

WELSH GOVERNMENT INTEGRATED IMPACT ASSESSMENT

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| Title of proposal: | Draft Additional Learning Needs Co-ordinator Regulations (Wales) 2020 |
| Official(s) completing the Integrated Impact Assessment (name(s) and name of team): | Additional Learning Needs Transformation Team |
| Department: | Education and Public Services |
| Head of Division/SRO (name): | Chris Jones, Deputy Director, Support for Learners |
| Cabinet Secretary/Minister responsible: | Minister for Education |
| Start Date: | 3 November 2020 |

SECTION 1. WHAT ACTION IS THE WELSH GOVERNMENT CONSIDERING AND WHY?

Background

This impact assessment relates to the Draft Additional Learning Needs Co-ordinator Regulations 2020 ('the draft ALNCo regulations') which are laid before the Senedd Cymru in order to come into force from 4 January 2021.

The Additional Learning Needs and Education Tribunal (Wales) Act 2018 ('the 2018 Act') makes provision for a new statutory framework for supporting children and young people with additional learning needs ('ALN'). It will replace existing legislation surrounding special education needs ('SEN') and the assessment of children and young people with learning difficulties and/or disabilities ('LDD') in post-16 education and training.

Amongst other things, the 2018 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 2018 Act goes on to state that a person designated under this section is to be known as an 'Additional Learning Needs Co-ordinator' ('ALNCo').

The 2018 Act confers powers on Welsh Ministers to make regulations that require governing bodies to ensure that ALNCoS have prescribed qualifications or prescribed experience (or both). It also confers powers on Welsh Ministers to prescribe the functions of ALNCoS in relation to provision for pupils or students (as the case may be) with ALN.

Development of policy

The draft ALNCo regulations have been developed in light of the five ways of working in the Well-being of Future Generations (Wales) Act 2015.

They are intended to provide **long term** underpinning to a new statutory system for supporting children and young people with ALN by defining the qualification and experience required to be an ALNCo and providing the appropriate support functions required to undertake this role effectively.

The requirements of the draft ALNCo regulations are focused on **preventing** children and young people from missing out on educational opportunities and the chance to fulfil their potential, by ensuring that they receive the provision called for by their ALN in a timely and efficient way, enabling them to participate in and benefit from learning.

The draft ALNCo regulations and the 2018 Act that they support, **integrate** with the key theme of 'Ambitious and Learning' within *Prosperity for All* and with the well-being objectives within that key theme and others. They have been developed in **collaboration** with our partners in the delivery of the proposed requirements for the ALNCo role, including an Expert Group made up of representatives from external stakeholder organisations. A Transformation Programme has been developed to ensure that our partners have the capacity and understanding necessary to

implement all the requirements of the new system, including the ALNCo Regulations. This will include a programme of workforce development for ALNCoS.

Given that they are the intended beneficiaries of the new system of support, we have **involved** children, young people and their families in the development of the ALN system by undertaking targeted engagement events. The draft ALNCo regulations were consulted upon, alongside the draft ALN Code (which includes a designated chapter on the role of the ALNCo) during 2019. This included four Welsh Government organised regional events across Wales and engagement workshops for children, young people and parents. One of the workshop themes in the regional events focussed on the ALNCo role.

Impact

The requirements proposed in the draft ALNCo regulations are intended to ensure children and young people with ALN have their needs identified early and receive appropriate ALP through effective co-ordination of such provision. The draft ALNCo regulations intend to support one of the main objectives of the 2018 Act: to create a system that leads to early, timely and effective interventions for children and young people with ALN.

The draft ALNCo regulations have been developed in the context of the operation of the existing non-statutory role of the special educational needs co-ordinator (SENCo). This includes understanding the benefits and challenges of how that role is currently applied, as expressed by current SENCos and those working with them.

The proposals in the draft ALNCo regulations are intended to ensure that the new ALNCo role will be undertaken by qualified individuals (i.e. qualified teachers or experienced SENCos). It also aims to ensure that ALNCoS and those working with them will have a clear understanding of the relevance and importance of the role in the context of the new ALN system. The intention is to raise standards among the education workforce providing support to learners with ALN and to help to ensure a consistent approach to the co-ordination of ALP.

Financial implications

The financial implications of the new system introduced by the 2018 Act and subsequent subordinate legislation were set out in the Regulatory Impact Assessment that accompanied the 2018 Act¹. A Regulatory Impact Assessment for the draft ALNCo regulations has been published alongside the draft ALNCo regulations for approval by the Senedd Cymru.

