Research Briefing

Act Summary: Additional Learning Needs and Education Tribunal (Wales) Act 2018

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National Assembly for Wales
Research Service

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Act Summary: Additional Learning Needs and Education Tribunal (Wales) Act 2018

The Additional Learning Needs and Education Tribunal (Wales) Act 2018 will replace the current Special Educational Needs (SEN) framework with a reformed system based on Additional Learning Needs (ALN).

The Act makes provision for universal, statutory Individual Development Plans for all children and young people with ALN. This will bring an end to the current distinction between school led interventions and local authority issued statements and integrate the separate legislative arrangements that exist for pupils in schools and post-16 students in colleges. The Act also seeks to improve collaboration between local authorities and health boards, as well as establishing a fairer and more transparent system with greater emphasis on disagreement avoidance and dispute resolution.

This paper summarises the provisions of the Act and its passage through the National Assembly for Wales.

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1. Introduction

The ***Additional Learning Needs and Education Tribunal (Wales) Bill*** was passed by the National Assembly for Wales on 12 December 2017, exactly one year after it was introduced to the Assembly's legislative process by the then Minister for Lifelong Learning and Welsh Language, Alun Davies. The legislation then received Royal Assent on 24 January 2017 and became the ***Additional Learning Needs and Education Tribunal (Wales) Act 2018***.

The Cabinet Secretary for Education, Kirsty Williams, issued a **statement on 11 December 2017** setting out how the legislation will be implemented. Following **consultation with stakeholders**, the Welsh Government has decided to adopt a **phased approach to implementation**, with the new system established by the Act being **introduced from September 2020**. From September 2020, learners who are newly identified as having Additional Learning Needs will be supported under the new arrangements under the Act, whilst learners within the existing system will transition over a three year period.

The **current Special Educational Needs system therefore remains in place** for all learners with SEN/ALN until September 2020. Only after that point, will learners begin transitioning over to the new system.

A long-awaited 'complete overhaul' of a system 'no longer fit for purpose'

The introduction of the ***Additional Learning Needs and Education Tribunal (Wales) Bill*** on 12 December 2016 followed a **series of reviews**, committee inquiries, policy proposals, pilots, consultations, a White Paper and a draft Bill.[1] For many years, stakeholders and families had called for reform and legislation was considered **long overdue.** The legislation was therefore **widely supported** by political parties and stakeholders, although there was substantial scrutiny of the Bill and it was subject to 167 amendments passed by the Assembly.

The Welsh Government has been unequivocal about the need for change. It has long recognised that the existing Special Educational Needs (SEN) system is 'based on a **model introduced more than 30 years ago**' and is **'no longer fit for purpose'**. When introducing the Bill, the Welsh Government described it as an 'ambitious law to create a bold new approach' and a **'complete overhaul'** of the way children and young people's learning needs are met in Wales.

Brief overview of the Act

The Act establishes a **new statutory framework** for supporting children and young people with Additional Learning Needs (ALN), from birth; whilst they are in school; and, if they are over compulsory school age, while they are in further education. The Act, and the new framework it creates, will **replace the separate legislation and arrangements** in Wales for Special Educational Needs **(SEN) up to age 16**, and Learning Difficulties and/or Disabilities **(LDD) post-16**.[2]

The **new term, Additional Learning Needs (ALN)** will be applied within a single legislative framework for all children and young people up to the age of 25 who are identified as having those needs. The definition which the Act uses for ALN is materially the **same as the current legal definition of SEN**.

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[1] The Research Briefing, ***Additional Learning Needs in Wales*** (November 2016), provides a summary of this history of review and reform, which dates back to 2002.

[2] ***Additional Learning Needs in Wales*** also includes an overview of the current Special Educational Needs framework, along with some data on numbers of learners, funding and attainment.

The Act requires the Welsh Government to produce an **ALN Code**. This will provide most of the detail for the way assessments and decisions about provision will be carried out, with the Bill setting the overall framework. The **Welsh Government provided the National Assembly's Children, Young People and Education Committee** with a working draft of the Code (PDF 2.95MB) in February 2017, which the Committee published to assist stakeholders' input into scrutiny of the Bill..

The Welsh Government emphasised that the draft Code was 'very much a work in progress' and was made available **'solely for illustrative purposes'** to support scrutiny of the Bill. It said the draft Code itself was not subject to scrutiny at that point but would be fully consulted on when a formal version is prepared following the successful passage of the legislation. Chapter 7 of the Research Service's ALN Bill Summary (March 2017), produced following the introduction of the Bill, provides an overview of the working draft ALN Code.

The Welsh Government will produce a final ALN Code prior to implementation of the new system, in line with the requirements of the Act.

Structure of this paper

Chapter 2 of this paper gives an overview of the structure of the Act and the key associated documentation, whilst Chapter 3 sets out the Welsh Government's intended purpose and effect of the legislation. Chapter 4 lists the powers which the Act gives to the Welsh Ministers to make subordinate legislation and Chapter 5 summarises the estimated costs of implementing the Act.

Chapter 6 summarises the main points raised in scrutiny of the Bill, and the amendments made, during its passage through the National Assembly's legislation process.

Chapter 7 discusses the implementation of the Act and the next steps.

Further background information is provided in the Annexes.

2. Structure of the Act

There are 4 Parts to the Act, consisting of 101 sections, and 1 Schedule.

- Part 1 (section 1) is an overview of the provisions of the Act.
- Part 2 contains 5 Chapters and is the substantial part of the Act.
  - **Chapter 1** (sections 2-9) defines the **key terms** of Additional Learning Needs (ALN) and Additional Learning Provision (ALP), sets out the requirement and procedure for producing a **Code**, and establishes duties to **involve and provide information** to children, young people and parents and to have due regard to two United Nations (UN) Conventions: the UN Convention on the Rights of the Child and the UN Convention on the Rights of Persons with Disabilities.
  - **Chapter 2** (sections 10-46) contains **the provisions for identifying ALN, and preparing and maintaining Individual** Development Plans.
  - **Chapter 3** (sections 47-67) is made up of **supplementary functions**, including those relating to the registration of independent schools to offer ALP to pupils with ALN and the new statutory co-ordinator roles within schools/colleges and health boards.
  - **Chapter 4** (sections 68-81) places duties on local authorities to make arrangements for **avoiding and resolving disagreements**, and for access to independent advocacy services. It also makes provision for **appeals and applications** to the Education Tribunal for Wales.
  - **Chapter 5** (sections 82-90) makes general provision for regulations to be made about **disclosure and use of information**, and in relation to parents and young people **lacking capacity**.
- **Part 3** (sections 91-94) **renames** the Special Educational Needs Tribunal for Wales (SENTW) as the **'Education Tribunal for Wales'** and sets out its membership and expenses arrangements.
- **Part 4** (sections 95-101) makes **Miscellaneous and General** provision including powers for the Welsh Ministers to make consequential and transitional provision, procedures for making subordinate legislation, an index of defined terms and arrangements for the legislation coming into force.
- **Schedule 1** provides for minor and consequential **amendments and repeals**.

Documentation accompanying the Bill

The Welsh Government published two iterations of an Explanatory Memorandum (EM) during the passage of the Bill. The **first EM** (PDF 2.81MB) was published when the Bill was introduced in December 2016 and a **second EM** (PDF 3.02MB) was published in November 2017 after the first amending stage, Stage 2. The EM includes a Regulatory Impact Assessment (RIA), which details the policy options the Welsh Government considered and the associated costs and benefits of making the legislation, and Explanatory Notes for each section of the Bill. In total, there were three versions of the RIA during the Bill's passage as, inbetween the two Explanatory Memoranda, the Welsh Government published a **revised RIA** (PDF 1.56MB) immediately prior to Stage 2 to correct errors in the version published upon introduction of the Bill at the start of Stage 1.

Following the legislation receiving Royal Assent on 24 January 2018, the Welsh Government published a **final EM/RIA (PDF 2.79MB)** to accompany the final Act.

The Welsh Government also published a **Statement of Policy Intent for subordinate legislation to be made under the Bill** (PDF 410KB) in February 2017.

As stated above, the Welsh Government provided the Children, Young People and Education Committee with a **draft version of the ALN Code** (PDF 2.95MB) in February 2017, which the Committee published to inform scrutiny of the Bill. The Welsh Government will consult on a further version of the ALN Code before publishing a final version, in line with the requirements of the Act.

Other documentation can be found on the **Bill page** on the Assembly website.

3. Purpose and intended effect of the Act

The Welsh Government frames the purpose and intended effect of the Act within the context of three overarching objectives and eleven core aims. Information in its Explanatory Memorandum (EM) regarding the purpose and intended effect of the Bill is therefore structured around the eleven core aims (paras 3.4-3.17 and 3.80-3.148 of the **final version published upon Royal Assent** (PDF 2.79MB)).

Three overarching objectives

The Welsh Government's three overarching objectives are as follows (the comments in italics are this author's and intended to provide further explanation):

- a) A **unified legislative framework** to support all children of compulsory school age or below with ALN, and young people with ALN in school or further education (FE) *(rather than two separate systems of SEN up to age 16 and LDD for post-16, both of which are currently covered by separate legislation)*;
- b) An **integrated, collaborative** process of assessment, planning and monitoring which facilitates **early, timely and effective** interventions *(including duties on health boards and local authorities to collaborate with each other through a statutory Individual Development Plan for each learner with ALN)*;
- c) A **fair and transparent system** for providing information and advice, and for resolving concerns and appeals *(including requiring local authorities to make arrangements for avoiding and resolving disagreements, revising a system found by previous reviews to be 'complex, bewildering and adversarial')*.

Overarching objective A: A unified legislative framework

This Research Briefing presents the relevant aims below by allocating them to a 'parent' objective as a means of explaining the purpose and intended effect of the Bill. (Note that the numbering of the core aims 1-11 is this author's own sequence to structure them within the three overarching objectives. They are not listed in this order in the Welsh Government's Explanatory Memorandum.)

Core aim 1: The introduction of the term Additional Learning Needs (ALN)

The Act **replaces the existing terms**, Special Educational Needs (SEN) and Learning Difficulties and/or Disabilities (LDD), with Additional Learning Needs (ALN). To a large extent in the case of SEN, this **establishes in law an approach already relatively common** across Wales. The term ALN has already been used in practical and policy terms since the Welsh Government issued revised *Inclusion and Pupil Support* guidance in November 2006, which followed an Assembly Committee's recommendation in the Second Assembly.

Essentially, the **same definition as currently used for SEN is retained in the Act for ALN**. This definition is also materially the same as the existing definition of LDD at post-16.

The Act sets out a two-step definition; firstly does the child or young person have a learning difficulty or disability (whether the learning difficulty or disability arises from a medical condition or otherwise), and secondly does that learning difficulty or disability call for Additional Learning Provision (ALP)? If so, then the child or young person is considered to have ALN.

Under section 2(2) of the Act, a child or young person[3] has a learning difficulty or disability if he/she:

- a) has a **significantly greater difficulty** in learning than the **majority** of others of the same age; or
- b) has a disability for the purposes of the Equality Act 2010 (c. 15) which **prevents or hinders** him or her from **making use of facilities** for education or training of a kind generally provided for others of the same age in mainstream maintained schools or mainstream institutions in the further education sector. [my emphasis]

As at present, a person will not be considered as having a learning difficulty solely because the **language spoken at home** is different to the language in which they are taught. Neither will they be deemed as having ALN if their lack of progress or difficulties could be addressed through **regular differentiated teaching**.

The definition in the Act does not encompass medical needs such as diabetes, unless they cause the learner to have a significantly greater difficulty in learning or hinder their access to the education or training generally on offer. However, the wording of the definition in section 2, was amended by the Children, Young People and Education Committee during the passage of the Bill to make it clearer that a person's ALN may result from a medical condition, provided that the test in section 2(2) is satisfied.

Chapter 6 of the draft Code provides guidance to governing bodies and local authorities about the definition of ALN and the importance of differentiated teaching. In addition, the Welsh Government published new statutory guidance on **supporting learners with healthcare needs** in March 2017.

The Act sets out that the next step to identifying ALN will be to determine whether the child or young person's learning difficulty or disability requires Additional Learning Provision. Section 3 defines **Additional Learning Provision (ALP)** in the same terms as currently used for Special Educational Provision:

- For a person aged three or over, educational or training provision that is **additional to, or different from**, that made generally for others of the same age in mainstream maintained schools or colleges, or in nursery education;
- For a child aged under 3, educational provision of **any kind** [because a child of this age would not normally access educational provision] [my emphasis]

The Welsh Government envisages the **same number of learners** will be deemed as having ALN as those with SEN and LDD at present, as a result of using the same definitions. However, it believes using the same term for all learners aged under 25 will provide **greater equity** and underline the **coherence** of the new system. The Welsh Government also believes the newly established term, ALN, will reduce stigma and mark a **clear break** from a system in need of fundamental reform.

