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# Consultation on draft Additional Learning Needs Code – summary of feedback from regional stakeholder events

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## Audience

Maintained schools, further education institutions, local authorities, local health boards, early years settings, third sector organisations and anyone else with an interest in additional learning needs.

## Overview

This report presents a summary of the feedback provided at workshops on the consultation on the draft Additional Learning Needs Code for Wales through regional consultation events held in February 2019.

## Action required

To be read in conjunction with the summary of responses to the consultation on the draft Additional Learning Needs Code.

## Further information

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## Additional copies

This document can be accessed from the Welsh Government's website at

<https://gov.wales/draft-additional-learning-needs-code>

## Related documents

*Draft Additional Learning Needs Code for Wales (2018)*

*Draft Additional Learning Needs Code for Wales consultation document (2018)*

*Draft Additional Learning Needs Code for Wales summary of responses (2019)*

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# 1. Introduction and Background

## 1.1 Introduction

This report presents a summary of the feedback provided at workshops on the Welsh Government's consultation on the Draft Additional Learning Needs Code for Wales through regional consultation events held in February 2019.

## 1.2 Background to the Draft Additional Learning Needs Code for Wales

One of the Welsh Government's key actions under the excellence, equity and wellbeing objective of Education in Wales: Our National Mission 2017-2021 is to 'build on our commitment to equity in education through Additional Learning Needs legislation that will strengthen provision and support for all learners in all language settings'<sup>1</sup>. The Additional Learning Needs (ALN) transformation programme—of which a new legislative framework is a fundamental part—also focuses on awareness-raising, multi-agency and cross-sector collaboration and implementation-support for the changes ahead.

The Additional Learning Needs and Education Tribunal (Wales) Act 2018 ('the Act') attained Royal Assent in January 2018. The Act and regulations made under it will replace existing legislation surrounding Special Educational Needs (SEN) and the assessment of children and young people with learning difficulties and/or disabilities (LDD) in post-16 education and training.

The Act specifies that Welsh Ministers must issue a statutory ALN Code, which may include guidance on the exercise of functions under the Act and any other matter connected with identifying and meeting ALN. The ALN Code will replace the current Special Educational Needs Code of Practice for Wales.

## 1.3 Background to the consultation

A public consultation on the draft ALN Code was held between 10 December 2018 and 22 March 2019.

As part of the public consultation, Welsh Government organised two half-day consultation events in each of the four regional consortia areas in Wales on the following dates:

- Newport - 12 February 2019
- Llanelli - 13 February 2019
- Cardiff - 19 February 2019
- Llandudno - 21 February 2019

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<sup>1</sup> Welsh Government (2017), Education in Wales: Our National Mission 2017-21  
<https://gov.wales/sites/default/files/publications/2018-03/education-in-wales-our-national-mission.pdf>

The consultation events were advertised through the consultation webpage, Dysg, emails from Welsh Government to stakeholders, and promotion through the Regional ALN Transformation Leads.

The consultation events were open to anyone who registered and attended by stakeholders from a wider range of sectors including education, health, social services, early years providers and third sector organisations; as well as parents of learners with ALN.

Each half-day event had the same agenda and involved:

- an initial presentation by the Welsh Government on the draft ALN Code
- a plenary workshop to discuss and answer consultation questions on the timescales proposed in the draft ALN Code
- break-out workshops.

The break-out workshops discussed five themes selected by the Welsh Government:

- Additional Learning Needs Co-ordinator (ALNCo)
- Early Years Additional Learning Needs Lead Officer (Early Years ALNLO)
- Local authority decisions about post-16 specialist placements
- Advice, information and disagreement resolution
- Health and the role of the Designated Educational Clinical Lead Officer (DECLO).

The Welsh Government commissioned a partnership of Miller Research, OB3 and Dateb to facilitate discussions at the consultation events and produce a report summarising the responses gathered through them.

## **1.4 Report structure**

- Section 2 presents a high-level summary of the feedback from all the consultation event workshops.
- Sections 3 to 8 discuss each of the consultation event workshops in greater detail, providing the policy context, workshop structure and summary of feedback.
- Section 9 sets out the next steps for the consultation.
- An appendix contains a summary of additional comments made by consultation event attendees.

## **2. Summary of feedback**

### **2.1 Timescales in the draft ALN Code**

Most attendees agreed with the principle of prescribing timescales to comply with duties set by the Code.

Many attendees voiced concern over the specific timescales proposed. They were seen as challenging, particularly due to the nature of multi-agency working and where the involvement of health was necessary.

Many attendees felt that there should be specified situations where exceptions to these timescales were allowed. Some attendees proposed that allowance should be made for hold-ups in the system and family related issues, for example, holiday or illness. A few attendees felt there should not be any exceptions to the timescales allowed.

### **2.2 Early Years Additional Learning Needs Lead Officer (Chapter 8)**

Attendees were in agreement that the Early Years Additional Learning Needs Lead Officer (Early Years ALNLO) was an important role and welcomed the fact that the Act makes it compulsory for a local authority to designate an Early Years ALNLO.

Most attendees thought that the guidance on the role of the Early Years ALNLO was sufficient in the sense that it sets out the functions of the role in some detail. Attendees provided mixed feedback with regards to whether the guidance adequately conveys the intended strategic nature of the role. Some attendees responded that the guidance on the role did convey to them that the role is intended to be strategic; others responded that certain elements of the guidance could be interpreted as suggesting that the role had operational functions as well as strategic ones. To some extent, this mixed feedback on the guidance seemed to reflect attendees' different interpretations of the meaning of the term 'strategic'.

Many attendees suggested that the range of functions included in the guidance on the role of the Early Years ALNLO means that it would be too big a role for one person. This was particularly the case amongst those attendees that identified certain functions as more operational than strategic.

Attendees were divided on whether the guidance on the experience and expertise of the Early Years ALNLO is sufficient. Whilst many attendees agreed with the guidance in so far as it went, many wanted further detail and greater specificity about these matters. In particular, attendees highlighted the term 'suitably qualified' (chapter 8, paragraph 8.41 in the draft ALN Code) as one that requires clarification. Much of the conversation between attendees touched on the need for the guidance and the local authority selecting an Early Years ALNLO to strike a balance between experience and expertise/qualifications.

As mentioned previously, many attendees expressed scepticism that local authorities would be able to appoint a suitable individual for the role of Early Years ALNLO due to the wide-ranging strategic experience required.

Many attendees, including those not representing a local authority, expressed concern about how such a significant role would be funded in a time of severe budget pressures for local authorities.

### **2.3 Local Authority Decisions about Post-16 Specialist Placements (Chapter 12)**

Workshop attendees were asked to consider the basis on which a young person not in a maintained school or Further Education Institution (FEI) should have an IDP. The challenges surrounding decision-making in this area were generally acknowledged. In particular, many attendees felt that determining whether a young person in these circumstances had a 'reasonable need for education and training' would be very subjective.

There were concerns that, in the absence of clear-cut regulations and guidance, case law would have to be developed to provide clarification as to what would constitute a reasonable need for education and training. It was proposed that greater prescription would support practitioners to make a defensible case, but attendees were generally unsure what it would look like.

The question of what constitutes a desired objective was debated extensively across all sessions. A key point made by attendees was that a desired objective need not necessarily be about learning progression in mainstream terms, but could be:

- self-regulation to engage with the community (seen as critical)
- ability to have a conversation, or establish a relationship
- acquiring independent living skills
- improving quality of life.

It was generally agreed that the local authority must consider the realistic prospect of a young person achieving a desired objective, but the guidance needs to provide clarity. Attendees made the point that in some cases it might be really clear that a desired objective is not achievable, whilst in other cases it will need professional guidance.

