

## Respondent Details

Information	
<b>Name</b>	Richard J Cubie
<b>Organisation (if applicable)</b>	GwE (School Effectiveness and Improvement Service for North Wales)

## Part 1 of the consultation: The draft ALN Code

### Chapter 1 - Introduction

The meaning of 'must', 'must not', 'may', 'should' and 'should not' in the ALN Code

**Question 1** – Is the explanation in paragraphs 1.10 -1.16 of the draft ALN Code of the use and meaning of the different terms 'must', 'must not', 'may', 'should' and 'should not' clear?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

Yes there is no ambiguity in these statements.

Timescales

**Question 2** – Do you agree with the general approach to the timescales for compliance with duties (that is, to act promptly and in any event within a fixed period), as explained in paragraphs 1.31 – 1.32 of the draft ALN Code?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 3** – Is the general exception which applies in the case of timescales, as described in paragraphs 1.33-1.35 of the draft ALN Code, appropriate?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

They are appropriate

## Structure of the draft ALN Code

**Question 4** – Is the structure of the draft ALN Code and the separation of the chapters appropriate, clear and easy to follow?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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### **Supporting comments**

Well written and in this format will be an easy to use reference for ALNCo's and practitioners.
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**Question 5** – Is the draft ALN Code's focus on describing and explaining the functions and processes appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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### **Supporting comments**

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## Pupil referral units (PRUs) - Proposed regulations to be made under Paragraph 15 of Schedule 1 to the Education Act 1996

**Question 6** – Do you agree with the proposal to use regulations to delegate functions from a local authority to a Management Committee of a PRU?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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### **Supporting comments**

It brings the PRU's in line with other areas of the maintained sector.
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## **Chapter 2 - Principles of the Code**

**Question 7** – Are the principles set out in Chapter 2 of the draft ALN Code the right ones?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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### **Supporting comments**

2.2 d) should refer to "equivalence" in the description of inclusion to underline the principles of "right and equity". 2.10 in the provision of independent advocacy services, the descriptors in Chapter 25, 25.55-25.60 DO NOT provide the facility of independent advocacy before a decision is imminent and DO NOT give the facility of referral to schools, children's services or health services.
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## Chapter 3 - Involving and supporting children, their parents and young people

**Question 8** – Is the explanation of the duties relating to involving and supporting children, their parents and young people provided in Chapter 3 of the draft ALN Code appropriate?

Yes		No	✓	Not sure	<input type="checkbox"/>
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### Supporting comments

3.25, 3.26, do not explore the duty of the school where the persons with parental responsibility may be determined to have limited capacity to exercise their functions.

## Chapter 4 - Duties on local authorities and NHS bodies to have regard to the UNCRC and the UNCRPD

**Question 9** – Is Chapter 4 of the draft ALN Code clear about what is expected of local authorities and NHS bodies when discharging their duties to have due regard to the United Nations Convention on the Rights of the Child (UNCRC) and United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

These duties should have a more prominent loading.

## Chapter 5 - Duty to keep additional learning provision (ALP) under review

**Question 10** – Is the guidance provided in Chapter 5 of the draft ALN Code in relation to the duties to keep ALP under review appropriate?

Yes		No	✓	Not sure	<input type="checkbox"/>
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### Supporting comments

This is a key duty and should refer to the SLA's with the Consortium, which would inform the process of continuous review.

For example 5.4 cannot be undertaken without the evidence that will determine the indicators for "size" and "capability".

5.5 – 5.13, A LA could not determine what is "insufficient" without reference to evidence collated by the Consortium.

5.14 refers to the Consortia without acknowledging the pivotal and lead role that the consortia undertakes in partnership with the other named stakeholders.

5.20 refers to "reasonable steps", which is too ambiguous and would also enable each LA to determine what "reasonable" means.

## Chapter 6 - Advice and information

**Question 11** – Is the guidance provided in Chapter 6 of the draft ALN Code in relation to making arrangements to provide advice and information about ALN and the ALN system appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

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## Chapter 7 - The definition of ALN and ALP, identifying ALN and deciding upon the ALP required

**Question 12** – Is this explanation of the definition of ALN provided in paragraphs 7.4 – 7.32 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

This Chapter misses to opportunity to reference the Curriculum for Wales and integrate the concepts of “Wellbeing” into all of the descriptors of need.  
7.31 does not adequately cover wellbeing within the descriptions of Healthcare.  
7.34, 7.35 do not explicitly describe wellbeing.  
7.48 and 7.49 should be more prominent within the structure of this chapter and should not be referred to as “other factors”, given that they are frequently comorbid with other descriptors.

**Question 13** – Does Chapter 7 of the draft ALN Code provide a clear and comprehensive explanation of the evidence on which decisions about ALN and ALP should be based, the sources from which this evidence might be collated, and the way in which it should be considered?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

Refer to question 12

## Chapters 8 to 12 – Duties on schools, FEIs and local authorities

Early Years ALN Lead Officer

**Question 14** – Is the guidance on the role, experience and expertise of the Early Years ALNLO set out in paragraphs 8.40 - 8.47 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have the appropriate experience and expertise to meet the expectations of the role)?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

Duties on schools, FEIs and local authorities

**Question 15** – Is the structure and content of Chapters 8 to 12 of the draft ALN Code clear?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

**Question 16** – Are the timescales for decisions by schools, FEIs and local authorities on ALN and preparing an IDP as set out in Chapters 8-12 appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

Deciding whether it is ‘necessary’ for a local authority to prepare and maintain an IDP for a young person not at a maintained school or FEI - Proposed regulations to be made under Section 46 of the 2018 Act

**Question 17** – Are the proposed requirements and guidance in paragraphs 12.22 – 12.51 of the draft ALN Code on when it is necessary for a local authority to maintain an IDP for a young person not at a school or FEI in Wales appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

## **Chapter 13 - Content of an IDP**

**Question 18** – Are the elements of the mandatory content of an IDP which are required by the ALN Code, appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

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**Question 19** – Is the proposed mandatory standard form for an IDP (included at Annex A of the draft ALN Code) appropriate?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 20** – Is the guidance in Chapter 13 of the draft ALN Code clear?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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Transport

**Question 21** – Is the guidance on transport in paragraphs 13.74 - 13.76 of the draft ALN Code appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	✓
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**Supporting comments**

N/A
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## **Chapter 15 – Duties on health bodies and other relevant persons**

Statutory requests by local authorities to relevant persons for information or other help - Proposed regulations to be made under Section 65(5) of the 2018 Act

**Question 22** – Is the proposed timescale and exceptions for relevant persons to comply with a local authority request for information or other help (under section 65 of the 2018 Act) appropriate?

Yes	✓	No	□	Not sure	□
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**Supporting comments**

ALP to be secured by NHS bodies - Proposed regulations to be made under Section 21(10) of the 2018 Act

**Question 23** – Is the proposed period and exception within which an NHS body must inform others of the outcome of a referral to it (under section 20 of the 2018 Act) to identify whether there is a relevant treatment or service, appropriate?

Yes	✓	No	□	Not sure	□
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**Supporting comments**

The Designated Education Clinical Lead Officer (“DECLO”)

**Question 24** – Is the guidance on the role, experience and expertise of the DECLO set out in paragraphs 15.37 – 15.53 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have appropriate experience and expertise)?

Yes	✓	No	□	Not sure	□
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**Supporting comments**

## Chapter 16 - Review and revision of IDPs

**Question 25** – Is the content and structure of Chapter 16 of the draft ALN Code clear?

Yes	✓	No	□	Not sure	□
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**Supporting comments**

**Question 26** – Is the proposed period and exception for completing reviews in response to a request from a child, their parent, a young person or an NHS body (set out in paragraph 16.18 of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

## Chapter 17 – Local authority reconsiderations and taking over responsibility for an IDP

**Question 27** – Is the content and structure of Chapter 17 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

**Question 28** – Is the proposed period and exception for a local authority reconsidering a school IDP (set out in paragraph 17.20 of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

## Chapter 18 - Meetings about ALN and IDPs

**Question 29** – Are the principles and the guidance provided in Chapter 18 of the draft ALN Code on meetings about ALN and IDPs appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

## Chapter 19 – Planning for and supporting transition

**Question 30** – Is the guidance in Chapter 19 of the draft ALN Code on supporting children and young people to make effective transitions appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

19.9-19.11 “should”, should be changed to “must”.  
19.38 “might” should be replaced with “should”.

## Chapter 20 - Transferring an IDP

**Question 31** – Is the content and structure of Chapter 20 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

Transfers of IDPs - Proposed regulations to be made under Section 36(3) of the 2018 Act and Section 37 of the 2018 Act

**Question 32** – Are the requirements that are intended to be included in regulations in relation to requests to transfer an IDP to an FEI (as described in paragraphs 20.12 - 20.17 of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

**Question 33** – Are the arrangements that are intended to be included in regulations in relation to all other transfers (as described in paragraphs 20.18 – 20.21 of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

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## Chapter 21 - Ceasing to maintain an IDP

**Question 34** – Is the content and structure of Chapter 21 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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**Supporting comments**

N/A
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**Question 35** – Is the period of time for making a reconsideration request (described at 21.18 of the draft ALN Code), appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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**Supporting comments**

N/A
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## Chapter 22 – Children and young people subject to detention orders

**Question 36** – Is the content and structure of Chapter 22 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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**Supporting comments**

N/A
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**Question 37** – Are the proposals for the regulations in relation to deciding whether it will be necessary to maintain an IDP for a detained child or young person upon their release appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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**Supporting comments**

N/A
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**Question 38** – Are the proposals for the regulations in relation to children or young people who are subject to a detention order and detained in hospital under Part 3 of the Mental Health Act 1983 (as described in paragraphs 22.45 – 22.74 of the draft ALN Code) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

N/A

**Question 39** – Are the timescale requirements to act “promptly” in relation to decisions about ALN and preparing IDPs for children and young people subject to detention orders (as set out in Chapter 22) appropriate, rather than also having a requirement to comply within a fixed period subject to an exception or exceptions?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

N/A

## **Chapter 23 - Children and young people in specific circumstances**

**Question 40** – Is the guidance in Chapter 23 of the draft ALN Code on children and young people in specific circumstances appropriate?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

## **Chapter 24 - Role of the Additional Learning Needs Co-ordinator (ALNCo)**

**Question 41** – Is the information set out in Chapter 24 of the draft ALN Code about the role and responsibilities of the ALNCo appropriate?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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## Chapter 25 - Avoiding and resolving disagreements

**Question 42** – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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**Question 43** – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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## Chapter 26 - Appeals and applications to the Tribunal

**Question 44** – Is the information about appeals and the appeals process set out in Chapter 26 of the draft ALN Code appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

N/A
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## Chapter 27 - Case friends for children who lack capacity

**Question 45** – Is the information about case friends, including the duties on the Tribunal to appoint and remove case friends, clearly explained in the Chapter 27 of the draft ALN Code?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

N/A
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## Any other comments

**Question 46** – Please provide any other comments that you would like to make on the draft ALN Code. Where your comments relate to a specific chapter or paragraph within the draft ALN Code, please indicate this in your response.

## Part 2 of the consultation: Draft Education Tribunal for Wales regulations

**Question 47** – Overall, do the draft Education Tribunal regulations provide clear processes and procedures relating to appeals and claims to the Education Tribunal?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

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**Question 48** – Overall, will the processes and procedures outlined in the draft Education Tribunal regulations enable the Education Tribunal to deal with cases fairly and justly?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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**Supporting comments**

N/A
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**Question 49** – Is the proposed case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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**Supporting comments**

N/A
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**Question 50** – Are the proposed timescales for each party in the case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) reasonable?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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**Supporting comments**

N/A
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**Question 51** – Is the 6 week timescale within which NHS bodies must report to the Education Tribunal in response to a recommendation (regulation 65 of the draft Education Tribunal regulations) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

This depends on the collaboration of all stakeholders.

**Question 52** – Are the timescales relating to compliance with Education Tribunal orders appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

N/A

**Question 53** – Is the approach to extensions to timescales (regulation 66 of the draft Education Tribunal regulations) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

N/A

**Question 54** – Are the proposed regulations relating to case friends (draft Education Tribunal regulations 61 to 64) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

N/A

## **Part 3 of the consultation: Draft ALNCo regulations**

**Question 55** – Are the prescribed qualifications to be an ALNCo set out in the draft ALNCo regulations appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**24.26 Current SENCo's should meet the same qualification requirements.**

**Question 56** – Do you agree with the tasks that ALNCo's must carry out or arrange to carry out as set out in the draft ALNCo regulations?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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## **Part 4 of the consultation: Looked after children**

### **(a) Proposed regulations to be made**

**Question 57** – Do you agree that the Looked after Children in Education (LACE) Co-ordinator should be a statutory role?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

### **(b) Chapter 14 of the draft ALN Code – Content of an IDP for a looked after child**

**Question 58** – Do you agree that there should be a separate standard form for looked after children and is the proposed standard form, together with the guidance and requirements related to it, appropriate?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

### **(c) Proposed revisions to the Part 6 Code**

**Question 59** – Do the draft revisions to the Part 6 Code provide a clear explanation of the duties on local authorities in relation to their social services functions for looked after children with ALN and what these duties mean in practice?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

N/A

**Question 60** – Overall, do you agree with the approach taken in the draft revised Part 6 Code to explaining the legislative changes, including the integration of personal education plans (PEPs) and IDPs and the mandatory content of PEPs? Are the requirements and expectations and what these mean in practice clearly explained?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**



## **Part 5 of the consultation: Impact of proposals**

**Question 62** – What impacts do you think there will be as a result of the proposed regulations?

- 1) **Entitlement for all children to an inclusive system will improve.**
- 2) **Improved educational opportunities through differentiation for all learners.**
- 3) **Opportunity for integration of LA services and review to make higher quality provision.**
- 4) **Rights of individual learners established as part of the reforms.**
- 5) **Considerable CPD commitment needed by all stakeholders to develop skills and knowledge of workforce and evidence high quality outcomes.**

**Question 63** – What impact do you think the proposals in the draft ALN Code and proposed regulations would have on the Welsh language?

**The regulations will help the evolution and establishment of Welsh language.**

**Question 64** – How do you think the proposals in the draft ALN Code and proposed regulations could be formulated or changed so as to have:

- i) positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?;
- ii) no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?

- i) **will depend on the implementation of the Curriculum for Wales and the raising of awareness of Welsh culture .**
- ii) **will depend on the establishment of a bilingual work force, where, equal force is given to each language.**

**Question 65** – We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

- 1) To repeat the point that Wellbeing is not promoted as an equal descriptor within Additional Learning Needs.
- 2) That having Additional Learning Needs are not recognised within the Code as an Adverse Childhood Experience.
- 3) That Independent Schools admitting learners from Wales, with additional learning needs, are not required to adopt the Code of Practice relating to learners with Additional Learning Needs.



## Respondent Details

Information	
<b>Name</b>	Philippa Ford MBE MCSP
<b>Organisation (if applicable)</b>	Response from the Chartered Society of Physiotherapy (CSP)

### Key points raised by the CSP

#### **Introduction**

1.66 - states that 'NHS bodies have a direct role in providing Additional Learning Provision (ALP) in instances when that ALP is a treatment or service normally provided by the NHS and **likely to be of benefit** in addressing a child or young person's ALN'. The CSP notes that 'likely to be of benefit' also appears in 8.23, 9.22 and 9.75. Members suggest that clarity is required on the interpretation of 'likely to be of benefit'. The profession considers it will be open to individual interpretation and thus a potential source of dispute between families and service providers.

**Question 1** - *Is the explanation in paragraphs 1.10 -1.16 of the draft ALN Code of the use and meaning of the different terms must, must not, may, should and should not clear?*

Yes

**Question 2** - *Do you agree with the general approach to the timescales for compliance with duties (that is, to act promptly and in any event within a fixed period), as explained in paragraphs 1.31 – 1.32 of the draft ALN Code?*

The CSP has some concerns about timescales for compliance in relation to duties imposed upon health services. Therapies are operating to Referral to Treatment Times (RTT) of 26-weeks and in relation to therapies waiting times report on 14-weeks from referral to appointment. It is important that the response times requested do not create unintended consequences for Health of ALN priority being in conflict with clinical priority response targets. It would be a mistake to drive more people into the ALN route in the hope of a quicker response from health. Clarity is required.

A defined period is helpful but needs to be reasonable and achievable. The use of the word 'prompt' is unclear and may be misleading. A suggested alternative would be, 'without avoidable delay'.

**Question 3** - *Is the general exception which applies in the case of timescales, as described in paragraphs 1.33-1.35 of the draft ALN Code, appropriate?*

Yes

The CSP suggests that ‘*circumstances beyond the reasonable body’s control*’ could be open to a wide interpretation.

**Question 4** - *Is the structure of the draft ALN Code and the separation of the chapters appropriate, clear and easy to follow?*

Yes

#### **Chapter 4**

**Question 9** - *Is Chapter 4 of the draft ALN Code clear about what is expected of local authorities and NHS bodies when discharging their duties to have due regard to the UNCRC and UNCRPD?*

Yes

#### **Chapter 7**

**Question 12** - *Is this explanation of the definition of ALN provided in paragraphs 7.4 – 7.32 of the draft ALN Code clear?*

Yes

**Question 13** - *Does Chapter 7 of the draft ALN Code provide a clear and comprehensive explanation of the evidence on which decisions about ALN and ALP should be based, the sources from which this evidence might be collated, and the way in which it should be considered?*

Yes

7.22 - usefully clarifies the position of those with a disability making use of facilities, although there needs to be due consideration about how the environment may ‘disable’ the child or young person in relation to access etc.

7.31 - recognises the indirect impact on education of some health conditions which is helpful.

7.53 - references ‘medical advice from a health body’. Health Boards offer more than medical advice. For example, they offer therapeutic and other health related advice.

7.60 - refers to external agencies that can support the process of deciding whether a person has an ALN and determining the ALP required. There is a range of external agencies suggested. Although there is reference to the fact that NHS bodies may assess, members highlight that what is appropriate in the case of healthcare must be identified by the NHS body. It should be noted that the Act Section 20 (4) makes reference to this and states that , ...the NHS body must consider whether there is a relevant treatment or service that is likely to be of benefit...’

#### **Chapter 13**

**Question 18** - *Are the elements of the mandatory content of an IDP, which are required by the ALN Code, appropriate?*

Yes

**Question 19** - *Is the proposed mandatory standard form for an IDP (included at Annex A of the draft ALN Code) appropriate?*

Yes

**Question 20** - *Is the guidance in Chapter 13 of the draft ALN Code clear?*

Yes

**In Section 3c Transition** - the reference here implies that this is specifically about transition from one setting to another. It is worthy of note that this may be at age 18 but can also be when the young person is 25 leaving an FEI or similar institution. In addition, this should refer to healthcare provision where a young person moves from Child Health services to Adult services. This also includes changes in provision and responsibilities relating to Continuing Care.

**Question 21** - *Is the guidance on transport in paragraphs 13.74 - 13.76 of the draft ALN Code appropriate?*

Yes

In order to consider transport needs it is important to include individual access requirement rather than state specific need based on the current equipment in use. For example, a learner may currently be using a manually propelled wheelchair but may require an electric powered chair in future. It may also be that a change in setting necessitates a change in provision for example if a learner changes from an electric powered chair to a sit-to-stand chair.

## Chapter 15

**Question 22** – *Is the proposed timescale and exceptions for relevant persons to comply with a local authority request for information or other help (under section 65 of the 2018 Act) appropriate?*

The CSP highlights concern here about a potential for confusion. The code refers to the period of 6 weeks to comply with a request for information or other help. However, health services work to 'Referral to Treat' (RTT) <https://gov.wales/docs/statistics/2018/180904-referral-treatment-times-quality-report-en.pdf> and NHS Diagnostic and Therapies Waiting Times <https://gov.wales/statistics-and-research/nhs-diagnostic-therapy-service-waiting-times/?lang=en> guidance which has a waiting time target of 14 weeks for therapies. Clarity is required.

The 6-week target appears to be a 'roll over' of the previous SEN target. There does not appear to be any evidence as to whether the target was appropriate or achievable previously. Implementation of this target may lead to raised expectation from children, young people and their families, which may not be appropriate or achievable.

The CSP also notes 15.14 on page 177 references to '**if the request is urgent**'. There is some concern from members that this will result in pressure being applied to deem a request as 'urgent' in order to be seen quicker. Detail and guidance will be needed on what will qualify as 'urgent'.

**Question 23** – *Is the proposed period and exception within which an NHS body must inform others of the outcome of a referral to it (under section 20 of the 2018 Act) to identify whether this is a relevant treatment or service appropriate?*

The CSP highlights the same concern as in answer to Question 22. This time in relation to an NHS body informing others of the outcome of a referral to it to identify whether this is a relevant treatment or service.

The CSP also notes that this code introduces an ability for Further Education Institutions to refer to the NHS. 15.25 identifies that FEIs may refer a matter to an NHS body. This is a new development and will have an impact on health services. At this time, the CSP is not aware of any additional resources being made available to health services such as therapy services to accommodate the development.

**Question 24** – *Is the guidance on the role, experience and expertise of the DECLO set out in paragraphs 15.37 – 15.53 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have appropriate experience and expertise)?*

Yes

The specific reference to a 'medical practitioner' may lead to a bias towards doctors rather than using the wider and more inclusive 'clinical practitioner'.

15.25 – anyone can make a referral to an NHS body, not just a local authority of an FEI.

The DECLO role is extensive and requires a high level of skills and experience to undertake the duties identified. However, it is only identified in section 15.41 as the skills and experience that the DECLO 'should have'. This together with section 15.42 would benefit

from being changed to MUST, in order to reflect the requirements of the role and this change should also be considered for 'Partnership Working' section 15.43 to 15.45.

## **Chapter 16**

**Question 25** – *Is the content and structure of Chapter 16 of the draft ALN Code clear?*

The CSP considers the content and structure is clear except there is lack of detail about timings for reviews. The only reference is 16.1 that identifies that IDPs should be reviewed, at a minimum, annually.

The profession has concerns about pressure on health services if reviews are to become more frequent. Clarification and reassurance is required in the Code.

**Question 26** – *Is the proposed period and exception for completing reviews in response to a request from a child, their parent, a young person or an NHS body (as set out in paragraph 16.18 of the draft ALN Code) appropriate.*

The CSP highlights the same concerns as in answer to Questions 2, 22, 23 and 25.

## **Chapter 18**

**Question 29** – *Are the principles and guidance provided in Chapter 18 of the draft ALN Code on meeting about ALN and IDPs appropriate?*

The profession does have concerns about 18.11, which could potentially put additional pressure on healthcare professionals. The CSP would welcome clarity and reassurance.

There is reference in this section to professionals attending meetings, which, in addition to creating further service pressure, also may be inappropriate. There needs to be mechanisms to feed into meetings, but this may be done through broader representation, virtual attendance or reports. This should not be constrained but recognise broadening technology and also a desire for ongoing communications rather than single point of focus.

## **Chapter 19**

**Question 30** – *Is the guidance in chapter 19 of the draft ALN Code on supporting children and young people to make effective transitions appropriate?*

The guidance is clear.

The CSP highlights continued concerns around potential pressure on health services for provision to support young people with ALN who enter FEI and HEI.

The guidance lacks detail in relation to the commitment of health services to support meetings and provide information. Where this is a new development, the CSP points out there has been no new resource to healthcare professions to meet potential demand.

## **Concluding remarks**

We hope this response will be useful and look forward to hearing the outcome of the consultation in due course.

If you have any questions in relation to our response please do not hesitate to get in touch.

### **About the CSP and Physiotherapy**

The Chartered Society of Physiotherapy is the professional, educational and trade union body for the UK's 58,000 chartered physiotherapists, physiotherapy students and support workers. The CSP represents 2,400 members in Wales.

Physiotherapists use manual therapy, therapeutic exercise and rehabilitative approaches to restore, maintain and improve movement and activity. Physiotherapists and their teams work with a wide range of population groups (including children, those of working age and older people); across sectors; and in hospital, community and workplace settings. Physiotherapists facilitate early intervention, support self-management and promote independence, helping to prevent episodes of ill health and disability developing into chronic conditions.

Physiotherapy delivers high quality, innovative services in accessible, responsive and timely ways. It is founded on an increasingly strong evidence base, an evolving scope of practice, clinical leadership and person centred professionalism. As an adaptable, engaged workforce, physiotherapy teams have the skills to address healthcare priorities, meet individual needs and to develop and deliver services in clinically and cost effective ways. With a focus on quality and productivity, physiotherapy puts meeting patient and population needs, optimising clinical outcomes and the patient experience at the centre of all it does.

## Respondent Details

Information	
<b>Name</b>	Martin Williams
<b>Organisation (if applicable)</b>	King Henry VIII School (Abergavenny school cluster response)

## Part 1 of the consultation: The draft ALN Code

### Chapter 1 - Introduction

The meaning of 'must', 'must not', 'may', 'should' and 'should not' in the ALN Code

**Question 1** – Is the explanation in paragraphs 1.10 -1.16 of the draft ALN Code of the use and meaning of the different terms 'must', 'must not', 'may', 'should' and 'should not' clear?

Yes	<input type="checkbox"/>	No	✓	Not sure	<input type="checkbox"/>
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#### Supporting comments

The terms in themselves are clear, but there is inconsistency with regards their appropriate use in places.

E.G. Chapter 24

24.5

*It is vital that the ALNCO has sufficient time and resource to undertake their responsibilities effectively, including dedicated time away from teaching. The head of the education setting **should** ensure the ALNCO is supported in his way.*

If it is vital that the ALNCO have sufficient time and resources, then '**must**' would be the better term.

In point of fact, Chapter 24 outlining the Role of the ALNCO uses the word **should** frequently when referring to the duty of schools (responsibilities of the learning setting, head of the learning setting, or governors). However, when describing the duties of the ALNCO, which are extensive, the word **must** is used throughout. This represents an imbalance with regards expectations placed upon those undertaking the role of ALNCO and the line managers who support them. This has the potential to undermine the confidence of the ALNCO whilst signalling to line managers that they do not have to implement many of the Code's recommendations regarding the 'schools duties' to support the ALNCo fully.

This ambiguity is further illustrated in 24.6 where the phrase 'it is important' is used, rather than 'must', or even 'should':

*If the ALNCo role is combined with other non-teaching responsibilities it is important that these*

*other duties are compatible with the duties they are expected to perform as an ALNCo and do not impinge on their responsibilities in this respect.*

### Timescales

**Question 2** – Do you agree with the general approach to the timescales for compliance with duties (that is, to act promptly and in any event within a fixed period), as explained in paragraphs 1.31 – 1.32 of the draft ALN Code?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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#### **Supporting comments**

It is difficult to impose timescales as circumstances differ and individual pupil needs differ on a case by case basis. Generally, IDPs could be completed within 7 weeks if all evidence is available and appointments made with parents/carers and professionals to complete ALP planning are kept. However, as explained below, much will depend upon the ability of outside agencies and health to provide the results of medical assessments as waiting lists (and missed appointments) can run into months.

Also, from a secondary school perspective, it should be remembered that a number of pupils could be identified at the same time, with evidence being gathered from a number of professionals, many meetings being arranged and IDP's all being drawn up at the same time. The timescale for schools is the same regardless of the size of the learning setting, or the time allocated to different ALNCOs by those who oversee those learning settings. Again, looking at Chapter 24, the guidance to the head of the education setting is only that they **should** ensure the ALNCO is supported with regards sufficient time and resources.

**Question 3** – Is the general exception which applies in the case of timescales, as described in paragraphs 1.33-1.35 of the draft ALN Code, appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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#### **Supporting comments**

Following discussions with health professionals it has become apparent that if medical information is required it could take a lot longer than 35 days for schools to obtain this. In fact, depending upon the nature of information required and whether appointments for consultations have been met by the parent and child or not, the waiting time could be many months. 1.34 states that

*Even if there might remain some outstanding evidence yet to be received which might provide a fuller picture of the extent of the ALN or the ALP, the IDP can and **must** be prepared.*

If relating to a health need, including mental health need, of a child it would seem inappropriate to proceed with an ALP that may be detrimental to that child's needs without professional medical input. This may also be the case with regards input from other support agencies. 1.34 seems to contradict 1.35 which states

*The exception only applies where it has not been possible within the fixed time period to complete the action due to 'circumstances beyond the responsible body's control'. This is to allow for exceptional situations, such as where a child or young person is unavailable for a substantial period due to illness, absence from the country or some other reason, such that it is impossible to gather evidence (e.g. through observations or clinical or other assessments) at a time that would enable it to comply with the fixed time period.*

Also 1.36 is difficult to understand, especially as it is supposed to be clarifying 1.35:

*Where the exception applies, that is, it is impractical for the body to comply due to circumstances beyond its control, the body remains subject to the duty to do the thing and subject to the duty to do it promptly. Whilst those circumstances might mean that it cannot take any effective action at a particular point, once it is no longer impractical for it to comply due to circumstances beyond its control, the duty to act promptly requires it to progress the matter without further delay.*

### Structure of the draft ALN Code

**Question 4** – Is the structure of the draft ALN Code and the separation of the chapters appropriate, clear and easy to follow?

<b>Yes</b>	✓	<b>No</b>	✓	<b>Not sure</b>	<input type="checkbox"/>
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#### **Supporting comments**

The structure is fairly easy to follow – if not the use of language which can be extremely woolly. It is also difficult to understand why the Role of the ALNCO, who is crucial to the delivery of the Code, is Chapter 24! Why isn't it Chapter 1? This would better illustrate and emphasise the importance of the role to heads of learning settings, governors, teaching staff, outside agencies, pupils and parents/carers.

**Question 5** – Is the draft ALN Code's focus on describing and explaining the functions and processes appropriate?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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#### **Supporting comments**

Yes, although it would be more accessible if the wording were not so woolly. Overall, the document is spends too long giving lengthy descriptions and is therefore generally difficult to access.

It would be useful if included within the Code were guidance upon 'graduated responses' as

processes that professionals worked through.

Pupil referral units (PRUs) - Proposed regulations to be made under Paragraph 15 of Schedule 1 to the Education Act 1996

**Question 6** – Do you agree with the proposal to use regulations to delegate functions from a local authority to a Management Committee of a PRU?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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**Supporting comments**

## Chapter 2 - Principles of the Code

**Question 7** – Are the principles set out in Chapter 2 of the draft ALN Code the right ones?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

The focus upon the UNCRC and PCP is welcomed as is access to a range of resources to support practitioners in using person-centred practice approaches. It would prove useful however, if there were a statement that made clear that schools will work to ensure the best possible provision “according to the resources (including expertise) that they have available to them.”

## Chapter 3 - Involving and supporting children, their parents and young people

**Question 8** – Is the explanation of the duties relating to involving and supporting children, their parents and young people provided in Chapter 3 of the draft ALN Code appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

## Chapter 4 - Duties on local authorities and NHS bodies to have regard to the UNCRC and the UNCRPD

**Question 9** – Is Chapter 4 of the draft ALN Code clear about what is expected of local authorities and NHS bodies when discharging their duties to have due regard to the United

Nations Convention on the Rights of the Child (UNCRC) and United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

## Chapter 5 - Duty to keep additional learning provision (ALP) under review

**Question 10** – Is the guidance provided in Chapter 5 of the draft ALN Code in relation to the duties to keep ALP under review appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

Yes. However, 5.26 states

*Local authorities and their partners should consider at strategic level whether changes to funding arrangements for supporting children and young people with ALN are required as a result of activity undertaken to review ALP.*

However, there does not appear to be any guidance anywhere relating to funding arrangements and how there parity will be achieved within and across LAs. Where funding is mentioned, it would be useful if it were made clear whether learning settings will be funded according to individual learner needs and how this should be achieved.

## Chapter 6 - Advice and information

**Question 11** – Is the guidance provided in Chapter 6 of the draft ALN Code in relation to making arrangements to provide advice and information about ALN and the ALN system appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

Should there be more robust guidance for local authorities upon the nature of information given to ensure consistency across Wales? Core information given to parents/carers should be the same and therefore should consideration be given to providing that information centrally through Welsh Government? There is a danger that conflicting information between local authorities could lead to challenges from parents/carers regarding the level, quality and nature of guidance, support and ultimately provision.

