

Agenda – Children, Young People and Education Committee

Meeting Venue:

Committee Room 1 – Senedd

Meeting date: Thursday, 2 March
2017

Meeting time: 09.30

For further information contact:

Jon Antoniazzi

Committee Clerk

0300 200 6565

SeneddCYPE@assembly.wales

Informal meeting 09.15 – 09.30

**1 Introductions, apologies, substitutions and declarations of
interest**

(09.30)

2 Consideration of the Chief Medical Officer's Annual Report

(09.30 – 10.30)

(Pages 1 – 16)

Dr Frank Atherton, Chief Medical Officer for Wales

Professor Chris Jones, Deputy Chief Medical Officer for Wales

Attached Documents:

Research Brief

CYPE(5)–07–17 – Paper 1: Link to the Chief Medical Officer Annual Report

Break 10.30 – 10.40



Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales

3 Additional Learning Needs and Education Tribunal (Wales) Bill – evidence session 3

(10.40 – 11.40)

(Pages 17 – 59)

Dr Chris Llewelyn, Deputy Chief Executive, Director of Lifelong Learning, Leisure and Information Directorate – WLGA

Catherine Davies, Policy Officer for Children – WLGA

Gareth Morgans, Strategic Education Director from Carmarthenshire County Council – ADEW

Attached Documents:

Research Brief

CYPE(5)–07–17 – Paper 2: Welsh Local Government Association / Association of Directors for Education in Wales

4 Additional Learning Needs and Education Tribunal (Wales) Bill – evidence session 4

(11.40 – 12.40)

Sally Holland, Children's Commissioner for Wales

Hywel Dafydd, Policy and Public Affairs Manager

Paper 3 from the Children's Commissioner for Wales to follow.

Lunch 12.40 – 13.40

5 Additional Learning Needs and Education Tribunal (Wales) Bill – evidence session 5

(13.45 – 14.45)

(Pages 60 – 68)

Meri Huws, Welsh Language Commissioner
Huw Gapper, Senior Officer Policy and Research

Attached Documents:

CYPE(5)–07–17 – Paper 4: Welsh Language Commissioner

6 Additional Learning Needs and Education Tribunal (Wales) Bill – evidence session 6

(14.45 – 15.45)

(Pages 69 – 107)

Rhiannon Walker, SENTW President

Attached Documents:

CYPE(5)–07–17 – Paper 5: The Special Educational Needs Tribunal for Wales

7 Paper(s) to note

Letter from NUS Wales to the Confederation of Passenger Transport Wales

(Pages 108 – 109)

Attached Documents:

CYPE(5)–07–17 – Papur | Paper 6 – i'w nodi | to note

Letter from the Chair to the Chair of the Constitutional and Legislative Affairs Committee – Consultation Response

(Pages 110 – 111)

Attached Documents:

CYPE(5)–07–17 – Papur | Paper 7 – i'w nodi | to note

Letter from Cabinet Secretary for Health, Well-Being & Sport and the Minister for Social Services & Public Health – Additional information following meeting on 18 January

(Pages 112 – 116)

Attached Documents:

CYPE(5)-07-17 – Papur | Paper 8 – i'w nodi | to note

Letter from the Cabinet Secretary for Education – Donaldson Review

(Pages 117 – 126)

Attached Documents:

CYPE(5)-07-17 – Papur | Paper 9 – i'w nodi | to note

Letter from Chair to the Cabinet Secretary for Education following the session on the Estyn Annual Report

(Pages 127 – 128)

Attached Documents:

CYPE(5)-07-17 – Papur | Paper 10 – i'w nodi | to note

Correspondence on Welsh in Education Strategic Plans for the period 2017–20

(Pages 129 – 156)

Attached Documents:

CYPE(5)-07-17 – Papur | Paper 11 – i'w nodi | to note

8 Motion under Standing Order 17.42(ix) to resolve to exclude the public for Item 1 at the meeting on 8 March

Document is Restricted

CYPE(5)–07–17 – Paper 1: Chief Medical Officer Annual Report

[Chief Medical Officer for Wales Annual Report 2015–16](#)

Document is Restricted

Additional Learning Needs and Education Tribunal (Wales) Bill

February 2017



WLGA • CLILC

INTRODUCTION

1. The Welsh Local Government Association (WLGA) represents the 22 local authorities in Wales. The three fire and rescue authorities and the three national park authorities are associate members.
2. It seeks to provide representation to local authorities within an emerging policy framework that satisfies the key priorities of our members and delivers a broad range of services that add value to Welsh Local Government and the communities they serve.
3. The WLGA is guided by a number of key principles which underpin the work of the Association and have helped to shape this response to the *Additional Learning Needs and Education Tribunal (Wales) Bill* introduced to the National Assembly for Wales on 12th December 2016. The WLGA believes that decisions about services should be taken as close point of delivery as possible and that the people and communities using those services should be as engaged as possible in their delivery. It is also our belief that local services should be provided within a democratic framework of local accountability.
4. The WLGA recognises that it is the role of the Welsh Government to set the strategic framework and policy direction for services at a national level and that it is the role of local government to deliver those services taking account of the local circumstances and pressures. It is also recognised that services must be provided within a proportionate but effective regulatory framework to ensure that public resources are used appropriately and that services are delivered effectively and efficiently.
5. The WLGA has consistently argued for an un-hypothecated revenue support grant (RSG) as the best way of funding local government and any new responsibilities or additional burdens placed on local government should be fully costed and appropriately funded.

6. The WLGA recognises that some policy initiatives or strategies need to have funding attached to them for specific periods of time to make sure that they become embedded and are delivered as intended. For this reason, the WLGA, by exception, supports the use of specific grants on the understanding that funding will eventually return to the RSG.
7. The WLGA is pleased to be able to respond to the Committee's consultation on the general principles of the *Additional Learning Needs and Education Tribunal (Wales) Bill*. This is a joint consultation response on behalf of the WLGA and the Association of Directors of Education in Wales (ADEW), informed by the views of the ADEW Inclusion Group, the professional network for the operational delivery officers for additional learning needs (ALN) in local authorities. Individual local authorities may submit their own responses reflecting their own views on the Bill.
8. The WLGA supports in principle the overarching policy objectives and core aims of the Bill. The Bill has the potential to help improve education outcomes and ultimately life opportunities for children and young people with additional learning needs in Wales. Legislation is necessary to achieve the policy objectives, recognising that the Bill is but one part of Welsh Government's wider ALN Transformation Programme.
9. The Association welcomes the continued involvement of local authorities and the third sector in developing the legislation and guidance (the new statutory ALN Code of Practice); also in considering the detail of arrangements for implementation of the new system through Welsh Government's Strategic Implementation Group and its expert sub-groups.
10. The Regulatory Impact Assessment (RIA) accompanying the Bill proposes transition to the new ALN system over a four-year period. Welsh Government will be consulting further on the detail of transition, in particular how and when children and young people move across to the new system. Adequate funding, training and time will be needed for all concerned to prepare and adapt.

11. The detail of how the new system will operate will be set out in the new statutory ALN Code of Practice. There will also be various Regulations, yet to be drafted. Until these documents become available, how some of the Bill's provisions will work in practice – and the full implications for local authorities and schools - remain unclear. At the time of writing this evidence these additional documents were not available.
12. The WLGA and local government agree that the Bill and wider Transformation Programme have the potential to develop and improve the way the ALN system works and make it more equitable for all learners. The focus on inclusion as a whole school approach is welcomed. However, the introduction of statutory Individual Development Plans (IDPs) for all learners with ALN will inevitably increase expectations. This will put additional pressure on local authority education (and social) services at a time of considerable change in other areas (notably curriculum reform) and when schools' and local authority budgets are already under huge pressure. Authorities and schools will need time to adapt and staff will need to be adequately trained, with appropriate funding to support the training needed.
13. The WLGA considers that the underlying assumption in the RIA that statutory IDPs for all children and young people with ALN will remove all problems associated with the adversarial nature of the current system - and lead to cost savings for local authorities in future due to the consequent reduction in disagreements/appeals - is overestimated. There is potential the Bill will create tensions which do not currently exist, for example between schools or Further Education Institutions (FEIs) and local authorities over where responsibility for a learner's IDP lies or parents/young people wanting a local authority to take over an IDP from a school or FEI; an issue that Welsh Government have acknowledged.
14. There is the potential that local authorities will have to maintain more IDPs than the RIA suggests. There may especially be pressure for authorities take on IDPs of children and young people currently on the margins of School Action Plus/statemented. This has consequences for workload and funding as the majority

of SEN funding is delegated to schools. Similarly, it is unknown how many of the 8905 learners in FE with learning difficulties and/or disabilities (LDD) have ALN that may need to be met by local authorities rather than FEIs. Authorities have no responsibility for funding or governance of FE and it is unclear how they will meet the costs of IDPs taken on from FEIs.

15. The increased age range of 0-25 has potential impacts in terms of the advice and information local authorities will be required to provide; also on disagreement avoidance/resolution services and appeals, especially in relation to local authority reconsideration of decisions by governing bodies about school-based IDPs (e.g. about their content or a decision to cease an IDP). Local government considers that some of these risks, and the assessment of additional workload/costs on local authorities (and others, especially the Education Tribunal), need closer scrutiny.

Funding

16. The WLGA welcomes the grant funding Welsh Government has already given to local authorities to help embed Person Centred Practice (PCP), as well as the funding available in 2016-17 and 2017-18 through the ALN Innovation Fund to help local authorities prepare for the new legislative framework.
17. The WLGA and local government recognise the work that Welsh Government has put into trying to identify the costs associated with implementation of the Bill. It is not an easy area as the way local authority/school spend on SEN is recorded can make it difficult to identify and break down into its component parts. The Association does however have some concerns about the assumptions underpinning some of the estimated costs/savings to local authorities as set out in the RIA.
18. The RIA estimates total transition costs for the Bill at £11,954,490 across nine public sector organisations over the four years 2017-18 to 2020-21 (see Annex 1 for details)¹, of which £2,398,440 falls to Welsh Government and the remaining

¹ A WLGA summary of the costs in Table 70 of the RIA

£9,556,050 to eight other bodies, which include local authority education and social services, schools and Pupil Referral Units. The majority of these estimated transition costs fall on schools for the ALNCo Masters qualification (£9,019,020).

19. Welsh Government is supporting implementation of the Bill through transition grants totalling £6,956,000, meaning there are transition costs of £2,600,050 that will not be covered by Welsh Government grant funding. Total implementation grant to local authorities over the four-year period from 2017-18 is £5,236,000. The Minister for Lifelong Learning and the Welsh Language has however recently announced funding of £20m for ALN Transformation over the lifetime of this Assembly. We understand that this funding will meet the identified gap of £2.6m in transition costs but it is not yet known how the additional money will be shared between the various public bodies.
20. The proposed distribution of this implementation grant to local authorities is not yet known, nor the details of what authorities will be able/expected to spend it on. The WLGA asks that authorities be given maximum flexibility in use of the funding and its administration is not unduly bureaucratic. The Association looks forward to working with Welsh Government to help develop further the grant distribution criteria.
21. The RIA estimates that the Bill will not result in any additional costs to local authority social services, mainstream schools, special schools or PRUs. There are expected to be cost savings to public administration overall, the majority of which are estimated savings of £11,839,600 to local authorities as a result of there no longer being any disagreements or appeals have not having a statement in future.
22. It is proposed Welsh Government funding of £12,440,703 will transfer to local government in the Revenue Support Grant (RSG) for the transfer of current Welsh Minister's duties to local authorities in relation to securing specialist placements for post-16 learners.

Post-16 specialist placements

23. Local government continues to have concerns about the transfer of the current duty on Welsh Ministers to local authorities in relation to securing specialist post-16 education for a child or young person where the IDP indicates this is necessary to meet their needs. As noted in the WLGA's response to Welsh Government's consultation on the draft Bill, the costs associated with supporting such pupils can be substantial. The RIA indicates that Welsh Government funding for such placements (including staff salary costs) is £12,440,703 at 2016-17 prices, based on 298 learners in Independent Specialist Colleges (ISCs). The RIA notes (footnote 89, p160) that there is an 'upward trend' in Welsh Government funded ISC places; also that it is a needs-based system and costs can go up or down depending on the number of learners (footnote 164, p223).
24. The WLGA recognises the potential advantages to learners in this transfer of responsibilities and welcomes the proposed transfer of funding but there is a risk that the current quantum of funding will be less able to meet the needs of learners once spread across 22 local authorities, given that by and large the distribution formula works on population distribution rather than the needs of learners. The Distribution Sub-Group, made up of finance representative from Welsh Government and local government, is due to consider this further. An analysis of the numbers and costs of learners currently in the system in this category across local authorities demonstrates that this is not constant, there is a significant variation over 5 years. If a funding allocation was calculated for local authorities using the average cost for support of learners in this category over a five-year period, for example, then many authorities would not meet their current costs for their learners.
25. In addition, part of the rationale for moving post-16 assessment is to link the post and pre-16 assessments within the local authority. There is a proposal in the Local Government White Paper that aspects of ALN could be considered as part of a regional education structure. This would mean either moving this service into a regional structure which is untested in carrying out assessments or that post-16

remains in local authorities with aspects of pre-16 sitting at a regional level, against one of the main reasons for moving post-16 into local authorities. Whichever route is taken this is not taken into account in the ALN Bill.

26. The WLGA notes that Welsh Government plan to continue funding Careers Wales for two years as part of the transition arrangements. Local government argues that all Careers Wales funding associated with post-16 specialist placements or assessments for learners with complex needs should be transferred into the RSG in due course. The Association also asks whether the Welsh Government has considered the need for Careers Wales staff to TUPE to local authorities, and the implications and costs associated with that.

Areas where more clarity is needed on the operation of the new system and/or costs needs further scrutiny

27. Local government continues to have concerns about the practical operation of the new ALN system at both ends of the extended 0-25 age range, ie in the early years and also in the 16-25 age range.

Early Years

28. Local authorities are responsible under the Bill for IDPs in the early years but most contact for children in the 0-2 age range will be with health services (either directly or through Flying Start/Communities First where relevant). Under section 57 of Bill (functions of health bodies to notify parents etc), health bodies may bring to the attention of local authorities any child under compulsory school age they believe may have ALN if it is 'in the best interests of the child'. Local authorities' duty under section 11 (Duty to decide) will then take effect. There is a risk some children may slip through the net. In this age group how will local authorities know if there is a 'child for which it is responsible'? How does the local authority engage with the parents in developing and reviewing the IDP if most of their contact is with health

services? There are issues regarding health provision to meet identified ALN/ALP in the early years that need more clarity and detail in the ALN Code.

Post-16 learners (non-specialist placements)

29. Local government continues to have concerns about the practical operation of the new system for post-16 learners. The respective responsibilities and accountabilities of local authorities and FEIs in relation to post-16 learners with ALN needs more clarity. Authorities have no responsibility for the funding or governance of FEIs, which are incorporated bodies.
30. The RIA anticipates that local authorities will only be responsible for an estimated 50% of the 120 learners with complex needs who currently have a Learning and Skills Plans (LSP) developed by Careers Wales. The additional estimated cost to local authorities of reviewing these 60 IDPs is £18,000 pa – the cost per review being based on an average cost of £300 at 2016-17 prices (para 8.191, p175).
31. The RIA suggests the majority of learners with LDD in FE (8905) will have an IDP maintained by the FEI. However, the RIA also notes (footnote 135, p208) that the severity of these learners' LDD is unknown, the percentage that might need a local authority maintained IDP is also unknown.
32. The circumstances under which a local authority may become involved in an IDP for a young person entering or already in FE depend on an assessment of the young person's ALN and the extent to which it would be 'reasonable' for the FEI to provide the ALP needed to support them. If a local authority already has responsibility for the IDP and it would not be reasonable for the FEI to deliver the required ALP, the authority will continue to maintain it.
33. If a local authority accepts a transfer of responsibility for an IDP from an FEI, there is no equivalent provision in the Bill for a local authority to direct an FEI to prepare or maintain an IDP as there is in respect of schools (section 12(2)(i) and (ii), and 12(4) in the Bill (local authority powers to direct a school governing body to maintain an

IDP prepared by the local authority or to prepare and maintain a plan). So if a local authority accepts transfer of an IDP from an FEI, the authority cannot require the FEI to take it back even if the young person's needs change and it would be appropriate.

34. The above suggests a possibility that local authorities could be responsible for maintaining IDPs for more post-16 learners than the RIA suggests. Should that happen, it is not clear how local authorities will meet those additional costs given that authorities receive no funding for post-16 learners and there is no provision for funding to transfer to them from FEIs.
35. It is also not clear in the Bill how local authorities' responsibilities will work in relation to 19-25 age group, in particular whether authorities will be expected to fund learners in FE through to age 25. This is an area for concern as it could have cost implications.
36. Decisions taken by local authorities on post-16 learners - both specialist placements and other learners with LDD in FE - will be appealable to the Education Tribunal. The RIA suggests the risk is low.

Disagreement/avoidance resolution and appeals to the Education Tribunal

37. The RIA says there will be no additional responsibilities or costs to local authority education services in relation to IDPs for children in maintained nursery or school settings. The expectation is local authorities will continue to be responsible for IDPs for children and young people currently in receipt of a statement (i.e 13,318), with the majority of IDPs for the other 94,363 children and young people of compulsory schools age with ALN being maintained by schools or, at post-16, by FEIs.
38. However, under the Bill, local authorities will be required to become involved in the assessment or review of an IDP where the learners' needs cannot reasonably be met by a maintained nursery, school or FEI or where there is a need to reconsider a decision taken by a maintained nursery, school or FEI on a learner's ALN or ALP.

39. The Bill opens up local authorities' statutory involvement in future to many more IDPs than those for which they may be directly responsible (i.e. those they prepare and maintain themselves). By virtue of having a role in reconsidering decisions taken by nurseries, schools or FEIs, authorities' responsibilities are effectively extended to over 100,000 IDPs, i.e. 94,363 children and young people of compulsory school age with ALN plus a further 8,905 with LDD in FE. Local authorities, for example, may be asked to revise a school or FEI-based IDP, to take over responsibility for an IDP or to reconsider a decision by a school governing body to cease an IDP. The decisions authorities take in these circumstances can be appealed to the Education Tribunal.
40. The RIA estimates local authority education services could make savings of £11,839,600 over 4 years as a result of the Bill removing the distinction between statutory and non-statutory plans (see Annex 2)². This is on the basis that there will be no costs to authorities in future relating to disagreements or appeals about not having a statement and the expectation that the use of PCP and greater focus on resolving disputes at local level is unlikely to give rise to any more disagreements/appeals than now. The RIA suggests that the risk of additional disagreements/appeals in the extended age ranges 0-2 and 16-25 is low.
41. The WLGA and local government consider the risk is underestimated. The RIA states that the rate at which children and young people disagreed with the content of a statement in 2015-16 was 5.4%, i.e. an average of 721 disagreements funded by local authority dispute resolution services in a population of 13,318 statemented children and young people (para 8.325, p208). It does not seem unrealistic to expect a similar rate of disagreement with school-based IDPs, which would mean an additional 5095 disagreements annually about the content of an IDP. Even if many of these disagreements could be expected to be resolved at school level, authorities would still have to make dispute resolution services available. It is highly likely that requests could be made to a local authority to take on a proportion of the IDPs subject to disagreement, or to reconsider a school's decision about the content. A proportion of those cases could be appealed to the Education Tribunal.

42. Even if only 1% of the additional 93,363 children and young people with IDPs disagreed with the content of their IDP and requested a local authority to revise it, that is 944 cases annually that authorities would have to consider. If only half of those went to appeal, that is 472 appeals for local authorities to defend – more than four times the number of appeals in 2015-16 under the current system.
43. There are implications here for local authorities not only in terms of the additional number of children and young people who will have statutory plans in future but also the work involved in, for example, reviewing a school-based IDP in order to decide whether to revise it. The authority will not have been involved in developing the IDP and will come to it without the same knowledge of the child and their ALN/ALP as the school. The authority will have to make disagreement resolution services available as part of the process both at the school and authority level. If the local authority decides not to revise the plan, the decision may be appealed to the Education Tribunal. The same applies for local authority involvement in responding to a request to take over responsibility for an IDP from a school or FEI or reviewing a school's decision to cease an IDP.
44. The WLGA and local government accept that local authorities' role in putting place dispute resolution/avoidance services will be very important and that there is good practice to draw on from authorities that have been using new approaches, such as Carmarthenshire and Torfaen. It is nonetheless highly likely that the system will be tested in the short to medium term and there is a risk that local authority resources could be stretched if the full implications of extending the statutory system in terms of additional disagreements/appeals are not properly addressed now. It is equally the case that any rise in appeals will have a significant impact on the Education Tribunal, and the WLGA believes the RIA requires much closer scrutiny in this respect.

² A WLGA summary of the savings as calculated in the RIA

Role of Additional Learning Needs Coordinator (ALNCo)

45. Local government has concerns about the proposed statutory ALNCo role, in particular that ALNCos should all have Qualified Teacher Status (QTS) and acquire a Masters qualification. Not all school staff currently in a SENCO or SENCO type role are necessarily QTS. There is no guarantee that enough QTS staff will wish to become ALNCos and take the Masters; or if they commence it that they will complete it; or if they do qualify, that they will remain in post with the school that met the costs long enough for that school to recoup the benefit.
46. There are also big cost implications for schools. Welsh Government estimate a total cost to schools of over £9m (Table 68, p259) and a further £163k to PRUs. On p262 the RIA states that Welsh Government will provide funding via the ALN Implementation Grant to assist with the cost of funding the Masters qualification. However, the projected transition costs to schools in 2017-18 of £1,503,170 are more than four times the proposed amount of Implementation Grant to all 22 local authorities of £374k (Table 5, p124).
47. The WLGA recognises that training is necessary for the ALNCo role, but is not convinced a Masters is necessarily the best way and the money intended to deliver it could alternatively be redirected to broader training and transition work to the benefit of the workforce across local authorities and schools. Local government looks forward to continuing to work with Welsh Government as the ALNCo role and qualifications, which will be set out the Code of Practice and in regulations in due course, are developed.

Collaboration with Health

48. The WLGA welcomes the strengthening in the Bill of the Designated Education Clinical Lead Officer (DECLO) role as a strategic coordinator of health bodies' input into the assessment of ALN/ALP and development of IDPs. The outcome of the trials of the role currently underway across two Local Health Board areas will help to

inform the final job description and best practice in terms of collaboration with local authority education and social services under the Bill.