There was considerable debate regarding what constitutes a reasonable period for a young person to achieve an objective. A strong view was that what constitutes a reasonable period of time should be appropriate to circumstances of the learner and the nature of the objective, and not based on what was widely perceived in the wording of the draft ALN Code (at paragraph 12.27) to be a fixed period of two years. Many attendees expressed concern at the comparison with mainstream learners in the draft ALN Code.

In terms of the availability of a course of education or training, attendees expressed concerns about the variability of provision that is offered locally, depending on their location in Wales.



## **2.4 Health and the Role of the Designated Educational Clinical Lead Officer (Chapter 15)**

Most attendees welcomed the inclusion of Local Health Boards and introduction of the Designated Educational Clinical Lead Officer (DECLO) role within the ALN system. However, there were many misunderstandings about the DECLO role, particularly the external remit to engage with other partners, and questions around their capacity and functions.

Attendees reported that the DECLO should have experience in multi-agency working and a good understanding of health, education and social care. Most attendees felt that the DECLO should be able to perform in a senior role and manage an operational team to support the delivery of all the required tasks.

The proposed timescales for relevant bodies to respond to local authority requests for information and other help, and for NHS bodies to inform local authorities and FEIs of a relevant treatment or service, were reported to only be possible within particular circumstances. A large number of issues were raised regarding competing priorities and an inability to adhere to the proposed six-week timeframe. Concerns that the process may not be delivered meaningfully within the timescales set were raised frequently.

## **2.5 Additional Learning Needs Co-ordinator (Chapter 24 and ALNCo Regulations)**

The consensus view was that the proposed role of the Additional Learning Needs Co-ordinator (ALNCo) was not dissimilar from that of the existing Special Educational Needs Co-ordinator (SENCo), though the role was felt to be more strategic. The increase in responsibility was therefore thought to be a step up for some currently in the SENCo role.

Attendees reported that a direct line of communication with, or inclusion in, the Senior Leadership Team (SLT) was essential to enable the strategic elements of the role. Many attendees noted this may cause difficulties in smaller schools.

The consensus was that the ALNCo needs to be appropriately qualified; a qualified teacher but not a Newly Qualified Teacher (NQT). Many attendees expressed concern that some staff could use the role as a quick route into the SLT. The attendees also suggested additional training should be a requirement.

## **2.6 Advice, Information and Disagreement Resolution (Chapters 6 and 25)**

Attendees agreed that information regarding disagreements should be available in a range of formats; online / paper-based and easily accessible for all audiences – including adequate signposting for children, parents and young people to relevant sources of information, advice and support that may be available locally and nationally.

Attendees reported that standardisation of information and processes was needed across all local authorities in Wales but was also important to ensure across different agencies.

Furthermore, attendees felt that there needs to be transparency and consistency across all agencies, ensuring a clear understanding by all audiences of the diverse process timescales.

There were strong views from attendees questioning whether local authorities could directly provide 'independent' advocacy services. Many attendees argued this could create a conflict of interest and could not be truly independent or impartial. Some attendees suggested that existing external organisations should continue to be commissioned by local authorities to deliver independent advocacy services.

Attendees proposed that all advocates needed to have mandatory appropriate training as well as experience and understanding of the education and health sector and excellent communication skills.

## **3. Timescales in the draft ALN Code**

### **3.1 Context**

The initial session in each workshop was used to discuss the proposed timescales in the draft ALN Code for the completion of various duties. The purpose of the workshop was to test whether the proposed timescales, and the way in which they are described in the draft ALN Code, are appropriate.

### **3.2 Structure**

Attendees were asked to address three key questions;

- The first related to the general approach to timescales for compliance with duties in the draft ALN Code (that is, to act promptly and in any event within a fixed period)
- The second question related to the duration of the timescales proposed within which schools, FEIs and local authorities will be required to make a decision on whether a child or young person has ALN and either give notification of a decision that they do not have ALN, or if the decision is that they have ALN, prepare the Individual Development Plan (IDP) and give a copy of it. The proposed timescales are:
  - 35 school days in the case of schools;
  - 35 FEI term-time days in the case of FEIs;
  - 12 weeks where a local authority is making an initial decision in relation to whether a child has ALN, 7 weeks in the case of local authority reviews or reconsideration.
- The third question asked whether the proposed general exception to completing an action within a fixed timescale was appropriate - that the requirement 'does not apply if it is impractical for the responsible body to comply with the fixed period due to circumstances beyond its control'.

These questions were discussed by all attendees in table groups within the main plenary sessions.

### **3.3 Responses**

#### **Question 1 - Do you agree with the general approach to the timescales for compliance with duties (that is, to act promptly and in any event within a fixed period)?**

There was a general acceptance amongst attendees that timescales should be set. Attendees felt that the proposed timescales were better than current arrangements from the perspective of the learner and their family, as they were shorter than the equivalent timescales in the current SEN system. Most attendees felt that to respond 'promptly' was important and needed to be encouraged.

However, there was concern about the length of the timescales, due to a widespread perception that in most cases there would be a need for multi-

agency collaboration in responding to these actions. Attendees from outside the health sector insisted that timescales should apply to all bodies involved to ensure there were no blockages in the system. A few attendees questioned whether the role of the DECLO had been created in order to support health in meeting the proposed timescales.

Many attendees noted that adherence to the timescales would need to be monitored and regulated. They questioned whether there will be quality assurance and penalties for those who were not operating within the timescales.

**Question 2 - Do you agree with the proposed fixed periods for the completion of actions by:**

- **schools/ FEIs (35 school/ FEI term time days);**
- **local authorities (12 weeks for a decision about whether a child/young person has ALN; 7 weeks to respond to requests for reviews or reconsiderations of school decisions)?**

Many of the attendees voiced concern over the fixed periods proposed for the completion of actions.

Attendees based in school settings reported that there was a wide range of factors that could undermine their ability to meet the 35-day timescale. These included:

- The time available to those acting as ALNCoS, particularly where they undertake the role alongside teaching commitments. It was noted in this context that there are marked differences in the time allowed by schools for staff to perform the current SENCo role. It was also noted that the SENCo role is performed by a range of professionals, from head teachers in some schools to teaching assistants in others.
- The tendency for multiple reviews to be organised by schools at the same time e.g. at the beginning of the academic year and following parents' evenings.
- Schools' reliance on the input of external agencies e.g. educational psychologists or speech and language therapists (SALTs) to allow them to progress IDPs. Referrals to SALTs were said to be taking approximately seven weeks in some areas. Timescales for Child and Adolescent Mental Health Services (CAMHS) referrals were reported by some to be even longer – a 'two year wait' was noted by one group. It was also felt that there is not enough educational psychologist capacity within the system.
- The occasional need to access assessments/plans from other countries and have them translated in respect of the children of immigrants to the UK.
- Differences in views between schools and parents leading to disagreements over the type of Additional Learning Provision (ALP) that may be needed.
- Occasional differences in view between children or young people and their parents.
- The need to timetable/accommodate reviews as well as new decisions about whether a child or young person has ALN.

- Providing assessment services in Welsh could prove challenging in some areas.

Attendees from education felt that the timescales proposed for schools were challenging if not impossible. Many also thought that they would face the brunt of the pressure, as they are the organisation who are most present within the community. Attendees felt that parents may be aware of the new timescales and would be empowered to enquire regularly about the status of their child's referral or review.

Schools-based attendees also questioned why local authorities had longer timescales to respond than schools did.

Local authority attendees felt the proposed 12-week timescale was not realistic; with some reporting being unable to meet the current existing 26-week timescale due to capacity issues in terms of people and expertise. There were concerns about bringing together multi-disciplinary teams or being able to access key resources such as educational psychologists.

