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Consultation – summary of responses

Forward in partnership for children and young people with additional needs

Proposals for reform of the legislative framework for
special educational needs



Date of issue: July 2013

Forward in partnership for children and young people with additional needs

Audience	This document is aimed at all those with an interest in the provision of education for those with special educational needs.
Overview	This is a summary of the responses to a consultation exercise issued by the Welsh Government on the reform of the legislative framework for learners with special educational needs.
Action required	None – for information only.
Further information	Enquiries about this document should be directed to: Additional Needs Branch Support for Learners Division Department for Education and Skills Welsh Government Cathays Park Cardiff CF10 3NQ Tel: 029 2082 6098 Fax: 029 2080 1044 e-mail: SENReforms@wales.gsi.gov.uk
Additional copies	This document can be accessed from the Welsh Government's website at www.wales.gov.uk/consultations

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1. Introduction

1.1 The Welsh Government's consultation document 'Forward in Partnership for children and young people with additional needs' was published on 26 June 2012. The consultation period ended on 19 October 2012. A total of 206 responses were received. The consultation document set out 12 questions, two of which had multiple parts. Question 12 was an open invitation to raise additional, related issues.

1.2 The consultation document, and a children and young person's version, can be accessed here:

<http://wales.gov.uk/consultations/education/senframeworkconsultation/?lang=en>

1.3 The complete list of respondents is at Annex A, with anonymity protected where requested.

2. Summary of consultation responses

2.1 Overall responses to the consultation were positive. An average of two-thirds of respondents agreed with the questions. Respondents were in favour of the direction of travel indicated in the consultation but asked for more detail, particularly on the legislative proposals. The Welsh Government will respond to the call for more detail by engaging in further conversations with a group of stakeholders. This programme of engagement will develop the detail of the policy proposals which will then result in the publication of a consultation document for feedback.

3. Background to proposals to reform the legislative framework for children with special educational needs

3.1 The consultation document set out the Welsh Government's proposal to reform the legislation surrounding the special educational needs (SEN) framework of service provision. The preliminary consultation was carried out in 2007 following a review by the Education, Lifelong Learning and Skills Committee which concluded that the current system was too bureaucratic and not sufficiently child-centred. A number of pilot projects were set up in 2009 to develop and test alternatives to the current SEN framework and inform new policy and legislation.

3.2 The work of the pilot projects to date has informed the consultation proposals. The reports¹ were published in June 2012. A further phase of Action Research to support the second phase of the pilots has been commissioned and is due to report within the next few months.

3.3 The proposals are based on a multi agency approach with more joined up working between education, health, social care agencies and the third sector, where relevant. The whole process is underpinned by person-centred planning.

3.4 Central to the proposals is the Individual Development Planning (IDP) process which it is proposed will replace the existing statements of SEN. It will be designed to be 'person centred', based on the needs of the child or young person, and flexible enough to meet their changing needs. It is important that parents and the child/young person themselves are at the centre of the IDP, playing a major role in discussions and being better informed

3.5 The aim of these reforms will be to make the system more inclusive and effective for our most vulnerable children and young people.

¹ *Programme of Action Research to Inform the Evaluation of the Additional Learning Needs Pilot: summary interim report on the costs of the statutory reform of special educational needs provision*, Welsh Government, June 2012
Programme of Action Research to Inform the Evaluation of the Additional Learning Needs Pilot Developmental Phase: summary final report, Welsh Government, June 2012

4. Overview of consultation process

4.1 During the consultation period the Welsh Government organised three consultation events across Wales, two in Cardiff and one in Llandudno. Over 300 people attended these meetings. In addition, SNAP Cymru and Children in Wales held 'family focus' events across Wales with children, young people and their wider families to gather their views on the proposals. Workshops were held at the consultation events on:

- The role of the Special Educational Needs Co-ordinator;
- Dispute resolution; and
- Multi-agency working.

4.2 Two public meetings were held. The discussions at the public meetings served to explain the current process, answer questions on how the proposals would work, and provided the opportunity for attendees to explain why they supported or opposed the consultation proposals.

5. Summary of responses

Question 1

In response to the question 'Do you agree with the proposals in section 2, and that special educational needs (SEN) should be replaced by additional needs (AN)?'

Agreed	Disagreed	Neither agreed/disagreed
62%	12%	26%

Comments included:

The majority of those who responded agreed with the proposal that the term Special Educational Needs should be replaced by Additional Needs, stating that it was a less divisive and more sensitive term, it was not specific to one service sector and that it was less of a stigma and therefore more positive.

In general, **parents** were supportive of the proposal, they commented that the term AN reflected the variety of needs which could impact upon a child's development and was more holistic.

Children and young people responded that it sounded much better and was much less of a label.

Issues raised that require further detail:

People questioned whether the new definition could lead to the blurring of accountability for the provision of services and that there would be a loss of focus on educational attainment. For this reason, some favoured 'additional learning needs' over 'additional needs'.