Core aim 2: A 0 to 25 age range

The Act provides for a new **single system for ALN** for both pre-16 and post-16, replacing the current SEN and LDD systems. Section 11 sets out the same duty on governing bodies of both schools and Further Education Institutions (FEIs) to decide whether pupils/students have ALN 'where it is brought to [their] attention or otherwise appears to [them]' that they 'may have ALN'. Where a governing body of a school or FEI decides that a pupil/student does have ALN, section 12 of the Act requires them to

[3] The Act uses the term 'child' to mean someone who is at or under compulsory school age and 'young person' as someone who is over compulsory school age but under 25.

prepare and maintain an Individual Development Plan (IDP) for them. Therefore, all learners with ALN will have the **same type of statutory plan irrespective of their age** or whether they are in a school, a school sixth form or an FEI.

The Welsh Government says this will place learners in FE who currently have separate Learning and Skills Plans (LSPs) on a **more equal** footing with their school-based counterparts. It also says it will **improve transition** between school and post-16 education.

Another significant change under the Act, which is intended to facilitate more effective transition, is the **transfer of the responsibility for specialist post-16 provision from the Welsh Ministers to local authorities**. The Welsh Government believes this will encourage local authorities and post-16 providers to work together to plan and make provision, as well as incentivising local authorities to plan for the individual beyond the age of 16 in a way they do not necessarily have to at present.

Core aim 3: A unified plan

Just as the Act provides for the same type of plan – an Individual Development Plan (IDP) – for all ages of learner under 25, it also provides for the **same type of plan for all learners with ALN regardless of their severity**. The current distinction between statements, and *School Action* or *School Action Plus*, will no longer exist. Instead, all learners with ALN will have a statutory IDP, as will all learners with ALN aged 0-25 (where 16-25 year olds are in school sixth forms or further education).

Section 10 defines an IDP as a **document which describes a person's ALN and the ALP** required to meet them. Chapter 10 of the draft Code contains proposed statutory guidance to schools, colleges and local authorities on preparing an IDP, whilst chapter 11 sets out its proposed mandatory content.

In the EM, the Welsh Government sums up the anticipated benefits of a unified plan for all degrees of ALN as follows:

> *The effect of these provisions will be to* ***remove the inconsistencies and the unfairness*** *which arise from the existing statutory and non-statutory categories of SEN, and the different systems for learners in schools and FEIs. By introducing a single plan to cover a wide spectrum of need, the new system will be* ***more flexible and responsive****, as IDPs will be able to be more easily adapted over time to take account of changes in needs or circumstances. Furthermore, it will* ***end the uncertainty*** *about when and for whom a statement should be made and the inconsistency that results. It will also* ***ensure continuity*** *for learners across the school/FE divide. (para 3.98, final version after Royal Assent) [my emphasis]*

In previous Welsh Government consultations, some stakeholders raised concerns about a **potential dilution of support** for the most severe and complex needs (usually those who have statements) if every learner with ALN has the same type of statutory plan. The Act provides for a **distinction** between the **more severe and complex cases**, where **local authorities will be responsible** for maintaining the IDP, and the majority of cases where the IDP is the responsibility of the school or FEI. During pre-legislative scrutiny of a draft Bill in 2015, the **Welsh Government said** (PDF 262KB) it expected the **balance** between the number of learners whose IDPs would be maintained by schools and local authorities respectively to be **'very similar'** to the existing balance between learners

supported through either *School Action* or *School Action Plus* (88%), and those with a statement (12%).[4]

Whose responsibility: Governing bodies or local authorities?

The duty imposed by section 12 of the Act on schools and FEIs to prepare and maintain an IDP for a learner with ALN does not apply if the governing body considers that the learner's ALN are **beyond its capability to adequately assess or provide for** ('cannot adequately determine') or it **would not be reasonable** for them to do so. If so, the school or FEI may **refer the case to the local authority** to assess the learner's ALN and subsequently secure any necessary ALP.

Sections 13 and 14 contain similar requirements on local authorities to **decide if a learner has ALN** and then prepare and maintain an IDP, as the requirements on governing bodies of schools and FEIs under sections 11 and 12. The relevant provision is that governing bodies and local authorities must do so '**where it is brought to [their] attention or otherwise appears to [them]'** that a learner 'may have ALN'.

Exceptions are where:

- The learner is above compulsory school age (and is therefore classed as a **'young person'** and not a 'child') and **does not give their consent**;
- The governing body/local authority has **previously assessed** the child or young person and they are satisfied their needs have not changed materially since and there is no new information that materially affects the decision;
- For a governing body, where it considers it needs to **refer the case to the local authority**; or,
- For a local authority, where it is satisfied that the case **can and is being considered by a governing body**.

Concerns were raised during the scrutiny of the Bill, and the previous **pre-legislative scrutiny of the draft Bill**, over the potential for **ambiguity and contention** regarding the circumstances when assessment and provision is deemed to be the responsibility of a governing body or a local authority. Paragraph 9.29 of the draft Code provides some examples of circumstances when it would not be reasonable for a school or college governing body to secure provision. The **Welsh Government accepted** (PDF 416KB) the Children, Young People and Education Committee's recommendation in its **Stage 1 report** (PDF 1MB) to strengthen this aspect of the ALN Code and provide clear guidance to inform judgments on the ground as to where responsibility falls.

Families' rights to ask local authorities to intervene

The Act provides for a child, young person, or parent (in the case of a child not above compulsory school age) to **ask a local authority to intervene and reconsider** decisions taken and provision made by schools or FEIs concerning ALN. The local authority **must comply** with such a request unless it has already considered the learner's case, **nothing material has changed** and there is no new information that would affect its decision. Below is a summary of the ways a learner or their parent will be able to ask a local authority to intervene:

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[4] For the latest school census data on numbers of pupils being supported under the different categories of SEN support, see the Welsh Government's StatsWales website, ***Pupils with special educational needs by local authority, region and type of provision***

- Section 26 enables local authorities to reconsider decisions by schools **whether a learner has ALN** (section 11).
- Under section 27, local authorities can reconsider the **content of an IDP** a school governing body has put in place (section 12).
- Under section 28, local authorities may also decide to **take over responsibility for an IDP** that is currently being maintained by a school or FEI's governing body. In addition to families, a governing body itself can also ask a local authority to consider taking over an IDP (the beyond capability and reasonable test discussed above).
- Section 14(2) provides for a local authority to prepare an IDP for a learner and **direct a school governing body** to maintain that plan. This does not cover learners in FEIs who have ALN.
- Section 32 enables local authorities to reconsider a school governing body's decision to **cease to maintain** a learner's IDP.

The Act does not give local authorities the same powers to direct the governing body of an FEI to maintain an IDP for a learner as the powers they have in respect of schools. However, to prevent such an impasse, where an FEI has failed to agree to a local authority's request that it takes responsibility for a learner's ALN, section 36 of the Act gives local authorities a power to refer the matter to the Welsh Ministers who will then determine whether the FEI or the local authority is responsible.

Overarching objective B: An integrated, collaborative process with early, timely and effective interventions

Core aim 4: Increased collaboration

This is one of the most important aims of the Act and seeks to ensure that local authorities and health bodies work together in the best interests of the learner. It is also one of the areas that **generated the most concern** in the Welsh Government's consultation on the draft Bill, pre-legislative scrutiny in the Fourth Assembly and the Children, Young People and Education Committee's scrutiny of the Bill in 2017.

Duty on health bodies to make provision

Section 20 of the Act places the following duties on NHS bodies:

- Where asked to by a local authority, a **health body 'must consider whether there is a relevant treatment or service** that is likely to be of **benefit** in addressing the child's or young person's ALN'.
- If the health body identifies such a relevant treatment or service, it **'must secure'** it for the child or young person.

This seeks to address one of the perceived weaknesses of the existing system which is that there are insufficient duties on the NHS to secure their involvement in supporting learners with ALN.

The draft Bill, which the Welsh Government consulted on in 2015, imposed a duty on local health boards and NHS Trusts to secure ALN provision for a learner only if the health body 'agreed' to this being included in the learner's IDP. This received considerable criticism with stakeholders, and subsequently the then Children, Young People and Education Committee, concluding that this **did not sufficiently bind the health sector** to offer provision that is necessary. The counter-argument was that health professionals' **clinical judgement** should be the deciding factor on what NHS provision is appropriate and necessary for a learner with ALN.

The Welsh Government has sought to achieve a suitable balance in the Act by placing an onus on the NHS to consider how it can contribute, whilst retaining health professionals' clinical judgement over what it likely to be effective. However, if a health body judges that such a service is available, it cannot opt out of providing or securing it.

It is widely recognised that effective collaboration from the outset in identifying ALN and developing an IDP is crucial to improving the system.

The EM to the Act states:

> *The duty represents a significant step forward in ensuring that there is* ***greater clarity and certainty*** *around which service will be delivering the ALP within an IDP than is currently the case with statements of SEN. (para 3.122)*
>
> *IDPs will contain an action plan that is '****clear about which agency is responsible*** *for delivering the individual elements'. (para 3.117, final version after Royal Assent)*

Chapter 12 of the draft Code sets out proposed mandatory duties and guidance on how this multi-agency working should take place when preparing an IDP.

Duties to provide information and other help

Section 65 of the Act provides that where a **local authority requests information or other help** from other bodies (such as health boards) in carrying out any of their ALN functions, for example assessing a learner's needs or preparing a IDP to meet the learners' ALN, **the body must comply** with that request unless doing so would:

– be incompatible with their own duties; or

– otherwise have an adverse effect on the exercise of their functions.

The duty to help is similar to the current requirements regarding SEN at present. However, the **duty to comply with requests for information is new** and is designed to address current 'issues around the failure of bodies to share information as effectively as they should'. The Welsh Government says it will be underpinned by clear guidance in the Code.

Children under compulsory school age

The Act gives health bodies a particular responsibility regarding children under compulsory school age. Section 64 **requires them to notify the child's parents** where they form the opinion that the child has, or probably has, ALN. Health bodies **must also bring this to the attention of the relevant local authority** if they are satisfied this is in the child's best interests. Local authorities must then decide whether the child has ALN unless the exceptions apply. The draft Code (para 7.1.33) states that health bodies may provide diagnostic services and other help if an IDP is subsequently prepared.

Links with other provision

The Welsh Government says the Bill 'provides a clear legislative basis for **avoiding the duplication** of effort and confusion which arise where multiple plans are produced for the same individual'. Section 25 provides for IDPs and **other plans relating to the same person to be prepared, reviewed or revised at the same time**, which the EM says will enable the 'much closer alignment and integration of otherwise separate planning processes' (para 3.118, final version after Royal Assent). The Welsh Government says this mirrors the approach of the ***Social Services and Well-being (Wales) Act 2014,***

enabling, for example, the inclusion of the IDPs of Looked After Children into the educational plans they have under the 2014 Act.

DECLO role within health boards

Section 61 of the Act imposes a **new duty on health boards to appoint a Designated Education Clinical Lead Officer (DECLO)**. This new role must be undertaken by a member of staff who is a registered medical practitioner, or a registered nurse or other heath professional.

The EM explains that the DECLO will:

- ensure there are **appropriate service models** within each health board;
- **provide leadership** within the health board to **support compliance** with relevant duties;
- liaise with partners and serve as a **primary point of contact for local authorities**; and
- prompt and facilitate **effective inter-professional working** on ALN.

The DECLO will not be routinely involved in the assessment and reviews of specific IDPs, except in the course of their usual clinical practice, but will be responsible for **ensuring that the appropriate health board input is provided**. Day-to-day operational functions will be undertaken by health professionals in contact with the child or young person, acting as a 'health co-ordinator' at a local level, and ensuring the role of the NHS in the ALN system is mainstreamed (para 3.124, final EM after Royal Assent).

The envisaged role of the DECLO is an example of where the Welsh Government's approach evolved throughout the scrutiny and passage of the Bill. Ministers wrote twice to the CYPE Committee about the development of the DECLO role – on **21 March** (PDF 249KB) and **6 June 2017** (PDF 271KB). The Welsh Government has established pilots in two health boards to support the development of the new ALN system:

- Abertawe Bro Morgannwg University Health Board (ABMUHB) are piloting the role of a health co-ordinator to develop an integrated model for the successful transition of pre-school children into nursery/school which will include identifying which type of issues the clinical health co-ordinator would escalate to the DECLO.
- ABMUHB are also piloting a project with ten schools to support the early identification of children with speech, language and communication difficulties and put in place the support they need as early as possible. The project aims to reduce late and/or inappropriate referrals to speech and language therapy and community paediatricians through early identification of potential ALN.
- Aneurin Bevan University Health Board are piloting a model for allied health professionals to work with children in special schools, which sets out an approach for universal, targeted and specialist services delivered by both health and local authorities. The pilot project will scope how the model could be translated into mainstream schools.

