

Cynulliad Cenedlaethol Cymru | National Assembly for Wales

Y Pwyllgor Plant, Pobl Ifanc ac Addysg | Children, Young People and Education Committee

Bil Anghenion Dysgu Ychwanegol a'r Tribiwnlys Addysg (Cymru)| Additional Learning Needs and Education Tribunal (Wales) Bill

ALN 55

Ymateb gan: Anabledd Dysgu Cymru

Response from: Learning Disability Wales

Learning Disability Wales is supportive of the response provided by TSANA (Third Sector Additional Needs Alliance as details below. In addition to our united response the paper highlights three other areas of concern for Learning Disability Wales.

TSANA Response

Multi agency working.

TSANA welcomes the significant attempt to strengthen the duty on health bodies “to consider whether there is any relevant treatment or service that is likely to be of benefit in addressing a child’s additional learning need” and that “any treatment or service so identified must be included in the learner’s IDP, and that the health body must secure the provision of the treatment or service”. However if no treatment or service is identified, none will have to be provided. It is accepted that many practitioners will base their decision on clinical judgement but others may not identify a service because they believe that there is a lack of funds to provide it. The reference to treatment could also imply a clinical need where what is required is a more holistic focus on supporting social and developmental requirements.

To overcome the funding issue, TSANA recommend that joint funding is introduced and this is backed up with a top level agreement in WG. This can be facilitated through Part 9 (Co-operation and Partnership) of the Social Services and Well-being Act which makes provision for partnership arrangements between local authorities and Local Health Boards, which can include pooled budgets. The cooperation and partnership working could be further reinforced by the introduction of a duty to work in a multi-agency way which is underpinned by local protocols between health, social services and education to assess and deliver provision.

Under the ALN Bill, the LA can approach health for information and support but schools cannot. This could potentially result in schools making a clinical / medical decision and buy a deaf child a hearing aid to use in class. Clarity is therefore needed on how information from health can be accessed. Health accountability is also an issue and TSANA is disappointed that the role of the Education Tribunal is not being expanded to cover health. Instead complaints will continue to be investigated under “Putting Things Right” which is not independent of health and has no timescales attached.

Fundamentally this is a children's rights and entitlement issue. Children aren't going to learn if their health needs aren't being met. The Rights of Children and Young Persons (Wales) Measure places a clear duty on all Welsh Ministers, in exercising their functions, to have 'due regard' to the UNCRC. The Bill therefore has to evidence due regard to the UNCRC whereas health do not have to, which could cause undue pressure.

Needs Assessment / Provision Pathway and The Individual Development Plan

Further clarity about how assessments will be undertaken is required. To support this, TSANA recommends that needs assessments / provision pathways are placed on the face of the Bill. A mandatory IDP template is required to ensure that the IDP is consistent and portable, legally accountable, and transparent across Wales. TSANA would welcome the opportunity to work with the Welsh Government on the development of such a template. The views, wishes and feelings of the child and parents must be recorded in the IDP and it is important to note that the one page profile which forms part of Person Centred Practice, is different to an IDP. (Please see appendix for Paper written by TSANA on IDP) TSANA supports looked after children with ALN being entitled to an IDP. We also recommend that the care leaver's pathway plan and the care and support plan, under Part 6 and Part 4 of the Social Services and Well-being (Wales) Act respectively, link to the IDP.

Advocacy

Advocacy provision should operate to a minimum standard and follow national statutory guidelines to ensure transparency and consistency. TSANA is disappointed that there is no provision in the Bill for access to advocacy at the information and advice stage. If this happened disagreements could be rectified at an early stage, which would also be cost effective. However if access to information and advice is not going to be supported by advocacy, this can be overcome by making the information accessible to everyone. The Bill places a duty on local authorities to refer children and young people to an independent advocacy service on request but it does not explicitly provide for the provision of advocacy for parents, this in spite of the Code stating that '*The child, child's parent or young person should be enabled to participate as fully as possible in the decision making processes.*'

TSANA believes it is imperative that the new ALN system does not disadvantage children and young people or parents less able to navigate the system and therefore recommend that parents can access advocacy support themselves.

Early years

TSANA is concerned that there is still a lack of detail in The Bill about how the system will work in an early years context. The Explanatory Memorandum states that maintained nurseries must follow the statutory Code of Practice, while private nurseries will only have to pay regard to it. However some private nurseries receive state funding to provide pre-school places on behalf of local authorities. As these nurseries will therefore be in receipt of public funds, they must be under the same statutory obligations as maintained nurseries. If this does not occur, the quality of ALN provision for families within the same local authority could be subject to inequalities and a post-code lottery. It is also important to consider how the legislation will affect pre-school playgroups.

As the **First 1,000 Days** of parenting are now accepted to be the most significant in a child's development, it is especially important that parents are given support from health professionals including health visitors and GPs who are the main universal professional contact for families in the early years. TSANA therefore recommends that it is important to raise awareness of the new ALN systems among these professionals.

Monitoring / Data Recording

Members of TSANA are aware that there are an increasing number of cases being referred to the Tribunal because the needs of children with specific learning difficulties are not being met. TSANA therefore recommends that The Tribunal should be given the power to ensure local authorities review and learn from issues such as this as part of their implementation of the Bill.

Estyn should have a role in monitoring ALN provision, assessment, IDP's, support systems, complaints and disputes framework

There is a proposal to change PLASC (pupil level annual school census) data collection to random sampling but TSANA members are concerned if this is implemented the needs of children with low incidence disabilities will not be recorded. It is therefore imperative that an appropriate process not only for recording but analysing the data is in place. The establishment of a process for stakeholder feedback and monitoring of the Bill is also recommended.