Many attendees were confused about the 12 and 7 week timescales outlined for local authorities and requested greater clarity on this issue. In addition, many attendees requested more detail on when the 'clock starts and stops ticking', in terms of when a child comes to the organisation's attention, a formal notification occurs, or in the context of transition from school to school. Several attendees raised issues with the way in which the current SEN identification process differs in each school. Some education attendees reported they had an internal deadline for notifying the school management if a child has suspected SEN but would subsequently organise all reviews of plans at the same time. They felt this process would make it difficult to adhere to timescales for IDPs.

There was a general concern about the ability of health services to contribute to the process in those cases where this input was necessary, in enough time in order for the proposed timescales to be met. Attendees from health bodies reported that the health service's internal timescales would not align with the local authorities' proposed 12 week timescale. They felt there needed to be a better understanding of where the proposed timescales might conflict with existing timescales and what the impact of that would be.

A few attendees working in further education suggested that the use of technology could support multi-agency working within the proposed timescales. Attendees reported that they currently utilise video conferencing for their IDP meetings for those for whom it is not practical or necessary to be present in person - i.e. the child and family. They suggested video conferencing medical professionals to cut out travel time and ensure the professional familiar with the child or young person is the one presenting at the IDP meeting.

A few attendees felt that the timescales should relate to the needs of the child and the severity of their issues. They felt that every child is different, and the timescales should reflect that. Furthermore, some attendees were concerned

about having to determine a child's needs within a prescribed timescale as this might lead to a less thorough consideration of their ALN and the provision they require. They did not wish for the content of the child's IDP to be diluted for the sake of compliance with a timescale.

**Question 3 - Is the general exception which applies in the case of fixed periods (i.e. that the requirement to complete the action does not apply if it is impractical for the responsible body to comply within the fixed period due to circumstances beyond its control) appropriate?**

Whilst most attendees accepted that reasons for not meeting timescales should generally relate to the child, some attendees suggested that allowances should also be made for:

- ALNCoS being absent from work due to ill-health (as some attendees suggested is the case in other circumstances in respect of health professionals?)
- Other agencies not responding to school/LA requests for information or other help within the timescale envisaged (including educational psychologists)
- Parents not providing permission for other agencies to provide information requested.

Without clear guidance on what might qualify as 'exceptions' or how to define 'impractical', attendees thought there is likely to be inconsistency in the way schools and local authorities behave. Other attendees suggested that organisations could exploit the general exception by applying it frequently and inappropriately. Attendees suggested this could lead to the dilution of the duty to comply with timescales.

When timescales are not met, attendees wanted to know who would be responsible. Attendees from education were concerned that the delays could occur because of circumstances out of their control, but that this might be recognised. They questioned whether there would be a penalty and whose responsibility it would be to monitor this.

A few attendees thought it was not necessary to have the input of health (such as a diagnosis) in order for a child's needs to be identified. They suggested that an IDP could be developed or continue to support a child within the proposed timescales without finalised input from health. Input from health was still deemed very important, albeit not essential in the first instance.

One attendee felt that if the system was designed to be genuinely collaborative and if all stakeholder groups are ready for implementation with enough resource, there should be a very small number of reasons why there should be delays.

Some attendees felt strongly that there should not be opt outs; mainly individuals working in primary, secondary and further education or parents of ALN learners. These thought that allowing exceptions would run counter to the concept of setting timescales and effectively invalidate it.

## **4. Early Years ALN Lead Officer (Chapter 8)**

### **4.1 Context**

Chapter 8 of the draft ALN Code describes the duties that apply to local authorities in relation to decisions about ALN, the preparation and maintaining of IDPs, and the securing of the ALP included in the IDP for a child who is under compulsory school age and not attending a maintained school in Wales. It also provides guidance on a local authority's duty to designate an Early Years ALN Lead Officer (Early Years ALNLO).

### **4.2 Structure**

The workshop focused on two consultation questions regarding the draft ALN Code's guidance on the Early Years ALNLO.

Attendees were provided with a briefing paper prepared by Welsh Government containing paragraphs taken from the draft ALN Code relating to the Early Years ALNLO.

After a short briefing from the external facilitator, attendees discussed the first of the two consultation questions in small groups. The attendees then shared their group's responses with the whole workshop in a session moderated by the facilitator. Attendees then discussed the second question in the small groups before sharing their group's responses again.

### **4.3 Responses**

#### **Question 1 - Is the guidance on the role of the Early Years ALNLO sufficient?**

Most attendees thought that the guidance on the role of the Early Years ALNLO was sufficient in the sense that it sets-out the functions of the role in some detail.

There was mixed feedback from attendees, however, with regards to whether the guidance adequately conveys the intended strategic nature of the role. Some attendees responded that the guidance on the role did convey to them that the role is intended to be strategic; others responded that certain elements of the guidance could be interpreted as suggesting that the role had operational functions as well as strategic ones. Specific sections of the guidance identified by these attendees to cause confusion included the responsibility of the Early Years ALNLO to 'develop and deliver training to settings on matters related to ALN' (chapter 8, paragraph 8.47 in the draft ALN Code).

To some extent, this mixed feedback on the guidance seemed to reflect attendees' different interpretations of the meaning of the term 'strategic'. Some attendees, for example, considered some of the stated tasks as 'operational' and perceived their inclusion as undermining the extent to which the role can be described as strategic. Others, however, considered the tasks

to be 'operational' but did not think they undermined the strategic nature of the role, whilst others considered all the stated tasks to be strategic.

Many attendees suggested that the range of functions included in the guidance on the role of the Early Years ALNLO means that it would be too big a role for one person. This was particularly the case amongst those attendees that identified certain functions as more operational than strategic. This concern also led some attendees to question whether each local authority would designate only one person to this role or furnish them with a team. When this was discussed, attendees were generally content that the guidance in its current form provides local authorities with the flexibility to implement it in the way most appropriate for each local authority area.

Some attendees made suggestions about what else they thought should be included in the guidance on the role of the Early Years ALNLO. Some attendees proposed that the guidance on the collaboration function of the role should be strengthened to emphasise that the Early Years ALNLO should develop a closer working relationship (more than collaboration) with health professionals involved with children. Others wanted further clarity in the guidance about the organisational structure around the Officer and to whom they would feed-back. Some attendees wanted further detail on the role with regards to children moving from non-maintained settings to maintained settings and also more generally further information about liaison between the Early Years ALNLO and school settings.

Some attendees who were local authority staff identified that this role or something similar currently existed in their local authority.

## **Question 2 - Is the guidance on the experience and expertise of the Early Years ALNLO sufficient?**

Attendees were divided on whether the guidance on the experience and expertise of the Early Years ALNLO is sufficient. Whilst many attendees agreed with the guidance in so far as it went, many wanted further detail and greater specificity about these matters. In particular, attendees highlighted the term 'suitably qualified' (chapter 8, paragraph 8.41 in the draft ALN Code) as one that requires clarification.

Additionally, some attendees proposed that the guidance should specify that the Early Years ALNLO should—given the strategic nature of the role—have specific experience of various strategic activities, including:

- managing people;
- working in challenging systems and organisations;
- successfully implementing and analysing the success of strategies; and
- collaborating with different groups.

At the same time as requesting greater specificity, however, most attendees suggested that local authorities need an element of flexibility to be able to designate the right person for their situation.



Much of the conversation between attendees touched on the need for the guidance to enable a local authority selecting an Early Years ALNLO to strike a balance between experience and expertise/qualifications. Most attendees suggested that experience in relevant areas was a more important factor than qualifications—not least because many felt that the wide-ranging nature of the role meant that finding someone with qualifications across the work areas would be highly unlikely.

Related to this were discussions around the most appropriate professional background of the Early Years ALNLO, although many attendees suggested that the guidance should not be more specific about this. Attendees' views on the most appropriate professional background varied—often according to their own professional background—but the main discussion points were around the extent which the Early Years ALNLO should have a background in education. Whilst many proposed that the Early Years ALNLO should have a background in education, some emphasised the need for them to be equally well-versed in health structures, whilst others suggested that they should have a background in child development or not necessarily a background in education at all.