There were questions as to who was legally accountable for ongoing provision and delivery of special services and comment that Health and Social Services should also be responsible in law, alongside Education, for meeting the needs of children.

Comments from those in **health** services included the fact that it was not only children with severe and/or complex needs that will require Health and Social Services' support. There was a need for consistency of terminology and a 'common language' across services and agencies. Health agencies were concerned about the capacity to meet the demands of the proposals as AN would cover more children and put more pressure on resources.

Comments from those in **education** included concerns expressed by Special Educational Needs Co-ordinators (SENCOs) about the possibility that their remit might expand and workload might increase significantly. Schools have found it extremely difficult to arrange meetings with external agencies to discuss pupils' needs and these proposals would mean an even closer

working relationship between more agencies. The duties placed on all health and social services to provide resources and support would need to be clear. There needed to be a recognition of increased resourcing around supporting a potentially larger group of pupils. It was commented that six monthly reviews of Individual Development Plans (IDPs) would double the workload for teachers and SENCos.

It was suggested that children with mental health needs should also be included in the definition. There were requests for more information on the definition of the terms 'identified and assessed needs'; 'significant needs' and 'severe and/or complex needs'.

Those who disagreed with the proposed change commented that it lacked definition and focus. They also said that there was not enough detail on the new definition in the consultation document to agree or disagree with the new title. It was felt that there needed to be clear defined terms of what constituted Additional Needs. The current definition of SEN was well understood and tightly defined within a clear legal context. They stated that AN could encompass too big a group of children and young people. It could potentially include the majority of children in varying degrees. They also felt that, while the intention to streamline and improve the provision for pupils with ALN was to be applauded, the administrative burden of managing the proposed scheme would be a matter of great concern.

The growing list of additional needs for which SENCos would be responsible would be far too extensive in large establishments for one person to manage effectively. There were frequent comments that it would mean a dilution of services for those most in need.

The threshold criteria that determine how a child moves from each section of the 'rainbow' to the next needed to be more clearly defined and, in particular, define at what point a child may be eligible for an 'entitlement' IDP. There was a concern that the definition 'severe and/or complex' needs could be used as a means for rationing rather than expanding early intervention services.

Question 2

In response to the question 'In section 3 we state that statements of SEN should be replaced with an integrated assessment and planning process and that an integrated web-based Individual Development Plan will be developed to replace or integrate not just statements, but the range of individual plans to which children and young people might be subject. Do you agree with the proposal in section 3?'

Agreed	Disagreed	Neither agreed/disagreed
61%	12%	27%

Comments included:

The majority of people who responded welcomed an integrated development plan. The most frequent comment made was that children and parents would appreciate a solution focussed, person centred plan which is led by the needs of the child.

Those who were positive about the proposal commented that it made sense to take a holistic view of the child/young person, encourage inter-agency cooperation and could make the transition between local authorities easier. It would also mean that families did not have to repeat their story to professionals several times and it would reduce bureaucracy.

Issues raised that require further detail:

The most frequently raised issue was the requirement for six monthly reviews of IDPs. These were seen as unworkable by all service providers. Respondents stated that it would double the workload for support co-ordinators in schools and health services said there would not be capacity to complete the reviews. There was also a need for clarity on whether all agencies would be involved in the reviews. There was a view that it would make more sense to hold the review only when there was a need for multi-agency working.

Comments on the proposal for a single, integrated development plan included concern over how to define into which category children fitted. This was particularly focused on deciding which children would fit into the category of 'severe and/or complex needs'. Parents also had concerns that 'good practice' would decide if an IDP was put in place, as against the degree of legal protection offered by the current system.

With regards to the **content of the IDP**, it was agreed in principle that an integrated plan was a positive move by the majority of respondents though an important number of them also stated that other assessments, for instance those done by Health Services, could not be replaced with a single unified assessment. There were concerns that one plan could become unwieldy and lead to oversimplification.

More than one local authority stated that the IDP did not provide the sort of information which was necessary for planning processes.

The reluctance of some services to share **information** is currently a barrier in the present system. Many had concerns over the security of personal information as well as comments that it was not always appropriate for services to know some health information about pupils. For this reason there were calls for clear protocols and guidance for the sharing of information within IDPs.

Many questioned who would have ultimate **responsibility for the IDP**, ensuring that the provision was delivered and appointing the support co-ordinator. The duties placed on statutory agencies would need to be explicit.

Families attach great importance to their legal rights in the current system and were concerned that 'entitlement protection' in the proposal did not stretch far enough – it could leave them with weaker rights than they currently enjoy. In particular they sought reassurance that there would be a right to appeal a decision which placed a child outside of the 'significant' and 'severe and/or complex' categories - effectively an equivalent to the existing right to appeal.

There were calls for a clear steer from the Welsh Government on how different agencies were expected to cooperate and for clear criteria on funding responsibilities.