49. In terms of the respective accountabilities of local authorities and health services, if so requested, an NHS body will have a statutory duty to consider if there is a relevant treatment or service that is likely to be of benefit in addressing a child or young person's additional learning needs (section 18(4)), and; if there is a treatment, to secure it in the IDP (section 18(5)). The decision will be a matter of clinical judgement. If section 18(5) applies, the school governing body or local authority is absolved from securing the treatment or service (sections 19(4)(a) and (19(4)(b) respectively).
50. Local government welcomes these provisions but would also welcome greater clarity as to the position of local authorities or schools if the clinical judgement is that there is no relevant treatment or service and whether this means the need will be deemed to be an education need not a health one and revert to the authority or school to provide and pay for. There also remain concerns that the health provision can be changed or removed at the request of an NHS body, and the local authority or governing body must comply.
51. The Education Tribunal will not have a role in appeals where they relate to the provision (or not) of relevant health treatments or services. The rationale is that there is an existing NHS complaints procedure which children, young people or their parents can access and the Tribunal should not duplicate this. If this remains the case, much more awareness raising is needed of the procedure and how it will work in practice under the new ALN legislation. For example, if the health body decides there is no relevant treatment or service and a parent or young person disagrees, who is responsible for ensuring those involved are aware of how they make a complaint, what the procedure involves, what form(s) of redress may be available and to what timescale; whether local authorities would be required to provide advocacy services in the same way as for an appeal to the Education Tribunal; and what will happen to the child or young person's IDP pending, during or after the

complaint process is completed (bearing in mind the ALP set out in it will likely be a combination of health and local authority or FEI provision). Having two separate avenues of complaint is potentially a very confusing situation, not least for children and young people or their parents, and tends to undermine the rationale of the Bill to have a streamlined and more equitable ALN system.

CONCLUSION:

52. As stated at the outset of this evidence the WLGA and ADEW support the principles of the proposed legislation which has the needs of individual learners and their families and carers at its centre. The evidence that has been provided in this document reflects the complexity associated with this legislation and a strong wiliness by local government to ensure that the transition from the current system to the new framework is seamless and does not disadvantage learners in any way.
53. It is clear that additional training and support will be needed for all of the public sector bodies, including schools and local authorities, who will be expected to implement the legislation should it be passed and this needs to be a priority for Welsh Government. In addition, it is essential that the costs associated with the implementation of the Bill do not overshadow the intention of the legislation to improve the system for the benefit of learners. It is within this context that the WLGA welcome the work that has been done to date in this area, and will continue to support work on developing a realistic cost base for the proposals in the Bill.
54. Much of the detail associated with the implementation of the Bill is contained in the Code of Practice which was not available to the WLGA or ADEW when this evidence was drafted. It is hoped that the Code will provide additional details in the areas of concern raised in this evidence.

For further information please contact:

Dr Chris Llewelyn, Director Lifelong Learning, Leisure and Information

chris.llewelyn@wlga.gov.uk

Welsh Local Government Association

Local Government House

Drake Walk

Cardiff

CF10 4LG

Tel: 029 2046 8600

ANNEX 1				
ALN BILL: SUMMARY OF COSTS AS SET OUT IN TABLE 70 OF RIA				
Ongoing costs				Notes
	Do nothing (4 year costs)	Preferred option	Cost difference	
LA Education Services	£ 145,145,440	£ 133,305,840	-£ 11,839,600	Savings estimated from Bill's provisions which aim to remove adversarial nature of statementing process.
LA Social Services	£ 24,849,752	£ 24,849,752	£ -	
Mainstream schools	£ 293,465,600	£ 293,465,600	£ -	
Special Schools	£ 3,754,800	£ 3,754,800	£ -	
LHBs	£ 15,262,372	£ 16,087,972	£ 825,600	
Careers Wales	£ 3,053,600	£ 1,099,200	-£ 1,954,400	Savings as a result of CW no longer doing assessments/LSPs etc for post-16 learners with LDD or managing placements at ISCs
SENTW	£ 608,000	£ 546,800	-£ 61,200	Savings as per above for LAs
FEIs	£ 2,986,800	£ 3,079,600	£ 92,800	
Estyn	£ 1,853,000	£ 2,025,000	£ 172,000	
PRUs	£ 4,871,600	£ 4,871,600	£ -	
WG	£ 49,763,552	£ 49,764,232	£ 680	
Total ongoing costs	£ 545,614,516	£ 532,850,396	-£ 12,764,120	
Transition costs				
LA Education Services		£ 18,200	£ 18,200	
LA Social Services		£ 118,700	£ 118,700	
Mainstream schools		£ 9,019,020	£ 9,019,020	
Special schools		£ -	£ -	
LHBs		£ 330	£ 330	
Careers Wales		£ -	£ -	
SENTW		£ -	£ 101,000	
FEIs		£ 73,060	£ 73,060	
Estyn		£ 62,500	£ 62,500	
PRUs		£ 163,240	£ 163,240	
WG		£ 2,398,440	£ 2,398,440	
			£ 11,954,490	
Total transition costs			£ 11,954,490	
WG Grants			£ 6,956,000	
Net transition costs			£ 4,998,490	
Total overall cost (excl WG Grants and transition costs)			-£ 7,765,630	
Total overall cost inc WG costs			-£ 3,409,680	Estimated cost savings to public administration over 4 years 2017-18 to 2020-21 (£852,420 pa)

ANNEX 2

How RIA identifies savings to Local Authority Education Services from not responding to disagreements/appeals about not having a statement

LA costs of £10,834,500 from 1533 disagreements about having/not having a statement in (para 8.207, p178 – refer to Table 18 p143)

Estimated costs of 812 disagreements about not having a statement = £5,742,200 = saving to LAs by removing distinction between statutory and non-statutory plans

LA costs of £1,306,700 as a result of 105 appeals about having/not having a statement (para 8.208, p178 refers to Table 21 p146)

Estimated costs of 57 appeals about not having a statement = £705,600 = saving to LAs by removing distinction between statutory and non-statutory plans

Total saving (predicated on only 721 disagreements – ie 1533 minus 812 - about having a statement and 48 appeals about having a statement – ie 105 minus 57) = £6,447,800 (ie £5,742,200 + £705,600)

Taking mid-range saving of £3,223,900 (para 8.211, p179) less additional costs to LAs of £264,000, which are:

- £89,400 for reviewing IDPs for 298 post-16 learners in ISCs ie 298 x £300 (para 8.191 p175)
- £18,000 for reviewing 60 IDPs for post-16 learners with complex needs who currently have LSPs ie 60 x £300 (para 8.192, p175)

(Total £107,400 – para 8.193, p175)

PLUS

- £15,500 for 1 additional appeal per year from the above categories of post-16 learner (est £10,317 per appeal at a rate of an additional 3 appeals per 2 years = £30,951 / 2) – para 8.195, p175/176
- £3,200 as mid- range cost for providing advocacy services for young people and parents as above (£4,256 per appeal x 3 appeals £12,768 / 2 = £6,400 per year) – para 8.196, p176
- £127,900 for 62 additional young people to use disagreement resolution services about the content of their IDP (=£2,063 per supported disagreement)
- £10,000 for cost of responding to 2 additional disagreements per year about the content of plans for 60 young people with complex needs in FE and 298 in ISCs (para 8.200, p177) = 2 x disagreements at cost of £5,002 each – footnote 111, p177

(Total = £156,600) (NOTE – total in para 8.201, p177 incorrectly says £137,900)

GRAND TOTAL = £264,000

So £3,223,900 minus £264,000 = £2,959,900 x 4 = potential identified savings to LAs over 4 years of £11,839,600



Comisiynydd y
Gymraeg
Welsh Language
Commissioner

Lynne Neagle AM
Chair
Chair of the Children, Young People and Education Committee
National Assembly of Wales
Pierhead Street
Cardiff
CF99 1NA

20/02/2017

Dear Chair

Additional Learning Needs and Education Tribunal (Wales) Bill

The Welsh Language Commissioner welcomes the opportunity to contribute to the above inquiry.

1 Background

- 1.1 The principal aim of the Commissioner is to promote and facilitate the use of Welsh. This entails raising awareness of the official status of the Welsh language in Wales and imposing standards on organizations. This, in turn, will lead to the establishment of rights for Welsh speakers.
- 1.2 Two principles underpin the Commissioner's work:
 - The Welsh language should be treated no less favourably than the English language in Wales;
 - Persons in Wales should be able to live their lives through the medium of the Welsh language if they choose to do so.
- 1.3 The comments below are provided in accordance with the role of the Commissioner under Section 4 of the Welsh Language (Wales) Measure 2011 to provide advice and submit comments to any person.

Comisiynydd y Gymraeg
Siambrau'r Farchnad
5–7 Heol Eglwys Fair
Caerdydd CF10 1AT

0845 6033 221
post@comisiynyddygymraeg.org
Croesewir gohebiaeth yn y Gymraeg a'r Saesneg

comisiynyddygymraeg.org

Welsh Language Commissioner
Market Chambers
5–7 St Mary Street
Cardiff CF10 1AT

0845 6033 221
post@welshlanguagecommissioner.org
Correspondence welcomed in Welsh and English

welshlanguagecommissioner.org



2 Context

- 2.1 It is recognised that the quality of additional learning support can depend on its provision in the language of the child or young person who needs it. Failure to provide assistance in Welsh to those who need it can compromise the effectiveness of the support and that in turn can be detrimental to the development and well-being of the child or young person. Recognising this, one of the strategic objectives of the Welsh Government's Welsh-medium Education Strategy (2010) was

'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 level'.

- 2.2 The Welsh Language Commissioner receives complaints and enquiries about deficiencies in Welsh-medium education, including some complaints about lack of support through the medium of Welsh for pupils with additional learning needs. I understand that the Children's Commissioner for Wales has also received complaints concerning that. As a result, the Children's Commissioner for Wales and I decided to conduct a joint exercise to gather information from local authorities in relation to Welsh-medium education, including their ability to provide support through the medium of Welsh for pupils with additional learning needs. Responses were received from a majority of the authorities and the main findings of the research in relation to the provision of additional education needs are:

- The standard assessments used to assess additional learning needs are not available through the medium of Welsh. Some local authorities have translated some assessments but the translations have not been validated and that is worrying in terms of the accuracy of the findings of those assessments. Some authorities do not have staff members who are able to carry out assessments through the medium of Welsh. One authority stated that it is conducting assessments in Welsh through observation alone as the standard assessments are not available in Welsh. On the whole, the capacity of local authorities to carry out assessments through the medium of Welsh is limited.
- The Welsh-medium resources that local authorities have to support pupils with additional learning needs vary widely. For example, while some authorities are able to offer assistance through the medium of Welsh in specialist settings, for example a specific unit within a Welsh-medium school, some authorities said they have no such specific Welsh medium facilities. A number of authorities rely on the use of resources that are available in neighbouring authorities and some evidence was seen of sharing resources at the regional level.
- While some authorities have reported that they can make provision in Welsh for all types of additional learning needs, the majority of authorities reported failure to make provision in Welsh for certain types of need at least. In particular,



reference was made to difficulties in making provision in Welsh for pupils with autism, speech and language difficulties and behavioural problems.

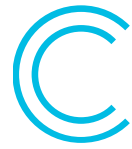
- The picture is mixed in terms of the availability of practitioners who can provide support through the medium of Welsh. Some authorities reported that they had access to a range of practitioners who can speak Welsh, while others are limited to educational psychologists only with Welsh language skills. Some evidence was seen of bilingual practitioners being shared between authorities.
- The information about the language of pupils recorded on statements of additional educational needs varies. Some authorities record the child's first language, others record the language medium of the child's learning, and one authority noted that no information about the child's language is currently being recorded.

2.3 In general, therefore, the evidence gathered demonstrates inconsistency in the support available through the medium of the Welsh language for pupils with additional learning needs. The planning and implementation of a new statutory framework to meet additional educational needs is an opportunity to address deficiencies in the provision through the medium of Welsh.



3 Additional Learning Needs and Education Tribunal (Wales) Bill

- 3.1 The Welsh Government introduced a 'Draft Additional Educational Needs and Education Tribunal Bill' in 2015 and a consultation was held on that Bill. That Bill did not contain any specific provisions in relation to the Welsh language. A number of persons including the Welsh Language Commissioner responded to that consultation, highlighting the need for a statutory framework that would ensure Welsh language provision for children and young people with additional learning needs.
- 3.2 The Welsh Government responded positively to the comments on the 2015 draft Bill. The explanatory memorandum published with the new draft Bill sets out the 10 core aims of the legislation. Although ensuring Welsh language provision is not part of those core aims, it is clearly stated in the memorandum that the Bill is intended to ensure that relevant organisations identify the language needs of children and young people with additional learning needs and that they make provision in accordance with those needs.
- 3.3 The latest draft Bill contains a number of specific provisions in relation to the Welsh language and that is to be welcomed. Some Welsh language issues are identified below that need to be considered further as part of the process of considering amendments to the Bill.
- 3.4 A 'Draft Version of the Additional Learning Needs Code' was published recently, to accompany the Bill. We note that one of the fundamental principles of that code is that organisations should take all reasonable steps to provide additional learning support through the medium of Welsh where a child or young person needs it, and that is to be welcomed.
- 3.5 I note that this is an inquiry into the General principles of the Bill. A series of comments on the draft Bill are offered below and it is possible that some of the specific issues raised go beyond the general principles of the Bill. If so, I trust those comments will be useful when the Committee considers the Bill in more detail in due course.



Individual Development Plans

- 3.6 Chapter 2 of the Bill places a duty on a person who will be drawing up an Individual Development Plan to '*decide whether additional learning provision should be made in Welsh*'. If so, a duty is placed on that person to indicate this in an Individual Development Plan. We note that what is contained in the Bill is a duty to determine whether the provision should be made in Welsh, not a duty to determine whether the provision should be made in Welsh or English. It can be argued that phrasing the duty in this way renders Welsh language provision exceptional, that is, it suggests that English will be the default language medium of the provision unless it is decided that it should be provided in Welsh. It is not clear what the practical implications of phrasing the duty in this way would be, if any at all. However, in order to treat both languages equally, we suggest paraphrasing the duty in order to require relevant persons to determine whether additional learning provision should be made in Welsh or in English. That would avoid any risk of relevant persons assuming that English will be the default language medium of the provision, when they draw up an Individual Development Plan. It is interesting to note that the wording of the relevant part of the draft code is different in this regard.

'2.3.2 If a governing body or a local authority is considering whether a child or young person has ALN, or if it is drawing up an IDP, it should consider whether English or Welsh is the child or young person's chosen method of communication.'

- 3.7 It appears that neither the Bill nor the draft code offers guidance to relevant organisations how to decide on the language of the provision. No advice is offered on the issues which should be taken into consideration when making a decision on that matter. Those issues would possibly include the language of the home, the language medium of the child or young person's education or care and, in the case of very young children who have not reached school age, the language medium of the statutory education the child is intended to receive in the future. In order to ensure that relevant organisations make correct decisions about the language of the provision, they will need to receive guidance how to determine that, before the provisions of the Bill come into force.

Supplementary Functions

- 3.8 Where an Individual Development Plan specifies that support should be provided through the medium of Welsh, the Bill places a duty on the relevant persons to 'take all reasonable steps' to ensure that the assistance has been provided in Welsh. This is not synonymous with placing an absolute duty on providers to make provision in Welsh where Welsh is the language of the child or young person who needs the support. Phrasing the duty in this way raises the question of who would decide, in case of dispute, whether all reasonable steps have been taken by the provider to make provision in Welsh and how that decision would be made.



- 3.9 Section 61 of the Bill places a duty on local authorities to make arrangements for avoiding and resolving disagreements between education bodies and children or young people concerning the provision of additional learning support. One supposes that an individual could use these arrangements to call an education body to account for its failure to provide support through the medium of Welsh. There is need to ensure that individuals are also able to hold a local authority or health board to account for failing to provide support through the medium of Welsh in accordance with the requirements of the Bill.
- 3.10 Section 63 of the Bill sets out those circumstances in which an individual may bring a case before the Education Tribunal. That section of the Bill allows an individual to bring proceedings against a governing body or local authority for failing to specify within an Individual Development Plan the need for provision through the medium of Welsh. But, this part of the Bill does not allow an individual to bring proceedings against a governing body or local authority for failing to provide support through the medium of Welsh, where an Individual Development Plan specifies that it should be provided in Welsh.
- 3.11 Therefore, neither sections 61 and 63 of the Bill, nor other parts of the Bill, establish a clear system to allow individuals to hold institutions accountable for failing to provide additional learning support through the medium of Welsh. In the event of a dispute concerning this, it is not clear who would decide whether a relevant person has 'taken all reasonable steps' to provide support to a child or young person through the medium of Welsh. I do not believe it would be reasonable to expect individuals to apply for a judicial review by a court as a means of resolving such a dispute. The Bill needs to establish a clear and accessible procedure to allow an individual to hold all relevant persons accountable for failing to provide additional education support through the medium of Welsh, whether that person be a local authority, a health board or an education body.
- 3.12 The draft Additional Learning Needs Code refers to the duties under the Welsh Language (Wales) Measure 2011.

2.29 'The Welsh language is supported by the Welsh Language (Wales) Measure 2011. The Bill restated the official status of the Welsh language in Wales, it established the principle that the Welsh language should be treated no less favourably than English and provided for the promotion and facilitation of the use of Welsh and standards relating to the Welsh language.'

*2.30 Where this is applicable, relevant bodies **must** ensure that their activities or their services are provided in accordance with the relevant Standards in relation to the Welsh language. The Standards with which the relevant bodies will be/are required to comply are set out in a notice of compliance issued by the Welsh Language Commissioner.'*



The Standards that have been imposed on local authorities in accordance with the Welsh Language (Wales) Measure 2011 do not refer specifically to the provision of additional learning support. In addition, no Standards have been imposed under the Welsh Language (Wales) Measure 2011 on health boards to date. No discussions have taken place hitherto concerning the introduction of Standards for school governing bodies. In view of this, I do not believe the Welsh Language (Wales) Measure 2011 offers one clear path which an individual might follow at all times in order to call relevant persons to account for failing to provide additional learning support through the medium of Welsh.

- 3.13 Reference is also made in the draft Code to the duties of local authorities under the School Standards and Organisation (Wales) Act 2013 to draw up Strategic Plans for the Welsh language in Education. The statutory guidance provided by the Welsh Government in accordance with the requirements of that Act places an expectation on local authorities to include measures within their strategic plans for the improvement of the provision of Welsh medium additional educational support. But, the statutory framework of that Act again does not offer a clear and accessible procedure to allow individuals to hold local authorities to account for failing to provide additional learning support through the medium of Welsh.
- 3.14 This matter needs to be addressed as a matter of urgency. Without a clear and accessible statutory procedure for holding relevant persons liable for failing to provide additional learning support through the medium of Welsh, there will be less pressure on those persons to ensure compliance with the duty in the Bill to take 'all reasonable steps' to make provision in Welsh.

Other Specific Issues

- 3.15 Section 54 of the Bill imposes a duty on school governing bodies to designate a person or persons as 'Additional Learning Needs Co-ordinator'. Similarly, section 55 of the Bill places a duty on health boards to allocate 'Designated Education Clinical Lead officers'. It appears that the functions of these persons will result in regular contact with children and young people and their parents. If so, it will be necessary to ensure that these persons are able to carry out their functions through the medium of Welsh where necessary. School governing bodies will have recruitment policies that will address the need for staff who can speak Welsh. Health boards will have workforce development plans that will address the need for bilingual staff. Nevertheless, in order to ensure that the persons allocated to these posts can speak Welsh where it is needed, it would be helpful if the Government were to provide guidance on the need to allocate bilingual individuals to these posts, taking into account issues such as the language medium of the child or young person's education, and the need for the post holders to be able to communicate with children, young people and parents and with other institutions in Welsh.
- 3.16 Section 60 of the Bill is concerned with the provision of goods or services related to additional learning provision. In section 60(2) it is noted that regulations may provide



for the terms and conditions in accordance with which goods and services may be supplied. It would be helpful to receive clarity from the Government on the types of goods or services that local authorities might need to provide to relevant persons. It is possible that section 60(2) of the Bill should allow for regulations to specify the need for local authorities to supply goods or services in Welsh to relevant persons.

- 3.17 Section 62 of the Bill places a duty on local authorities to provide a child or young person with an independent advocacy service in the event of a dispute before the Tribunal. Where Welsh is the language of the child or young person, the advocacy service will need to be available in Welsh. The Bill does not place a duty on local authorities to provide the advocacy service in Welsh where it is needed. The duties placed on local authorities in accordance with the Welsh Language (Wales) Measure 2011 do not refer specifically to advocacy services. It will be necessary to ensure that local authorities provide advocacy services in accordance with the requirements of this Bill through the medium of Welsh, where that is needed.

The Education Tribunal for Wales

- 3.18 The Bill changes the name of the Special Educational Needs Tribunal for Wales to the Welsh Education Tribunal and it provides for the preparation of regulations on the procedures of the Education Tribunal.
- 3.19 Children and young people who have additional educational needs will be part of the majority of cases, if not every case, coming before the Education Tribunal. It will be essential to ensure that those children and young people are able to use the Welsh language during the Tribunal hearings if necessary. That means both speaking Welsh and hearing Welsh during hearings. For example, if the Tribunal members were to question a young Welsh speaker with additional learning needs, that young person should be allowed to hear the questions in Welsh as well as answer them in Welsh. In agreeing the arrangements for the use of the Welsh language at the Tribunal Hearings, consideration should be given to whether the use of simultaneous translation would be appropriate in certain circumstances. For example, where the Tribunal members are questioning a child with additional learning needs, and where Welsh is the language of the child, consideration should be given to the extent to which it would be appropriate to facilitate that communication through simultaneous translation, or whether members themselves should be able to communicate in Welsh. It is probable that tribunals in Wales have already dealt with these issues and that good practice has been established for the Education Tribunal to follow.

4 Summary

- 4.1 This Bill is concerned with an area where making provision in accordance with the language needs of individuals is absolutely critical to the quality and effectiveness of the provision in question. Complaints submitted to the Welsh Language Commissioner demonstrate that failure to provide additional learning support through



Comisiynydd y
Gymraeg
Welsh Language
Commissioner

the medium of Welsh can have a detrimental effect on the well-being of children and young people.

- 4.2 Research carried out jointly between the Children's Commissioner for Wales and myself shows inconsistency in the additional learning support provision that local authorities in Wales are able to offer through the medium of Welsh. This Bill offers an opportunity to address that.
- 4.3 The Welsh Government has responded positively to comments on the draft Bill published in 2015 by including within the new draft Bill a number of specific provisions for the Welsh language. At the same time, a number of Welsh language issues need to be considered further in the ongoing development of the Bill and in the implementation of the Bill through regulations and guidelines. Above all else, perhaps, there is need to ensure a clear procedure to allow individuals to hold relevant persons to account for failing to provide additional learning support through the medium of Welsh.
- 4.4 I trust the above comments will prove useful as the Committee scrutinises the Bill. I look forward to the opportunity to discuss these comments with the Committee shortly.

