training/education is 2 years</p> <p>Consideration needs to be given to the need for joint commissioning</p> <p>Again referring to the need for the Educational Psychologist to get involved (12.9)</p>	<p>These cases may arise at any time before 25 years old (e.g. if the individual's outcomes have not been attained, or if the previous provision was insufficient</p> <p>Connection with the Well-being Act 2015 - provision will be required under this act anyway</p>	<p>Additional workload in terms of coordinating and input of specialist teams</p> <p>How does the Authority monitor quality in order to reduce cases of education or training that have not been met previously</p>	<p>Strategic discussion is essential</p>
<p>13 Content of an IDP</p>	<p>National template - mandatory headings</p> <p>Person-centred planning used</p> <p>No jargon and technical language</p> <p>A health agreement needed to note the provision from health</p>	<p>The template is not a good tool for Person-centred planning</p> <p>Electronic system (Cynnal Gwynedd and Anglesey) in the process of being piloted. The pilot is going well.</p>	<p>WG undertaking a feasibility study into commissioning electronic IDP. A procurement process will follow.</p> <p>Electronic system procurement process</p>	<p>The Data Team are mapping the template on the local version to make modifications.</p> <p>Connect with the review and contribute to it.</p> <p>Cynnal are preparing for the procurement process.</p>

		Transport requirements to be included		
14 Content of an IDP for a looked after child	IDP to be created for any LAC with additional learning difficulties - IDP Authority	Gwynedd and Anglesey template needs to be used LAC Coordinator will coordinate and the IDP will be part of the PEP.		Clear communication systems are needed with the LAC and also to consider where this role sits within the Authority.
15 Duty on NHS Board	Receive and respond to statutory requests for information for the IDP process within 6 weeks The Authority needs to refer to the DECLO if there is any difficulty to get the information The strategic, clinical role of the DECLO (15.37) has to be identified within the board The health board has to identify and provide what is identified in the IDP (15.22, 15.28)	The provision of therapies (e.g. SALT, OT, Physio.) can be identified as ALP - issue for commissioning	The wording of the code in terms of the duty of the health board is weak. Possible increase in tribunals based on Health provision. No DECLO appointed in the BCUHB NHS	Further discussion with the Transformation Officer. The role of the DECLO is essential
16 Review and revision of IDPs	To be reviewed at least annually (16.1)	This is similar to current situation		Electronic system will significantly facilitate this work.

	Request for earlier Review can be made by the parent, NHS Board Point			
17 Local authority reconsiderations and taking over responsibility for IDPs	<p>Any decision taken by the Authority (i.e. refer back to the school, adoption) may lead to an Education Tribunal appeal</p> <p>In the case of a School IDP the parent can contact the Authority to appeal regarding the content of the IDP</p> <p>The Authority has to discuss with an Education Psychologist prior to making a decision</p>	<p>Effective and collaborative dispute solving processes required</p> <p>Impact on the workload of the Educational Psychologists Team</p>	<p>Need to consider the current commission with SNAP</p> <p>The role of the Quality Officers is essential</p>	<p>Planning by the dispute resolution group of the strategic review</p> <p>Drop-in Sessions for schools and parents with the Quality Officers already taking place</p> <p>Number of tribunals in Gwynedd and Anglesey fairly small, but the likelihood that this will grow especially at the beginning.</p> <p>Attendance of the Educational Psychologist on the Panels to continue</p>
18 Meetings about ALN and IDPs	Good Practice for holding meetings			This structure is similar to the existing local procedure.
19 Transition Periods	Good Practice regarding transition periods			Continue to develop good practice and effective communication
20 Transferring arrangements	Need to adopt the contents immediately when a learner moves or commences in a location - good practice		Consistency is required between School and Authority systems to facilitate transition.	Response to the consultation - it will not be possible to put an exact provision in place, the provision will need to be the best fit.

				Moving from one county to the next - need to continue to discuss regionally in terms of similar aspects (e.g. provision maps to an expected standard)
21 Ceasing to maintain an IDP	The LA has 4 weeks to consider ceasing to maintain an IDP The parent/learner has 8 weeks to appeal to a tribunal		Criteria to cease provision (i.e. when the IDP ceases to be significant)	Tribunal risk if the Criteria, Information and Communication are not clear.
22 Children and young people subject to detention orders	Any IDP provision needs to be in place for when the learner returns to the LA.	Information regarding any new identified ALN needs to be notified as soon as possible (Link with Chapter 12)	Age increase to 25 means that there is potential for the need to be identified during the order	Need to identify suitable data in this sector in order to forward plan Include these aspects within the Post 16 work.
23 Children in EOTAS	Every child in EOTAS subject to the IDP Authority Referral Unit location does not necessarily mean IDP Authority unless they share a location	Some EOTAS categories are already subject to Authority IDP	Strengthen EOTAS monitoring processes	Already working towards this
24 The Role of the ALN Coordinator	The role is increasing in status within the school Needed to ensure sufficient time to complete the duties (24.6)	Development of the role in order to be able to address the requirements	Present model is insufficient - number of coordinators not within these requirements is high	Need to look at the county-wide model again - do schools need to consider sharing coordinators Cost impact on schools

	<p>Need to be part of a Senior Management Team - strategic role (24.7)</p> <p>Able to identify the essential professionals to meet /identify the IDP (24.15)</p> <p>A teacher qualification is required (24.24)</p> <p>A suitable qualification is required to undertake the role</p>	<p>The authority has a duty to ensure suitable training in terms of the requirements</p> <p>The ALN provision will need to be planned and evaluated, together with monitoring the quality and differentiation etc.</p> <p>Local, regional and national training programme</p>	<p>ALN & I Advocates Model - Transformation grant - develop the readiness of schools in their clusters with the legislation - need a clear direction for this</p>	<p>Collaborate with Authorities and the WG Transformation Officer</p>
<p>25 Avoiding and resolving disagreements and independent advocacy services</p>	<p>The Authority has to arrange that an independent advocacy service is available (25.55)</p>		<p>Present commission is insufficient</p>	<p>Work has been undertaken to look at good practice in other counties with a proposed plan of what needs to be created. Consideration will need to be given to modifying the commission for April 2020</p>
<p>26 Appeals and applications to the Education Tribunal for Wales</p>	<p>Possible with any decision taken by the Authority</p> <p>A parent or learner can appeal to the tribunal (depending on the learner's capacity)</p> <p>Decisions that the Tribunal can make - 26.8</p>	<p>Processes need to resolve disputes and what the authority provides needs to be extremely effective</p>	<p>Risk in increasing Tribunals, especially at the beginning</p>	<p>Legal workshop session on 18/1/19 was very useful. Regional workshop to take place in April.</p> <p>Good practice and communication with parents by developing parent sessions and the website.</p>

	Decisions regarding the provision of the NHS Board - 26.20, 26.21	NHS Board provision - Tribunal can ask the health board to look into the tribunal's recommendation and respond within 6 weeks.		
27 Case friends	Support for individuals without sufficient capacity - appointment by the Tribunal only			Implemented by Wales Education Tribunal