The majority questioned whether or not these reforms would be **cost neutral**, given that the person-centred approach required considerable investment of staff time in training and operation of the practice. All professionals involved would require training to ensure that they understand and could communicate the new system to families.

Respondents called for a clear definition of each of the categories of need, in particular, what constitutes the need for multi-agency approach. Co-morbidity needs to be considered alongside person-centred approach.

Question 2b

In response to the question 'Do you agree with the extended age range outlined in section 5?'

Agreed	Disagreed	Neither agreed/disagreed
68%	7%	25%

Comments included:

The proposal to extend the age range from 0-25 was broadly welcomed with the recognition that success depends on increasing the resources available to cope with the increase in workload. The proposals were not judged to be cost neutral.

The majority of the respondents agreed that raising the age at which a young person could have an IDP to 25 would mean that fewer would fall through the net in the transition from children's to adult services. It would allow them to develop skills for living independently.

It was seen as a positive step because early intervention from Health and Social Services would provide more information when the child enters school, which would improve transition and increase consistency of care.

Issues raised that require further detail:

Respondents felt that it would need to be very clear which service providers will take on the role of the support co-ordinator as this could have financial implications if Health or Social Services were expected to fill the role once a child had left school.

There would need to be a robust transition for the child into adult health and social care services at 18, as there were not the resources for them to be seen under paediatric medical services after that age.

This could improve the situation for those going into further education at 16 and provide FE colleges with relevant information to support a suitable programme of study. Young people may also need support with housing & budget/ independent living skills and consideration needs to be given to these being incorporated.

Some requested that young people be given the option to opt out and for this to be communicated to all agencies. For instance, a young person may not want a training provider to know that he/she had an additional need such as Aspergers' Syndrome.

This proposal needed to be considered alongside other legislation, for instance the Social Services and Wellbeing (Wales) Bill, which provides for the 16-21 age range.

There were concerns over funding implications on all agencies and questions regarding who would hold the funding 'pot'. The issues regarding limited capacity and resources would need to be further explored, as the phrase 'as resources allow' does not fit with the legislative approach.

It may be very difficult to effectively and efficiently provide for young people with severe and/or complex needs in rural areas.

There were questions on what early support will look like, with the suggestion that the Flying Start model be considered.

Question 3

In response to the question 'Do you agree that the planning tool should be a common web-based one across Wales – as described in section 3?'

Agreed	Disagreed	Neither agreed/disagreed
55%	11%	34%

Comments included:

The majority of respondents welcomed the proposal for a common web-based tool to record the IDP. It was felt that it could result in improved

communication and information sharing between organisations and service users. Respondents commented that allowing information to be passed on more easily and quickly should result in better outcomes and increase trust and confidence between agencies. Some people commented that it was a positive move for children to have access and the children who responded were in favour of professionals being able to see a 'pen picture' of them before they met.

The web-based tool was seen as useful when children move within Wales to prevent duplication of work and also to provide a standardised method of planning.

Issues raised that require further detail:

The main concern raised was about the security of information being provided and who would have access to the information, particularly with regards to looked after children. Some raised questions about whether there would be different levels of access for those able to view the IDP. They stressed that because the information was so personal there was a much greater risk to the individual if security were breached.

Concerns were also raised about accessibility of the online tool. It was stressed that not all families had access to the internet. Those with low literacy and those with English as an additional language would need help to use the tool. Compatibility and the fact that not all professionals have access to a computer were also raised. Any online form would need to be accessible to those with sight problems which could have considerable cost implications.

Children's concerns were around the security of information and who was able to see information in their plan. They also commented that not everyone had access to the internet or was comfortable using it.

Commentators were concerned that the cost of setting up and maintaining the system would be considerable and responsibility for meeting this ongoing cost needed to be established. All stakeholders would have to be involved in the design of the tool.

The majority of respondents stated the need for a paper version to be provided as well.

Training in how to use the tool would be needed for all professionals and parents. Inputting information would be an extension of the duties of health professionals and SENCos. There were questions over the resource implications of the six monthly review and what exactly it entailed.

Question 4

In answer to the question: ‘Do you agree that multi-agency working – see section 4 – should be a requirement in the delivery of this reform proposal, i.e. that the statutory partners of education, health, and social services should be under a legal obligation to play an active part in devising and delivering services for learners with significant and severe and/or complex needs?’

Agreed	Disagreed	Neither agreed/disagreed
74%	5%	21%

Comments included:

The most frequent comments were that the proposal for a multi-agency panel was welcomed and would improve the delivery of services for children with additional needs.

Many respondents commented that a change of culture was needed with regards to attending multi-agency meetings. Many also said that extra resources were needed to ensure attendance at meetings and that the number of meetings professionals would be required to attend must be clarified.

Multi-agency working was seen as essential for meeting the needs of children with co-morbidity. Many commented that those children who were most vulnerable were not necessarily those with a multi-agency need, for instance, those receiving speech and language therapy.