## Chapter 7 - The definition of ALN and ALP, identifying ALN and deciding upon the ALP required

**Question 12** – Is this explanation of the definition of ALN provided in paragraphs 7.4 – 7.32 of the draft ALN Code clear?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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### Supporting comments

The definition of ALN is vague and the language used is often difficult to interpret. Additionally, the terms 'significant', 'significantly greater' can be interpreted in different ways. How do you determine what is significant, or significantly different? There should be measures that are applied consistently across Wales to ensure consistency.

E.G. Figure 1 is very wordy, using woolly language. This is especially the case with (3). It is largely ineffective and not of use to professionals if descriptions are confusing and in some cases all but inaccessible:

*A child under compulsory school age has a learning difficulty or disability if he or she is, or would be if no additional learning provision were made, likely to be within subsection (2) when of compulsory school age.*

Figure 1, (2a). What is meant by 'significantly'? This is not clear, or specific enough. The term is too broad. There is also no reference to a graduated response which has been extremely useful in the past when referring young people and securing required resources at appropriate times, according to their changing needs. The four categories of need that are in the current Code of Practice are extremely useful in helping identify needs and securing appropriate provision. We need identified areas of learning need, SEBD, cognition and learning, etc. with quantifiable criteria for what could be classed as ALN, e.g. a GCA of below 50, or a reading age 3 years below chronological age.

When outlining ALP, it would be useful if clear descriptions of what good provision looks like as the descriptions are too vague and therefore open to interpretation. For example...

*(7.11) ...support that takes place inside or outside the mainstream classroom, where it is additional to, or different from, that made generally for others of the same age. ALP might also be delivered in settings outside of the school or FEI in some circumstances and/or by external professionals.*

7.18 describes when and when not ALP may be required is highly significant. Should it not therefore be given more prominence?

*Many learners are likely at some point to experience short term difficulties in learning whether due to an illness, bereavement or other causes which might lead to short term issues with learning (perhaps because of a period of absence from an education setting) or difficulty in concentrating during such a period), but which do not, or not yet, amount to ALN. In these circumstances, schools and FEIs may need to take action to help the learner catch up and/ or to*

*prevent the difficulties escalating, but as is the case with differentiated teaching, this catch-up provision should be made generally for learners in schools and FEIs and therefore would not constitute ALP.*

However 7.19 refers to setting “*appropriate timescales for monitoring the learner’s progress, bearing in mind the importance of early intervention.*” This is again open to interpretation and rather vague.

**Question 13** – Does Chapter 7 of the draft ALN Code provide a clear and comprehensive explanation of the evidence on which decisions about ALN and ALP should be based, the sources from which this evidence might be collated, and the way in which it should be considered?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

Overall, sections of the chapter are vague, confusing and open to interpretation. For example. 7.34 and 7.35 contains lists of particular difficulties or concerns. These are presented in a broad and ‘general’ nature, leaving them open to interpretation. This could lead to disagreements and potential conflict between different agencies/services and between services/agencies, school and parents/carers. More specific examples of requirements/provision and support available within each local within Wales would help to ensure ALNCOs were effective in working alongside teaching and support staff to deliver best practice whilst. Clear ‘routes’ and suggested/expected provision, possibly presented as flow diagrams, would reduce the potential for variable practice and conflict between stakeholders. This would also help shape professional learning opportunities.

Timescales given to collate evidence may be unworkable as this will often depend upon the ‘commitments’ and availability of various agencies. Discussions with different agencies regarding this has highlighted the fact that requests for assessments, reports and appointments vary immensely depending upon other priorities and waiting lists that are operated. Within schools the ability to meet deadlines is dependent upon a range of factors including other commitments of staff (including the ALNCO), school-based activities and assessments that occur at different times of the school year and the number of children/young people identified as having ALN and possibly requiring ALP.

It is also felt that there could be clearer/consistent guidance relating to the role of LA professionals available to identify ALN. What support can children/young people and schools expect from LAs in terms of identification and the production of supporting evidence? Currently, there are many more young people needing to be seen by educational psychologists and health professionals than there are professionals to see them. How will this be addressed so that ALNCOs are best supported in identifying ALN and appropriate ALP? Will Welsh Government also ensure equality across LAs in terms of the provision of necessary resources to support decision making processes relating to a child’s/young person’s needs? This is not clear.

There are general concerns around funding for ALP once requirements are identified and how this

will be allocated to ensure equity within authorities, between LAs and across Wales. How will funding be accessed once ALP is required and will a scale be used to release funds to meet each specific requirement, or need?

## Chapters 8 to 12 – Duties on schools, FEIs and local authorities

### Early Years ALN Lead Officer

**Question 14** – Is the guidance on the role, experience and expertise of the Early Years ALNLO set out in paragraphs 8.40 - 8.47 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have the appropriate experience and expertise to meet the expectations of the role)?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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#### **Supporting comments**

The requirement of the ALN Lead Officer with regards Transition is vague.

### Duties on schools, FEIs and local authorities

**Question 15** – Is the structure and content of Chapters 8 to 12 of the draft ALN Code clear?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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#### **Supporting comments**

The proposed structure is clearly laid out, but there are concerns regarding the content (see the response to question 16).

**Question 16** – Are the timescales for decisions by schools, FEIs and local authorities on ALN and preparing an IDP as set out in Chapters 8-12 appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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#### **Supporting comments**

Chapter 9

Timescales given to collate evidence may be unworkable as this will often depend upon the 'commitments' and availability of various agencies. Discussions with different agencies regarding this has highlighted the fact that requests for assessments, reports and appointments vary considerably depending upon other priorities and, in the case of Health in particular, waiting lists and emergency cases.

Within schools the ability to meet deadlines is dependent upon a range of factors including 'other' commitments of staff (including the ALNCo), school-based activities and assessments that occur at different times of the school year, the number of children/young people identified as having ALN and

requiring ALP at any one time and the paperwork/meeting time that is also required.

1.42 states

*In a small number of cases (such as where needs are particularly complex or low incidence), the 35 day period for a school/FEI decision may not be enough to get all the necessary external input – but these are the cases that are likely to be referred to the local authority.*

Based upon the ‘commitments’ and availability of various agencies, it seems likely that there will be more than ‘a small number of cases’ where the 35 days is exceeded, especially within a secondary school setting.

With regards school requests for LA assistance in assessing the needs of certain children/young people, it needs to be clearer what obligation the LA are under to do so. 9.2 is not clear

*“A local authority will normally only decide whether a pupil at a maintained school has ALN and prepare and maintain an IDP in instances where the child or young person’s needs are more severe or complex or are of low incidence.”*

What is ‘more severe’ or ‘complex’ and ‘must’ the LA make this decision at the request of the school which will not have the expertise to reach these conclusions? 9.52 indicates that this is the case – although this could be clearer - also possibly placing the statement nearer 9.2.

*“As is the case with a school’s duty to decide, it does not matter how the possibility that a pupil at a maintained school has ALN is brought to the attention of a local authority or how it otherwise appears to it that the pupil may have ALN; if the local authority is aware of that possibility, then, subject to the exceptions, the duty to decide applies. The most likely way is that the school refers the pupil’s case.”*

Deciding whether it is ‘necessary’ for a local authority to prepare and maintain an IDP for a young person not at a maintained school or FEI - Proposed regulations to be made under Section 46 of the 2018 Act

**Question 17** – Are the proposed requirements and guidance in paragraphs 12.22 – 12.51 of the draft ALN Code on when it is necessary for a local authority to maintain an IDP for a young person not at a school or FEI in Wales appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

## Chapter 13 - Content of an IDP

**Question 18** – Are the elements of the mandatory content of an IDP which are required by the ALN Code, appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

Having mandatory content within the IDP is important to ensure consistency. This would help achieve smoother transition between phases of education and between schools should a pupil move to a different setting within, or across, LAs.

The flexibility for bodies maintaining IDPs to add their own style (e.g. to add extra sections, logos, use different fonts etc), is welcome as this should vary according to the age and needs of the child/young person involved in completing the IDP.

Could the question relating to the requirement to complete the IDP through the medium of Welsh only appear once on the first page? It appears continually throughout sections 2B and 2C.

There are concerns relating to the time frame to complete an IDP. It takes considerable time to arrange meetings in order to agree the content of the IDP and to draft the document. Where ALNCOs have significant teaching and/or other whole school commitments, this will have an impact with regards finding a time slot for meetings that everyone can agree to and preparing and completing associated paperwork. Time available to staff will vary across schools, and although recommended there is no obligation placed upon headteachers or Governors to ensure a maximum number of teaching hours for ALNCOs, or to set aside allocated time for admin related tasks and meetings (24.5). Also, although the Code recommends that ALNCOs carry out duties that “are compatible with the duties they are expected to perform as an ALNCO and do not impinge on their responsibilities in this respect” (24.6) this is termed as being ‘important’, and is not a requirement.

We require clarity with regards the role of LAs with implementing the IDPs for children currently on Statements.

It should be recognised that there will also be union guidelines relating to pay and conditions that deal with certain ‘additional’ activities, especially those relating to administrative tasks.

**Question 19** – Is the proposed mandatory standard form for an IDP (included at Annex A of the draft ALN Code) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

As stated in the response to Question 18, having a mandatory form for an IDP is important as it ensures consistency. The flexibility for bodies maintaining IDPs to add their own style is also welcome for the reasons outlined above. Will learning settings have access to these forms electronically and in a format that will be easily amended? Will a secure system be created that allows IDPs to be created and stored online within each LA so that they are easily accessible by ALNCOs and appropriate LA staff? This would be more secure and could aid the process of monitoring provision and encouraging collaboration between services who could potentially input information remotely when meetings cannot be attended.

The form as it stands is extremely formal and ‘official’ and not PCP friendly, especially when it is being used with parents/carers, children and young people. As the standard form ‘must’ be used (13.6), then it is felt that the format and layout needs to be more accessible and user and child/young

person friendly. It was also felt that the One Page Profile should be at the front of the document. This 'working document' would inform much of the rest of the content of the IDP and should be prominent and easily accessible to teaching staff.

Where is provision reviewed? There does not appear to be a space or section for monitoring or reviewing outcomes. This is needed to inform judgements relating to impact and whether ALP needs to be refined, or an IDP to be maintained.

Reference to Tribunal on Page 2, Part 2, Annex A is seen as highly negative. Should this information appear in the Code only? Why is it needed on the form.

Would Sections 3B and 3C be better placed before Section 2?

**Question 20** – Is the guidance in Chapter 13 of the draft ALN Code clear?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

There are a lot of 'should' statements which leave the expected content of IDPs and how they are written open to interpretation. It is very surprising for example that the expectation that the IDP be *“developed on a flexible, person-centred basis that reflects the needs of the child or young person”* is only a suggestion ('should').

Undoubtedly, completion of the IDP will fall to the ALNCo as teachers are, due to time constraints, teaching commitments and union expectations, unlikely to undertake administrative tasks. This will add additional pressure on ALNCOs, especially those who have 'other' responsibilities within the learning setting and who have high teaching commitments. 16.11 makes it clear that the school (ALNCo) should *“talk to the child, child’s parent or young person regularly in order to discuss their progress with them.”* This indicates that ALP should be modified and IDPs updated as necessary following such discussions, which if 'regular' add significantly to workload, especially where many IDPs are being maintained.

Within secondary school settings there is the added responsibility of gathering information from specialist subject areas, which will involve meeting with, accessing and interpreting data supplied by multiple teaching staff. This has particular relevance when the statement in 16.9 is taken into account, *“continuous tracking and monitoring of a learner’s progress will be critical to identifying sudden changes.”*

Transport

**Question 21** – Is the guidance on transport in paragraphs 13.74 - 13.76 of the draft ALN Code appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

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## Chapter 15 – Duties on health bodies and other relevant persons

Statutory requests by local authorities to relevant persons for information or other help - Proposed regulations to be made under Section 65(5) of the 2018 Act

**Question 22** – Is the proposed timescale and exceptions for relevant persons to comply with a local authority request for information or other help (under section 65 of the 2018 Act) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

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ALP to be secured by NHS bodies - Proposed regulations to be made under Section 21(10) of the 2018 Act

**Question 23** – Is the proposed period and exception within which an NHS body must inform others of the outcome of a referral to it (under section 20 of the 2018 Act) to identify whether there is a relevant treatment or service, appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

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The Designated Education Clinical Lead Officer (“DECLO”)

**Question 24** – Is the guidance on the role, experience and expertise of the DECLO set out in paragraphs 15.37 – 15.53 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have appropriate experience and expertise)?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

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## Chapter 16 - Review and revision of IDPs

**Question 25** – Is the content and structure of Chapter 16 of the draft ALN Code clear?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

It is understood that a fixed timescale for review is necessary. However, there are concerns regarding some of the comments that relate to timescales, monitoring and review. There are comments above relating to timescales in responses to Questions 16, 18 and 20, however added to this are concerns regarding vague statements in Chapter 16, such as “Continuous tracking and monitoring of a learner’s progress will be critical to identifying sudden changes (16.9)” and the impact this would have upon workload unless schools ‘must’ provide time for such ongoing monitoring and review.

As an example, within secondary school settings information may have to be gathered from specialist subject areas, which will involve meeting with, accessing and interpreting data supplied by multiple teaching staff over time. Updates may also have to be provided by outside agencies and services. Given the possible high number of ILPs within secondary settings, this would add significantly to the workload of an ALNCO, especially if they do not have protected time.

**Question 26** – Is the proposed period and exception for completing reviews in response to a request from a child, their parent, a young person or an NHS body (set out in paragraph 16.18 of the draft ALN Code) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

Although the principle of PCP is fully supported it should be recognised that this has implications regarding time and workload, given the illustration within the response to Question 25.

Also, as described in the response to Question 16, timescales given to collate evidence may be unworkable as this will often depend upon the ‘commitments’ and availability of various agencies. Discussions with different agencies regarding this has highlighted the fact that requests for assessments and reports will vary considerably depending upon ‘priorities’ and other pressures that services are under

**Chapter 17 – Local authority reconsiderations and taking over responsibility for an IDP**

**Question 27** – Is the content and structure of Chapter 17 of the draft ALN Code clear?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

**Question 28** – Is the proposed period and exception for a local authority reconsidering a school IDP (set out in paragraph 17.20 of the draft ALN Code) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

## Chapter 18 - Meetings about ALN and IDPs

**Question 29** – Are the principles and the guidance provided in Chapter 18 of the draft ALN Code on meetings about ALN and IDPs appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

A PCP approach is welcomed and will strengthen current practice. This approach does however involve additional administration to support the identification and review process (correspondence with parents/cares and young people, liaison with other services, the collecting and collation of evidence, drafting and finalising reports, etc.).

Ensuring attendance at meetings by all stakeholders is a concern, as well as the timely production of reports by all services. These are necessary for a successful and meaningful review to take place and failure to gain reports, or the need to rearrange meetings would be timely and will hold up the planning and review of IDPs and ALP.

As the IDP co-ordinator should attend every meeting connected to a child or young person’s wider needs (18.34), providing sufficient time for the ALNCo needs to again be considered, especially as they will have the responsibility of ensuring all relevant school based information is accessible and has been reviewed appropriately. This will mean additional liaison with school staff to ensure they understand the requirements of any review, analysing *“ALP which has been delivered during (a) review period (and whether it) has led to the outcomes set out in the IDP being achieved.”* (18.25).

## Chapter 19 – Planning for and supporting transition

**Question 30** – Is the guidance in Chapter 19 of the draft ALN Code on supporting children and young people to make effective transitions appropriate?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

However, consistency needs to be achieved with regards expected quality and content of IDPs to ensure effective transition.

Ensuring all relevant agencies provide timely information will be of paramount importance for

effective transition. Therefore should 19.22 and 19.23 contain the word 'must', rather than 'should'?

## Chapter 20 - Transferring an IDP

**Question 31** – Is the content and structure of Chapter 20 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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**Supporting comments**

Transfers of IDPs - Proposed regulations to be made under Section 36(3) of the 2018 Act and Section 37 of the 2018 Act

**Question 32** – Are the requirements that are intended to be included in regulations in relation to requests to transfer an IDP to an FEI (as described in paragraphs 20.12 - 20.17 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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**Supporting comments**

**Question 33** – Are the arrangements that are intended to be included in regulations in relation to all other transfers (as described in paragraphs 20.18 – 20.21 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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**Supporting comments**

## Chapter 21 - Ceasing to maintain an IDP

**Question 34** – Is the content and structure of Chapter 21 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

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**Question 35** – Is the period of time for making a reconsideration request (described at 21.18 of the draft ALN Code), appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

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## **Chapter 22 – Children and young people subject to detention orders**

**Question 36** – Is the content and structure of Chapter 22 of the draft ALN Code clear?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

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**Question 37** – Are the proposals for the regulations in relation to deciding whether it will be necessary to maintain an IDP for a detained child or young person upon their release appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

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**Question 38** – Are the proposals for the regulations in relation to children or young people who are subject to a detention order and detained in hospital under Part 3 of the Mental Health Act 1983 (as described in paragraphs 22.45 – 22.74 of the draft ALN Code) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

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**Question 39** – Are the timescale requirements to act “promptly” in relation to decisions about ALN and preparing IDPs for children and young people subject to detention orders (as set out in Chapter 22) appropriate, rather than also having a requirement to comply within a fixed period subject to an exception or exceptions?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

## Chapter 23 - Children and young people in specific circumstances

**Question 40** – Is the guidance in Chapter 23 of the draft ALN Code on children and young people in specific circumstances appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

## Chapter 24 - Role of the Additional Learning Needs Co-ordinator (ALNCo)

**Question 41** – Is the information set out in Chapter 24 of the draft ALN Code about the role and responsibilities of the ALNCo appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

The role of the ALNCo is of high importance within any learning setting and should be at the front of the Code, not relegated to Chapter 24!

The language used when outlining the duty on schools to ensure sufficient time and resources for the ALNCo to undertake their role effectively is not robust enough. The importance of the role is clear: “...*the ALNCo is the individual who at a strategic level ensures the needs of all learners with ALN within the education setting are met.*” (24.7). It is therefore with regret that the Code does not require learning settings to fully recognise the importance of the ALNCO role, or to support that role effectively using non-contact time and resources. For example, the terms ‘should’ and ‘it is important’ are used, instead of ‘must’ (e.g. 24.5 and 24.6). In all, 24.1 – 24.6 afford little protection for ALNCOs in terms of workload and their wider wellbeing.

24.5 The term 'sufficient' is vague and open to interpretation.

The responsibility of schools to provide sufficient time and resources ('should') is in direct contrast to the level of expectation, responsibility and accountability levelled at ALNCOs ('must') throughout this Chapter. This is disappointing.

There needs to be recognition that the size of a learning setting and its geographical area has a direct bearing upon the number of children/young people who will be placed on the ALN Register. Consideration therefore needs to be given to staffing structures, time allocations and workload. One size does not fit all. In some Primary Schools the Headteacher is the ALNCO, in other settings it is a member of SLT who performs other whole school roles. In nearly all cases the ALNCO has a substantial teaching commitment. There needs to be greater parity and an expectation that all learning settings will recognise the importance of the role and give provide appropriate support that allows the ALNCO to undertake that role effectively.

There are concerns relating to ongoing professional learning opportunities for ALNCOs, as well as around recruitment and retention. There are no reassurances with regards the provision of sufficient time and appropriate support/resources to undertake the role effectively.

## Chapter 25 - Avoiding and resolving disagreements

**Question 42** – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	✓
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**Supporting comments**

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**Question 43** – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	✓
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**Supporting comments**

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## Chapter 26 - Appeals and applications to the Tribunal

**Question 44** – Is the information about appeals and the appeals process set out in Chapter 26 of the draft ALN Code appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

It is strongly felt that resources, approaches, provision and guidance given to parents/carers needs to be consistent across LAs throughout Wales. If provision and guidance in one part of Wales is different to another (due to differences in funding, allocation of resources, advice, etc.), then this will place learning settings/ALNCOs in a precarious position if comparisons were made by parents/carers when challenging decisions.

## Chapter 27 - Case friends for children who lack capacity

**Question 45** – Is the information about case friends, including the duties on the Tribunal to appoint and remove case friends, clearly explained in the Chapter 27 of the draft ALN Code?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

### Any other comments

**Question 46** – Please provide any other comments that you would like to make on the draft ALN Code. Where your comments relate to a specific chapter or paragraph within the draft ALN Code, please indicate this in your response.

Summary of main concerns

1. Woolly definitions and use of language within the document. The definition of ALN in particular needs to be concise and quantifiable for each area of learning need.
2. The ALNCO has to have sufficient time and resource to undertake the role effectively. The language used needs to support this as in the term 'must' rather than 'should'.
3. If the ALNCO is to be a strategic role then it must be clearly clarified who in schools is responsible for budget and allocation of resources. This should be reflected through salary and status in the school eg. Leadership role etc
4. ALN funding is a major concern. It needs clarity as to whether the LA will take responsibility for IDPs of children currently on statements. If schools are to 'cut back' on numbers on registers we need clarity as to whether that will impact on ALN funding essential to provide intervention support.
5. There needs to be a graduated response as part of the process. This needs to be added into the bill so that schools have a clear pathway through which to highlight children with complex needs that will require additional resources/funding. For instance, in Early Years settings, what actions do schools need to undertake before putting in place an IDP or requesting LA support for ALN?
6. The IDP format needs to be reviewed to become more child friendly and person centred and

less 'corporate' and clearer for parents to understand eg. Less information on each page such as the Welsh language information etc

7. General consistency must be aimed for across all schools, clusters and authorities in Wales to alleviate conflict when children move between settings and for general clarity in terms of what schools should be providing.
8. All ALNCos will require the same level of training and support to undertake their specific duties under the new bill.
9. There appears to be an over emphasis on the tribunal and appeal process for parents as opposed to discussion and working collaboratively with schools, other agencies and LAs to resolve any issues.
10. The timescales are going to be unmanageable due to the ranges of other agencies that will be need to involved eg. External pressures on health services etc Does responsibility fall on schools or LAs to ensure that timescales are adhered to where possible? Where does accountability lie?

## **Part 2 of the consultation: Draft Education Tribunal for Wales regulations**

**Question 47** – Overall, do the draft Education Tribunal regulations provide clear processes and procedures relating to appeals and claims to the Education Tribunal?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

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**Question 48** – Overall, will the processes and procedures outlined in the draft Education Tribunal regulations enable the Education Tribunal to deal with cases fairly and justly?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

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**Question 49** – Is the proposed case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

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**Question 50** – Are the proposed timescales for each party in the case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) reasonable?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

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**Question 51** – Is the 6 week timescale within which NHS bodies must report to the Education Tribunal in response to a recommendation (regulation 65 of the draft Education Tribunal regulations) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

**Question 52** – Are the timescales relating to compliance with Education Tribunal orders appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

**Question 53** – Is the approach to extensions to timescales (regulation 66 of the draft Education Tribunal regulations) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

**Question 54** – Are the proposed regulations relating to case friends (draft Education Tribunal regulations 61 to 64) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

## **Part 3 of the consultation: Draft ALNCo regulations**

**Question 55** – Are the prescribed qualifications to be an ALNCo set out in the draft ALNCo regulations appropriate?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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### **Supporting comments**

Everyone consulted with believes that the ALNCo should be a qualified teacher. Also, as “...*the ALNCo is the individual who at a strategic level ensures the needs of all learners with ALN within the education setting are met*” (24.7), this involves a level of leadership, as well experience in the field of ALN provision. It would be extremely beneficial if clear opportunities for professional learning and ultimately qualifications in areas identified as strengthening the role of the ALNCo, were to be made available. These should recognise the potential differences in role and requirements within different learning settings.

Regular professional meetings across LAs that bring ALNCOs together to upskill by sharing best practice and expertise, would also be highly beneficial. This would certainly be the case during the period following the introduction of the ALN Code. This would allow ALNCOs to develop their role as new guidance is introduced by talking through any changes and by refining their practice.

**Question 56** – Do you agree with the tasks that ALNCOs must carry out or arrange to carry out as set out in the draft ALNCo regulations?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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### **Supporting comments**

The tasks in themselves are what is expected of an ALNCo. In essence this has not really changed. However, it has to be noted that the chapter on the role of the ALNCO is littered with ‘Must’. In order to support the role of the ALNCo, allowing them to perform their duties effectively, there should be a clear expectation (‘must’) that learning settings will provide sufficient time.

Should all ALNCo’s be part of the Senior Leadership Team? This seems logical as the role involves the strategic co-ordination of ALN resources, such as the deployment of staff and being actively involved in decisions around budgets and resources to help plan appropriate provision. Ensuring the needs of all learners with ALN within the education setting are met is a significant role and should be recognised as such, including through an appropriate level of pay.

The responsibility of schools to provide sufficient time and resources (‘should’) is in direct contrast to the level of expectation, responsibility and accountability levelled at ALNCOs (‘must’). This is hugely frustrating and disappointing.

## **Part 4 of the consultation: Looked after children**

### **(a) Proposed regulations to be made**

**Question 57** – Do you agree that the Looked after Children in Education (LACE) Co-ordinator should be a statutory role?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

### **(b) Chapter 14 of the draft ALN Code – Content of an IDP for a looked after child**

**Question 58** – Do you agree that there should be a separate standard form for looked after children and is the proposed standard form, together with the guidance and requirements related to it, appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

### **(c) Proposed revisions to the Part 6 Code**

**Question 59** – Do the draft revisions to the Part 6 Code provide a clear explanation of the duties on local authorities in relation to their social services functions for looked after children with ALN and what these duties mean in practice?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

**Question 60** – Overall, do you agree with the approach taken in the draft revised Part 6 Code to explaining the legislative changes, including the integration of personal education plans (PEPs) and IDPs and the mandatory content of PEPs? Are the requirements and expectations and what these mean in practice clearly explained?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

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**Question 61** – Do the changes that have been made to the Part 6 code clearly explain the role of the LACE Co-ordinator in overseeing the ALN arrangements for looked after children and what this means in practice?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

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## **Part 5 of the consultation: Impact of proposals**

**Question 62** – What impacts do you think there will be as a result of the proposed regulations?

**Question 63** – What impact do you think the proposals in the draft ALN Code and proposed regulations would have on the Welsh language?

Only in as far as catering for the use of the Welsh language amongst those individuals who already regularly communicate through that medium. The impact would be limited in as far as actually encouraging the development of the Welsh language amongst the majority of people. It would be limited to those who are already fluent anyway, or who are actively engaged in developing their use of the Welsh language (a minority).

**Question 64** – How do you think the proposals in the draft ALN Code and proposed regulations could be formulated or changed so as to have:

- i) positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?;
- ii) no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?

**Question 65** – We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

## Respondent Details

Information	
<b>Name</b>	Nichola Jones
<b>Organisation (if applicable)</b>	Pembrokeshire County Council

## Part 1 of the consultation: The draft ALN Code

### Chapter 1 - Introduction

The meaning of 'must', 'must not', 'may', 'should' and 'should not' in the ALN Code

**Question 1** – Is the explanation in paragraphs 1.10 -1.16 of the draft ALN Code of the use and meaning of the different terms 'must', 'must not', 'may', 'should' and 'should not' clear?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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#### Supporting comments

The explanations of the different terms would benefit from an example of each being provided as the difference between a regulatory duty 'must', a permissive power 'may' and a statutory 'should' could be clearer.

#### Timescales

**Question 2** – Do you agree with the general approach to the timescales for compliance with duties (that is, to act promptly and in any event within a fixed period), as explained in paragraphs 1.31 – 1.32 of the draft ALN Code?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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#### Supporting comments

Agree with the principle of the approach but dependent on actual timescales.

**Question 3** – Is the general exception which applies in the case of timescales, as described in paragraphs 1.33-1.35 of the draft ALN Code, appropriate?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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#### Supporting comments

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Structure of the draft ALN Code

**Question 4** – Is the structure of the draft ALN Code and the separation of the chapters appropriate, clear and easy to follow?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 5** – Is the draft ALN Code’s focus on describing and explaining the functions and processes appropriate?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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Pupil referral units (PRUs) - Proposed regulations to be made under Paragraph 15 of Schedule 1 to the Education Act 1996

**Question 6** – Do you agree with the proposal to use regulations to delegate functions from a local authority to a Management Committee of a PRU?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Chapter 2 - Principles of the Code**

**Question 7** – Are the principles set out in Chapter 2 of the draft ALN Code the right ones?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

<p><b>Positive to see Early identification, intervention and effective transition planning identified as a principle.</b></p>
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### Chapter 3 - Involving and supporting children, their parents and young people

**Question 8** – Is the explanation of the duties relating to involving and supporting children, their parents and young people provided in Chapter 3 of the draft ALN Code appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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#### Supporting comments

However further comments would be welcome in relation to using person-centred practice. More emphasis could be made around adopting a flexible approach driven by the child or young person.

### Chapter 4 - Duties on local authorities and NHS bodies to have regard to the UNCRC and the UNCRPD

**Question 9** – Is Chapter 4 of the draft ALN Code clear about what is expected of local authorities and NHS bodies when discharging their duties to have due regard to the United Nations Convention on the Rights of the Child (UNCRC) and United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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#### Supporting comments

### Chapter 5 - Duty to keep additional learning provision (ALP) under review

**Question 10** – Is the guidance provided in Chapter 5 of the draft ALN Code in relation to the duties to keep ALP under review appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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#### Supporting comments

### Chapter 6 - Advice and information

**Question 11** – Is the guidance provided in Chapter 6 of the draft ALN Code in relation to making arrangements to provide advice and information about ALN and the ALN system appropriate?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

Great to read that a local disagreement resolution to be sought.

## Chapter 7 - The definition of ALN and ALP, identifying ALN and deciding upon the ALP required

**Question 12** – Is this explanation of the definition of ALN provided in paragraphs 7.4 – 7.32 of the draft ALN Code clear?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	✓	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

The definition needs to be further clarified as the process and procedures for identification and review will put greater pressure on school workload and resources. There needs to be a greater exemplification of what “significantly greater difficulty” refers to. Schools will find it difficult to work in the way stated in the code with the numbers of learners currently identified as ALN. Many schools provide “universal provision” and there is no reference to this, only some reference to differentiated teaching. In order for parents to understand there will need to be greater exemplification of what sort of needs constitute significantly greater difficult

The flow chart needs to clear – it seems to imply on P73 that the child can have a significantly greater difficulty and /or a disability but does not have ALN.

7.60 – governors are included in the list – needs to be clear what their role is. ALNCo will need to be quite skilled.

**Question 13** – Does Chapter 7 of the draft ALN Code provide a clear and comprehensive explanation of the evidence on which decisions about ALN and ALP should be based, the sources from which this evidence might be collated, and the way in which it should be considered?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	✓
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**Supporting comments**

The list of agencies who can be involved is lengthy, and may lead parents to believe that schools will have to involve many or all on the list! Parents can provide evidence and will sometimes provide external reports by professionals, it should be made clear that whilst they can specify information that may lead to the child being identified as ALN , they should not be specifying the nature of the provision as this can lead to difficulties with what can be

provided through the school and LA resources.

7.39 refers to NC level descriptors but these will be replaced in the new curriculum – so there will need to be reference to this.

7.60 - It should be made clear here that schools should be able to seek advice and intervention from professionals to develop the schools universal provision – eg speech therapy training such as ELKLAN, support for groups of pupils - to enable schools to provide interventions for groups of children, so that only those pupils with significantly greater difficulty require an IDP.

## Chapters 8 to 12 – Duties on schools, FEIs and local authorities

### Early Years ALN Lead Officer

**Question 14** – Is the guidance on the role, experience and expertise of the Early Years ALNLO set out in paragraphs 8.40 - 8.47 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have the appropriate experience and expertise to meet the expectations of the role)?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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#### Supporting comments

Yes it is clear what the expectations are, though it is extremely rare if an individual has full understanding of the non-maintained sector. No clear guidance on the qualification of the EYLO.