Many attendees expressed scepticism that local authorities would be able to appoint a suitable individual for the role of Early Years ALNLO due to the wide-ranging strategic experience required. Some attendees suggested that a national job description or national minimum standards document could be produced to support local authorities in their recruitment. Other attendees proposed that local authorities should instead focus on recruiting someone for the post as soon as possible and ensuring that they are trained (by health, social care and education teams) before the implementation of the Act commences. Finally, many attendees emphasised that the strategic nature of the role and extensive experience required must be reflected in the salary of the Early Years ALNLO.

## **5. Local Authority Decisions about Post-16 Specialist Placements (Chapter 12)**

### **5.1 Context**

Chapter 12 of the draft ALN Code sets out the provisions in the Act which require that if a local authority decides that a young person who is neither registered as a pupil at a maintained school in Wales nor enrolled as a student at a FEI in Wales but for whom it is responsible, has ALN, it must prepare and maintain an IDP for that person if:

- it decides in accordance with regulations (to be made under section 46 of the Act) that it is necessary for it to prepare and maintain an IDP to meet the young person's reasonable needs for education or training; and
- the young person consents to the plan being prepared and maintained.

### **5.2 Structure**

The initial workshop sessions on this topic set out to explore the question of what factors and criteria should be included in regulations and used to determine whether a young person has a reasonable need for education and training. Subsequently this open questioning approach was revised to focus on whether the factors and criteria set out in the draft ALN Code are the correct ones. The draft ALN Code suggests that a local authority's primary consideration must be 'whether there is a realistic prospect of the young person achieving a desired objective within a reasonable period of time by undertaking a course of education or training'.

### **5.3 Responses**

As an overview, workshop attendees generally acknowledged the challenges surrounding decision-making in this area. In particular, many attendees felt that determining whether a young person had a reasonable need for education and training would be very subjective. There were concerns that, in the absence of clear-cut regulations and guidance, case law would have to be developed to provide clarification as to what would constitute a reasonable need for education and training. It was proposed that greater prescription would support practitioners to make a defensible case, but attendees were generally unsure what it would look like.

#### **Realistic Prospect of Achieving a Desired Objective**

The question of what constitutes a desired objective was debated extensively across all sessions. A key point made by attendees was that a desired objective need not necessarily relate to learning progression in mainstream terms, but could be:

- Self-regulation to engage with the community (seen as critical)
- Ability to have a conversation, or establish a relationship
- Acquiring independent living skills, or
- Improving quality of life

However, some attendees questioned whether support to develop life skills for ALN learners comes under the remit of education, health, or social care.

It was generally agreed that the Local Authority must consider the reasonable prospect of a young person achieving a desired objective, but the guidance needs to provide clarity. A key factor identified by attendees for establishing appropriate desired objectives was working with learners to set goals for what they want to achieve in their lives. It was also pointed out that in some cases mitigating regression in a learner was as important as progression and should therefore, be considered as a criterion for receiving support.

Attendees made the point that in some cases it might be really clear that a desired objective is not achievable, whilst in other cases it will need professional guidance. The loss of a role for Careers Wales within the decision-making process was a source of concern to several attendees, who questioned how local authorities would be able to make decisions without the specialist knowledge that they provide. The same was said to be true of adequately supporting young people to make a decision independent of their parents' views or wishes.

Welsh Government currently receives applications for specialist colleges and this route was seen by some attendees to be more impartial than one where local authorities, who might be more budget driven, are the decision maker. A minority of attendees were concerned that decisions could be driven by factors beyond the reasonable needs of the learner – for example a desire to minimise figures for NEETs might motivate a decision to award a placement, even if it was not realistic to achieve an objective.

A number of attendees suggested that learners have been supported in the past to attend residential colleges in England for three years without any learning objective, but to 'satisfy the desire of parents for their child to have the right experience, not the skills that come out of it.' Hence the introduction of a framework for decision-making was to be welcomed.

Some attendees also expressed the view that there can be too much emphasis on progressing a learner upwards; suggesting that an Entry Level 1 qualification can be a significant achievement for some learners and sideways or portfolio provision should be funded as well.

Some attendees felt that it was important to balance the likelihood of a desired objective being achieved against the cost of funding a placement, and that funding should be used in the most effective way possible.

In this regard, there was a minority view amongst attendees that Welsh Government should develop a list of approved learning outcomes that would be eligible for support, with recognised thresholds for achievement.

An important point raised by attendees was that of managing expectations – especially of parents. It was felt that the proposed guidance in the draft ALN

Code might be interpreted as a right to attend FE up to age 25 whatever progress the learner makes.

### **Reasonable Period of Time**

There was considerable debate regarding what constitutes a reasonable period for a young person to achieve an objective. A strong view was that timescales should be appropriate to the circumstances of the learner and the nature of the objective and not based on what was widely perceived in the wording of the draft ALN Code (at paragraph 12.27) to be a fixed period of two years. Many attendees expressed concern at the comparison with mainstream learners in the draft ALN Code, arguing that providing equality of access in this context would mean providing ALN learners with a longer period of support than other students.

A key concern amongst attendees was the need to take individual circumstances into account when making a judgement, with a wide range of different examples cited. These ranged from those who enter FE from special schools for two years before moving on to other settings, to those who might be in FE for seven or eight years, during which time they could slowly progress up to Level 3 or beyond. Attendees suggested that it would be difficult to determine a reasonable period of time at the outset, given that some learners may only start to demonstrate real progression after entering further education - if their funding is withdrawn and they would become 'stuck'. It was suggested that there should be a discussion with the young person, the institution and the family to identify whether they are achieving something additional and whether further support should be provided.

There was also a perceived inequity between those who stay at a special school until age 19 and then can access two further years in FE, taking them to 21 and those who leave school at 16 and are only funded in FE up to age 18.

Many attendees were concerned that 'we are setting children up to fail if we define how long it should take to achieve a desired objective', observing that learners progress at different speeds and that many ALN learners will develop learning capabilities both at a slower rate and later than other learners. There were other concerns about those with special circumstances, especially cases where a learner has recently acquired ALN (for example as a result of acquired brain injury following an accident).

### **Course of Education or Training**

In terms of the availability of a course of education or training, attendees expressed concerns about the variability of provision that is offered locally, depending on their location in Wales. At the moment, the Welsh Government currently funds learners to attend residential specialist provision to meet additional needs where none is available locally. Attendees felt that this is not always the right choice to equip the young person to return to their community sometime later, and so it is helpful to set some parameters around the outcome.

## **6. Health and the Role of the Designated Educational Clinical Lead Officer (Chapter 15)**

### **6.1 Context**

Chapter 15 of the draft ALN Code sets out the duties imposed on health bodies and other relevant persons under the 2018 Additional Learning Needs and Education Tribunal (Wales) Act. It also gives guidance on the role of the DECLO in Local Health Boards and how health bodies can support the identification of ALN and the making of additional learning provision.

Local Health Boards must designate an officer to have responsibility for coordinating the health board's functions in relation to children and young people with ALN. That person is known as the Designated Education Clinical Lead Officer.

The DECLO must either be a registered medical practitioner or a registered nurse or another health professional. The Local Health Board must only designate an officer as a DECLO it considers to be suitably qualified and experienced in the provision of health care for children and young people with ALN.

Also Included in chapter 15 is a proposed period (to be prescribed in regulations) within which a health body or other relevant person must comply with a request for information or other help – namely that they must do so promptly and in any event within the period of 6 weeks from the person receiving the request (subject to exceptions). A similar period of 6 weeks is proposed in relation to an NHS body's duty to respond to a local authority or FEI's request that it consider whether there is any relevant treatment or service that is likely to be of benefit in addressing a child or young person's ALN.