Yours faithfully,

Meri Huws
Welsh Language Commissioner

CYPE(5)–07–17 – Paper 5: The Special Educational Needs Tribunal for Wales

1. The SENTW would like to thank the Committee for giving it and other stakeholders involved in supporting the needs of children with special educational needs and disabilities the opportunity to comment on the Additional Learning Needs and Education Tribunal (Wales) Bill.
2. The response uses as headings the terms of reference and specific issues that the Committee is tasked to consider, as set out in the letter from the Chair of the Committee dated 15 December 2016.
3. The response does not deal with matters related to the very recently issued revised draft of the Code of Practice as it is understood that the Committee will consult separately on its scrutiny of the Code. However, as so much of the detail surrounding the proposed ALN framework will be included in the final Code and it is proposed that significant parts of the Code will have a statutory footing the SENTW would very much value the opportunity to revisit, if this is at all possible, the provisions of the Bill when it responds to the Committee's consultation on the Code.

The general principles of the Additional Learning Needs and Education Tribunal (Wales) Bill and whether there is a need for legislation to deliver the Bill's stated policy objectives.

4. The SENTW broadly supports the general principles of the Bill and considers that if these principles are to be fully realized there is a clear need for legislation to deliver the Bill's stated core aims and principle objectives.
5. As indicated in its response to the Welsh Government's consultation on the draft Bill in December 2015 the

SENTW considers that there are many positive and innovative aspects to the proposed reforms that have the potential to improve the educational experiences of learners with ALN across Wales and the SENTW is therefore, with significant caveats, supportive of the Bill overall.

6. The SENTW seeks to make this clear from the outset since inevitably in addressing the terms of reference of the Committee and related questions in as succinct a way as possible the remainder of this response focuses on the key aspects of the Bill that in the view of the SENTW require further consideration and/or clarification and which may need to be amended.

Any potential barriers to the implementation of key provisions and whether the Bill takes account of them.

7. Please see below.

Whether there are any unintended consequences arising from the Bill.

Education Placements

8. In the view of the SENTW the Bill does not yet deal adequately with the very important issue of education placement for children and young people.
9. At the present time it is not clear from the Bill or the Explanatory Memorandum how education placements will be identified and allocated under the new ALN system and how the views and wishes of children and young people and parents will be taken into account in the decision making process. It is also unclear how determinative of the issue of placement the views of children and parents of children and young people will be and in the case of children and their parents which of their views, if any, is to take precedence.
10. Under current legislation parents are entitled to express a preference in regard to the maintained

school they wish their child to attend under Schedule 27 of the Education Act 1996 if their child has a statement or under s. 86 of the School Standards and Framework Act 1998 if their child does not. In each case local authorities and schools are obliged to comply with this parental preference unless the grounds for refusing parental preference stipulated in the respective statutory provisions are made out.

11. Parents of children with statements have a right to appeal against a refusal to comply with their parental preference to the SENTW and parents of children without statements (including children at School Action and School Action Plus) have a right to appeal to an Independent Admission Appeal Panel.
12. Further, when considering representations from parents of children and young people as to school placement generally, local authorities must have regard to Section 9 of the Education Act 1996 which stipulates that in exercising their powers under Education Acts education authorities are to have regard to the general principle that pupils are to be educated in accordance with the wishes of their parents, so far as that is compatible with the provision of efficient instruction and training and the avoidance of unreasonable public expenditure. This provision is currently of particular significance in determining whether a parental request for placement in an independent or non-maintained setting made by a parent of a child or young person with a statement should be granted.
13. In addition in the context of children and young people with statements Part IV of the Education Act 1996 stipulates that the name of the relevant school in which a child or young person is to be placed or a description of the type of school should be stipulated in the statement. This requirement does not apply to children and young people without statements.

14. In addition there are separate specific arrangements for admission to nursery provision and for admission into FEIs.
15. There are currently very limited provisions within the Bill dealing with how school placements will be dealt with under the new system (Sections 12 & 46) and these provisions appear to give the local authority the “upper hand” as it where in determining school placement and if and when a placement ought to be identified in an IDP and the Bill does not appear to address the issue of how early years placements or FEI education placements are to be determined. Further, as stated above, it is not clear how the duty to consider the wishes of children, young people and parents will work along side the provisions concerning school placement (Section 6). In addition the current repeal provisions within the Bill (Sch.1) appear to suggest that s.9 of the Education Act 1996 and aspects of the admissions process within the School Standards and Framework Act 1998 will be retained but there is no clarity on this and no pulling together of how any retained elements will work alongside the school placement provisions of the Bill and the duty to consider both the wishes of children and young people and parents.
16. It is extremely difficult therefore to see from the Bill or the Explanatory Memorandum what the new structure of identification of education placement will be and how it will work.
17. The identification of an appropriate education placement is such an important issue to children and young people and their families and is often so intertwined with the delivery of appropriate ALN provision for the specific child or young person concerned that the SENTW is of the view that further detailed consideration needs to be given to this aspect of the proposed new ALN system and that key aspects of the new system ought to outlined on the face of the Bill and that the aspects of the old legislative system

that are to be retained need to be clearly signposted and thought through and that this ought not be left entirely to subordinate legislation via Regulation and/or the new Code of Practice.

Potential use of Gillick competence to refuse assessment

18. In the view of the SENTW there is the possibility that the new legislation may provide for the potential use of Gillick competence as a way to refuse further assessment during an appeals process.
19. The initial assessment process is carried out by the LA. The current special educational needs regulations made under the Education Act 1996 requires a statutory assessment to obtain reports from school, educational psychology service, social care and medical services. In complex cases, this will involve consideration of reports from speech and language therapists, occupational therapist, physiotherapists as well as psychiatrists and other medical consultants or specialist nurses. Where a statement is amended following an annual review, the LA may be relying on reports which are some years old, for instance the child may not have seen an educational psychologist and undergone formal assessment for several years. The Bill does not indicate an intention to move significantly away from that model of compiling evidence from assessment.
20. Once the statement is issued and the parents decide that they are not satisfied with the provision and/or placement identified, they may appeal and instruct privately commissioned professionals to prepare reports on the child. Parents, especially those who are legally represented, will regularly instruct a private educational psychologist, speech and language therapist and occupational therapist, even where the therapy services have not previously been involved with the child.

21. In the appeal, the LA is then presented with a raft of lengthy reports, making recommendations for a high level of provision which the LA has not had cause to consider previously. The LA will ask for consent for the child to be assessed by their own educational psychologist/NHS therapists to prepare their own reports for the tribunal. It is at that stage that the parents will state that the child is refusing to be further assessed and refuse consent to the LA. In England, the Tribunal Procedure Rules make provision for the Tribunal to direct that the child should be made available (by the parents) but they do not include any sanction for failure to comply, because if the child is Gillick competent and refuses to comply, or is a young person who is appealing in their own right, then the power is very limited. Neither the Tribunal nor the LA will be afforded access to the child in those circumstances, and it is almost impossible to identify whether the child is actually making an informed decision or whether the parents are denying access to strengthen their evidence to the Tribunal by preventing the LA from obtaining their own evidence to counter the professionals' recommendations.
22. There is a further complication, because the Upper Tribunal decided in 2009 that there was no requirement for the parents' legal representative to disclose the letter of instruction to the professionals (contrary to the well-established practice in the Family Court that letters of instructions to professionals must be disclosed) and consequently, the Tribunal cannot know what questions the professional has been asked to address within the body of the report.
23. The Tribunal would not wish to refer the issue to the Family Court for consideration under the powers it retains to direct assessment of the child under the Children Act 1989 because once again, that would engender unnecessary delays and additional formality to the process. There is also an argument that those powers would not cover the assessments sought for the purposes of the Tribunal.

24. As this has been found as an issue in England, this may want to be considered by the committee.

The financial implications of the Bill (as set out in Part 2 of the Explanatory Memorandum).

25. The SENTW is grateful for the additional financial information that has been included within the Explanatory Memorandum that supports the Bill as the information provided to support the draft Bill was lacking in detail.
26. The SENTW is also pleased that Welsh Government recognizes that there will inevitably be significant transitional costs to the SENTW in order to implement the new legislation and that Welsh Government has indicated its intention in the Explanatory Memorandum to allocate additional transition funding for the SENTW as a consequence.
27. SENTW acknowledges and is broadly supportive of the provisions in the Bill which are aimed at avoiding or resolving disputes. This should eradicate the need to appeal to the Tribunal in as many cases as possible. We also acknowledge that if the Bill has its intended effects these should be a significant reduction in some types of cases. Nevertheless the SENTW takes the view that the introduction of a unified 0-25 system of ALN that extends and considerably increases the rights of children, parents and young people to appeal to the Education Tribunal is unlikely to bring down appeals from their current levels of around 100 - 105 per year and is much more likely to result in a long term increase in Tribunal cases. As a consequence the SENTW is of the view that the reforms are unlikely to achieve cost savings or indeed be cost neutral for the new Education Tribunal for Wales over the long term.
28. In terms of the anticipated increase in the numbers of children, and young people who are likely

to have a statutory plan, figures in the Regulatory Impact Assessment (page 95 at para. 7.30 and page 117 at para. 8.12) estimate that the numbers of children will significantly increase when IDPs are introduced from 13,318 statutory plans to 107,668 plans. The Assessment also estimates that there are approximately 9,323 young people who would identify themselves as having learning difficulties in the FE and Independent College Sector who potentially would be entitled to an IDP (page 119 at para. 8.14).

29. Each IDP will carry with it the right of the child or young person concerned and/or the child's parent or parents to appeal either directly to the Educational Tribunal or indirectly following a reconsideration of the disputed issue by the Local Authority. There are also a number of separate decisions relating to an IDP that may be challenged. In addition, it will be possible to bring appeals to Education Tribunal that concern whether or not a child or young person has ALN and should have an IDP in much the same way that appeals can be brought under the current system against refusals to assess and to issue a statement. Therefore arguments and disputes around whether or not a child or young person needs a statutory plan of some kind (a statement under the current system: an IDP under the new system) are still likely to occur.
30. In addition, there is a possibility that the introduction of the new legislation may make cases legally more complex as the legislation is tested out and this may increase the length of hearings and therefore result in an increase in costs over the medium term.
31. If there is an increase in the numbers and in the complexity of cases coming to Tribunal as a result of the new reforms then the SENTW takes the view that other stakeholders involved in the tribunal process are likely to incur an increase in costs as well.

32. More broadly the current system of support for SEN and LLD is extremely stretched and in the experience of the SENTW disputes are often fuelled by a lack of resources across education authorities, education providers, health services and social care to make appropriate provision for children and young people.
33. The new proposals are quite rightly ambitious and if they are to be more successful than the current system of support the SENTW is of the view that additional resources will be needed across the new system, not just during the transition but subsequently.

The appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of part 1 of the Explanatory Memorandum).

34. The powers as identified are considered appropriate.
35. So as to further the aims and objectives of the Bill further regulations may be required in regard to the following areas:
- The Structure of IDPs – a fixed format and more specifics concerning the matters that the IDP should include are considered essential
 - Admissions – to support the new system of allocating education placements for children and young people with ALN
 - Making complaints processes and appeal processes more compatible – in regard to which please see below
 - The Constitution of a Tribunal Panel – to prescribe the circumstances in which less complex cases could be dealt with by a 2 member panel or by way

of paper exercise so that cases can be dealt with as proportionately and expeditiously as possible

- The Monitoring and Enforcement of Tribunal Orders – in regard to which please see below
- The Appointment of Case Friends and Assessments of Capacity – both highly complex issues, which need further clarification.

Whether the Welsh Government’s three overarching objectives (listed at paragraph 3.3 of the Explanatory Memorandum) are the right objectives and if the Bill is sufficient to meet these.

36. The SENTW considers that the 3 overarching objectives are the right objectives and that with the significant caveats that are more fully explained in other parts of this response the Bill goes a long way in meeting them.

Whether the Welsh Government’s ten core aims for the Bill (listed at paragraphs 3.5 – 3.16 of the Explanatory Memorandum) are the right aims to have and if the Bill is sufficient to achieve these.

37. Again the SENTW considers that the 10 core aims for the Bill are the right aims and that with the caveats that are more fully explained in other parts of this response the Bill goes a long way in meeting them.

The provisions for collaboration and multi-agency working, and to what extent these are adequate.

38. If the new ALN system is to function well and deliver on its 3 overarching principles and 10 core aims it is the view of the SENTW that securing effective collaboration and multi agency working between those delivering services to children and young people is absolutely essential.

39. A lack of effective collaboration and multi agency working is one of the biggest weaknesses in the current SEN and LDD systems and notwithstanding the implementation of numerous policy initiatives to try to improve this aspect of the current SEN and LLD systems problems persist.
40. Welsh Government has accepted that effective collaboration and multi agency working should form a central part of the new ALN system. Indeed, the Explanatory Memorandum states that one of the core objectives of the Bill is to secure “an integrated, collaborative process of assessment, planning and monitoring which facilitates timely and effective interventions” and one of 10 core aims of the Bill is to increase collaboration (pages 7-8 paras. 3.3 and 3.12).
41. The SENTW acknowledges the considerable amount of work that Welsh Government has devoted to exploring ways in which this centrally important feature can be delivered.
42. The SENTW also welcomes the inclusion in the Bill of a specific obligation on LHBs following a referral from the local authority or FEI to consider whether there is “any treatment or service that is likely to be of benefit in addressing a child’s or young person’s ALN” and if considered necessary to secure that provision and which also enables the provision to be included in an IDP (Sections 18 &19) and it is pleased to see that at least some of the consent caveats that had underpinned this provision in the draft Bill have now been removed.
43. The replacing of the previous none statutory DMO role and the none statutory SENCO role with the statutory roles of DECLO (Section 55) and ALNCO (Section 54) and the reiteration of the duty upon services to cooperate and the new duty to share information (Section 58) which are all aimed at improving collaboration and multi agency working are also welcomed.

44. However, the SENTW has reservations about how ground breaking these provisions actually are and therefore how effective they will be in bringing about the sea change that is needed to deliver the fundamental improvements to collaboration and multi agency working that are going to be required if the new system of ALN is to function any better than the current SEN and LLD systems.
45. In the view of the SENTW the single biggest barrier to establishing effective inter agency working and support is the fact that education, health and social care services are each working to different and complex pieces of primary legislation and notwithstanding attempts that have been made to marry them together these pieces of legislation do not currently work well together to meet the holistic needs of children and young people with ALN.
46. The SENTW remains of the view that the most effective way of delivering an improvement in collaboration between education providers, education services, health services and social care services is to ensure that all services are placed under clear a statutory duty to engage in the process of assessing, identifying, making provision for and monitoring and reviewing ALN and just as importantly that all services work to the same criteria when doing so; criteria which place the needs of the child or young person first, irrespective of whether the need is education, health or care related.
47. It appears to the SENTW that there are a number of ways of seeking to achieve this (which are likely to have varying degrees of success):
48. The first is to make fundamental direct changes to the legislation that governs health services and social care as well as to education to make them fundamentally more compatible

49. The second is to make amendments to the definitions of ALN and ALNP in the Bill to include health and social care related needs and to provide that IDPs may include these needs and related provision and make this provision within an IDP legally enforceable in respect of health services and social care services
50. The third is to continue along the present path as currently set out in the Bill with some improvements being made to current proposed provisions to take account of the points that the SENTW outline in more detail below.
51. The SENTW would strongly urge the Committee to revisit in some detail the whole issue of how collaboration and multi agency working is best secured, taking the points made by the SENTW into account when doing so.
52. Having done so, if the Committee is minded to continue with the current approach in the Bill, the SENTW would ask the Committee to take into account the following points to try to improve on the provisions that are currently in the Bill.
53. In regard to the proposed new LHB obligations, set out at Sections 18 and 19 of the Bill, the SENTW is concerned that Section 18 (2) appears to mean that maintained schools cannot make a direct referral to LHBs under these Sections notwithstanding the fact that maintained schools will have a statutory responsibility to create IDPs and that they must channel any such request through the LA.
54. The SENTW is also concerned that the wording used in Sections 18 (4) and (6) relating to relevant “treatment or service” and “treatment or service that an NHS body would normally provide as part of the comprehensive health service in Wales,” are not very clear and may allow LHBs to limit what is considered to be clinically necessary because of resource issues and

because the particular service does not work in a way that is compatible with the needs of the child or young person.

55. Most importantly the consent caveat at Section 19 (8) of the Bill appears to mean that LHBs will be able to refuse to deliver necessary provision as they can do under the current systems of SEN and LLD support. At best this significantly weakens the extent of the obligations being placed on LHBs and at worst it risks undermining faith in the fairness and efficacy of the provisions within the Bill designed to improve dispute resolution.
56. The SENTW would urge the Committee to consider ways to specifically include Social Care in the statutory provisions that are aimed at improving collaboration. Social Care Services have an important role to play in effective collaborative working and the delivery of multi agency support for children and young people. Whilst it is appreciated that Education Authorities and Social Care Services are both part of a Local Authority it is the experience of the SENTW that this generally does not make it easier for each Service to work together in a supportive and collaborative way,
57. The new statutory roles of DECLO and ALNCO, whilst very welcome, are not dissimilar to the non statutory roles envisaged for the SENCO and DMO within the current SEN Code of Practice. The key difference appears to lie with the statutory nature of the two new roles. The SENTW is somewhat sceptical about the degree to which this will impact on the ability of DECLOs and ALNCOs to contribute significantly to improving collaboration and multi agency working.
58. It is also noted that the current Code of Practice identifies the need for Social Care to have a designated officer for special educational needs to play a strategic and operational role in supporting Education Services. If the statutory roles of ALNCO and DECLO are

considered important in securing effective collaboration within the new system then it would seem logical to the SENTW for consideration to be given to the creation of a similar statutory role of Designated Officer for Social Care.

59. The duty to assist in Section 58 of the Bill is more clearly set out than the broadly similar duty to assist that is contained in Section 322 of the Education 1996. It also provides a helpful obligation to give written reasons for a refusal to assist, which is helpful. It remains, however, a relatively weak provision. It also appears to apply to local authorities alone and would not therefore appear to assist early years providers, schools or FEIs in securing cooperation from other services when they are trying to discharge their duties under the Bill. It may be helpful to consider whether this provision could be extended to address this important issue.

60. In addition the SENTW would ask that the Committee look again at powers of redress in relation to health services and social services provision, which are currently separate to powers of redress in respect of education provision and which the Bill appears to seek to perpetuate in large measure. This issue is addressed further below when considering matters relating to dispute resolution.

Whether there is enough clarity about the process for developing and maintaining individual Development Plans (IDPs) and whose responsibility this will be.

61. The SENTW considers that the Bill provides a clear structure to the process by which IDPs are developed and now that greater detail has been incorporated into the Bill around the processes of review, transfer and ceasing to maintain it also gives an overall clear structure to how IDPs will be maintained (Sections 9 – 12; Sections 21; Sections 29 – 31 and Section 33).

62. The processes that are now outlined in broad form in the Bill appear to the SENTW to be quite similar to the current assessment and referral processes that exist under the current SEN and LLD systems.
63. This would suggest that the success of the assessment processes outlined in the Bill will be as equally dependent as the current assessment arrangements are upon securing effective collaborative working and multi agency support whenever this is required and upon the capacity of the workforce to meet the demands of the system and the upon the availability of sufficient resources to deliver support that is deemed necessary. These are things which the SENTW address in other parts of the response and the concerns that the SENTW hold in regard to them are not repeated here.
64. What is currently less clear is how education providers and LAs will go about making the decision that a child or young person has ALN and so bring into play the processes for IDP creation and subsequent maintenance.
65. The Bill also provides limited detail regarding the issue of what constitutes ALN (Section 2). Since this is the trigger point for the creation of an IDP this is something that will be extremely important and the Committee might wish to consider whether it would be helpful to secure additional clarity over this issue.
66. Also the statutory definition of what constitutes an IDP set out at Section 8 of the Bill is extremely limited. So as to promote certainty and consistency the SENTW is firmly of the view that there needs to be a fixed IDP template that sets out the overall structure of an IDP and provides some additional mandatory content.
67. The new proposals envisage a process by which schools and FEIs may refer cases to the Local Authority for determination when it is felt that the needs of the

child or young person are in essence too severe and complex for the school or FEI to determine or make provision for. The proposals also make provision for the Local Authority to refer cases back to the schools if they see fit. In the view of the SENTW this fluidity creates the potential for children and young people to become lost in amongst arguments concerning who has responsibility for identifying ALN and providing for any ALNP as sometimes happens in the present system, with the result that provision of support is delayed and working relationships amongst all involved become strained.

68. Without greater clarity over when cases might be referred to local authorities and when local authorities ought to take over responsibility for an IDP there is a distinct risk that the new system will perpetuate inconsistencies in practice amongst schools and local authorities across Wales, with some schools tending to refer cases to local authorities more readily than other and some local authorities accepting referrals more readily.
69. The new assessment proposals also make local authorities responsible for reviewing school decisions that are challenged before these decisions can be appealed to the Education Tribunal (Sections 24 – 28 & Section 30). The SENTW asks the Committee to consider whether this is necessary and whether it would be preferable for schools to be responsible for their own decisions direct to the Education Tribunal in the way that they are responsible for their decisions in regard to disability discrimination.
70. Again the SENTW takes the view that there is a distinct prospect within this process for children and young people to become lost in amongst arguments about whether they have ALN and who should have responsibility for matters with the consequence that support is delayed and again working relationships become strained.

71. To guard against delay in these processes as much as possible the Committee may want to consider whether time limits should be set within the assessment processes and if so what those time limits might be.
72. The Bill itself does not make it clear as to who within a school or FEI should be responsible for making a determination concerning a child's or young person's ALN and ALNP and who should be responsible for drawing up and maintaining IDPs. It does however give a statutory standing to the role of ALNCO and it is assumed in so doing that it is the intention of the Bill to give primary responsibility in this area to the ALNCO. Precisely what that role will look like and what the levels of qualification and experience will need to be in respect of the role are as yet not clear. What seems very clear to the SENTW is that whatever this detail, such is the importance of this role that it needs to be a role which is clearly stated to be part of the strategic management structures of relevant education providers. Also, careful consideration needs to be given to the balance of none contact and contact time that ALNCOs will need to be able to deliver effectively on this very demanding role.
73. How early years providers, schools and FEIs and their ALNCO's will be able to access and engage with the advice and support from local authority support services, and from colleagues in Health and Social Care is not made very clear on the face of the Bill. This is a particularly important issue as in a significant proportion of cases ALNCO's, notwithstanding their own expertise and expertise within the education provider itself, will still need help and support from sources outside the education provider to make effective determinations concerning ALN and ALNP.
74. The above points are particularly important given the intention that PCP methods are to be used to determine ALN and ALNP issues. Greater levels of engagement of children and their parents and young

people in IDP processes using PCP methodology are very much welcomed by the SENTW. However, if it is to be effective sufficient time needs to be allocated for it to be applied and ALNCOS will need to have the power to engage with necessary support services and health and social care colleagues to assist in decision making processes so that good quality decisions are made.

