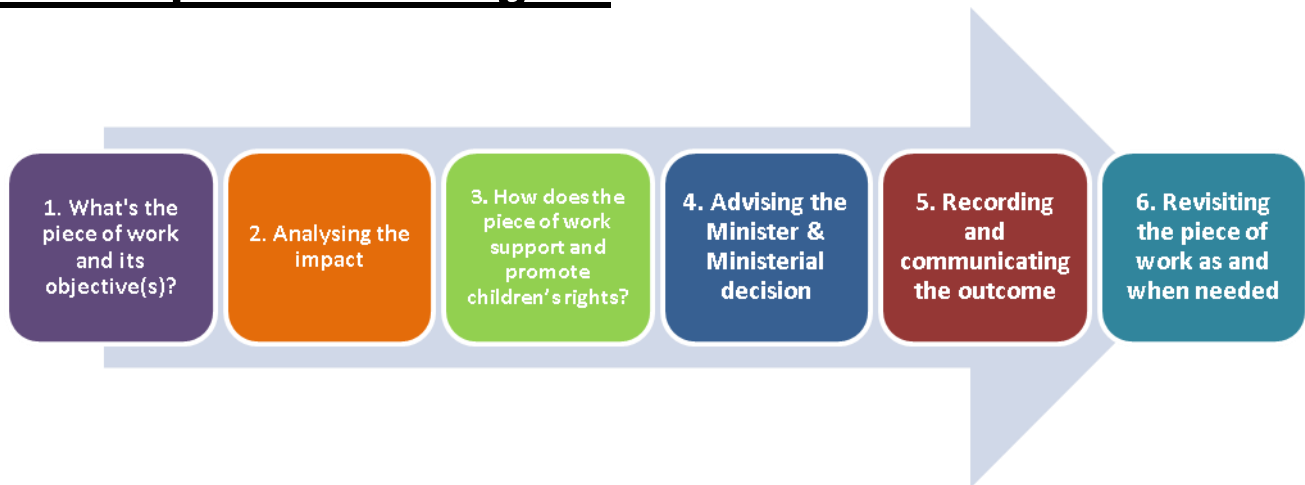




## Children's Rights Impact Assessment (CRIA)

<b>Title / Piece of work:</b>	Legislative Proposals for Additional Learning Needs
<b>Related SF / LF number (if applicable)</b>	Not applicable
<b>Name of Branch:</b>	Additional Learning Needs Reform Branch
<b>Department:</b>	Department for Education and Skills, Welsh Government
<b>Date:</b>	6 May 2014

## Six Steps to Due Regard



### **Step 1. What's the piece of work and its objectives?**

The work seeks to introduce legislation to create a new framework for children and young people aged 0 – 25 with Additional Learning Needs (ALN). This new framework will replace the existing statutory SEN framework and provisions for the assessment for post 16 education and training of children and young people with learning difficulties and/or disabilities.

The objective is to achieve:

- A unified legislative framework to support children and young people aged 0 to 25 with additional learning needs;
- An integrated, collaborative process of assessment and planning which facilitates early, timely and effective interventions;
- A fair and transparent system for providing information and advice, and resolving concerns and appeals.

Key proposals to achieve the above objectives are to:

- Introduce Individual Development Plans (IDPs) to replace Statements of SEN, post 16 assessments (under section 140 of the Learning and Skills Act 2000) and non-statutory Individual Education Plans (IEPs) and post-16 plans;
- Require the Welsh Ministers to consult on and issue a Code of Practice on ALN which may include mandatory requirements in accordance with which relevant bodies (likely to be local authorities, maintained schools, FE institutions, pupil referral units (PRUs), local health boards and the Special Educational Needs Tribunal for Wales ("the Tribunal") must act and guidance to which those bodies and other providers of education and training must have due regard.
- Set out the minimum requirements for information that must be included in an IDP, and require the Code to set out detailed mandatory requirements to underpin this.
- Require local authorities to prepare an IDP and ensure that any agreed additional learning provision set out in the IDP Action Plan is put in place for all children and young people aged 0-25 who have been determined as having ALN