### **6.2 Structure**

Attendees were provided with a briefing paper prepared by Welsh Government containing paragraphs taken from the draft ALN Code relating to health and the DECLO.

The workshop focused on three consultation questions regarding the draft ALN Code's guidance on the DECLO and timescales for responding to requests.

After a short briefing from the external facilitator, attendees discussed the first of the three consultation questions in small groups. The attendees then shared their group's responses with the whole workshop in a session moderated by the facilitator. Attendees then discussed the second question in the small groups before sharing their group's responses again, followed by the third question and feedback.

## 6.3 Responses

### Question 1 - What responsibilities should be included within the role of the DECLO?

Many attendees thought that the role of the DECLO should be to work strategically and in a consistent manner across all Local Health Boards. Many attendees suggested that to ensure good practice is applied consistently, DECLOs should come together for joint training, implementation planning and delivery support. It was suggested that it would be helpful to have a single job description for all DECLOs across Wales.

Many attendees thought that the DECLO should be appointed at a senior executive level within the Local Health Board and report to the Board. A small number of attendees suggested that the responsibilities should be added to the remit of Director of Therapy within Local Health Boards. Others voiced concern, preferring instead for the role to be a dedicated one rather than being an add-on to another role. Other attendees suggested that DECLOs would be better placed within Children's Services.

There was much concern that the remit being proposed for the role of the DECLO was very broad, and that they would be required to operate at both strategic and operational levels with support of a team. Frequently, attendees suggested that an appropriate system needed to be developed to support the role of the individual and to ensure that there would be an appropriate line of communication between the DECLO and front-line staff. Some attendees suggested the Code needs to state the DECLOs would need an operational team to deliver the lower level functions on their behalf. They felt the presently suggested remit was too broad for one person to undertake alone.

Attendees felt that the 'internal' responsibilities of the DECLO should include:

- ensuring that timescales set are adhered to
- championing the Code at a senior level within their organisation
- ensuring that a consistent approach is adopted across the Local Health Board – although it is not clear what power or authority they will have to ensure that this will be achieved
- dealing with complaints and tribunals
- implementing appropriate systems and procedures to allow for the duties to be met
- monitoring whether the Local Health Board was meeting its duties
- building on existing good practice processes and structures.

The workshops revealed contrasting views as to the external role of the DECLO. Some attendees suggested that they should function as a key strategic contact for local authorities and other partner organisations. A number of attendees proposed establishing strategic working groups combining Local Health Boards and local authorities to ensure effective multi-agency communication.

Caution was expressed that DECLOs could not be expected to undertake all operational duties proposed in the draft ALN Code. Many attendees

suggested that the Code needed to clarify further how the different proposed operational and strategic tasks will be fulfilled.

Attendees frequently advised that the DECLO should not get involved in individual caseloads, although a small number of attendees had interpreted the role as being to do so. Attendees based in school settings wished to receive clarification on whether DECLOs would have a direct relationship with schools or not – they were unclear about the nature of contact between them and the DECLO. It was also unclear to many attendees whether the DECLO would act as a point of contact for parents and it was suggested that it would be helpful to clarify ‘who can access the DECLO, and for what purpose’.

Many attendees were not clear on how much resource will be allocated by each Health Board to undertake the role of a DECLO – in one case a DECLO has already been appointed and only allocated two days per week to the role at the moment. Other attendees felt the role would need to be a full time, strategic role with an operational team to support.

A few attendees noted additional responsibilities that the role of the DECLO should include:

- sharing information with relevant parties (local authorities/schools/FEIs)
- ‘controlling waiting lists’ in the sense of speeding up some referrals
- managing a ring-fenced budget
- directing responsibilities between health professionals
- ascertaining whether schools/FEIs have done everything they can to ensure that referrals to health professionals are appropriate.

## **Question 2 - What relevant experiences and expertise should the DECLO have to ensure the role is strategic?**

It was frequently suggested that DECLOs would need strategic and operational level experience. The consensus view was that they should have experience in or an understanding of health, education and social services, including health therapy services such as childhood and adolescent mental health, educational psychology, occupational therapy and, speech and language therapy, in order to understand the collaborative nature of the work. A few attendees also observed that the postholder’s background needed to be wider than working with children of school age, given that the draft ALN Code was covering children and young people aged from 0 to 25.

Many attendees argued that it was more important for the postholder to have a clinical background rather than a medical background. The inclusion of the term ‘medical’ within the draft ALN Code was questioned and some suggested that less of a focus should be placed on this.

Their level of responsibility and seniority within the Local Health Board was also considered to be paramount by many attendees. A few attendees suggested specific skills and attributes that the DECLO should have; including;

- a good communicator
- organisational skills
- the ability to work across organisational boundaries.

**Question 3 - Is the proposed period of 6 weeks an appropriate amount of time for: relevant persons to comply with a local authority request for information or other help (under section 65 of the 2018 Act) and; an NHS body to inform others of the outcome of a referral to it (under section 20 of the 2018 Act) in relation to whether there is any relevant treatment or service that is likely to be of benefit in addressing a child or young person's ALN.**

Attendees generally welcomed the proposal to set a fixed period for an NHS body to comply with a local authority request and to inform others of the outcome of a referral to it.

The principle of adopting a fixed period was reported to be right and appropriate, especially from the perspective of meeting children and young peoples' needs. Many attendees felt that without stipulating timescales there was a danger that children would get 'stuck in the system' and that setting clear timescales would focus the work of partner organisations. Attendees voiced that the draft ALN Code is helpful in that it puts the needs of the child or young person at the core and makes it clear to parents what they can expect. It will also help in providing a clear message to parents about what they can expect from the process. Many were concerned however, that the introduction of the fixed period would raise expectations amongst parents and that this expectation would not be met (due to issues outlined in paragraph 6.24).

There were mixed views conveyed as to whether the proposed six-week period was appropriate. Attendees frequently argued that this period was appropriate if:

- the child was already known to the NHS
- the level of response required was fairly straightforward and simple i.e. acknowledging the referrals received
- the response was required from particular NHS therapy services – some, such as speech therapists, had greater capacity to respond than others although the examples cited varied from one Local Health Board to another.

Some attendees suggested that if the requirement was to simply acknowledge the referrals received or even to provide a tokenistic response to the referral then the NHS body could achieve this within the six-week window. However, should the requirement be to provide a more meaningful response then it would be unrealistic to expect this to be achieved within the six-week period.



Generally though, health practitioners thought that the six-week period was too short a timescale in light of:

- the current waiting times for clinical assessments - it was reported that a child could wait 18 months for an autism assessment in some areas
- parental consent to share information with schools, compounding the issue of waiting list lengths
- the need to have to prioritise other, more pressing, cases e.g. assessing children with safeguarding issues followed by critical health issues before ALN issues when allocating caseloads to paediatricians. Some attendees were concerned that the timescales would act as a perverse incentive and went against the principles of supporting those with the greatest need first
- health practitioners reported a lack of capacity within the Local Health Board to undertake a meaningful assessment of a child. There are significant pressures upon some occupations e.g. health therapies
- health practitioners in particular were also concerned that the stipulated process would focus attention and resources on process issues at the expense of front-line services i.e. resources would need to be allocated away from therapy services to monitoring and reporting

Many attendees questioned what constituted the trigger point for the six-week period, bearing in mind that it takes some time for a referral received to be allocated to the appropriate person within the NHS body. Attendees who were very familiar with the proposals set out in the draft ALN Code welcomed the fact that the six-week period would start when the therapist received the referral. Attendees suggested there may be a benefit in communicating and reinforcing this amongst practitioners. It was also observed that it would be beneficial for the referrals process to be an electronic one.

Broadly, there was a desire amongst health practitioners to see a greater alignment with the 14-week period stipulated by the Welsh Government for other health services.