### Duties on schools, FEIs and local authorities

**Question 15** – Is the structure and content of Chapters 8 to 12 of the draft ALN Code clear?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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#### Supporting comments

Clearly set out, follows same format, though repetitive from one chapter to the next. 9.44; 45 – it is for LA's to set own criteria publish a set of principles – this is likely to lead to inconsistencies across WALES.

**Question 16** – Are the timescales for decisions by schools, FEIs and local authorities on ALN and preparing an IDP as set out in Chapters 8-12 appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Thirty Five days is likely to be too short for schools if they need to involve other agencies due to the capacity and availability of this advice. It will all depend on the number of pupils to fall under this Code.**

**Also if a child does not consent initially, but then changes their mind, does the 35 days start again from the date of their consent? The child also has to be given a draft and comment on it so this may delay further the IDP being completed in the timescale if the child does not agree with it.**

Deciding whether it is ‘necessary’ for a local authority to prepare and maintain an IDP for a young person not at a maintained school or FEI - Proposed regulations to be made under Section 46 of the 2018 Act

**Question 17** – Are the proposed requirements and guidance in paragraphs 12.22 – 12.51 of the draft ALN Code on when it is necessary for a local authority to maintain an IDP for a young person not at a school or FEI in Wales appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

**12.30 mentions maybe, must – grammatically unclear.**

**Fails to consider what happens if deemed not ‘reasonable’**

**Will be necessary to consider measures of achievement of objective**

## **Chapter 13 - Content of an IDP**

**Question 18** – Are the elements of the mandatory content of an IDP which are required by the ALN Code, appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

**This will depend on identification of ALN and how the guidance is interpreted. If this is now going to be relevant to children previously at SA then the process and content is likely to be too onerous for schools. In this instance the mandatory requirements of the Act – description of ALN and ALP will be more manageable. A One page profile and ALP will be mainly what is required.**

**Yes the elements are mainly appropriate for most complex but a few sections will not be**

applicable so schools should be able to remove (not include) for these children, rather than having to write N/A. There should also be guidance on the sort of additions that LA's could make to the IDP so that there is consistency across Wales.

**Question 19** – Is the proposed mandatory standard form for an IDP (included at Annex A of the draft ALN Code) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

1. Useful to have standard sections for consistency but schools should be able to produce in a more child friendly format, so that only the sections pertinent are included.
2. 2c.3 will be constant repetition so unless it is required for some aspects and not others in the ALP's then it could go in the Part 2 as one statement – Should ALP be provided in welsh
3. Similarly to have to write organisation and contact details all the time, will often be repetition – eg if the school is the main deliverer.
- 4.
- 5.

**Question 20** – Is the guidance in Chapter 13 of the draft ALN Code clear?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

There needs clearer guidance for some aspects.

Transport

**Question 21** – Is the guidance on transport in paragraphs 13.74 - 13.76 of the draft ALN Code appropriate?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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## Supporting comments

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## Chapter 15 – Duties on health bodies and other relevant persons

Statutory requests by local authorities to relevant persons for information or other help - Proposed regulations to be made under Section 65(5) of the 2018 Act

**Question 22** – Is the proposed timescale and exceptions for relevant persons to comply with a local authority request for information or other help (under section 65 of the 2018 Act) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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### Supporting comments

This is open to interpretation 6 weeks – but the requirement to comply within that 6 week period does not apply if impractical for the relevant person to do so due to circumstance beyond its control.

ALP to be secured by NHS bodies - Proposed regulations to be made under Section 21(10) of the 2018 Act

**Question 23** – Is the proposed period and exception within which an NHS body must inform others of the outcome of a referral to it (under section 20 of the 2018 Act) to identify whether there is a relevant treatment or service, appropriate?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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### Supporting comments

Too open 15.31.  
But this requirement to do so within that six week period does not apply if it is impractical for the NHS body to do so due to circumstance beyond its control.

The Designated Education Clinical Lead Officer (“DECLO”)

**Question 24** – Is the guidance on the role, experience and expertise of the DECLO set out in paragraphs 15.37 – 15.53 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have appropriate experience and expertise)?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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**Supporting comments**

DECLO all “**Should**” not “**must**” with the exception fo 15.37 – 15.39 where “**must**” is used – referring to ... must designate a DECLO, ....must be a registered medical practitioner and... must be suitably qualified and experienced.

## Chapter 16 - Review and revision of IDPs

**Question 25** – Is the content and structure of Chapter 16 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

Very clear and easier to process.

**Question 26** – Is the proposed period and exception for completing reviews in response to a request from a child, their parent, a young person or an NHS body (set out in paragraph 16.18 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

Recruitment restraints within the local health board to provide reports will see pressure being placed on timelines being met.

## Chapter 17 – Local authority reconsiderations and taking over responsibility for an IDP

**Question 27** – Is the content and structure of Chapter 17 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

**Question 28** – Is the proposed period and exception for a local authority reconsidering a school IDP (set out in paragraph 17.20 of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

However challenge may take place over what constitutes ‘circumstances beyond its control’ – Local Authorities will benefit from some leeway here as this element of the code may result in an increase in demand for LA’s to become involved which could have resource implications.

## Chapter 18 - Meetings about ALN and IDPs

**Question 29** – Are the principles and the guidance provided in Chapter 18 of the draft ALN Code on meetings about ALN and IDPs appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

‘Should’s’ need to change to ‘must’ to be clear to all.

## Chapter 19 – Planning for and supporting transition

**Question 30** – Is the guidance in Chapter 19 of the draft ALN Code on supporting children and young people to make effective transitions appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

This chapter is extremely clear and sets out steps that are appropriate to children and young people.

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## Chapter 20 - Transferring an IDP

**Question 31** – Is the content and structure of Chapter 20 of the draft ALN Code clear?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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Transfers of IDPs - Proposed regulations to be made under Section 36(3) of the 2018 Act and Section 37 of the 2018 Act

**Question 32** – Are the requirements that are intended to be included in regulations in relation to requests to transfer an IDP to an FEI (as described in paragraphs 20.12 - 20.17 of the draft ALN Code) appropriate?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

<b>Concern is raised on the timescales this will take on if FEI fails to agree to become responsible for IDP.</b>
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**Question 33** – Are the arrangements that are intended to be included in regulations in relation to all other transfers (as described in paragraphs 20.18 – 20.21 of the draft ALN Code) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	✓	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

<b>ALnco will not have time to refer to the Act. This needs including in the Code.</b>
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## Chapter 21 - Ceasing to maintain an IDP

**Question 34** – Is the content and structure of Chapter 21 of the draft ALN Code clear?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

Clear for all aspects.
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**Question 35** – Is the period of time for making a reconsideration request (described at 21.18 of the draft ALN Code), appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

This needs to be detailed in the code, as no one will refer to the act.
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## Chapter 22 – Children and young people subject to detention orders

**Question 36** – Is the content and structure of Chapter 22 of the draft ALN Code clear?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 37** – Are the proposals for the regulations in relation to deciding whether it will be necessary to maintain an IDP for a detained child or young person upon their release appropriate?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 38** – Are the proposals for the regulations in relation to children or young people who are subject to a detention order and detained in hospital under Part 3 of the Mental Health Act 1983 (as described in paragraphs 22.45 – 22.74 of the draft ALN Code) appropriate?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 39** – Are the timescale requirements to act “promptly” in relation to decisions about ALN and preparing IDPs for children and young people subject to detention orders (as set out in Chapter 22) appropriate, rather than also having a requirement to comply within a fixed period subject to an exception or exceptions?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	✓
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**Supporting comments**

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## **Chapter 23 - Children and young people in specific circumstances**

**Question 40** – Is the guidance in Chapter 23 of the draft ALN Code on children and young people in specific circumstances appropriate?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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## **Chapter 24 - Role of the Additional Learning Needs Co-ordinator (ALNCo)**

**Question 41** – Is the information set out in Chapter 24 of the draft ALN Code about the role and responsibilities of the ALNCo appropriate?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Yes this information is appropriate- however there is no reference to an Early Years (0 to 3) ALNCo role. Does this align to National Minimum Standards?**

## Chapter 25 - Avoiding and resolving disagreements

**Question 42** – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	✓
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**Supporting comments**

**The information in the code is clear, however it would be helpful for the Code to include a requirement for a tiered response to concerns – for example, a requirement to engage in disagreement resolution, independent advocacy before Tribunal.**

**Question 43** – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**As above- duplication of question 42**

## Chapter 26 - Appeals and applications to the Tribunal

**Question 44** – Is the information about appeals and the appeals process set out in Chapter 26 of the draft ALN Code appropriate?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Yes the information is set out appropriately**

## Chapter 27 - Case friends for children who lack capacity

**Question 45** – Is the information about case friends, including the duties on the Tribunal to appoint and remove case friends, clearly explained in the Chapter 27 of the draft ALN Code?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

This section is lengthy and possibly too cumbersome. It would be helpful to have a definition of 'lacking capacity' within the Code itself as this decision has a significant effect on responsibilities schools/ LA's.

### Any other comments

**Question 46** – Please provide any other comments that you would like to make on the draft ALN Code. Where your comments relate to a specific chapter or paragraph within the draft ALN Code, please indicate this in your response.

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## Part 2 of the consultation: Draft Education Tribunal for Wales regulations

**Question 47** – Overall, do the draft Education Tribunal regulations provide clear processes and procedures relating to appeals and claims to the Education Tribunal?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 48** – Overall, will the processes and procedures outlined in the draft Education Tribunal regulations enable the Education Tribunal to deal with cases fairly and justly?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 49** – Is the proposed case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) appropriate?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 50** – Are the proposed timescales for each party in the case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) reasonable?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

**Question 51** – Is the 6 week timescale within which NHS bodies must report to the Education Tribunal in response to a recommendation (regulation 65 of the draft Education Tribunal regulations) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

**Question 52** – Are the timescales relating to compliance with Education Tribunal orders appropriate?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 53** – Is the approach to extensions to timescales (regulation 66 of the draft Education Tribunal regulations) appropriate?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

**Question 54** – Are the proposed regulations relating to case friends (draft Education Tribunal regulations 61 to 64) appropriate?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

## **Part 3 of the consultation: Draft ALNCo regulations**

**Question 55** – Are the prescribed qualifications to be an ALNCo set out in the draft ALNCo regulations appropriate?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 56** – Do you agree with the tasks that ALNCoS must carry out or arrange to carry out as set out in the draft ALNCo regulations?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

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## **Part 4 of the consultation: Looked after children**

### **(a) Proposed regulations to be made**

**Question 57** – Do you agree that the Looked after Children in Education (LACE) Co-ordinator should be a statutory role?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

### **(b) Chapter 14 of the draft ALN Code – Content of an IDP for a looked after child**

**Question 58** – Do you agree that there should be a separate standard form for looked after children and is the proposed standard form, together with the guidance and requirements related to it, appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

### **(c) Proposed revisions to the Part 6 Code**

**Question 59** – Do the draft revisions to the Part 6 Code provide a clear explanation of the duties on local authorities in relation to their social services functions for looked after children with ALN and what these duties mean in practice?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

**Question 60** – Overall, do you agree with the approach taken in the draft revised Part 6 Code to explaining the legislative changes, including the integration of personal education plans (PEPs) and IDPs and the mandatory content of PEPs? Are the requirements and expectations and what these mean in practice clearly explained?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 61** – Do the changes that have been made to the Part 6 code clearly explain the role of the LACE Co-ordinator in overseeing the ALN arrangements for looked after children and what this means in practice?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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## **Part 5 of the consultation: Impact of proposals**

**Question 62** – What impacts do you think there will be as a result of the proposed regulations?

**Considerable funding issues for the local authority in meeting its new statutory duties for 0 – 5 age range (pre-school) especially the role of the Early Years Lead Officer which doesn't currently exist as well as the post 16 new responsibilities under the new duties which will have implications in relation to the funding arrangements for specialist placements and the impact this will have on shrinking budgets within local authorities. Further work needs to be done by the Welsh Government to undertake an analysis of the funding implications and assurance given that we won't be held to account for new duties without the ring fenced funding to ensure we are in a position to deliver the expected changes.**

**Impact will be felt by all those working with children with ALN. E.g.:**

- **Placing the child and parent as central contributors will force a culture change for a number of schools and professionals.**
- **Implication of timeframes for Health will be significant as the Code's timeframes are much shorter than those currently in place for Health's own code of practice.**
- **Setting the parameters for when an IDP becomes a Local Authority administered document will impact on schools. Schools are going to have to take on admin roles currently undertaken by the LA and roles linked to disagreement resolution.**
- **Impact, especially in the implementation period, on ALNCo time for PCP work.**

**Question 63** – What impact do you think the proposals in the draft ALN Code and proposed regulations would have on the Welsh language?

**The Code is clear around the need to ensure provision is available through the medium of Welsh. We welcome this and have been developing our provision accordingly. However, Wales lacks specialist experts in the field that support the development of specialised resources – investment in linking with Welsh Universities and the identification of professionals across Wales who would be in a position to take this forward would be beneficial.**

**Question 64** – How do you think the proposals in the draft ALN Code and proposed regulations could be formulated or changed so as to have:

- i) **positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?;**
- ii) **no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?**

- i) **The code states the need for suitable provision in a way that current SEN legislation does not. However, as noted above, it does not take account of the lack of specialised resources available through the medium of Welsh, such as assessment materials. Without investment in the development of such resources at a national level, it is difficult to see how there can be parity between the two languages.**
- ii) **The proposals strengthen the right of people to have the opportunity to use the Welsh language.**

**Question 65** – We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

## Respondent Details

Information	
<b>Name</b>	Hayley Page
<b>Organisation (if applicable)</b>	SEWC Regional ALNCos

## Part 1 of the consultation: The draft ALN Code

### Chapter 1 - Introduction

The meaning of 'must', 'must not', 'may', 'should' and 'should not' in the ALN Code

**Question 1** – Is the explanation in paragraphs 1.10 -1.16 of the draft ALN Code of the use and meaning of the different terms 'must', 'must not', 'may', 'should' and 'should not' clear?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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#### Supporting comments

**'Must' is evident.**

**'Should' and 'should not' seem open to too much interpretation – if it is statutory, it should be a must.**

**'May' does not provide the specificity needed.**

**If there are exceptions, there should be clarity around an expectations and the meaning behind this.**

**Could there be greater clarity around what is statutory and what is best practice?**

#### Timescales

**Question 2** – Do you agree with the general approach to the timescales for compliance with duties (that is, to act promptly and in any event within a fixed period), as explained in paragraphs 1.31 – 1.32 of the draft ALN Code?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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#### Supporting comments

**Agree with timescales in principle; they are required and important.**

**Question around when the timescale starts, as many informal conversations happen; does this count as the start point? Does a formal discussion / letter / meeting take place?**

**Schools have seven weeks to gather information – it may be difficult to gather information from other agencies – particularly health. If the IDP is based on health needs, schools will**

not want to complete the IDP without the information, as the IDP is not meaningful.

School potentially needs additional time after the collation of information in order to prepare the IDP.

Within the timescale, there could be a number of difficulties which do not allow the timescales to be met. This may depend upon the size of the school and number of requests within any given time.

How long do any outstanding reports have for completion? If there is an exception to the timescale, when is the implementation of the next timescale(s)? Who is responsible to ensure all paperwork requested is completed and handed in? ALNCos / schools cannot be held accountable for missing reports and this may lead to inaccurate decisions and IDPs.

**Question 3** – Is the general exception which applies in the case of timescales, as described in paragraphs 1.33-1.35 of the draft ALN Code, appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

Not specific enough.  
It doesn't take into account school based situations and exceptions.

Structure of the draft ALN Code

**Question 4** – Is the structure of the draft ALN Code and the separation of the chapters appropriate, clear and easy to follow?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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**Supporting comments**

The separation of the Chapters is easy to follow. The demarcation is helpful, although there are aspects which are very wordy and don't provide the clarity needed for ALNCos, SLTs and classroom teachers.

If we want all education professionals to be part of this transformation, they need to access the Code successfully and effectively to gain worthwhile information.

There is a question as to why the Role of the ALNCo is so late in the Code.

**Question 5** – Is the draft ALN Code's focus on describing and explaining the functions and processes appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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### Supporting comments

On the whole, the Code provides the functions and processes.  
Greater clarity is needed in places to ensure consistency across schools, LAs and consortium.

Pupil referral units (PRUs) - Proposed regulations to be made under Paragraph 15 of Schedule 1 to the Education Act 1996

**Question 6** – Do you agree with the proposal to use regulations to delegate functions from a local authority to a Management Committee of a PRU?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

## Chapter 2 - Principles of the Code

**Question 7** – Are the principles set out in Chapter 2 of the draft ALN Code the right ones?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

Key principles seems appropriate.

## Chapter 3 - Involving and supporting children, their parents and young people

**Question 8** – Is the explanation of the duties relating to involving and supporting children, their parents and young people provided in Chapter 3 of the draft ALN Code appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

Appropriate explanations throughout.  
Processes are clear.  
Important to consider the individual children and their needs.

## Chapter 4 - Duties on local authorities and NHS bodies to have regard to the UNCRC and the UNCRPD

**Question 9** – Is Chapter 4 of the draft ALN Code clear about what is expected of local authorities and NHS bodies when discharging their duties to have due regard to the United Nations Convention on the Rights of the Child (UNCRC) and United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

Should it be something they need to follow, rather than have due regard?  
 It is wordy and therefore does not provide the specificity of the Chapter.  
 More specific details are needed for health to ensure all stakeholders follow the Code.

## Chapter 5 - Duty to keep additional learning provision (ALP) under review

**Question 10** – Is the guidance provided in Chapter 5 of the draft ALN Code in relation to the duties to keep ALP under review appropriate?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

Important to review ALP and ensure clarity of entry and exit within provision mapping.

It will be vital to review in regards to resources, the training requirements of staff and the appropriate deployment to meet need.

Needs of children / young people can change over the course of the year and therefore schools need an opportunity to reprioritise and redeploy based on need.

Tracking and monitoring of child progress is an essential component of the ALP.

Need for all external agencies to work collaboratively and collectively.

## Chapter 6 - Advice and information

**Question 11** – Is the guidance provided in Chapter 6 of the draft ALN Code in relation to making arrangements to provide advice and information about ALN and the ALN system appropriate?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

Important for parents to receive information and advice.  
 Parents need to feel supported.  
 Consistency of information is essential across Wales.

**Use of websites and links from school to LA websites to support information sharing.  
Beneficial use of Parent Partnerships will support this.**

## **Chapter 7 - The definition of ALN and ALP, identifying ALN and deciding upon the ALP required**

**Question 12** – Is this explanation of the definition of ALN provided in paragraphs 7.4 – 7.32 of the draft ALN Code clear?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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### **Supporting comments**

#### **Additional Learning Needs**

The idea of equity is evident, as there is no graduated response, however it is felt this is required to support referral routes and resourcing individual / groups of children / young people. We no longer have the four categories of need, which support identification and provision allocation, however the list provided doesn't offer any specificity of needs and is open to interpretation by all (external agencies, parents, young people...), which may lead to conflict.

It is positive that there should be an increase in those children / young people who can have their needs met through universal provision.

It is felt the term 'significant' is open to interpretation and more specificity and quantifiable measures are needed to ensure clarity of identification and equity of ALP across Wales.

The bureaucracy around the link of funding and numbers of children / young people identified as having an ALN needs to be considered.

#### **Additional Learning Provision**

The definition is too vague and open to interpretation. Levels of differentiation could be perceived as being 'different from' and 'additional to' that which is usually provided, however this should be part of the universal provision offered by schools.

Interpretation may depend upon the school / organisation and their cohort of children. There needs to be a consistent approach to universal provision and a shared understanding of what 'good' universal provision looks like across LAs, Consortiums and Wales and funding in order to provide 'catch up' at a universal level, rather than relying on children / young people being identified as having an ALN before funding becomes available.

There also needs to be clarity around ALP available within settings to ensure equity of provision for children / young people with ALN across LAs, Consortiums and Wales.

Upskilling of teachers at all levels, including at an ITT level is essential to ensure clarity across the workforce.

*If we are to ensure a consistent and robust system around ALN and ALP, greater clarity and specificity is needed.*

**Question 13** – Does Chapter 7 of the draft ALN Code provide a clear and comprehensive explanation of the evidence on which decisions about ALN and ALP should be based, the

sources from which this evidence might be collated, and the way in which it should be considered?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

Limited specific information, open to interpretation and ensuring that all schools apply this in a consistent manner.  
 The individual child / young person has to be considered at the centre of the evidence.  
 Key terminology – ‘persistent’ and ‘significant’ – this is open to interpretation. We need to consider underlying cognitive ability, as well as the other data and information available for analysis.  
 Need to link in with the Rates of Progress of children.

## Chapters 8 to 12 – Duties on schools, FEIs and local authorities

### Early Years ALN Lead Officer

**Question 14** – Is the guidance on the role, experience and expertise of the Early Years ALNLO set out in paragraphs 8.40 - 8.47 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have the appropriate experience and expertise to meet the expectations of the role)?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

Agree it is vital to support Early Years and transitions into school.  
 Important to have someone who is skilled and experienced within this role.  
 Where the children don’t attend a pre-school setting prior to starting school, there are concerns with transitions and ensuring the correct information is received before starting school.

### Duties on schools, FEIs and local authorities

**Question 15** – Is the structure and content of Chapters 8 to 12 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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**Supporting comments**

There is a process evident and aspects are clear. A more specific flow diagram with the additional aspects of gaining information from external professionals.  
 Not all children are capable of recognising they have an ALN and therefore may not consent to a decision being made about their ALN. Does the child always need to know they are being assessed for a particular diagnosis or the information around the diagnosis? This

should take into consideration the needs of the individual child.

9.46 / 9.55 – Use of an EP to determine whether an ALN is present when referred to the LA seems unnecessary, as the school based data and analysis of need should be appropriate to make a decision. Does this EP time come out of the school allocation? If so, how would this be fair on children in school who have an identified need and require EP assessment?

**Question 16** – Are the timescales for decisions by schools, FEIs and local authorities on ALN and preparing an IDP as set out in Chapters 8-12 appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

Ensuring the information is in place before making an informed decision.

Deciding whether it is 'necessary' for a local authority to prepare and maintain an IDP for a young person not at a maintained school or FEI - Proposed regulations to be made under Section 46 of the 2018 Act

**Question 17** – Are the proposed requirements and guidance in paragraphs 12.22 – 12.51 of the draft ALN Code on when it is necessary for a local authority to maintain an IDP for a young person not at a school or FEI in Wales appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

Important to ensure there is safeguarding processes in place.

## Chapter 13 - Content of an IDP

**Question 18** – Are the elements of the mandatory content of an IDP which are required by the ALN Code, appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

Happy with the content overall.

It is felt important that there is mandatory content within the IDP to ensure consistency and ease of transfer between settings. The Welsh component is repetitive – could there be one area around language preference?

Depth and detail will be dependent upon the learner, their needs and provision, as well as the other professionals supporting the learner.

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**Question 19** – Is the proposed mandatory standard form for an IDP (included at Annex A of the draft ALN Code) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

<p>A very formal layout, not child-friendly, the language used isn't accessible for children and many adults.</p> <p>Doesn't consider the views of the parents and their acceptance of the ALN and ALP. Focus is placed on the needs and the provision, rather than celebrating what the child can do.</p> <p>There isn't an assigned space to review the actions and therefore ensure clarity around tracking and monitoring of progress.</p> <p>Should there be space for learning data to ensure clear tracking and monitoring and identification of rates of progress (i.e. based on individual need - P Scales, National Test Data...)</p> <p>Flexibility is limited – style and add extra sections (order and content cannot be changed).</p> <p>Should the One Page Profile be the front page?</p>
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**Question 20** – Is the guidance in Chapter 13 of the draft ALN Code clear?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

<p>Clear information, limited opportunity to interpret the information.</p> <p>Would it be possible to receive case study copies of IDPs?</p>
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Transport

**Question 21** – Is the guidance on transport in paragraphs 13.74 - 13.76 of the draft ALN Code appropriate?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

<p>Important to consider individual needs and the training to meet need.</p> <p>Local Authority – should they not ensure the training of the providers and ensure knowledge and understanding of the child / young person need?</p>
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## Chapter 15 – Duties on health bodies and other relevant persons

Statutory requests by local authorities to relevant persons for information or other help - Proposed regulations to be made under Section 65(5) of the 2018 Act

**Question 22** – Is the proposed timescale and exceptions for relevant persons to comply with a local authority request for information or other help (under section 65 of the 2018 Act) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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### Supporting comments

**Should Social Services be included within the Code?**

**Health tend to discharge children / young people from the agency where they do not attend.**

ALP to be secured by NHS bodies - Proposed regulations to be made under Section 21(10) of the 2018 Act

**Question 23** – Is the proposed period and exception within which an NHS body must inform others of the outcome of a referral to it (under section 20 of the 2018 Act) to identify whether there is a relevant treatment or service, appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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### Supporting comments

**Concerns that ‘circumstances beyond their control’ is open to interpretation and therefore a decision / IDP could be held up due to waiting lists. This also provides school with one week to make an informed decision on whether a child / young person has an ALN and prepare the relevant paperwork.**

The Designated Education Clinical Lead Officer (“DECLO”)

**Question 24** – Is the guidance on the role, experience and expertise of the DECLO set out in paragraphs 15.37 – 15.53 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have appropriate experience and expertise)?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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### Supporting comments

**The link expected through this role if not evident. There is no one as a point of contact for schools to support the information gathering and ensuring the appropriate ALP is in place.**

Many medical diagnosis reports now provide the diagnosis and the need to review the provision and the package of support; this is not supported by the DECLLO role. Health based professionals would need to have some knowledge and understanding of the role of schools.

## Chapter 16 - Review and revision of IDPs

**Question 25** – Is the content and structure of Chapter 16 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

Provides clarity around review.  
Some will need reviewing more than once a year, working documents to ensure need is met.  
Concerns around all stakeholders being able to attend meetings.

**Question 26** – Is the proposed period and exception for completing reviews in response to a request from a child, their parent, a young person or an NHS body (set out in paragraph 16.18 of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

This may be impacted by the number of children / young people with ALN.  
This could be impacted by the external professionals providing the information required.

## Chapter 17 – Local authority reconsiderations and taking over responsibility for an IDP

**Question 27** – Is the content and structure of Chapter 17 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

Clarity of roles are formed – collaboration and discussion will be important.

**Question 28** – Is the proposed period and exception for a local authority reconsidering a school IDP (set out in paragraph 17.20 of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

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## Chapter 18 - Meetings about ALN and IDPs

**Question 29** – Are the principles and the guidance provided in Chapter 18 of the draft ALN Code on meetings about ALN and IDPs appropriate?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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### Supporting comments

PCP approach is appropriate and has been developed across nearly all schools. It is positive to ensure the beneficial and worthwhile input of the child and the parent.  
Admin time is needed to support the review process – inviting, collating and requesting reports from other professionals.  
Attendance at meetings may be a concern. At present, few meetings are attended by health and reports are not provided in the majority of cases, to support the review process.  
Is there specific review paperwork to be used to review the IDP?  
The time allocation of the ALNCo needs to be considered, specifically in the transformation period, to support class teachers / designated staff in meeting the requirements of the review meeting.

## Chapter 19 – Planning for and supporting transition

**Question 30** – Is the guidance in Chapter 19 of the draft ALN Code on supporting children and young people to make effective transitions appropriate?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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### Supporting comments

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## Chapter 20 - Transferring an IDP

**Question 31** – Is the content and structure of Chapter 20 of the draft ALN Code clear?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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### Supporting comments

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Transfers of IDPs - Proposed regulations to be made under Section 36(3) of the 2018 Act and Section 37 of the 2018 Act

**Question 32** – Are the requirements that are intended to be included in regulations in relation to requests to transfer an IDP to an FEI (as described in paragraphs 20.12 - 20.17 of the draft ALN Code) appropriate?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 33** – Are the arrangements that are intended to be included in regulations in relation to all other transfers (as described in paragraphs 20.18 – 20.21 of the draft ALN Code) appropriate?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

## **Chapter 21 - Ceasing to maintain an IDP**

**Question 34** – Is the content and structure of Chapter 21 of the draft ALN Code clear?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**It provides clarity of the approach.**

**Question 35** – Is the period of time for making a reconsideration request (described at 21.18 of the draft ALN Code), appropriate?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**The evidence should have already been collated in order to suggest within a review meeting with all present that an IDP will cease. It places importance of parents attending review meetings.**

## Chapter 22 – Children and young people subject to detention orders

**Question 36** – Is the content and structure of Chapter 22 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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**Supporting comments**

**Question 37** – Are the proposals for the regulations in relation to deciding whether it will be necessary to maintain an IDP for a detained child or young person upon their release appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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**Supporting comments**

**Question 38** – Are the proposals for the regulations in relation to children or young people who are subject to a detention order and detained in hospital under Part 3 of the Mental Health Act 1983 (as described in paragraphs 22.45 – 22.74 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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**Supporting comments**

**Question 39** – Are the timescale requirements to act “promptly” in relation to decisions about ALN and preparing IDPs for children and young people subject to detention orders (as set out in Chapter 22) appropriate, rather than also having a requirement to comply within a fixed period subject to an exception or exceptions?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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**Supporting comments**

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## Chapter 23 - Children and young people in specific circumstances

**Question 40** – Is the guidance in Chapter 23 of the draft ALN Code on children and young people in specific circumstances appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

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## Chapter 24 - Role of the Additional Learning Needs Co-ordinator (ALNCo)

**Question 41** – Is the information set out in Chapter 24 of the draft ALN Code about the role and responsibilities of the ALNCo appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

<p>The role appears appropriate in terms of the content and the ‘musts’.</p> <p>The role appears to include significant amount of work for the ALNCo without specifying the time allowance and the remuneration. There is a focus on tracking, monitoring and self-evaluation reviews to ensure the needs of learners are met, as well as upskilling and building capacity of the workforce.</p> <p>ALNCoS should be part of SLTs as an ALN Lead, without additional responsibilities.</p> <p>‘Should’ around SLT role and release time – this needs to be a ‘must’. ALNCoS should feed into the SDP and SER of the whole school approach.</p> <p>There should be training and upskilling of new ALNCoS and this should be provided through the relevant bodies – mandatory training programmes. If ALNCoS want to follow a qualification, there should be provision and finance available to support.</p> <p>On-going professional development opportunities needed to support the change in role and the continued extension of needs met within mainstream schools.</p> <p>Cluster based support is important to ensure all ALNCoS feel supported.</p>
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## Chapter 25 - Avoiding and resolving disagreements

**Question 42** – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

**Clear role of LAs to ensure parent partnership services and independent advocacy. If this is in place it can be helpful for all stakeholders.**

**Importance of a clear SLA with expectations of all parties to ensure it works effectively and is independent with a clear understanding of systems and processes.**

**Question 43** – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

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## Chapter 26 - Appeals and applications to the Tribunal

**Question 44** – Is the information about appeals and the appeals process set out in Chapter 26 of the draft ALN Code appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

**Importance of upskilling school based staff in dispute resolution to reduce the cases which are referred to the Tribunal.**

**Clarity of all systems and process will support consistency and clarity around the identification of ALN and implementation of ALP.**

**We have to consider the time of austerity and deficit budgets in regards to providing ALP at the point of creating an IDP.**

## Chapter 27 - Case friends for children who lack capacity

**Question 45** – Is the information about case friends, including the duties on the Tribunal to appoint and remove case friends, clearly explained in the Chapter 27 of the draft ALN Code?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Any other comments**

**Question 46** – Please provide any other comments that you would like to make on the draft ALN Code. Where your comments relate to a specific chapter or paragraph within the draft ALN Code, please indicate this in your response.

**General Reflections on Chapter 24**

In many schools, headteachers take on the role of ALNCo – should this be considered? The size of the school and the number of children on the ALN Register need to be taken into account when placing the ALNCo within the staffing structure and in relation to the release time provided to the role. There is a concern around the word ‘sufficient’, as this is open to interpretation and also is budget dependent in times of austerity.

The accountability and importance of the role requires a level of consideration of the wellbeing of the ALNCo, alongside teaching and support staff.