75. On the issue of engagement the SENTW would like to express some concerns and reservations about the way the Bill handles the inclusion of young people within the proposed new system. This is a very complex area as it brings into play issues of autonomy in respect of the 16 – 25 year old age group. The SENTW is not persuaded as yet, without further explanation of the thinking behind the current approach, that the Bill strikes the right balance between autonomy and support.
76. In this regard of particular concern to the SENTW are the provisions within the Bill which allow young people to veto IDP processes and thereby abrogate the responsibility of education providers and local authorities to address issues relating to ALN and ALNP in respect of the young people concerned.
77. The SENTW also has some concerns that are explained more fully later in this response about the fact that the Bill completely excludes parents of young people from consultation duties and from accessing rights of redress.
78. Linked to this the SENTW is also concerned that the Bill does not fully address the potentially complex interface between the rights of children and the rights of parents within the new system which, without significant clarification, either on the face of the Bill or through Regulation/the new Code, risks undermining the ability of organizations throughout the new system to make effective decisions. It is obviously hoped that in most cases the child and their parents will be in

agreement over issues concerning ALN and ALN provision but this is not always the case and the Bill needs to provide a basic framework for managing such disputes.

79. These are areas that the SENTW would ask the Committee to explore further during the current scrutiny process.
80. The SENTW would like to acknowledge the improvements made in the current Bill to the obligations on education providers and local authorities to make provision in Welsh. In the view of the SENTW, however, that the obligations are still relatively weak and this might be an area that the Committee may also wish to explore during the scrutiny process.

Whether the Bill will establish a genuinely age 0 -25 system.

81. The SENTW is very supportive of this aim. In the view of the SENTW the Bill does have the potential to create a unified ALN system for the age range 0 – 25.
82. The SENTW recognise the additional work that the Welsh Government has undertaken to include more detail in the Bill about how the new system will apply in an early years context and in the FEI context following feed back that the draft Bill was very focused on school based provision.
83. The SENTW would welcome even further detail in the Bill as to how the new system will apply in these areas in recognition of the fact that “one size does not fit all.”
84. There may be some merit in restructuring the Bill so that the duties on early years providers, schools and FEIs are disaggregated in order to give greater clarity to the obligations of each and for greater ease of reference.

85. None inclusion of vocational training in the new ALN system is something that in the opinion of the SENTW needs to be acknowledged as it does impact on the ability of the Bill to fully deliver on support for all young people with ALN in the 16 – 25 age range.
86. On a practical level it needs to be recognised that delivery of provision up to the age of 25 will require significant system changes for all services, but particularly for Social Care and Health Services, as these Services are generally organised into separate children and adult teams.

The capacity of the workforce to deliver the new arrangements.

87. Clearly there will be significant training needs for all involved in the new system to ensure that the workforce has a clear understanding of how the new system will work.
88. As previously highlighted the SENTW believes that under the current system public services are already fully stretched and frequently struggle to meet the demands placed upon them. As an example of these difficulties, the SENTW would cite the long waiting lists for Health Service assessment of children and young people that the SENTW has encountered in a number of its cases, particularly in areas such as Speech and Language Therapy Services, Occupational Therapy Services, Physiotherapy Teams and Child and Adolescent Mental Health Services.
89. In many respects, and notwithstanding the reduction in disputes that are anticipated through use of person centred planning and the dispute resolution aspects of the Bill, the SENTW is of the view that this is likely to be a problem in the new system unless additional resources are made available.

90. In recognition of the likelihood that there will be considerable demands placed upon ALNCOs within the new system the SENTW broadly welcomes the power granted by Section 54 (2) of the Bill to appoint one or more ALNCO's and the indication given in the Explanatory Memorandum that this flexibility is aimed at ensuring that in larger schools and FEIs there are sufficient ALNCO's to address the needs of all learners and conversely that it would enable a small school to share the services of another school. However, in the view of the SENTW this flexibility should not frustrate the need for ALNCO's to be a central part of the strategic management structures of education providers and this is something that may need to be addressed as part of the power to make regulations in respect of the ALNCO. As will the need for the ALNCO to have sufficient non contact time to carry out many of the responsibilities that it is anticipated will fall to this role under the new system.

91. The SENTW is aware that Welsh Government anticipates that some of the capacity issues that are anticipated will be managed through the ongoing transformation programme. One particular issue of concern to the SENTW is the need to ensure that there is sufficient capacity across Wales for ALP to be delivered through the medium of Welsh.

The proposed new arrangements for dispute resolution and avoidance.

92. The SENTW broadly supports the majority of the proposed new arrangements in so far as they go but considers that there are key areas in the Bill that need further consideration and which may need amendment if the new system is to provide a fair and transparent system for resolving concerns and appeals.

Capacity

93. Section 63.3 provides an appeal right for a child or a child's parent to apply to the Education Tribunal

for a declaration of capacity. This could occur where another body has indicated that the child lacks capacity, and the child/parent disagrees and wish to appeal. Or it could in fact occur at any time, including a situation where the child wanted to bring an appeal but the parent questioned their capacity to do so.

94. Since the Special Educational Needs Tribunal for Wales Regulations 2012, SENTW has been able to make a finding that a child does not have sufficient understanding to participate or continue to participate in proceedings without a case friend. Such a finding is made where the question of the child's understanding is raised either by the party or on the initiative of the President or the tribunal panel. So, assessing capacity is not a completely new responsibility.
95. However (as indicated elsewhere in this response), so very few children have brought their own cases thus far that the situation hasn't arisen and is untested. The appeal right for a parent or a child to ask the Education Tribunal for such a declaration is new.
96. Whilst a lot of the practical issues in relation to this appeal right should be resolved through Regulations (elsewhere in this response the SENTW highlights the need for the provision to make Regulations on procedure at section 68), the SENTW is of the view that there are a range of issues which need careful consideration at this stage:
97. Section 75(2) indicates that if a governing body, LA or NHS body 'considers' that the child does not have capacity they do not need to comply with requirements as set out in section 75(1). If a child is considered to lack capacity, is that body required to inform the parent and child, and also inform them of the right to appeal this decision? The SENTW recommend that the Committee considers whether this should be clarified in the legislation.

98. If a child wants their capacity to be assessed, and makes the application (which could happen in various situations, including a contentious situation where the parent and child disagreed on this point), does that child have the right to legal representation? If so, who arranges it and pays for it? The Bill is helpful in outlining that a child should have access to independent advocacy, but independent advocacy is not the same as legal representation and – depending on the nature of the assessment (see below) – legal representation might be needed. Also, if supporting evidence were required to support the child's case (eg. professional reports on capacity), who would arrange and pay for them? The SENTW recommend that the Committee considers the implications for the child.

99. It is useful when considering the provisions on the face of the Bill to be aware of the complexity of underpinning issues which will need to be covered in the Regulations. The Committee may wish to take a view on some of these matters. They include, but are not restricted to the following:

- Would the Education Tribunal have the power to issue directions that evidence be provided? Would that power extend to schools (currently it only covers LAs)?
- Would the Education Tribunal have the power to remit the case back to the LA for reconsideration?
- Would the Education Tribunal make a paper-based decision, using evidence submitted by parties?
- Would the Education Tribunal – or someone appointed by the Tribunal – have to undertake the Tribunal's own assessment?
- Would a full oral hearing take place to determine capacity in the face of competing views?

- What supporting Regulations would be needed in relation to this appeal right alone?

Case friends

100. Under the current regime, once a finding has been made that a child lacks understanding, the SENTW directs the appellant to appoint a case friend. Certain information must be provided to the SENTW to indicate the suitability of the case friend appointed by the appellant.
101. Under the ALN Bill proposals, if a declaration has been made that a child lacks capacity, it is the Education Tribunal that appoints the case friend, which is a very different situation. It is also quite an unusual situation for an independent Tribunal to be in, appointing someone to support one party.
102. The Bill requires the Education Tribunal to be responsible for the appointment of a case friend who meets the criteria in section 76 (6). As far as the SENTW can see, there would be 3 ways of doing this, with varying degrees of rigorousness and varying implications for workload of and cost for the Tribunal.
103. The Education Tribunal could appoint a panel of professional case friends who were recruited on the basis of the appropriate skillset and appropriate vetting. A case friend in whose abilities the Tribunal was fully confident would be appointed for a child; the child would not know the case friend, which might not be helpful, but their appropriateness in other respects could not be questioned. There would be cost implications for the Tribunal.
104. The Education Tribunal could invite the child or parents or other interested parties to nominate a case friend for the Tribunal to assess suitability. It is unclear how the Tribunal should assess this suitability (since the Tribunal would not have the appropriate knowledge without conducting investigations), but if it

were to be done rigorously then there would be cost implications for the Tribunal. The Tribunal would also need to get DBS checks (which is currently the responsibility and at the cost of the case friend).

105. The Education Tribunal could invite the child or parents or other interested parties to nominate a case friend, asking them to submit a form such as the one in use under the current system. This form requires the prospective case friend to sign to say that they will act in accordance with requirements much as those set out in 76.6. This form is then sent to all parties to the proceedings and the child's parent to see if anyone has any objections to the suitability of the case friend. This provides an element of checking, but isn't fool proof if the other parties are not familiar with the proposed case friend. The Tribunal could then appoint purely on this basis. This has the advantage of appointing a case friend that the child knows, and a lack of lengthy investigation procedures (which could delay the case and thus meeting the needs of the child, if the Tribunal were to find in favour of the child), but as the Tribunal would be relying on the declarations and non-objections of others, it is questionable as to whether the Tribunal would genuinely have sufficient knowledge to 'appoint' the case friend with confidence. It is presumed that the DBS responsibility and cost would come to the Education Tribunal, rather than sit with the prospective case friend as at present.

106. None of these methods is ideal and some could have significant resourcing implications for the Education Tribunal. The Tribunal could also be criticised if a party was not happy with the choice of case friend as the case progressed.

107. The SENTW suggest that the Committee considers whether it would be appropriate to amend the Bill to reflect the current system, whereby the Tribunal directs the appellant to appoint a case friend. If not, the SENTW would welcome the Committee's views on how the Education Tribunal should deliver a

responsibility to appoint case friends, having regard to both practical and financial implications for the Tribunal, as well as ensuring best outcomes for the child.

Capacity of young people

108. Section 63(3) of the Bill says that a child or a child's parent can apply to the Education Tribunal for a declaration of capacity. There are further provisions for the support of a case friend for a child that lacks capacity. This does not appear to apply to a young person or a parent of a young person.

109. Section 74 of the Bill sets out arrangements for young people who lack capacity (who are treated in the same way as parents who lack capacity).

110. The SENTW is not convinced that it is helpful to exclude young people from the capacity and case friend provisions, and start treating them as adults who might have a deputy or power of attorney in place to represent their interests.

111. It seems to SENTW unlikely that, for example, a 17 year old who remains living at home with parents and in full time education (but who would be deemed to be a young person as defined in the Bill and thus not be covered by section 63(3) and associated provisions for case friends) would have these provisions in place.

112. Unless there are compelling reasons otherwise, it would seem to provide better and more seamless access to administrative justice for young people to have access to declarations of capacity and the support of a case friend if wishing to bring a case to the Tribunal. We ask the Committee to consider whether amending the Bill to this effect would be helpful.

113. In the view of the SENTW this is of particular importance if the reforms do not give any rights to the parents of young people (as discussed below).

Removal of rights of parents of pupils aged 16 – 19 at school and a lack of rights for the parents of young people

114. The Bill builds on and strengthens existing arrangements for children and young people to bring their own appeals.

115. At the same time the Bill makes a clear distinction between the parents of children and the parents of young people within the new ALN system, such that the parents of children will automatically have the right to have their views taken into account and they will have direct rights of appeal to the Education Tribunal but parents of all young people will not.

116. In so doing the Bill takes away the rights that parents of 16 -19 year old young pupils with a statement identifying school provision currently have to be actively engaged in all decisions relating to the ALN and ALNP of their children in their own right.

117. Whilst the Tribunal is highly supportive of empowering young people to bring their own cases, and the provision of support structures to enable that, the SENTW is uneasy about the approach being adopted.

118. Firstly, the rationale behind this approach and its impact is not touched on in the Explanatory Memorandum. Secondly the SENTW feels that the proposed approach does not reflect the reality that many parents of necessity remain actively involved in the care and education of their children into adolescence and beyond. Thirdly the removal of this right is inconsistent with the statement in the Justice Impact Assessment section of the Explanatory Memorandum and Regulatory Impact Assessment

where it states (section 8.596) that “the Bill replaces existing rights of appeal under the current SEN Framework with new rights of appeal.”

119. In the view of the SENTW to remove a right of appeal from a group of people, without a very clear and very compelling rationale, risks restricting access to administrative justice and – in this case – makes it potentially less easy to access appropriate educational support in disputed cases. This is particularly the case given the high levels of support needs for some of the young people concerned.

120. SENTW usage statistics show the following:

121. In spite of SENTW providing targeted guidance and a dedicated helpline for young people (children’s booklets are sent out automatically with every request for appeal/claim forms), the Tribunal has only received 1 claim and 1 appeal directly from children since the right was introduced in 2012. The Tribunal has had a couple of other appeals where the child has been instrumental in the appeal, but the appeal was brought by a case friend. The majority of the (very small number of) children/young people bringing their own cases have been looked after children.

122. In contrast, during the equivalent period (academic years 2012-2016), 21 cases have been brought by parents on behalf of those in the 16+ age group.

123. The SENTW considers that it would be helpful if the position of Welsh Government on this issue is made clear and fully explained.

124. In the absence of a very clear and compelling case to remove these rights the SENTW is of the view that the Bill should be amended to retain them and indeed extend them to include parents of young people with ALN in the FEI sector. This would mean that the views of all parents are heard and the option

for parents of young people to bring an appeal would run alongside but in no way preclude the right of young people to bring their own appeal.

Disagreements between parents and children

125. The structure of the current legislation, where under section 9 of the Education Act 1996, it is stated that a child is to be educated in accordance with the wishes of their parents insofar as that is compatible with the efficient education of others and the avoidance of unreasonable public expenditure, means that within the statutory decision making framework, the child's preference is automatically secondary to the parents'.
126. The position reflects UK society's perception, when the provision was first included in the 1944 Education Act, that a child was the property of their parents, with all decisions being made for them by their parents. If children are now to have a right of appeal, it must have at least equal standing in the eyes of the law to that of their parents, and where there is a disagreement, and the child doesn't agree with their parents' proposed placement, then it would benefit the parents to obtain a declaration of incapacity so as to undermine the impact of the child's own evidence.
127. At present, there is no mechanism for the decision maker to apply equal weight to the child and the parents' preferences in the way in which provision is delivered or the school placement and this is an important issue for resolution before the Measure is enacted.
128. Where a right of appeal exists for both child and parent in respect of the decision, presumably, the intention is that both appeals will have equal standing before the Tribunal and will be considered on their merits. That is not the current situation, and the parents' wishes have precedence over both the wishes and the welfare of the child. Education legislation

does not contain any reference to the child's welfare being paramount as does the Children Act 1989 and this raises a real danger of potentially compromising the emotional welfare of the child through the decision making and appeals process and driving a wedge between them and their parents. The situation may be particularly acute where there is limited provision in rural areas and parents and local authorities must consider residential placements purely because of the distances involved, and the child may vehemently oppose such a proposal.

129. The advantage to the parents in obtaining a declaration of incapacity in those circumstances would be that it could be used to undermine the child's evidence in the expectation that that would give greater strength to their argument that the provision they seek is the appropriate provision.

130. For instance, a high functioning ASD pupil may present challenging behaviours in a mainstream school because they cannot cope with the sensory overload of being in a busy school environment. Parents may recognise the problem, and seek a specialist placement in ASD specific provision. A child may not have insight into the difficulties and oppose the move because they prefer to stay in a familiar environment with their friends, whilst not recognising that the placement is not meeting their special educational needs. Both the LA and the Tribunal must listen to the child's views and take them into consideration in reaching the decision.

131. For comparison purposes, a similar situation can arise where estranged parents, who each have a right of appeal against the LA's decision, apply to the Tribunal for different school placements. The situation is particularly acute where one parent seeks a special school placement and the other a mainstream. There is under the Education Act 1996 a statutory presumption in favour of mainstream, unless the parents consent to special school – thereby again

providing one parent with a stronger hand than the other. In those situations, the Tribunal have deferred the decision to the Family Court on the basis that issues of principle regarding the type of education to be offered to a child ie mainstream or special, should be decided under the Children Act 1989 where consideration of the child's welfare is paramount, with decisions about the specific placement ie school named within the type of provision, is the remit of the expert tribunal.

132. On a practical level, are parent and child appeals to be heard by the Tribunal together as a three handed appeal – with the potential that it will have to consider and decide between three different proposals for provision and placement? Such a process will involve greater formality and longer hearings. Are appeals to be heard consecutively by the same panel? That too will lead to longer hearings. Or should appeals be heard separately by different panels, so that each is taken on its merits? That could lead to different panels reaching different conclusions.
133. Should issues of principle be referred for resolution to the Family Court first, e.g. mainstream/special; residential/day placements? What is the mechanism for doing this? The advantage of such a referral would be that the court must consider the child's welfare as paramount and are not constrained to comply with the parental preference if it conflicts with the paramountcy of the child's welfare.
134. There is no doubt that the involvement of multiple fora for making the decision would inevitably lead to delay, and careful consideration should be given to the mechanisms created establishing the decision making process, for both local authorities and appeals.

LA/LHB responsibility for delivery of Tribunal decisions

135. The focus of the Tribunal is on access to education. A wide range of professionals may be involved in supporting a child or young person in accessing education, and this will often include some health professionals.
136. Most commonly, this will include speech and language therapists (SALTs), occupational therapists (OTs), physiotherapists and children and adolescent mental health services. Whilst these professionals will be highly experienced in giving clinical judgments as to a child's needs, in order to meet the educational needs of the child, and crucially on the basis of the evidence before it, the Tribunal sometimes finds that there is a need for increased support from health professionals. The Bill makes it clear that the Tribunal will continue to be able to make such decisions (Section 19(7)).
137. In such cases, as things stand at present, the SENTW hears cases, and makes a decision which the local authority is responsible for delivering. If the Tribunal has determined that additional support is required for educational purposes, then the LA must ask the LHB to deliver. If the LHB refuse to deliver then either the LA must seek private provision (which can cause delay in the provision being made, is costly and difficult to regulate) or the needs of the child remain unmet, which is inequitable and damaging to their education. In such circumstances, SENTW has no power to enforce. Parents must complain to the Welsh Government.
138. SENTW regards this as a fundamental weakness in the current system.
139. Unfortunately it is a weakness that it appears is likely to reoccur in the new ALN system as a result of Section 19 (8) of the Bill which states that:
- "If the Education Tribunal for Wales orders the revision of an individual development plan in

relation to additional learning provision specified under this section as provision an NHS body is to secure, an NHS body is not required to secure the revised additional learning provision unless it agrees to do so.”

140. This clause effectively means that, in spite of the Tribunal’s power to make an order as set out in Section 19(7) of the Bill, an LHB is in a position to over-ride the determination of the independent specialist Education Tribunal (and it is assumed, based on experience to date, that LHBs will do this).
141. If the Tribunal has formed a decision (a legal judgment made, by those appropriately skilled to do so, on the basis of the expert evidence before it), and the LHB which should deliver that service can simply say that it does not consent then it undermines the whole purpose of having a Tribunal and is likely to result in the needs of the child/young person not being met.
142. SENTW does acknowledge and welcomes the effort that the Welsh Government are making to improve the capacity of LHBs to work effectively with LAs to deliver the ALN provision for children.
143. The SENTW acknowledges that this may reduce the number of cases where the health provision is contentious, nevertheless where such cases do arise it is essential in the educational interests of the child that the order of the tribunal is complied with. The wording in the Bill at present makes this doubtful.
144. The SENTW is of the view that the most effective remedy for this weakness would be for LHBs to be under a duty to comply with the determination of the Tribunal, just as LAs are. Indeed it seems irregular and inequitable that the duty should be placed on one kind of public body (LAs) and yet not on another (LHBs).

145. If, however, the current situation is maintained, with LHBs able to ignore the findings of the Tribunal, then there must be complete clarity in the Bill as amended that the LA must deliver the order of the Tribunal and further clarity on how they will achieve that and the funding implications for any such provision.

146. The SENTW considers that for a family to have to go to Judicial Review to achieve delivery of a tribunal order to be entirely inappropriate resulting in additional expense and distress for the family as well as further delay in meeting the established ALN of the child.

147. There must be an effective form of enforcement and redress if the LA fails to do so.

148. It is also contended that it would be sensible to consider ways in which LAs could be given a greater degree of control in this situation.

Enforcement procedures

149. Currently, where the SENTW has made a decision that a child should receive increased support, and that support is not forthcoming, parents often contact the SENTW seeking redress but the Tribunal is currently powerless to act and must simply advise the family to contact the Welsh Government.

150. It is strongly recommended that – as a minimum – the new system requires complaints about non-compliance to be routed via the Education Tribunal (who are familiar with the case and could quickly verify whether the complaint is legitimate) before transferring to the Welsh Government for enforcement action. This would facilitate the handling of such cases, as well as enable the Tribunal to monitor numbers.

151. The number of complaints which arise will be reduced if the issues of LHB responsibility for compliance with decisions of the Education Tribunal as set out above are addressed, since many of the complaints the SENTW receives from parents arise from situations where the LHB has refused to deliver provision and the LA has not made/ has been unable to make alternative provision.

152. The SENTW have recommended above that Section 68(2) of the Bill is amended to allow provision for Regulations to cover monitoring and enforcement of compliance with Tribunal orders.

Retention of complex systems of redress

153. The current processes for dispute resolution and redress within the SEN and Learning Difficulties and Disabilities (LLD) are diverse, fragmented, complex, time consuming for all involved, and they do not work together.

154. Unfortunately, rather than integrating these processes so that there is a single mechanism for resolving disputes and securing redress the Bill seems to envisage that the current processes will continue in much the same way as presently.

155. In the view of the SENTW this position needs to be reconsidered.

156. If the current redress systems are not to be integrated then in the view the SENTW, at the very least, further work needs to be done to identify how these processes relate to each other and can be made to work together more effectively.

Need to learn from cases

157. The 2012 Consultation proposed that there should be a requirement for the parties to tribunal proceedings to hold post outcome reviews so that

practices can be improved where possible. The Tribunal continues to support this proposal and considers that it is something that should be included in the Bill or in the mandatory provisions of the new ALN Code of Practice.