A few attendees suggested NHS performance indicators and targets are a potential barrier to effective multi-agency working. The proposed time limits would need to be incorporated into NHS targets if they are to be taken seriously. A common contribution from attendees was that health and education priorities (and Key Performance Indicators) differ and these will inevitably drive behaviours.

## **7. Additional Learning Needs Co-ordinator (Chapter 24 and ALNCo Regulations)**

### **7.1 Context**

The Additional Learning Needs and Education Tribunal (Wales) 2018 ('the Act') requires governing bodies of schools and further institutions in Wales to designate a person, or more than one person, to have responsibility for co-ordinating additional learning provision (ALP) for pupils or students with ALN. The Act requires that these persons are to be known as Additional Learning Needs Co-ordinators ('ALNCos').

Welsh Government is consulting on draft Additional Learning Needs Co-ordinator (Wales) Regulations 2019 ('the draft ALNCo Regulations') which prescribe the qualifications and experience required to be an ALNCo and the functions placed upon ALNCos.

Chapter 24 of the draft ALN Code sets out key information for interested parties about the role of the ALNCo. This includes general responsibilities and expectations of ALNCos and considerations, where appropriate, about whether an individual has the requisite experience to carry out the role. The chapter also makes reference to legal requirements to be an ALNCo (i.e. the requirements prescribed under the draft ALNCo Regulations).

### **7.2 Structure**

The workshop focused on three consultation questions regarding the draft ALN Code's guidance on the ALNCo.

Attendees were provided with a briefing paper prepared by Welsh Government containing paragraphs taken from the draft ALN Code relating to the ALNCo.

After a short briefing from the external facilitator, attendees discussed the first of the three consultation questions in small groups. The attendees then shared their group's responses with the whole workshop in a session moderated by the facilitator. Attendees then discussed the second question in the small groups before sharing their group's responses again, followed by the third and feedback.

### **7.3 Responses**

#### **Question 1 - Is the proposed role of the ALNCo appropriate?**

Most attendees welcomed the more strategic focus of the role. It was felt that the responsibility and workload associated with the ALNCo role, particularly in terms of dealing with high-tariff pupils with ALN made this an appropriate decision. The shift to a more strategic function also provided improved status for the role, enabling the individual to require contributions from the wider school staff.

In terms of ALNCoS being a part of SLT, there were different viewpoints on this issue. In the main, the view was that it should be a legal requirement that the ALNCo should be a member of the SLT unless there was a very good reason for it to be otherwise (examples provided included issues with small size or structure of the school, or an existing member of SLT with a strong ALN background). Some queried why anyone would wish to take on the accountability for ALN if they did not have the ability to be involved in and influence discussions around budget and resource implications at SLT. Many attendees reported that the ALNCo/SENCo is already a member of SLT in the majority of instances.

Attendees based in a school setting mostly felt that membership of the SLT should be mandatory. Due to the different structures of FEIs, this was not felt to be appropriate in those settings. Rather, the ALNCoS in FEIs tended to be full time posts, with responsibility for the ALN budget across campuses and accountable to a Head of Inclusion or Deputy Principle. This was felt to be appropriate.

Others understood and accepted the reasoning behind the option for it to be 'access/direct link' to SLT taking into consideration issues around size and rurality. Many suggested that this element of the draft ALN Code would become redundant over time as the small number of non-qualified existing SENCoS moved on from their current roles.

For some attendees the role came with increased responsibility and few raised concerns about the increased pressures that ALNCoS would face in having legal responsibilities. Attendees were keen to ensure that ALNCoS were protected with ultimate accountability resting with the headteacher, and that this was made explicit in the Code/regulations.

Many attendees also argued that with the more strategic responsibilities and status to be given to the ALNCo role, they should be remunerated, with a Teaching and Learning Responsibility Payment (TLR) provided as standard. As the new role and duties clearly demonstrated that the ALNCo role was a leadership/management one and should be awarded as such.

There was concern that the requirement for 'sufficient time' to undertake the role was too vague and that undertaking the role without being provided with time outside the classroom would make it difficult. One suggestion was that this could be changed to 'regular and sufficient time'. Another suggestion was that there needed to be a stipulation of time (e.g. 10% minimum as is the case at the moment with PPA which some felt sets a precedent for stipulating this). Another suggestion was that the second sentence in paragraph 24.5 could be changed to 'The head of the education setting must ensure that the ALNCo is supported in this way' so that the onus was firmly placed on the headteacher or equivalent.

When queried about how this could be quantified, attendees generally struggled to offer an alternative, but some felt that a formula could be developed. One suggestion was that there needed to be a calculation based

on the number of ALN learners on the school roll which also considered their educational stage and the level of ALN.

Some attendees were of the view that ALN should be a full-time role in large settings (secondary schools, large primary schools) but many more were quick to point out that they did not agree with that approach in any setting.

**Question 2 - Do you agree with the tasks that ALNCo's must carry out or arrange to carry out as set out in the draft ALN Code?**

In general, it was suggested that the description of the ALNCo's tasks were similar to that of current SENCo's and many of the attendees did not seem to have any major concerns with the list of tasks as it reflected their current workload. They felt that the main difference was that the 'musts' in the list would ultimately be legally binding. Whilst there was agreement on the principles of the duties as they were set out, there also needed to be greater clarity on the 'sufficient time' to undertake them all.

Some attendees felt that the tasks set out were a big step up from their current role and were concerned that the requirements were so great and carried such responsibility. In particular they were worried about the more strategic duties set out in the regulations. They spoke of the tasks putting a lot of pressure on one individual and were concerned about feeling vulnerable in the role. Some felt that there was a danger that no one would wish to take on the role in future, with the long list of definite 'musts' putting people off. The likelihood of involvement in Tribunal cases where a local authority was party to an appeal becoming a bigger part of the job description was also something that concerned existing ALNCo's during the workshop session.

Some suggested that the list of tasks was too great and too open to interpretation. A concern was raised that the list of duties (outlined on p.263 of the draft ALN Code) of 'musts' around training, supervision, arranging and advising were too much on top of teaching and ALN case work. Another suggestion was that a list of 'musts' for the SLT should also be provided. A few attendees suggested that the Code should describe in more detail the type of work that teaching staff would be required to undertake to support the role of the ALNCo.

One addition to the list of tasks that a small number of attendees mentioned was the work of the ALNCo (in secondary school settings) in organising exam access arrangements (e.g. modified papers etc.) This was a substantial part of some ALNCo's work and they wished to see this reflected in the list of tasks.

**Question 3 - Are the prescribed qualifications to be an ALNCo set out in the draft ALNCo regulations appropriate?**

There was agreement that anyone in an ALNCo role should be a qualified teacher in the first instance. Though there was an understanding why the proposed regulation regarding existing SENCo's remaining in their role was included, there was a strong view conveyed that this should not be the case.

Many attendees felt that with the adoption of the new Code, all ALNCoS should be qualified teachers as a matter of principle. Others disagreed and argued that there were a few highly experienced SENCoS working in schools who were not qualified teachers and that their expertise should not be lost.

Some attendees also raised the issue that 'qualified teacher' in itself was not enough and that NQTs should not be expected to undertake the role. A few attendees suggested that a length of service and experience as a teacher should also be a mandatory requirement of anyone wishing to be an ALNCo. However, some felt that this might not always be possible in smaller schools.

There were some different views conveyed about the need for more specialised experience, training or qualifications for anyone undertaking the ALNCo role.

Some attendees wished to see the regulations setting out the need for all ALNCoS to undertake a master's qualification or diploma (with a timescale attached e.g. within 5 years of appointment). Some argued that Head Teachers were required to complete such qualifications and that with the strategic nature and alignment of ALNCoS to SLT, they should also undertake a similar process. For some, this in itself would prove to be a way of not only raising the standards, but to ensure the role attracted those who were passionate about it. It was also argued that a required qualification would serve to raise the status of the ALNCo role.

