## Welsh Language Impact Assessment

**Title:** Implementing the Additional Learning Needs and Education Tribunal (Wales) Act

A guide to the timeframes for implementing individual development plans for children of compulsory school age and under

**Date:** Last reviewed June 2018

**Contact details:** SENReforms@gov.wales

<table>
<thead>
<tr>
<th>Programme/Project Type</th>
<th>Policy</th>
<th>Legislation</th>
<th>Grant</th>
<th>Business change</th>
<th>Infrastructure</th>
<th>Construction, Capital</th>
<th>ICT</th>
<th>Other (Please specify below)</th>
<th>Project or programme</th>
<th>Research, evaluation</th>
<th>Services</th>
<th>Contracts, tenders</th>
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**Costs:** How much is the projected whole life cost for the programme/project?

If below £25k, then a full WLIA is not always required (see guidance).

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<tr>
<th>Under £25k</th>
<th>£25k - £49k</th>
<th>£50 - £249K</th>
<th>£250K - £1m</th>
<th>Over £1m</th>
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Of the above, please provide details if there are any identified costs directly associated with the Welsh language?

A comprehensive consideration of the costs associated with individual development plans (IDPs) forms part of the regulatory impact assessment that forms part of the Explanatory Memorandum which accompanies the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (‘the Act’).

**How long is the programme/project expected to run?**

<table>
<thead>
<tr>
<th>Up to 1 yr</th>
<th>Up to 2yrs</th>
<th>Up to 5yrs</th>
<th>Up to 10yrs</th>
<th>More than 10 yrs</th>
<th>Unknown</th>
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**Key milestone dates for the programme/project:**

It is expected the key milestones for the implementation of IDPs will be as follows:

- Implementation of IDPs will take place over three years from September 2020 to August 2023
- Local authorities will move from the SEN system to the ALN system over two years, implementing IDPs between September 2020 and August 2022
- Schools will move from the SEN system to the ALN system over three years, implementing IDPs between September 2020 and August 2023.
STAGE 1: PLANNING

What are the aims and objectives of the policy?

What are the desired outcomes/what constitutes ‘success’?

The guide is the first in a series of guides which set out how specific aspects of the Act’ will be implemented.

The Act creates a new statutory framework for supporting children and young people aged 0 to 25 with additional learning needs. This new framework replaces the existing statutory special educational needs (SEN) framework and the assessment and planning for young people with learning difficulties and/or disabilities in post 16 education and training.

The objectives are to achieve:

- a unified legislative framework to support children of compulsory school age or below with ALN, and young people up to the age of 25 with ALN who are in school or further education;
- an integrated, collaborative process of assessment and planning that facilitates early, timely and effective interventions; and
- a fair and transparent system for providing information and advice, and resolving concerns and appeals.

To fulfil these objectives, the Act includes the following elements:

- The introduction of the term additional learning needs
- A 0-25 age range
- A unified plan
- Increased participation of children and young people
- High aspirations and improved outcomes
- Increased collaboration
- Avoiding disagreements and earlier disagreement resolution
- Clear and consistent rights of appeal
- A mandatory Code
- A bilingual system
- A simpler and less adversarial system.

The implementation guide sets out how the unified plans – IDPs – will generally be implemented for children of compulsory school age and below. The guide does not address arrangements for IDPs for young people over compulsory or the arrangement for exceptions to how IDPs will generally be implemented. These arrangements will be set out in guides which will be published separately.

Individual development plans for children of compulsory school age and below

The Act introduces statutory IDPs for children and young people with ALN. The IDP will describe the child’s ALN and the additional learning provision (ALP) required to meet those needs. IDPs will normally be prepared, maintained and reviewed by the
governing body of the school in Wales that the child attends following a determination by the governing body that the child has ALN. The ALP set out in the IDP will normally be delivered by that school.

Local authorities in Wales also have duties to prepare and maintain IDPs for children in their area. For example, in cases where adequately determining the extent of the child’s ALN, or adequately determining the necessary ALP, is beyond the school’s capability; or where it would not be reasonable for the governing body of the school to secure the ALP that may be required; or the child is not attending such a setting (including those attending non-maintained schools and non-maintained early years settings or children who are home educated), the local authority would be responsible for determining ALN, preparing and reviewing the IDP (if that is necessary in the case of a child not attending a maintained school in Wales) and securing the ALP within it. The intention is that the ALN Code will provide guidance on instances where it may not be reasonable for a school to determine the ALN of a child secure the ALP required.