Chapter 12 of the draft Code provides more information on the intended role of the DECLO and its main responsibilities, as of its publication in February 2017.

Core aim 5: High aspirations and improved outcomes

Section 63 requires local authorities to **keep under review the arrangements** for supporting learners with ALN within their area and **consider whether these are sufficient**. In doing so, they

must have regard to the ALP that may reasonably be arranged by other bodies, such as health boards. The Welsh Government says this is to 'ensure that high standards are universal'.

In considering the extent to which arrangements are sufficient, local authorities must consider the sufficiency of provision in Welsh and the size and capability of the workforce available.

ALNCo role within educational settings

The EM notes that the **designation of an individual** (or group of individuals) within each setting (or group of settings) is **crucial to ensuring consistency and high standards** through effective co-ordination and planning. Section 60 of the Act requires all mainstream maintained schools, including maintained nurseries and Pupil Referral Units, to have a designated **Additional Learning Needs Co-ordinator (ALNCo)**. Special schools are exempt from this requirement as every staff member is expected to have a focus on ALN.

The ALNCo position will **replace the existing non-statutory SENCo role**, which the Welsh Government says is interpreted differently across settings and authorities. Section 60 also confers a power on the Welsh Ministers to make regulations prescribing the required qualifications and/or experience a person must have to be an ALNCo.

Chapter 5 of the draft Code contains further details.

Placing of learners in independent schools

Sections 54-58 of the Act **amend the existing legislative processes** for local authorities to place learners with SEN (now ALN) in independent schools. This was initially proposed in the **Education (Wales) Bill** in 2013 but, along with the post-16 SEN reforms, was removed by amendment during the scrutiny of that Bill, so that they could form part of holistic legislation to reform ALN in Wales.

The *Additional Learning Needs and Education Tribunal (Wales) Act 2018* **repeals** section 347 of the *Education Act 1996* under which the Welsh Government, advised by Estyn, has to **consent to each individual placement**. This is currently one of two legal routes for placing/admitting a learner with SEN in an independent school. The other is section 160 of the *Education Act 2002*, under which schools register as an independent school, where they can also apply to admit learners with SEN.

The Welsh Government wants to '**remove the unnecessary duplication** and confusion between the two regimes and enable a clear single system of registration'. The Act repeals section 347 of the 1996 Act and amends the section 160 process under the 2002 Act so that **independent schools will need to demonstrate that they can cater for certain types of ALP**. The ALN Act requires the Welsh Government to publish an **independent school register**, which will include details of what ALP an independent school can offer. The Welsh Government says this will reduce the risk of inappropriate placements. The Act also requires the Welsh Government to publish a list of independent special post-16 institutions, all of which will have to meet criteria and conditions to be specified by regulations.

Overarching objective C: A fair and transparent system

Core aim 6: A simpler and less adversarial system

As the EM acknowledges, previous reviews have concluded that the current system of statutorily backed local authority statements and non-statutory school-led provision is **'complex, bewildering and adversarial'**. In the Second Assembly, in 2006, the **Education, Skills and Lifelong Learning Committee found** (PDF 262KB) 'the process can be adversarial, frustrating, stressful and complicated

for parents' and 'it can be an unequal system' where 'more vocal and able parents are able to utilise the system more than others'.

The Welsh Government intends that **introducing statutory IDPs for all learners with ALN** will remove the 'current artificial and contentious divide' and **'eliminate one of the principal causes of adversarial tension'** (para 3.115, final EM after Royal Assent).

Section 9 of the Act **requires local authorities** to **make arrangements to provide impartial information and advice** about ALN and the ALN system. They must make their information and advice arrangements known to a list of persons specified in section 9(3).

Section 85 provides for a child **lacking capacity** to understand information or documents given to them, or how to exercise their rights, to have a person to support them, known as a **'case friend'**. Case friends will be **appointed by the Tribunal** on the application of any person or on the Tribunal's own initiative. They may represent and support the child, and **take decisions and act on their behalf**. The Act gives the Welsh Ministers powers to make regulations about the role of case friends.

Core aim 7: Avoiding disagreements and earlier disagreement resolution

The Welsh Government anticipates:

> *The new system will focus on ensuring that where disagreements occur about an IDP or the provision it contains, the matter is considered and resolved at the* ***most local level possible****. (para 3.14, final EM after Royal Assent) [my emphasis]*

The draft Code says:

> *Schools, FEIs and local authorities' focus should be on providing the parties with the opportunity to raise concerns or questions at every stage of the process and* ***prevent problems from escalating****.* (para 18.3) [my emphasis]

Section 68 of the Act requires **local authorities to make arrangements for both avoiding and resolving disagreements** between the child/young person and/or parent, and the school/college or local authority. This includes providing access to help in resolving a disagreement from an **independent person**. Local authorities must promote the use of the arrangements they put in place and explain to the child/young person and/or parent that any arrangements they participate in do not affect their right to appeal to the Education Tribunal for Wales.

Furthermore, section 69 requires local authorities to make arrangements for **independent advocacy services**, in order to provide advice and assistance to a child or young person for whom they are responsible, including the option of representation. The Welsh Government plans to place a requirement in the Code on local authorities to take reasonable steps to **make the availability of independent advocacy known** to families and others involved.

Chapter 18 of the draft Code contains proposed guidance to local authorities on how they should meet their duties under sections 68 and 69.

Core aim 8: Clear and consistent rights of appeal

Section 91 **renames** the existing Special Educational Needs Tribunal for Wales (SENTW) as the **Education Tribunal for Wales**. The Welsh Government says this **better reflects the Tribunal's role** as it hears disability discrimination claims relating to schools as well as SEN/ALN cases. Sections 91-

94 **largely retain the current practical arrangements for the Tribunal** and the Act **does not make any significant changes** to the way in which the Tribunal will hear appeals.

There are other sections of the Act that relate to the Tribunal. Section 77 states that if the **Tribunal makes an order**, a governing body or local authority concerned must comply with that order. This **does not extend to health bodies who are exempt** from the requirement to comply unless they agree to do so (section 21(9)). The 'lack of teeth' for the Tribunal in relation to directing health bodies was criticised during consultation and pre-legislative scrutiny on the draft Bill, as well as during scrutiny of the Bill itself. In response to these concerns, the Welsh Government inserted, through amendment, a power for the Tribunal to require health bodies to give evidence regarding a case of ALN and for the **Tribunal to issue non-binding recommendations to an NHS body** (section 76). The NHS body must then report back to the Tribunal stating the action it has taken in response to the recommendation or why it will not be taking any action.

Section 70 contains the provision for a **child and/or their parent, or young person, to appeal to the Tribunal** about the way a local authority or an FEI governing body has responded (or failed to respond) to their ALN. (They would not be appealing against a school governing body as this would have already escalated to the local authority level through a request that the local authority reconsider decisions taken by the school.)

In January 2015, the right of parents/carers to appeal was given to children and young people (in maintained schools) themselves. The Act extends this to children and young people with ALN up to the age of 25, who are in FE, thereby establishing **greater parity** between those in **further education** and those in **school sixth forms**.

Chapter 19 of the draft Code provides more detail of the processes for appeals and applications to the Tribunal.

Cross-cutting core aims

Three of the Welsh Government's core aims support all three overarching objectives.

Core aim 9: A mandatory Code

Section 4 of the Act **requires the Welsh Ministers to issue a Code on ALN**. The Welsh Government will need to consult on a draft of the Code first and then **lay it for Assembly Members' express approval under the Assembly's affirmative procedure**. This is a similar process as for the Codes on School Admissions and School Organisation.

The new Code will have a greater degree of prescription than the **current SEN Code of Practice**, which was produced in 2002 and revised in 2004. The **current Code** provides **practical advice** to the relevant agencies in carrying out their functions and they must have regard to it. However, its Foreword states that it is up to the relevant agencies to decide how exactly they fulfil their statutory duties **in the light of** [rather than strict adherence to] the **guidance**.

Stakeholders have previously expressed **support for a mandatory code** rather than one that is merely voluntary or discretionary. 89% of respondents advocated such an approach in the White Paper consultation in 2014.

The EM to the Act explains that the new Code:

> *will ensure the new ALN system has a* ***set of clear, legally enforceable parameters*** *within which local authorities and those other organisations responsible for the delivery of services for children and young people within ALN* ***must act****. The Code will be* ***targeted towards practitioners*** *so they understand and can implement the new system. [my emphasis] (para 3.139, final version after Royal Assent)*

Much of the detail about the way assessments are carried out and decisions about what provision is needed to meet a learner's ALN will be **set out in the Code rather than on the face of the Act**. The EM says that the Act enables the Code to 'provide detailed requirements about how IDPs are to be prepared, maintained and reviewed' (para 3.138, final version after Royal Assent).

The Welsh Government published an **early working draft of the new ALN Code** (PDF 986KB) in September 2015 to give a sign of the policy intentions of the draft Bill and to inform consultation. The Welsh Government then provided an **updated draft** (PDF 2.95MB) in February 2017 although this was again only for 'illustrative purposes' to inform scrutiny of the Bill itself.

Core aim 10: Increased participation of children and young people

Section 6 of the Act requires that anyone exercising functions **must have regard** to:

- a) The **views, wishes and feelings** of the child and the child's parent or the young person;
- b) The importance of the child and the child's parent of the young person **participating as fully as possible** in the decision-making process;
- c) The importance of the child and the child's parent or the young person being **provided with the information and support necessary** to enable participation in decisions.

Section 9 requires local authorities to make arrangements to provide children and young people with **information and advice about ALN and the system for provision**.

These provisions are part of what the Welsh Government calls a **'person-centred'** approach. The draft Code requires that 'anyone exercising functions under the Act or this Code will need to **involve children and young people at every stage** of the process, with their views, wishes and feelings listened to' (para 22). The draft Code is also underpinned by eight 'general principles', including that 'all those involved in providing support to children and young people with ALN should work together in the **best interests of the child or young person**'. These are listed at paragraph 2.3 of the draft Code (February 2017).

Section 69 requires local authorities to provide **independent advocacy services**, which will give advice and assistance to any child/young person considering an appeal to the Education Tribunal for Wales or participating in dispute resolution.

The Welsh Government says the provision in section 85 for a **case friend** to represent and support a child with ALN who lacks capacity, including taking decisions on their behalf, will cover situations where it may not be possible for children with ALN to be assisted by their parents in this way.

The draft Code reaffirms the importance the Welsh Government seeks to place on involving children and young people. Three of the draft Code's eight principles are:

- All those involved in providing support to children and young people with ALN should **work together in the best interests** of the child or young person;

– The **views, wishes and feelings** of the child, child's parent or young person should be at the **heart of all decision making** processes;

– The child, child's parent or young person should be **enabled to participate as fully as possible** in decision making processes. [my emphasis]

In addition to the provisions already in the Bill when it was introduced in December 2016, the Welsh Government supported amendments to place duties on relevant bodies exercising functions under the Act to have **due regard to two United Nations (UN) Conventions**:

– The UN Convention on the Rights of the Child

– The UN Convention on the Rights of Persons with Disabilities

Initially, the Welsh Government's position was that the UN Conventions primarily apply at state level and it was government's responsibility to put in place the necessary architecture of policy and legislation to ensure that due regard is being paid to them in practice. The Welsh Government was therefore concerned that imposing a duty on delivery bodies would be excessive, 'create layers of red tape and bureaucracy', and prove counter-productive.[5] However, the Welsh Government responded to the strength of opinion from the Children, Young People and Education Committee, the Children's Commissioner and stakeholders and supported amendment of the Bill so that the final legislation includes a duty on relevant bodies to have due regard to both conventions (section 7 and 8).

In paying due regard, relevant bodies **are not required to have specific consideration to the Conventions on each occasion** that a function is exercised.

Core aim 11: A bilingual system

The Welsh Government's aim is for a bilingual ALN system. The Act requires service providers to consider whether provision for a learner's ALN should be made in Welsh. If they decide that it should, this must be stated in the learner's IDP and **'all reasonable steps'** must be taken to secure the provision in Welsh.

Section 89 of the Act requires the Welsh Ministers to arrange for **reviews of the sufficiency of additional learning provision in Welsh every five years** and for reports of the outcome of those reviews to be produced and published. Section 90 provides the Welsh Ministers with powers to make regulations in future which would remove the 'all reasonable steps' fall-back for service providers so that duties to secure provision in Welsh where this is specified in an IDP would become absolute.

The Welsh Government has said that such regulations would work in a similar way to the Welsh Language Standards so that the particular circumstances and challenges in different geographical areas could be reflected.

Local authorities must also keep under review their arrangements for ALN, including the sufficiency of provision in Welsh (section 63) and take all reasonable steps to remedy any deficiencies.