Some attendees wanted to see a bespoke, mandatory and fully funded Postgraduate Certificate for ALN be developed with day release or sabbatical provision in place to enable teachers to study. Some suggested that the ALNCo should meet a set of standards (such as the HLTA status awarded to support staff) or undertake National Professional Qualification for Headship (NPQH) style training for the role.

However, many attendees stopped short of making any additional qualifications mandatory. Rather, they wanted to see a clear professional development pathway of support and training provided to all those undertaking the role. One discussion group felt that there would only be equity in the provision of training if local authorities were provided with a set of national standards/competencies in relation to ALN training.

In particular, in consideration of the fact that ALNCoS will be required to train staff within their own settings, it was considered important that ALNCoS themselves were fully trained and up to date with any briefings and developments in the field. Any individuals new to the role should be provided with sufficient time and support to adapt to the role, ideally with mentoring from a more experienced ALNCo from a nearby school. It was also suggested that opportunities to network with others undertaking the ALNCo role would be welcomed.

In addition to this, attendees were keen to ensure that training provision for teachers and TAs was also arranged via the local authority/consortia so that

the wider network of staff at schools could also fully understand their role in supporting ALN.

With the above comments on training came the call for funding to enable ALNCoS and the wider workforce to attend the necessary specialist training and advice required.

Several attendees were keen to ensure that the Postgraduate Certificate in Education adequately covered ALN issues and suggested that there should be a dedicated module on the course in future.

## **8. Advice, Information and Disagreement Resolution (Chapters 6 and 25)**

### **8.1 Context**

Chapter 6 of the draft ALN Code provides guidance on local authorities' duties under the Additional Learning Needs and Education Tribunal (Wales) Act 2018 ('the 2018 Act') to make arrangements to provide advice and information about ALN and the ALN system. It includes guidance on the role of external service providers, and on the aims and contents of advice and information, raising awareness of it, ensuring its accessibility, and involving children, their parents and young people in its design.

In addition to the content of Chapter 6, on each occasion that a decision about ALN is made, including a decision to cease to maintain an IDP or some other outcome of a review, or when a copy of an IDP is prepared and given, the draft ALN Code requires the appropriate body to provide information about the local authority's arrangements for information and advice giving.

Chapter 25 of the draft ALN Code sets out guidance and requirements relating to the duties on local authorities under the 2018 Act to make arrangements to avoid and resolve disagreements. It also sets out a number of mandatory requirements, imposed by the Code, in relation to the duties on local authorities to provide independent advocacy services.

### **8.2 Structure**

The workshop focused on two consultation questions regarding the draft ALN Code's guidance on Advice, Information and Disagreement Resolution.

Attendees were provided with a briefing paper prepared by Welsh Government containing paragraphs taken from the draft ALN Code relating to the topic.

After a short briefing from the external facilitator, attendees discussed the first of the two consultation questions in small groups. The attendees then shared their group's responses with the whole workshop in a session moderated by the facilitator. Attendees then discussed the second question in the small groups before sharing their group's responses again.

### **8.3 Responses**

**Question 1 - What do you think the requirements should be on local authorities in relation to arrangements to avoid and resolve disagreements?**

#### **Making information available**

Many attendees expressed the need for transparency, clarity and adequate signposting of information about the arrangements to avoid and resolve disagreements. A range of possible information channels were suggested.

- Online: use of social media, information websites (such as the local authority, a Welsh Government ALN site, voluntary sector providers, Careers Wales for post-16 learners and school websites. The use of podcasts and YouTube videos was also suggested as a means of widening reach.
- Paper-based: distribution of leaflets and posters, information in school prospectuses
- Face-to-face meetings with parents

It was suggested that information also needs to be easily accessible to everyone; in a range of languages and multiple formats such as easy reads, braille and user-friendly materials. One suggestion was that information such as leaflets to be designated for two specific target groups - parents and young people. Leaflets could then be distributed via schools.

Many attendees agreed that all information should be standardised across local authorities, relevant agencies, and at a national level.

Attendees felt that the provision of clear information for individuals could potentially reduce the number of disputes and consequently the need for dispute resolution. The use of an information flow chart could allow for easier sign-posting for parents. Some attendees also noted that Welsh Government should make clear information available to better manage parents' expectations and to help them to understand why certain decisions have been made. This could include, for example, the number of hours of support their child is allocated.

### **Ensuring staff have detailed understanding of the system and are impartial**

Many attendees highlighted the need for transparency across all agencies, most notably for understanding their range of timescales. It was agreed that the standardisation of clear, consistent procedures and processes for all would need to be implemented. Many attendees emphasised that a tribunal should be a last resort or final stage of the process. Attendees felt that the procedures and processes put in place for resolving disputes should ideally focus on avoiding going to a tribunal, as this is a lengthy, time and resource consuming process.

Many attendees identified a need for staff training to ensure that staff have a detailed understanding of the system and are impartial, it was suggested that teachers might be offered training on avoiding disputes and on dispute resolution generally and attendees recognised that skills and experience acquired over time are very important. Attendees felt that it would also be worth offering training in ALP to health professionals.

Many attendees questioned the impartiality of local authorities, in terms of them ensuring genuine independence in the process of dispute resolution, given that they will be responsible for preparing and maintaining many IDPs.



Some attendees discussed the need for policies and procedures to be implemented, commenting on the difficulty that ALNCOs have at present to obtain information and documentation. Specifically, there was an identified need for clarity on:

- entry/exit criteria
- when an IDP can be discontinued
- what constitutes ALP
- assessment 'pathways'
- guidelines on funding ALP

Some spoke of the need for a 'regional strategic approach' in this regard, suggesting that local authority involvement may have implications for school complaints procedures. One attendee said that whilst schools typically have open access policies, parents will also need clear and transparent access to local authorities.

A small number of attendees suggested the option of conducting audits of existing procedures, including:

- existing local authority process guidance
- existing multi-agency practices in relation to referrals, assessment (does the child have a need) and prescription (how those needs should be met)
- how disputes between professionals about the nature of and potential approaches to addressing needs are resolved

It was also suggested that a feedback system should be included as part of a quality assurance/improvement approach.

Ensuring arrangements are accessible to children and young people and meet their communication needs

Attendees again stressed the need for information to be clear and available in a range of formats, including face to face discussions, and pupil voice / panels / focus groups. However, it was highlighted that this may have implications in terms of resources for local authorities. It was also emphasised that resolution needs to take place in school settings wherever possible, in order to avoid escalation.

Some attendees suggested that where disputes arise and local authorities need to get involved, local authority officers should assess the child in question and not simply rely on paperwork to inform decisions. One suggestion was that the child's circumstances needed to be taken into account to ensure efficiency of processes.

### **Facilitating access to these arrangements by children with their parents, their case friend or separately from their parents**

Attendees felt that professionals at every level need to use appropriate language to avoid building unrealistic parental expectations and consequent disappointment. Specific reference was made to the misuse of terms such as 'diagnosis' and 'statement' in place of 'assessment'. One attendee said that

conflict often arises from poor communication and misunderstanding rather than from anything more fundamental.

A small number of attendees felt that local authorities should not be the only bodies responsible for resolving disputes and that there should be an option for resolution at school level (at the earliest point possible) or through the relevant health board.

A small number of attendees thought that local authorities need to provide advice to schools, as well as ensuring that schools have the capacity to avoid and/or respond appropriately to disagreements. The point was made that schools should not feel like they are on their own, which it was suggested can be the case currently. It was also suggested that local authorities should consider designating a named officer to support schools in the event of a disagreement. Some argued that local authorities should become involved as soon as disputes occur and particularly so where teaching assistants are involved. However, it was also stated that effective conflict resolution will work if the parent has faith in the process and the process is independent of local authorities.