Local authorities will be responsible for preparing, maintaining and reviewing IDPs for children with ALN who are looked after by them and are in the area of a local authority in Wales (whether their area or another local authority’s).

As a minimum, IDPs will have to be reviewed at least once in every 12 month period, and may need to be reviewed more frequently depending upon the circumstances.

Where a child with an IDP maintained by a local authority is registered or enrolled at a maintained school in Wales, the Act requires that the governing body of the school takes all reasonable steps to secure the ALP included in the IDP – but ultimate responsibility for securing that provision would rest with the local authority that maintains the IDP. Local authorities also must consider whether it is necessary to prepare and maintain an IDP for a child who is not in a maintained school and whether it is no longer necessary to maintain a plan for a child.

The Act addresses when duties to maintain an IDP cease and when they transfer to another body. For example, a body may cease to maintain an IDP if it decides that the child no longer has ALN, but in this case, before it ceases to maintain the plan, the child or child’s parent(s) have an opportunity to challenge the decision. There is also provision for duties to maintain an IDP to transfer to another body, for example when a child moves to a different school or local authority area.

What policy options have been considered? and what impacts will there be if the policy is not implemented?

The Regulatory Impact Assessment (see Explanatory Memorandum) set outs consideration of each of the policy options and the associated costs and benefits proposed in the Additional Learning Needs and Education Tribunal Bill, and includes information on the impacts if the policy is not implemented.

In relation to plans to support children and young people with ALN two options were considered:

- Option one: do nothing
- Option two: replace existing support plans with a single plan for children and
young people with additional learning needs.

The impact of the Act not being implemented is that the deficiencies and disadvantages which exist under the current SEN system would remain.

**Welsh language provision**

The draft Bill did not include any Welsh language provisions on the basis that securing Welsh language ALP in particular would be a matter that was covered in Welsh language standards. It was further considered that the ALN Code would provide guidance to local authorities, governing bodies and others about the need to ensure that the Welsh language requirements of learners in this area were met.

However, as a result of the consultation on the draft Bill and further consideration this policy option was rejected on the basis that it would not necessarily secure appropriate access to Welsh language ALP by all learners across all settings. This would have meant that existing deficiencies in relation to delivering Welsh medium ALP would be perpetuated. The Act now includes provisions (as outlined in ‘stage 3’ below) that impose certain requirements on local authorities and governing bodies in respect of the consideration and securing of ALP through the medium of Welsh as well as continual review of the appropriateness of Welsh Language provision. The provisions were welcomed during Stage 1 of the legislative process, including by the Welsh Language Commissioner.

**Does the programme demonstrate a clear link with the Welsh Government’s strategy for the Welsh language – Cymraeg 2050 – A million Welsh speakers?**

The Welsh Government’s strategy, Cymraeg 2050 – A million Welsh speakers, states: ‘Education is central to our vision, but we must ensure our young people come out of the education system ready and proud to use the language in all contexts as set out in Welsh in Education Action plan 2017-2021.’

The Welsh Government’s Welsh Medium Education Strategy sets out the ambition for a country where Welsh-medium education and training are integral parts of the education infrastructure. It aims to ensure that our education system makes it possible for more learners of all ages to acquire a wider range of language skills in Welsh. This will enable them to use the language in their personal lives, socially and in the workplace.

The first strategic objective which it seeks to advance is:

‘To improve the planning of Welsh-medium provision in the pre-statutory and statutory phases of education, on the basis of proactive response to informed parental demand’

As part of this the Welsh Government will be seeking:

‘To expect improved planning of Welsh-medium education provision and services for learners with additional learning needs (ALN) as an integral part of education provision at national, regional and local levels.’
The Act provides that the needs of learners with ALN, including those in Welsh-medium education, are fully considered by governing bodies of schools and local authorities and are better planned for. As part of the wider ALN Transformation Programme, work is underway to ensure that the education workforce is up-skilled and equipped to deliver the new system. This includes consideration of Welsh language requirements, including in respect of workforce planning.