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[5] *Letter from First Minister for Wales to the Children's Commissioner for Wales* (PDF 198KB), 8 May 2017

4. Powers to make subordinate legislation

The Act gives the Welsh Ministers **35 powers** to make subordinate legislation. These are listed in a table in chapter 5 of the Explanatory Memorandum.

- **19** of these powers are to be used by the Welsh Ministers under the **Affirmative** procedure, which means that the statutory instrument (SI) must be approved by the Assembly.
- In **11** cases, the **Negative** procedure is to be used, which means that the Assembly has 40 days (excluding recess) to disapprove the SI, otherwise it will come into force.
- **2** powers will be subject to the Affirmative procedure on the first exercise of those powers, with following occasions only requiring the Negative procedure
- **1** power will be subject to the **Affirmative** procedure **if amending primary legislation**, otherwise it will only require the Negative procedure.
- The Welsh Ministers may exercise **2** powers **without the need for an Assembly procedure**. These are for the coming into force of both the Code (after the section 5 process is satisfied) and the Act itself.

5. Financial implications of the Act

As required by Standing Orders, when introducing legislation to the Assembly, the Welsh Government published an **Explanatory Memorandum** (EM) (PDF 2.82MB), incorporating a Regulatory Impact Assessment (RIA) and Explanatory Notes to the Bill alongside the original Bill. The RIA includes an options appraisal and estimates of the costs, savings and benefits of the legislation.

The Welsh Government issued a **revised RIA between Stages 1 and 2** (PDF 1.56MB) to update its financial estimates and then a **further revised EM** (including RIA and Explanatory Notes) (PDF 3.02MB) after the first amending stage of the Bill, Stage 2.

Following the legislation receiving Royal Assent on 24 January 2018, the Welsh Government published a **final EM/RIA (PDF 2.79MB)** to accompany the final Act. The information in this chapter is based on the latest information published by the Welsh Government in January 2018.

Options appraisal

The RIA identified **two options**. These were **'do nothing'** and a **'preferred option'**, which was to:

- Introduce legislation to improve the current special educational needs (SEN) system to reduce existing conflict in the system and improve outcomes for young people with additional learning needs (ALN).

The Welsh Government presented **no alternative option** unlike in the **draft EM that accompanied the draft Bill in 2015**. The draft EM included the option of revising the current system based on the model **consulted on by the Welsh Government in 2012**. The preferred option in both the 2015 draft EM and the EM was based on the Welsh Government's **2014 White Paper proposals**.

The RIA (final) contains a summary (pages 90-95) and an overview of the advantages, disadvantages and risks of the 'do nothing' option and the preferred option, broken down by each area of the Act (paras 7.1-7.153), as well as a more detailed analysis within the body of the document.

Costs and savings

The overall cost of the Act is made up of two elements;

- The implementation costs required to move to the new ways of working, estimated over four-years; and,
- Ongoing costs of the new system once it is introduced.

The Welsh Government estimates transition costs of moving to the new system of £11.7 million. The net estimated ongoing costs amount to a saving over that period of £4.5 million (i.e. the ongoing savings to organisations outweigh the ongoing costs).

The **overall estimated cost of the legislation** is therefore **£7.2 million over the four-year period**. Table 1 below provides a summary of information within the RIA (final version after Royal Assent), which presents costs of the legislation by each area of provision. Table 2 presents those estimated costs by organisation.

Table 1: Estimated cost of the Act by provision, 2016-17 to 2020-21 (£'s)

	Do nothing		Introduce preferred option					
	2016-17	Total 4 yrs - do nothing	2017-18	2018-19	2019-20	2020-21	Total 4 years - preferred option	Cost difference
Individual development plans								
Ongoing cost	28,536,850	**114,147,400**	27,502,365	27,502,365	27,502,365	27,502,365	**110,009,460**	**-4,137,940**
Transition cost			237,800	0	0	0	**237,800**	**237,800**
Dispute resolution								
Ongoing cost	0	**0**	0	0	0	0	**0**	**0**
Transition cost			0	0	0	0	**0**	**0**
Post-16 special education provision								
Ongoing cost	19,249,734	**76,998,936**	19,116,114	19,116,114	19,116,114	19,116,114	**76,464,456**	**-534,480**
Transition cost			9,200	0	0	0	**9,200**	**9,200**
Registration independent schools								
Ongoing cost	415,095	**1,660,380**	457,985	457,985	457,985	457,985	**1,831,940**	**171,560**
Transition cost			53,300	0	0	0	**53,300**	**53,300**
ALNCo								
Ongoing cost	67,022,700	**268,090,800**	67,022,700	67,022,700	67,022,700	67,022,700	**268,090,800**	**0**
Transition cost			1,542,554	3,085,106	3,085,106	1,542,554	**9,255,320**	**9,255,320**
DECLO								
Ongoing cost	206,400	**825,600**	206,400	206,400	206,400	206,400	**825,600**	**825,600**
Transition cost			330	0	0	0	**330**	**330**
Early years ALN lead officers								
Ongoing cost	1,093,400	**4,373,600**	1,093,400	1,093,400	1,093,400	1,093,400	**4,373,600**	**0**
Transition cost			126,700	0	0	0	**126,700**	**126,700**
Review of provisions of ALN via medium of Welsh								
Ongoing cost	0	**0**	140	140	140	140	**560**	**560**
Total - ongoing costs	**116,524,179**	**466,096,716**	**115,399,104**	**115,399,104**	**115,399,104**	**115,399,104**	**461,596,416**	**-4,500,300**
Welsh Government Transition costs - costs			**497,510**	**757,300**	**612,700**	**105,000**	**1,972,510**	**1,972,510**
Total - Transition costs			**2,467,394**	**3,842,406**	**3,697,806**	**1,647,554**	**11,655,160**	**11,655,160**
Total Overall Cost	**116,524,179**	**466,096,716**	**117,866,498**	**119,241,510**	**119,096,910**	**117,046,658**	**473,251,576**	**7,154,860**

Source: Welsh Government, Additional Learning Needs and Education Tribunal (Wales) Act, *Explanatory Memorandum Incorporating the Regulatory Impact Assessment and Explanatory Notes (PDF 2.8MB),* Table 70 (January 2018)

Table 2: Estimated cost of the Act by organisation, 2016-17 to 2020-21 (£'s)

	Do nothing		Introduce preferred option					
	2016-17	Total 4 yrs - do nothing	2017-18	2018-19	2019-20	2020-21	Total 4 years - preferred option	Cost difference
Local authority education services								
Ongoing costs	16,204,710	**64,818,840**	15,517,025	15,517,025	15,517,025	15,517,025	**62,068,100**	**-2,750,740**
Transition costs			144,900	0	0	0	**144,900**	**144,900**
Local authority social services								
Ongoing costs	6,212,438	**24,849,752**	6,212,438	6,212,438	6,212,438	6,212,438	**24,849,752**	**0**
Transition costs			118,700	0	0	0	**118,700**	**118,700**
Mainstream schools								
Ongoing costs	73,366,400	**293,465,600**	73,366,400	73,366,400	73,366,400	73,366,400	**293,465,600**	**0**
Transition costs			1,503,170	3,006,340	3,006,340	1,503,170	**9,019,020**	**9,019,020**
Special schools								
Ongoing costs	938,700	**3,754,800**	938,700	938,700	938,700	938,700	**3,754,800**	**0**
Transition costs			0	0	0	0	**0**	**0**
Local health boards								
Ongoing costs	4,021,993	**16,087,972**	4,021,993	4,021,993	4,021,993	4,021,993	**16,087,972**	**0**
Transition costs			330	0	0	0	**330**	**330**
Careers Wales								
Ongoing costs	763,400	**3,053,600**	274,800	274,800	274,800	274,800	**1,099,200**	**-1,954,400**
Transition costs			0	0	0	0	**0**	**0**
SENTW								
Ongoing costs	152,000	**608,000**	136,700	136,700	136,700	136,700	**546,800**	**-61,200**
Transition costs			100,900	0	0	0	**100,900**	**100,900**
Further education Institutions								
Ongoing costs	742,500	**2,970,000**	765,700	765,700	765,700	765,700	**3,062,800**	**92,800**
Transition costs			12,177	24,353	24,353	12,177	**73,060**	**73,060**
Estyn								
Ongoing costs	463,250	**1,853,000**	506,250	506,250	506,250	506,250	**2,025,000**	**172,000**
Transition costs			62,500	0	0	0	**62,500**	**62,500**
PRUs								
Ongoing costs	1,217,900	**4,871,600**	1,217,900	1,217,900	1,217,900	1,217,900	**4,871,600**	**0**
Transition costs			27,207	54,413	54,413	27,207	**163,240**	**163,240**
Welsh Government								
Ongoing costs	12,440,888	**49,763,552**	12,441,198	12,441,198	12,441,198	12,441,198	**49,764,792**	**1,240**
Transition costs			497,510	757,300	612,700	105,000	**1,972,510**	**1,972,510**
Total ongoing costs	**116,524,179**	**466,096,716**	**115,399,104**	**115,399,104**	**115,399,104**	**115,399,104**	**461,596,416**	**-4,500,300**
Total transition costs			**2,467,394**	**3,842,406**	**3,697,806**	**1,647,554**	**11,655,160**	**11,655,160**
Overall Costs	**116,524,179**	**466,096,716**	**117,866,498**	**119,241,510**	**119,096,910**	**117,046,658**	**473,251,576**	**7,154,860**

Source: Welsh Government, Additional Learning Needs and Education Tribunal (Wales) Act, *Explanatory Memorandum Incorporating the Regulatory Impact Assessment and Explanatory Notes* *(PDF 2.8MB),* Table 71 (January 2018)

£20 million ALN Transformation funding

In February 2017, the **then Minister announced** a £20 million funding package to support the implementation of the legislation and the Welsh Government's wider **ALN Transformation programme**.

The Minister subsequently **wrote to the Finance Committee in March 2017** (PDF 266KB) to provide further information and advised that £10.1 million of the £20 million package is being financed from the £100 million which the Welsh Government has pledged to raise school standards during this Assembly, with the remainder from projected Welsh Government budget lines for ALN.

Further information on this funding is contained in Chapter 7 of this paper.

6. The Assembly's scrutiny of the Bill

There are four stages to the National Assembly's legislative process:

- During **Stage 1**, a lead subject Committee scrutinises the general principles of a Bill, taking evidence from stakeholders and making recommendations to the Welsh Government in its Stage 1 report. The Assembly's Finance Committee and Constitutional and Legislative Affairs Committee also scrutinise the Bill and issue reports. The Welsh Government responds to the Committees' reports and Assembly Members debate the Bill's general principles before voting whether to progress the Bill to Stage 2. A financial resolution, authorising the Welsh Government to incur the necessary expenditure to implement the legislation, must be approved by the Assembly before amendments can be considered and voted on by the lead Committee at Stage 2.
- **Stage 2** is the Committee amending stage for the Bill, with the Member in Charge attending Committee to discuss the amendments that have been tabled and Committee Members vote on each amendment. An updated version of the Bill is published as the Bill progresses to Stage 3.
- **Stage 3** is the Plenary amending stage for the Bill, with all Assembly Members present in the Chamber voting on each amendment tabled and moved during Stage 3.
- **Stage 4** is the final vote by Assembly Members in Plenary on whether to pass the legislation.

Once a Bill is passed by the Assembly at Stage 4, it is submitted for Royal Assent after the expiry of a four week window known as the 'period of intimation'. During this period, an Assembly Bill can be challenged by the Attorney General, Counsel General or Secretary of State and referred to the Supreme Court for judgment, for example on whether the Bill is within the legislate competence of the Assembly.

No such challenge took place in respect of the Additional Learning Needs and Education Tribunal (Wales) Bill. It received Royal Assent on 24 January 2018 and became the *Additional Learning Needs and Education Tribunal (Wales) Act 2018*.

The legislation has been widely supported by political parties, stakeholders and others who gave evidence during its scrutiny. However, this does not mean there were not many views on how the Bill could be improved. Assembly Committees made **70 recommendations on the general principles** during Stage 1 and there were **167 amendments to the Bill** accepted during Stages 2 and 3.

The National Assembly website details the Bill's passage through the Assembly's legislative process. Information is also provided in Annexes 2-5 of this paper. A short summary is given below.

Stage 1

The Bill was scrutinised by three Assembly Committees:

- Children, Young People and Education Committee (CYPE) report (PDF 1.96MB); Welsh Government response (PDF 415KB)
- Finance Committee report (PDF 370KB); Welsh Government response (PDF 342KB)
- Constitutional and Legislative Affairs Committee report (PDF 1.13MB); Welsh Government response (PDF 339KB)

Annex 2 provides an overview of the Committees' findings from their Stage 1 scrutiny.