Issues raised that require further detail:

Respondents also raised the point that the multi-agency panels should not just be for those children with severe/complex needs and that any child receiving services from more than one agency should qualify for a multi-agency support panel. There was a call for the agency providing the child with the most support to take on the role of co-ordinating the provision of services, with the comment that education should not be the default service to provide Support Co-ordinators and funding.

Health boards stressed the need for clarity of governance arrangements for pooled budgets, particularly as budgets are not in place specifically for meeting educational needs but are part of a wider service provision. There was a consensus from service providers that there should be clear criteria for defining the thresholds of responsibility of individual agencies and guidelines on what would happen if a panel could not reach a decision within a specified period.

There were frequent comments that the duty to co-operate needed to be a statutory requirement. It was asked how the proposed legislation would fit with the existing duties on health, education and local authorities to co-

operate under the Children Act 2004 and the Education Act 1996. It was also pointed out that a duty to collaborate was not as strong as a duty to provide.

There were concerns about how the multi-agency approach would operate in practice, as local authorities, health boards and education authorities all worked across different geographical boundaries and there were variations in their approaches. The success of the approach was attributed by some to professional boundaries being maintained, but others stressed the need to develop a common language, common definitions and a shared focus on the objective of the IDP process.

Some felt that there should also be a duty to assess the effectiveness of the panels' funding decisions and the resulting level of satisfaction.

Question 5

In response to the question 'We describe in section 6 the proposal to deal with concerns and disagreements in a much more proactive way. Do you agree with what is set out in that section?'

Agreed	Disagreed	Neither agreed/disagreed
65%	5%	30%

Comments included:

The majority of respondents welcomed the increased use of mediation and said that insufficient use was being made of existing services. They commented that although the proposals seemed aspirational, they had the potential to improve experiences, reduce anxiety and improve cost effectiveness. In general the principle of mediation was supported with a request for further detail on the proposals.

Respondents stressed that given the nature of the multi-agency approach there would need to be training for all those responsible for mediation.

Issues raised that require further detail:

Respondents said that professionals who attend dispute resolution meetings would need to be able to make commitments on behalf of service providers, particularly health care resources. Historically parents had felt the need to fight for scarce resources and this was unlikely to change. There was a call for a clear duty to respond to disagreements because "a general responsibility on all agencies" was not seen as enough.

Some saw the shorter timescales for dealing with disputes as welcome but challenging in terms of availability of professionals and legal services and the impact of holiday periods. There were many comments stating that the proposed four week period would be unrealistic for this reason.

The new system would require statutory guidance regarding the structure, format and timescales of the dispute resolution mechanism, and local authorities should be legally obliged to respond to complaints. The proposals should specify which agency will take overall responsibility for ensuring dispute resolution takes place.

More than one respondent representing health services said the NHS had its own complaints process and would expect this to be used if there was a concern relating to their contribution.

Parents and young people would have to be provided with advocacy services, as well as translators where required, which would add to the cost of dispute resolution. At the moment, parents do not have sufficient time to prepare for Tribunals.

There were comments suggesting that mediation services and advocates could not be truly independent and that an independent complaints body should be established. Families may feel anxious that lodging a complaint with the local authority could negatively affect their relationship with key support staff.

The role of solicitors needs to be considered. Experience shows that some firms seem to encourage parents towards Tribunal.

There were concerns about removal of rights to challenge decisions for the majority of children in the additional needs category, including lack of entitlement protection.

Question 6a

In response to the question 'Do you agree with the expanded remit for the Tribunal?'

Agreed	Disagreed	Neither agreed/disagreed
59%	4%	37%

Comments included:

The majority of respondents agreed with the proposal to extend the role of the Special Educational Needs Tribunal for Wales as set out in Section 7 of the consultation document.

Equally popular was the comment that the expansion of the tribunal to look at decisions on health and social care was a positive move as it would be a vital part of a truly multi-agency process if there were legal duties on all three agencies to assess and deliver services. It was seen as a major step forward in eliminating the frustrations of the current system., The fact that the health and social care provision cannot be included in the statement at the moment

means that it cannot be enforced or appealed to the Tribunal. It was also seen as a logical response to integrated planning and assessment.

There were positive comments in favour of reviewing decisions which had been conceded by local authorities to allow all authorities to learn from the decision. There was a call for decisions to be published online.

Issues raised that require further detail:

The most frequent comment was that the right of appeal should be extended to all those with an IDP, whether or not they had significant or severe and/or complex needs. There was concern that families would be unable to appeal their assessment if they were identified as needing universal services, meaning they would have weaker rights than under the current system.

Respondents were in favour of allowing children to appeal to the Tribunal. It was suggested that all children had an advocate who was truly impartial in the process. It was also said that all parents/carers should be offered an advocate free of charge. There was a request for information on the outcomes of the pilot of extending the right to appeal to children.