**Welsh language requirements when preparing IDPs**

The Act includes duties on local authorities and governing bodies of schools when preparing IDPs to consider whether a child or young person should receive ALP in Welsh, and specify in the IDP what ALP should be delivered in Welsh. There is a further duty to take all reasonable steps to secure that the specified ALP is provided to the child or young person in Welsh. The Act ensures that the duty to consider whether Welsh language provision is appropriate should be continuous and not confined to the stage where an IDP has been prepared.

**Broader Welsh language requirements**

The Act places a duty on local authorities to consider the sufficiency of Welsh language provision when reviewing the arrangements for ALP in their respective areas.

The Government’s ambition is to move from a position where taking “all reasonable steps” is sufficient to one where there is an absolute duty to provide ALP in Welsh across Wales. There are two elements of the Act aimed directly at facilitating this.

First, Welsh Ministers will be required to review the sufficiency of Welsh language provision every five years and publish reports following these reviews. The evidence from these reviews will be used to inform the second element, which is the power to make regulations to place an absolute duty to provide ALP in Welsh. These regulations can remove “all reasonable steps” from the various Welsh language ALP duties in the Act, making the duties absolute. The regulations will work in a comparable way to the Welsh Language Standards so that particular geographical challenges can be reflected. These elements of the Act will ensure both that the legal requirements it contains keep pace with the developments in the ability of services to deliver bilingually and also that they drive and encourage those developments.

Furthermore, under the School Standards and Organisation (Wales) Act 2013, all local authorities are now required to prepare a Welsh in Education Strategic Plan (WESP) for approval (or otherwise) by Welsh Ministers. These are 3-year Plans that local authorities are required to review each year. The current approved Plans cover the period 2014 to 2017. Local authorities are due to submit their next 3-year Plans in December 2016 for the period 2017-2020.

In drawing up their Plans, a local authority is required by the Welsh in Education Strategic Plans and Assessing Demand for Welsh-medium Education (Wales) Regulations 2013 to include, amongst other things:

‘a statement setting out the local authority’s strategy as to how it will improve Welsh-medium education for pupils who require additional learning support arising from any difficulty that pupil has in learning in relation to pupils of the same age who do not have any difficulty in learning’.
Following a review of the first WESPs, Welsh Ministers have issued revised guidance to local authorities for preparing their 2017-2020 WESPs. The guidance states:

Welsh-medium provision for learners with additional learning needs (ALN)
The focus here is on extending capacity to provide appropriate ALP through the medium of Welsh during all stages of education. In particular, local authorities are asked to note how they measure and meet demand and work with parents seeking Welsh-medium ALN provision, and how they work collaboratively with other local authorities to provide Welsh-medium ALN provision.

Local authorities were specifically asked to consider the following:
- in the light of your most recent annual audit of the additional needs of pupils in Welsh medium education, support for what type of need is the authority unable to provide through the medium of Welsh;
- how does the authority propose to bridge the gap between identified needs and the support available; and
- provide an estimate of how many pupils are unable to access Welsh-medium education because the authority cannot provide the appropriate support through the medium of Welsh.

The WESP requirements establish a statutory framework within which local authorities can improve both the planning and delivery of the ALP for pupils in Welsh-medium education. As such they are entirely complementary to the objectives of the Act.

<table>
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<tr>
<th>What are the impacts/ effects (both positive and/or adverse) on the Welsh language you have identified at the initial planning stage</th>
<th>i.e. Welsh speakers, Welsh language communities, Welsh medium education, Welsh learners, services available in Welsh?</th>
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**Impact on children of compulsory school age and under**
The implementation of the Act will have a positive impact on children with ALN in Welsh-medium education. All children of compulsory school age or below will have access to a unified legislative framework. The framework provides for an integrated, collaborative process of assessment, planning and monitoring, which facilitates early, timely and effective interventions and a fair and transparent system for resolving concerns and appeals. At the core of the Act and wider ALN Transformation Programme is a drive to place the views, wishes and feeling of the learner at the heart of the decision making and planning process – so the child or young person is at the centre of everything when it comes to their ALN and ALP.