Assembly Members debated the general principles of the Bill in Plenary on 6 June 2017. However, the then Minister for Lifelong Learning and Welsh Language, Alun Davies, did not move a financial resolution at that point, agreeing instead to publish a revised Regulatory Impact Assessment (RIA) due to changes in the Welsh Government's estimated costs and savings associated with the legislation. Alun Davies wrote to Assembly Members on 6 June 2017 (PDF 238KB) explaining the position. Annex 3 provides more information on the scrutiny of the costs of the legislation.

Stage 2

Following the Welsh Government's publication of a revised RIA on 8 September (PDF 1.56MB) and the passing of the financial resolution in Plenary on 3 October, the CYPE Committee met on 4 October and 12 October 2017 to dispose of amendments.

116 amendments were passed at Stage 2. The then Minister, Alun Davies, sought to address many of the three Committees' recommendations. The results included the following:

- The **definition of ALN** in section 2 of the legislation was amended to make it more explicit that ALN could result from the learner having a medical condition or healthcare need.
- Sections of the Bill relating to ALN provision through the **medium of Welsh** were strengthened.
- A new section was inserted, giving the **Education Tribunal a power to oblige health bodies** to provide evidence on an individual case of ALN and for the Tribunal to issue non-binding recommendations to health bodies.
- The then Minister made a commitment to take forward the CYPE Committee's recommendation that relevant bodies should have a duty to pay due regard to the UN Convention on the Rights of the Child.

Annex 3 provides further information on changes to the Bill at Stage 2 and commitments given by the then Minister.

Stage 3

During Stage 3 there was a Welsh Government Cabinet reshuffle which led to the Cabinet Secretary for Education, Kirsty Williams, taking over as the Member in Charge as Alun Davies was appointed as the Cabinet Secretary for Local Government and Public Services.

Assembly Members disposed of Stage 3 amendments in Plenary on 21 November 2017. 51 amendments were passed.

New sections (sections 7 and 8 as passed) placing a duty on local authorities and NHS bodies to have **due regard to the following two UN Conventions** when exercising functions under the Act

- UN Convention on the Rights of the Child
- UN Convention on the Rights of Persons with Disabilities.

However, local authorities and NHS bodies will not be required to give specific consideration to the Convention each time they exercise functions.

Stage 4

The National Assembly voted to pass the Bill on **12 December 2017**. The Act subsequently received Royal Assent on **24 January 2018**.

The Welsh Government published a **final Explanatory Memorandum and Regulatory Impact Assessment** for the Act.

7. Implementation of the Act and the ALN Transformation Programme

ALN Transformation

The Welsh Government has emphasised that the **Act is part of its broader ALN Transformation Programme.**

In March 2016, the Welsh Government established an **ALN Strategic Implementation Group**, which was tasked with planning for transition. The group met bi-monthly to consider practical solutions and provide advice and recommendations to the Welsh Government to support implementation. Notes of its meetings are available on the **Welsh Government website**.

The ALN Strategic Implementation Group established **eight expert groups** to consider in more detail technical issues in the following areas of implementing the new ALN system:

- Individual Development Plans (IDPs)
- Additional Learning Needs Co-ordinators (ALNCos)
- Early Years ALN provision
- Post-16 ALN provision
- Transition between settings, providers and into adulthood
- Health
- Training
- Looked after children

The Strategic Implementation Group was disbanded in September 2017, although the eight expert groups have continued their work. The Welsh Government has also appointed five ALN **Transformation Leads**, whose purpose will be to support the effective implementation of the Act across Wales. The Welsh Government says they will play a key role in delivering the ALN transformation programme and provide a strategic interface between delivery partners and the Welsh Government.

There are four regional ALN Transformation Leads and one Further Education ALN Transformation Lead. The four regional leads will each be responsible for supporting local authorities, schools, early years settings and local health boards in one of the four regions to prepare for and implement the new system. The other lead will be responsible for providing the same support to the further education sector

The Welsh Government has committed to providing the Children, Young People and Education Committee with **quarterly updates on the ALN Transformation programme**. The first of these was provided in a **letter from the then Minister for Lifelong Learning and Welsh Language, Alun Davies, on 7 September 2017** (PDF 892KB).

The Cabinet Secretary for Education, Kirsty Williams, issued the **second quarterly update on 15 December 2017** (PDF 266KB).

ALN Transformation funding

As discussed in chapter 5 of this paper, the Welsh Government has established a **£20 million funding package** to support the implementation of the legislation and the wider ALN Transformation programme. £10 million of this is being financed from the £100 million that the Welsh Government has pledged to raise school standards during this Assembly, with the remainder coming from projected Welsh Government budget lines for ALN.

The Cabinet Secretary for Education wrote on 11 December 2017 (PDF 395KB) to the Finance Committee to give an update on how the £20 million is being allocated and profiled. There are four strands to the ALN Transformation Programme beyond the legislation itself and the funding is allocated to these over four years.

Table 3 below reproduces the information contained in the Cabinet Secretary's letter:

Table 3: Breakdown of ALN Transformation programme work strands

£

Workstream	2017-18	2018-19	2019-20	2020-21	Total
Implementation / transition support	1,873,000	3,457,000	3,453,000	3,305,000	12,088,500
Workforce development	843,000	2,081,000	2,081,000	2,292,000	7,297,000
Awareness-raising	237,500	142,500	167,500	105,000	652,500
Supporting policy	82,500	55,500	34,000	34,000	206,000
Total	**3,036,000**	**5,736,000**	**5,736,000**	**5,736,000**	**20,244,000**

Source: Welsh Government, Letter from Cabinet Secretary for Education to Chair of Finance Committee **(PDF 395KB), 11 December 2017**

The Welsh Government also established an **ALN Innovation Fund** to support local authorities and their partners in developing and improving multi-agency working arrangements to deliver the new system. This consisted of £2.1 million and is due to run until 31 March 2018.

Transition to the new ALN system under the Act

The Welsh Government has decided to phase transition to the new ALN system in several stages, starting from September 2020. The Cabinet Secretary for Education announced the plans in a statement on 11 December 2017.

This followed a consultation held by the Welsh Government between February and June 2017 on options for transitioning to the new system. The consultation included options for **either a 'big bang' approach** where each new learner identified with ALN would move to the new system at a single date, or **various models for phasing** in the new system. The Welsh Government reported that the consensus amongst stakeholders was for a phased approach to transition.

The Welsh Government's intentions for introducing the new ALN system are as follows:

- From **September 2020**, any learner **newly identified with ALN** will be supported under the new arrangements established by the Act and subsequent subordinate legislation, ie an Individual Development Plan (IDP).
- Learners who have **statements of SEN** will transfer to the new system of IDPs during the **two years following September 2020**. The Welsh Government has indicated that this will focus on learners at key points of progression (eg between key stages) in the first instance.

– Learners who have their SEN/ALN supported under **School Action or School Action Plus** will transfer to the new system of IDPs during the **third year** (ie between September 2022 and July 2023).

The Welsh Government has said it will **publish a transition guide for consultation during 2018**. The **Cabinet Secretary's letter to the CYPE Committee on 15 December 2017** (PDF 266 KB) said that this transition guide will include 'detailed timescales for the roll-out of IDPs to each cohort of learners in the phased approach'.

The **current legal SEN framework** under the *Education Act 1996* and SEN Code of Practice (2004) **remains in place until September 2020** and local authorities are required to continue to exercise their functions and meet existing duties under the current SEN system until the new ALN system is introduced.

Other steps needed before the introduction of the new ALN system

The Act requires the Welsh Government to produce, following consultation, an Additional Learning Needs Code, which will provide most of the detail for the way assessments and decisions about provision will be carried out, with the Act setting the overall framework. The Cabinet Secretary for Education has said that the Welsh Government will hold a consultation on a draft ALN Code and some of the draft regulations, in autumn 2018.

The Welsh Government expects the **Code and all of the subordinate legislation** to be in place by the **end of 2019**, before implementation training is rolled out in early 2020 and the intended introduction of the **new ALN system from September 2020**.

Annex 1: Background to the introduction of the Bill

Reform of the legal framework for Special Educational Needs (SEN) had been on the agenda for a long time in Wales before this legislation was introduced, scrutinised and passed. In 2015, the Welsh Government consulted on a Draft Additional Learning Needs and Education Tribunal Wales Bill and published a draft Code of Practice. This followed a White Paper in 2014.

However, the journey of review and reform dates back much earlier with two reports, published not long after the National Assembly was established, highlighting the need for change. In 2002, the Audit Commission published *Special educational needs: A mainstream issue*, which was followed by *Support for Children with Special Educational Needs: An Estyn Overview* in 2003.

The Research Service's previous publications, ***Additional Learning Needs in Wales (2016)*** (see chapters 6 and 7), and the ***ALN Bill Summary (2017)*** (see chapter 4) set out the background and history of events and preparations for this legislation. Below is a brief summary:

Three-part Committee inquiry in the Second Assembly

Improving the way SEN are managed in Wales was the subject of a three-part inquiry carried out by the Education, Lifelong Learning and Skills (ELLS) Committee in the Second Assembly between 2003 and 2007.

- The first part of the inquiry, which reported in November 2004 (PDF 925KB), focused **on Early Identification and Intervention**, and highlighted issues such as late diagnosis, an acute shortage of specialist therapists and a need for multi-agency working.
- The second part of the ELLS Committee's inquiry, **Statutory Assessment Framework (Statementing)** which reported in May 2006 (PDF 262KB), found general dissatisfaction with the statements process but, at that time, did not advocate the abolition of the statements system.
- The third part of the ELLS Committee's inquiry, which reported in March 2007 (PDF 2.90MB), looked at **Transition** and the particular needs of young people with SEN as they leave secondary education and move into further or higher education, training or employment.

Developments in the Third Assembly

- In the **summer and autumn of 2007**, the Welsh Government undertook a **consultation** with parents and stakeholders called ***Statements or something better?*** which sought views on possible reform of the legislative framework and aimed to build confidence and consensus about the way forward.
- The Welsh Government subsequently **established** four ALN pilot projects **in 2009** to develop and test alternatives to the current statutory framework of SEN statements. The aspects piloted included an Individual Development Plan (IDP) setting out a person's needs and actions to support them within a whole system (age 0-25) approach.

Fourth Assembly onwards

During the Fourth Assembly (2011-2016) and the opening months of the Fifth Assembly (May 2016 onwards) until introduction of the Bill in December 2016: the Welsh Government:

- Undertook a consultation on proposals to reform the legislative framework (June – October 2012);

- Included changes to SEN at **post-16 within the** Education (Wales) Bill (2013-3014) before later agreeing to these being **removed** from the Bill (following an Assembly Committee's recommendation that these be instead taken forward in a single SEN/ALN Bill);
- **Consulted on a** White Paper (PDF 541KB)(May – July 2014) which built on the consultation two years earlier;
- Published a **draft Bill** (PDF 259KB) for consultation (July – December 2015), on which the Children, Young People and Education Committee undertook **pre-legislative scrutiny**;
- Published a **consultation summary and all individual responses**, alongside a **Ministerial statement on 1 July 2016**;
- Issued a **further statement on 14 July 2016** on the timescale for introduction of the Bill.

The draft Bill and the Assembly's pre-legislative scrutiny

The Welsh Government planned to introduce a Bill in the summer of 2015. The **then Minister for Education and Skills decided** to **defer this to allow a further exercise of consultation**, this time on a draft Bill. Huw Lewis said 'it is vital we design change with the profession and do not impose it upon them' which led him to decide 'we need to build in an important additional step in our reform journey'. On **23 June 2015**, he told Assembly Members ALN reform needed to be taken forward in the **context of substantial changes** to the curriculum, initial teacher training and the professional development of the education workforce.

In its **pre-legislative scrutiny** of the **draft Bill**, the Fourth Assembly's Children, Young People and Education Committee 'very much welcome[d] the intention' to reform the system but found that 'there [was] **much work to be done**' to address **'many areas of uncertainty'** before a Bill was formally introduced into the Assembly's legislative process.

Evidence received by the previous Committee was generally positive about the aims and objectives of the draft Bill. However, all those who submitted evidence raised some concerns about the practicalities of the proposed reforms.

In its **resultant letter to the then Minister for Education and Skills** (PDF 330KB), the Committee highlighted **areas** for the Welsh Government to strengthen the legislation, in addition to some transitional challenges such as finances and workforce capacity. The Committee highlighted:

- inadequate provision for **collaboration between local authorities and health boards**, with the Committee believing firmer duties on health bodies were needed;
- a call for the universal Individual Development Plans (IDPs) to retain the benefits of the current three-tier approach, enabling the **levels of intervention to be graduated** so that more intensive support is available for more complex and severe needs, and for greater clarity over where **responsibilities for plans** will lie;
- a need for the **Education Tribunal for Wales** to have **stronger powers** when considering appeals from families against local authorities and **health boards**; and
- **insufficient detail** on provision at either end of the 0-25 age spectrum, ie what will be in place in **early years** and at **post-16**.