Membership of the tribunal panel was questioned as to whether it would include representatives from all service providers at each hearing. If so, the cost implications for health services would need to be assessed. If professionals were legally bound to appear at tribunals then it would impact on waiting times and patient care elsewhere in the system.

Also, respondents questioned whether each representative would have an equal voice on the panel and what training and skills each would be required to have.

Overall there was a call for more information on the role, membership and skills of the panel and for more information on timescales on the appeals process. There was a question as to whether the decision of the Tribunal would be binding on all three service providers.

One Health Board commented that: 'the Health Board does not agree with this, the responsibility for education lies within the Education Authority... while support is offered it is not the remit of the NHS to make special provision for the school environment.' There was also the comment that an individual's health provision should always be a matter for clinical judgment, not a legal right, and therefore should not be subject to a Tribunal ruling.

The importance of ensuring that all participants could understand the proceedings was raised, that all processes were available in English and Welsh, and that those for whom English was not their first language were provided with support.

Question 6b

In response to the question 'Do you agree with the proposed requirement to go to dispute resolution before a case can be taken to Tribunal?'

Agreed	Disagreed	Neither agreed/disagreed
72%	2%	26%

Comments included:

The majority of respondents agreed with the proposal to require parents/carers to go to dispute resolution before a case could be taken to Tribunal. It was said that this would improve experiences for all, reduce anxiety and increase cost effectiveness. This was seen as an important move in reducing the number of cases going to Tribunal.

Mediation was welcomed as a positive step with the proviso that the Family Partnership Services have the appropriate skills and training to provide it. This was seen as important with regards to the expanded role of the Tribunal. If appeals were to be heard on health, social and education provision then the Partnerships would need to expand their knowledge and expertise.

Issues raised that require further detail:

There was a large degree of scepticism about how the process would work in practice amongst all those who responded, whether or not they were in favour. Many families were wary of formal mediation and thought of it as another hoop to jump through. This was seen as a missed opportunity to strengthen the school based complaints procedure for School Action/ School Action Plus.

Some respondents commented that the multi-agency approach must also be part of the dispute resolution process. Some commented that mediation would also improve communication between parents and professionals as it can become strained during any appeals process. It was seen as important for all professionals involved with the child to attend mediation.

There was a call for a specific duty on all agencies to positively collaborate, rather than a general duty, and for advocacy to be provided for those bringing the appeal to dispute resolution.

Questions were raised on how Parent Partnerships would be funded. More information was requested on the timescales for completing the process as the requirement to pursue four weeks of dispute resolution was seen as too short and unrealistic. There were calls for greater clarity regarding roles and responsibilities, and whether those attending the meetings would have the authority to agree funding.

If a child were to bring an appeal, it was questioned whether or not children would be able to agree to the terms of any resolution before it became binding.

Question 7

In response to the question 'Section 8 outlines an aspiration for a much more robust Family Partnership Services to support families and children/young people. We describe how the proposed reforms should reinforce support and active dispute resolution to ensure the need to challenge decisions is minimised. Do you agree with the general principles outlined?'

Agreed	Disagreed	Neither agreed/disagreed
67%	1%	32%

Comments included:

The charter of rights and responsibilities, and a clarification on the remit of Family Partnerships and referral processes, were all welcomed.

It was also commented that it was crucial to have quality assurance processes in place for Family Partnership Services across Wales before they were expanded. There was a call for Family Partnership Services to take a more preventative role in order to avoid disputes escalating.

It was commented that support seen to be independent of the local authority is essential to resolving disagreements. In one local authority the role of the Citizens' Advice Bureau was commended in this regard.

Issues raised that require further detail:

The most frequent comment was a request for more detail. Many respondents felt they could not agree or disagree until they had more information on what 'more robust' Family Partnership Services would look like and information on future funding.

There is a clear implication that Partnerships would need to grow, which would require a significant increase in resources. It was stressed that this could not be achieved within existing resources .

The point was made that there was a lot of inconsistency across Wales in the current provision of mediation and support services. These services were seen to be more available to those who were better able to assert their demands. There was a call to first increase funding to eliminate patchy provision. Local authorities should do more to inform parents and head teachers about the services available as many parents had not heard about Parent Partnerships.

Parent Partnerships would have to broaden their knowledge if they were to support health and social services provision as new Family Partnership Services. It should be noted that providing advice to children is very different to working with parents/carers. This should be linked to the emerging Families First model.

Question 8

In response to the question 'Section 9 sets out how we propose to build in quality assurance to the proposed system. Do you agree with these proposals?'

Agreed	Disagreed	Neither agreed/disagreed
65%	5%	30%

Comments included:

The most frequent comment was that it was essential that a common quality assurance system should apply to all service providers and that key indicators for quality assurance needed to be relevant for Education, Health and Social Services.

Another frequent comment was that the outcomes and targets identified in the IDPs needed to be standardised otherwise progress could not be properly monitored.