- and who are receiving or wish to receive education or training;
- Require maintained schools, FE institutions, and Pupil Referral Units to use their best endeavours to secure that the additional learning provision set out in a child or young person's IDP is provided;
  - Require local authorities to secure specialist education provision for post-16 learners where the IDP indicates that this is necessary to meet a child or young person's needs;
  - Prohibit the placement of any child or young person into an independent school that has not been registered to provide the type of additional learning provision identified in their IDP;
  - Require local authorities to ensure that children, young people and their parents are involved, consulted with, and have their views taken into account from the outset of and throughout the IDP assessment and planning process;
  - Require, as a minimum, IDPs to be reviewed on an annual basis but permit reviews to be conducted earlier or more often where this is appropriate;
  - Require the Code of Practice to provide guidance to professionals on the early identification of children with ALN including those aged below compulsory school age;
  - Require local authorities, local health boards and further education institutions to co-operate and share information in assessing, planning and delivering provision to meet the additional learning needs of children and young people up to the age of 25;
  - Require the Code of Practice to provide guidance to support effective multi-agency working practices;
  - Require mainstream schools to designate an ALN Co-ordinator (ALNCO).
  - Enable IDPs to replace or serve the function of Personal Education Plans (PEPs) for children and young people who are looked after by a local authority;
  - Require local authorities to put in place arrangements to give information and advice and require the Welsh Government to set out guidance (to authorities), including mandatory requirements where necessary;
  - Require local authorities to put in place disagreement resolution arrangements and require the use of local complaints processes prior to appeal to the Tribunal.
  - Require local authorities to appoint an independent person to facilitate the resolution of disagreements;
  - Enable a right of appeal to the Tribunal against specific local authority decisions;
  - Provide a right of appeal to any child or young person of school age or below who has an IDP (or their parent) or believes they should have one; Extend the right of appeal to post-16 learners with ALN, up to the age of 25, who are receiving or wish to receive education or training.

It is intended that the legislation will be introduced during this Assembly Term.

## Step 2. Analysing the impact

We believe these proposals will deliver the following positive impact for learners from birth to 25 years:

- **provide a unified, equitable system** across the 0 – 25 age range, different education providers and varying levels of need, thereby removing inconsistency and unfairness;
- **introduce a more flexible, responsive process** of ongoing assessment, enabling provision for the individual learner to evolve over time in accordance with their changing needs;
- **ensure a more person-centred approach**, placing the child or young person's views at the heart of the process and involving them and their families in the assessment, intervention, planning and review process from the onset;
- **provide better support and access to information and advice** for children, young people and their families to understand the ALN process and make informed choices;
- **avoid duplication** arising from plans which do substantially the same thing and integrate where possible existing plans and interventions delivered for children and young people;
- **improve collaborative working** between agencies to plan their interventions, agree priorities, and ensure appropriate resources are made available in time to make a difference;
- **reduce the likelihood of disputes arising** by developing stronger partnership working with parents and promoting a culture of transparency which should encourage greater trust between parents, education providers and local authorities;
- **minimise the number of appeals** by ensuring that disagreements are resolved at the earliest possible opportunity;
- **retain and extend the right of appeal** to the Tribunal as an ultimate safeguard in relation to the adequacy of the support provided to every child and young person who has ALN, not just those who have complex needs.

The impact of any legislation will be monitored and measured through the ongoing analysis of appeals data, evidence gathered through formal inspections and any other appropriate means identified as the proposals are further developed.

We have identified no negative impacts of these proposals on children and young people.

To ensure that the proposals are responding appropriately to their interests, a series of engagement events will be conducted with children and young people (and their families)

during the consultation period so that their views can be sought directly. In addition, an 'easy read' consultation paper will be published that will enable and child or young person to submit their views.

### **Step 3. How does your piece of work support and promote children's rights?**

This work supports the following UNCRC articles:

#### **Article 1 - Everyone under 18 years of age has all the rights in this Convention.**

The proposals will introduce an equitable system to meet the needs of children and young people with additional learning needs aged 0 – 25 years.

#### **Article 2 - The Convention applies to everyone whatever their race, religion, abilities, whatever they think or say and whatever type of family they come from.**

The key proposals will apply to children and young people who are aged 0-25, have been determined as having additional learning needs and are in a school, early years setting or further education institution.

#### **Article 3 - All organisations concerned with children should work towards what is best for each child.**

The existing system for supporting children with SEN is based on a model introduced more than 30 years ago that is no longer fit for purpose. Enquiries and reviews of SEN provision in Wales by Estyn, the Wales Audit Office and the National Assembly's former Education, Lifelong Learning and Skills Committee have identified that the current system is complex, bewildering and adversarial. The evidence points to an assessment process which is inefficient, bureaucratic and costly, as well as insufficiently child-centred or user-friendly. Needs are sometimes identified late and interventions are not planned or implemented in a timely or effective way. Families tell us that they feel they have to battle at each stage of the system to get the right support for their child, and they don't know where to turn for advice and information.

This work will deliver improvements in the support provided to children and young persons with ALN. We recognise that there is a need for better multi-agency working across organisations. We therefore propose to place a duty on agencies to cooperate and share information in assessing, planning, and delivering interventions; place a duty on local authorities to ensure that provision in an IDP is delivered and issue a revised Code of Practice to provide guidance to professionals to support effective multi-agency working practices

#### **Article 4 - Governments should make these rights available to children.**

The Education (Wales) Measure 2009 gives children of school age the right to make a SEN appeal to the Special Educational Needs Tribunal for Wales themselves. The right is

currently being piloted in Carmarthenshire and Wrexham but will automatically apply across Wales from July 2015.