Many concerns raised around recruitment and retention of ALNCoS. In a few schools, this is a role given to a member of staff or an extra as part of a SLT role. How do we encourage people to apply for these posts and then ensure they are upskilled and experienced within the role and remain in post?

There needs to be a clear professional pathway within ALN that leads to positive recruitment and retention.

**General Reflections**

There needs to be a whole workforce approach to the ALN Act 2018 and implementation of the Code. Further training at an ITT level is needed, ensuring people enter the profession with an awareness and understanding of meeting the needs of all learners.

In many aspects of the Code we have to consider the role of Independent Assessments provided to schools and the interpretation of these.

Funding and resources will inevitably impact the implementation of the Code.



**Respondent Details**

Information
<b>Name</b>
<b>Organisation (if applicable)</b>

**GENERAL COMMENTS**

1. Additional learning needs (ALN) and special educational needs (SEN) are high priorities for the NASUWT. Across the UK, there is an increasing focus on inclusion and a clear expectation that every teacher is a teacher of ALN/SEN. Feedback that the NASUWT has received from teachers and school leaders indicates that the demands being placed on teachers and schools are increasing – that increasing numbers of learners with more complex needs are being taught in mainstream classrooms; that special schools are admitting learners with more complex needs; and that cuts to specialist services are exacerbating the difficulties that teachers face.
2. The NASUWT has significant concerns about the Welsh Government’s planned ALN reforms. This includes concerns about the arrangements for developing the reforms and the guidance in the draft Code of Practice. The Union believes that the proposed reforms will create massive workload burdens for ALN co-ordinators (ALNCOs) and teachers and, in their current form, are unworkable.
3. The reforms have not been developed in consultation with the NASUWT and the wider teaching workforce. Instead, they have been developed with a limited group of schools and policy makers. As a result, the proposals fail to address critical barriers to effective implementation. The NASUWT urges the Welsh Government to suspend the reforms and engage more widely. Specifically, the Union urges the Welsh Government to undertake a workload impact assessment of the proposals, engaging the NASUWT actively in that process. The Welsh Government should address the issues identified by the impact assessment before implementing the ALN reforms.
4. The NASUWT agrees that every learner with ALN should be entitled to the support that they need to achieve their potential, including those learners with less complex needs whose needs are most likely to be met through additional support provided by the school

or college. However, it is unacceptable for the Welsh Government to assume that schools will provide this support without ensuring that the necessary policies and resources are in place to enable schools to deliver what is required. The proposed reforms place wildly unrealistic expectations of schools, of ALNCOs and of teachers. While teachers will always do their best for the learners they teach, the Welsh Government's failure to address the issues will mean that learners with ALN will not receive the support that they need, the Welsh Government must also recognise that the increased pressure on teachers and ALNCOs will exacerbate the recruitment and retention crisis in teaching.

5. The NASUWT reiterates that there is a continuing need for the Welsh Government to address issues of the unacceptable workload burdens of teachers and headteachers in Wales. The Union remains concerned that little progress has been made in addressing the issues highlighted in the workforce survey undertaken by the Education Workforce Council (EWC) on behalf of the Welsh Government in April 2017.

### **NASUWT survey findings**

6. Evidence from an NASUWT survey of teachers' experiences of ALN highlights the difficulties that teachers already face in supporting learners with ALN.<sup>1</sup> Almost two thirds of respondents reported that support for learners with ALN had decreased in the previous five years, with respondents reporting that learners who do not have a statement of special educational needs (SEN) or equivalent experience particular difficulties in obtaining the support that they need.<sup>2</sup> They also reported that the thresholds for accessing external support have been raised meaning that many learners who previously would have received support, no longer get that support.<sup>3</sup> Further, they reported that some agencies and services have adopted strategies for controlling the number of learners that can access support. For instance, some teachers reported that their school has been given quotas for the number of assessments that will be carried out by educational psychological services, and other teachers reported that services are automatically rejecting initial applications for assessment or support and are then requiring the school to provide additional and overly detailed information in order to secure an assessment or support for the learner.<sup>4</sup>

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<sup>1</sup> NASUWT (April 2018) *Special Educational Needs (SEN), Additional Learning Needs (ALN) and Additional Support Needs (ASN): Survey report.*

<sup>2</sup> Ibid, pages 7 and 8.

<sup>3</sup> Ibid, pages 10-13.

<sup>4</sup> NASUWT (April 2018) *ibid*, pages 10-13.

7. Worryingly, more than two thirds of respondents to the NASUWT's ALN/SEN survey reported that they never or rarely receive the support that they need to enable them to teach learners with ALN effectively.<sup>5</sup>
8. A comparison of the time that teachers with SEN/ALN responsibilities had to fulfil those duties reveals that ALNCOs in Wales have a smaller proportion of timetabled teaching time allocated to ALN duties than their counterparts in other parts of the UK. While 31% of respondents from England and 17% of respondents from Northern Ireland reported that between zero and 19% of their timetabled teaching time was allocated for SEN duties, 52% of respondents from Wales reported that just 0-19% of their timetabled teaching time was allocated for ALN-related responsibilities.<sup>6</sup>
9. In light of the responses above, it is not surprising that 97% of respondents from Wales reported that they did not have sufficient time to fulfil their ALN duties.<sup>7</sup> This compares to 81% of respondents across the UK.<sup>8</sup> The survey findings reveal that workload is a very significant issue for teachers with ALN and SEN responsibilities and that it is particularly acute for ALNCOs in Wales. The NASUWT survey findings point to the need for substantial additional investment in ALN so that ALNCOs have the time to undertake their responsibilities for ALN.
10. The NASUWT survey findings point to the need for substantial additional investment in ALN. This includes investment in specialist services to support learners with ALN, and substantial investment in schools so that all teachers have access to and time to undertake ALN-related training so that they can meet the needs of the learners they teach who have ALN. The proposed ALN reforms do not address these critical issues.
11. The evidence above demonstrates that there are major concerns about the funding and resourcing of provision for ALN within schools and more generally; they highlight issues relating to teacher and ALNCO workload, and they reveal that there are issues related to the nature and availability of support for teachers. Before responding to the consultation questions, the NASUWT wishes to highlight specific concerns about workload; the roles and responsibilities of class teachers and ALNCOs; professional development and support for ALNCOs and teachers; the distinction between the role of the school and the

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<sup>5</sup> Ibid, page 7.

<sup>6</sup> Ibid, page 35 plus additional analysis of unpublished data.

<sup>7</sup> Additional analysis of unpublished data from the SEN/ALN survey.

<sup>8</sup> NASUWT (April 2018), op. cit.

role of the local authority; Individual Development Plans (IDPs), including the workload that is likely to be generated as a result of the introduction of IDPs; and multi-agency working.

### **Workload impact assessment**

12. The Welsh Government should undertake a workload impact assessment of the proposed ALN reforms. This should be undertaken in consultation with the NASUWT. The Welsh Government should examine the findings of the assessment to identify existing policies and procedures and proposed policies, procedures and guidance that will impact adversely on the workload of teachers and other staff in schools. It must take action to address any issues highlighted by the assessment.
13. The guidance in the draft Code will need to be reviewed and amended to reflect the outcome of the workload impact assessment. The NASUWT wishes to stress that the draft Code will need to be amended to remove guidance that requires or expects teachers and ALNCOs to undertake tasks that are inappropriate. For instance, paragraph 19.44 of the draft Code refers to transition workshops for children with ALN being held during the school holidays. This is not appropriate as such workshops are likely to require the ALNCO and possibly year 7 teachers to be involved. The guidance should make it clear that transition events should take place in school term time and that teachers should not be expected to participate in events arranged outside of school term time.
14. Teachers report that bureaucratic and burdensome systems and practices are being developed to implement the ALN reforms. For example, the online IDP form is 17 pages long and requires a great deal of background information and evidence to be provided. Teachers report that previously a meeting to prepare for, meet and review the provision for a learner on School Action would take around one hour. The new arrangements involve around four hours of preparatory work (including sending out invitations, coordinating meetings, preparing paperwork) and meetings take at least two hours to complete. This is not sustainable. The Welsh Government must take action to address the issues.
15. It will be particularly important to examine the workload impact of implementing a child-centred approach to identifying and supporting the needs of learners with ALN. This

must include examining the ways in which the child-centred approach is understood and interpreted.

### **Class teacher and ALNCO roles and responsibilities**

16. The current draft Code does not provide clarity as to the role of the class or form teacher. There are significant expectations of class teachers in the Code, but these are not explicit because they are hidden in language such as the 'co-ordinator of the IDP'. The fact that the expectations of the class/form teacher are not clearly stated is extremely problematic and could mean that key decision-makers (including those in the Welsh Government, local authorities and schools) will overlook their training and support needs and ignore the workload burdens that accompany these expectations. The NASUWT is clear that any expectation that class and form teachers should undertake responsibilities in relation to the ALN must be made explicit; and that teachers should receive the necessary training and support to enable them to fulfil their responsibilities.

17. The draft Code does not provide clarity about the role and responsibilities of the ALNCO. This is unacceptable and could create tensions within schools as to who does what. Further, there is a risk that external services will expect ALNCOs to undertake much of the administration and co-ordination work associated with multi-agency working. Again, this is unacceptable. As highlighted in the NASUWT survey referenced above, ALNCOs have less time than their counterparts across the UK to undertake ALN-specific duties. This must be addressed. The Code might provide guidance about the proportion of time that should be allocated for ALN duties. Further, the Code should make it clear that the role of ALNCO is a strategic one that includes co-ordinating ALN provision across the school or setting. The Code should set a clear expectation that the ALNCO should be a member of the school leadership team and that they must be remunerated appropriately, either by way of a post on the Leadership Spine or a significant Teaching and Learning Responsibility (TLR) Allowance. The Welsh Government must ensure that schools have the necessary resources and support to enable the ALNCO to fulfil this role.

### **Role of the school and role of the local authority**

18. The current draft Code lacks clarity about the distinction between the roles of the school and the local authority in respect of the duties to identify ALN and to maintain an IDP

and secure additional learning provision (ALP). The assumption is that the local authority will take responsibility where a learner has more complex needs and where the school cannot identify the needs or cannot meet the needs that have been identified. However, evidence from the NASUWT's survey indicates that local authorities are increasing thresholds and rationing assessments and specialist support as a result of cuts to key services.<sup>9</sup> In other words, resources are dictating decisions rather than the needs of the learner. The Code must provide the necessary clarity to ensure that schools are not left trying to meet the needs of a learner with complex ALN because the local authority determines that it does not have the resources to take responsibility for IDP and/or providing them with the support that they need.

### **Professional development and support**

19. Almost one third of respondents to the NASUWT's ALN/SEN survey reported that they rarely or never receive the support that they needed to teach learners with ALN/SEN.<sup>10</sup> Many respondents, particularly class teachers, reported difficulties accessing high-quality, effective ALN-related continuing professional development (CPD). Workload and lack of time are major barriers to teachers undertaking CPD, but there are also issues about the focus of ALN-related CPD and the quality of what is provided.<sup>11</sup> The ALN reforms place huge expectations on schools and teachers and they will not be implemented effectively unless teachers receive high-quality CPD and support. The Welsh Government must address the factors that prevent teachers from accessing CPD. Also, a brief online training session which provides an overview of the reforms will not be sufficient. The ALN reforms will not be implemented effectively unless the Welsh Government tackles teacher workload and provides additional resources so that teachers have the time to undertake professional development and schools can pay for high-quality external training and support.

20. The NASUWT notes that the Welsh Government intended to offer ALNCO training at Masters level and that all newly appointed ALNCOs should gain a Masters qualification. This ambition appears to have been dropped and it is unclear why. The NASUWT is concerned that newly appointed ALNCOs will continue to struggle to access training that enables them to develop their ALN knowledge, skills and understanding. It is essential

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<sup>9</sup> NASUWT (April 2018) op. cit.

<sup>10</sup> NASUWT (April 2018) Ibid.

<sup>11</sup> NASUWT (April 2018) Ibid.

that the Welsh Government takes action to ensure that ALNCOs receive the training and the support that they need to carry out their role.

### **Individual Development Plans (IDPs)**

21. The draft Code provides detail about the sections that should be included in the IDP. While this may help to ensure consistency of IDPs across Wales, the guidance fails to make a distinction between IDPs to provide additional learning provision (ALP) to learners with less complex needs and IDPs for learners with complex needs. As a result, there is a significant risk that IDPs will be unnecessarily detailed and bureaucratic. In the case of learners who would previously have been on School Action, the IDP may only need to be very brief. The guidance in the Code must be revised to make it clear that IDPs should vary in the level of detail and complexity according to the learner's needs. It must be clear that the focus of any IDP is on enabling teachers, specialist professionals, the learner and their parent to understand clearly and easily what ALP is needed and how that will be provided. Only information that is needed to address the learner's ALN should be included in the IDP.

22. While the NASUWT agrees with the principle that all learners with ALN should have a statutory entitlement to the provision set out in their IDP, the Union is very concerned that this could raise the stakes for parents to secure an IDP for their child. Schools may come under extreme pressure from parents to include specific ALP in the IDP. This is likely to increase the workload and burdens of teachers and ALNCOs in schools.

23. The draft Code does not clarify who is legally responsible for ensuring that the ALP set out in an IDP is provided. The NASUWT is extremely concerned that the teacher who conducted the initial assessment and identified that a learner has ALN and has identified the ALP set out in the IDP might be legally responsible for ensuring that the ALP is provided. This is unacceptable. The Code should make it clear that the school governing body is legally responsible for ensuring that a learner is appropriately identified as having ALN.

24. If schools are not given the resources that they need to implement the reforms effectively, there is a risk that increasing numbers of learners with ALN will not have their needs met. Similarly, failure to identify and address the potential workload burdens

associated with implementing the ALN reforms in schools is likely to result in fewer learners being identified as having ALN.

### **Multi-agency working and schools**

25. Evidence from NASUWT surveys of members in Wales and across the UK as well as ongoing feedback from ALNCOs indicates that schools are under constant pressure to take the lead role in co-ordinating and managing multi-agency support for a learner. ALNCOs report that they experience significant difficulties when trying to arrange meetings, for instance, it may be difficult to identify the relevant contact in a service and they often struggle to secure attendance at multi-agency meetings. The difficulties that schools encounter are long-standing, but they have been exacerbated by austerity and cuts to specialist public services. It is unacceptable that schools are expected to undertake this co-ordinating role as it creates substantial workload burdens and takes ALNCOs and teachers away from their core responsibilities for teaching and learning. The NASUWT believes that the ALN reforms provide an opportunity for the Welsh Government to review the arrangements for ALN and wider multi-agency work that includes schools and education. The Welsh Government should resource local authorities to take on the co-ordinating of multi-agency working role and ensure that they are held accountable for carrying out this responsibility.

### **Presentation and content of the draft Code of Practice**

26. The draft Code of Practice contains too much detail, lacks the necessary clarity in key sections, and is extremely repetitive. The final Code should be much briefer and the repetition should be removed. The final Code should also be set out in a way that makes it easier for the reader to navigate through the document and identify the sections that are relevant to them. The NASUWT believes that each chapter should begin with a brief outline of what the chapter will cover. It should also set out who should read the guidance in that chapter. Finally, diagrams or flow charts at the beginning of each chapter may help to provide an overview and present key information clearly.

## SPECIFIC COMMENTS

27. The NASUWT offers the following observations and comments in relation to the questions posed on the consultation response form.

### Part 1 of the consultation: The draft ALN Code

#### The meaning of 'must', 'must not', 'may', 'should' and 'should not' in the ALN Code

**Question 1** – Is the explanation in paragraphs 1.10 -1.16 of the draft ALN Code of the use and meaning of the different terms 'must', 'must not', 'may', 'should' and 'should not' clear?

#### Supporting comments

The explanations of 'must' and 'must not', 'should' and 'should not' are clear. However, the text is too wordy and should be briefer. References to the parts of the Act would be better presented as footnotes.

It would be better to place the definition of 'may' after 'must, must not, should' and 'should not'.

#### Timescales

**Question 2** – Do you agree with the general approach to the timescales for compliance with duties (that is, to act promptly and in any event within a fixed period), as explained in paragraphs 1.31 – 1.32 of the draft ALN Code?

#### Supporting comments

The approach makes it clear that timescale for something that must be done starts the day after an event occurs. This is a sensible approach.

It may be helpful to put illustrative examples in boxes rather than the main text.

Teachers expressed concern that the text in paragraphs 1.31 and 1.32 is a little confusing. In particular, teachers expressed concern about the term 'promptly' which is vague and imprecise. Paragraph 1.32 should be amended to make the points more clearly. It would be helpful to state the timescale and then explain when exceptions may apply.

**Question 3** – Is the general exception which applies in the case of timescales, as described in paragraphs 1.33-1.35 of the draft ALN Code, appropriate?

#### Supporting comments

Teachers found the explanation regarding exceptions for timescales a little confusing. The terms 'impractical' is confusing. It may be most appropriate to define 'impractical' as it applies in law (e.g. 'impractical' means...) and to then say when the exception applies (1.34).

## Structure of the draft ALN Code

**Question 4** – Is the structure of the draft ALN Code and the separation of the chapters appropriate, clear and easy to follow?

### **Supporting comments**

The draft ALN Code is not easy to follow. This is in part due to the large number of chapters. It is also due to the amount of detail in the Code and the repetition throughout the draft Code.

As indicated above, the final Code needs to be presented in a format that makes it easy to navigate – each chapter should include a brief introduction which gives an overview of what is covered and the key messages. Flow charts and diagrams might also be used to illustrate what is required.

It may be appropriate to group chapters into a number of sections e.g. Section A: Duties; Section B: Identifying ALN and securing ALP; Section C: IDPs – Maintaining, reviewing, updating, transferring and ceasing an IDP; Section D: Groups of learners with further needs; Section E: Role of the ALNCO (although this might be organised under a section for a particular type of provider such as a school); Section F: Resolving disputes and appeals.

**Question 5** – Is the draft ALN Code's focus on describing and explaining the functions and processes appropriate?

### **Supporting comments**

The focus on describing and explaining functions and processes is appropriate. However, the current wording needs to be improved. While the NASUWT acknowledges the need to avoid too much detail, the Union agrees that it is important that information remains up-to-date.

The Code might include examples to illustrate particular points. However, these could be presented as additional information outside the Code text (e.g. additional guidance boxes might be used and it could be made clear that they are illustrative only).

**Pupil referral units (PRUs)** - Proposed regulations to be made under Paragraph 15 of Schedule 1 to the Education Act 1996

**Question 6** – Do you agree with the proposal to use regulations to delegate functions from a local authority to a Management Committee of a PRU?

### **Supporting comments**

The NASUWT believes that it is not appropriate to use regulations to delegate functions from a local authority to the management committee of a PRU. The Union opposes the delegation of functions from the local authority to a management committee. A PRU is a collective resource and, as such, should remain under the direction of the local authority. Further, how a PRU's facilities are used should be a matter for the local authority rather than a management

committee.

However, the NASUWT wishes to reiterate its concern that local authorities may seek to avoid taking responsibility for learners who have more complex needs – evidence from the NASUWT’s survey of teachers across the UK indicates that this is already happening.

## Chapter 2 - Principles of the Code

**Question 7** – Are the principles set out in Chapter 2 of the draft ALN Code the right ones?

### Supporting comments

The NASUWT believes that the principles set out in Chapter 2 are the right ones. However, the Union suggests that c) collaboration might be extended to cover collaboration and co-operation. This would be particularly important in respect of the responsibilities of external services that support education, including health and care services.

The NASUWT believes that it would be appropriate to add a further principle that addresses equality and fairness – it must be clear that provision complies with equalities legislation and this includes promoting the public sector equality duty.

The NASUWT believes that inclusive education should be defined as an education system that enables every child to participate and meets their needs. The Union’s position is that this recognises the need for a range of provision, including specialist provision.

It would be appropriate to introduce the ‘rights-based approach’ principle by making reference to the fact that the United Nations Convention on the Rights of the Child (UNCRC) underpins all education policy in Wales.

## Chapter 3 – Involving and supporting children, their parents and young people

**Question 8** – Is the explanation of the duties relating to involving and supporting children, their parents and young people provided in Chapter 3 of the draft ALN Code appropriate?

### Supporting comments

The NASUWT believes that the explanation of the duties relating to the involvement of children, their parents and young people is clear, although the text might be briefer.

While the NASUWT supports the principle of involving children, their parents and young people with ALN in decision-making processes, it must be acknowledged that effectively engaging them in decision-making processes takes a considerable amount of time and effort. The Welsh Government must not assume that schools and other providers will simply switch to an approach based on engagement. They will need time to build the infrastructure to support engagement. School staff will also need considerably more time to undertake planning and decision-making. This will require additional resources and the Welsh Government must provide the necessary investment and support to enable this to happen

Teachers report that in some areas, learners are able to veto decisions made by

professionals. This is inappropriate. While it is right that learners are encouraged and supported to participate in decision making and that account should be taken of their wishes and views, this must not undermine the professional judgement of the teacher or other professionals.

#### **Chapter 4 – Duties on local authorities and NHS bodies to have regard to the UNCRC and the UNCRPD**

**Question 9** – Is Chapter 4 of the draft ALN Code clear about what is expected of local authorities and NHS bodies when discharging their duties to have due regard to the United Nations Convention on the Rights of the Child (UNCRC) and United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)?

##### **Supporting comments**

The duties on local authorities and NHS bodies to have regard to the UNCRC and UNCRPD are clear.

The NASUWT notes the reference in paragraph 4.14 about the social model of disability. As currently worded, this appears to be additional advice, rather than setting out what local authorities and NHS bodies should do. The NASUWT recommends that the text is reworded to make it clear that the local authority and NHS bodies should have regard to the social model of disability. The NASUWT notes the reference to further information about the social model. However, the Code should also explain the social model of disability so that readers understand what it means.

#### **Chapter 5 - Duty to keep additional learning provision (ALP) under review**

**Question 10** – Is the guidance provided in Chapter 5 of the draft ALN Code in relation to the duties to keep ALP under review appropriate?

##### **Supporting comments**

The guidance on the duty of the local authority to keep additional learning provision under review is clear and, for the most part, appropriate.

The final sentence of paragraph 5.14 should be amended with the word 'might' replaced by 'should' so that the sentence reads: 'Bodies and persons the local authority should consult include but are not limited to: ...'.

#### **Chapter 6 – Advice and information**

**Question 11** – Is the guidance provided in Chapter 6 of the draft ALN Code in relation to making arrangements to provide advice and information about ALN and the ALN system appropriate?

##### **Supporting comments**

The guidance about making arrangements to provide advice and information about ALN and the ALN system appears to be appropriate.

## **Chapter 7 –The definition of ALN and ALP, identifying ALN and deciding upon the ALP required**

**Question 12** – Is this explanation of the definition of ALN provided in paragraphs 7.4 – 7.32 of the draft ALN Code clear?

### **Supporting comments**

The explanations of the definition of ALN are clear. The figures at the beginning of the chapter are particularly useful in providing a clear explanation of ALN. However, some of the text in this section is not essential and could be removed, e.g. paragraph 7.18 could be removed or reduced in size.

**Question 13** – Does Chapter 7 of the draft ALN Code provide a clear and comprehensive explanation of the evidence on which decisions about ALN and ALP should be based, the sources from which this evidence might be collated, and the way in which it should be considered?

### **Supporting comments**

Chapter 7 contains a lot of detail and some important messages may be lost in this detail. The chapter should be reviewed and supplementary guidance and explanations should be removed. In general, the first part of the chapter is clear and reasonably precise. Later sections in the chapter contain too much detail e.g. paragraphs 7.37-40 might be removed or presented as supporting/additional information as they contain information that is not relevant to all provision; e.g. paragraphs 7.44-46 and 7.48-7.49 might be cut; e.g. paragraph 7.50 should be cut with the paragraph beginning with the sentence: 'Wherever teaching staff have concerns...'.  
The section on multi-agency working needs to be developed further. Many key messages are lost in the detail of the text.

Paragraph 7.62 says that 'staff from schools and FEIs should work alongside specialist professionals where appropriate'. This should be obvious and adds nothing to the guidance in the Code. However, it will be appropriate for the Code to state that ALNCOs may determine that further advice and input from specialist professionals is required. It would be most appropriate to place this statement at the beginning of the section (p7.57) to make it clear that the ALNCO should be involved in decision making about external specialist support.

The NASUWT questions the need to set out in the Code the range of specialist support that can be provided by specialist services. There is a need to ensure that specialist services provide support that schools and providers needs and that decisions about whether specialist services get involved are based on consideration of the needs of the learner and the support that school/college staff need. The Welsh Government is responsible for ensuring that services are resourced to be able to deliver this support. Paragraph 7.69 is the key paragraph Its importance is lost by putting it at the end of the section. It should be moved towards the beginning of the chapter.

The diagrams at the end of the chapter should be moved to the beginning of the chapter.

## Chapters 8 to 12 – Duties on schools, FEIs and local authorities

### Early Years ALN Lead Officer

**Question 14** – Is the guidance on the role, experience and expertise of the Early Years ALNLO set out in paragraphs 8.40 - 8.47 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have the appropriate experience and expertise to meet the expectations of the role)?

#### Supporting comments

The NASUWT represents teachers. Most NASUWT members working in early years work in schools or nursery schools.

The NASUWT considers the guidance on the role, experience and expertise of the early years ALNCO to be appropriate and agrees that the role be strategic and the post-holder should have the appropriate experience and expertise to meet the expectations of the role.

### Duties on schools, FEIs and local authorities

**Question 15** – Is the structure and content of Chapters 8 to 12 of the draft ALN Code clear?

#### Supporting comments

The NASUWT's response focuses on the structure and content of chapter 9.

The NASUWT has significant concerns about the potential legal obligations placed on the person who is responsible for taking actions to determine whether a pupil has ALN and for then preparing and maintaining the IDP. The Welsh Government must make it clear that the responsibility falls on the school (and so the governing body of the school) and not on the individual teacher. If individual teachers could be held liable for the decisions about ALN and the preparation and maintenance of an IDP, the NASUWT will advise its members to resist assuming such responsibilities. The comments below are based on the assumption that the school would be held responsible for the actions taken or not taken by a teacher or ALNCO.

The NASUWT has significant concerns about paragraph 9.4(a) which states that 'where a school has a duty to decide whether a pupil has ALN, it must designate a person responsible for coordinating the actions required to make that decision and if an IDP is subsequently required, be responsible for preparing it. This could be but need not be the ALNCO.' The statement leaves the roles of the ALNCO and other teachers unclear. This is unacceptable. It means that policy makers nationally, regionally and locally could overlook the training, development and support needs of teachers and ALNCOs. Critically, it means that the workload that will be generated by the proposals may be ignored. Further, the guidance means that it is possible (indeed likely) that schools and other providers will adopt very different approaches to this responsibility. It is vital that the final Code sets out who should be responsible for preparing an IDP, including the circumstances

when it would be appropriate for a particular post-holder to undertake the responsibility.

The NASUWT believes that it is not appropriate for the class teacher to be responsible for preparing or maintaining the IDP. However, it will be vital that the class teacher contributes to decisions about the learner's needs and ALP. The Code should make it clear that the ALNCO or another teacher with specialist responsibilities for ALN or inclusion should be responsible for identifying ALN, preparing the IDP and overseeing the maintenance of the IDP. The Code should also make it clear that this should be done in consultation with relevant staff including the class teacher.

Critically, the Code must make it clear that the ALNCO or teacher taking on this responsibility must be given dedicated time, within the working day, to undertake the role and that they should not undertake administrative tasks associated with preparing and maintaining an IDP. Administrative tasks should be undertaken by support staff.

The Code must make it clear when responsibility for preparing and maintaining and IDP should move from the school to the local authority. The draft guidance fails to provide this clarity.

It is vital that the Code acknowledges and addresses the key challenges that schools face in supporting learners with ALN. The Code must address the issue of local authorities raising thresholds for assessment or imposing criteria to ration access to assessments and support. The Code must make it clear that the local authority is responsible for ensuring that every learner receives the support that they need and that they are responsible for providing ALNCOs and teachers with the support that they need in order to meet the needs of learners with ALN.

**Question 16** – Are the timescales for decisions by schools, FEIs and local authorities on ALN and preparing an IDP as set out in Chapters 8-12 appropriate?

### **Supporting comments**

The timescales for schools to make decisions and prepare the IDP are not easy to identify in the draft Code. It would be appropriate to present timescales for completing tasks as a table. Sub-headings might also be used to help the reader to identify timescales.

Teachers are concerned that 35 school days may not be long enough for schools to determine whether a pupil has ALN and then notify the parent or young person of the decision. There are often difficulties and delays in obtaining information, including difficulties in getting the necessary information from parents.

### **Deciding whether it is 'necessary' for a local authority to prepare and maintain an IDP for a young person not at a maintained school or FEI – Proposed regulations to be made under Section 46 of the 2018 Act**

**Question 17** – Are the proposed requirements and guidance in paragraphs 12.22 – 12.51 of the draft ALN Code on when it is necessary for a local authority to maintain an IDP for a young person not at a school or FEI in Wales appropriate?

### **Supporting comments**

The draft guidance is appropriate. However, the points covered could be presented more briefly and clearly.

## **Chapter 13 – Content of an IDP**

**Question 18** – Are the elements of the mandatory content of an IDP which are required by the ALN Code, appropriate?

### **Supporting comments**

While the NASUWT welcomes the proposal for the IDP to be presented in a standard format, the Union is very concerned that the draft guidance emphasises the bureaucratic nature of the IDP rather than making it clear that the purpose of the IDP is to ensure that the pupil receives the ALP that they need in order to achieve clear educational outcomes.

The NASUWT is also very concerned that the draft guidance fails to highlight that IDPs should vary in level of detail according to complexity of need and that for most learners with ALN, the IDP should be a very brief document. The guidance in the Code must be amended to make these points clear. The guidance should help those preparing IDPs to include only essential and useful information.

The NASUWT believes that it will be appropriate to provide case study examples to support guidance in the Code. It will also be important for the Welsh Government to provide training for school staff on preparing IDPs.

There are considerable workload burdens associated with preparing and maintaining IDPs. The Welsh Government must undertake a workload impact assessment of the workload associated with IDPs. This should include an examination of whether the guidance might be interpreted in ways that are burdensome and bureaucratic. The Welsh Government should ensure that the final guidance addresses the concerns identified by the impact assessment.

**Question 19** – Is the proposed mandatory standard form for an IDP (included at Annex A of the draft ALN Code) appropriate?

### **Supporting comments**

The mandatory form fails to distinguish between levels of need and complexity. As a result, there is a significant risk that the IDP will be too detailed and burdensome.

It must be made clear that ALNCOs/teachers should only complete the sections of the IDP that require a teacher to exercise their professional judgement. Other sections of the IDP should be completed by administrative support staff.

**Question 20** – Is the guidance in Chapter 13 of the draft ALN Code clear?

### **Supporting comments**

See above. The NASUWT has significant concerns about the bureaucratic burdens arising from the guidance in the draft Code. It is unclear how those preparing an IDP should tailor the level of detail provided to the complexity of need – most IDPs should be very brief. If this is not made clear, then there is a significant risk that many learners with ALN will not be identified.

The NASUWT is concerned that some of the requirements set out in the chapter are difficult to secure in practice. For example, paragraph 13.44 refers to the body responsible for preparing the IDP ensuring that the health body is content with any description of ALP to be secured by the health body before the IDP is finalised. Teachers report that they often experience difficulties obtaining commitments from health services.

## Transport

**Question 21** – Is the guidance on transport in paragraphs 13.74 - 13.76 of the draft ALN Code appropriate?

### **Supporting comments**

The final two sentences of paragraph 13.76 are most relevant. It is not clear that the other information contained in the paragraphs is needed.

Chapter 15 – Duties on health bodies and other relevant persons

### **Statutory requests by local authorities to relevant persons for information or other help – Proposed regulations to be made under Section 65(5) of the 2018 Act**

**Question 22** – Is the proposed timescale and exceptions for relevant persons to comply with a local authority request for information or other help (under section 65 of the 2018 Act) appropriate?