Workforce Issues and training

In order to implement the reforms, professionals working with children and young people with ALN will require appropriate training, mentoring and capacity building. This must include general disability equality training as well as training on the specific disabilities of individual children and young people plus training on the IDP process.

Initial teacher training must also include an increased focus on children with additional learning needs as well as including training on person centred planning.

Transition to Adulthood

The Bill gives little information about young people who leave school, and do not go onto further education but do require support from social services, health and other agencies. Previously many young people in this position were supported through the Welsh Government funded Transition Key Worker programme which ran from 2008 – 2013 and the convergence funded Regional SEN Transition to Employment Initiative from 2011 – 2014 and TSANA is concerned that learning from these programmes is being lost.

Further Education Institution (FEIs)

These institutions are independent and outside the control of LA.'s. Currently FEIs largely support young people with high incidence and low level needs. However as a result of the transfer of post 16 funding from WG to LA revenue support grant, many young people with complex needs will attend FEI's rather than accessing residential placements. TSANA recommends that further clarity is provided within the Bill on how FEI's and the young people concerned can be supported under the new system.

Apprenticeships and work-based learning

TSANA is disappointed about the non-inclusion of apprenticeships and work-based learning opportunities in the Bill. The funding of apprenticeships can be a barrier but access to work, which provides a grant to help towards the additional costs associated with barriers faced by a disabled person in work, would be available as would the personal independence payment. Supported internships exist in England but are not recognised in Wales. Some pilots including Project SEARCH through the Engage to Change project are taking place in Wales and learning from these could be rolled out to cover the whole of Wales.

Learning Disability Wales additional points

Apprenticeships, Internships and work based learning

People with learning disabilities and ASD have little access to Apprenticeships (or other skills programmes) in Wales. Routes through post-16 Further Education are not generally successful in getting people into employment. There are few routes to access work-based support for employment or training. Without including these in the Bill young people transitioning to adulthood will have no access to the workplace. They will become dependent on others and not contribute to the economy.

We acknowledge that to include the above within the bill there will need to be significant other work to ensure their inclusion in the bill achieves best outcomes. Our recommendations are below.

- Negotiate with DWP for the Supported Internship to access 'Access to Work' funding as a pilot to show how it can work in Wales to provide job coaching to people in work-based supported placements.
- Include people who can succeed practically by adjusting the minimum standard of English and Maths required (to entry level 3). We may need to link this to a clearer definition of the group to which flexibility might be applied.
- Apply priority to the LD group over and above any wider priority criteria (e.g. NEET rather than at risk of NEET) where they may not reach criteria.
- Ensure the assessment of English and Maths takes account of people abilities to demonstrate competency level in the workplace, rather than in artificial tests.
- Increase use of Access to Work for Apprenticeships and Traineeships. This will require:
 - Making it clearer how Access to Work can be applied for people with LD in Apprenticeships e.g. job coaching
 - Pilot the use of job coaching with Apprenticeship training providers as they currently lack skill to deliver this
- Consider further the adequacy of any differential age-related funding rates, Additional Learning Support levels to cater for this group and how it can best be "meshed" with Access to Work to provide the wrap-around support service for work and academic support needed.
- Allow employers to use the Apprenticeship levy to pay for, and promote, provision of supported placements, traineeships, supported internships and apprenticeships
- Make use of existing Apprenticeship communication channels to highlight the need to include people with learning disabilities. Public sector (and WG) to lead the way in recruiting and supporting people with LD within Apprenticeships.
- Increase monitoring of training providers use of support systems and recruitment of people with LD to Apprenticeships

Further Education- residential settings

LDW would like to see further clarity within the bill and code of practice around placements at residential colleges. Guidance has already been issued prior to the Bill and we wish to know what its status will be after the legislation is adopted. At present we are encouraging many young non-disabled young people to experience University. As a society we measure success on independence (earning your own wage, owning your own home, financial freedom etc). Young people with a learning disability are often denied

this opportunity to live separately from their parents whilst in education. We have spent time listening to parents, young people and providers who have given us the statement below.

Consultation feedback

‘We are concerned that the bill will jeopardise the right of young people with learning difficulties’ to further education provision that is fit for purpose and equitable to the opportunities available to their non-disabled peers. The lack of reference to the interests of the individual learner and that they be treated fairly and equitably is not clear.

There is a danger that through specialist provision placements we could deny vulnerable individuals the opportunity of high quality and bespoke learning experiences to enhance life chances. There are vast differences between the options available for young people with high needs and their non-disabled peers.

Moreover, there is a very real danger that revised Welsh Government policy will exacerbate existing inequities likely to result in only the most articulate and robust parents/carers being able to navigate ‘the system’ to ensure their young person has a further education placement able to meet their individual learning needs and aspirations.’

Transport

There is now a trend within local authorities to refuse to transport learners with more complex needs to the education provider. Particularly in F.E. they are favouring independent travel as a mechanism.

LDW supports independent travel where appropriate, safe, available and with training. However we believe that legislating for travel with more detail than currently stands in the code of practice is vital. Otherwise we will again be in the situation where young people who have parents with the resources and knowledge being the only young people who can access education. We are able to provide case studies where highly appropriate placements in schools and colleges with great levels of support are breaking down because agreement cannot be made on who will provide transport.