Welsh Government consultation

The **Welsh Government's summary** of the 263 consultation responses to its consultation on the draft Bill showed that, despite **general support for the principles** and direction of travel, **stakeholders had concerns** about the legislative proposals in their draft form. The consultation included five closed questions asking participants if they agreed or disagreed that an aspect of the draft Bill would be effective, or if they neither agreed nor disagreed. **In all five of the questions, more respondents disagreed than agreed.**

More analysis of the consultation results can be found in chapter 7 of the Research Briefing, ***Additional Learning Needs in Wales*** (November 2016).

The Welsh Government prefaced its summary of the responses to each of these questions by referring to the support for the general principles of the draft Bill. It also stated that the **narrative** provided by respondents in support of their answers to the closed questions **did not convey as high a level of disagreement** as the results suggest. In his **statement on 1 July 2016**, the then Minister, Alun Davies, said that the concerns raised 'reflected a desire for a greater level of detail' or 'reflected **misunderstandings of our intentions** or the anticipated practical impact'.

The Welsh Government took on board the feedback and views it received on the draft Bill and this was reflected in the Bill it introduced in December 2016. The **Explanatory Memorandum (EM)** (version as introduced, PDF 2.81MB) (paras 4.15-4.19) included a **table listing the changes** made to the draft version of the Bill and the Welsh Government's rationale for each of these. Chapter 4 of the **Research Service's summary of the Bill as introduced** (March 2017) provides further details of the changes.

Annex 2: Stage 1 scrutiny

The then Minister for Lifelong Learning and Welsh Language, Alun Davies, made a **statement in Plenary on 13 December 2016**, the day after the *Additional Learning Needs and Education Tribunal (Wales) Bill* was introduced.

The Children, Young People and Education Committed was remitted to scrutinise the general principles of the Bill and published its Stage 1 report in May 2017. The Finance Committee and the Constitutional and Legislative Affairs Committee also scrutinised and reported on the Bill as relevant to the remit of their committees. Links to the Committees' reports and the Welsh Government's responses are provided below.

- **Children, Young People and Education Committee report** (PDF 1.96MB); **Welsh Government response** (PDF 415KB)
- **Finance Committee report** (PDF 370KB); **Welsh Government response** (PDF 342KB)
- **Constitutional and Legislative Affairs Committee report** (PDF 1.13MB); **Welsh Government response** (PDF 339KB)

The Children, Young People and Education (CYPE) Committee **welcomed the general principles of the Bill** and recommended that the Assembly support the legislation at Stage 1, enabling it to progress to Stage 2 when amendments can be made. However, the Committee's report made **48 recommendations** for the Welsh Government, which sought to strengthen the legislation and the Minister's proposals for reform of the SEN/ALN system, and address areas of concern identified by stakeholders and Committee members. The Committee reported:

> *The evidence received highlights that there will be many challenges in implementing the Bill. Simply passing the legislation will not by itself address the deeper, underlying problems and challenges within the current system. The evidence received also highlights many concerns about the way the new framework is going to work in practice. (para 34)*

The CYPE Committee highlighted the **need for adequate resources, workforce planning and training arrangements to support implementation** of the Bill and the Welsh Government's wider ALN Transformation Programme.

The Committee made recommendations in the following areas. Some of these called for amendments to the Bill itself, others for further detail in the Code, whilst a number raised issues for the Welsh Government to consider more generally in its approach to the reforms. (Numbers in brackets denote the number of recommendations in each section of the report.)

- General principles and the need for the legislation (2)
- The definition of ALN (2)
- Timescales for assessments and preparation of Individual Development Plans (IDPs) (1)
- Responsibility for IDPs (6)
- Template for IDPs (2)
- Additional Learning Needs Co-ordinators (ALNCOs) (4)

- Early years (3)
- Post-16 (1)
- Collaboration and the involvement of the health sector (4)
- Information, advice and advocacy (5)
- Children's rights (2)
- Welsh-medium provision (5)
- The Tribunal (3)
- Financial and resource implications (3)
- Powers to make subordinate legislation (3)
- Medical needs in schools (2)

One day after the Stage 1 reporting deadline and the publication of the Committee's report, the then Minister issued a **letter outlining changes (PDF 241KB)** to the Welsh Government's estimated costs and savings of the Bill. These **changes were substantial and the Minister undertook to publish a revised Regulatory Impact Assessment** before moving the financial resolution for the Bill. Such a resolution is needed to seek the Assembly's approval for the Welsh Government to incur the expenditure necessary to implement the legislation.

The financial resolution is usually approved on the same day as the general principles at Stage 1, which in the case of the ALN Bill was on **6 June 2017**. However, due to concerns over the changes in the Welsh Government's financial estimates, the Minister agreed to postpone moving the financial resolution.

The Welsh Government published a **revised RIA for the Bill as introduced** on 8 September 2017. The then Minister, Alun Davies, moved the **financial resolution in Plenary on 3 October 2017**, which the Assembly supported. This is discussed in Annex 3.

Annex 3: Scrutiny of the costs of the legislation

Overview

The scrutiny of the Bill by the Finance Committee and Children, Young People and Education Committee at Stage 1 highlighted **issues surrounding certain financial estimates within the original RIA**. These mainly centred on the Welsh Government's estimated costs of dispute avoidance and resolution and the costs and savings associated with changes in this area due to legislation. As discussed in chapter 6 and Annex 2, this resulted in a **delay to the Welsh Government moving the financial resolution** seeking the National Assembly's approval of the necessary expenditure to implement the legislation.

The original RIA (PDF 2.82MB), published alongside the Bill in December 2016, concluded that delivering the legislation would result in an **overall saving of £4.8 million** over the four-year implementation period (or £2.2 million if costs to all bodies are included). The then Minister for Lifelong Learning and Welsh Language, Alun Davies subsequently wrote to the Finance Committee on three occasions to advise of errors and changes to the RIA:

- 7 February 2017 (PDF 1.82MB): The Minister wrote prior to financial scrutiny of the Bill to advise of a number of errors identified by the Welsh Government, which reduced the ongoing savings associated with the Bill.
- 25 May 2017 (PDF 241KB): The Minister wrote following the Stage 1 reporting deadline to advise of significant changes to the RIA. These changes related primarily to dispute resolution and were based on the results of Welsh Government discussions with SNAP Cymru. This letter incorporated the changes outlined in the letter of 7 February 2017 and meant the Bill was no longer estimated to deliver a £4.8 million saving over the four-year implementation period, but would actually **cost £8.3 million** during this time.
- 8 September 2017 (PDF 279KB): The Minister wrote following an internal and external review of the RIA linked to the Minister's letter of 25 May 2017. The letter included some adjustments to figures and was accompanied by a revised RIA that incorporated all previous changes. The letter also referenced an external review of the RIA (PDF 980KB) commissioned by the Welsh Government. The amendments to the RIA reduced the **net cost of the Bill at that stage, over the implementation period, to £7.9 million**.

How did the financial estimates change?

The overall cost of the legislation is made up of ongoing costs/savings of the new system and the implementation/transition costs required to move to the new ways of working (both estimated over four-years). Changes in the revised RIA (September 2017) represented a reduction in the ongoing savings, rather than an increase in implementation costs. The estimated transition costs of the legislation reduced between the original and revised RIAs, from £12 million to £11.5 million. However, the net ongoing savings decreased from £14.2 million to £3.7 million.

The most significant changes to the RIA were associated with costs and savings in the **"Disagreements and Appeals"** section of the RIA, as identified in the Minister's letter dated 25 May 2017 (PDF 241KB), following the Stage 1 reporting deadline.

Evidence provided by SNAP Cymru (PDF 219KB) (a charitable organisation providing dispute resolution services) during Stage 1 scrutiny, led the Welsh Government to revise the number of cases

and average cost of a case used in the Disagreements and Appeals section of the RIA. The changes to the two figures were:

- **Number of cases**: reduced from 1,533 to 758
- **Average cost of a case**: reduced from £2,000 to £875.

The revised RIA (September 2017) also outlined that £500 of the £875 average cost of a case, is a cost to local authorities, with the remaining £375 a subsidy from dispute resolution providers (made up of fund raising, charity reserves and volunteer hours).

The number of cases and average cost of a case were used in a number of calculations throughout the Disagreements and Appeals section of the RIA.

Events following publication of the revised RIA

The Finance Committee scrutinised the Minister on the revised RIA (September 2017) on **21 September 2017**, and published a report on 29 September 2017 (PDF, 316KB). The report noted the Committee's disappointment at the level of changes that were made, but also welcomed the Minister's decision to produce a revised RIA. The Finance Committee also noted that SNAP Cymru were content that there was now a shared understanding of the revised figures and narrative.

The Minister moved the financial resolution in **Plenary on 3 October 2017**, which was supported by the National Assembly. This enabled the Children, Young People and Education Committee to dispose of amendments tabled at Stage 2 at its meetings on 4 October and 12 October.

The Welsh Government published a **revised EM/RIA** (PDF 3.0MB) following Stage 2 and a **final version** (PDF 2.8MB) in January 2018 after the Act received Royal Assent. Changes to these RIAs, when compared to previous versions, included:

- Increased costs of £140 per year (over the four-year implementation period) due to amendment 140 (duty on local authorities to consider the sufficiency of Welsh-medium ALN provision in their area).
- Increased transition costs of £126,700 associated with amendment 19 (which requires local authorities to designate an early years ALN lead officer to co-ordinate the authority's functions in relation to children not yet in school). This is cost neutral in terms of ongoing costs.
- The ongoing costs associated with the DECLO role (£825,600) are now outlined as cost neutral.

The Welsh Government's final RIA estimates the overall cost of the legislation as £7.2 million over the four-year implementation period. Further detail of these costs can be seen in tables 1 and 2 in chapter 5 of this paper.

Annex 4: Changes to the Bill at Stage 2

Stage 2 is where the Bill can be amended by the Committee which was remitted to carry out lead scrutiny of the legislation. It follows scrutiny of the general principles of a Bill at Stage 1. The Children, Young People and Education (CYPE) Committee debated and voted on ('disposed' of) amendments at Stage 2 on **4 October** and **12 October 2017**.

Details of amendments tabled at Stage 2 can be found on the ***Additional Learning Needs and Education Tribunal (Wales) Bill* webpage**.

Outcome of amendments

156 amendments were tabled in total. 4 of these were amendments to amendments (27A, 84A, 140A, 145A).

- 113 amendments were tabled by the then[6] Minister for Lifelong Learning and Welsh Language, Alun Davies AM.
- 23 amendments were tabled by Darren Millar AM.
- 20 amendments were tabled by Llyr Gruffydd AM.

Of the 156 amendments tabled:

- **116 amendments were passed**: 110 of the Minister's, 5 of Darren Millar's and 1 of Llyr Gruffydd's.
- 22 amendments were rejected: 10 of Darren Millar's, 10 of Llyr Gruffydd's and 2 of the Minister's.
- 2 amendments fell because of the way a previous amendment was voted on (99 and 100).
- 16 amendments were either not moved or withdrawn: 8 of Darren Millar's (79, 40, 80, 81, 41, 42, 84, 152), 7 of Llyr Gruffydd's (90, 93, 96, 84A, 101, 103, 104) and 1 of the Minister's (116). This was predominantly because the tabling Member was reassured by an explanation or commitment given by the Minister.

Changes made to the Bill

As stated previously, 116 amendments were agreed, which made changes to the Bill. An **updated version of the Bill, as amended at Stage 2** (PDF 381KB), was published.

Six new sections were added to the Bill at Stage 2 (sections 34, 42, 58, 72, 83 and 84 of the Bill as amended at Stage 2). This meant the Bill then consisted of 94 section and 1 Schedule.

33 of the successful amendments were consequential and minor drafting amendments. Other successful amendments were in the following 12 groups of amendments:

Definition of Additional Learning Needs

Amendment 37 from Darren Millar changed the definition of the ALN in section 2(1) of the Bill so that it explicitly referenced that a person's ALN may result from a medical condition. This was one of the

[6] References throughout this Annex to the 'Minister' refer to Alun Davies who was the Minister for Lifelong Learning and Welsh Language and Member in Charge of the Bill throughout Stages 1 and 2 of the legislative process and during Stage 3 until the changes to the Cabinet on 3 November 2017.

most commonly raised issues during scrutiny of the Bill at Stage 1. Section 2(1) of the Bill was amended so that:

> *A person has additional learning needs if he or she has a learning difficulty or disability (whether the learning difficulty or disability arises from a medical condition or otherwise) which calls for additional learning provision.*

However, the amendment does not mean that every learner with a medical condition will necessarily be deemed to have ALN as the criteria in section 2(2) will still have to be satisfied, which is that the learner:

> *a) has a significantly greater difficulty in learning than the majority of others of the same age, or*
>
> *b) has a disability for the purposes of the Equality Act 2010 (c.15) which prevents or hinders him or her from making use of facilities for education or training of a kind generally provided for others of the same age in mainstream maintained schools or mainstream institutions in the further education sector.*

Amendment 37 responded to Recommendation 4 in the CYPE Committee's Stage 1 report.