Many welcomed training for Co-ordinators and called for additional training for other school staff. It was noted that this would require significant resources to support SENCos properly and that there are potential difficulties for a SENCo in a small primary school to undertake this training on top of their usual workload.

Issues raised that require further detail:

It was felt by many that this section focused on education, rather than a multi-agency approach, and that there were insufficient references to post-16 further education. It was asked whether SENCos working with early years and learners over 18 years needed a Masters qualification as they would not be based within a school.

Again, there were concerns expressed by SENCos that there would be an increased workload, with the suggestion that a new post should be created for them in a largely non-teaching role.

There were requests for the full financial implications for Health partners to be clarified. Further advice from professional groups would be needed in developing standards.

There was a suggestion that the quality assurance system be included within Estyn's inspection framework and a call for greater clarity on the consequences for those organisations found to be failing.

There were further comments on funding, stating that guidance, however extensive, cannot ensure appropriate provision. This could only be ensured by adequate resources. The proposals would not ensure that specialist resources would be made available. It was again asked whether service providers would have a duty to deliver all that is contained within the Code and in Plans.

There was a request for clear guidance to be given to parents which would include information about services, why those services had been chosen and the difference this would make to the child/young person.

Question 9

In response to the question 'Do you agree with the proposal to develop Provision Pathways as described in section 9 paragraphs 9.8 and 9.9?'

Agreed	Disagreed	Neither agreed/disagreed
60%	4%	36%

Comments included:

The majority of those who responded agreed with the proposal to develop Provision Pathways. The most frequent comment was that in specifying Provision Pathways, services would not be able to be truly flexible to meet the needs of the child, undermining person-centred approach to planning. A child's needs should be identified within their own specific context, rather than categorising them by impairments and severity. A lot of work which had been done to move away from provision based on diagnosis could be undone.

Many respondents commented that Provision Pathways required devising specific definition and criteria which were appropriate to all relevant agencies before being made obligatory.

In support of the proposal, some organisations welcomed Provision Pathways as a means to promote inclusive approaches and an emphasis on prevention and early intervention. Clear guidance on the minimum level of intervention and benchmarking was seen as beneficial and would give both professionals and families a view of what processes and provision should look like. It was also said that Provision Pathways would help reduce referral waiting times and inappropriate referrals.

Parents felt that Provision Pathways would be beneficial in providing a benchmark to judge the level of service parents and children were getting. It was expected that Provision Pathways would be provided in a format that was

easily accessible to children, young people and their families and include the rights of the child.

The proposed revision of the Code of Practice was welcomed. It was seen as a move to track and address inequalities in provision, unmet needs and inconsistency across Wales. It was felt that the Code should be on a statutory footing.

Issues raised that require further detail:

Comments reflected the concern that there was a danger that, in aiming to be clear, very detailed guidelines could be interpreted too narrowly.

In terms of its impact on resources, it was said that provision mapping services would provide an audit of resources allocated to meet needs and outcomes. Many respondents disagreed that this would be cost neutral or generate savings.

Many argued that Provision Pathways could easily lead to expectations of provisions in services which could not be provided by agencies: parents would then feel let down. If a Pathway outlined what providers should *aspire* to, then the system would be undermined if it were unable to deliver those outcomes.

In terms of compiling the Pathways, it was noted that they would involve a considerable amount of work to cover all areas of need and would need to be updated constantly to ensure accuracy. It was emphasised that appropriate expertise would be needed to draw up and revise the Pathways. They would need to fit with strategic planning across multi-agency partners. Pathways should also be alert to the wide variation in provision between rural and urban areas.

Question 10 the responses have been published separately in 'Summary of Responses to the consultation on the Arrangements for Supporting Post Sixteen Learners with Learning Difficulties and/or Disabilities'.

Question 11

Respondents were asked if all the key elements had been addressed in the consultation document.

Agreed	Disagreed	Neither agreed/disagreed
42%	21%	37%

Question 12 invited respondents to address any related issues they wished to raise. Comments in response to these two questions varied across all the topics in the consultation document, the most frequent comments included:

It was thought that the reforms would not be cost neutral, given the increased capacity needed to meet demand from learners and increased range of responsibilities for professionals.

The consultation document provided a vision of reform but people felt that there was insufficient detail to allow for a comprehensive response. Respondents asked for more detailed information on each of the proposals, including timeframes for delivery.

It was felt that the proposals would mean a significant increase in the role of the Support Co-ordinator, with less legal support from the local authority. This increase in workload would need to be properly resourced. The integral role of the Educational Child Psychologists needed to be considered, given their key role in assessing a child, and ensuring that their educational needs were met through appropriate intervention strategies.

There was a call for the linguistic needs of the child to be considered, especially for Welsh speakers and those with English as an additional language, and for the issue of access to services and transport to be addressed. Transport costs were a significant element of local authority budgets and were under pressure.