Any amendments to the Bill to improve any aspects of the Bill that are identified as inadequate.

158. Possible amendments to improve specific aspects of the Bill have been outlined above.

159. In addition, less substantial, but nonetheless, useful amendments that the SENTW believe should be considered are as follows:

Specific Statutory Definition of Parent/s

160. Inclusion of a clear statutory definition of the term “parent/s” within s. 68 of the Bill would, in the view of the SENTW, be extremely helpful to all involved in the new system.

161. The Tribunal takes the view that it will be helpful to recognize that the definition of parent is a broad one, which in addition to natural parents encompasses all those with parental responsibility for a child and also those who may have care of a child or young person. It may also be helpful to make it clear that parents are entitled to act jointly or independently of each other in relation to education matters.

Power to Appoint Deputy Presidents to the Education Tribunal

162. In the context of the administration of Tribunal functions it would assist the SENTW to have a statutory power to appoint a Deputy/Deputies to the President of the Tribunal to ensure that all the functions of the Tribunal can continue to be exercised in the event that the President were to become incapacitated for whatever reason.

163. The current Tribunal Regulations provide for a number of the powers of the Tribunal President to be delegated on an ad hoc basis to a Chair/Chairs of the Tribunal, which is extremely helpful, but does not provide the full benefits of appointing a deputy that has been seen in other Welsh devolved tribunals.

164. Sadly, in another Tribunal the recent highly unexpected death of the President has very much highlighted the need for deputation to ensure the continuation of the effective running and administration of the Tribunal.

Change of the term “lay panel” to “education panel”

165. Sections 79 – 81 deal with the constitution and the proposed new Education Tribunal and within these sections use of the term “lay panel” is used. This is based the same wording that is used in Part 1V of the Education Act 1996 when making provision for the constitution of the SENTW.

166. So as to better reflect the fact that the “lay panel” of the SENTW is made up of members with considerable expertise in education, SEN and disability related issues when the SENTW Regulations of 2012 were created the term “lay panel” was changed to “education panel.”

167. In the interests of consistency therefore and so as to better reflect the nature of the panel the SENTW would ask that references to “lay panel’ within the Bill are amended to “education panel.”

Inclusion of a power to the Tribunal to cease to maintain an IDP under Section 64

168. Under Section 63 of the Bill there is a right of appeal concerning the issue of whether or not an IDP should be ceased. The concomitant power to make an order regarding an issue concerning a cease to

maintain appeal allows the Education Tribunal to order the continuance of the IDP with or without revision but it does not include the power to order that the IDP ceases. Whilst it is arguable that this is achievable through the power of the Tribunal to dismiss an appeal for the sake of clarity and for the avoidance of any doubt it is preferable for the Bill to specifically grant the Tribunal this power. The SENTW currently has this specific power in respect of SEN appeals.

Concluding Remark

169. The SENTW would like to thank the Committee for taking the time to consider this response and it hopes that the Committee finds it useful in carrying out its scrutiny of the ALNET Bill.

Monday 13 February 2017

Colin Thomas, General Manager and
John Pockett, Director, Government Relations
Confederation of Passenger Transport Wales
1 Lewis Terrace
Darren Parc
Pontypridd CF37 2AF

Dear Sirs,

Re: My Travel Pass legacy scheme

We recently made representations to the Cabinet Secretary for Economy and Infrastructure regarding **the Welsh Government's decision to cancel My Travel Pass when the pilot ends in March**, which we deeply regret.

The Cabinet Secretary has replied to inform us that he has asked CPT Wales, as well as local authorities, to come up with an affordable legacy scheme to operate from 1 April this year.

The prospect of there being no subsidised travel scheme for young people in Wales concerns us very much. As you work to develop a legacy scheme, we would like to take this opportunity to share with you our view of why a subsidised travel scheme is so important and how My Travel Pass could be improved.

Why a subsidised scheme is needed

Affordable transport to college and sixth form, as well as to work placements, is crucial for young people in Wales so that they may access education. In 2014, we published a report entitled '[Pound In Your Pocket](#)', which gave an overview of students' experience of financial support in Wales.

Our research highlighted that a significant proportion of further education students were being forced to spend money in order to access their education. Indeed, 62% of them had costs associated with travel and the majority of these costs were £20 or more.

The research also found that the cost of travel was putting a strain on students' abilities to balance their commitments between work, study, and family life, with 37% of students who pay more than £20 a week reporting this. We also compared the costs of students who live in Office for National Statistics' classified urban postcode areas against those who live in rural areas. What we found was that rurally-based students spent more time and more money on transport.

Our calls on government

It was with this research in mind that we raised this very issue in our [manifesto](#) ahead of last year's National Assembly elections. In it, we recommended that the 'next Welsh Government extend concessionary travel on public transport to all FE students, building on the My Travel Pass bus scheme for 16-18 year old students, to ensure none are excluded from opportunities due to transport costs.'

Our [Apprentices Manifesto](#) also recommended that 'all parties commit to introducing a travel card that covers apprentices aged 16-25.'

Whilst we recognise that the take up of the scheme has not been particularly high, with only 7% of those eligible using the system, we believe that this is not because the scheme itself is unnecessary, but rather because it has not been advertised effectively.

Indeed, before the introduction of the scheme, our research showed that a significant proportion of students did not understand how to receive support with the cost of travel.

We have assured the Cabinet Secretary that we are prepared to assist with the promotion of My Travel Pass, or its legacy scheme, to students and apprentices in Wales.

Requirements for the My Travel Pass legacy scheme

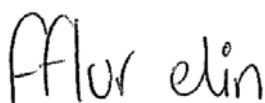
In our initial representations to the Cabinet Secretary, we called on the Welsh Government to re-consider its decision to scrap the scheme, and instead place more emphasis on effectively informing young people about how to receive a travel pass.

As you have now been tasked with working up an affordable legacy scheme, we are calling for the following:

1. As well as offering a $\frac{1}{3}$ discount on bus travel to 16-18 year olds, extend the current offering to all learners in further education who do not fit into that age bracket.
2. Extend the current offering to all apprentices in Wales up to the age of 25.
3. Explore how train travel can be incorporated into the offering.

We would be happy to meet with you to further discuss our concerns and views, if you would find that to be useful.

Yours sincerely,



Fflur Elin
President, NUS Wales



Carmen Smith
Deputy President, NUS Wales

A copy of this letter has been sent to:

- The Cabinet Secretary for Economy and Infrastructure;
- The Cabinet Secretary for Finance and Local Government;
- The Minister for Lifelong Learning and Welsh Language;
- The Minister for Skills and Science;
- **The Chair of the National Assembly's Children, Young People, and Education Committee;**
- **The Chair of the National Assembly's Economy, Infrastructure, and Skills Committee;**
- **The Chair of the National Assembly's Equality, Local Government, and Communities Committee;**
- **The Welsh Local Government Association's Roads, Infrastructure, and Transport Spokesperson; and**
- The Welsh Local Government Association's Education Spokesperson.

Huw Irranca–Davies AM
Chair of the Constitutional and Legislative Affairs
Committee

16 February 2017

Dear Huw,

A Stronger Voice for Wales: engaging with Wales and the devolved institutions

Thank you for your letter dated 17 January 2017. Members of the Children, Young People and Education Committee were keen to respond to your call for information on inter-institutional working. My comments for the Constitutional and Legislative Affairs Committee (CLA) are directly in relation to Strand II: Inter-institutional relations on policy matters.

The Committee is keen to pursue good working relationships with counterpart committees of the UK Parliament and devolved administrations on issues of common interest and concern. In particular, we believe it is very important to link up work on child health, poverty and abuse to other parts of the UK by examining their own interventions. There is a great deal of scope for the Committee to build relationships with counterpart committees in Holyrood, Stormont and Westminster. I have discussed this with Committee staff and I am keen for them to examine potential joint lines of inquiry with other administrations.

To give you a sense of background, the Fourth Assembly's Children and Young People Committee undertook active work outside of Wales. Notably in advance of the introduction of the Qualifications Wales Bill, the Committee met with Quality and Qualifications Ireland and the Scottish Qualifications Authority. This played a




key role in shaping the Committee's approach to scrutiny and ultimately the shape the new qualifications body took.

It is also of note, the Committee visited the Organisation for Economic Co-operation and Development (OECD) at their headquarters in Paris. The Committee met those responsible for the Programme for International Student Assessment (PISA), and the OECD's review of Wales' education system. These visits played a critical role in shaping our approach to scrutiny and in turn influencing the Welsh Government's policies.

Going back to the second and third Assembly, the Education and Lifelong Learning Committee undertook some policy fact-finding work to the devolved administrations. These were seen as critical to informing inquiry work and future planning.

Many of the policy issues the Committee will consider will have strong similarities with other parts of the UK, Europe and beyond. As such, I firmly believe that our Committee's work would benefit from developing better inter-institutional relationships. We would welcome any advice or support from your Committee to help us achieve this.

Yours Sincerely,



Lynne Neagle AC / AM
Cadeirydd / Chair



Vaughan Gething AC/AM

Ysgrifennydd y Cabinet dros Iechyd, Llesiant a Chwaraeon
Cabinet Secretary for Health, Well-being and Sport



Rebecca Evans AC/AM

Gweinidog Iechyd y Cyhoedd a Gwasanaethau Cymdeithasol
Minister for Social Services and Public Health

Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref MA-P-8151-16

Lynne Neagle AM

Chair

Children, Young people and Education Committee

17 February 2017

Dear Lynne,

Follow-up to evidence on 18 January 2017

Thank you for your letter of 2 February requesting additional information on a number of areas following our attendance at the Children, Young People and Education Committee on 18 January 2017.

Neonatal services at University Hospital Wales, Cardiff

Cardiff and the Vale University Health Board published the Corporate Risk and Assurance Framework on 9 February 2017. The risk from implementing service changes from the South Wales Programme is considered by the Health Board to have reduced.

A key part of the South Wales Programme is to ensure that neonatal services are safe and sustainable for the future. On 13 January, we announced £25.139m Welsh Government capital funding for the delivery of the second phase of development at the University Hospital of Wales between 2016 and 2019. The investment will provide:

- eight extra intensive care cots, in a redeveloped neonatal unit with expanded facilities for patients and families including a bereavement suite;
- new obstetric facilities including a ward with eight extra inpatient beds with ensuite facilities; and
- a new dedicated obstetric operating theatre with a dedicated recovery area.

Risks to new born babies and high risk mothers as a result of providing on-going care in a clinically unsuitable environment remains a high score on Cardiff and Vale University Health Board's Corporate Risk and Assurance Framework.

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1NA

Gohebiaeth.Vaughan.Gething@llyw.cymru
Correspondence.Vaughan.Gething@gov.wales
Correspondence.Rebecca.Evans@gov.wales
Gohebiaeth.Rebecca.Evans@llyw.cymru

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Previously, in November 2015, Cardiff and Vale University Health Board received £7.472m Welsh Government capital funding for the first phase of works for an interim neonatal unit following the closure of the existing unit due to an infection outbreak and the refurbishment of a permanent unit. The neonatal unit has relocated to an interim facility to allow for the creation of the new permanent neonatal unit with a significantly improved clinical environment. Phase one has been completed and is awaiting handover following completion of the link corridor. To mitigate the risks identified, the Health Board has agreed a contingency for escalation across the neonatal and maternal divisions.

The two other constituent health boards are continuing to work on the detailed implementation plans for the South Wales Programme. To date, we have approved capital proposals, funded by the Welsh Government, for additional capacity and improvements for:

- Neonatal intensive care unit at Royal Gwent Hospital, Newport: capital funding of £2.120m was agreed in October 2016 to refurbish and modernise the current unit and provide space for a further 6 cots. The scheme is scheduled to complete in Spring 2017 and was approved in advance due to issues of infection control and the need to manage decant over the winter period;
- Capital funding of £6.580m between 2016 and 2018 for Cwm Taf University Health Board was agreed in January 2017 for the delivery of remodelled neonatal services at Prince Charles Hospital, Merthyr Tydfil; and,
- £1.851m was agreed in December 2016 for Hywel Dda University Health Board to finalise the Full Business Case for next phase of development at Glangwili Hospital, Carmarthen which is expected to be submitted to officials for scrutiny in summer 2017.

In addition, we have provided £18 million Welsh Government funding for the Sub Regional Neonatal Intensive Care Centre (SuRNICC) in Ysbyty Glan Clwyd, Bodelwyddan which is due to open in March 2018. The SuRNICC will provide care for mothers and their babies across North Wales, centralising intensive care at Ysbyty Glan Clwyd.

A Framework for a School Nursing Service in Wales

In response to the matters arising from the Children, Young People and Education Committee on 14 September 2016, a letter was sent in October outlining the actions and timeframes for the publication of the refreshed Framework for School Nursing in Wales. As indicated in this letter, the development work involved stakeholder consensus events held in 2016 and guidance from an expert reference group, which had membership from the national school nursing and health visiting forum. This engagement work enabled officials to complete the drafting of the content of the refreshed framework by end of December 2016. The framework is now going through the normal internal processes ready for its publication and launch. The launch event will be held in a school and currently negotiations are being held with the head of the chosen school along with school nursing services from the health board to agree the date. Once agreed, a separate note will be sent to the Committee confirming the launch details.

Neurodevelopmental services

The all Wales neurodevelopment pathway was launched in 2016. Progress on implementation was assessed at the National Neurodevelopment Community of Practice event held in November 2016. All health boards have been reconfiguring their neurodevelopment assessment and diagnostic services to establish a single point of access with new staff posts funded under the additional £2m Welsh Government funding for neurodevelopment service development. This has required most health board

neurodevelopment services to establish suitable team offices/bases to co-locate the relevant staff to better facilitate and enable multi-disciplinary team assessments.

The pathway has six nationally agreed service standards, these are;

1. There is a single point of access for diagnostic assessment of all neurodevelopment disorders.
2. The decision as to whether to accept a referral or not is made on the quality of information provided (as outlined in NICE guidance). Where there is adequate information to support concern, access should not be subject to permitted referrers, the use of screening questionnaires or other specifications.
3. When referrals are not accepted, the referrer is provided with rationale for this, alongside advice on how to improve the referral or which other service to refer to as appropriate.
4. Assessments are planned in a child centred way ensuring sufficient information to create a profile of the child's need is gathered (as outlined in NICE guidelines), whilst ensuring a prudent, flexible approach to the use of resources.
5. There is a timely multi-disciplinary discussion involving all those involved in the assessment process which leads to a decision about the outcome of the assessment, a profile of the child's strengths and difficulties and agreement on future actions. The implementation of this process can be locally determined.
6. A professional who has been involved in the assessment process will communicate the outcome of the assessment with the family (and where appropriate the child). This is followed up in writing, and where consent is given, should be shared with other professionals who support the child. Advice about how best to meet the child's needs and signposting is provided.

Progress on implementation shows almost all health boards can demonstrate delivery to standards one, two and three and are working towards the remaining three standards. The neurodevelopment service improvement programme is coordinated by a National Steering Group which meets at least quarterly, chaired by Dr Cath Norton from Cardiff and Vale University Health Board, and reports to the Together for Children and Young People Programme Board. The National Steering Group is supporting the delivery and full implementation of all six standards across all health boards. This is being assessed on an ongoing basis and will take stock of the position nationally at a Community of Practice event being arranged for the autumn. The neurodevelopment work stream is in the process of developing measures to locally test the reliability of implementation during 2017.

Update on the 26 week neurodevelopment waiting times

Unlike CAMHS, the 26 week Neurodevelopment target is not at present an official measure recorded by Stats-Wales. We are in the application process of the Neurodevelopment assessment target to become an information standard (an official measure), once this application has been accepted and completed all health board's will be required to report, on a quarterly basis, the number of weeks a patient waited for a Neurodevelopmental assessment.

The Neurodevelopment work stream (through the Together for Children and Young People Programme) will be holding a workshop in early March 2017, where Health Board's will agree the methodology for measuring the target.

Health boards have confirmed that multi disciplinary neurodevelopment teams have been established and therefore they are on track to meet the 26-week waiting time target in 2017, this was done with the help of the £2m Welsh Government funding.

We have sought an update from health boards on the percentage of children and young people waiting under 26 weeks and the percentage of those waiting longer. We will pass this information onto the committee once received.

Maternal Health and Well-being

Welsh health board data on breastfeeding rates at 6 months are reported via the National Community Child Health Database. This data is hoped to be sufficiently complete for a summary to be published in this summer's births release <http://gov.wales/statistics-and-research/births-national-community-child-health-database/?lang=en>

Previously, data on infant feeding has been collected as part of the UK Infant Feeding Survey. In the last report in 2010, less than one per cent of Welsh mothers were exclusively breast feeding at six months. This is typical of the picture across the UK, indicating that very few mothers were following UK health departments' recommendations that babies should be exclusively breastfed until around the age of six months. This is despite there being increases in the prevalence of exclusive breastfeeding at birth and lower fall-out rates at three and four months.

Autism Spectrum Disorder Advisory Group

An Implementation Advisory Group will be established to monitor delivery and progress of the Autistic Spectrum Disorder (ASD) Strategic Action Plan. The first meeting is scheduled for the end of March 2017 and membership will include people with autism, parents and carers, as well as representatives from statutory and third sector organisations. The terms of reference and definitive membership will be confirmed shortly, however, we expect the remit to include:

- Feedback on progress in delivering the refreshed ASD Strategic Action Plan at a regional and local level;
- Advice and guidance on improving service delivery in identified areas;
- Advice and guidance on addressing any identified gaps in provision and new priorities for action as they emerge.

Your letter also asked for information on referral to assessment and treatment. We wrote to the Committee on this aspect in a letter dated 2 February.

Yours sincerely,



Vaughan Gething AC/AM

Ysgrifennydd y Cabinet dros Iechyd, Llesiant a Chwaraeon
Cabinet Secretary for Health, Well-being and Sport



Rebecca Evans AC/AM

Gweinidog Iechyd y Cyhoedd a Gwasanaethau Cymdeithasol
Minister for Social Services and Public Health

Kirsty Williams AC/AM
Ysgrifennydd y Cabinet dros Addysg
Cabinet Secretary for Education

Lynne Neagle AC / AM Cadeirydd / Chair
National Assembly for Wales
Children and Young People's Committee

17 February 2017

Dear Lynne

Changes to the curriculum in Wales

I would like to thank the Children, Young People and Education Committee for reviewing the implementation of Professor Graham Donaldson's Review report *Successful Futures: Independent Review of Curriculum and Assessment Arrangements in Wales*.

I would also like to thank you for your letter dated 26 January which highlights your findings to this point.

Education reform is our national mission and I will remain focused on ensuring that the reform programme is implemented well and in a timely way, learning from what works in Wales and across the world. At this point, we are still at a relatively early stage of implementation.

I take the Committee's point that the vision laid out for us by Professor Donaldson is conceptual in some aspects. However, the Government has been clear in laying out both the direction of travel and the methodology for getting us there. Learning the implementation lessons from other jurisdictions has been central to the adoption of this approach. This is why at the heart of the implementation methodology in Wales is a network of practitioners and other expert partners; to avoid the implementation problems experienced in other countries.

The approach is also intended to ensure that the outcomes of our reforms are fully owned and understood by the education sector as a whole and by the teaching profession in particular. At the root of this is our goal of developing a self-improving system. That is a deliberate step away from the top-down approach of the past, where the Government directs, instructs and sanctions, to one where it provides strategic leadership, facilitation and support. However, it also means that we cannot know every detail of what the final curriculum will look like at this stage and I recognise that some stakeholders will find the new approach uncomfortable to begin with.

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1NA

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Gohebiaeth.Kirsty.Williams@llyw.cymru
Correspondence.Kirsty.Williams@gov.wales

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

I was heartened by the Committee's agreement with and support for this approach to reform and I look forward to working with you to providing constructive challenge to the process at key points in the reform journey.

My responses to your specific observations are detailed below:

Implementing Professor Donaldson's vision

The Committee believes this new phase of engagement will be crucial and that the Welsh Government should do more to provide a clearer picture of how things are developing since Professor Donaldson's report was published. The regional consortia and local authorities, as the 'middle tier' which the Cabinet Secretary referred to in Committee, could have a role in communicating this.

I agree with the Committee on this point and will be working with our delivery partners to address this in the coming months. We are due to receive and then publish the Review Report from the OECD by the end of February and will then be in a position to publish our refreshed strategic delivery plan in March.

I will also shortly be publishing the outcomes of the initiation phase of the curriculum design work, which included the development of high-level strategic principles for the next phase of the work. These design principles formed the basis of a clear brief for the Areas of Learning and Experience (AoLE) design phase of the process, which began in January, and are an important marker in terms of the progress that has already been made.

Strategic Leadership from the Welsh Government

The Committee noted that 'over the coming months' the Cabinet Secretary will be 'reaffirming and re-emphasising, with all of [the Welsh Government's] key delivery partners, [their] collective leadership role in delivering the vision' provided by Successful Futures. The Committee believes this will be timely and recommends the Cabinet Secretary considers whether a clearer strategic steer and direction is needed from the Welsh Government, perhaps in conjunction with regional consortia.

I have made it clear that education reform is our national mission. The goal of this mission is a world-class education system geared to equip our children and young people to thrive amid the challenges and opportunities of the 21st Century.

I agree that we should be working in conjunction with regional consortia and that is what we have been doing. They are key partners in ensuring that the strategic vision is shared and understood. I believe that we are collectively ready for the next stage of development work and the draft report from the OECD has confirmed to me that we are on the right track and need to continue on this path. In line with this, I will be refreshing our strategic delivery plan, *Qualified for Life*, with a view to publishing a revised document in March and that will reaffirm the vision. It will give focus to the reform agenda and ensure that everything we are doing in education is fully aligned with *Successful Futures*. Our partners, including the regional consortia have been fully involved with developing this document.

Clarity and purpose of Pioneer Schools' roles

The Committee notes the Cabinet Secretary's expectation that, as the process moves into Strand 2, Pioneers should 'feel that they are clearer about what is required of them than may have been the case for Strand 1'. The Committee believes that the Welsh Government should proactively ensure that this expectation is borne out.

We launched Strand 2 - AoLE design and development - at our national conference in Llandudno last month. This national event also included the additional 25 schools from across Wales that I announced in January.

All Pioneer Schools in Strand 2 have been allocated one of the six AoLEs (Expressive Arts, Health and Well-Being, Humanities, Languages, Literacy and Communication, Mathematics and Numeracy and Science and Technology). We have arrangements to make sure there is clarity of role and purpose, including:

- The schools from the first phase of development feeding back the results of their work to their colleagues. These schools are now also part of the AoLE groups;
- A core brief for the schools, along with clear tasks;
- The Pioneer Schools have been tasked with developing a draft framework for each AoLE by June 2017 and a series of workshops for each AoLE have been established, with clear outcomes outlined, to guide us to delivery this objective.