### **Supporting comments**

The NASUWT is concerned that the local authority has very limited powers to ensure that health and care services actually co-operate and provide the support that a learner needs. This must be addressed through legislation and through close work with the relevant government departments nationally.

### **ALP to be secured by NHS bodies – Proposed regulations to be made under Section 21(10) of the 2018 Act**

**Question 23** – Is the proposed period and exception within which an NHS body must inform others of the outcome of a referral to it (under section 20 of the 2018 Act) to identify whether there is a relevant treatment or service, appropriate?

### **Supporting comments**

The NASUWT does not have any specific comments in response to this question.

## **The Designated Education Clinical Lead Officer (“DECLO”)**

**Question 24** – Is the guidance on the role, experience and expertise of the DECLO set out in paragraphs 15.37 – 15.53 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have appropriate experience and expertise)?

### **Supporting comments**

The NASUWT believes that the DECLO plays a critical role in ensuring that health services work effectively with education services to provide support to learners with ALN. The DECLO’s ability to influence and change health service practice is critical. There are considerable challenges associated with providing coherent support across education and health, including addressing issues of organisational culture and building a common language and understanding across service. The importance of the leadership role of the DECLO must not be underestimated.

## **Chapter 16 - Review and revision of IDPs**

**Question 25** – Is the content and structure of Chapter 16 of the draft ALN Code clear?

### **Supporting comments**

The NASUWT is concerned that the draft text does not distinguish between IDPs for learners whose ALN is provided by the school and is straightforward and IDPs for learners with more complex needs.

The Code should make it clear that meetings with parents might be incorporated into general school arrangements, e.g. parents’ evenings. The Code should also make it clear that it may be appropriate for meetings with parents to take different forms, e.g. group sessions that cover common issues and provide a means for parents to support each other.

**Question 26** – Is the proposed period and exception for completing reviews in response to a request from a child, their parent, a young person or an NHS body (set out in paragraph 16.18 of the draft ALN Code) appropriate?

### **Supporting comments**

Teachers are concerned that the timescales for completing reviews are every short. There are often delays in arranging meetings because parents are unable to attend meetings. It will be important to review the proposed dates to establish realistic timescales.

## **Chapter 17 – Local authority reconsiderations and taking over responsibility for an IDP**

**Question 27** – Is the content and structure of Chapter 17 of the draft ALN Code clear?

### **Supporting comments**

The content and structure of chapter 17 are clear. The NASUWT wishes to

highlight the difficulties that schools encounter in securing the services of an educational psychologist. In light of this, questions must be raised about the amount of time that it will take for a school to provide the local authority with evidence about a child or young person (paragraph 17.30).

**Question 28** – Is the proposed period and exception for a local authority reconsidering a school IDP (set out in paragraph 17.20 of the draft ALN Code) appropriate?

#### **Supporting comments**

The NASUWT acknowledges the need for local authorities to act promptly but questions whether they will be able to comply with the 35 day timescale given the concerns raised earlier in this response.

### **Chapter 18 - Meetings about ALN and IDPs**

**Question 29** – Are the principles and the guidance provided in Chapter 18 of the draft ALN Code on meetings about ALN and IDPs appropriate?

#### **Supporting comments**

The NASUWT acknowledges that the principles set out in chapter 18 support a child/young person-centred approach to meeting a learner's ALN. However, the Welsh Government must acknowledge that such an approach is very time-consuming and will only be implemented effectively if staff have the time to develop relationships with the learner and their family and have time to actively engage the learner and their family in decision making. The Welsh Government must ensure that schools have the staff and resources to implement a person-centred approach.

The NASUWT is extremely concerned about the guidance under the heading: the format of meetings. The use of a standard format for meetings means that it will be difficult to differentiate between meetings for learners with straightforward ALN (those that are currently School Action) and learners with complex needs that require support from a range of specialists and services. The approach is likely to be extremely burdensome. As indicated above, it may be appropriate for some IDP meetings to take the form of group meetings that enable groups of parents to attend and offer the opportunity for parents to support each other.

The NASUWT does not agree with paragraph 18.18 that the person responsible for the IDP should arrange the meeting. This is an administrative task and the Code must make it clear that such tasks should be undertaken by support staff and not teachers or other professionals.

The NASUWT does not agree with paragraph 18.19 that the IDP co-ordinator is the most appropriate person to lead most IDP meetings. It may be appropriate for IDP issues to be picked up at general meetings with parents, e.g. parents' evenings. It may also be appropriate for the class teacher to lead IDP review meetings with support from the IDP co-ordinator. However, the NASUWT would expect the IDP co-ordinator to lead meetings where the learner has more complex needs, including needs that require external support to be provided.

Paragraph 18.34 states that the IDP co-ordinator should attend every meeting connected with the child or young person's wider needs. The NASUWT does not

believe that this is necessary, although it will be essential that the co-ordinator is provided with an update from any meeting, including any potential issues that might impact on the learner's ALN or ALN support. However, if the Welsh Government intends to retain the statement, it must ensure that schools receive considerable additional resources to enable them to fulfil the requirement – ALNCOs will need to have most of their timetabled time allocated for ALN-specific duties.

## Chapter 19 – Planning for and supporting transition

**Question 30** – Is the guidance in Chapter 19 of the draft ALN Code on supporting children and young people to make effective transitions appropriate?

### Supporting comments

The NASUWT agrees that effective transition is critical if learners are to achieve their potential. The Union agrees with the statement in paragraph 19.39 that the general arrangements made by the education setting will be sufficient to support most learners with ALN. However, the Union is extremely concerned about the suggestion in paragraph 19.44 that schools might organise specific transition workshops during the school holidays. Given that class teachers are likely to play a role in supporting transition events, this is unacceptable. The guidance should make it clear that transition events should take place during the school day.

## Chapter 20 –Transferring an IDP

**Question 31** – Is the content and structure of Chapter 20 of the draft ALN Code clear?

### Supporting comments

The content and structure of Chapter 20 is clear.

## Transfers of IDPs – Proposed regulations to be made under Section 36(3) of the 2018 Act and Section 37 of the 2018 Act

**Question 32** – Are the requirements that are intended to be included in regulations in relation to requests to transfer an IDP to an FEI (as described in paragraphs 20.12 - 20.17 of the draft ALN Code) appropriate?

### Supporting comments

The requirements are appropriate.

**Question 33** – Are the arrangements that are intended to be included in regulations in relation to all other transfers (as described in paragraphs 20.18 – 20.21 of the draft ALN Code) appropriate?

### Supporting comments

The arrangements under 20.18-20.21 appear to be appropriate.

## Chapter 21 – Ceasing to maintain an IDP

**Question 34** – Is the content and structure of Chapter 21 of the draft ALN Code clear?

### Supporting comments

The content of the chapter is clear.

**Question 35** – Is the period of time for making a reconsideration request (described at 21.18 of the draft ALN Code), appropriate?

### Supporting comments

Teachers are concerned that the proposed timescales are short. Given the difficulties in securing responses and support from the local authority and other services, the period of four weeks may not be long enough for the local authority to reconsider a request.

## Chapter 24 – Role of the Additional Learning Needs Co-ordinator (ALNCo)

**Question 41** – Is the information set out in Chapter 24 of the draft ALN Code about the role and responsibilities of the ALNCo appropriate?

### Supporting comments

The NASUWT agrees that mainstream schools and FEIs must designate a person as ALNCO.

The NASUWT believes that paragraph 24.2 should be strengthened to explain the circumstances where an ALNCO might be shared across schools or settings. It should be clear, for example, that where an ALNCO is shared, there will be somebody within the school or setting that has ALN responsibilities (and it is remunerated appropriately for these responsibilities) and that the ALNCO is acting as a strategic lead across schools or settings.

Paragraph 24.3 of the Code should make it clear that the ALNCO role should have a strategic leadership role that is recognised and remunerated appropriately (either as a post on the leadership scale or a post with a significant TLR).

The Code needs to make it clear that the ALNCO should have considerable dedicated time to undertake the role. Evidence from the NASUWT's ALN/SEN survey indicates that there are particular time issues for teachers with ALN responsibilities, with the majority of ALNCOs receiving little or no time to undertake the role. This issue is unlikely to change unless the Welsh Government provides additional resources to enable ALNCOs to focus on ALN responsibilities, including strategic responsibilities.

Paragraphs 24.24-26 refer to ALNCO qualifications and experience. The guidance is general and fails to provide assurances that ALNCOs will receive the training

they need to fulfil the role. The NASUWT believes that the Welsh Government should provide funding to enable ALNCOs to undertake relevant training, including training for Masters level qualifications.

## Part 3 of the consultation: Draft ALNCO regulations

**Question 55** – Are the prescribed qualifications to be an ALNCO set out in the draft ALNCO regulations appropriate?

### Supporting comments

The NASUWT believes that the regulations should be strengthened to set an expectation that newly appointed ALNCOs gain a relevant qualification. The NASUWT believes that it is appropriate for this to be a Masters level qualification. The Union believes that the Welsh Government should make a commitment to fund all ALNCOs to undertake a qualification and ensure that they are able to undertake the training within the working day.

**Question 56** – Do you agree with the tasks that ALNCOs must carry out or arrange to carry out as set out in the draft ALNCO regulations?

### Supporting comments

The NASUWT agrees with the list of tasks that an ALNCO must carry out, although it must be clear that the role should be a leadership role and that tasks such as [c] *'keeping records of decisions about ALN and IDPs, in compliance with requirements imposed on the governing body of the school under the Act or the code(4)'* do not mean that the ALNCO should undertake administrative tasks – rather the task is about oversight and responsibility for ensuring that the records are maintained in the ways required.

The NASUWT believes that there should be an additional task added to the list and this should make it clear that the ALNCO is responsible for leadership of ALN across the school, including advising the headteacher and governing body of ALN matters.

**Question 63** – What impact do you think the proposals in the draft ALN Code and proposed regulations would have on the Welsh language?

The NASUWT does not believe that the Code as drafted will have any discernible impact on the Welsh language.

**Question 64** – How do you think the proposals in the draft ALN Code and proposed regulations could be formulated or changed so as to have:

- i) positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?;

- ii) no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?

The NASUWT does not believe that the draft Code could be changed to have any discernible impact on the Welsh language.

## Respondent Details

Information	
<b>Name</b>	
<b>Organisation (if applicable)</b>	This response has been collated by a group of ALNCos on behalf of those in the role within Neath Port Talbot Local Authority

## Part 1 of the consultation: The draft ALN Code

### Chapter 1 - Introduction

The meaning of 'must', 'must not', 'may', 'should' and 'should not' in the ALN Code

**Question 1** – Is the explanation in paragraphs 1.10 -1.16 of the draft ALN Code of the use and meaning of the different terms 'must', 'must not', 'may', 'should' and 'should not' clear?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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Timescales

**Question 2** – Do you agree with the general approach to the timescales for compliance with duties (that is, to act promptly and in any event within a fixed period), as explained in paragraphs 1.31 – 1.32 of the draft ALN Code?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

Yes, we agree with the general approach to timescales, but have comments to make on the actual proposed timescales in the relevant chapters.
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**Question 3** – Is the general exception which applies in the case of timescales, as described in paragraphs 1.33-1.35 of the draft ALN Code, appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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We need greater clarity on what is a 'general exception' and also disagree that an IDP can be issued even if some outstanding evidence is yet to be received. This could lead to a document that is not in the best interests of the child and create additional work for LA and School staff. It could also mislead Parents. We also feel that school holidays need to be specified within the 'exceptional situations'.

Structure of the draft ALN Code

**Question 4** – Is the structure of the draft ALN Code and the separation of the chapters appropriate, clear and easy to follow?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 5** – Is the draft ALN Code's focus on describing and explaining the functions and processes appropriate?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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Pupil referral units (PRUs) - Proposed regulations to be made under Paragraph 15 of Schedule 1 to the Education Act 1996

**Question 6** – Do you agree with the proposal to use regulations to delegate functions from a local authority to a Management Committee of a PRU?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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## Chapter 2 - Principles of the Code

**Question 7** – Are the principles set out in Chapter 2 of the draft ALN Code the right ones?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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### Supporting comments

We agree with the principles but feel schools and LAs require the appropriate funding/ resources to deliver.

## Chapter 3 - Involving and supporting children, their parents and young people

**Question 8** – Is the explanation of the duties relating to involving and supporting children, their parents and young people provided in Chapter 3 of the draft ALN Code appropriate?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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### Supporting comments

The idea of greater involvement of parents and children in any decisions related to the child's ALN is welcomed, as is the emphasis on the starting point being understanding the communication requirements and preferences of the child or young person. However, clarity required around the following :

3.12 Who decides if it is not appropriate for the child to attend the meeting where a decision is being made - head/ALNCO/parents? What if there is disagreement i.e. school feel the child should be involved but parents do not?

3.22 What happens when parents do not wish to be involved / refuse to be engaged in the process/ do not attend meetings or help to complete person centred paperwork? Do schools just continue the process without them and get parental signature /consent for this?

## Chapter 4 - Duties on local authorities and NHS bodies to have regard to the UNCRC and the UNCRPD

**Question 9** – Is Chapter 4 of the draft ALN Code clear about what is expected of local authorities and NHS bodies when discharging their duties to have due regard to the United

Nations Convention on the Rights of the Child (UNCRC) and United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

This links well with the recent Rights Respecting Schools programme by the UNCRC.

4.17 - How will children and young people be involved in strategic planning and delivery of services? Not enough detail here to explain the process - pupil working parties? Who will organise them, how often will they meet, where?

## Chapter 5 - Duty to keep additional learning provision (ALP) under review

**Question 10** – Is the guidance provided in Chapter 5 of the draft ALN Code in relation to the duties to keep ALP under review appropriate?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

## Chapter 6 - Advice and information

**Question 11** – Is the guidance provided in Chapter 6 of the draft ALN Code in relation to making arrangements to provide advice and information about ALN and the ALN system appropriate?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

The idea of providing the information in different formats for different age / ability pupils is a sensible one, as is writing versions for parents in jargon free, easily accessible language.

## Chapter 7 - The definition of ALN and ALP, identifying ALN and deciding upon the ALP required

**Question 12** – Is this explanation of the definition of ALN provided in paragraphs 7.4 – 7.32 of the draft ALN Code clear?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

We like the two step definition and we agree that 'catch up' provision does not necessarily mean there is ALN, as this is provision generally made for all children. However, see notes below for concerns.

**Question 13** – Does Chapter 7 of the draft ALN Code provide a clear and comprehensive explanation of the evidence on which decisions about ALN and ALP should be based, the sources from which this evidence might be collated, and the way in which it should be considered?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

Greater clarity/ detail is required on what constitutes 'significantly greater difficulty' and what are 'appropriate timescales' for monitoring the learners' progress, so there is consistency of approach. We also agree that slow progress and low attainment does not necessarily mean that a child has ALN, but Parents may disagree and have difficulty understanding this.

Also, as there is no graduated response, greater guidance is needed in terms of when specialist agencies should become involved to assist in identifying ALN and the ALP required.

The phrase 'identified lack of expertise' in paragraph 7.59 is wooly.

Schools will require support from CAMHS in determining ALN and ALP, there is an issue with CAHMS at the moment and this needs to be addressed in order for this legislation to be effective.

## **Chapters 8 to 12 – Duties on schools, FEIs and local authorities**

### Early Years ALN Lead Officer

**Question 14** – Is the guidance on the role, experience and expertise of the Early Years ALNLO set out in paragraphs 8.40 - 8.47 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have the appropriate experience and expertise to meet the expectations of the role)?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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Duties on schools, FEIs and local authorities

**Question 15** – Is the structure and content of Chapters 8 to 12 of the draft ALN Code clear?

<b>Yes</b>	✓	<b>No</b>	☐	<b>Not sure</b>	☐
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**Supporting comments**

See below comments relating to FEIs:

10:11 – Input from outside agencies will further dilute the services that are available to schools now. Whilst this support should be available to students at FEIs, this wouldn't be cost neutral unless the level of availability remains as it is at present. In this instance, there would be a substantial impact on schools as resources become dispersed even more widely than they are at present.

10:54 – As above, would this EP be provided by the Local Authority or by the FEI? This will further impact on EP availability for schools if it needs to be taken from current resources.

Throughout Chapter 10 there is no reference to parents and no duty to inform parents. Whilst this would be understandable in a Higher Education setting, where students are over the age of 18, at a college (where students are traditionally 16 or 17 years of age) It is felt that parental involvement should still be considered. Would it also be the case that there is no requirement for parental involvement in Sixth Forms? There needs to be parity between the expectations of Sixth Forms and colleges. I feel parental involvement is still important at this stage and parents can be valuable conduits of information to ensure the student's needs are fully met.

**Question 16** – Are the timescales for decisions by schools, FEIs and local authorities on ALN and preparing an IDP as set out in Chapters 8-12 appropriate?

<b>Yes</b>	☐	<b>No</b>	✓	<b>Not sure</b>	☐
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**Supporting comments**

A local authority's duty to prepare an IDP for a child under compulsory school age who is not attending a maintained a maintained school

8.28 Timescales are a problem if a decision has to be made within 12 weeks due to the capacity of Health and other specialist services i.e. EPS.

A maintained school's duty to prepare an IDP for a pupil

9.24 The timescales for schools of 35 days is not realistic due to resources available. For example, access to specialist services for input and advice. It also does not give appropriate time for a range of assessments and interventions to be undertaken/ implemented by schools to ensure the correct ALN is identified.

Referrals from maintained schools to a local authority

9.41 'The school ought to be able to make the referral within 20 school days from the date on which it is brought to its attention, or otherwise appears to it that the pupil has ALN.' The Code states that the grounds for referral are that the pupil's ALN may call for ALP it would not be reasonable to secure, it cannot adequately determine the extent or nature of the pupil's ALN, or that it cannot adequately determine the ALP that is required. In order for schools to make a decision on these, more often than not, intervention and different teaching and learning approaches are needed in the first instance, with close monitoring over a period of time to see how the child will respond. Furthermore, advice from outside agencies is essential. A period of twenty school days is not sufficient for this to happen.

9.39 Disagree that 'Occasionally, the grounds for referral under paragraph 9.39 may only emerge later in the process... For example, it might only be when some advice is received from a specialist service that the school realises that the nature of the pupil's ALN is more extensive...' It is very often the case that grounds for referral emerge after '20 school days'. Furthermore advice from specialist services i.e. an Educational Psychologist is vital in this process, which is why in paragraph 9.46 the Code states schools 'should' consider consulting an educational psychologist'. 20 school days does not allow enough time for effective consultation with an EP, particularly when current capacity of the existing service is considered and in light of the additional requirements the Act and Code places upon it.

A Local Authority's duty to decide whether a pupil has of a maintained school has ALN

9.55 'As part of the process of deciding whether a pupil has ALN, a LA must seek advice from an educational psychologist'. It would be more beneficial for the requirement or 'must' to be on schools to seek the advice of an EP before making the referral to the LA. The LA would then be better informed in its decision making. Furthermore, if the EP has already been consulted and has provided advice/ a report to school, they should not be required to do so again.

9.81 The LA timescales are not appropriate unless additional funding/ capacity is available to LAs. In order to make the proposed timescales more manageable the LA maintained IDP process needs to be clarified to avoid duplication of task. For example, if schools submit evidence which includes up to date information/ reports from the relevant professionals involved, then additional advice should not be sought again as part of the process.

Deciding whether it is 'necessary' for a local authority to prepare and maintain an IDP for a young person not at a maintained school or FEI - Proposed regulations to be made under Section 46 of the 2018 Act

**Question 17** – Are the proposed requirements and guidance in paragraphs 12.22 – 12.51 of the draft ALN Code on when it is necessary for a local authority to maintain an IDP for a young person not at a school or FEI in Wales appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

## Chapter 13 - Content of an IDP

**Question 18** – Are the elements of the mandatory content of an IDP which are required by the ALN Code, appropriate?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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### Supporting comments

Agree with mandatory content, but see comments/ concerns below:

13.3 – Whilst it would be ideal that the content of IDPs is created by agencies and professionals working together, the practical ramifications of this are a concern. Resources are already stretched for both Education and Health and this will impact further. It is likely to be difficult to coordinate the involvement of various agencies within the time frames specified and may have a subsequent impact on the feasibility of this recommendation.

13.6 – Consistency of IDP content across Local Authorities will be useful.

13.18 – When carrying out statement reviews at present, it is often useful to review them at varying points in the year, according to key events that may occur for the child within the year. For example, for students who are undertaking exams in that academic year, an earlier review is often better to ensure all arrangements are in place to prepare them. The dates suggested in 13.18 pertain to calendar years rather than academic years. Review within an academic year would be more beneficial for the pupil.

13.44 – There are time implications for health professionals to undertake this task. Whilst this would be an ideal scenario, it will have implications on the time scales for completing IDPs and will likely result in them being completed outside of the published requirements.

The clear guidelines for IDPs are useful. However, it is apparent that these will take a lot of time to produce and will place a significant demand on the ALNCo, particularly during the years when transitioning from IEPs. This has subsequent implications for the time needed for ALNCoS to fulfil their duties and should be clearly defined with quantifiable guidance as to what constitutes adequate time to deliver in their roles.

**Question 19** – Is the proposed mandatory standard form for an IDP (included at Annex A of the draft ALN Code) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	✓	<b>Not sure</b>	<input type="checkbox"/>
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### Supporting comments

Section 1A.12 – Dislike title ‘capacity issues.’

**Question 20** – Is the guidance in Chapter 13 of the draft ALN Code clear?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	✓	<b>Not sure</b>	<input type="checkbox"/>
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### Supporting comments

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13.3, bullet point 1, implies that any IDP requires input from outside agencies and professionals. This contradicts what is stated in 9.1 and 9.2, which is that in most cases schools will determine ALN and prepare and maintain IDP.

Also, engaging professionals from Health is difficult and is going to impact on our timescales. Clarity is also needed on what constitutes a health or education need i.e. mental health.

### Transport

**Question 21** – Is the guidance on transport in paragraphs 13.74 - 13.76 of the draft ALN Code appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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#### **Supporting comments**

13.76 'must' to replace 'should'

## **Chapter 15 – Duties on health bodies and other relevant persons**

Statutory requests by local authorities to relevant persons for information or other help - Proposed regulations to be made under Section 65(5) of the 2018 Act

**Question 22** – Is the proposed timescale and exceptions for relevant persons to comply with a local authority request for information or other help (under section 65 of the 2018 Act) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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#### **Supporting comments**

Agree with proposed timescale of 6 weeks, however, disagree with the statement *'But the requirement to comply within that 6 week period does not apply if its impractical for the relevant person to do so due to circumstances beyond its control.'* This allows Health a clear 'out' to comply with timescales. It is clear that the current capacity of Health Bodies is not sufficient and waiting times and lists are a recognised issue. This, it is assumed, would be 'circumstances beyond their control' and would have a detrimental impact on the LA meeting their requirement of issuing an IDP within 12 weeks. Although the Code states in paragraph 1.33 that an IDP can be issued whilst waiting for advice, as outlined in the response to question 3, it is strongly felt that this should **not** be the case.

ALP to be secured by NHS bodies - Proposed regulations to be made under Section 21(10) of the 2018 Act

**Question 23** – Is the proposed period and exception within which an NHS body must inform others of the outcome of a referral to it (under section 20 of the 2018 Act) to identify whether there is a relevant treatment or service, appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

See comments above to question 22.

The Designated Education Clinical Lead Officer (“DECLO”)

**Question 24** – Is the guidance on the role, experience and expertise of the DECLO set out in paragraphs 15.37 – 15.53 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have appropriate experience and expertise)?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

There are concerns however, that this is exceptionally big for one person. Historically, working with Health has been the most difficult collaboration due to their workload. Trying to coordinate responses from the various aspects of CAMHS alone has proved very difficult. Will the DECLO have a team of people to deal with the various ALN issues? Is the DECLO going to be able to address the needs of all the school responsible IDPS in the whole of the health authority. This is a huge concern for us as we depend on health on the ever growing ND Pathway and mental health issues that we face in school daily.

## Chapter 16 - Review and revision of IDPs

**Question 25** – Is the content and structure of Chapter 16 of the draft ALN Code clear?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

Overall content and structure clear but issue with some of the content.

16.11 – The use of the word ‘regularly’ is subjective and should be quantified, even broadly. Whilst it would be ideal to discuss a child’s progress with them and their parent on a regular basis, this isn’t always feasible. There are so many new demands placed on the ALNCo, it is likely that they will

actually have less time to do this than they do under the current SEN legislation.

16.15 – In terms of time scales for reviewing IDPs, there should be a requirement to review an IDP at least once within an academic year rather than within a specific twelve month period. When carrying out statement reviews at present, it is often useful to review them at varying points in the year, according to key events that may occur for the child within the year. For example, for students who are undertaking exams in that academic year, an earlier review is often better to ensure all arrangements are in place to prepare them. Likewise, for a child transferring school, it can be beneficial to undertake a review later in the year to allow the school to get to know the pupil and to allow the pupil time to settle in to their new learning environment.

16.19 – The given time frames are relatively short if all relevant professionals are to be available to attend the review.

**Question 26** – Is the proposed period and exception for completing reviews in response to a request from a child, their parent, a young person or an NHS body (set out in paragraph 16.18 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

Timescales not appropriate due to capacity/ resources issues.

## Chapter 17 – Local authority reconsiderations and taking over responsibility for an IDP

**Question 27** – Is the content and structure of Chapter 17 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

Content is clear but issue with timescales (see below).

**Question 28** – Is the proposed period and exception for a local authority reconsidering a school IDP (set out in paragraph 17.20 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

Timescales not appropriate due to capacity/ resource issues and school holidays need to be given consideration as an exception.

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## Chapter 18 - Meetings about ALN and IDPs

**Question 29** – Are the principles and the guidance provided in Chapter 18 of the draft ALN Code on meetings about ALN and IDPs appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

Important to see consistency and a person-centred approach.

## Chapter 19 – Planning for and supporting transition

**Question 30** – Is the guidance in Chapter 19 of the draft ALN Code on supporting children and young people to make effective transitions appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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### Supporting comments

19.7 and 19.8 – ‘should’ must read as ‘must’ as this is a vital part of the child’s wellbeing  
19.11 – this should be the responsibility for the ALNCo as they have responsibility for the IDP  
19.22 and 19.24 – ‘should’ must read as ‘must’.

## Chapter 20 - Transferring an IDP

**Question 31** – Is the content and structure of Chapter 20 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

It is not clear what the timescale is for Welsh Ministers to make ‘their determination.’

Transfers of IDPs - Proposed regulations to be made under Section 36(3) of the 2018 Act and Section 37 of the 2018 Act

**Question 32** – Are the requirements that are intended to be included in regulations in relation to requests to transfer an IDP to an FEI (as described in paragraphs 20.12 - 20.17 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

See above comment regarding no specified timescale for Ministers.

**Question 33** – Are the arrangements that are intended to be included in regulations in relation to all other transfers (as described in paragraphs 20.18 – 20.21 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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**Supporting comments**

## Chapter 21 - Ceasing to maintain an IDP

**Question 34** – Is the content and structure of Chapter 21 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

Content and structure is clear to understand.

**Question 35** – Is the period of time for making a reconsideration request (described at 21.18 of the draft ALN Code), appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

As pointed out, the child and/ or parents will have already been involved in the review meeting to make the decision to cease to maintain. Therefore, we feel that a four week 'cooling off' period is adequate time to then request reconsideration.

## Chapter 22 – Children and young people subject to detention orders

**Question 36** – Is the content and structure of Chapter 22 of the draft ALN Code clear?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

This chapter is not easy to read and appears contradictory with other information within it and that from previous chapters.

For example, chapter 21 paragraph 21.5, bullet point 8 states that a LA can cease to maintain an IDP when the child or young person becomes subject to a detention order, however, in chapter 22, paragraph 22.26 it states that if a detained person had an IDP immediately before beginning of their detention, the home authority must 'keep' the IDP. Paragraph 22.29 also states the home authority must 'arrange' for appropriate ALP. The meaning of the terms 'keep' and 'arrange' also require clarity.

**Question 37** – Are the proposals for the regulations in relation to deciding whether it will be necessary to maintain an IDP for a detained child or young person upon their release appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

Greater clarity needed.

**Question 38** – Are the proposals for the regulations in relation to children or young people who are subject to a detention order and detained in hospital under Part 3 of the Mental Health Act 1983 (as described in paragraphs 22.45 – 22.74 of the draft ALN Code) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

**Question 39** – Are the timescale requirements to act “promptly” in relation to decisions about ALN and preparing IDPs for children and young people subject to detention orders (as set out in Chapter 22) appropriate, rather than also having a requirement to comply within a fixed period subject to an exception or exceptions?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

## Chapter 23 - Children and young people in specific circumstances

**Question 40** – Is the guidance in Chapter 23 of the draft ALN Code on children and young people in specific circumstances appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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### Supporting comments

Guidance in 23.14 and 23.15 lacks clarity.

23.14- in bullet points 1 and 2 and in 23.15, the phrase ‘it might be appropriate’ is used. This is vague and lacks criteria.

Also, the LA is only going to be able to act, or make a determination, where the child or young person has been brought to its attention. This should be clearly specified.

## Chapter 24 - Role of the Additional Learning Needs Co-ordinator (ALNCo)

**Question 41** – Is the information set out in Chapter 24 of the draft ALN Code about the role and responsibilities of the ALNCo appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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### Supporting comments

We agree overall with the duties and responsibilities outlined. However, WG need to consider there is a difference between the role of primary and secondary ALNCo. For example, 24.16 is applicable for secondary colleagues, but within a primary setting the class teacher is often better placed to do this.

We agree that ALNCoS should be registered teachers and disagree that 24.26 is appropriate. This will create a playing field that is not level.

In terms of being ‘highly qualified’, being a registered teacher and having completed the NQT induction period of three terms prescribed in law, does not equip people to perform the role of ALNCo. Initial teacher training needs a greater focus on ALN, there should be further additional high quality training that is provided during the induction period and a mandatory training programme for aspiring ALNCoS should be completed before they are able to move on and perform the role. They should also be appointed a mentor/ buddy during their first year in role.

We strongly believe that ALNCoS must be part of the SLT and must have dedicated time away from teaching. It is not enough to say there should be clear and sufficient time allocation, as again this will lead to a playing field that is not level and depends on the discretion of the Head Teacher. There should be a quantifiable amount of time that relates to numbers on the school roll.

## Chapter 25 - Avoiding and resolving disagreements

**Question 42** – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

Disagree with 25.44, which states that *'No inference may be drawn by the Tribunal if the child, child's parents or young person involved in the disagreement has not used the disagreement resolution arrangements'*. There should be a requirement on Parents to participate in trying to resolve the dispute at a local level before proceeding to tribunal.

Also, there will need to be enough qualified personnel within the LA to work on avoiding and resolving disputes. It is unlikely that this can be done on a cost neutral budget and therefore LAs will need additional funding this. We also anticipate that one DECLO will not be sufficient to meet the requirements of dispute resolution.

**Question 43** – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of the provision of independent advocacy services appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

Agree in principle but feel that it will be very difficult to provide a truly impartial service to act as an independent advocacy service. I will require a high level of not just mediation and resolution skills but also a high level of ALN knowledge. Time must also be allowed for them to really get to know the child and their relevant needs.

## Chapter 26 - Appeals and applications to the Tribunal

**Question 44** – Is the information about appeals and the appeals process set out in Chapter 26 of the draft ALN Code appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

The Code states in 26.15 that *'The respondent FEI or local authority must submit their case statement in response to the appeal within 4 weeks of being served a copy of the appellant's or claimant's case statement by the Tribunal'*, however, the regulations 19(4) states *'The case statement period for a respondent local authority or FEI governing body is in an appeal is a period of*

4 weeks commencing on the date on which notice is given.' These are contradictory.

Also 4 weeks to submit a case statement is a very narrow window and if the LA has to do so without receiving the appellant's case statement first, then the document may not be fit for purpose, in that it does not address all the issues it needs to. 4 weeks does also not allow sufficient time for the LA to undertake dispute resolution at a local level.