This work will further support and promote children's rights by giving children or young persons of school age or below who have an IDP (or their parent) a right of appeal to the SENTW under the new ALN legislative framework. It will also extend the right of appeal to post-16 learners with ALN, up to the age of 25, who are receiving or wish to receive education or training.

This work also proposes that children will have the right to be involved in the planning stages to ensure their needs are met, via the Individual Development Plan (IDP).

**Article 12 - Children have the right to say what they think should happen, when adults are making decisions that affect them, and to have their opinions taken into account.**

The Education (Wales) Measure 2009 gives children of school age the right to make a SEN appeal to the Special Educational Needs Tribunal for Wales themselves. The Measure also gives children the right to be referred to an Independent advocacy service.

This work builds on those rights by proposing that all IDPs are carried out with a person-centred planning approach. That is, the child, young people and their parents are involved, consulted with, and have their views taken into account from the outset of and throughout the IDP assessment and planning process.

The consultation White Paper on these proposals will be issued as a child-friendly/ easy read version. We have planned engagement events with children and young people to facilitate their input to ensure their voices are heard.

**Article 13 - Children have the right to get and to share information as long as the information is not damaging to them or to others.**

See Article 12.

**Article 20 - Children who cannot be looked after by their own family must be looked after properly, by people who respect their religion, culture and language.**

For children and young people who are looked after by a local authority, an IDP would be able to either replace or serve as the Personal Education Plan (PEP) currently required in respect of these learners. We recognise that not all looked after children and young people will have ALN but believe that the cross over between the likely contents of an IDP and existing PEPs, and the significant proportion of looked after children and young people who have ALN, makes it sensible to bring these two plans together.

We have looked at the model in Scotland for looked after children and propose to adopt a similar provision in the Bill, whereby local authorities will be required to assess all 'looked after' children and young people to determine whether they require additional learning provision. Under our proposal, local authorities would initiate the IDP process for all looked after children, and would establish through the process whether the child or young person had ALN. The resulting plan would then reflect such needs where they are present.

**Article 23 - Children who have any kind of disability should have special care and support so that they can lead full and independent lives.**

The beneficiaries of this change will include all those children and young people who have been determined as having Special Educational Needs, as defined in the Education Act 1996 or a Learning Difficulty and/or Disability, as defined in the Learning and Skills Act 2000.

**Article 25 - Children who are looked after by their local authority rather than their parents should have their situation reviewed regularly.**

See Article 20. The IDP would be a document reviewed annually as a minimum, and more frequently where this is required in order to address changes in a child's circumstances or inadequate progress in respect of their goals.

**Article 28 - Children have a right to an education. Discipline in schools should respect children's human dignity. Primary education should be free. Wealthy countries should help poorer countries achieve this.**

These proposals will apply to all learners aged 0 – 25 to enable those with additional learning needs to achieve their educational potential in the same way as learners with no additional learning needs. The proposals represent a conscious shift away from an out of date system of SEN and towards a more inclusive approach which better reflects the diversity of learning need.

**Step 4. Advising the Minister and Ministerial decision**

The advice to the Minister for Education and Skills confirms that this CRIA has been completed. No conflict with UNCRC articles has been identified.

**Step 5. Recording and communicating the outcome**

This CRIA will be published at the same time and alongside the White paper consultation on the Welsh Government's website.

**Step 6. Revisiting the piece of work as and when needed**

This impact assessment will be reviewed following the White Paper consultation and prior to the introduction of the Bill.

**Budgets**

<b>As a result of completing the CRIA, has there been any impact on budgets?</b>	<b>No</b>
<b>Please give any details:</b> There has not been any impact on the budget as a result of this CRIA. The exact nature of the reform proposals will be decided following the White Paper consultation. The costs associated with the proposed reforms will be set out in the accompanying Regulatory Impact Assessment carried out in advance of any proposed legislation.	

**Monitoring & Review**

<b>Do we need to monitor / review the proposal?</b>	<b>Yes</b>
<b>If applicable: set the review date</b>	<b>2015</b>





# THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD

[www.uncrcletsgetitright.co.uk](http://www.uncrcletsgetitright.co.uk)

The United Nations Convention on the Rights of the Child is an international agreement that protects the human rights of the children under the age of 18. On 16 December 1991, the United Kingdom of Great Britain and Northern Ireland formally agreed to make sure that every child in the UK has all the rights as listed in the convention. The Welsh Government has shown its commitment to the convention by adopting it as the basis for policy making for children in Wales.

Altogether there are 54 articles in the convention. Articles 43-54 are about how adults and governments should work together to make sure all children are entitled to their rights. The information contained here is about articles 1-42 which set out how children should be treated.