The new duties on local authorities and governing bodies to consider whether a child or young person should receive ALP in Welsh, ensure that any Welsh medium ALP is recorded in the IDP and take all reasonable steps to secure the specified ALP is provided in Welsh, will support Welsh speaking children and their families improve their experience and ultimately the educational outcomes of the child. The Act will have no identifiable, negative impacts on Welsh speakers, Welsh language communities, Welsh medium education, Welsh learners, or services available in Welsh.
Broader impact
In addition, the duty on local authorities and governing bodies to consider the sufficiency of Welsh language ALP, when reviewing the arrangements for ALP in their respective areas, will help to improve Welsh medium provision. As will the duty on Welsh Ministers to take into account the capacity of the FE workforce to deliver ALP in Welsh and the availability of facilities for assessing through the medium of Welsh whether persons have ALN should also support improved Welsh language provision. These measures will help drive change and improve the landscape as regards Welsh-medium provision by ensuring it is a consideration at the fore for decision makers.

The requirement for Welsh Ministers to review the sufficiency of Welsh language provision every five years and power, through regulations, to move from a position of “all reasonable steps” to one of absolute duties to provide Welsh ALP will further drive change, encouraging and pressing progress towards a truly bilingual ALN system.

These duties have been considered in the context of the Welsh Language (Wales) Measure 2011 and the Welsh Language Standards (No 1) Regulations 2015 made thereunder in March 2015. The Welsh Language Commissioner has issued compliance notices on local authorities and on the Welsh Ministers pursuant to her powers under the regulations. The Welsh language standards relate to matters such as correspondence, meetings, displaying material in public and websites amongst other matters.

Who are the stakeholders? Are the needs of Welsh speakers and learners addressed? To what extent are Welsh language interest groups likely to respond positively to the proposals?

Stakeholders
The stakeholders include those supporting children with ALN of compulsory school age and under including: learners, parents, teachers, SENCos/ALNCos, educational psychologists and education providers.

The preparation of IDPs places children at the heart of the ALN system and this will benefit those who are educated in the medium of Welsh as well as those who are not. As outlined above, all children with ALN will have their Welsh language preferences and needs considered and, if ALP should be provided through the medium of Welsh, this will be noted in their IDP and all reasonable steps to secure that Welsh language provision will be taken. This “all reasonable steps” duty will move to an absolute duty over time.

Consultation background
The draft Bill, which was consulted on in 2015, was subject to a formal public consultation. A comprehensive programme of stakeholder engagement took place throughout the consultation period, including with those who represent the interests of the Welsh medium sector, and full consideration was taken of their views. Extensive consideration of the development of the Bill and wider reforms has been undertaken in the light of the responses received.

Proposed plans for implementation of the new system were subject to public consultation from 27 February to 9 June 2017. Responses to the consultation have
been used to inform the guidance on the implementation of, and transition to, the new system, including our approach to which cohorts of children will move to the ALN system in which of the three implementation years.

It is hoped that Welsh speaking learners and their families, as well as Welsh language interest groups, will respond positively to the provisions within the Act that aim to improve Welsh language provision for learners with ALN. This has been the case to date.

Work has been ongoing through the ALN Transformation Programme supporting delivery partners for the implementation of the new system prescribed in the Act. Specifically, the ALN Strategic Implementation Group (ALN SIG), a group consisting of key delivery partners, was established to advise the Welsh Government on how the new system should be implemented and how delivery partners could best prepare for and be supported ahead of, and throughout, the implementation period. The consideration of Welsh language matters was integral to the work of ALN SIG which was considered a priority by members of the Group.

Following on from the work of the ALN SIG, expert groups have been established to advise the Welsh Government on implementing specific aspects of the Act.

In addition, regional transformation leads have been appointed to support organisations to implement the Act. Working with organisations with responsibilities under the Act, the transformation leads will draft an implementation plan for their region. The plan will set out how organisations will plan for, and implement, the Welsh language requirements set out in the Act.

The interests of Welsh speakers, and in particular those with ALN who are learning through the medium of Welsh, will be addressed further through guidance set out in the ALN Code. The second iteration of the draft ALN Code was made available in February 2017 to support the Assembly’s scrutiny of the Bill. This iteration of the Code was developed in collaboration with key delivery partners and stakeholders via a Code Content Development Group. Further consideration of Welsh language matters took place during its development.