## Chapter 27 - Case friends for children who lack capacity

**Question 45** – Is the information about case friends, including the duties on the Tribunal to appoint and remove case friends, clearly explained in the Chapter 27 of the draft ALN Code?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

## Any other comments

**Question 46** – Please provide any other comments that you would like to make on the draft ALN Code. Where your comments relate to a specific chapter or paragraph within the draft ALN Code, please indicate this in your response.

## Part 2 of the consultation: Draft Education Tribunal for Wales regulations

**Question 47** – Overall, do the draft Education Tribunal regulations provide clear processes and procedures relating to appeals and claims to the Education Tribunal?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

See comments in question 44.

**Question 48** – Overall, will the processes and procedures outlined in the draft Education Tribunal regulations enable the Education Tribunal to deal with cases fairly and justly?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

7a Parties' obligation to co-operate states that 'parties must co-operate with each other for the purposes of progressing the appeal or claim', which it is assumed would include mediation and dispute resolution at a local level. However, paragraph 25.44 of the Code states that '*No inference may be drawn by the Tribunal if the child, child's parents or young person involved in the disagreement has not used the disagreement resolution arrangements*'. These are contradictory.

Also, timescales in the case statement process for parents and LAs differ- this is not fair and just.

**Question 49** – Is the proposed case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

See comments under question 44 and question 48.

**Question 50** – Are the proposed timescales for each party in the case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) reasonable?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

Why do parents have 8 weeks and LAs only 4? If the system is to be fair and just then the same timescales should apply.

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**Question 51** – Is the 6 week timescale within which NHS bodies must report to the Education Tribunal in response to a recommendation (regulation 65 of the draft Education Tribunal regulations) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

Whilst 6 weeks is a reasonable timescale, it is not appropriate as it is not realistic. Health colleagues have articulated that they do not have the capacity to deliver.
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**Question 52** – Are the timescales relating to compliance with Education Tribunal orders appropriate?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 53** – Is the approach to extensions to timescales (regulation 66 of the draft Education Tribunal regulations) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

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**Question 54** – Are the proposed regulations relating to case friends (draft Education Tribunal regulations 61 to 64) appropriate?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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## **Part 3 of the consultation: Draft ALNCo regulations**

**Question 55** – Are the prescribed qualifications to be an ALNCo set out in the draft ALNCo regulations appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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### **Supporting comments**

In terms of being 'highly qualified', being a registered teacher and having completed the NQT induction period of three terms prescribed in law, does not equip people to perform the role of ALNCo. Initial teacher training needs a greater focus on ALN, there should be further additional high quality training that is provided during the induction period and a mandatory training programme for aspiring ALNCos should be completed before they are able to move on and perform the role.

**Question 56** – Do you agree with the tasks that ALNCos must carry out or arrange to carry out as set out in the draft ALNCo regulations?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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### **Supporting comments**

## **Part 4 of the consultation: Looked after children**

### **(a) Proposed regulations to be made**

**Question 57** – Do you agree that the Looked after Children in Education (LACE) Co-ordinator should be a statutory role?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

### **(b) Chapter 14 of the draft ALN Code – Content of an IDP for a looked after child**

**Question 58** – Do you agree that there should be a separate standard form for looked after children and is the proposed standard form, together with the guidance and requirements related to it, appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

It is felt that the PEP should sit within the IDP rather than the other way around.

### **(c) Proposed revisions to the Part 6 Code**

**Question 59** – Do the draft revisions to the Part 6 Code provide a clear explanation of the duties on local authorities in relation to their social services functions for looked after children with ALN and what these duties mean in practice?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

**Question 60** – Overall, do you agree with the approach taken in the draft revised Part 6 Code to explaining the legislative changes, including the integration of personal education plans (PEPs) and IDPs and the mandatory content of PEPs? Are the requirements and expectations and what these mean in practice clearly explained?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

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**Question 61** – Do the changes that have been made to the Part 6 code clearly explain the role of the LACE Co-ordinator in overseeing the ALN arrangements for looked after children and what this means in practice?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

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## **Part 5 of the consultation: Impact of proposals**

**Question 62** – What impacts do you think there will be as a result of the proposed regulations?

Unless schools and LAs are supported in the delivery of this legislation with appropriate funding and resources, it is simply not practical and will have a detrimental effect on staff wellbeing and how well learners with additional learning needs have those needs met.

**Question 63** – What impact do you think the proposals in the draft ALN Code and proposed regulations would have on the Welsh language?

**Question 64** – How do you think the proposals in the draft ALN Code and proposed regulations could be formulated or changed so as to have:

- i) positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?;
- ii) no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?

**Question 65** – We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

## Respondent Details

Information	
<b>Name</b>	
<b>Organisation (if applicable)</b>	Dalgylch Botwnnog

## Materion sy'n pryderu Dalgylch Botwnnog ynglyn a'r Cod Drafft Anghenion Dysgu

Agdweddau o'r Cod	Rhwystrau i'r ysgolion	Effaith
1.31 Amserlenni <b>RHAID</b> rhoi hysbysiad o fewn 7 wythnos i ddigwyddiad penodol.	Amhosib cael arbenigwyr e.e. therapydd lleferydd, seicolegwyr addysg, OT a.y.y.b. i edrych ar anghenion plentyn a chyfrannu at y CDU o fewn 7 wythnos.	Gall mewnbwn arbenigwyr effeithio yn arw ar benderfyniad os yw plentyn yn cael ei roi ar y CDU neu beidio.
1.55 <b>RHAID</b> i'r ysgolion gymeryd pob cam rhesymol i helpu'r awdurdod lleol i sicrhau'r DDdY a nodir yn y CDU.	Cyllidebau ysgolion yn mynd yn llai ac felly llai o adnoddau dynol i weithredu'r camau a rhoi argymhellion sydd gan yr arbenigwyr ar waith.	Ysgolion yn methu darparu y camau gweithredu sydd yn ofynol. Disgyblion ddim yn gwneud cynnydd oherwydd y diffyg adnoddau dynol i roi sylw 1:1 i blant sydd angen.
2.14 Gall adnabod ADY yn gynnar a rhoi'r ymyriadau priodol ar waith wneud i ffwrdd a'r angen am ymyriadau mwy costus a llai effeithiol maes o law.	Does gan yr ysgolion ddim adnoddau dynol i roi cymorth rheolaidd i'r disgyblion sydd ddim ar y gofrestr eto. Mae cymorthyddion dosbarth yn mynd i roi cymorth i blant sydd ar y gofrestr o fewn y dosbarthiadau. Rhai dosbarthiadau mawr heb gymorthyddion i gefnogi y disgyblion.	Disgyblion sydd ddim ar y gofrestr eto ddim yn gwneud cynnydd oherwydd diffyg adnoddau mewn ysgolion.
5.12 * addysgu gwahaniaethol o ansawdd uchel ar gyfer plant a phobl ifanc unigol.	Mae'r athrawon yn gwahaniaethu yn rhan o'r addysgu ar hyn o bryd ond mae'r gwahaniaethu yn ormod i rhai plant fedru dygymod heb gymhorthydd. Cyllidebau ysgolion yn dyn a does dim cymorthyddion i gefnogi.	Disgyblion ddim yn gallu cymeryd rhan cyflawn o'r cwricwlwm gan nad oes cymorth ar gael i gefnogi.
5.12 System effeithiol i fonitro cynnydd	Does dim cysondeb ar draws yr ysgolion ar y dulliau o fonitro cynnydd.	Anghysondeb rhwng ysgolion a dim meini prawf ar gyfer cynnydd disgyblion.
5.12	Yn dilyn cwtogi oriau ac	Dim capasiti gan ysgolion i

Trefniadau ar gyfer adolygu effeithiolrwydd ymyriadau a ddefnyddiwyd i gefnogi plant a phobl ifanc ag ADY a sgiliau ac arbenigedd staff.	ymyrraeth disgyblion 3* yn y dosbarthiadau mae'r disgyblion yn cael arweiniad gan athrawon ADP.	ddarparu beth mae'r arbenigwyr [yn dilyn y fforymau] yn ei gynnig oherwydd diffyg staff. Mae'r disgyblion yma yn ddwys iawn ac yn methu cario ymlaen gyda'r cwriclwm fel eu cyd-ddisgyblion.
5.15 Mae cynnwys y cyrff a'r personau uchod yn yr adolygiad hyn yn hanfodol.	Dim yn medru trefnu cyfarfod gyda'r arbenigwyr o fewn y 7 wythnos.	Ysgolion methu cadw at amserlen ymateb o fewn 7 wythnos.
7.3 2 (a) os yw'n cael anhawster sylweddol fwy i ddysgu na'r mwyafrif o'r rhai eraill sydd o'r un oedran	Beth yw'r diffiniad o SYLWEDDOL FWY? - angen Meini Prawf ar gyfer- Sylweddol Fwy.	Dim cysnodeb rhwng ysgolion ar draws Cymru. Amrywiaeth yn y dystiolaeth sy'n cael ei gynnig gan ysgolion wrth fynd i dribiwnlys
7.9 Mae adran 3 o'r DDeddf yn diffinio'r term ' <b>darpariaeth ddysgu ychwanegol</b> ' Sy'n ychwanegol ar yr hyn neu sy'n wahanol i'r hyn a nweid yn gyffredinol i eraill sydd o'r un oedran.	Beth yw diffiniad YCHWANEGOL FWY? Pa mor ychwanegol?	Anghysondeb rhwng ysgolion gan fod rhai ysgolion yn gallu darparu mwy o gymorth nag eraill oherwydd staffio. Amrywiaeth yn y dystiolaeth sy'n cael ei gynnig gan ysgolion wrth fynd i dribiwnlys
7.28 Mwy Abl a thalentog	Does dim meini prawf ar gyfer dehongli ystyr plant MAT.	Anghysondeb rhwng ysgolion. Amrywiaeth yn y dystiolaeth sy'n cael ei gynnig gan ysgolion wrth fynd i dribiwnlys
7.36 Mae angen i'r broses o geisio adnabod a oes gan berson Ady a'r penderfyniad wedyn ynghylch a oes ganddo ADY ac os felly beth yn union yw'r ADY, fod yn seiliedig ar dystiolaeth.	Angen cael cysondeb ar draws yr ysgolion a prosesau cadarn er mwyn adnabod plentyn ADY i fod ar y gofrestr.	Anghysondeb rhwng ysgolion ar draws Cymru. Amrywiaeth yn y dystiolaeth sy'n cael ei gynnig gan ysgolion wrth fynd i dribiwnlys
7.53 Mae angen i'r penderfyniad hyn fod yn seiliedig ar dystiolaeth.	Pa dystiolaeth? Angen cysondeb rhwng ysgolion ynglyn a pa fath o dystiolaeth.	Anghysondeb rhwng ysgolion ar draws Cymru. Amrywiaeth yn y dystiolaeth sy'n cael ei gynnig gan ysgolion wrth fynd i dribiwnlys
9.17 Dylai'r hysbysiad amlinellu hefyd y camau y bydd yr ysgol yn eu cymeryd yng ngoleuni ei hystyriaeth i sicrhau bod anghenion y disgybl [nad ydynt yn ADY] yn cael eu diwallu.	Anghenion a'r ddarpariaeth yn mynd i fod yn wahanol rhwng bob ysgol.	Rhai ysgolion o dan anfantais oherydd nad ydynt yn gallu rhoi y ddarpariaeth orau ar gyfer y disgyblion oherwydd toriadau staff. Anghysondeb rhwng ysgolion ar draws Cymru.

13.33 Nodi'r cynnydd	Angen arweiniad ar ddulliau tracio fel bod ysgolion yn gweithredu yr run modd.	Anghysndeb rhwng ysgolion ar draws Cymru. Amrywiaeth yn y dystiolaeth sy'n cael ei gynnig gan ysgolion wrth fynd i dribiwnlys
13.54 Cofnodion cryno o'r trafodaethau mewn cyfarfodydd	Pwy sydd am ysgrifennu'r cofnodion?	Dim arian gan ysgolion i gyflogi clerics mewn adolygiadau. Dim posib i'r cydlynnydd arwain y cyfarfod a chadw cofnodion.
24.3 Rol Cydlynwyr 'Sgiliau unigolion', 'arbenigedd mewn ymdrin ag amrywiaeth eang o ADY' 'Amser wedi'i neilltuo y tu allan i'r ystafell ddosbarth' 'Rol Strategol' Adolygu CDU yn 'rheolaidd' pa mor rheolaidd?	Mwy o bwysau/cyfrifoldebau yn cael ei roi ar gydlynwyr a ysgolion methu llenwi'r swyddi o fewn ein hysgolion. Gormod o waith i beneithiaid wneud y swydd.[dros 50% o beneithiaid y dalgylch yn gydlynwyr] Dim arian i rhyddhau cydlynwyr	Anghysondeb rhwng ysgolion. Methu cyflawni y dyletswyddau Mwy o achosion mewn tribiwnlys.

5.3 Wrth arfer ei swyddogaethau yn y cyswllt hwn, mae'n RHIAD i'r awdurdod lleol ystyriaed y gweithlu cyfrwng Cymraeg. Ysgolion yn cefnogi hyn.

## Respondent Details

Information	
<b>Name</b>	Vince Browne (Executive Headteacher), Hayley Rees (School Governor), Matthew Davies (ALNCO)
<b>Organisation (if applicable)</b>	Whitmore High School

## Part 1 of the consultation: The draft ALN Code

### Chapter 1 - Introduction

The meaning of 'must', 'must not', 'may', 'should' and 'should not' in the ALN Code

**Question 1** – Is the explanation in paragraphs 1.10 -1.16 of the draft ALN Code of the use and meaning of the different terms 'must', 'must not', 'may', 'should' and 'should not' clear?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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#### Supporting comments

The use of the terms must, must not, may, should and should not are clearly explained in paragraphs 1.10 - 1.16 of the Draft Code.

#### Timescales

**Question 2** – Do you agree with the general approach to the timescales for compliance with duties (that is, to act promptly and in any event within a fixed period), as explained in paragraphs 1.31 – 1.32 of the draft ALN Code?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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#### Supporting comments

This question encapsulates the contradictions in the Act and in the subsequent Code of Practice. All professionals working in this field would support the principles of early identification and prompt support. However, the timescale set out in the Code will be very challenging to deliver, particularly in more complex cases. Achieving compliance with such timescales, particularly in light of the extended age range, will require significant additional funding for schools, LAs and all partner agencies. If this is not the case these timescales will not be met and will result in considerable increase in litigation and reputational damage for local authorities and Welsh Government (WG).

**Question 3** – Is the general exception which applies in the case of timescales, as described in paragraphs 1.33-1.35 of the draft ALN Code, appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

The statement in paragraph 1.34 is a concern, this indicates that an IDP must be prepared even if there is outstanding evidence which might provide a fuller picture of the extent of ALN. It is a huge concern that as a legal document an IDP could be prepared in order to meet a statutory timescale without crucial evidence from professionals being included. It is understandable for the sake of clarity that WG only want to have one exception “circumstances beyond the responsible body’s control”. However, it would be impractical for the local authority, being the body responsible for the IDP, to issue the IDP without relevant input from partner agencies such as Health. It would not be reasonable to expect a local authority to be required to defend this decision around the IDP and the ALP and consequently fund any provision which may then result from tribunal decisions, because of incomplete advice.

It would also be helpful to set a statutory timescale on partner agencies responding to a request for a report / evidence, in order to help the LA prepare the IDP in a suitable timeframe.

Structure of the draft ALN Code

**Question 4** – Is the structure of the draft ALN Code and the separation of the chapters appropriate, clear and easy to follow?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

Labels are clear and cross referenced/ linking chapters commented on as you go through the draft Code, it would be helpful to have those links mentioned in the overview.

**Question 5** – Is the draft ALN Code’s focus on describing and explaining the functions and processes appropriate?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

Pupil referral units (PRUs) - Proposed regulations to be made under Paragraph 15 of Schedule 1 to the Education Act 1996

**Question 6** – Do you agree with the proposal to use regulations to delegate functions from a local authority to a Management Committee of a PRU?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

## Chapter 2 - Principles of the Code

**Question 7** – Are the principles set out in Chapter 2 of the draft ALN Code the right ones?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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**Supporting comments**

The local authority is fully supportive of the general principles as set out in the draft ALN Code and the 2018 Act: a rights-based approach, early identification, intervention and effective transition planning, collaboration, inclusive education and a bilingual system. What is not accepted is the view held by Welsh Government that developing this system will be “cost neutral” for Local Authorities in Wales. To deliver on these aspirations significant additional funding will be required.

The extended age range though laudable also requires increased services, new processes and staffing in order to provide the services detailed in the Code.

[There are potential cost implications for schools in trying to meet the expectations of some parents and young people.](#)

## Chapter 3 - Involving and supporting children, their parents and young people

**Question 8** – Is the explanation of the duties relating to involving and supporting children, their parents and young people provided in Chapter 3 of the draft ALN Code appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

The child being at the centre of the process and involved in all aspects is welcomed, good PCP practice supports this. There is no doubt that the child/ YP should be involved in the decisions and meetings, however, clearer guidance on how a child should be involved and when it is not suitable would have been useful, for example age related expectations on meeting attendance / timings would be useful as a guidance. Example pro formas / good practice would also be welcomed.

## Chapter 4 - Duties on local authorities and NHS bodies to have regard to the UNCRC and the UNCRPD

**Question 9** – Is Chapter 4 of the draft ALN Code clear about what is expected of local authorities and NHS bodies when discharging their duties to have due regard to the United Nations Convention on the Rights of the Child (UNCRC) and United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

## Chapter 5 - Duty to keep additional learning provision (ALP) under review

**Question 10** – Is the guidance provided in Chapter 5 of the draft ALN Code in relation to the duties to keep ALP under review appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

This chapter gives very clear guidance on what local authorities should or must consider when carrying out their duties. This will be helpful in ensuring effective planning and commissioning of provision to meet the needs of children and young people with ALN. In relation to paragraph 5.12 which requires LAs to have evidence of the quality and range of provision available in schools, this will be challenging to local authorities and there will need to be a partnership approach with Regional School Improvement Services. The delivery of high quality provision for children and young people with ALN must be seen as part of the school improvement agenda as a whole.

Review of ALP is a positive step towards consistency and improvement of ALP across schools, however, accessing data, evidence regarding differentiated teaching is only feasible through good partnership approaches with Regional School Improvement Services. Developing a strategic plan to encompass the aims outlined in chapter 5 will need buy in from Head teachers in order to share the understanding that all teachers are teachers of ALN, and ensure that good differentiation, which includes ALN is trained for and promoted.

It is positive to see the collaborative approach suggested on acting on Outcomes (5.20). However, the emphasis on LA s to act on issues following a review, is not met by a requirement form partnership agencies to support this. All terminology is suggested as 'should'.

## Chapter 6 - Advice and information

**Question 11** – Is the guidance provided in Chapter 6 of the draft ALN Code in relation to making arrangements to provide advice and information about ALN and the ALN system appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

This chapter is well advised and most needed, however, it is certainly not cost neutral and will require resources, training and officer time to set up and maintain. It would be helpful if Welsh Government were able to produce information on parts of the Code and Act that could be used or adapted.

## Chapter 7 - The definition of ALN and ALP, identifying ALN and deciding upon the ALP required

**Question 12** – Is this explanation of the definition of ALN provided in paragraphs 7.4 – 7.32 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

The explanation of the definition of ALN provided lacks sufficient clarity and needs revising as a matter of urgency.

The term “significantly greater difficulty in learning than the majority of others the same age” is extremely vague. In its current form, this definition creates the potential for a huge amount of conflict between parents and schools, schools and local authorities, local authorities and parents, LAs and Health bodies.

Due to the vague, subjective nature of the definition, any decision taken by [schools](#) or LAs will be open to local challenge and it is inevitable that LAs will face increased legal challenges which will be time consuming and costly.

[A set of case-study exemplars of when an individual does / does not have ALN would be helpful for a clearer understanding within schools. These could also be useful when justifying decisions made to parents, outside agencies etc.](#)  
[Some examples of appropriate ALP would be helpful when determining the support required to meet the ALN of individuals.](#)

**Question 13** – Does Chapter 7 of the draft ALN Code provide a clear and comprehensive explanation of the evidence on which decisions about ALN and ALP should be based, the sources from which this evidence might be collated, and the way in which it should be considered?

Yes	<input type="checkbox"/>	No	✓	Not sure	<input type="checkbox"/>
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**Supporting comments**

A clear and comprehensive explanation is given on the range of evidence which may be required in the decision making process about ALN and ALP.

The range of agencies and professionals identified in the chapter highlights the scope of this reform and the extent to which so many professionals need to work in partnership to ensure the successful implementation and delivery of the principles set out in the Act. All of these groups will need to increase their capacity in order to support the increased expectations around partnership working, if any of the partners are unable to do this, the ability of LAs to discharge their function effectively will be diminished.

It is concerning to note that although Chapter 7 does not single out Educational Psychology as a discipline that is more crucial to the decision making process about ALN than any other professional body, subsequent chapters identify educational psychologists as key professionals in the process. For example, in paragraph 9.55, it is stated that “As part of the process of deciding whether a pupil has ALN, a local authority must seek advice from an educational psychologist”. This is far too prescriptive, in reality, the most appropriate professionals to advise on whether a pupil has ALN will depend on the nature of the ALN. LAs now use a range of professionals who are experts in their field to support and work with young people and the Code will need to reflect this. An over-reliance on Educational Psychology will also create a crisis in capacity as there will be insufficient numbers of trained Educational Psychologists to meet the increasing demands.

[There is no ‘bench-mark’ criteria for professionals to reference when making a judgment as to whether an individual has ALN.](#)

[There is a possibility that an apparent lack of clarity could result in some inconsistency in the identification of whether an individual has ALN.](#)

## Chapters 8 to 12 – Duties on schools, FEIs and local authorities

### Early Years ALN Lead Officer

**Question 14** – Is the guidance on the role, experience and expertise of the Early Years ALNLO set out in paragraphs 8.40 - 8.47 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have the appropriate experience and expertise to meet the expectations of the role)?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

Duties on schools, FEIs and local authorities

**Question 15** – Is the structure and content of Chapters 8 to 12 of the draft ALN Code clear?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

The structure is clear but there are a number of concerns regarding the content. At all levels of decision points, there is a lack of clarity which lacks clarity at all key decision points identified.

The decision by the early years educational that an IDP should be prepared is based on a decision around the significance of the additional learning need which has stated previously is highly subjective and therefore open to interpretation.

If a school decides that a pupil has ALN then it is required to prepare an IDP and set out the appropriate ALP. In exercising this function, the school “must take all reasonable steps to secure the ALP”. Once again the term “reasonable” is highly subjective and open to interpretation which results in the same issues as with “significance”.

There are no standard requirements for schools to provide ALP or any guidance about what ALP is expected in all schools. Therefore, governors and head teachers of individual schools are able to provide what they feel is adequate, which may well be determined by budget and teacher skills, rather than the needs of the school population. Further guidance is required on what ALPs / provision would be expected in a mainstream school.

The coordinator outlined in paragraph 8.11 is an indication of the restructuring that will be needed by local authorities to ensure the implementation of the Act and specifically the details included in the Code. As many of the outlined duties are beyond the grade of the existing teams within local authorities, this will have cost implication in order to implement the Act and code details successfully.

Paragraph 8.12 onwards, outlines the contents of communication for parents. It would be useful on this occasion and the numerous other occasions where communication is detailed to have sample/ pro formas given in the Annex which could be adapted by local authorities. Additionally a flow chart for the timescales would be useful.

Paragraph 9.39 Referrals from a maintained school to a local authority – this point needs significant clarification. The term “adequately determine” regarding ALN or ALP in relation to the referral from schools to the local authority needs for more clarification. The term is open to interpretation by schools and will cause conflict between schools and between schools and LAs. It would be useful to have an agreed understanding of the ALPs that schools should be able to offer, and further clarification around the ALN definition.

9.40 The usefulness of dual registration in maintaining children and a young person in mainstream education is questionable if the IDP is automatically picked up by the local authority. The IDP process should revolve around the pupil, and thus should be written by the mainstream school involving any other institutions where the child / young person is attending. If the mainstream funding is given to the school, it should be the school who maintain the IDP unless the child / young person’s needs are complex.

In paragraph 9.44 it is stated that “The circumstances of the school (i.e. its location, size, budget, experience etc.) could affect the school’s view on whether it would be reasonable for it to secure the ALP. This is unacceptable as it suggests that the level of support that a pupil can expect will vary from school to school. Would a similar rationale be used for the delivery of literacy or numeracy, i.e. there must be an expectation that all schools are able to deliver the same level of provision for all learners.

Further detail is also required in relation to equipment. Much equipment used for the curriculum can only be used once, and many children with ALN will require equipment that can be only be used for them, e.g. a special pencil grip, sloping writing surface. Additionally the term ‘intensive daily support’ needs quantifying, as this would be judged very differently by individual schools and teachers. What evidence would be needed to support the need for intensive daily support? Further clarification is needed.

9.45. The need for a set of principles to decide who would secure an ALP is clear, however, this would surely be the same for all local authorities and would thus lend itself to national guidance. Without such guidance access to ALP may vary according to where a person lives leading to a “postcode lottery” determining a learning access to support.

9.50. A parental request to consider ALN, take on an IDP or review an IDP. Plus a professional referral (9.53) of which the LA must consider these requests, leaves the authority open to countless requests which will become unmanageable, especially in the given timescales. If this is to be the case, detailed criteria needs to be included to explain what evidence is needed to support these requests.

The numbers that could be referred to the LA under the Code as it is detailed is worrying. There needs to be further clarification around the children and young people who need to have an LA IDP. In addition, the fact that all decisions are appealable to the Education Tribunal, means that local authority staff and resources will be used defending and evidencing decisions rather than meeting need.

Chapter 10 which related to the duties of FEI’s and local authorities in relation to young people at an FEI raises a number of concerns for local authorities.

The chapter appears to assume that local authorities have the same relationships with FEI’s as they do with maintained schools which is fundamentally not the case. LA’s do not fund or have any jurisdiction over FEI’s and the Code does not in any way recognise this.

It is therefore highly problematic to state as in 10.1 that an FEI can refer a young person’s case to the local authority if the FEI considers that it would not be reasonable for it to secure or that it cannot adequately determine the extent of nature of the ALN, or that it cannot adequately determine the ALP.

In short the FEI becomes able to independently decide whether it can meet the ALN of a young person and if the decision is that it cannot, all the responsibility transfers to the local authority. The consequences of this would be that a local authority would be responsible for funding the assessment and provision for young people attending an institution which it does

not fund or have any jurisdiction over.

The issue about what it would be reasonable for the FEI to provide needs to be addressed fully. The current Code could lead to local authorities becoming responsible for funding all provision that it currently provides for schools. This would include access to educational psychology services, outreach support services for speech and language, autistic spectrum disorder, visual impairment, hearing impairment, social emotional and mental health difficulties.

A fundamental review of the role of FEI's within the education system, particularly in how they relate to ALN is needed. If FEI's do not meet the needs of a wide range of learners post 16 then there will be an increased demand for private sector providers and specialist colleges which will drain the finite resources of LAs. Positive relationships exist and can be future developed between LAs and FEIs, however processes and responsibilities need to be addressed, with increased funding in order to meet the needs of children with ALN post 16 to ensure that they are receiving the services and support that they need.

Further clarity around parental preference 11.33 and 11.58 and the evidence needed to support views at odds with the local authority is needed. This is an area already contested in Educational tribunal and further details would be helpful.

**Question 16** – Are the timescales for decisions by schools, FEIs and local authorities on ALN and preparing an IDP as set out in Chapters 8-12 appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

All professionals working in this field would support the principles of early identification and prompt support. However, the timescales set out in the Code will be very challenging to deliver, particularly in more complex cases. Achieving compliance with such a timescale will require significant additional funding for schools, LAs and all partner agencies. If this is not the case these timescales will not be met and will result in considerable increase in litigation and reputational damage for local authorities and Welsh Government (WG).

Time limits on responses from professionals and parents need to be included within the Code and the duty on partner agencies to provide advice when requested strengthened.

Deciding whether it is 'necessary' for a local authority to prepare and maintain an IDP for a young person not at a maintained school or FEI - Proposed regulations to be made under Section 46 of the 2018 Act

**Question 17** – Are the proposed requirements and guidance in paragraphs 12.22 – 12.51 of the draft ALN Code on when it is necessary for a local authority to maintain an IDP for a young person not at a school or FEI in Wales appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

## Chapter 13 - Content of an IDP

**Question 18** – Are the elements of the mandatory content of an IDP which are required by the ALN Code, appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Yes the content is appropriate, though further guidance about what is to be included under each heading would be useful. Good practice guides where Welsh Government share their expectations about what should be included would be helpful.

**Question 19** – Is the proposed mandatory standard form for an IDP (included at Annex A of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The standard forms do not sit well within the person centred processes that Welsh Government have encouraged. The forms are stark and unfriendly and will need some adaption. Further electronic systems to support the IDP process would be more efficient and easier to adapt, this could be rolled out nationally.

Further consideration of how the forms will be used, shared and adapted would lend itself towards electronic versions, on apps or similar with additional sections that could be included or left out as appropriate. For a new system these forms already seem dated.

*The proposed IDP form is disappointing and removed the principles of a 'Person Centred' approach. The forms do not appear to be accessible and understandable to a young person.*

*Prompts would be helpful to indicate the type of information that may be included. For example, Section 3A 'Record of information used to develop the IDP', There does not appear to be provision for the recording of parental views, or any 'unresolved questions'.*

*Whitmore High School was involved in a pilot project trialling person centred review documents and these included: strengths, what I need to develop and an action plan with a timeframe.*

**Question 20** – Is the guidance in Chapter 13 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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**Supporting comments**

The guidance is on the whole clear. It would have been useful if some of the content were mandatory, i.e. must rather than should, to ensure consistency. Timescales also need to be addressed, it would be useful to have a flow chart with timescales stated clearly.

Transport

**Question 21** – Is the guidance on transport in paragraphs 13.74 - 13.76 of the draft ALN Code appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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**Supporting comments**

The guidance is very general and lacks detail. As a result LAs will continue to make decisions based on the guidance set out in the “Learner Statutory Provision and Operational Guidance 2014”. Further clarification is needed here.

## **Chapter 15 – Duties on health bodies and other relevant persons**

Statutory requests by local authorities to relevant persons for information or other help - Proposed regulations to be made under Section 65(5) of the 2018 Act

**Question 22** – Is the proposed timescale and exceptions for relevant persons to comply with a local authority request for information or other help (under section 65 of the 2018 Act) appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

Paragraph 15.7 states that a “relevant person must comply with such a request unless it considers that doing so would be incompatible with their own duties or would otherwise have an adverse effect on the exercise of their functions”. This caveat is of great concern and without further clarification could be used as a “catch all” phrase to justify non-compliance. For example, would it be acceptable for a relevant person not to comply with such a request on the grounds that there were insufficient resources to provide the advice and there was a waiting list for the service.

It is also a huge concern that neither schools nor FEIs can request help or information.

Further, it is stated in paragraph 15.10, if a school is not able to obtain the advice they need from a relevant person, they should raise the matter with the responsible LA and that the LA “may need to take over responsibility” for the IDP. This may result in LAs being forced to take over responsibility for numerous IDPs simply because advice to schools is not being provided.

Currently gaining timely advice from a range of professionals is challenging due to lack of capacity in crucial services such as therapeutic services in health. Paragraph 15.12 states that a relevant person must comply promptly within a period of six weeks from receiving the request. However, the paragraph goes on to state that this requirement does not apply if it is “impractical for the relevant person to do so due to circumstances beyond its control”. What constitutes such circumstances needs clearly defining and should be the same definition as that set out in paragraph 1.35 in respect of other bodies.