Llywodraeth Cymru  
Welsh Government

[www.cymru.gov.uk](http://www.cymru.gov.uk)

## Article 1

Everyone under 18 years of age has all the rights in this Convention.

## Article 2

The Convention applies to everyone whatever their race, religion, abilities, whatever they think or say and whatever type of family they come from.

## Article 3

All organisations concerned with children should work towards what is best for each child.

## Article 4

Governments should make these rights available to children.

## Article 5

Governments should respect the rights and responsibilities of families to direct and guide their children so that, as they grow, they learn to use their rights properly.

## Article 6

All children have the right to life. Governments should ensure that children survive and develop healthily.

## Article 7

All children have the right to a legally registered name, the right to a nationality and the right to know and, as far as possible, to be cared for by their parents.

## Article 8

Governments should respect children's right to a name, a nationality and family ties.

## Article 9

Children should not be separated from their parents unless it is for their own good, for example if a parent is mistreating or neglecting a child. Children whose parents have separated have the right to stay in contact with both parents, unless this might hurt the child.

## Article 10

Families who live in different countries should be allowed to move between those countries so that parents and children can stay in contact or get back together as a family.

## Article 11

Governments should take steps to stop children being taken out of their own country illegally.

## Article 12

Children have the right to say what they think should happen, when adults are making

decisions that affect them, and to have their opinions taken into account.

## Article 13

Children have the right to get and to share information as long as the information is not damaging to them or to others.

## Article 14

Children have the right to think and believe what they want and to practise their religion, as long as they are not stopping other people from enjoying their rights. Parents should guide their children on these matters.

## Article 15

Children have the right to meet together and to join groups and organisations, as long as this does not stop other people from enjoying their rights.

## Article 16

Children have a right to privacy. The law should protect them from attacks against their way of life, their good name, their families and their homes.

## Article 17

Children have the right to reliable information from the mass media. Television, radio and newspapers should provide information that children can understand, and should not promote materials that could harm children.

## Article 18

Both parents share responsibility for bringing up their children, and should always consider what is best for each child. Governments should help parents by providing services to support them, especially if both parents work.

## Article 19

Governments should ensure that children are properly cared for, and protect them from violence, abuse and neglect by their parents or anyone else who looks after them.

## Article 20

Children who cannot be looked after by their own family must be looked after properly, by people who respect their religion, culture and language.

## Article 21

When children are adopted the first concern must be what is best for them. The same rules should apply whether the children are adopted in the country where they were born or taken to live in another country.

## Article 22

Children who come into a country as refugees should have the same rights as children born in that country.

## Article 23

Children who have any kind of disability should have special care and support so that they can lead full and independent lives.

## Article 24

Children have the right to good quality health care and to clean water, nutritious food and a clean environment so that they will stay healthy. Rich countries should help poorer countries achieve this.

## Article 25

Children who are looked after by their local authority rather than their parents should have their situation reviewed regularly.

## Article 26

The Government should provide extra money for the children of families in need.

## Article 27

Children have a right to a standard of living that is good enough to meet their physical and mental needs. The Government should help families who cannot afford to provide this.

## Article 28

Children have a right to an education. Discipline in schools should respect children's human dignity. Primary education should be free. Wealthy countries should help poorer countries achieve this.

## Article 29

Education should develop each child's personality and talents to the full. It should encourage children to respect their parents, and their own and other cultures.

## Article 30

Children have a right to learn and use the language and customs of their families, whether these are shared by the majority of people in the country or not.

## Article 31

All children have a right to relax and play, and to join in a wide range of activities.

## Article 32

The Government should protect children from work that is dangerous or might harm their health or their education.

## Article 33

The Government should provide ways of protecting children from dangerous drugs.

## Article 34

The Government should protect children from sexual abuse.

## Article 35

The Government should make sure that children are not abducted or sold.

## Article 36

Children should be protected from any activities that could harm their development.

## Article 37

Children who break the law should not be treated cruelly. They should not be put in prison with adults and should be able to keep in contact with their families.

## Article 38

Governments should not allow children under 15 to join the army. Children in war zones should receive special protection.

## Article 39

Children who have been neglected or abused should receive special help to restore their self respect.

## Article 40

Children who are accused of breaking the law should receive legal help. Prison sentences for children should only be used for the most serious offences.

## Article 41

If the laws of a particular country protect children better than the articles of the Convention, then those laws should stay.

## Article 42

The Government should make the Convention known to all parents and children.

For further information on the United Nations Convention on the Rights of the Child please visit: The Welsh Government's UNCRC Website: [www.uncrcletsgetitright.co.uk/](http://www.uncrcletsgetitright.co.uk/)

Cic - The National Information and Advice Service for Young People [www.ciconline.co.uk/news/](http://www.ciconline.co.uk/news/)