Working arrangements between the Welsh Government and regional consortia to develop the new curriculum are very effective. We have regional consortia leads for each AoLE who will work alongside Welsh Government officials to share the facilitation of the Pioneer School working groups.

The shared ownership of developing the new curriculum will enable us to make sure that all schools are supported at a national and regional level to design the new curriculum.

Lessons from other countries

The Committee believes that curriculum design and development in Wales should be informed by, but not simply replicate, experiences in other countries, for example Scotland. The Committee notes the Cabinet Secretary said there are some specific differences between implementation in Wales and Scotland and that curriculum design here is part of a 'holistic reform programme'. We welcome the development of the curriculum in conjunction with the other two 'pillars' of education reform, as the Cabinet Secretary called them, initial teacher education and professional development and learning. The Committee would welcome further information from the Welsh Government on what it sees as the differences in approach between Wales and Scotland.

I am committed to learning from the experiences of other countries. A key lesson for me from Scotland and from elsewhere across the world is that you cannot change one aspect of the education system without looking very closely at how the rest of the system connects into and supports the changes you are making. If you do not do this there is a real danger that the elements you have not looked at will stifle the changes you are trying to achieve.

This is why the Welsh Government has committed to a holistic reform programme for education focusing on curriculum, assessment and accountability arrangements, alongside professional development and Initial Teacher Education. We are committed in particular to carrying out reform of the curriculum and our assessment arrangements in tandem. In Scotland the approach has been more linear.

Another key lesson from other countries is that it is during implementation that reform flounders. As described, this is why we have engaged with practitioners and the wider sector from the outset and why practitioners are at the heart of developing the curriculum through the pioneer schools approach. Together we are working with national and international experts in a planned way to develop a broad, balanced, inclusive and challenging curriculum. The approach in Scotland, whilst iterative, seems to have been less inclusive in terms of its design principles.

In addition, Wales has a stronger middle tier, which the OECD criticised Scotland for in their report last year. In Wales, local authorities and their regional consortia have been involved in programme planning from the outset and are working with Welsh Government and schools to support the approach to education reform.

Synergy between curriculum design and teachers' professional development and initial training

The Committee believes the next 12 to 18 months will undoubtedly be critical to the development work on curriculum and professional learning. The Committee will wish to monitor the progress of the Pioneer Schools involved in developing the professional learning offer and also note that there will be a consultation before summer 2017 on new professional teaching standards. Teachers must be ready to deliver the new curriculum, therefore the Welsh Government must ensure curriculum design and professional development are successfully developed in tandem.

I can confirm that these strands of work are being planned, managed and delivered in tandem. They are managed within the same governance structure and the key interdependencies between them have been mapped and the actions in place to manage them are subject to ongoing scrutiny and review.

The Professional Learning Pioneer schools have been central to developing the new Professional Teaching Standards working with Professor Mick Waters. The new standards have been designed to align with the new curriculum and assessment arrangements and are a key element of the change programme that will support the profession in preparing for their future role. The new standards will provide a focus for initial teacher education and for career-long professional learning.

The Digital Competence Framework (DCF), which was essentially fast-tracked and made available last September has also been an early area where the Professional Learning Pioneer schools are working jointly with Digital Pioneer schools to develop a high-level professional learning approach for the DCF, working closely with consortia and Estyn. The initial collaboration has been very positive and will ensure a seamless link between the DCF and the professional learning to support it. As the first part of the new curriculum to be made available, this will provide valuable insight for the future professional learning approach to the AoLEs.

A new OECD pilot group focused on developing 'Schools as Learning Organisations' (SLO) is also well underway. This group comprises both Curriculum and Professional Learning Pioneers. Pilot schools are currently reviewing reflective tools and instruments developed by the OECD to implement the SLO approach in Wales. These schools will initially focus on developing their own self improvement capacity prior to supporting other pioneer schools and their partners to effectively develop as learning organisations.

We are working with regional consortia to establish arrangements to ensure that professional learning pioneers are working with the AoLE groups to develop approaches to support emerging professional learning needs. Regional consortia have presented robust professional learning action plans which outline how pioneers and their partners are supporting their work to develop a range of professional learning activities to embed the new curriculum in schools.

We are currently discussing with Estyn an evaluation of the quality of professional learning provision currently being developed by consortia with pioneer schools. This review will also provide scope to reflect how new professional learning provision will equip practitioners to embed the new curriculum.

Initial Teacher Education and Training

The Committee notes that Professor Furlong's review of Initial Teacher Training found that the current arrangements are not sufficient to prepare teachers to deliver the new curriculum envisioned by Successful Futures. We welcome the Welsh Government's action to reform the initial education and training programmes and believe this should be strongly informed by the process of curriculum design as work on both of these agenda progress further.

My focus is to make sure that the education reform programme is implemented well. The teaching profession can only make its proper contribution to raising standards of education in our schools, as set out in *Successful Futures*, if our Initial Teacher Education (ITE) offers our future teachers the skills, knowledge and appetite to lead the change required.

My officials have continued a programme of stakeholder engagement. On 13 July 2016 HEIs were invited to discuss progress and development of new Professional Teaching Standards with Professor Mick Waters. The new Professional Teaching Standards will be the cornerstone of a new teacher professionalism not only for initial teacher education but for career-long professional learning.

I made a statement on the ITE Change Programme in September when I also announced the formal consultation on the ITE Accreditation Criteria and proposals for enhanced functions of the Education Workforce Council (EWC). This consultation commenced on 26 September and closed on 14 November. A full analysis of responses was published on 12 January.

Officials wrote to all HEI's on 09 December formally inviting them to submit a Statement of Intent to offer ITE programmes under the new arrangements by 06 January. They were asked to identify their revised programmes, their potential partnerships and detail their planned approach to delivery of high quality 1-year postgraduate and 3-year undergraduate ITE programmes of study. Ten Statement of Intent responses have been received.

My officials invited all HEIs to a meeting on 13 January which was chaired by Professor John Furlong. The meeting provided an opportunity for early feedback on proposed changes to the accreditation criteria following the consultation and set out the process and timescales for the next steps.

The central purpose of ITE reform is to improve the quality of provision delivered and better prepare our future teachers to develop the skills to teach, so that learners learn. I recognise that the timeline for delivery of the ITE reform programme is tight. Over the past few weeks, the ITE Expert Forum have considered all Statements of Intent and conducted face to face meetings with all that have submitted a statement, giving early feedback to inform next steps.

The Order which transfers the function of accreditation from HEFCW to the Education Workforce Council was laid in January with the debate scheduled for 14 February. Following the coming into force of Regulations in March, the EWC will write to all Partnerships that submitted a Statement of Intent detailing the timeline and requirements should they intend to submit ITE programmes for accreditation by 01 December 2017.

Relationship with assessment and accountability

Assessment

The Committee noted that the Cabinet Secretary described the scenario as not a choice between which comes first out of 'a chicken and an egg' but 'chicken and egg at the same time because we have to develop both elements'. We do not disagree but see this as a considerable challenge. The Committee would welcome further information from the Welsh Government on how exactly it proposes to successfully manage curriculum reform with changes to assessment and accountability at the same time. This is even more important given there are different views amongst the unions and the consortia about where assessment fits in to the process. The Committee believes the Welsh Government needs to resolve any such misunderstandings or tensions, which otherwise pose a risk to successful implementation.

In my previous letter, I stated that curriculum and assessment are interdependent and must be viewed as a package that requires close coordination. Countries that have introduced curriculum reform but have failed to heed this requirement have done so to the detriment of their aspirations.

I find it very difficult to understand why the head teacher and school leader unions would want to shoehorn the new curriculum into a pre-developed assessment system when we have the opportunity to construct both systems side-by-side, thereby ensuring alignment. To quote Dylan Wiliam, "assessment is a good servant, but a terrible master"; we do not want to be in a situation where the curriculum is compromised by the confines of assessment requirements.

We have agreed that formative assessment should be an essential and natural part of the teaching process and that it should be given priority in the arrangements we implement. We have also agreed the purposes of education and have established the characteristics we value for our children and young people and what we want for them as citizens of the 21st century. As we enter the next phase of the reform agenda Pioneer Schools, mindful of the assessment principles that have been developed, will start to determine the design of each of the AoLEs.

Working alongside them, researchers from the University of Glasgow and the University of Wales Trinity Saint David (UWTSD) will engage with learners and practitioners to develop a shared conceptualisation and understanding of curricular progression. Together, they will identify what is necessary (in terms of threshold knowledge and understanding, skills, attributes and capabilities) to ensure that children and young people's learning does indeed progress meaningfully.

Throughout the development work, the Curriculum and Assessment Group will act as a critical friend, providing support and challenge throughout the process. This group is made up of academics that have spent many years driving system reform both in and outside of Wales and will be joined by the Pioneer steering group. I have every confidence that their overview and input will ensure that the curriculum and assessment arrangements we introduce will be fit for purpose and that they will be constructively aligned.

Accountability

The Cabinet Secretary said the Welsh Government is considering how to change accountability measures to minimise unintended consequences, such as inhibiting innovation. The Committee recognises that there is little value in hastily changing accountability measures now only to then change them again for the new curriculum. However, we believe the Welsh Government needs to strike an appropriate balance between adjusting accountability measures now so that Pioneer Schools feel free to get on and do their work, and working on more long-term one-off lasting reforms that dovetail with the new curriculum.

Successful Futures makes a number of recommendations that offer a different vision for accountability according to the four purposes. In moving to an environment where key decisions are taken at the local level, it is vital that distorting effects that can arise from external performance and reporting requirements are avoided. This will entail a move away from the Welsh Government gathering information about children and young people's performance on a school-by-school basis for accountability purposes and renewed emphasis on assessment for learning as an essential and integral feature of learning and teaching.

Schedule for implementation

The Committee notes the Welsh Government plans to share initial thinking on the proposed structure of each AoLE during autumn 2017 and will wish to return to the specific issue of whether implementation is on schedule later this year.

I will keep the Committee informed of progress and welcome its ongoing commitment and contribution to education reform.

Contingency planning

The Committee welcomes the involvement of the profession in designing the new curriculum and commends the innovative nature of the Pioneer Schools Network. We very much hope it is successful, although we are concerned about the consequences should this model fail to deliver the desired output: the availability of a new, clearly structured, modern fit for purpose curriculum by September 2018. The Committee believes the Welsh Government should undertake some contingency planning and ensure there is sufficient resilience within the programme to mitigate this risk.

The ambition in *A curriculum for Wales – a curriculum for life* is that the new curriculum “could be available to schools as early as September 2018”. Much work needs to be done in conjunction with Pioneer Schools and we will keep this date under review as work on each AoLE progresses. These reforms are hugely important for our school children and as such I am determined to take the time necessary to get them right.

I appreciate the concerns expressed by the Committee and wish to re-assure Members that there is, and always has been, contingency space built into our delivery planning. My ambition is that by 2021 every school will be using the AoLEs as part of the new curriculum to support learning and teaching. Pioneer Schools are at the heart of the design and development process. They are testing ideas with their fellow professionals to ensure that what is developed is workable and the model will be based on a strong ethos of school-to-school working. I will keep the Committee advised of any significant changes to the timetable.

Whilst I recognise the Committee’s concerns regarding our approach to curriculum and assessment design, Pioneer Schools are not being asked to deliver the new arrangements on their own. They are at the heart of an all-Wales partnership that includes local authorities, regional consortia, Estyn, FEIs, HEIs and many more.

As previously mentioned, I have also brought together a group of highly regarded experts in curriculum planning and assessment to work alongside and in support of the Pioneer Schools. The members of the Curriculum and Assessment Group have national and international experience of educational reform. Their role is to assist with the design of the new curriculum and assessment framework so as to ensure the new curriculum remains true to the principles in *Successful Futures*; and to support the implementation of the reforms set out in *A Curriculum for Wales: a Curriculum for Life*.

As the work has progressed we have continuously and collectively appraised where we are and what we need to change in order to strengthen implementation. For example, a review of progress in the autumn resulted in our appointing additional Pioneer Schools to help support the work on AoLE design.

I will continue to listen to our practitioners and delivery partners and will use the flexibility and contingency space available to me if I need to do so.

Curriculum content

The Committee believes such issues would sit suitably within the Health and Wellbeing Area of Learning and Experience and urges for this to be actively considered as the design of the AoLE progress into more detailed stages. We also recognise the calls for greater teaching of Welsh history, and indeed regional and local history, and believe this should be considered in the design of the Humanities AoLE. The Committee acknowledges that there will be further opportunities for commenting on content of the AoLE as this emerges more clearly later this year.

I welcome the Committee’s understanding of where we are in the curriculum design process. As Strand 2 of this work progresses and the AoLEs are beginning to take shape, we will move to a new phase of engagement to ensure that all our stakeholders have the opportunity to contribute to and understand what they look like and how they fit together. Strand 2 will identify those areas of the curriculum which require greater attention in Strand 3 (detailed AoLE development) as well as the expertise to develop those appropriately.

Working with Pioneer Schools and regional consortia we will share documents with stakeholders and schools as early in the development process as possible.

Legislative and transitional arrangements

Legislation

The Committee believes that decisions over the level of legislation used to establish the new curriculum will require careful consideration. Any primary legislation will require adequate time to be introduced, scrutinised and enacted, which all needs to be built into the timescale.

In terms of legislation, decisions over the level of legislation to be used to establish the new curriculum will be subject to careful consideration and consultation with Members of the Committee and stakeholders. It is anticipated that the necessary legislation will need to be in place by September 2021. I too will want to ensure that adequate time is built into the timescale allowing for introduction, scrutiny and enactment, and taking into account the timescales for the development of the new curriculum.


Implications for young people taking qualifications during transition

The Committee urges the Welsh Government to carefully consider the implications for young people in the current school system and the potential for adverse impact from being caught between two, quite different, versions of curricula. This is particularly a risk for pupils currently in secondary schools who will be taking GCSEs before, during, and immediately after the transition period. We welcome the fact this is receiving ongoing attention and urge that this continues in earnest.

I welcome the Committee highlighting the importance of ensuring children and young people in the current school system are not disadvantaged by the changes we are making.

During the design phase we will continue work with Pioneer Schools and Qualifications Wales to reflect on what these changes may mean for learners who are part way through a course of study leading to a qualification and to ensure that students taking new qualifications are neither advantaged nor disadvantaged compared to those who took the legacy qualification.

Yours sincerely

A handwritten signature in grey ink, appearing to read 'Kirsty Williams'.

Kirsty Williams AC/AM

Ysgrifennydd y Cabinet dros Addysg
Cabinet Secretary for Education

Kirsty Williams AM
Cabinet Secretary for Education

21 February 2017

Dear Kirsty,

Follow up to evidence received: Wednesday, 15 February 2017

On Wednesday, 15 February the Children, Young People and Education (CYPE) Committee heard from Estyn for general scrutiny of their Annual Report 2015/16 and we continued receiving evidence as part of our inquiry into Teachers' Professional Learning and Education. It would be of great assistance to the work of the Committee if you would provide some further information on the following two areas:

KS4 Performance Measures

We understand that changes are being made to the performance measures used at Key Stage 4. The Committee would appreciate an explanation of how these will incentivise schools to support pupils in achieving the highest grades.

The issue of the relative attainment of A*-A and A*-C grades was highlighted in HM Chief Inspector's annual report and discussed in the session with Committee.

In a Ministerial statement in July 2014, the Welsh Government acknowledged that, in terms of school accountability, the emphasis placed on the Level 2 threshold (5 GCSEs grades A*-C) and the Level 2 threshold inclusive (including Maths and Welsh/English) attaches too much importance to C grades. This risks being at the expense of supporting more able pupils to maximise their potential if performance measures do not provide enough incentive to schools to help pupils get up to the highest grades.

In a written statement published on 3 July 2014, the Minister at the time said the Welsh Government would address this issue by using a revised capped points measure (which measures the value of each individual grade) as the main performance measure for Key Stage from summer 2017 onwards.



A Welsh Government statistical note in August 2016 confirmed that new arrangements would be in place for summer 2017. However your statement of 30 June 2016 said that although the revised capped points measure would be introduced, it would not be used as the main performance measure.

The Committee is keen to know whether the shift away from the Level 2 threshold measures towards one which takes into account attainment of the highest grades is still going ahead. This is particularly important as whilst progress has been made in GCSE A*–C attainment, achievement of A*–A grades has decreased slightly, or at least remained relatively static. This suggests more needs to be done stretch more able and talented pupils, with the potential to achieve the highest grades.

The Committee would be grateful for an update on your intentions for Key Stage 4 performance measures and how they will be used to incentivise attainment of the highest grades as well as C grades.

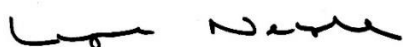
Teachers' Professional Learning and Education

The Committee heard from Trade Unions representing head teachers at our meeting on 15 February and the issue of incentives for prospective teachers was discussed.

The Committee is aware that in response to a recommendation contained in Professor Furlong's *Teaching Tomorrow Teachers* report, the Welsh Government committed to conducting an independent review of the financial incentives currently available to prospective teachers.

To assist with our inquiry and recommendations into Teachers' Professional Learning and Education, we would appreciate an update as to the progress and current timeline, as well as any interim findings, of that review.

Yours Sincerely,



Lynne Neagle AC / AM
Cadeirydd / Chair



Annwyl Lynne Neagle AM

I write to you in your capacity as Chair of the Children Young People and Education Committee.

Please find attached a national overview which RhAG has produced in relation to the draft Welsh in Education Strategic Plans for the period 2017–20.

RhAG has called on the Minister to reject the majority of these Plans as they fall short of the ambitious proposals which are needed.

The Welsh Language Commissioner has also expressed her serious concern at their general lack of ambition.

We ask that the Committee considers this overview as a follow-up to the report published by the previous CYPE Committee on the WESPs.

We believe that enabling a discussion by members would not only be timely but would also make a valuable contribution to the overall process.

With thanks in advance for your consideration on this matter.

Regards

Ceri

Ceri McEvoy

Cyfarwyddwr Datblygu

Director of Development

Rhieni Dros Addysg Gymraeg

Parents for Welsh Medium Education

02920 739 207

07912175403

ceri@rhag.net

www.rhag.net

Welsh in Education Strategic Plans 2017-20 National Overview

Context and general conclusions

In the main we consider the second round of the draft Plans submitted by the counties to be inadequate and to unambitious. There is a general lack of concrete and measurable targets. Given that only around 22% of children aged 7 receive Welsh-medium education at present, the idea that the 2020 target of 30% will be met is a pipe dream.

When the Welsh Government's Welsh-medium Education Strategy was launched in 2010 and a system of Welsh in Education Strategic Plans (WESPs) introduced, it was hoped that the new system would offer a historic opportunity to ensure sound, proactive planning on a statutory basis, which would contribute to the Government's national targets.

RhAG was of the firm view that launching the Strategy was only the first step in the process of speeding up the response to the growing demand for Welsh-medium Education, and that the only way of achieving the targets specified in it was to implement the work programme effectively.

Back in 2013, as one of the stakeholders who participated in the scrutiny process and who contributed comments on each county's draft WESP, it became clear that the majority had not in reality embraced the new approach expected of them.

Nearly seven years later, it seems history is repeating itself.

RhAG is concerned that the Plans in their current form do not reflect the spirit or the letter of the School Standards and Organisation (Wales) Act 2013 by outlining how each local authority will achieve the results and targets set out in the Welsh-medium Education Strategy.

Furthermore, the Plans as they stand offer no hope of achieving the Government's target of a million Welsh speakers by 2050. The education system has a crucial role in helping to reach that ambitious goal, but the existing Plans will not facilitate this.

Each strategic plan should be an effective vehicle to remove the current barriers that hinder the growth of Welsh-medium education and to enable Local Authorities to increase capacity and expand provision. Local authorities therefore need to set clear and coordinated targets based on the vision that they now have a duty not only to meet demand, but to promote growth.

We need Plans that offer a completely transformative and revolutionary vision.

We identify below the main areas of concern:

1. Framework

We are concerned that the current framework of the WESPs is flawed. A framework that is fit for purpose is needed. Based on the experience of scrutinizing the first set and having viewed the draft Plans for 2017-20, it is a concern that the current system does not provide the best framework to reach the goal.

In the main, the shortcomings remain, with insufficiently ambitious Plans, which means no hope of contributing to the national target.

The main problem is the structure of the targets – it seems that it will not be possible to ensure growth within the 3-year cycle since the children in question are already in the system. A large number of counties seem to be transferring the responsibility to their next Plan, creating a vicious circle of stagnation. Targets have been set without a meaningful way of measuring them. The current targets system does not reward counties that open nursery / reception classes within the three years because it would not lead to more 7-year-old children in the system by 2020. Interim targets must be recognized.

2. Creating the demand

We believe that specific growth targets need to be set for the Nursery sector and Reception classes, since this is where growth can be driven in order to measure the success of Outcome 1. We call for the creation of an additional measure (an increase in Reception places), which will enable counties to demonstrate progress and success in promoting continuity from the Nursery sector to the primary sector.

We believe that focusing on strategies to increase the numbers in Nursery and Reception classes is the way to ensure that a high number of children aged 7 receive their education through the medium of Welsh.

There is a lack of specific growth targets – that is, opening new schools. It is good to see some counties referring to the establishment of new schools e.g. Pembroke shire, although some of the developments have already been approved before the Plan comes into force e.g. Cardiff. We understand that there are plans afoot in some places where details cannot be given at present, e.g. Powys (Welshpool). There is some discrepancy in the plans as there is no definite date or location for every proposal. With regard to the rest of the counties, there are plans to relocate or expand existing provision e.g. Cardiff, Bridgend (where relocation of provision will take place but no increase of the available capacity).

A number of counties, including Swansea, Cardiff and Wrexham see annual growth of 5%+, but the Plans in their current form do not plan for meeting that growth, let alone creating further growth.

Throughout the Plans there is too much emphasis on narratives about the past, with Plans continuing to focus on preambles about what has already been achieved and decisions approved during the first round of Plans, rather than detailing future proposals. This can create a fundamental misconception and veers towards insincerity.

RhAG appreciates the fact that some local authorities are aware of the important role they play in promoting the use of Welsh in the context of the objectives and targets of the Welsh Government's Welsh-medium Education Strategy. However, we note that this does not mean that counties are now adopting a proactive approach to stimulate and promote growth in the sector.