Early Years Provision

All 8 amendments in this group were tabled by the Welsh Government and were passed. In tabling these amendments, the then Minister said he was responding to recommendation 20 of the CYPE Committee's Stage 1 report, which called for a clearer mechanism for referral and consideration of potential ALN cases between early years professionals and local authorities.

Amendment 1 enables the ALN Code to provide guidance on wider matters regarding ALN, not just about functions exercised under the legislation, which non-maintained nursery providers who receive public funding will need to have regard to.

Amendment 19 inserted a new section (section 58 as amended at Stage 2), requiring local authorities to designate an early years ALN lead officer to co-ordinate the authority's functions in relation to children not yet in school.

ALN Code – Timescales for assessments and IDPs

Amendment 22 from the then Minister requires the Code to specify timescales within which local authorities and governing bodies must make decisions about ALN and produce Individual Development Plans (IDPs). This responded to the CYPE Committee's Recommendation 5 at Stage 1.

Subordinate legislation: Changes to procedures

Amendment 7 from the Minister changed the procedure for making the ALN Code from Negative (as introduced) to Affirmative. This responded to Recommendation 6 of the Constitutional and Legislative Affairs (CLA) Committee and Recommendation 44 of the CYPE Committee. Darren Millar's Amendment 78, which includes the CYPE Committee in the list of persons whom the Welsh Government must consult on a draft ALN Code, was also supported.

Other successful amendments in this group responded to recommendations by the CLA Committee.

Procedures for amending IDPs

The Welsh Government's amendments in this group covered two areas and were all passed.

The Minister explained to the CYPE Committee that the first set of amendments were to address various anomalies regarding provisions for reviewing and revising IDPs. His amendments aimed to ensure that reviews of IDPs take place within 12 months of the outcome of the last review or revision, and that the outcomes of reviews and revisions are appropriately notified to parents in all cases.

The other amendments (principally Amendment 15) require local authorities to act in accordance with regulations made by the Welsh Government when taking decisions to cease to maintain an IDP for a learner.

Provision for detained persons

Amendment 139 from the Minister added a new section to the Bill (section 42 of the Bill as amended at Stage 2) clarifying that a number of general duties in the legislation, do not apply where learners are detained.

The Minister confirmed that the provisions in the Bill relating to detained persons apply to those detained under the criminal justice system and not those detained under mental health legislation who he said would still be entitled to ALN support.

Other amendments changed the provisions of the Bill, which specifically relate to detained persons (sections 37-41 in the Bill as amended at Stage 2).

Responsibility for IDPs of post-16 learners

The Minister's amendments in this group responded to Recommendation 7 of the CYPE Committee's Stage 1 report, which highlighted the potential for neither a local authority nor a further education institution (FEI) to take responsibility for a learner's ALN with no means of resolution other than recourse to the Tribunal.

Amendment 128 inserted a new section (section 34 as amended at Stage 2) enabling a local authority to refer a case to the Welsh Ministers where an FEI does not accept responsibility for an IDP and for the Welsh Ministers to determine that an FEI must maintain the IDP. Amendment 110 requires an FEI governing body to maintain an IDP if the Welsh Ministers determine that it should do so.

Welsh language

Amendment 140 from the Minster inserted a new duty into the Bill, which requires local authorities to consider the sufficiency of Welsh-medium additional learning provision in their area when fulfilling their duty (under section 56 of the Bill as introduced, section 59 of the Bill as amended at Stage 2) to keep additional learning provision under review.

The Committee passed Amendment 140A from Llyr Gruffydd to further require local authorities to take all reasonable steps to remedy insufficient provision in Welsh.

Amendment 149 from the Minister inserted a new section (section 83 of the Bill as amended at Stage 2) requiring the Welsh Ministers to arrange for reviews and reports on the sufficiency of additional learning provision in Welsh, the first of which must occur within five years of the legislation being enacted. Amendment 150 inserted a new section (section 84 as amended at Stage 2) providing the Welsh Ministers with regulation making powers to remove the term 'all reasonable steps' from the duties on relevant bodies to make provision in Welsh where this is requested. This means that at

some point in the future, based on the outcome of a sufficiency of provision review, the Welsh Government could absolutely require relevant bodies to secure additional learning provision in Welsh.

Refinement to existing provisions for IDPs

This group contained amendments by the Minister to refine and improve elements of the way in which certain provisions relating to IDPs operate. These amendments include securing 'other provisions' such as board and lodging, clarifying responsibilities towards looked after children who are cared for by another local authority and ensuring certain duties continue to apply following changes in responsibility for an IDP.

Removal of certain subordinate legislation making powers

The Welsh Government's amendments in this group responded to recommendation 1 by the CLA Committee that certain regulation making powers should be removed from the Bill if the Minister could not justify why they were necessary.

Duties on NHS bodies

Amendment 26 from the Minister requires NHS bodies, after considering if there is a relevant treatment or service that is likely to be of benefit in addressing the learner's ALN, to notify the referrer and the body responsible for any IDP of its decision. This addresses an anomaly whereby the Bill as introduced required NHS bodies to notify where it does identify such a treatment or service but not where it does not identify one. Amendment 27 enables the Welsh Ministers to specify through regulations a timescale by when the NHS body must notify of it decision. The Committee supported Darren Millar's amendment 27A that the Welsh Ministers must make these regulations specifying a timescale.

Amendments 28 and 29 from the Minister responded to the CYPE Committee's Recommendation 19 at Stage 1 that NHS bodies 'must', rather than 'may', notify the local authority where they believe a child of less than compulsory school age might have ALN and it is in the best interests of the child for them to do so. The Bill as introduced altered the duty in existing legislation to a discretionary power, which the Committee concluded was against the spirit of information sharing and a weakening of the current position. The Bill was amended to address this.

The Education Tribunal

The Minister's Amendment 145 inserted a new section (section 72 in the Bill as amended at Stage 2), which sought to respond to the CYPE Committee's Recommendations 38 and 39 about the Tribunal's lack of power to direct health bodies.

Amendment 145 enables the Education Tribunal for Wales to now require an NHS body to give evidence regarding a case of ALN. The Tribunal will also be able to make recommendations to an NHS body which must report back to the Tribunal stating the action taken in response or why it will not be taking any action. Effectively, this enables the Tribunal to make non-binding recommendations to NHS bodies, to which they must formally report against. However, the provision (section 19(9) of the Bill as amended at Stage 2) that NHS bodies do not need to comply with an order by the Tribunal if they do not agree to do so remains in the Bill.

Amendment 146 from the Minister requires a governing body or a local authority to report to the Tribunal within 14 days of the date it was required to comply with an order on whether and how it has complied.

Commitments by the then Minister

The then Minister for Lifelong and Welsh Language, Alun Davies, made undertakings in respect of 15 non-government amendments. These included:

- 4 amendments which were rejected by the Committee (Amendments 76, 77, 38 and 39).
- 11 amendments which were subsequently not moved or withdrawn (Amendments 40, 80, 81, 41, 42 and 84 from Darren Millar and Amendments 90, 93, 96, 84A and 101 from Llyr Gruffydd).

These can be summarised as constituting the following **10 commitments** by the Minister.

Amendments rejected

- Amendment 76 from Darren Millar, which related to Recommendation 11 of the CYPE Committee's Stage 1 report, sought to include a provision in the Bill that the Code must include guidance on when the LA or governing body should seek the views of an **educational psychologist**. The Minister resisted (and the Committee subsequently rejected) this amendment although Alun Davies said he was discussing the matter with the Association of Educational Psychologists so that there is clarity around the role of the profession in ALN provision. The Minister said the **Code would include detail** of this.
- Amendment 77 from Darren Millar, which related to Recommendation 13 of the Committee's Stage 1 report, sought to include a provision in the Bill that the Code must include guidance about **transport provision**. The Minister resisted (and the Committee subsequently rejected) this amendment but Alun Davies said the Welsh Government would **revise the statutory Learner Travel Operational Guidance to address concerns** about lack of consideration of ALN in provision of transport. The Minister said **if he could not achieve this** through subordinate legislation (revising the Learner Travel guidance) **he would table an amendment at Stage 3** to do it through the Bill. He also said that the Welsh Government may not be in a position to publish the revised guidance before Stage 3 but that he would clarify whether it intended to do so before the Stage 3 amendment tabling deadline.
- Amendments 38 and 39 from Darren Millar sought to place a duty on persons exercising functions under the Act to have due regard to the **UN Convention on the Rights of the Child (UNCRC) and the UN Convention on the Rights of Persons with Disabilities (UNCRPD)** respectively. The Minister resisted (and the Committee subsequently rejected) these amendments but Alun Davies said he would table an **amendment at Stage 3 that would 'give life' to** views expressed on this matter, and respond to the Committee's **Recommendations 32 and 33** that the legislation should include a **duty on relevant bodies** to pay due regard to both conventions. However, the Minister did not explicitly state that the amendment would include placing a duty of due regard on the face of the legislation.

Amendments not moved or withdrawn

- Amendment 40 from Darren Millar, which related to Recommendation 26 of the Committee's Stage 1 report, sought to amend the Bill so that the **information and advice** local authorities must make available to people on ALN is **independent**. The Minister said his officials would work with Darren Millar on a **suitable amendment at Stage 3** so that the Bill ensures the advice must be **impartial and objective**.
- Amendment 80 from Darren Millar, which related to Recommendation 13 of the Committee's report, sought to include **information about arrangements for transport provision** as

something that must be contained within an IDP. The Minister had given earlier commitments relating to transport provision in response to Amendment 77 (see above regarding amendments rejected).

- Amendment 81 from Darren Millar, sought to amend the Bill so that duties to assess for ALN and produce IDPs would not apply if the learner was only enrolled on a course of very limited intensity. The Minister said he would **clarify in the Code** that the **duties** would not apply if they were not **proportional** to the learning being undertaken.

- Amendments 90, 93 and 96 from Llyr Gruffydd sought to amend sections 10, 12 and 18 of the Bill, which as drafted placed duties on governing bodies, local authorities and health bodies respectively to decide whether they should make **provision in Welsh**. The Welsh Language Commissioner was concerned that this **implied that English is the default medium** of provision and Welsh the exception. The Minister said this was not the case but that he would seek to reach agreement on an **amendment at Stage 3** which would address any concerns and clarify this.

- Amendments 41 and 42 from Darren Millar sought to **include special schools** in the requirement to appoint a designated **ALNCo** amongst their staff. The amendments were in part motivated by concerns that, without having an ALNCo, special schools would not be able to access the funding and support under the ALN Transformation programme. The Minister confirmed in Committee that they would. He **undertook to confirm this in writing along with details of the survey** work the Welsh Government carried out with special schools during the summer to seek their views on whether they would support a requirement to appoint an ALNCo.

- Amendment 84 from Darren Millar sought to add a new section to the Bill requiring local authorities and health boards to undertake **workforce planning** in relation to ALN provision, including capacity to make **provision in Welsh**. Amendment 84A from Llyr Gruffydd sought to add an additional subsection requiring a **timeframe** to be set by which point local authorities and health boards must have capacity to meet all demand for **Welsh-medium** ALN provision. The Minister said he agreed with the underlying principles behind the amendments but that it was a broader issue, involving NHS workforce planning, which required further consideration. He **undertook to work with the relevant Members to seek an agreed amendment at Stage 3**.

- Amendment 101 from Llyr Gruffydd sought to insert an additional section requiring local authorities and health boards to **assess the demand for Welsh medium ALN provision** in their area, their **capacity** to meet this demand and **what would be required** of them to do so. The section would also require a timeframe to be set by which point local authorities and health boards must be able to meet the demand. The Minister said he would **consider how this could be achieved at Stage 3**.

Following the Cabinet reshuffle of early November 2017, it was the Cabinet Secretary for Education, Kirsty Williams, who wrote to the CYPE Committee on **17 November 2017** (PDF 277KB) to follow up these commitments in addition to those which were addressed by Welsh Government amendments at Stage 3.

Annex 5: Changes to the Bill at Stage 3

After a Bill is amended by the lead Committee at Stage 2, it proceeds to a further amending stage in Plenary by all Assembly Members, which is known as Stage 3. Assembly Members debated and voted on ('disposed' of) amendments at Stage 3 on **21 November 2017**.

Details of amendments tabled at Stage 3 can be found on the **Bill webpage**.

Outcome of amendments

78 amendments were tabled for consideration by Assembly Members' consideration in Plenary.[7] 13 of these were amendments to amendments (2A, 2B, 2C, 2D, 2E, 2F, 2G, 3A, 3B, 3C, 3D, 3E, 3F).