Development of the ALN Code is an iterative process and a formal public consultation will take place. The Act requires Welsh Ministers to consult with appropriate persons, as specified in the Act, before issuing or revising a Code. The Welsh Language Commissioner is specified on the list of those persons who must be consulted with.

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<th>Where an assessment was not completed, or no impacts were identified, please provide a full account for record keeping purposes?</th>
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<td>(This could be used in the Welsh Language Tribunal in future)</td>
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<tr>
<td>An impact assessment has been fully completed.</td>
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| What actions/ further work has been identified at the initial planning stage? |
| e.g. data requirements, need for peer review, external engagement with Welsh speaking groups, identify stakeholders or consultation list, need to contact Welsh Language Unit for advice? |

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The publication of the draft Bill in July 2015 and the draft Code in September 2015 provided stakeholders with an opportunity to comment on the likely impact on our proposals on the Welsh language. Specific engagement with those with an interest in improving Welsh language provision, including the Welsh Language Commissioner’s Office, took place during the consultation period and has continued since.

The comments received from stakeholders have been used to inform the refinement of the Act and the wider Transformation Programme. Officials from the Support for Learners Division and the Welsh Language Division have worked closely on developing the Welsh language provisions within the Act, taking account of the existing legislative context (including consideration of alignment with the Welsh Language Standards (no.1) Regulations 2015) and existing policies in relation to Welsh language provision.

The Bill received Royal Assent in January 2018. The draft ALN Code was made available to the Assembly in February 2017 to support the scrutiny process.

The ALN Code will be subject to a consultation before being laid in the National Assembly for Wales.

**STAGE 2: IDENTIFYING AND ASSESSING IMPACTS**

**Impact Assessment Summary**
Summarise the detailed impact assessment carried out together with the scores assigned.

**Positive effects/impacts:**

The implementation of the Act will have a positive impact on learners with ALN as it will ensure more timely and effective access to interventions that are planned with the learner at the centre.

The duties set out in the Act to support Welsh speaking children and young people with ALN will help to improve the experience for those children and young people and drive improvements in the availability of ALP through the medium of Welsh.

In relation to the implementation of IDPs for children of compulsory school age and below, the Act includes duties on local authorities and governing bodies of schools when preparing IDPs to consider whether a child or young person should receive ALP in Welsh, and specify in the IDP what ALP should be delivered in Welsh. There is a further duty to take all reasonable steps to secure the specified ALP is provided to the child or young person in Welsh. The Act ensures that the duty to consider whether Welsh language provision is appropriate should be continuous and not confined to the stage where an IDP has been prepared.

**Adverse effects/impacts:**

The implementation of the Act will have no adverse impact on Welsh speaking children and young people with ALN.
Opportunities to promote the Welsh language e.g. status, use of Welsh language services, use of Welsh in everyday life, Welsh at work increased?

As noted above, the implementing IDPs for children of compulsory school age and below will place duties on local authorities and governing bodies to continually consider whether a child or young person should receive ALP in Welsh, ensure that any Welsh medium ALP is recorded in the IDP and take all reasonable steps to secure the specified ALP is provided in Welsh will help to promote the use of Welsh language services and the use of Welsh in everyday life.

Evidence/ data used including demographic profile when considering the effects/ impacts:

Evidence used:

Statistics on the number of learners with ALN studying through the medium of Welsh were used to determine the potential impact.

The proportion of learners with SEN learning through the medium of Welsh is slightly lower than the proportion of learners with SEN studying through the medium of English.

What is the overall anticipated likely impact on the Welsh language if this policy is taken forward based on the impact assessment/ risk assessment?

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<tr>
<th>Decision following IA</th>
<th>1. No major change</th>
<th>2. Adjust the policy to improve impacts</th>
<th>3. Continue the policy with mitigation measures</th>
<th>4. Stop and remove the policy</th>
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<td>Positive:</td>
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<td>Adverse:</td>
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If answered 2, 3, or 4 above – then answer the following:

How will you address these impacts in order to improve the outcomes for the Welsh language? Details of mitigation measures/ action points/ alternative options to reduce adverse impacts and increase positive outcomes:

If engaging or consulting, what are your plans? What questions do you wish to ask stakeholders about the Welsh Language Impact Assessment and Welsh language related issues?