The growth identified in a number of WESPs would occur naturally since the children are already in the system. Many of the plans are merely a reflection of the current situation. Rather than putting in place significant steps towards increasing the number of children who receive their education through the medium of Welsh, many of the Plans are no more than a description of the *status quo*. If the counties are serious about their responsibility to develop Welsh-medium education, a much more daring and ambitious strategy is needed. We are concerned that the lack of detail in the draft Plans will give the impression to councillors that there are no issues. For example, in Monmouthshire, the WESP still notes that there will be possible pressures on school places in Ysgol y Fenni from 2017-2020, although evidence shows clearly that the school is already overcrowded in KS1/2 and has been for over a year, and that the county has failed to plan for the need for an additional class for September 2017. The draft plan presented to councillors in October 2016 gives the impression that the school has empty places, even though officials were aware that these empty places will have completely disappeared by September 2017.

Although the plans generally indicate that local authorities want to see Welsh-medium education succeed, generally there is a lack of vision and proactive, concrete actions in order to achieve the targets of the Welsh-medium Education Strategy. Many of the plans are descriptive rather than developmental, and there are very few specific targets in terms of pupil numbers or the number of new Welsh-medium schools. There is not enough evidence that Local Authorities understand the need to stimulate and promote the growth of Welsh-medium education. This is reflected in the weak language seen in many of the Plans, including ambiguous statements that counties will 'consider', 'aim' or 'monitor the situation' rather than take serious action.

There is not enough local analysis from the perspective of individual schools that can transform the situation in a county. Very little attention is paid to schools that are within 10% of their capacity e.g. Caerphilly, Wrexham, Bridgend, Newport. There are too many general, vague and indefinite statements and targets, which give a false impression of the situation of the whole county, and mask weaknesses that may be associated with parts of those counties or individual schools. More often than not, a great deal of what happens is dependent on individual schools, and so these must be identified in the plan and specific actions drawn up to address the situation e.g. Carmarthenshire, Ceredigion.

Whilst recognizing the fact that a lack of detail is inevitable in some cases, measurable targets are needed to expand the current provision, with the emphasis on establishing new schools so that Welsh-medium education is available more locally and within reasonable distance from homes.

RhAG estimates that an additional 300 + streams (of 30 children) are needed in order to reach the goal. Currently the Plans fall well short of that target, and therefore fall short of the Welsh Government's target.

Each chronological Plan needs to feed into the next, and each local plan needs to contribute to reaching the national target of the Welsh-medium Education Strategy and the wider target of the Welsh Language Strategy. Currently it is not clear that this is the case.

We do not feel that the counties have embraced the need to **stimulate demand**. Counties need guidance to do this. In addition, consideration should be given to 5-year plans that enable counties to assess demand, respond to demand, plan new starter classes and measure the number of 7-year-olds receiving Welsh-medium education.

3. Promotion

The WESPs needs to be plans for promotion, with promotion being a central element that drives every aspect of the document.

There is a lack of emphasis on promoting Welsh-medium education proactively to stimulate growth, and in the case of several counties, no emphasis whatsoever. There are few targets in terms of a coherent, integrated strategy to provide clear information to parents based on international research in the field. There is no acknowledgement of language transmission in the home and bridging language use outside the classroom by adopting the mindset of the whole family's language journey. There is little reference to the assimilation of the Welsh Government's Welsh-medium Education Promotion Campaign as an integral part of the Plans.

Councils, and the Government, need to lead on the work of promoting and stimulating interest and awareness of Welsh-medium education, by taking steps such as:

- ensuring that information about the two school systems is sent together to Flying Start groups, English language and Welsh language playgroups, carer and child groups, and to parents with registration forms, and that this should include information on transport arrangements, since Welsh-medium schools serve larger catchment areas than English-medium schools
- ensuring that information about the two school systems is available to both estate agents and rental agencies in the area, to be provided for families who move in
- ensuring that the website and the Parent Information Booklet is balanced in its information (to be fair, there has been some improvement in this regard recently)
- providing language awareness training and training on the benefits of Welsh-medium / bilingual education to Council front-line staff, working with the local Health Board to provide the same training for midwives and health visitors, and finding ways of sharing positive messages in a consistent and thorough way.
- working closely with the Cymraeg for Kids scheme.

Furthermore, a much closer relationship is needed between the WESPs, Welsh Language Standard 145 and the Welsh Language Strategy: a million speakers.

Specific targets are needed for growing the number of Welsh speakers: it is inevitable that the education sector will be the main engine for generating speakers of the language. When the original draft of the Welsh-medium Education Strategy was published, there was a table identifying expected growth, depending on the % of Welsh-medium provision at the time, for each county. Such local targets must be set once again, and it must be noted that high population areas with the lowest density of Welsh speakers will have to do most to contribute towards achieving the target.

4. Measuring the demand

There is not enough in the Plans on measuring the demand or responding to surveys already carried out. There are very few specific, challenging and measurable targets that will lead to real progress. It is not sufficient to recognize that there is a gap in terms of the service provided: we need action

e.g. Neath Port Talbot, Rhondda Cynon Taf. The inconsistencies in terms of methodology continue.

RhAG is aware of several cases where a survey was conducted to measure demand, and despite evidence of demand, no new schools have been opened in response. This is what happened in Rhondda Cynon Taf (2008), the Vale of Glamorgan (2013) and Neath Port Talbot, where the demand was measured three times, but no plan was made to open any new Welsh-medium primary schools.

Some counties have conducted a survey to measure the demand recently, e.g. Torfaen, which showed that over 22% of parents are eager to choose Welsh-medium Education. But the County decided not to include this information in the Plan, choosing to submit a Plan that will stick to the existing provision, which is about 15%.

Surveys to measure the demand consistently prove that the demand is twice or even three times the level of current provision.

Counties are very reluctant to take action and to open a new school without having evidence. Is that the case when opening English-medium schools?

The fear of 'creating surplus places' by opening a new school is still an issue in some counties and hinders any progress.

5. Surplus places

The capacity of existing schools is an issue that causes great frustration, with counties being unwilling to acknowledge the fact that many of the surplus places are found at the top of the schools, and using these surplus places as an excuse not to expand nonetheless.

Newport, for example, sees filling schools to capacity as a target – and although this will increase numbers, no effort will have gone into increasing capacity or into promotion to ensure growth from the bottom up. Swansea, very deceptively, is suggesting that 10.7% of places in Welsh-medium schools are empty. But most of this is attributable to one new school that is still developing. Of the 11 primary schools in the county, 8 are within 10% of capacity, and 5 are overcrowded.

Another example is Monmouthshire's draft WESP, which states that there are surplus spaces (5.9%, 14 places) in Ysgol y Fenni, but these surplus places are only in Years 5 and 6. The school is overcrowded at Reception (40) / Year 1 (38) with 34 already registered for September 2017.

Some plans, such as Wrexham's, avoid reflecting the fact that the County's Nursery schools are close to being full in their official figures, even though the majority of the Welsh-medium schools are within 10% of capacity. There is a need to expand the provision in order to sustain these encouraging numbers.

The very limited number of surplus places that exist are likely to be in places that are inaccessible to children who have been unable to go to their parents' first choice school or even to their catchment area school. It is therefore misleading to state that there are surplus places in a number of schools, because those are often too far away from the child's home e.g. Caerphilly, Cardiff, Wrexham.

There are examples of local authorities failing to take advantage of opportunities to expand Welsh-medium education in creating these plans. In Caerphilly and Rhondda Cynon Taf there are empty buildings available, or there will be soon, in areas where there are growing pressures on Welsh -

medium schools at present, but the authorities have not taken advantage of this to establish more Welsh-medium schools.

We note that there is a difference between capacity management and plans to expand provision. Counties need to be more transparent about their intentions to achieve this within the lifetime of these Plans.

Counties should provide numbers by year and by school as an appendix to their WESPs, and link these figures with demand surveys to identify areas of unmet demand.

6. Progression

Progression rates from Nursery Groups to Welsh-medium schools are low in many areas, e.g. Risca, Tredegar.

This can be attributed to the fact that the distance to the nearest Welsh-medium school, along with travel times, are significant barriers for parents. The solution is simple: local schools need to be established to serve these areas.

There is a lack of targets to close the gap in linguistic progression between primary and secondary. There is a general lack of ambition in terms of achieving this.

The pattern of 'linguistic slippage' that occurs mainly among school pupils in the traditionally Welsh-speaking areas needs to be stopped. A high percentage of these pupils transition to secondary schools where they will follow a Welsh second language course and receive all or most of their education through the medium of English.

The patterns of slippage vary by area and county. Conwy, Carmarthenshire and Neath Port Talbot are among the weakest counties in terms of linguistic progression. Of the 120 pupils in the Swansea Valley that could have transitioned to Welsh-medium education this year, 40 went to an English-medium secondary school.

The impact of this lack of progression is the loss of language skills that were gained in the primary sector, and a completely unfair advantage for these pupils in examinations over their second language peers.

Carmarthenshire County Council's agreeable policy of moving primary schools along the language continuum is a policy that other counties should adopt.

There should be a comparison between the percentage of pupils studying Welsh as a first language in KS3 and KS4 and the number/percentage of Welsh speakers in the county. This should serve as an axis for the Plan and a close correlation established between the two as a language planning tool.

7. Language categories

Although linguistic definitions have been proposed nationally for various educational institutions, local education authorities often do not often give parents clear information about their schools.

We encourage the adoption of the recommendation in the Welsh Government's Welsh-medium Education Strategy which notes that Welsh-medium education should be provided within institutions where there is a Welsh language environment, rather than in bilingual schools where a great deal of the interaction between staff and pupils takes place in English.

There should be an urgent review of the document 'Defining schools according to Welsh medium provision' (information document number 023/2007, October 2007). At secondary school level, categories 1 and 2A should be combined and new categories of 2B, C and Ch created for schools; a more transparent system should be established nationally to calculate the number of pupils in each class, being examined in each subject and the attached funding arrangement; and a system should be established that would prevent the dilution of Welsh-medium provision e.g. the downgrading of a school's language category.

We understand that some secondary schools in Gwynedd have started to introduce more subjects through the medium of English. We understand that this is a reaction to recent Estyn inspections, which have highlighted challenges in standards of English. The reactions of schools, it seems, is to introduce an increasing number of subjects through the medium of English in order to address the situation. Many parents are concerned that up to a third of education in some schools is now being delivered in English, against the wishes of parents. If there is a need to strengthen and reinforce the English language skills of some pupils in some schools, surely the most logical solution is to invest further in the English departments of those schools rather than mainstream English through the whole school curriculum?

8. School Admission Arrangements

There is a need to review the School Admissions process. Bearing in mind the desire to create more Welsh speakers, it should be noted that counties such as Caerphilly and Cardiff are turning pupils away from Welsh-medium schools. Some parents are forced to send their children to local English-medium schools because there is no room for those children in their first choice school. (Quite often the most accessible school is not the child's catchment school).

Sometimes it is not known that a child has been rejected from a Welsh-medium school, since parents have placed an English-medium local school as a second or third choice. Local authority staff, in complete accordance with policy, then offer the child an English-medium school. It would be valuable for this task to find out exactly how many children have been affected in this way.

The process can be deceptive. We need clarity about this in each county.

We propose that the Plans should include the details of the number of annual applications for places in Welsh-medium schools, the capacity of the provision and information about the number of appeals received for places in Welsh-medium schools. They should also include information on the number of successful appeals and the offer given to parents who were unsuccessful.

We suggest there is a need to review the admissions process and consider setting outline catchment areas to advise parents and consider models within the School Organisation Strategy to ensure that there is local provision for all parents who apply for Welsh-medium education.

9. Transport

There is a lack of reference to transport. The success of Welsh-medium education depends on transport. The Plans do not set out how Local Authorities will 'promote access to education through the medium of the Welsh language' through transport, as required of them by the Learner Travel (Wales) Measure 2008

Some plans mention an intention to review the council's current transport policy e.g. Blaenau Gwent and Swansea.

A number of Plans miss the opportunity to declare and acknowledge that, generally, more pupils in Welsh-medium schools have to travel to receive their education.

We ask the Counties to accept that a higher percentage of children travel to Welsh-medium schools, that they are dependent on free transport by the County, and that outcome 1 in its entirety could be jeopardized if transport to school for the youngest children was withdrawn.'

Other aspects also cause concern, such as post-16 travel – there is growing evidence now of pupils choosing English-medium education and Further Education Colleges (including some in England) that attract pupils by offering free transport. Any cut in statutory age and post-16 transport policy would work directly against any plans to develop Welsh-medium education.

Counties must be asked to declare if they are charging parents to send their children to Welsh-medium schools. Counties tend to report a lack of post-16 progression as 'parental choice', but RhAG has evidence that the counties' policy of charging for transport is having a disproportionate impact on the Welsh-medium sector, and that this affects parents' choices before pupils embark on their A levels, but also affects rates of progression from primary to secondary school.

10. Workforce

What work has been undertaken to map the current situation in order to set a baseline to determine targets for forward planning?

Has an exercise been conducted to gain an understanding of the language skills of the whole workforce, including the language skills of the workforce in the English-medium sector?

Who is responsible for collecting, collating and analysing data in the field at present?

What discussions have been held with the teacher training colleges and other training providers to increase capacity across all sectors? What is the holistic action plan for increasing capacity?

There is no coherent plan at present to train new teachers. A long-term plan is needed urgently that sets out an action plan and sets short and medium-term targets to produce the workforce needed.

The lack of practitioners in Early Years needs serious attention. Mudiad Meithrin is facing increasing difficulty in finding qualified individuals to lead the work of their Nursery Groups.

RhAG is aware of the fact that there is a number of Welsh speakers who have just retired or returned to the world of work having had children, who have expressed an interest but have no childcare qualifications. It appears that most of the schemes are aimed at improving the Welsh

language skills of people who already have Early Years education qualifications. Are there enough courses to train people who already have the language skills to teach in the field?

A challenging situation was experienced recently while attempting to appoint a head for Ysgol Gyfun Gwynllyw, Torfaen; the post was advertised but no applications were received. Setting conditions on appointments (i.e. an NPQH qualification) can result in a recruitment crisis. A head has now been appointed, as long as she manages to gain the relevant qualification by April 2017. The governors were happy to appoint her without it. England does not require the NPQH qualification. Why does the Welsh Government insist on placing additional barriers in the way of aspiring heads? There is a need to review the need for heads to hold the NPQH.

It would also be worth considering other models of managing schools, and consider federalization of schools or the Gwynedd model of appointing 'Strategic Heads' to be responsible for more than one school.

11. Additional Learning Needs

The Special Educational Needs provision is lacking in many parts of Wales, with some elements being worse than others. A general audit of the provision needs to be undertaken by county, with collaboration across counties being facilitated to provide fairness for pupils who are already suffering from learning difficulties or disabilities. This cross-county collaboration could be in the form of centres of excellence to support regional satellite centres.

It is vital that Welsh-medium supplementary provision, e.g. speech and language therapy, psychiatry, dyslexia support, behaviour support, class observation, etc., is a statutory requirement.

Examples are still seen of 'experts' advising parents to move their children from the Welsh-medium sector to the English-medium sector, stating that the child 'will benefit' from doing so. This is done to avoid providing services in Welsh, and denies the pupil's right to have their education in Welsh.

The Plans need to reflect the proposed Additional Learning Needs Bill and the associated Code of Practice.

12. Learning resources

There is a significant lack of resources and textbooks in Welsh. It has been suggested that as little as 10% of the current provision is available in Welsh, with some subjects suffering badly from a lack of materials. This limits the ability of teachers to deliver the subject effectively, adds further workload on teachers who face having to translate material themselves and can adversely affect the language of the class.

WJEC does not appear to fall within the scope of the Welsh Language Measure, and yet the education system is an integral part of the machinery needed to meet the Government's targets of a million Welsh speakers.

There is a complete inequality in the current system. To remedy the situation there is an urgent need for a strategy, an action plan and adequate investment.

13. Resources and capital expenditure

Inevitably, substantial additional funding is needed to expand Welsh-medium Education.

There is a lack of projects in the 21st Century Schools Programme relating to Welsh-medium education. That causes concern, as the programme's initial funding period does not end until 2019/20. Strangely, some of the counties that are planning to invest have omitted to mention that fact, e.g. Carmarthenshire.

What are the priorities of the 21st Century Schools Fund? Clarity is needed in terms of the programme's priorities for the next funding period e.g. what is the situation in relation to the agenda of getting rid of surplus places?

The priorities of the previous programme was of no help to Welsh-medium Education whatsoever, and so an adjustment is needed to respond to that fact.

Where is the additional funding to support the sector's growth?

If the Government's intention is to reach one million speakers, how can this be achieved without the appropriate resources? What resources have been allocated to ensure this?

We believe strongly that the 21st Century Schools Programme needs to be reviewed and that increasing Welsh-medium education should be a criterion in the new programme after 2019/20. In practice, there needs to be a review of measures to convert classes to Welsh-medium, and start up new nursery/reception classes. Numbers at age 7 should be a means of monitoring rather than a means for praising or rejecting a plan.

14. Inclusive and holistic provision

We believe there should be a much greater emphasis on the contribution of Welsh-medium Education in terms of Tackling Poverty, and it would be good to see what specific strategies counties could adopt to implement this.

More focus is needed on less obvious audiences, who do not have easy access to Welsh-medium education at present. That includes addressing:

Vocational provision

Additional Learning Needs education

Pupils from less privileged backgrounds & Flying Start provision

Ethnic Minority Communities

NEET's

15. Urban planning

There are inadequate references to Local Development Plans and the likely impact on the demand for Welsh-medium education. These Plans should include a policy statement regarding new housing developments, to ensure that a fair percentage of the schools resulting from the construction of new

housing estates are Welsh-medium schools. Substantial housing developments are planned in a number of counties, including Rhondda Cynon Taf, the Vale of Glamorgan, Cardiff, but there is no recognition of the demand for Welsh-medium education in those proposals or proposals to establish new Welsh-medium schools.

Consequently, it is essential that there is clear and explicit cross referencing between the Welsh in Education Strategic Plan and the Local Development Plan, to show what work has been carried out to assess the sufficiency of Welsh-medium places in those areas, using recent evidence about proposed housing sites as well as current evidence of the demand for Welsh-medium education.

It is vital that counties avoid the tendency and historical assumption that new schools will be English-medium by default.

We believe there is a need to include a policy "to increase the provision of Welsh-medium education in areas where new houses are being built", among the general policies.

Urban development and the Local Development Plans: clear guidance from the Minister is needed in determining the linguistic character of any schools that are opened in light of new housing developments.

16. Political motivation

We need strong political will and commitment behind these Plans, or the whole process will just be a paper exercise. We are concerned that this is lacking on the ground in many counties.

17. Other agencies

We suggest that Estyn is a link between Government, LEAs and schools in terms of:

- i. The linguistic progression of pupils from one educational stage to the next
- ii. Provision to strengthen the Welsh language in educational institutions
- iii. A sensible interpretation of bilingualism in school inspection

The relationship between the Health Boards and the Local Authorities needs to be formalized, and they should be given a seat at the table in Welsh in Education Forums.

18. General

A more holistic approach is needed that coordinates all policies affecting Welsh-medium Education including the Early Years, Flying Start, School Admissions, Transport etc. Clear policy statements are needed in relation to all these key areas in the body of these Plans.

Achieving the aims and objectives of the Welsh-medium Education Strategy is a partnership between central and local government, with responsibilities on both sides. The link between central government and local government is an ongoing problem. The implementing powers in several areas are in the hands of local authorities, but for the first time ever central government is taking the lead with a national policy on planning Welsh-medium education.

It is clear that most of these plans have not reached the required standard, since there is a significant lack of clarity on the way in which local authorities will achieve the targets expected of them.

RhAG calls on the Welsh Government to respond robustly to this, and urges the Education Minister to use his powers to reject weak, generic and vague plans.

A clear message must be sent that non-compliance will not be acceptable, in order to take the opportunity to turn national consensus and political will into serious action on the ground during the second round of these Plans.

WESPs: key points

County	Key points	RhAG recommendation	Reason
Swansea	<ul style="list-style-type: none"> The County does not mention the 8 Welsh-medium schools that are either close to capacity or overcrowded, and therefore it does not offer a means of solving the situation. The Plan does not provide growth targets. A vision of 'monitoring' trends is not sufficient. The County does not refer to the intention to move Ysgol Gynradd Tirdeunaw from its current site, and does not discuss the adverse effect of moving one of the most successful Welsh-medium schools in Swansea. The County does not adhere to the Government's methods of measuring demand, so any monitoring will be based on erroneous grounds. 	Reject the draft plan	<ul style="list-style-type: none"> Need concrete plans to solve the situation of the 8 schools that are close to capacity or overcrowded Need specific targets to deal with areas where there are no Welsh-medium schools. No ambitious targets to increase numbers. The plan does not forecast or prepare for growth.

<p>Blaenau Gwent</p>	<ul style="list-style-type: none"> • The Plan does not give growth targets, or an intention to open new schools in areas where there is demand e.g. Tredegar. Indeed, only 4.6% of 7 year olds (36) were in Welsh-medium Education in 2016, a reduction on the 2014/15 percentage of 5.4%. There are no growth targets set for 2019 or 2020, although there are already 41 children in the Nursery class in 2016/17. Progression rates from Nursery to Primary are low. An intention to review transport policy in 2016-17, which causes concern. The Plan does not address the current challenges facing parents in the County, i.e. the distance between provision and the home, travel times and lack of transport for pre-school age children. These barriers mean that Welsh-medium education is not a fair choice. 	<p>Reject the draft plan</p>	<ul style="list-style-type: none"> • Need specific targets to deal with areas where there are no Welsh-medium schools e.g. Tredegar, Ebbw Vale • There are no ambitious targets to increase numbers. • There are no concrete targets for growth in the Nursery sector.
<p>Vale of Glamorgan</p>	<ul style="list-style-type: none"> • Lack of commitment to increase the availability of Welsh-medium Education in the County. No plans to set up new schools in areas where there are pressures on 	<p>Reject the draft plan</p>	<ul style="list-style-type: none"> • No ambitious targets to increase numbers. • Need specific targets to expand the provision in areas where there is increasing pressure on school places e.g. Barry,

	<p>school places / no Welsh-medium education within reasonable distance: Cosmeston (meeting demand in Sully and the south side of Penarth); Headland (meeting demand in the town centre); the Waterfront development, Barry; adding a stream to Ysgol Iolo Morgannwg, Cowbridge. There is a severe lack of Welsh-medium childcare provision in the Penarth area. No commitment to promote and stimulate growth in the demand for Welsh-medium Education in the County.</p>		<p>Penarth, Cowbridge, Rhose</p> <ul style="list-style-type: none"> • No commitment to promote and stimulate growth in the demand for Welsh-medium Education in the County.
Cardiff	<ul style="list-style-type: none"> • The Plan does not include proposals to establish new schools in areas where there is pressure on school places at present: Ely Mill/Nant Caerau, starter class for the new development in Radyr/ Rhydlafar/ Creigiau, Llandaf (additional stream). No plans to address the need for a fourth high school. No commitment to promote and encourage growth in the demand for Welsh-medium Education. 	Reject the draft plan	<ul style="list-style-type: none"> • No proposals to establish new schools for Ely Mill/Nant Caerau, starter class for the new development in Radyr/Rhydlafar/Creigiau, Llandaf (additional stream). • No ambitious targets to increase numbers. • No commitment to promote and encourage growth in the demand for Welsh-medium Education in the County. • No target to plan for a fourth high school.