- 43 amendments were tabled by the Cabinet Secretary for Education, Kirsty Williams, who took over as the Member in Charge of the Bill on 9 November 2017 following a Cabinet reshuffle.
- 27 amendments were tabled by Darren Millar AM.
- 8 amendments were tabled by Llyr Gruffydd AM.

Of the 78 amendments tabled:

- **51 were passed**: 43 of the Cabinet Secretary's, 5 of Darren Millar's and 3 of Llyr Gruffydd's.
- 21 amendments were rejected: 18 of Darren Millar's and 3 of Llyr Gruffydd's.
- 1 amendment fell because of the way a previous amendment was voted on (24)
- 5 amendments were either not moved or withdrawn: three of Darren Mjllar's (4, 54 and 10) and two of Llyr Gruffydd's (59 and 60). This was predominantly because the tabling Member was reassured by the response of the Cabinet Secretary.

Changes made to the Bill

As stated previously, 51 amendments were agreed, which made changes to the Bill. An **updated version of the Bill, as amended at Stage 3** (PDF 522KB) was published. This is the same as the **Bill that was passed by the Assembly at Stage 4** (PDF 513KB) and which subsequently received Royal Assent.

Seven new sections were added to the Bill at Stage 3 (sections 7, 8, 45, 46, 78, 86 and 93). This means the final Act consists of 101 sections and 1 Schedule.

10 of the successful amendments were consequential and minor drafting amendments. Other successful amendments were made in the following 11 groups of amendments:

Advice and information

Amendment 28 from the Cabinet Secretary for Education, Kirsty Williams, added a new subsection into section 9 (as passed) regarding the duty on local authorities to provide information and advice about ALN and the ALN system. Section 9(2) requires local authorities to have regard to the principle that such **information and advice must be provided in an impartial manner**. This followed a commitment at Stage 2 by the then Minister, Alun Davies.

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[7] An additional two amendments were tabled but withdrawn before the Plenary proceedings.

Due regard to United Nations Conventions

Amendments 2 and 3 from Darren Millar, supported by Llyr Gruffydd, inserted two new sections, section 7 and section 8 (as passed) which place a **duty on relevant bodies** (local authorities and NHS bodies), exercising functions under the Act in relation to a child or young person, to have **due regard to the UN Conventions on the Rights of the Child and the Rights of Persons with Disabilities** respectively.

This followed a commitment by the then Minister at Stage 2 to take forward the recommendations of the CYPE Committee on these issues, which received considerable attention during scrutiny at Stage 1.

In supporting the inclusion of such duties, the Cabinet Secretary also moved amendments 2E and 3D, qualifying that having due regard to the UN Conventions **does not require specific consideration of the Conventions on each occasion that a function is exercised**. Other amendments from the Cabinet Secretary removed governing bodies of schools and colleges from the list of relevant bodies required to pay due regard to the two UN Conventions.

This reflects the Welsh Government's previous concern that placing such duties on frontline delivery bodies and staff in an operational rather than a strategic sense risked placing them under undue bureaucracy.

There were 15 other related amendments also passed in this group of amendments.

Preparing and maintaining IDPs

Amendments 56, 57 and 58 from Llyr Gruffydd strengthened the consideration school/college governing bodies and local authorities must give as to whether ALN provision should be made in Welsh. Sections 12, 14 and 19 (as passed) were amended so that the body must 'consider' rather than merely 'decide' if provision should be made in Welsh. This infers that **consideration of the language of provision is ongoing** rather than limited to when the body is preparing an IDP.

Amendment 61 from Darren Millar, and supported by Llyr Gruffydd, requires the ALN Code to include guidance on how a learner's ALN are met in any intervening period between identification of ALN and an IDP being put in place, ie while the IDP is being prepared.

Entitlement to IDPs

The Welsh Government's seven amendments in this group related to local authority **decisions on when it was no longer necessary to maintain an IDP for a young person or a detained child or young person**. Amendment 35 inserted a new section (section 46 as passed) combining provisions previously elsewhere in the Bill for regulations to be made about deciding whether an IDP is necessary.

The Education Tribunal

Amendment 42 from the Cabinet Secretary inserted a new section (section 78 as passed) enabling the **Education Tribunal to share information with the Welsh Government** about whether **Tribunal orders** have been complied with, or recommendations have been followed.

The Cabinet Secretary's other amendment in this group, Amendment 46, inserted a new section (section 93 as passed) creating a **new position of Deputy President**, which she said had been called for by the current president of SENTW.

Mental health detention

Amendment 62 from Darren Millar, and supported by Llyr Gruffydd, inserted a new section (section 45 as passed) enabling the Welsh Ministers to make regulations providing for ALN **support to be available for children and young people detained under the *Mental Health Act 1993***. Concern was raised during Stage 2 that the Bill's provisions to disapply duties to those detained under the criminal justice system would also be disapplied to those detained for mental health reasons.

Amendment 63 provides for such regulations to be made under the Assembly's affirmative procedure.

Charging under Part 2 provisions

Amendments 36, 37 and 41 from the Cabinet Secretary provides greater certainty that a **child, young person or their family cannot be charged** for anything secured by a governing body or local authority under Part 2 of the Act. Concerns had been raised during the scrutiny of the Bill in the example of advocacy services.

Higher Education in FEIs

Amendment 43 from the Cabinet Secretary inserted a new section (section 86 as passed) stating that a further education institution's duties in respect of ALN **do not apply to a student undertaking higher education at the FEI**. Kirsty Williams said it had always been the Welsh Government's intention that the Act apply to further education and schools and not higher education.

Amendment 38 excludes a student undertaking higher education from the responsibilities of an ALNCo at an FEI.

Local authority reviews

Amendment 39 from the Cabinet Secretary included within the duty on local authorities to keep ALN provision under review, a **duty to consider the size and capability of the workforce**. This follows concerns expressed about the need for workforce planning in relation ALN provision.

Amendment 40 **widened the duty** on local authorities to take all reasonable steps to remedy any deficiencies identified as a result of their review activity (added at Stage 2), to **include all aspects of ALN provision** and not just availability of provision in Welsh.

Young persons lacking capacity

Amendment 67 from the Cabinet Secretary makes it clearer that regulations made by the Welsh Ministers under section 83 (as passed) regarding cases where a **young person lacks capacity**, may include provision for references to a young person to also be interpreted as the young person's parent or a representative of the young person's parent.

Commitment by the Cabinet Secretary in respect of transport

Amendment 54 from Darren Millar, which sought to require an IDP to include information about what transport arrangements are necessary as a result of the learner's ALN, was withdrawn following the Cabinet Secretary's response and assurances.

The amendment had followed concerns that transport acted as an extra barrier to learners with ALN in accessing education provision. At Stage 2, the then Minister committed to exploring whether the **statutory Learner Travel Operational Guidance could be revised** to address these concerns.

The Cabinet Secretary for Education wrote to the CYPE Committee on 17 November 2017 (PDF 277KB) to **confirm that this was feasible and that the Welsh Government would do this**. Kirsty Williams also said that the ALN Code will be able to provide an appropriate degree of guidance on the place of transport considerations within IDPs and the process of producing them. In addition, the Cabinet Secretary said that the post-implementation review of the Act would include transport as a specific consideration.

Annex 6: Welsh glossary

Termau penodol i'r Ddeddf

- Additional Learning Needs (ALN) – **Anghenion Dysgu Ychwanegol (ADY)**
- Additional Learning Needs Code – **Cod Anghenion Dysgu Ychwanegol**
- Additional Learning Needs Coordinator (ALNCo) – **Cydlynydd Anghenion Dysgu Ychwanegol (Cydlynydd ADY)**
- Additional learning provision (ALP) – **darpariaeth ddysgu ychwanegol**
- ALN Transformation Programme – **rhaglen i drawsnewid y system ADY**
- Case friend – **cyfaill achos**
- Designated Education Clinical Lead Officer (DECLO) – **Swyddog Arweiniol Clinigol Addysg Dynodedig**
- Education Tribunal for Wales – **Tribiwnlys Addysg Cymru**
- Governing bodies – **cyrff llywodraethu**
- Independent advocacy services – **gwasanaethau eirioli annibynnol**
- Independent school – **ysgol annibynnol**
- Individual development plan (IDP) – **cynllun datblygu unigol (CDU)**
- Learning and Skills Plan – **Cynllun Dysgu a Sgiliau**
- Learning difficulty and/or disability (LDD) – **anhawster a / neu anabledd dysgu**
- Mainstream school – **ysgol prif ffrwd**
- Maintained school – **ysgol a gynhelir**
- Multi-agency – **aml-asiantaeth(ol)**
- Person-centred practice – **ymarfer sy'n canolbwyntio ar yr unigolyn**
- Personal Education Plan – **cynllun addysg personol**
- Placement **- lleoliad**
- Relevant treatment or service – **triniaeth berthnasol neu wasanaeth perthnasol**
- Right of appeal – **hawl i apelio**
- School Action – **gweithredu gan yr ysgol**
- School Action Plus – **gweithredu gan yr ysgol a mwy**
- Special Educational Needs (SEN) – **Anghenion Addysgol Arbennig (AAA)**
- Special Educational Needs Coordinator (SENCo) – **Cydlynydd Anghenion Addysgol Arbennig (AAA)**

- Special Educational Needs Tribunal for Wales (SENTW) – **Tribiwnlys Anghenion Addysgol Arbennig Cymru (TAAAC)**
- Special education provision – **darpariaeth addysgol arbennig**
- Special school – **ysgol arbennig**
- Statements (of SEN) – **Datganiadau o (o AAA)**
- Third Sector Additional Needs Alliance – **Cynghrair Anghenion Ychwanegol y Trydydd Sector (TSANA)**
- Working draft Code – **cod drafft gweithredol**

Y tri amcan cyffredinol

- A unified legislative framework – **fframwaith deddfwriaethol unedig**
- An integrated, collaborative Process – **proses integredig a chydweithredol**
- A fair and transparent system – **system deg a thryloyw**

Y deg nod craidd

- The introduction of the term Additional Learning Needs (ALN) - **Cyflwyno'r term Anghenion Dysgu Ychwanegol (ADY)**
- A 0 to 25 age range – **ystod oedran 0 i 25**
- A unified plan – **cynllun unedig**
- Increased collaboration – **rhagor o gydweithredu**
- High aspirations and improved outcomes – **dyheadau uchel a gwell deilliannau**
- A simpler and less adversarial system - **system symlach sy'n achosi llai o wrthdaro**
- Avoiding disagreements and earlier disagreement resolution – **osgoi anghytundebau a'u datrys yn gynharach**
- Clear and consistent rights of appeal – **hawliau clir a chyson i apelio**
- A mandatory Code – **cod gorfodol**
- Increased participation of children and young people – **cynnwys plant a phobl ifanc yn fwy**

Termau cyffredinol

- Consultation - **ymgynghoriad**
- Draft Bill – **Bil drafft**
- Explanatory Memorandum - **Memorandwm Esboniadol**
- Further Education – **Addysg Bellach**
- Further Education Institution – **Sefydliad Addysg Bellach**
- Financial resolution – **Penderfyniad ariannol**
- Local Health Boards (LHB) – **Byrddau Iechyd Lleol (BILI)**
- NHS Trusts - **Ymddiriedolaethau'r GIG**
- Revenue Support Grant (RSG) – **Grant Cynnal Refeniw**
- Welsh Local Government Association (WLGA) – **Cymdeithas Llywodraeth Leol Cymru (CLILC)**
- General principles – **Egwyddorion cyffredinol**
- Government of Wales Act 2006 (GOWA) - **Deddf Llywodraeth Cymru 2006**
- Guidance – **Canllawiau**
- Legislative competence – **Cymhwysedd deddfwriaethol**
- Legislative framework – **fframwaith deddfwriaethol**
- Looked after children – **plant sy'n derbyn gofal**
- Member in charge (of the Bill) – **Aelod sy'n gyfrifol (am y Bil)**
- Ongoing costs – **costau rheolaidd**
- Pre-legislative scrutiny – **craffu cyn y broses ddeddfu**
- Regulatory Impact Assessment (RIA) - **Asesiad Effaith Rheoleiddiol**
- Royal Assent – **Cydsyniad Brenhinol**
- Short title – **Enw byr**
- Stage 1 – **Cyfnod 1**
- Statutory framework – **fframwaith statudol**
- Statutory requirement – **Gofyniad statudol**
- Subordinate legislation – **is-ddeddfwriaeth**
- Transitional costs – **costau pontio**
- United Nations Convention on the Rights of the Child (UNCRC) - **Confensiwn y Cenhedloedd Unedig ar Hawliau'r Plentyn (CCUHP)**
- White Paper – **Papur Gwyn**

Rhagor o wybodaeth

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