### **Question 2 - What do you think the requirements should be on local authorities in relation to the provision of an independent advocacy service?**

Many attendees suggested that there would be a conflict of interest if local authorities provided advocacy services directly. Many attendees referred to independent providers as more suitable options for advocacy services because they are truly independent and impartial. Some attendees also questioned how such organisations would fit into the new Code.

### **Ensuring awareness of advocacy services**

The importance of clear and consistent information of all advocacy services aspects was needed, with many attendees wanting further clarification on advocacy services and a clear explanation for parents / schools. A small number of attendees suggested that communication strategies should be considered on the basis that if local authorities are transparent about the offer, there should be fewer disputes.

A small number of attendees said that parents should be clear that they have an option to speak in confidence to someone independent, should they wish to. It was highlighted that Parent Partnership Services<sup>2</sup> are not specified in the draft ALN Code and that some cases are currently too quickly escalated to tribunal. A number of attendees called for a more incremental approach to accessing advocacy services and for greater consistency across Wales.

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<sup>2</sup> Local authority arm's length bodies that provide information and advice to parents and carers of children with ALN.

## **Promoting the use of independent advocacy services**

Many attendees felt it was necessary for the promotion of advocacy services (and effective signposting of external agencies) to be clear, in order to avoid confusion amongst parents and children as much as possible. Some attendees were clear that local authorities' duties should extend beyond informing pupils and parents about advocacy services to ensuring that services are actually accessible and accessed, as appropriate. Some attendees suggested including the publication of local authority ALN directories and particular case studies of services that are being managed well.

A number of attendees expressed the need for escalation processes to be clearly set out in a way accessible to young people / parents. There was a strong feeling that parents and children / needed to be fully involved in the process; allowing for parents to be given enough time to participate. Attendees felt that local authorities have a responsibility to support pupils with parents who may not be as well-equipped as others to demand their rights. Further, they highlighted that there is a need to ensure that pupils and parents understand that they are able to bring an advocate to review meetings should they wish.

Attendees agreed that it is essential that all communication with children and parents should be in plain language. Attendees felt that it is essential that advocacy services meet the needs of all children and young people, especially those who are non-verbal and/or have limited communication skills. Further, some attendees felt that it would be useful if the rationale behind decisions could be set out clearly for children and parents.

Some attendees emphasised the importance of advice and information being available in languages other than Welsh or English, given that some parents have neither as a first language. Furthermore, attendees pointed out that some children arrive at schools with documents relating to learning needs in languages other than English.

## **Ensuring efficiently run advocacy services**

Many attendees suggested external agencies are already well established and trusted by parents to offer an effective service. A small number of attendees expressed the potential for collaboration, partnerships and training opportunities with external agencies. Others thought that local authorities might employ their own 'in-house' advocates, although it was agreed by some that advocate services need good governance arrangements and need to 'have teeth' in terms of representing children's and parents' views.

Some attendees suggested that Welsh Government should directly fund advocacy services; allowing a national model and a standard offer across Wales, with national reporting. Others argued for regional advocacy services operating across service area divides e.g. looked after children, child protection and ALN. At present, attendees reported, children might be subject

to the services of different types of advocates employed by different organisations, which would not provide a well-integrated service.

### **Ensuring well-informed, trained and effective advocates**

Attendees discussed the important aspects of advocacy, including training, experience and communication skills. It was voiced that there should be mandatory appropriate training for advocates. Many attendees suggested that advocates have understanding and experience of the education sector but need to also be adaptable. A small number of attendees made the suggestion that school and local authority staff should be trained in ALN and the draft ALN Code in order to avoid confusion under the new legislation.

Many attendees agreed that advocates should have excellent communications skills, as it is important for them to listen to the views of the child. A small number of attendees suggested that advocates should be able to communicate in the chosen medium of the child. However, in regard to Welsh language, it was highlighted that recruitment and retention of advocates is challenging, irrespective of language skills and might be particularly difficult if there was a requirement for advocates able to work through the medium of Welsh.

Some attendees questioned whether there are sufficient suitably qualified people to take on the advocate role. Local authorities were said to need to ensure the availability of suitable advocates with appropriate knowledge and skills. Attendees felt that an advocate's role is to avoid and resolve disputes rather than to escalate them.

The issue of parents who act as advocates for other families was also raised. It was suggested that this could result in the advocate bringing their own experiences and views to bear rather than engaging in a wholly impartial way.

## **9. Next Steps**

Following the submission of this report, Welsh Government will reflect on the feedback provided by those who attended the events and summarised here. This will be taken alongside all the other consultation responses received, to consider what amendments might be needed to the draft ALN Code and proposed regulations before laying before the National Assembly for approval.

Welsh Government will publish a summary of all consultation responses alongside the publication of the wider responses in full, and the report on the CYP/parental engagement exercise undertaken during the consultation period.

## 10. Appendix 1 – additional comments

There were a number of comments made in the workshops, which were not within the scope of the workshops themselves, but which are included here for information.

It was noted that social services often need to be part of the ALN discussion, but some attendees felt that the draft ALN Code does not recognise or reflect this. Attendees expressed concerns that references to local authorities might be taken to relate to education and that the inclusion of social services should be made more apparent. In the draft ALN Code, attendees felt that there was less emphasis on social care than on health as a result of this.

Some attendees were concerned about a perceived lack of appropriate social care/services for adults in relation to activities under the draft ALN Code.

In relation to the chapter on the duties on health bodies and other relevant persons (chapter 15), there was concern that there was very little emphasis on activities which Local Health Boards or DECLOs ‘must’ achieve and more emphasis on what they ‘should’ achieve – this differed from what was expected of schools and local authorities. However, some attendees were reassured when the reasons for this were explained and the statutory guidance nature of ‘should’ was reiterated.

Attendees were in agreement that the Early Years ALNLO was an important role and welcomed the fact that the Act makes it compulsory for a local authority to designate an Early Years ALNLO.

Many attendees, including those not representing a local authority, expressed concern about how such a significant role would be funded in a time of severe budget pressures for local authorities.

Some attendees expressed broader concern about a perceived lack of reference to Early Years ALN provision in the draft ALN Code as a whole.

Whilst acknowledging that it was perhaps outside of the scope of the Code, some attendees emphasised the need for training to be provided to—as well as by, as is included in the proposed guidance—Early Years ALNLOs. Others—acknowledging that each local authority is different and the Early Years ALNLO role will always reflect this to some extent—raised the need for a forum to be created to permit Early Years ALNLOs to come together and share best-practice on a regular basis. Advice, Information and Disagreement Resolution

Some attendees raised the point that some families currently choose to move from one local authority to another, if they feel they are able to access better services and support in the neighbouring area.

Many attendees felt concerned about how independent advocacy services could be funded, given the challenging financial position of many local authorities. Concern was also expressed that any funding for advocacy

services could also be diverted to supporting another layer of bureaucracy. It was noted that different local authorities approach budgets differently, making it difficult to ensure consistency of service.

Many attendees commented on the impact that delivery of the Act's provisions will have on schools; for example, schools need to be properly resourced to deliver / source high quality ALP and it was suggested that this would help to avoid disagreements. Where schools are not able to meet an ALN because of resource / funding constraints, they should be able to pass responsibility on to the local authority. It was suggested that effective use of ICT could help to facilitate effective communication between parties in this regard.

Many attendees agreed with the advice, information and disagreement resolution requirements in principle, but felt there may be resource and time constraint impacts for local authorities faced with limited funding and staffing. It was stated that conflict guidance already exists, but that the barrier is a lack of resources to share this information, rather than an absence of the information itself.

One attendee said that clear guidance on what constitutes a school IDP or local authority IDP was needed, which would include clarifying definitions of ALN and roles and responsibilities.