There also needed to be consistency in the language, definitions and eligibility criteria with the Social Care and Wellbeing (Wales) Bill, such as defining how a 'person in need' would fit with the definition of Additional Needs. There was also an issue that, if Statements disappeared, the 'Belongings' regulations would no longer apply. There would be a need to define which local authorities would fund the needs of a child, especially if they were placed 'out of county'.

There was a call for feedback from the pilot projects which were being conducted by the Welsh Government.

6. Next steps

It is our intention to publish further details on the policy proposals in a revised consultation document before the end of the year. The proposals will be developed with the help of a range of interested parties at meetings across Wales. We intend to put draft legislation before the National Assembly for Wales before the end of the current Assembly term, subject to pressures on the Assembly's timetable.

Annex A: Respondents to Forward in Partnership for children and young people with additional needs

Local Authorities

Bridgend County Borough Council
Bridgend County Borough Council – Disabled Children and Young People Strategy Group
Cardiff County Council Visual Impairment Team, Achievement and Inclusion Service
Cardiff County Council
Department for Education and Children of Carmarthenshire County Council
Ceredigion County Council
Conwy County Borough Council
Chief Education Officer, Conwy County Borough Council
Denbighshire County Council
Flintshire County Council
Flintshire EMAS Services
Neath Port Talbot County Borough Council
Merthyr Tydfil County Borough Council
Minority Ethnic Achievement Support Team, Neath Port Talbot County Borough Council
Director of Community Service, Flintshire County Council
Pembroke Dock Youth Centre
Powys Educational Psychology Service
Sensory Service, Powys County Council
Powys Youth Offending Service
Rhondda Cynon Taf Access & Inclusion Service x 2
Torfaen Educational Psychology Service
Natalie O'Neill, RCT & Merthyr Tydfil Educational & Child Psychology Service x 4
City and County of Swansea, Education Inclusion
Wrexham County Borough Council Educational Psychology Service
Wrexham County Borough Council – Education Inclusion
Educational Psychology Anglesey and Gwynedd County Councils
Anglesey and Gwynedd County Councils

Health

St David's Children's Centre, Cardiff
Gwent Visual Impairment Service
Aneurin Bevan Community Health Council
Aneurin Bevan Local Health Board and Flying Start - Child and Family Psychological Health
Betsi Cadwaladr University Health Board Child Health Dept
Cardiff and Vale University Health Board
Community Paediatricians Betsi Cadwaladr University Health Board

Cwm Taf Local Health Board
Cwm Taf Local Health Board - Speech and Language Therapy
Hywel Dda Local Health Board – Speech and Language therapist
Hywel Dda Local Health Board – Child and Adolescent Health Directorate
Powys Local Health Board
Public Health Wales
North Wales Adolescent Service – Consultant Child and Adolescent Service
New Born Hearing Screening
Community Paediatric Physiotherapist for Gwynedd and Môn

Schools

Bishop of Llandaff Church in Wales High School
Builth Wells County Primary School
Cardiff High School
Cardiff and Vale College
Copperworks Infants School
Eveswell Primary School
Fitzalan High School
Gower College Swansea
Kitchener Primary School
Llanwern High School
Lliswerry High School
Meadowlane Primary School
Millbank Primary School
Milton Junior School
Monmouth Comprehensive School
Mount Stuart Primary School
Neath Port Talbot College
Pembroke School, Autism Centre
Pembroke Comprehensive School, Bush Hill, Pembroke
Portfield School, Haverfordwest x6
Head teacher at Portfield school
Porthcawl comprehensive School
Rhosymedre Community Primary School
Roath Park Primary School
Royal National College for the Blind
Rhyl cluster of schools
Springwood Primary School
St Michael's Primary School
The College Merthyr
Unit for the Development in Intellectual Disabilities, University of Glamorgan
Ysgol Cedewain
Ysgol Penmaes x 2
Ysgol Gyfun Bro Myrddin
Ysgol Gymraeg Dewi Sant
Ysgol Gymraeg Fwrness
Ysgol Gyfun Emlyn
Ysgol Pendref, Denbigh

Third Sector

ABCD Cymru
Afasic Cymru
BATOD
Barnardos
Cardiff and Vale Parents
Care Co-ordination Network Cymru
Careers Wales
Cerebra
Children in Wales
CLIC Sargent
Contact a Family
CYDAG
Diverse Cymru
English as and Additional Language Association of Wales
Participation Cymru
PAVO
National Autistic Society
National Deaf Children's Society
National Youth Advocacy Service
Natspec
Neath Port Talbot CVS
Newport Parent Network
RCT Aspergers Parents Support Group
Rights NOT
RNIB
Scope
Sense Cymru
Shine Charity
SNAP Cymru
South Powys National Autistic Society'
The Parent Network, Caerphilly
Third Sector Needs Alliance
Together for short lives
Wales Council for Deaf
Wales Pre School providers Assoc
Your Life Your Choices Transition Project
Youth Offending Team Managers Cymru