ALP to be secured by NHS bodies - Proposed regulations to be made under Section 21(10) of the 2018 Act

**Question 23** – Is the proposed period and exception within which an NHS body must inform others of the outcome of a referral to it (under section 20 of the 2018 Act) to identify whether there is a relevant treatment or service, appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

The most problematic paragraph in the Draft Code is 15.36. It is completely unacceptable to state that “if a tribunal orders the revision of an IDP in relation to ALP specified as ALP an NHS body must secure, an NHS body is not required to secure the revised ALP unless it agrees to do so” and that the body maintaining the IDP should work with the NHS body to reach agreement in such circumstances. It is difficult to find any rational, logical argument to justify such an approach. The consequence of this will be that an NHS body, as in the current system, not recognise the decision of tribunal as binding and any ruling relating to increasing the input from NHS bodies such as therapy services will need to be met by the LA. Not only does this have financial implications for the LA, it also then requires the LA to purchase additional provision from private therapists operating outside of the health service which undermines the whole partnership approach. In the current system, NHS bodies do not prioritise Education Tribunal cases because they are not bound by the tribunal decision. As a consequence, advice is not always forthcoming or is not detailed comprehensive advice which can be used successfully in tribunal to counter what is often very detailed advice provided by parents who have commissioned private therapists to assess and advise. If the code does not address this issue, it will be ignoring what is a fundamental flaw in the current system.

In such circumstances the LA should not be expected to deliver and fund this provision. Matters relating to ALP that an NHS body must secure, should not be heard by the Education Tribunal if they do not have the legal jurisdiction to require compliance. Such issues should therefore be referred to the NHS complaints system.

Currently, once Tribunal has determined the LA are legally responsible for providing the

provision. If NHS bodies refuse to accept the findings of the Tribunal as is often the case, LAs are required to source and fund the provision. There can be no delay in securing the provision while a negotiation takes place with the NHS which can take a significant amount of time.

The Designated Education Clinical Lead Officer (“DECLO”)

**Question 24** – Is the guidance on the role, experience and expertise of the DECLO set out in paragraphs 15.37 – 15.53 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have appropriate experience and expertise)?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

## Chapter 16 - Review and revision of IDPs

**Question 25** – Is the content and structure of Chapter 16 of the draft ALN Code clear?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	✓	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 26** – Is the proposed period and exception for completing reviews in response to a request from a child, their parent, a young person or an NHS body (set out in paragraph 16.18 of the draft ALN Code) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	✓	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**There is no guidance in Chapter 16 which sets out the requirements on health bodies and other relevant persons to contribute to reviews. It should be made clear in the Code that if a review is agreed by the body maintaining the IDP and advice is requested about the ALP provided, the health body or other relevant person must contribute fully to that review. If this is not stipulated, the review process will become meaningless.**

**The aspiration set out in the Act and the draft Code for multi-agency partnership working needs to be supported by the Code and the responsibilities of all partners made clear in this regard. If this is not set out clearly in the Code, agencies will not create the capacity to contribute in a meaningful way and local authorities will be the only body held to account. In the current system, it is difficult for health bodies to engage in the review process in a meaningful manner and this will continue to be the case unless the duty to contribute in this**

way is set out in a legal framework.

It is very concerning that no limit is set in terms of the number of reviews that can be undertaken in a calendar year. The IDP review process as set out in the draft Code is very rigorous and all partners are expected to contribute fully to this. As the Code is currently set out, it would be possible for a review to be requested every 35 days in the case of an FEI or school and every 7 weeks in the case of a local authority. In the face of such requests, the onus would be on the body responsible for the IDP to prove that it was unnecessary. This will drain the resources of that body and undermine the system. The Code should protect delivery bodies from such an approach by requiring those requesting a review to demonstrate the basis on which a review is required.

## Chapter 17 – Local authority reconsiderations and taking over responsibility for an IDP

**Question 27** – Is the content and structure of Chapter 17 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

17.2 states that any school, FEI, child, parent, young person can request that an LA take over responsibility for an IDP, which means that the LA could be liable for significant numbers of IDPs and can be in tribunal to defend the IDP of one of the above institutions, which they have not written. This is not acceptable. The amount of time required to execute the powers listed in the above chapter is unmanageable for most local Authorities. The number of staff involved in dispute resolution, IDP and ALN decisions and educational tribunals would be unsustainable.

As stated earlier timescales are also an issue.

**Question 28** – Is the proposed period and exception for a local authority reconsidering a school IDP (set out in paragraph 17.20 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

There are many risks for LAs which result from this section of the draft Code. It significantly increases the rate of the LA in determining whether a schools' decision making and provision for pupils with ALN is correct when challenged by parents. The process of "reconsideration" as set out in the draft Code is extensive and the 7 week timescale for achieving the expectations set out in the Act is unrealistically challenging.

The LA currently has no such role with schools, certainly no role which is set out in law with rights of appeal to tribunal which is the proposal under the draft Code. As a consequence to fulfil this function effectively, a significant investment to increase the resource and capacity

within an LA will be required. It is also highly likely that the number of such requests for reconsideration made to the LA will be significant and if this were the case, LAs could become overwhelmed and unable to meet its statutory requirements.

Even more significant is the intention set out in the Code for an LA not only to be the body which has the statutory duty to “reconsider” and ultimately take over responsibility for IDPs in all maintained schools in Wales. The Code also gives the same duty to LAs in respect of FEIs. As stated previously, this is unworkable and does not fit with current education legislation.

LAs have no legal jurisdiction over FEIs, they are separate entities and are funded from Welsh Government. It would be wholly inappropriate for LAs to carry out this role within the FE sector and wholly inappropriate for LAs to become responsible for IDPs for pupils attending FEIs. It would be far more appropriate under current legislation for Welsh Government to take over this responsibility.

## Chapter 18 - Meetings about ALN and IDPs

**Question 29** – Are the principles and the guidance provided in Chapter 18 of the draft ALN Code on meetings about ALN and IDPs appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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### Supporting comments

The principles and guidance provided is appropriate, however, as stated previously, schools and LAs will require significant investment to increase skills and capacity of staff in order to meet the aspirations as set out in the Act and the draft Code.

Further detail is required around a standard format for meetings and suggested agendas. This would ensure consistency and that PCP processes are used.

## Chapter 19 – Planning for and supporting transition

**Question 30** – Is the guidance in Chapter 19 of the draft ALN Code on supporting children and young people to make effective transitions appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

In general, this chapter in the draft Code provides guidance to support effective transitions when moving into, between and out of educational settings. However, some of the terminology is vague and many of the duties are referred to as should, which can be open to interpretation, some of the requirements should be considered mandatory , i.e. must. Timescales also need to be clearer. A flow chart, with timescales would be useful.

As stated previously, the LA should not have any responsibility for an IDP when a young person is attending a FEI. It is absolutely appropriate for the LA to work with the FEI to ensure a smooth and effective transition but once this process is completed, all responsibility for meeting the needs of the learner with ALN should transfer to the FEI.

## Chapter 20 - Transferring an IDP

**Question 31** – Is the content and structure of Chapter 20 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	✓	Not sure	<input type="checkbox"/>
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### Supporting comments

The content of this Chapter as it relates to transfers for children looked after by a local authority, where a child ceases to be looked after and transfers from a local authority to an FEI are unsatisfactory.

Section 20.12 – 20.13 needs to be strengthened.

It is crucial that FEIs are funded appropriately to be able to develop the provision required to meet the needs of young people with ALN. The current draft Code does not address this fundamental issue. Chapter 20.12 states that an LA may request the FEI becomes responsible for maintaining the IDP for a student who transfers from a local authority to an FEI. The expectation should be that the FEI would automatically become responsible for the IDP. The section goes on to say “such requests should only be made where the local authority believes that it would be reasonable for the FEI to secure the ALP as set out in the IDP”. The fundamental issue to be addressed is the inclusive nature, or otherwise of FE institutions which is a decision which needs to be taken by Welsh Government. For the ALN Act to operate effectively, it is fundamental that FEIs are seen as an integral part of this and Welsh Government need to legislate to this regard and ensure that FEIs are funded appropriately to meet these needs. The current draft Code fails to do this and as a consequence creates the danger that by default, responsibility for developing provision and meeting the needs of the 16-25 year old with ALN will need to be developed or commissioned and/or funded by local authorities. This will place huge financial and operational strains on LAs which will be unsustainable for future generations.

Transfers of IDPs - Proposed regulations to be made under Section 36(3) of the 2018 Act and Section 37 of the 2018 Act

**Question 32** – Are the requirements that are intended to be included in regulations in relation to requests to transfer an IDP to an FEI (as described in paragraphs 20.12 - 20.17 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	✓	Not sure	<input type="checkbox"/>
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**Supporting comments**

The issues around directing FEIs have already been covered. Again the terminology here allows a lot of interpretation and therefore the main responsibility will still be with the local authority, which is a funding and resource issue. The timescales are useful, though it is noted that there is no timescale for Welsh Ministers to respond.

**Question 33** – Are the arrangements that are intended to be included in regulations in relation to all other transfers (as described in paragraphs 20.18 – 20.21 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

The arrangements are set out clearly however, 20.18 and 20.19, need further timescales included to ensure that these duties can be met promptly.

## Chapter 21 - Ceasing to maintain an IDP

**Question 34** – Is the content and structure of Chapter 21 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	✓	Not sure	<input type="checkbox"/>
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**Supporting comments**

The structure of the chapter is clear, however, ceasing an IDP / deciding if a child young person has ALN is related to the initial definition, which as noted in the comments above lacks detail. (See 21.7)

Again timescales need to be clearer (21.14) and longer (see above notes re staffing and resources) and a flow chart would be useful.

As stated previously, the term reasonable need for education 21.12 is a concern as it lacks clarity.

**Question 35** – Is the period of time for making a reconsideration request (described at 21.18 of the draft ALN Code), appropriate?

Yes	<input type="checkbox"/>	No	✓	Not sure	<input type="checkbox"/>
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**Supporting comments**

See previous notes on timescales. The impact on staffing and resources is considerable, the timescales are unrealistic.

## Chapter 22 – Children and young people subject to detention orders

**Question 36** – Is the content and structure of Chapter 22 of the draft ALN Code clear?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 37** – Are the proposals for the regulations in relation to deciding whether it will be necessary to maintain an IDP for a detained child or young person upon their release appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 38** – Are the proposals for the regulations in relation to children or young people who are subject to a detention order and detained in hospital under Part 3 of the Mental Health Act 1983 (as described in paragraphs 22.45 – 22.74 of the draft ALN Code) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 39** – Are the timescale requirements to act “promptly” in relation to decisions about ALN and preparing IDPs for children and young people subject to detention orders (as set out in Chapter 22) appropriate, rather than also having a requirement to comply within a fixed period subject to an exception or exceptions?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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## Chapter 23 - Children and young people in specific circumstances

**Question 40** – Is the guidance in Chapter 23 of the draft ALN Code on children and young people in specific circumstances appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

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## Chapter 24 - Role of the Additional Learning Needs Co-ordinator (ALNCo)

**Question 41** – Is the information set out in Chapter 24 of the draft ALN Code about the role and responsibilities of the ALNCo appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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**Supporting comments**

The information is appropriate, and it is clear that the role is very different from the previous SENCO role. Clarity around 24.3 'highly qualified' and 'skill set' would be useful. However 24.11, the ALNCO will provide professional guidance, advice and support to teachers, parents, other agencies / institutions is very open to interpretation and needs further detail.

Given the increased role, duties and responsibility, further guidelines around 24.5 sufficient time and resources would protect the ALNCO and provide schools with an understanding of what time is appropriate.

It is pleasing to see the emphasis on inclusion and class teachers need to ensure that learners ALN needs are met. As stated in the Code the ALNCO will need to be able to advise teachers about differentiated teaching methods in order to ensure that all learners' needs are met. However the advice and training that ALNCOs are needed to provide for staff will need LA input to ensure quality and consistency, which is another time and resources issue for the LA.

## Chapter 25 - Avoiding and resolving disagreements

**Question 42** – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

It is not appropriate to require local authorities to be responsible for resolving disagreements relating to FEIs. FEIs are not under the jurisdiction of LAs.

How reasonable is it to intervene with proprietors of relevant institutions which also include academies, independent and post16 institutions who the LA do not have jurisdiction over. For example, it would be difficult to promote the arrangements for avoiding and resolving disputes within organisations which we have no input.

Section 25.11 The LA must ensure staff have a detailed understanding of the ALN system, with appropriate training, impartial to the outcome of any potential disagreements , plus have enough staff to see and facilitate children separately to parents (25.14), this has significant staffing and cost implications for the LA.

Given the need to publish guidance on avoiding disagreements and building relationships for adults, children and young people, it would be useful to have some guidance from Welsh Government.

It would be useful if there were timescales for the involvement of DECLO / health, in relation to a decision on whether their advice is relevant or submitting advice. This does not encourage a prompt resolution of difficulties.

**Question 43** – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

The requirements are appropriate. Although LAs currently have similar services in operation, it needs to be recognised by Welsh Government that LAs will need to increase the capacity of these services due to the Act which will require additional funding. There is also a Quality Assurance exercise that will need to be completed to ensure that all the needs of the code are met, this will take LA officer time on a regular basis.

25.65 states that FEIs should take reasonable steps to assist the advocate, however, we have no jurisdiction to enforce this.

## Chapter 26 - Appeals and applications to the Tribunal

**Question 44** – Is the information about appeals and the appeals process set out in Chapter 26 of the draft ALN Code appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

The Act and draft Code expand significantly the matters about which appeals can be made. This, together with the extended age range to which the Act and draft Code applies, is almost certainly going to lead to an increased number of appeals to tribunal. This is of great concern to LAs as defending such appeals is a very costly, time consuming and bureaucratic process which requires a great deal of officer time. In addition, the nature of the current system almost always finds in favour of the appellant with LAs only being successful in approximately 5% of all cases.

The reduced timescales for preparing case statements together with the likelihood of increased number of appeals is very likely to overwhelm LAs and potentially lead to a breakdown of the system.

## Chapter 27 - Case friends for children who lack capacity

**Question 45** – Is the information about case friends, including the duties on the Tribunal to appoint and remove case friends, clearly explained in the Chapter 27 of the draft ALN Code?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

### Any other comments

**Question 46** – Please provide any other comments that you would like to make on the draft ALN Code. Where your comments relate to a specific chapter or paragraph within the draft ALN Code, please indicate this in your response.

## Part 2 of the consultation: Draft Education Tribunal for Wales regulations

**Question 47** – Overall, do the draft Education Tribunal regulations provide clear processes and procedures relating to appeals and claims to the Education Tribunal?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 48** – Overall, will the processes and procedures outlined in the draft Education Tribunal regulations enable the Education Tribunal to deal with cases fairly and justly?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 49** – Is the proposed case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 50** – Are the proposed timescales for each party in the case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) reasonable?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 51** – Is the 6 week timescale within which NHS bodies must report to the Education Tribunal in response to a recommendation (regulation 65 of the draft Education Tribunal regulations) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 52** – Are the timescales relating to compliance with Education Tribunal orders appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 53** – Is the approach to extensions to timescales (regulation 66 of the draft Education Tribunal regulations) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 54** – Are the proposed regulations relating to case friends (draft Education Tribunal regulations 61 to 64) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

## **Part 3 of the consultation: Draft ALNCo regulations**

**Question 55** – Are the prescribed qualifications to be an ALNCo set out in the draft ALNCo regulations appropriate?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 56** – Do you agree with the tasks that ALNCoS must carry out or arrange to carry out as set out in the draft ALNCo regulations?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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## **Part 4 of the consultation: Looked after children**

### **(a) Proposed regulations to be made**

**Question 57** – Do you agree that the Looked after Children in Education (LACE) Co-ordinator should be a statutory role?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

### **(b) Chapter 14 of the draft ALN Code – Content of an IDP for a looked after child**

**Question 58** – Do you agree that there should be a separate standard form for looked after children and is the proposed standard form, together with the guidance and requirements related to it, appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

### **(c) Proposed revisions to the Part 6 Code**

**Question 59** – Do the draft revisions to the Part 6 Code provide a clear explanation of the duties on local authorities in relation to their social services functions for looked after children with ALN and what these duties mean in practice?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 60** – Overall, do you agree with the approach taken in the draft revised Part 6 Code to explaining the legislative changes, including the integration of personal education plans (PEPs) and IDPs and the mandatory content of PEPs? Are the requirements and expectations and what these mean in practice clearly explained?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 61** – Do the changes that have been made to the Part 6 code clearly explain the role of the LACE Co-ordinator in overseeing the ALN arrangements for looked after children and what this means in practice?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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## **Part 5 of the consultation: Impact of proposals**

**Question 62** – What impacts do you think there will be as a result of the proposed regulations?

**Question 63** – What impact do you think the proposals in the draft ALN Code and proposed regulations would have on the Welsh language?

**Question 64** – How do you think the proposals in the draft ALN Code and proposed regulations could be formulated or changed so as to have:

- i) positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?;
- ii) no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?

**Question 65** – We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

## Respondent Details

Information	
<b>Name</b>	Elizabeth Williams
<b>Organisation (if applicable)</b>	Voice Cymru

## Part 1 of the consultation: The draft ALN Code

### Chapter 1 - Introduction

The meaning of 'must', 'must not', 'may', 'should' and 'should not' in the ALN Code

**Question 1** – Is the explanation in paragraphs 1.10 -1.16 of the draft ALN Code of the use and meaning of the different terms 'must', 'must not', 'may', 'should' and 'should not' clear?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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#### Supporting comments

It appears that the use in the Code of 'must' and 'must not' are generally based on whether the requirement is imposed by the Additional Learning Needs and Education Tribunal (Wales) Act 2018; therefore, in the most part (although not always), these are statutory requirements. Whereas, the use in the Code of 'should' and 'should not' appears to be for those actions that do not have a statutory basis, so have been decided as part of the Welsh Government's ALN policy in order properly to implement the Act rather than in the legislation itself. Given that this is the case, in order to be clear, we consider that this should be made explicit in the definitions in the Code in addition to stating that the accompanying footnote sets out the origin of the requirement in the legislation.

Further the terms, 'should' and 'should not' could be interpreted either objectively (i.e. a standard of reasonableness applied by an adjudicating body) or subjectively (i.e. whether the responsible body decides itself, for example, whether it is justified in not following particular guidance). Given that decisions that are not mandatory may still be extremely important, we consider that the definition should be expanded to make clear whether an objective or a subjective standard will be applied to 'should' and 'should not' if a decision by a responsible body becomes a matter of dispute.

#### Timescales

**Question 2** – Do you agree with the general approach to the timescales for compliance with duties (that is, to act promptly and in any event within a fixed period), as explained in paragraphs 1.31 – 1.32 of the draft ALN Code?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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#### Supporting comments

We have no further comment to make.

**Question 3** – Is the general exception which applies in the case of timescales, as described in paragraphs 1.33-1.35 of the draft ALN Code, appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

It would be sensible to make clear that the responsible body may be required to provide details of the circumstances that are beyond its control should it be unable to comply with the prescribed timescales. (Paragraph 1.35)

Structure of the draft ALN Code

**Question 4** – Is the structure of the draft ALN Code and the separation of the chapters appropriate, clear and easy to follow?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

We have no further comment to make.

**Question 5** – Is the draft ALN Code's focus on describing and explaining the functions and processes appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	✓
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**Supporting comments**

For the most part, the Code is extremely clear and the focus is appropriate. We would add a caveat, which is that the Code is also very long and, whilst there are chapters aimed at the different responsible bodies involved in the ALN system, it may still appear daunting to certain stakeholders, particularly the children & young people and their families, who are at the centre of the system.

Even at this late stage, it may be worth considering taking out certain guidance sections advising that a responsible body *should* or *should not* perform certain activities where, either the guidance refers to activities that for the most part may already be being undertaken, or are fairly obvious, (for example, much of the information in chapter 6). The information is useful so it should be available to the relevant bodies, but this could be in a website that is complementary to the Code. This would also have the advantage that a website is dynamic so the information can be amended and added to fairly easily as appropriate.

Pupil referral units (PRUs) - Proposed regulations to be made under Paragraph 15 of Schedule 1 to the Education Act 1996

**Question 6** – Do you agree with the proposal to use regulations to delegate functions from a local authority to a Management Committee of a PRU?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

We believe that local control will ensure a more flexible and focused workforce. It must, however, be stressed that local authorities must not abdicate their overall responsibility and accountability. The Articles of Management must be clear – the guidance at present is too complex and full of cross references. There should be a programme of INSET for those appointed as managers under this new system. There is a requirement for them to be managers with new responsibilities and not governors; this is a new concept and a new way of working.

## Chapter 2 - Principles of the Code

**Question 7** – Are the principles set out in Chapter 2 of the draft ALN Code the right ones?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

We would only add a comment with regard to the terminology used in paragraphs 2.21 and 2.22. The exceptions to the general principles outlined in these paragraphs, as stated at sections 51 and 52 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 are limited in that they are defined exceptions, and no other exceptions are permissible. However, each exception could be broadly implemented, so to use the word, '*limited*', indicates an incorrect impression of how these exceptions could be legitimately applied, which may lead to difficulties if there were a dispute with regard to a child's ALN provision. We suggest that the word '*specific*' may be a more accurate term.

## Chapter 3 - Involving and supporting children, their parents and young people

**Question 8** – Is the explanation of the duties relating to involving and supporting children, their parents and young people provided in Chapter 3 of the draft ALN Code appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

We consider that the explanation is appropriate but is also very lengthy and could be edited to be more accessible, particularly as this is a chapter that children, their parents and young people may look at in more detail. (For example, we think that paragraphs 3.28 to 3.32 could be edited without losing the essential meaning.)

Further, paragraph 3.12 is confusing: if it is only appropriate that a responsible body *should* take the views, wishes and feelings of a child or young person into account *in advance* of a decision being made in circumstances where it would not be appropriate for that child or young person to be present where a decision is being made, this could mean that the views, wishes and feelings of that child or young person are not taken into account. If the responsible body *must* then take those views, wishes and feelings into consideration when the decision is being made, this means that it would be impossible to make the decision at all. Therefore, further consideration needs to be given to the drafting of this particular paragraph.

## Chapter 4 - Duties on local authorities and NHS bodies to have regard to the UNCRC and the UNCRPD

**Question 9** – Is Chapter 4 of the draft ALN Code clear about what is expected of local authorities and NHS bodies when discharging their duties to have due regard to the United Nations Convention on the Rights of the Child (UNCRC) and United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

We consider that Chapter 4 as currently drafted is clear but could be edited to perform more of a sign-posting function, particularly as this is a chapter for local authorities and NHS bodies that will already have staff with expertise working in this area. (For example, we think that paragraph 4.17 could be edited without losing the essential meaning.)

Further, as this Chapter is not prescriptive in terms of what is required in practice to meet the statutory duties, there is a danger that there will be an inconsistency of application across Wales and that something of a ‘postcode lottery’ may develop. We would also recommend that further guidance is provided (either in the Code or in an appropriate place) on the paper trail that is required to evidence that local authorities and NHS bodies are meeting their requirements under this chapter and that uniform training across all local authorities on the ALN Code is provided, not just the training that may be provided in schools.

## Chapter 5 - Duty to keep additional learning provision (ALP) under review

**Question 10** – Is the guidance provided in Chapter 5 of the draft ALN Code in relation to the duties to keep ALP under review appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

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We have no further comment to make.

## Chapter 6 - Advice and information

**Question 11** – Is the guidance provided in Chapter 6 of the draft ALN Code in relation to making arrangements to provide advice and information about ALN and the ALN system appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

The first sentence of paragraph 6.6 should be re-drafted because this statement is not true; advice and information could be heavily biased they and are not, of their nature, objective and impartial. However, it is important that advice and information is provided impartially.

## Chapter 7 - The definition of ALN and ALP, identifying ALN and deciding upon the ALP required

**Question 12** – Is this explanation of the definition of ALN provided in paragraphs 7.4 – 7.32 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

We would add that there may be an overlap in this chapter with certain Public Equality duties under Equalities legislation. If this is the case, for the sake of clarity, we suggest that this chapter also refers to the relevant provisions of such legislation.

**Question 13** – Does Chapter 7 of the draft ALN Code provide a clear and comprehensive explanation of the evidence on which decisions about ALN and ALP should be based, the sources from which this evidence might be collated, and the way in which it should be considered?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

We would add that paragraph 7.50 should expand on the term '*teaching staff*' to make clear that this refers to both teachers *and* to support staff. Further, given that all members of staff will have a duty to involve the ALNco in appropriate circumstances and will need to know when the ALNco should be alerted, it is essential that a permanent funding stream is made available for training in schools and pre-school provision, and that guidance is given to schools through the consortia on the processes that need to be in place.

The flow-charts at pages 72 and 73 are an excellent idea to include in this chapter, but it may

be even better to place them at the beginning of the chapter in order to provide a broad overview to the more detailed information that follows, and to add references to the paragraphs that provide the detail in the chapter.

## Chapters 8 to 12 – Duties on schools, FEIs and local authorities

### Early Years ALN Lead Officer

**Question 14** – Is the guidance on the role, experience and expertise of the Early Years ALNLO set out in paragraphs 8.40 - 8.47 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have the appropriate experience and expertise to meet the expectations of the role)?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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#### Supporting comments

We have no further comment to make.

### Duties on schools, FEIs and local authorities

**Question 15** – Is the structure and content of Chapters 8 to 12 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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#### Supporting comments

We have no further comment to make.

**Question 16** – Are the timescales for decisions by schools, FEIs and local authorities on ALN and preparing an IDP as set out in Chapters 8-12 appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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#### Supporting comments

We completely understand why the timescales under the new system have been made shorter than those under the SEN system, and we agree that it is undesirable for children and their families, and young people to wait for excessive periods of time to receive a decision on their ALP and/or IDP.

However, this legislation is being introduced at a time of local authority austerity, budget constraints in schools and swathes of redundancies of both teaching and support staff across Wales. Therefore, despite additional funding being made available to implement the legislation and Code, over time, it may be impractical in a wide range of cases for the timescales within the ALN code to be met due to circumstances beyond the responsible

**body's control: i.e. insufficient staff, lack of budget to employ additional staff, and too much demand for the services. If this happens frequently, it will reduce the point of having shorter timescales in the Code. Further, workload in schools continues to be an issue and any lack of resources/staff/funding should not be addressed by existing staff working excessive hours in order to meet the deadlines set by the Code.**

Deciding whether it is 'necessary' for a local authority to prepare and maintain an IDP for a young person not at a maintained school or FEI - Proposed regulations to be made under Section 46 of the 2018 Act

**Question 17** – Are the proposed requirements and guidance in paragraphs 12.22 – 12.51 of the draft ALN Code on when it is necessary for a local authority to maintain an IDP for a young person not at a school or FEI in Wales appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

**We have no further comment to make.**

## **Chapter 13 - Content of an IDP**

**Question 18** – Are the elements of the mandatory content of an IDP which are required by the ALN Code, appropriate?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**We have no further comment to make.**

**Question 19** – Is the proposed mandatory standard form for an IDP (included at Annex A of the draft ALN Code) appropriate?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**We agree with the proposed standard form for the IDP but would recommend that the Welsh Government gives as much support as possible to placing more emphasis on secure technology in order to access, amend and comment on IDPs rather than by requiring paper copies. This would reduce the need for paper filing, be more environmentally friendly and may save on working time.**

**Question 20** – Is the guidance in Chapter 13 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

We have no further comment to make.

Transport

**Question 21** – Is the guidance on transport in paragraphs 13.74 - 13.76 of the draft ALN Code appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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**Supporting comments**

We have no further comment to make.

## **Chapter 15 – Duties on health bodies and other relevant persons**

Statutory requests by local authorities to relevant persons for information or other help - Proposed regulations to be made under Section 65(5) of the 2018 Act

**Question 22** – Is the proposed timescale and exceptions for relevant persons to comply with a local authority request for information or other help (under section 65 of the 2018 Act) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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**Supporting comments**

We have no further comment to make.

ALP to be secured by NHS bodies - Proposed regulations to be made under Section 21(10) of the 2018 Act

**Question 23** – Is the proposed period and exception within which an NHS body must inform others of the outcome of a referral to it (under section 20 of the 2018 Act) to identify whether there is a relevant treatment or service, appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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**Supporting comments**

We have no further comment to make.

The Designated Education Clinical Lead Officer (“DECLO”)

**Question 24** – Is the guidance on the role, experience and expertise of the DECLO set out in paragraphs 15.37 – 15.53 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have appropriate experience and expertise)?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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**Supporting comments**

We have no further comment to make.

## Chapter 16 - Review and revision of IDPs

**Question 25** – Is the content and structure of Chapter 16 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

The flow-charts at pages 197 and 198 are an excellent idea to include in this chapter, but it may be even better to place them at the beginning of the chapter in order to provide a broad overview to the more detailed information that follows, and to add references to the paragraphs that provide the detail in the chapter.

**Question 26** – Is the proposed period and exception for completing reviews in response to a request from a child, their parent, a young person or an NHS body (set out in paragraph 16.18 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

We completely understand why the timescales under the new system have been made shorter than those under the SEN system, and we agree that it is undesirable for children and their families, and young people to wait for excessive periods of time to receive a decision on their ALP and/or IDP.

However, this legislation is being introduced at a time of local authority austerity, budget constraints in schools and swathes of redundancies of both teaching and support staff across Wales. Therefore, despite additional funding being made available to implement the

legislation and Code, over time, it may be impractical in a wide range of cases for the timescales within the ALN code to be met due to circumstances beyond the responsible body's control: i.e. insufficient staff, lack of budget to employ additional staff, and too much demand for the services. If this happens frequently, it will reduce the point of having shorter timescales in the Code. Further, workload in schools continues to be an issue and any lack of resources/staff/funding should not be addressed by existing staff working excessive hours in order to meet the deadlines set by the Code.

## Chapter 17 – Local authority reconsiderations and taking over responsibility for an IDP

**Question 27** – Is the content and structure of Chapter 17 of the draft ALN Code clear?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

We have no further comment to make.

**Question 28** – Is the proposed period and exception for a local authority reconsidering a school IDP (set out in paragraph 17.20 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

We completely understand why the timescales under the new system have been made shorter than those under the SEN system, and we agree that it is undesirable for children and their families, and young people to wait for excessive periods of time to receive a decision on their ALP and/or IDP.

However, this legislation is being introduced at a time of local authority austerity, budget constraints in schools and swathes of redundancies of both teaching and support staff across Wales. Therefore, despite additional funding being made available to implement the legislation and Code, over time, it may be impractical in a wide range of cases for the timescales within the ALN code to be met due to circumstances beyond the responsible body's control: i.e. insufficient staff, lack of budget to employ additional staff, and too much demand for the services. If this happens frequently, it will reduce the point of having shorter timescales in the Code.

## Chapter 18 - Meetings about ALN and IDPs

**Question 29** – Are the principles and the guidance provided in Chapter 18 of the draft ALN Code on meetings about ALN and IDPs appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

We have one comment to make with regard to paragraph 18.12, which is that if the child, child’s parent or young person is being given an instruction that they ‘should’ perform a certain action under the Code, this needs to be made clear to that individual at the time that they receive the professional’s advice.

## Chapter 19 – Planning for and supporting transition

**Question 30** – Is the guidance in Chapter 19 of the draft ALN Code on supporting children and young people to make effective transitions appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

We consider that the explanation is appropriate but is also very lengthy and could be edited to be more accessible, particularly as this is a chapter that children, their parents and young people may look at in more detail.

Even at this late stage, it may be worth considering taking out certain guidance sections advising that a responsible body *should* or *should not* perform certain activities where, either the guidance refers to activities that for the most part may already be being undertaken, or are fairly obvious. The information is useful so it should be available to the relevant bodies, but this could be in a website that is complementary to the Code. This would also have the advantage that a website is dynamic so the information can be amended and added to fairly easily as appropriate.

## Chapter 20 - Transferring an IDP

**Question 31** – Is the content and structure of Chapter 20 of the draft ALN Code clear?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

We have no further comment to make.