Mechanism for delivery

The ALN Code will provide the necessary comprehensive guide to public bodies on their statutory functions in relation to ALN, including those set out in the draft ALNCo Regulations. A draft of the ALN Code was published for consultation on 18 December 2018 to 23 March 2019. Chapter 24 of

¹ <https://beta.gov.wales/sites/default/files/publications/2018-04/additional-learning-needs-and-education-tribunal-wales-act-2018-explanatory-memorandum.pdf>

the draft ALN Code describes the proposed regulatory requirements in relation to ALNCoS. The draft ALN Code sets out that it may be appropriate in certain circumstances for some settings to share an ALNCo. This could apply, for example, in circumstances where there is a maintained nursery attached to a mainstream school; where there are a number of small settings in a local area; or where there is a federation of schools under the responsibility of a single governing body. It is not the expectation for large settings, such as FEIs, to share an ALNCo. The final ALN Code is scheduled to be published in 2021.

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SECTION 7. CONCLUSION

7.1 How have people most likely to be affected by the proposal been involved in developing it?

In developing these proposals, the Welsh Government has consulted with an expert group comprised of external stakeholders specifically created to discuss the role of the ALNCo.. The group has informed the policy by setting out the current challenges for the non-statutory role of SENCos who operate under the current SEN system, and advised on improvements that could be incorporated to develop the ALNCo role.

More generally, the new ALN system has been the subject of extensive consultation with numerous stakeholders including children; young people and their families; SENCos and other practitioners from schools; FEIs, and local authorities; as well as representatives from Estyn; the Children's Commissioner; the Welsh Language Commissioner; the third sector and others. Previous iterations of the draft ALN Code have been published as part of the development of the 2018 Act and have been the subject of public scrutiny and comment. This was later followed by the formal consultation on the draft ALN Code and the draft ALNCo Regulations, as referenced above.

7.2 What are the most significant impacts, positive and negative

The most significant impact the proposed regulations will have is to contribute to the raising of standards in the co-ordination or ALP for children and young people with ALN. They will do so by providing assurance that the new ALNCo role will be undertaken by qualified individuals (i.e. qualified teachers or experienced SENCos) who are required to undertake the co-ordination of ALP in a consistent way, irrespective of education setting. This should result in an improvement in the way in which ALP is planned and delivered for children and young people.

These proposals and the improvements they make to the support given to children with ALN, relate directly to the key theme of 'Ambitious and Learning' within *Prosperity for All* and with the well-being objectives within that key theme and others. They also relate to a number of the well-being goals set out in the Well-being of Future Generations Act. In particular in the way that they contribute to a more prosperous Wales (by enabling all learners with ALN to reach their educational potential and thus be better placed to contribute economically); and an equal Wales (by ensuring that children and young people are able to benefit from education on a more equitable basis).

There are no perceived negative impacts arising from these regulations, they are proposed to improve the access to and provision for some of the most vulnerable and disadvantaged children and young people in our education system in Wales.

7.3 In light of the impacts identified, how will the proposal:

- maximise contribution to our well-being objectives and the seven well-being goals; and/or,
- avoid, reduce or mitigate any negative impacts?

As noted above, the regulations themselves will contribute towards the Welsh Government's well-being objectives and seven well-being goals, particularly, an ambitious and learning; prosperous; and more equal Wales.

Transition to, and implementation of, the ALN system, including the requirements included in the proposed ALNCO regulations, will require considerable preparation on the part of schools and FEIs in particular. To enable this preparation to take place; to maximise the positive impacts of the proposed regulatory requirements; and mitigate any harmful impacts that might have arise; the Welsh Government has established a comprehensive Transformation Programme including a £20million package of investment. This includes training and development for ALNCOs as part of the ALN National Professional Learning Programme. The programme, which is currently in development, will support practitioners to deliver change to the way we will support learners with ALN. Welsh Government has identified £3.909m for the delivery of this programme.

7.4 How will the impact of the proposal be monitored and evaluated as it progresses and when it concludes?

The Welsh Government has appointed five ALN Transformation Leads whose role includes monitoring and reviewing implementation arrangements during the transition period, including implementation of the ALNCO role.

A post-implementation review will form part of the Welsh Government's overarching monitoring and evaluation model, which itself will consider implementation in stages, specifically:

- readiness – to assess the extent to which delivery agents are prepared for the changes;
- compliance – to monitor how effectively organisations are adhering to the new legislative requirements once they take effect; and
- impact – to evaluate the extent to which the legislative and wider policy changes are being embedded and making an impact on outcomes for learners.

This compliance, impact monitoring and evaluation approach will be further supported through ongoing inspection and review arrangements led by Estyn.

SECTION 8. DECLARATION

Declaration

I am satisfied that the impact of the proposed action has been adequately assessed and recorded.

Name of Deputy Director: Chris Jones
Department: Education and Public Services
Date: 3 November 2020