An impact assessment was published alongside a draft version of the Bill in July 2015. A revised impact assessment was published to coincide with introduction of the Bill into the National Assembly for Wales. This impact assessment was revised in light of Stage 2 and Stage 3 amendments and further policy developments. The final version of the impact assessment can be accessed from the Welsh Government website:


The Act was passed by the National Assembly for Wales in December 2017 and
received Royal Assent in January 2018. The ALN Code will be subject to consultation before being laid in the National Assembly for Wales.

Engagement events with stakeholders took place during 2017 to brief stakeholders on the proposals contained within the Bill and Code and to seek views on options on implementing the new system.

In addition, proposed plans for implementation of the new system set up by the Act were subject to formal public consultation from 27 February to 9 June 2017.

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<th>STAGE 3: POST CONSULTATION AND PREPARING FOR PUBLICATION, MONITORING AND EVALUATION</th>
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<tr>
<td>Following consultation, what changes have you made to address any Welsh language issues that were raised?</td>
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All of the responses to previous consultations were taken into account in the development of the Bill. Any feedback on the Bill, draft Code and accompanying documents have been be considered and used to inform policy development.

The Act now contains Welsh language provisions, specifically requiring governing bodies of schools and FEIs, and local authorities, to decide whether ALP should be provided to the child or young person in Welsh, and if it decides that it should, specify in the plan that it should be provided in Welsh. All reasonable steps to secure that the ALP is provided in welsh must be taken.

Where NHS bodies informs a body maintaining an IDP that a relevant treatment or service should be provided to a child or young person in welsh, the body that maintains the plan must specify that within the plan.

Proposed plans for implementation of the new system were subject to public consultation from 27 February to 9 June 2017. Responses to the consultation have been used to inform the guidance on the implementation of, and transition to, the new system, including our approach to which cohorts of children will move to the ALN system in which of the three implementation years.

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<th>How will you monitor the ongoing effects during the implementation of the policy?</th>
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<tr>
<td>The impact on the Welsh language has been kept under review throughout the Assembly scrutiny process.</td>
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As policies around our reform agenda are developed there will be further consideration of the impact on the Welsh language and addressing the needs of Welsh speaking learners.

The Act places a requirement on Welsh Ministers to review the sufficiency of Welsh language provision every five years and publish reports following these reviews. The evidence from these reviews will be used to inform the second element, which is the power to make regulations to place an absolute duty to provide ALP in Welsh. These
regulations can remove “all reasonable steps” from the various Welsh language ALP duties in the Act, making the duties absolute. The regulations will work in a comparable way to the Welsh Language Standards so that particular geographical challenges can be reflected. These elements of the Act will ensure both that the legal requirements it contains keep pace with the developments in the ability of services to deliver bilingually and also that they drive and encourage those developments.

As part of the post implementation review an evaluation of the impact of the Act will be undertaken to monitor the extent to which the legislative and wider policy changes are being embedded and making an impact. This includes the impact on support for children and young people with ALN through the medium of Welsh. A baseline study, against which future impact can be assessed, is currently being undertaken.

**Please outline how you will continue to capture effects/impacts in future monitoring and evaluation?**

There will be continued consideration on the impact of the Welsh language now the Act has received Royal Assent and throughout the wider ALN Transformation Programme as it is developed and implemented.

**Any other comments – ongoing results of evaluations, emerging impacts**

### Declaration

**Policy lead: Karen Bathgate**

The policy does have an impact upon the Welsh language. Where there were identified adverse impacts or missed opportunities, the appropriate amendments and actions have been put in place.

**Department:**

Additional Learning Needs Legislation Branch, Education and Public Services Group

**Date(s):**

Last reviewed: June 2018

### SRO ENDORSEMENT and REVIEW

I am satisfied that the WLIA is an accurate reflection of the programme/project at this stage of development. By signing, I am able to confirm that the Welsh Language Standards have been given the appropriate attention. I will re-assess the programme/project at key stages throughout the life of the programme/project, including policy reviews.

**Signed Senior Responsible Owner**

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**Signed**

Ruth Conway

**Review Date**

22 June 2018