Professionals /Professional Groups

Adult Speech and Language Therapy Service Leads in Wales
Administrative Justice and Tribunals Council
All Wales Speech and Language Therapy Advisory Forum
Association of Directors of Education in Wales Inclusion Group
Association of Educational Psychologists
Association School and College Leaders Cymru
Association of Teachers and Lecturers
College of Occupational Therapists

British Medical Association
British Psychological Society
Rhona Hobson – Educational psychologist
Governors Wales
National Association of Head Teachers
National Association of Principal Educational Psychologists in Wales
NASUWT
National Union of Teachers Cymru
Paediatric Occupational Therapy Network
J. Phillips, Paediatric Physiotherapist
Royal College of General Practitioners (RCGP) Welsh Council
Royal College of Psychiatrists
Royal College of Speech and Language Therapists
Gareth Price, Retired Teacher and Ex Assistant Director of Welsh local authority
Speech and Language Therapy Department, Y Bwthyn Hospital, Pontypridd
The Chartered Society of Physiotherapists
UCAC
Wales Speech and Language Therapy Committee
Welsh Physiotherapy Leaders Advisory Group (WPhLAG)
Welsh Therapies Advisory Committee
Elin Walker Jones Welsh Language Task and Finish Group on Mental Health

Statutory Bodies

Children's Commissioner for Wales
General Teaching Council for Wales
Health Inspectorate Wales and Estyn joint response
Special Educational Needs Tribunal for Wales
Welsh Language Commissioner
Welsh Local Government Association

Commercial

Foster Care Associates
Independent Home Education Consultancy
School Transport Cymru Ltd

Individuals

Anon
Ann Marie James
Barnardos Service Users
Teleri Bevan
Elizabeth Bevan
Joe Boyle
Jonathan Brentnall
Claire Campbell
Angie Contestabile
Jennifer Daffin

Gay Davidson
Verity Donnelly
Adrian Dunleavy
Caroline Earys
Holly Elias
Elen Gough
Caroline Havard
Martin Holloway
Lindsey Humphries
Sue Hurrell
Keith Ingram
Mark Isherwood AM
Lorna
Vanessa May
Antonella Morris
Fiona Neave
Ann Pattinson
Trevor Payne
Tim Thomas
Derek Tilley
Kevin Tilley
Nicola Watts
Charlotte Wilson
SEN Co-ordinator x 3
Parental input from consultation event organised by SNAP Cymru
Parental input from consultation event organised by Children in Wales
Welsh Liberal Democrats

Annex B: Consultation questions

Question 1

Do you agree with the proposals in **section 2**, and that special educational needs (SEN) should be replaced by additional needs (AN)?

Question 2

In **section 3** we state that statements of SEN should be replaced with an integrated assessment and planning process and that an integrated web-based Individual Development Plan will be developed to replace or integrate not just statements, but the range of individual plans to which children and young people might be subject. Do you:

- a) agree with the proposal in **section 3**?
- b) agree with the extended age range outlined in **section 5**?

Question 3

Do you agree that the planning tool should be a common web-based one across Wales – as described in **section 3**?

Question 4

Do you agree that multi-agency working – see **section 4** – should be a requirement in the delivery of this reform proposal, i.e. that the statutory partners of education, health, and social services should be under a legal obligation to play an active part in devising and delivering services for learners with significant and severe and/or complex needs?

Question 5

We describe in **section 6** the proposal to deal with concerns and disagreements in a much more proactive way. Do you agree with what is set out in that section?

Question 6

Section 7 outlines the revised process of appeal to Tribunal. Do you agree with:

- a) the expanded remit for the Tribunal?
- b) the proposed requirement to go to dispute resolution before a case can be taken to Tribunal?

Question 7

Section 8 outlines an aspiration for a much more robust Family Partnership Service to support families and children/young people. We describe how the proposed reforms should reinforce support and active dispute resolution to ensure the need to challenge decisions is minimised. Do you agree with the general principles outlined?

Question 8

Section 9 sets out how we propose to build in quality assurance to the proposed system. Do you agree with these proposals?

Question 9

Do you agree with the proposal to develop Provision Pathways as described in **section 9** paragraphs 9.8 and 9.9?

Question 10

There is a specific reference to the changes proposed for post-16 specialist placements as outlined in **section 10** – the transfer of this responsibility to local authorities. Do you agree in principle with this change?

Question 11

This area of policy is one of the most important for the most vulnerable children and young people in our society and effective planning, provision of assessed needs support and the monitoring of outcomes is one of the most important elements. The consultation document covers the main principles of the SEN reform. Do you agree that the key elements have been addressed in this document?

Question 12

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:

Annex C: Contact information

Additional Needs Branch
Support for Learners Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

Tel: 029 2082 6098

Fax: 029 2080 1044

e-mail: SENReforms@wales.gsi.gov.uk