<p>Caerphilly</p>	<ul style="list-style-type: none"> • It must be acknowledged that Caerphilly County Borough Council has led the way in recent years by responding proactively and increasing the provision of Welsh-medium education. The County should refrain from resting on its laurels and continue to respond proactively by extending the provision in parts of the County that (i) are buckling under increasing pressure for additional places, (ii) need new local schools in order to offer provision within a reasonable distance • Statistics, for some time now, have shown growth in the Risca and Crosskeys area; the middle of Sirhowy Valley; Caerphilly Basin, but this Plan does not set out proposals to meet that demand. A large number of the County's Welsh-medium schools are within the capacity threshold of 10% but the Plan does not go into any detail on this. The figures show the need for additional secondary provision during the next 7 or 8 years. Considering how much time it took to set up the Gwyndy site in an existing 	<p>Reject the draft plan</p>	<ul style="list-style-type: none"> • No ambitious targets to increase numbers. • Need specific targets to expand the provision / establish new schools in areas where there is no local provision at present: Risca; Bedwas, Trethomas and Machen; Blackwood • No details about expanding secondary provision. • No concrete target for latecomer immersion provision in the County.
--------------------------	--	-------------------------------------	--

	<p>building that was already empty and available, it is now time to consider further secondary provision. The Plan does not address this.</p>		
<p>Neath Port Talbot</p>	<ul style="list-style-type: none"> The plan is inadequate and reflects a lack of commitment to expand and increase the provision of Welsh-medium education. The Plan is merely a reflection of the current situation. The Plan needs proposals to promote Welsh-medium education and open Welsh-medium schools in areas such as Skewen where council data has already demonstrated demand for Welsh-medium primary education. The growth identified in this document will occur naturally - these children are already in the system. A much more daring and ambitious strategy is needed. The County provides 40 Flying Start childcare places through the medium of Welsh, equivalent to 7.84% of the existing provision. The percentage of children aged 7 in Welsh-medium education is at 18.3%, so it is clear that the 	<p>Reject the draft plan</p>	<ul style="list-style-type: none"> No ambitious targets to increase numbers. Need specific targets to expand provision / establish new schools in areas where there is no local provision at present: Llandarcy / Skewen, Neath, Pen Afan, Taibach, Bryncoch No growth targets in the Nursery sector and Flying Start provision No commitment to promote and stimulate further growth in the demand for Welsh-medium Education in the County. No new Welsh-medium primary schools have been opened in the County since 1997

	provision does not come close to the current percentage receiving Welsh-medium education in Neath Port Talbot.		
Newport	<ul style="list-style-type: none"> There is no growth here over the next 3 years. The commitment to open a fourth Welsh-medium Primary School on the western side of the city within the Plan's lifetime should be noted. Not enough attention is given to specific areas of Newport e.g. exploring the development of Welsh-medium Education in the south-west where no local Welsh-medium school exists and where the new secondary school Ysgol Gyfun Gwent Is Coed will be based from September 2018. There is nothing about the way in which pre-school provision is going to feed into the early years. A target is needed to establish provision in partnership with Mudiad Meithrin. There are no details about how exactly the Authority will promote Welsh-medium Education over the plan's lifetime or how this 	Reject the draft plan	<ul style="list-style-type: none"> No ambitious targets to increase numbers. No growth targets in the Nursery sector No commitment to promote and stimulate further growth in the demand for Welsh-medium Education in the County. Need specific targets for expanding provision / establishing new schools in areas where there is no local provision at present.

	will impact future numbers.		
Ceredigion	<ul style="list-style-type: none"> There are no details about how the percentage of children aged seven in Welsh-medium education will increase. It is stated that 75% is relatively stable, and the targets are aiming for 78%-80%. What evidence is there about this in terms of the pupils already in school reception classes? It is stated that the challenge is to maintain the baseline of more than 70%, but there are no targets for increasing Welsh-medium education, particularly in the Aberystwyth area, where the percentage in Welsh-medium education is around 30%, which is disappointing. Close attention needs to be paid to Aberaeron, Cardigan, Bro Pedr and Penglais schools in terms of pupils studying subjects through the medium of Welsh. This is the weakest part of first language education in Ceredigion. Countywide, fewer than half the first language pupils study at least two subjects through the medium of Welsh. This is likely to lead to the loss of 	Reject the draft plan	<ul style="list-style-type: none"> No ambitious targets to increase numbers. The Council needs to tackle the balance of Welsh-medium/English-medium education specifically in the Aberystwyth area, and in Cardigan. There is no information here about how the Council will provide parents with information about the benefits of Welsh-medium education except through the Erw Welsh Language Charter. More challenging targets need to be set for increasing the number of first language pupils sitting 5 or more GCSEs through the medium of Welsh.

	Welsh language skills. The percentages of first language pupils sitting 5 or more GCSEs through the medium of Welsh are very low. This is again a major weakness.		
Conwy	<p>The Plan proposes an increase from 25% to 26%. Demand will be measured in 2017. An ORS survey has shown that 70% of parents aged 25-34 would like to choose Welsh-medium education. However, the County's plans, while offering further provision in Abergele, need to reflect this desire.</p> <p>Transition from primary to secondary. Around 20% of first language primary school children are still being lost to Welsh-medium education in the transition. That can be inferred, even though the County does not state this. There are references to pupils transitioning to Ysgol Brynhyfryd, without information about their language of studying there. The Plan mentions Welsh first language pupils at English-medium schools, and there are no statistics about these. Questions need to be asked about these. Percentage data as well as numbers are needed. There are some promising points, but the action does not match the ambitious vision, or the ORS survey findings.</p>	Reject the draft plan	<ul style="list-style-type: none"> • No ambitious targets to increase the numbers in line with surveys to measure demand • Need specific targets for expanding the provision / establishing new schools in areas where there is no local provision at present. • It would be positive for the County to adopt an official policy of moving schools along the language continuum and increase Welsh language provision at the Foundation Phase as a starting point. • Need to prevent slippage and close the gap in terms of linguistic progression between primary and secondary. The aim should be to close the gap completely.

<p>Denbigh</p>	<ul style="list-style-type: none"> • There is a lack of specific targets for increasing the number of children in the pre-school sector and growth targets in collaboration with Mudiad Meithrin. In the previous Plan there were clear, specific, measurable targets to develop the provision in new areas. This Plan needs a similar action plan. The Plan recognizes that there is considerable work to be done in terms of increasing Welsh-medium provision in the primary sector. We would welcome the adoption by the County of an official policy of moving schools along the language continuum (as Carmarthenshire County Council has done) and increasing Welsh-medium provision in the Foundation Phase as a starting point. We are very glad about the final decision made regarding Ysgol Pentrecelyn. It is vital that no proposals to reorganize or rationalize school places are introduced in the future that would lead to a dilution of the linguistic nature of the provision. 	<p>Reject the draft plan</p>	<ul style="list-style-type: none"> • No ambitious targets to increase numbers. • Need specific targets to expand the provision / establish new schools in areas where there is no local provision at present. • We would welcome the adoption by the County of an official policy of moving schools along the language continuum and increasing Welsh-medium provision in the Foundation Phase as a starting point. • Work is needed to prevent slippage and close the gap in terms of linguistic progression between primary and secondary. The aim should be to close the gap completely.
-----------------------	--	-------------------------------------	---

Flintshire	<ul style="list-style-type: none"> The Plan mentions growth from 6.6% to 7.4% in Welsh-medium education by 2019. But since the number of pupils in Welsh-medium education at Year 1 is 113, the growth in numbers is almost negligible statistically. The County argues that their problem is that there are too many surplus places in Welsh-medium schools (e.g. Mornant, 37 pupils with room for 81, Terrig with 46 pupils, room for 93). But in the larger primary schools (Glanrafon and Croes Atti), things are different: in response to Ysgol Glanrafon (292 pupils, room for 287) the solution is to provide the school with a cabin. Much more creative thinking is needed, and consideration for where an additional school should be located. At Ysgol Croes Atti (217 pupils with room for 237 pupils) the response is better, with an additional site under its control. This, at least, is needed for Ysgol Glanrafon. 	Reject the draft plan	<ul style="list-style-type: none"> No ambitious targets to increase numbers. Need specific targets for expanding provision / establishing new schools in areas where there is no local provision at present. Need more adventurous and creative plans to expand the provision No commitment to promote and stimulate further growth in demand for Welsh-medium Education in the County.
Gwynedd	<ul style="list-style-type: none"> It is pleasing to see that the County is managing to keep the percentage of children who study 	Accept the draft plan with some amendments	<ul style="list-style-type: none"> Need to set targets to strengthen linguistic progression from primary to secondary.

	<p>Welsh as a first language close to 100%. Considering the success of Welsh-medium primary education in Gwynedd, there is some concern about progression to the secondary sector. The progression percentage in 2016 is similar to 2011, and it would be useful to have stronger targets that are more ambitious, as there is no educational reason for not ensuring progression.</p> <ul style="list-style-type: none"> • Alongside this, there is a drop in the number of pupils studying subjects through the medium of Welsh. With pupils aged 16-19, the percentage of subjects being studied through the medium of Welsh are lower again, and the percentage of subjects being studied bilingually is high. There are no statistics here on the examinations taken through the medium of Welsh, and there are reasons to believe that only a minority of 'bilingual' students are choosing to gain their qualifications through the medium of Welsh. The figures and percentages for these need to be noted, and specific growth targets set. It 		<ul style="list-style-type: none"> • The County should be more open about the lack of progression, which is mainly attributable to one school. This Plan needs to specify the progression percentage of this school, and set targets for the coming years. • There is a collapse of 16% by KS3, and while there has been some success in recent years, the Plan needs to narrow the gap further. • It is strange to see that the County has relatively high numbers and percentages studying Welsh as a second language, when most of these pupils have studied Welsh as a first language in the primary sector. Serious questions need to be asked about whether this means that there is a measure of deception in the second language system in the county. • If there is a need to strengthen and reinforce the English language skills of some pupils in some schools, surely the most logical solution is to invest and further support English departments in those schools rather than mainstream the English language throughout the whole school curriculum?
--	--	--	--

	appears that some secondary schools in Gwynedd have started introducing more subjects through the medium of English. Many parents are concerned that up to a third of the education in some schools is now being delivered in English, against the wishes of parents.		
Merthyr	<ul style="list-style-type: none"> A lack of commitment to promote and stimulate growth and plan provision that is local and accessible to meet the growing demand for Welsh-medium education. The Plan refers to a 'steady increase' in the number of children aged 7 who have been receiving Welsh-medium Education in the County over the last few years. This is a growth of 1.8% which corresponds to an increase of 2 children since 2014. Figures show that one school (Rhyd-y-grug) will be full within a year. The Plan does not specify how the County will respond to this. No plans for responding to the needs of latecomers in the County. Only 9% of the County's Flying 	Reject the draft plan	<ul style="list-style-type: none"> No ambitious targets to increase numbers. No targets to remove current barriers, i.e. the distance of provision from family homes and travel distances/times. Need specific targets for expanding provision / establishing new schools in areas where there is no local provision at present e.g. Bedlinog (for the Taff Bargoed Valley) & Dowlais / Cefn-coed-cymer No new Welsh-medium primary schools have opened in the County since 1976.

	<p>Start provision is available in Welsh (24 childcare places). The progression rates of some of the Welsh-medium Nursery Groups are low. The County must respond to this by increasing the availability of Welsh-medium primary schools.</p>		
Monmouthshire	<ul style="list-style-type: none"> The latest survey (WESP: Annex 4) shows that there is demand for a Welsh-medium school in Monmouth (which reflects the findings of each survey since 2009). Combining this with the fact that the KS1 class at Ysgol y Fenni is overcrowded in 2016-17 and is likely to be in a worse situation by 2017-18, there is no definite plan in the WESP to open a new school in 2017 to reduce the pressure on Ysgol y Fenni and meet the demand in the Monmouth area. 	Reject the draft plan	<ul style="list-style-type: none"> Need a definite plan to open a new primary school in the Monmouth area and assurances of funding to enable Ysgol y Fenni to bridge the period (2017-18) until the new school is available.
Pembrokeshire	<ul style="list-style-type: none"> It is pleasing to see the aim of establishing a 3-16 school in Haverfordwest. A consideration here for 16-18 linguistic progression would be useful. We would welcome a more proactive vision that specifically mentions increasing numbers 	Accept the draft plan with some amendments	<ul style="list-style-type: none"> Need more detail on the proposed increase in primary sector numbers. Need growth targets for the Nursery sector. Need to set targets to strengthen linguistic progression from primary to secondary.

	<p>as a step towards the growth of Welsh-medium education as part of the goal of creating a million Welsh speakers. There is a lack of specific targets for increasing the number of children in the pre-school sector and growth targets in collaboration with Mudiad Meithrin. These should be incorporated into the Plan. We need to know why 27% of pupils are lost to the second language sector in transitioning to secondary school. This percentage is among the highest in Wales, and a detailed study is needed to find the reasons for this as well as a solution.</p>		
Bridgend	<ul style="list-style-type: none"> Although there is a vague reference to 5% growth over the next three years, there is a lack of concrete targets in terms of increasing numbers. The Plan confirms that one primary school is full and 3 of the 4 schools are within 10% of capacity, but there are no proposals to respond to this. Ysgol Bro Ogwr has been overcrowded for years and has had to refuse children for that reason. A concrete plan is 	Reject the draft plan	<ul style="list-style-type: none"> No firm targets to increase numbers. No targets to remove current barriers, i.e. distance of provision from homes and travel distance/times. Specific targets for new schools are needed in areas where there is no local provision at present / where there is pressure on places e.g. Pen-y-bont, Sarn/Tondu, Porthcawl No new Welsh-medium primary schools have been opened in the county since 1988.

	<p>needed to take pressure off the school and increase the provision in the town of Bridgend. The success of the Plan depends on a commitment to open new schools. A clear strategy is needed to address the significant numbers of children who are lost between KS2 and KS3.</p>		
Powys	<ul style="list-style-type: none"> The proposal to establish a primary school in Welshpool is positive. The Plan remains deficient in terms of the secondary sector. There is no firm commitment to open designated Welsh-medium secondary school(s). Lack of equality. Lack of full linguistic progression. Continues to stifle and hinder growth in the primary which is a fundamental weakness in the Plan. 	Reject the draft plan	<ul style="list-style-type: none"> Need growth targets for the Nursery sector. Failure to promote and encourage growth Need further targets for expanding / establishing new schools in areas where there is no local provision at present. Need an unambiguous policy statement that adopts the principle that the preferred model in the delivery of Welsh language education in the primary and secondary sectors is the Designated Welsh-medium Schools model.
Rhondda Cynon Taf	<ul style="list-style-type: none"> There is a lack of growth targets in the Plan in question, making the commentary less meaningful. We need to know what growth is forecast by the County and how that vision will be realized. We would like to see more ambitious targets for increasing the number and percentage of 	Reject the draft plan	<ul style="list-style-type: none"> Lack of ambitious targets to increase numbers. Need specific targets to establish new schools in areas where there is no provision locally at present / where there is pressure on school places e.g. Taff's Well, Castellau and/or Gartholwg [adding a stream], middle of Cynon Valley Lack of a concrete target for the provision of

	<p>children aged 7 receiving Welsh-medium education in the county to reach 25% by 2019/20. A number of Welsh-medium primary schools have been within 10% of capacity for years. This is especially true in southern Taff Ely and in Cynon. There is pressure on school places in the Castellau and Gartholwg area - expansion is needed there, but cannot be at Gartholwg due to the nature of the site. Lack of plans to provide language immersion for latecomers.</p>		immersion for latecomers in the County.
Carmarthenshire	<ul style="list-style-type: none"> There are no firm details on how the percentage of children aged seven will increase. The Plan refers to some progress - growth of less than 3% over the Plan's lifespan - but there is no suggestion of how this could be increased, or where. There is an opportunity to focus on specific schools and districts in the County. The Council needs to tackle the balance between Welsh-medium and English-medium education in the county's urban areas, and in particular in the Llanelli and 	Accept the draft plan with amendments	<ul style="list-style-type: none"> No ambitious targets to increase numbers. Concrete growth targets for the pre-school sector need to be set in collaboration with Mudiad Meithrin. A robust programme is needed to effect a significant shift in the progression percentages from KS2 to KS3. More challenging targets need to be set to increase the number of first language pupils sitting 5 or more GCSEs through the medium of Welsh and to improve the numbers going on to study Welsh as an A Level subject Need a strategy to improve the delivery of Additional Learning

	<p>Ammanford areas. We already know that there has been growing demand for places over the last few years at Ysgol Gymraeg Dewi Sant. We understand that the situation is similar at Ysgol y Ffwrnes and Ysgol Brynsierfel. Only 42.2% of the County's Year 9 pupils are assessed as Welsh first language. Nevertheless, it is good to see that the traditional slide towards English-medium between KS2 and KS3 is being reduced. But this remains a significant loss compared to the number studying Welsh as a first language at KS2. The percentage of 42.2% is lower than the percentage of Welsh speakers in the County. Again, it would be good to have numbers with percentages. A target of 45% has been set by 2019/20.</p>		Needs in Welsh and fill the existing gaps.
Torfaen	<ul style="list-style-type: none"> • While there are some positive aspects to the Plan's vision, the Plan itself offers nothing new in terms of promoting and stimulating growth in Welsh-medium Education in the County. • Having fewer children in Year 2 in 	Reject the draft plan	<ul style="list-style-type: none"> • No ambitious targets to increase numbers. • No growth targets for the Nursery sector • A failure to promote and encourage the growth of Welsh-medium Education and expand the current provision. Only meeting the current demand: lack of vision to drive growth. • Need specific targets to expand the provision /

	<p>2019/20 than in 2016/17 exposes the shortcomings of this Plan. Setting a growth target of 13% is not ambitious, given that this was the previous Plan's growth target. Although the county conducted a survey to measure the demand in 2016, the information is not contained in the Plan. The survey showed that over 22% of parents are keen to choose Welsh-medium Education but the Plan as it stands plans to stick to the current provision, which is about 15%.</p>		<p>establish new schools in areas where there is pressure on school places at present e.g. Cwmbrân</p>
Wrexham	<ul style="list-style-type: none"> The current situation in the Reception classes of the Welsh-medium primary schools is a cause for concern. Over the last two years, nearly all Reception classes have been full or within 10% of capacity, and this has impacted parents' confidence. A further concern is the likely pressure on Welsh-medium schools if this trend continues. The capacity of several primary schools in the County needs to be increased, and the Plan should provide for that. It is likely 	Reject the draft plan	<ul style="list-style-type: none"> No ambitious targets to increase numbers. No growth targets for the Nursery sector Failure to promote and encourage the growth of Welsh-medium Education and expand existing provision. Only meeting the current demand: lack of vision to drive growth. Need specific targets to expand provision / establish new schools in areas where there is pressure on places at present e.g. Wrexham Town, Gresford / Llay Need a strategy to expand the secondary sector

	<p>that the population of Ysgol Morgan Llwyd will have reached full growth during the period 2017-20. A clear strategy is needed to determine a site, funding and planning permission for new Welsh-medium secondary provision in order to be in a position to cope with the current growth and to safeguard post-16 Welsh-medium provision in secondary schools in the County.</p>		
Anglesey	<ul style="list-style-type: none"> It is positive to see a goal of 86% being assessed as Welsh first language by 2019-20. Do pupil numbers in the nursery and reception classes this year justify this? Having 67.3% of first language pupils transitioning from KS2 to KS3 is a big weakness at present. The aim of increasing to 80% is positive, but this would still be among the weakest rates in Wales. The percentages of pupils currently studying 2 or 5 subjects through the medium of Welsh are very disappointing. 	Accept the draft plan with amendments	<ul style="list-style-type: none"> A robust programme is needed to see a significant shift in the transition percentages from KS2 to KS3. Need to set more challenging targets for increasing the number of first language pupils sitting 5 or more GCSEs through the medium of Welsh.

Bethan Jenkins
Chair,
Culture, Welsh Language and Communications Committee

16 February 2017

Dear Bethan

Welsh in Education Strategic Plans


The Children, Young People and Education Committee has received correspondence from Rhieni Dros Addysg Gymraeg, in which they enclosed their national overview produced in relation to the draft Welsh in Education Strategic Plans for the period 2017–20.

A copy of their e-mail to me, and a copy of their overview document are enclosed. You will note that RhAG has called on the Minister to reject the majority of the draft Plans as they fall short of the ambitious proposals which are needed.

The Culture, Welsh Language and Communications Committee may wish to refer to the information from RhAG as part of its inquiry into the Welsh Government's new Welsh Language Strategy. The Children, Young People and Education Committee will await the outcome of that Inquiry before considering any next steps in relation to WESPs, including whether to undertake any follow up to our inquiry on WESPs in the Fourth Assembly.

You may also wish to be aware that I have written to the Minister expressing the concerns of the CYPE Committee regarding the correspondence received from RhAG and the Welsh Language Commissioner. A copy of my letter to the Minister is also enclosed.

Yours sincerely



Lynne Neagle AC / AM
Cadeirydd / Chair



Alun Davies, AM
Minister for Lifelong Learning and Welsh Language

16 February 2017

Dear Alun

Welsh in Education Strategic Plans

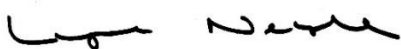
The Children, Young People and Education Committee has received correspondence from Rhieni Dros Addysg Gymraeg, in which they enclosed their national overview produced in relation to the draft Welsh in Education Strategic Plans for the period 2017–20. I understand that RhAG has written to you separately with this document, calling on you to reject the majority of the draft Plans.

In addition, CYPE Committee was recently copied in to correspondence to you from the Welsh Language Commissioner relating to the draft WESPs, in which she expressed concern that the majority of Plans were not adequate.

Both pieces of correspondence have been sent to the Culture, Welsh Language and Communications Committee who may consider this as part of their inquiry into the Welsh Government's new Welsh Language Strategy. It is the intention for CYPE Committee to consider its next steps for WESPs following completion of the CWLC Committee inquiry.

However, I also wanted to express the Children, Young People and Education Committee's immediate concern that both RhAG and the Welsh Language Commissioner believe that the majority of the draft WESPs produced are not adequate. I would be grateful for assurance that these concerns will be taken into consideration when deciding on whether to approve the plans for 2017–20.

Yours sincerely



Lynne Neagle AC / AM
Cadeirydd / Chair