Transfers of IDPs - Proposed regulations to be made under Section 36(3) of the 2018 Act and Section 37 of the 2018 Act

**Question 32** – Are the requirements that are intended to be included in regulations in relation to requests to transfer an IDP to an FEI (as described in paragraphs 20.12 - 20.17 of the draft ALN Code) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

**We do not wish to register approval or disapproval in response to this question.**

**Question 33** – Are the arrangements that are intended to be included in regulations in relation to all other transfers (as described in paragraphs 20.18 – 20.21 of the draft ALN Code) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**These paragraphs are not straight-forward to understand, and it may be worth re-drafting them to make them clearer, particularly as the Regulations underpinning the paragraphs have not yet been made.**

**In particular, it seems illogical to suspend the local authority’s duty to secure a place at a particular school or institution because it is no longer practicable for the child/young person to attend the institution, yet to reimpose the duty when the IDP is revised, presumably to recommend a place at a different school or institution.**

**Further, if the local authority arranges board and lodging for the child/young person to attend the particular school or institution before the IDP is revised, then it cannot be impracticable for the child/young person to attend that school or institution.**

## **Chapter 21 - Ceasing to maintain an IDP**

**Question 34** – Is the content and structure of Chapter 21 of the draft ALN Code clear?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**We have no further comment to make.**

**Question 35** – Is the period of time for making a reconsideration request (described at 21.18 of the draft ALN Code), appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

We have no further comment to make.

## Chapter 22 – Children and young people subject to detention orders

**Question 36** – Is the content and structure of Chapter 22 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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**Supporting comments**

We have no further comment to make.

**Question 37** – Are the proposals for the regulations in relation to deciding whether it will be necessary to maintain an IDP for a detained child or young person upon their release appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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**Supporting comments**

We have no further comment to make.

**Question 38** – Are the proposals for the regulations in relation to children or young people who are subject to a detention order and detained in hospital under Part 3 of the Mental Health Act 1983 (as described in paragraphs 22.45 – 22.74 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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**Supporting comments**

We have no further comment to make.

**Question 39** – Are the timescale requirements to act “promptly” in relation to decisions about ALN and preparing IDPs for children and young people subject to detention orders (as set out in Chapter 22) appropriate, rather than also having a requirement to comply within a fixed period subject to an exception or exceptions?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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**Supporting comments**

We have no further comment to make.

## Chapter 23 - Children and young people in specific circumstances

**Question 40** – Is the guidance in Chapter 23 of the draft ALN Code on children and young people in specific circumstances appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

We consider the guidance to be appropriate but the format lacks clarity. There is a need for separate chapters regarding each area of need, perhaps in booklet form. Too many cross references across chapters will lead to confusion. It would be helpful to state which agencies should take the lead and/or be involved. Where a child is EOTAS educated how will he/ she be identified as having ALN?

## Chapter 24 - Role of the Additional Learning Needs Co-ordinator (ALNCo)

**Question 41** – Is the information set out in Chapter 24 of the draft ALN Code about the role and responsibilities of the ALNCo appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

Whilst we agree that the responsibilities of the ALNCo as set out in the Code are necessary, we have concerns that they are too onerous for one post and that an ALNCo may require support from a team in order to be fully effective whilst not being burdened with an excessive workload. However, it is unlikely that there will be the necessary funding to support fully an ALNCo and members of staff additional to what is currently in place.

Therefore, we expect the Welsh Government and local authorities to monitor the ALNCo role as part of the evaluation of the new regime to ensure that the role is practicable and effective.

## Chapter 25 - Avoiding and resolving disagreements

**Question 42** – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

We have no further comment to make.

**Question 43** – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

We do consider the arrangements to be appropriate. We have one point for clarification, though, with regard to paragraph 25.44, which is that it may be helpful to add that, although the use of disagreement resolution arrangements are not obligatory, the child, child’s parents or young person will be unable to appeal to the education tribunal for Wales unless the appeal is regarding a decision of an FEI or local authority in Wales.

## Chapter 26 - Appeals and applications to the Tribunal

**Question 44** – Is the information about appeals and the appeals process set out in Chapter 26 of the draft ALN Code appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

We have no further comment to make.

## Chapter 27 - Case friends for children who lack capacity

**Question 45** – Is the information about case friends, including the duties on the Tribunal to appoint and remove case friends, clearly explained in the Chapter 27 of the draft ALN Code?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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**Supporting comments**

We have no further comment to make.

## Any other comments

**Question 46** – Please provide any other comments that you would like to make on the draft ALN Code. Where your comments relate to a specific chapter or paragraph within the draft ALN Code, please indicate this in your response.

**We have no further comment to make.**

**NB. We choose not to respond to Part 2 of the consultation.**

### Part 3 of the consultation: Draft ALNCo regulations

**Question 55** – Are the prescribed qualifications to be an ALNCo set out in the draft ALNCo regulations appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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#### Supporting comments

The consultation document has not explained why an ALNCo in a FEI is required to hold a PGCE whereas an ALNCo in a school may not be required to hold a PGCE if that person had responsibility for the same general areas of work period to the coming into force of the regulations. It is important that the distinction is justified in the Code itself, or at least in the guidance.

Further, we believe that any FEI members of staff affected should be given a period of time, (we suggest 5 years), in which to study for a PGCE following implementation of the Code, with the possibility of financial support and study leave available from the FEI/consortia/local authority.

Save for this, the prescribed qualifications appear to be appropriate.

**Question 56** – Do you agree with the tasks that ALNCoS must carry out or arrange to carry out as set out in the draft ALNCo regulations?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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#### Supporting comments

We have no further comment to make.

**NB.** We choose not to respond to Part 4 of the consultation.

## **Part 5 of the consultation: Impact of proposals**

**Question 62** – What impacts do you think there will be as a result of the proposed regulations?

This is a very big question given that the Additional learning Needs and Education Tribunal (Wales) Act 2018 is a very far-reaching piece of legislation that is completely overhauling and reforming the support of children and young people with ALN in the education system. Many regulations referred to in the Code will need to be drafted as secondary legislation in order to support the legislative power of the Code

In brief, as an education union, we worry that the impact of the draft ALN Code will be that:

- Insufficient funding will be allocated to maintain and develop the new regime in the medium-term and long-term, given continuing local authority austerity and insufficient funding in the education system as a whole, meaning that the impact will be ineffective and inconsistent;
- Inconsistent application of the Code throughout Wales will lead to a ‘postcode lottery’ of provision;
- Restructures in educational settings will take place in order to bring in the ALN reforms, leading to possible redundancies, a negative effect on members’ contractual terms & conditions and job insecurity;
- Implementation of the Code will lead to an excessive workload for members involved in supporting children and young people with ALN in schools and in FEIs.

**Question 63** – What impact do you think the proposals in the draft ALN Code and proposed regulations would have on the Welsh language?

**We have no comment to make.**

**Question 64** – How do you think the proposals in the draft ALN Code and proposed regulations could be formulated or changed so as to have:

- i) positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?;
- ii) no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?

**We have no comment to make.**

**Question 65** – We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

**We have no further comment to make.**

## Respondent Details

Information	
<b>Name</b>	Tracey Pead for SEWC region
<b>Organisation (if applicable)</b>	

## Part 1 of the consultation: The draft ALN Code

### Chapter 1 - Introduction

The meaning of 'must', 'must not', 'may', 'should' and 'should not' in the ALN Code

**Question 1** – Is the explanation in paragraphs 1.10 -1.16 of the draft ALN Code of the use and meaning of the different terms 'must', 'must not', 'may', 'should' and 'should not' clear?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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#### Supporting comments

'Must' is evident.  
 'Should' and 'should not' seem open to too much interpretation – if it is statutory, it should be a must.  
 'May' does not provide the specificity needed.  
 If there are exceptions, there should be clarity around an expectations and the meaning behind this.  
 Could there be greater clarity around what is statutory and what is best practice?

#### Timescales

**Question 2** – Do you agree with the general approach to the timescales for compliance with duties (that is, to act promptly and in any event within a fixed period), as explained in paragraphs 1.31 – 1.32 of the draft ALN Code?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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#### Supporting comments

Agree with timescales in principle; they are required and important.  
 Question around when the timescale starts, as many informal conversations happen; does this count as the start point? Does a formal discussion / letter / meeting take place? Is there a formal start  
 Schools have seven weeks to gather information – it may be difficult to gather information from other agencies – particularly health. If the IDP is based on health needs, schools will not want to complete the IDP without the information, as the IDP is not meaningful.

School potentially needs additional time after the collation of information in order to prepare the IDP.

Within the timescale, there could be a number of difficulties which do not allow the timescales to be met. This may depend upon the size of the school and number of requests within any given time.

How long do any outstanding reports have for completion? If there is an exception to the timescale, when is the implementation of the next timescale(s)? Who is responsible to ensure all paperwork requested is completed and handed in? ALNCOs / schools cannot be held accountable for missing reports and this may lead to inaccurate decisions and IDPs.

**Question 3** – Is the general exception which applies in the case of timescales, as described in paragraphs 1.33-1.35 of the draft ALN Code, appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

Not specific enough.  
It doesn't take into account school based situations and exceptions.

**FEIs**

Para 1.34 is too limiting in its exception criteria. There will be circumstances when the additional learning provision (ALP) can be described in general terms but when key additional information /evidence is missing this will mean the IDP will lack operational specificity.

Structure of the draft ALN Code

**Question 4** – Is the structure of the draft ALN Code and the separation of the chapters appropriate, clear and easy to follow?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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**Supporting comments**

The separation of the Chapters is easy to follow. The demarcation is helpful, although there are aspects which are very wordy and don't provide the clarity needed for ALNCOs, SLTs and classroom teachers.

Would it be an idea to have a Code for each interest group, Early Years, Schools, FEIs and LAs? People would only have to wade through their own document and the LA on to be cognisant of relevant information

If we want all education professionals to be part of this transformation, they need to access the Code successfully and effectively to gain worthwhile information.

There is a question as to why the Role of the ALNCO is so late in the Code.

**FEIs**

This is a well-structured document with clear and appropriate chapter headings. It is easy to follow and provides a careful explanation of the ALN legal framework. When the final Code is published it would be helpful to include an index. From an FE point of view it would also be helpful if all the duties on FEIs could be collected together.

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**Question 5** – Is the draft ALN Code’s focus on describing and explaining the functions and processes appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

On the whole, the Code provides the functions and processes.  
Greater clarity is needed in places to ensure consistency across schools, LAs and consortium, especially in regard to words open to interpretation such as should, may, may not, should not, promptly

Pupil referral units (PRUs) - Proposed regulations to be made under Paragraph 15 of Schedule 1 to the Education Act 1996

**Question 6** – Do you agree with the proposal to use regulations to delegate functions from a local authority to a Management Committee of a PRU?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

Yes, this is a sensible idea as PRUs will then operate more as schools. However this doesn’t make sense to delegate functions on the one hand but then specify that pupils in PRUs should have LA based IDPs. There will be many, the majority of pupils, who would have their ALP and ALN best supported by the PRU, who will know the pupils the most and thus make the IDP more effective

## Chapter 2 - Principles of the Code

**Question 7** – Are the principles set out in Chapter 2 of the draft ALN Code the right ones?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

Key principles seems appropriate, however there is not sufficient emphasis on early intervention for children who might have emerging needs and that early intervention may reduce the need for later ALN identification and Additional Learning Provision. It would be better in this section, and then later as relevant, to ensure the graduated response is embedded and that children may have additional support even if they do not have an identified ALN and therefore IDP.  
LAs, schools and FEIs need the ability to put in provision as needed in order to reduce the potential for ALN later in life. If this graduated response is not included, this could escalate parental anxiety over no alternative and as a result increase their requests for a statutory IDP.  
Making a direct reference to the graduated response would help schools to understand the principles of the Code, based on current good practice

## Chapter 3 - Involving and supporting children, their parents and young people

**Question 8** – Is the explanation of the duties relating to involving and supporting children, their parents and young people provided in Chapter 3 of the draft ALN Code appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

Appropriate explanations throughout.  
Processes are clear.  
Important to consider the individual children and their needs.  
What plans are in place to review the processes?

The Code of Practice will not apply to FEIs until September 2021 and some processes may need revising in the light of operational use in other settings.

## Chapter 4 - Duties on local authorities and NHS bodies to have regard to the UNCRC and the UNCRPD

**Question 9** – Is Chapter 4 of the draft ALN Code clear about what is expected of local authorities and NHS bodies when discharging their duties to have due regard to the United Nations Convention on the Rights of the Child (UNCRC) and United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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### Supporting comments

This is an unnecessary chapter as all the duties outlined here are currently required by statute.  
Wouldn't it be better to reference these Acts as with the social services relevant legislation?

It is wordy  
More specific details are needed for Health to ensure all stakeholders follow the Code.  
It may be also relevant to refer to the Participation Standards, as much awareness needs to be raised of these

## Chapter 5 - Duty to keep additional learning provision (ALP) under review

**Question 10** – Is the guidance provided in Chapter 5 of the draft ALN Code in relation to the duties to keep ALP under review appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

Important to review ALP and ensure clarity of entry and exit within provision mapping.

It will be vital to review in regards to resources, the training requirements of staff and the appropriate deployment to meet need.

Needs of children / young people can change over the course of the year and therefore schools need an opportunity to reprioritise and redeploy based on need.

Tracking and monitoring of child progress is an essential component of the ALP.

Need for all external agencies to work collaboratively and collectively.

Needs to be a steer towards regional collaboration; effective use of resources is crucial for all. Regional services should also be flagged up here, especially as there are specific references to specialist services within the Code

## Chapter 6 - Advice and information

**Question 11** – Is the guidance provided in Chapter 6 of the draft ALN Code in relation to making arrangements to provide advice and information about ALN and the ALN system appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

Important for parents to receive information and advice.  
Parents need to feel supported.  
Consistency of information is essential across Wales.  
Use of websites and links from school to LA websites to support information sharing.  
Beneficial use of Parent Partnerships will support this.

## Chapter 7 - The definition of ALN and ALP, identifying ALN and deciding upon the ALP required

**Question 12** – Is this explanation of the definition of ALN provided in paragraphs 7.4 – 7.32 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

#### Additional Learning Needs

The idea of equity is evident, but is no reference to a graduated response, however it is felt this is required to support referral routes and resourcing individual / groups of children / young people.

We no longer have the four categories of need, which support identification and provision allocation, however the list provided doesn't offer any specificity of needs and is open to interpretation by all (external agencies, parents, young people...), which may lead to conflict. This is a checklist which is not shown in any contextual background and will need to some parents and teachers using this as a tick sheet to put pressure on schools and LAs.

It is positive that there should be an increase in those children / young people who can have their needs met through universal provision.

**It is felt the term ‘significant’ is open to interpretation and more specificity and quantifiable measures are needed to ensure clarity of identification and equity of ALP across Wales.**

**The bureaucracy around the link of funding and numbers of children / young people identified as having an ALN needs to be considered. If this is perpetuated as in the two last systems then it will lead to a rush to statutory LA based IDPs for schools to receive resource? This link needs to be severed by considering LA delegated funding mechanisms, at the highest level in Government**

**Some children would be relatively straight forward to identify as ALN as they have complex needs. However, there is lots of potential for misinterpretation for other children who may have emerging needs or other needs that are not necessarily ALN and with minor adaptation would allow a child to access the same learning environment. Would the adaptations mean that the child is identified as ALN? Some would say yes and others no as with the adaptation the child is able to access the education environment. E.g. on a basic level, if a child needs glasses and doesn’t wear them they would then have ALN because they would not be able to access the learning environment. What is normal differentiation which would be required because children learn and develop at different rates and does not necessarily mean that a child has ALN? There is a lot of confusion from ALNCOs in the field. Will a parent understand that a child with emerging needs will not necessarily need to have ALN identified and will not necessarily need an IDP or will they be demanding one as they cannot see a graduated response?**

**There also needs to be attention drawn to how whole school inclusive practices will support the graduated response. School improvement consortia need to be explicitly not implicitly referenced in the Code, as having a key role to play**

***If we are to ensure a consistent and robust system around ALN and ALP, greater clarity and specificity is needed. Generally the definitions are clear and are in many instances based on definitions contained in the Act***

#### ***FEI***

***There is a particular challenge for an FEI in relation to what constitutes ALP. Clarity is needed on what is ‘universal’ and what is ‘additional support’. The difference between universal and additional is a concept that will need to be shared and reported to both learners and parents.***

***In paragraph 7.6 the draft Code states that one of the key questions to ask is: “Does the person have a significantly greater difficulty in learning than the majority of others of the same age?” Although the term significantly is included in the Act it is not clear what the word will mean legally or operationally in practice.***

**Question 13 – Does Chapter 7 of the draft ALN Code provide a clear and comprehensive explanation of the evidence on which decisions about ALN and ALP should be based, the**

sources from which this evidence might be collated, and the way in which it should be considered?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

Limited specific information, open to interpretation and ensuring that all schools apply this in a consistent manner.

The individual child / young person has to be considered at the centre of the evidence.

Key terminology – ‘persistent’ and ‘significant’ – this is open to interpretation. We need to consider underlying cognitive ability, as well as the other data and information available for analysis.

Need to link in with the Rates of Progress of children.

It would also be helpful as an LA to be able to put ALP in place to reduce the escalation to a future ALN e.g. not every Flying Start child would have ALN / need IDP but Flying Start and Families First are named as ALP for under 3s and would be classed as early intervention and prevention but for children with *emerging needs* and not necessarily ALN.

## Chapters 8 to 12 – Duties on schools, FEIs and local authorities

### Early Years ALN Lead Officer

**Question 14** – Is the guidance on the role, experience and expertise of the Early Years ALNLO set out in paragraphs 8.40 - 8.47 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have the appropriate experience and expertise to meet the expectations of the role)?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

There is a lot of confusion over this role and whether it is a single strategic role in an LA where the functions are about partnership, funding, developing and implementation of systems, being a single contact / lead, to ensure the wider operational functions are implemented. Whereas many of the wider functions are operational around advice and support to settings, delivery of training, promoting awareness, dissemination of information and providing knowledge and skills development, which needs to be a wider team approach and not a single person.

The strategic lead is unlikely to have the relevant ALN expertise but those that do wouldn't necessarily have the strategic management or understanding of non-maintained settings to ensure the strategic implementation. The code is outlining very different roles and functions – mixing both strategic and operational

Agree it is vital to support Early Years and transitions into school.

Important to have someone who is skilled and experienced within this role. Will there be a professional pathway developed?

Duties on schools, FEIs and local authorities

**Question 15** – Is the structure and content of Chapters 8 to 12 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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**Supporting comments**

There is a process evident and aspects are clear. A more specific flow diagram with the additional aspects of gaining information from external professionals would assist.

Not all children are capable of recognising they have an ALN and therefore may not consent to a decision being made about their ALN. Does the child always need to know they are being assessed for a particular diagnosis or the information around the diagnosis? This should take into consideration the needs of the individual child.

9.46 / 9.55 – Use of an EP to determine whether an ALN is present when referred to the LA seems unnecessary, as the school based data and analysis of need should be appropriate to make a decision.

Does this EP time come out of the school allocation? If so, how would this be fair on children in school who have an identified need and require EP assessment?

Specifying what seems to be over reliance on EP assessment means that they will have far less capacity to undertake the vital role of early intervention. It seems that this pendulum has swung too far the other way in comparison with the draft Code of Feb 17. Also remember austerity and pressure on central services- having to recruit additional EP time is not feasible in the current climate of local government.

The explanation is both clear and comprehensive but some features may pose challenges in providing sufficient and appropriate evidence. The areas of behavioural, social and emotional need (see 7.34) provide particular challenges in identifying an ALN need and supporting that judgement with actual evidence.

**FEI**

In 7.58 the draft Code states that if there is an identified lack of expertise amongst the staff of a school or FEI then the school or FEI should consider seeking external advice to support the process of deciding whether the person has ALN. What would be the source of such external advice. Should this be detailed in the Code.

It would also be helpful in this section to include information about what tools/assessment strategies could be utilised to assist in the process of determining ALN.

**Question 16** – Are the timescales for decisions by schools, FEIs and local authorities on ALN and preparing an IDP as set out in Chapters 8-12 appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

Ensuring the information is in place before making an informed decision.

**Additional Learning Provision**

The definition is too vague and open to interpretation. Levels of differentiation could be perceived as being ‘different from’ and ‘additional to’ that which is usually provided, however this should be part of the universal provision offered by schools.

Interpretation may depend upon the school / organisation and their cohort of children. There needs to be a consistent approach to universal provision and a shared understanding of what 'good' universal provision looks like across LAs, Consortiums and Wales and funding in order to provide 'catch up' at a universal level, rather than relying on children / young people being identified as having an ALN before funding becomes available.

There also needs to be clarity around ALP available within settings to ensure equity of provision for children / young people with ALN across LAs, Consortiums and Wales. Upskilling of teachers at all levels, including at an ITT level is essential to ensure clarity across the workforce.

**FEIs**

The timescales for decisions by FEIOs on ALN and preparing IDPs are neither reasonable nor realistic. Perhaps the timescale for completion should be proportionate to the number of days 'contact' the educational organisation has with the learner. 35 days for a pupil in full time education in school is different to 35 days in an FE College where on average the learner is only present for 3 days (or less) per week.

No consideration appears to have been made for part-time students in FE.

Deciding whether it is 'necessary' for a local authority to prepare and maintain an IDP for a young person not at a maintained school or FEI - Proposed regulations to be made under Section 46 of the 2018 Act

**Question 17** – Are the proposed requirements and guidance in paragraphs 12.22 – 12.51 of the draft ALN Code on when it is necessary for a local authority to maintain an IDP for a young person not at a school or FEI in Wales appropriate?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

Important to ensure there is safeguarding processes in place.

**FEIs**

Section 12.27 states “.....provision at mainstream FEIs usually spans no more than two academic years”. Is this statement correct? What data is this based on? Some learners start at Entry 3 and progress to, and complete, Level 3. This would involve learners being in college for 4 years.

## Chapter 13 - Content of an IDP

**Question 18** – Are the elements of the mandatory content of an IDP which are required by the ALN Code, appropriate?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

Happy with the content overall-reads as a legal document  
 It is felt important that there is mandatory content within the IDP to ensure consistency and ease of transfer between settings.

Torfaen contributed to a resource bank requested by the Welsh Government on PCP good practice. Could this be used to demonstrate effective IDP practice?

The Welsh component is repetitive – could there be one area around language preference?  
 Depth and detail will be dependent upon the learner, their needs and provision, as well as the other professionals supporting the learner.

**FEIs**

The elements appear comprehensive but this will only be confirmed with extended usage of IDPs. What are the plans to review the mandatory content of IDPs?

Guidance (including examples) on completing an IDP should be developed. This could be done as part of the Code or as a separate document.

A general point re IDPs – the Code does not cover any ‘quality assurance’ process of IDPs. Is this something that is worth considering?

**Question 19** – Is the proposed mandatory standard form for an IDP (included at Annex A of the draft ALN Code) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

A very formal layout, not child-friendly, the language used isn’t accessible for children and many adults.

Doesn’t consider the views of the parents and their acceptance of the ALN and ALP. Focus is placed on the needs and the provision, rather than celebrating what the child can do.

There isn’t an assigned space to review the actions and therefore ensure clarity around tracking and monitoring of progress.

Should there be space for learning data to ensure clear tracking and monitoring and identification of rates of progress (i.e. based on individual need - P Scales, National Test Data...)

Flexibility is limited – style and add extra sections (order and content cannot be changed).

Should the One Page Profile be the front page?

We must not lose all the good practice that has been developed over recent years in PCP. In our region we will ensure that accompanying documentation for the IDP is clearly requested.  
 Torfaen contributed to a resource bank requested by the Welsh Government on PCP good practice. Could this be used to demonstrate effective IDP practice?

**FEIs**

It is clearly outcome focused.

Section 2A would benefit from the inclusion of sub-headings.

See quality assurance comment above.

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**Question 20** – Is the guidance in Chapter 13 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

Clear information, limited opportunity to interpret the information.

Would it be possible to receive case study copies of IDPs? See above Q 19

Transport

**Question 21** – Is the guidance on transport in paragraphs 13.74 - 13.76 of the draft ALN Code appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

Important to consider individual needs and the training to meet need.

Local Authority – should they not ensure the training of the providers and ensure knowledge and understanding of the child / young person need?

The current

## **Chapter 15 – Duties on health bodies and other relevant persons**

Statutory requests by local authorities to relevant persons for information or other help - Proposed regulations to be made under Section 65(5) of the 2018 Act

**Question 22** – Is the proposed timescale and exceptions for relevant persons to comply with a local authority request for information or other help (under section 65 of the 2018 Act) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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**Supporting comments**

Although Social Services are implicit within the Code under LA- perhaps they should be more explicitly sited?

Health tend to “discharge” children / young people from the agency where they do not attend, which penalises families We feel that another word should be used than “discharged” as it feels very final and there is an expectation that it will take ages to be able to “get back” into the system if circumstances, symptoms change. How about “suspended” or completion of an episode of care

ALP to be secured by NHS bodies - Proposed regulations to be made under Section 21(10) of the 2018 Act

**Question 23** – Is the proposed period and exception within which an NHS body must inform others of the outcome of a referral to it (under section 20 of the 2018 Act) to identify whether there is a relevant treatment or service, appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

As long as the proposed period does not just consist of a “holding” letter but actual, useful informative input for the young person

Concerns that ‘circumstances beyond their control’ is open to interpretation and therefore a decision / IDP could be held up due to waiting lists. This also provides school with one week to make an informed decision on whether a child / young person has an ALN and prepare the relevant paperwork.

Needs to include a statement that an IDP could be put in place, so that delays do not adversely affect a young person but that the IDP may be reviewed when medical advice is received

**FEIs**

The guidance is generally clear. This chapter of the Code will probably require revision once IDPs have been in place for a defined period of time. A formal review should take place to ensure that the document is serving the needs of all parties and does not become a bureaucratic instrument. Further guidance is likely to evolve over time.

It will be very important for IDPs to be used and managed as active documents and not wish lists. Should this be referred to in the Code.

It would be very helpful for good practice examples to be developed.

Does the *Person-centred reviews toolkit A guide for early years, schools and colleges in Wales* referenced in 13.32 need revision and updating. It was published in 2015. Is it still current?

There are concerns about workloads if many reviews are due at a similar time. Can increased flexibility be introduced into the review process?

The Designated Education Clinical Lead Officer (“DECLO”)

**Question 24** – Is the guidance on the role, experience and expertise of the DECLO set out in paragraphs 15.37 – 15.53 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have appropriate experience and expertise)?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

The link expected through this role is not evident. There is no one as a point of contact for schools to support the information gathering and ensuring the appropriate ALP is in place. Many medical diagnosis reports now provide the diagnosis and the need to review the

provision and the package of support; this is not supported by the DECLO role. Health based professionals would need to have some knowledge and understanding of the role of schools.

## Chapter 16 - Review and revision of IDPs

**Question 25** – Is the content and structure of Chapter 16 of the draft ALN Code clear?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

Provides clarity around review.

Some will need reviewing more than once a year, working documents to ensure need is met.

Concerns around all stakeholders being able to attend meetings.

**Question 26** – Is the proposed period and exception for completing reviews in response to a request from a child, their parent, a young person or an NHS body (set out in paragraph 16.18 of the draft ALN Code) appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

This may be impacted by the number of children / young people with ALN.

This could be impacted by the external professionals providing the information required.

#### FEIs

In the vast majority of cases 35 term, time days will be sufficient.

What arrangements are in place to pause a review if key information is missing or if a parent or young person chooses not to engage in the process?

What will happen to an IDP if the person is no longer receiving ALP? Does the IDP remain live? Where will it be held? What are the GDPR implications?

## Chapter 17 – Local authority reconsiderations and taking over responsibility for an IDP

**Question 27** – Is the content and structure of Chapter 17 of the draft ALN Code clear?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

Clarity of roles are formed – collaboration and discussion will be important.

**Question 28** – Is the proposed period and exception for a local authority reconsidering a school IDP (set out in paragraph 17.20 of the draft ALN Code) appropriate?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

## Chapter 18 - Meetings about ALN and IDPs

**Question 29** – Are the principles and the guidance provided in Chapter 18 of the draft ALN Code on meetings about ALN and IDPs appropriate?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**PCP approach is appropriate and has been developed across nearly all schools. It is positive to ensure the beneficial and worthwhile input of the child and the parent.**  
**Admin time is needed to support the review process – inviting, collating and requesting reports from other professionals.**  
**Attendance at meetings may be a concern. At present, few meetings are attended by health and reports are not provided in the majority of cases, to support the review process.**  
**Is there specific review paperwork to be used to review the IDP?**

**The time allocation of the ALNCo needs to be considered, specifically in the transformation period, to support class teachers / designated staff in meeting the requirements of the review meeting.**

**FEIs**  
**Principles are very appropriate and provide a structured framework for ALN and IDP meetings.**

## Chapter 19 – Planning for and supporting transition

**Question 30** – Is the guidance in Chapter 19 of the draft ALN Code on supporting children and young people to make effective transitions appropriate?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**There is a lack of clarity that the first education setting may be a non-maintained setting and in which case if this transition section was aimed at school education providers it should state that.**  
**If it is more generic to include contracted non-maintained childcare providers then there needs to be a similar section for setting to school nursery transitions and the responsibility of schools.**

Transition is a statutory process for schools. What we really need to address is an “enhanced transition” process for pupils with ALN. Some mention is made of this but it should be a stronger duty on schools and FEIs to ensure that transition of ALN pupils is supported

FEIs

Section 19.56 Should this wording be strengthened to **MUST** i.e. FEI staff must be invited to a Year 11 review?

Section 19.62 The requirement that an FEI should hold a review meeting of an IDP as soon as possible, potentially puts an unreasonable demand on a FEI to meet this for the number of learners with IDPs that may all start in the September.

## Chapter 20 - Transferring an IDP

**Question 31** – Is the content and structure of Chapter 20 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Transfers of IDPs - Proposed regulations to be made under Section 36(3) of the 2018 Act and Section 37 of the 2018 Act

**Question 32** – Are the requirements that are intended to be included in regulations in relation to requests to transfer an IDP to an FEI (as described in paragraphs 20.12 - 20.17 of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

FEIs

In para 20.12 (Transfer from a local authority to an FEI) what does the word reasonable mean in the following sentence “Such requests should only be made where the local authority believes that it would be reasonable for the FEI to secure the ALP set out in the IDP”?

What evidence would a local authority have to provide to prove its case of reasonableness?

**Question 33** – Are the arrangements that are intended to be included in regulations in relation to all other transfers (as described in paragraphs 20.18 – 20.21 of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

## Chapter 21 - Ceasing to maintain an IDP

**Question 34** – Is the content and structure of Chapter 21 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

It provides clarity of the approach.

**Question 35** – Is the period of time for making a reconsideration request (described at 21.18 of the draft ALN Code), appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

The evidence should have already been collated in order to suggest within a review meeting with all present that an IDP will cease. It places importance of parents attending review meetings.

## Chapter 22 – Children and young people subject to detention orders

**Question 36** – Is the content and structure of Chapter 22 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

**Question 37** – Are the proposals for the regulations in relation to deciding whether it will be necessary to maintain an IDP for a detained child or young person upon their release appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

**Question 38** – Are the proposals for the regulations in relation to children or young people who are subject to a detention order and detained in hospital under Part 3 of the Mental Health Act 1983 (as described in paragraphs 22.45 – 22.74 of the draft ALN Code) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 39** – Are the timescale requirements to act “promptly” in relation to decisions about ALN and preparing IDPs for children and young people subject to detention orders (as set out in Chapter 22) appropriate, rather than also having a requirement to comply within a fixed period subject to an exception or exceptions?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

## **Chapter 23 - Children and young people in specific circumstances**

**Question 40** – Is the guidance in Chapter 23 of the draft ALN Code on children and young people in specific circumstances appropriate?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

Statements pertaining to Service children are clear

## **Chapter 24 - Role of the Additional Learning Needs Co-ordinator (ALNCo)**

**Question 41** – Is the information set out in Chapter 24 of the draft ALN Code about the role and responsibilities of the ALNCo appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

The role appears appropriate in terms of the content and the ‘musts’.

The role appears to include significant amount of work for the ALNCo without specifying the time allowance and the remuneration. There is a focus on tracking, monitoring and self-evaluation reviews to ensure the needs of learners are met, as well as upskilling and building capacity of the workforce.

ALNcos should be part of SLTs as an ALN Lead, without additional responsibilities.

‘Should’ around SLT role and release time – this needs to be a ‘must’. ALNcos should feed into the SDP and SER of the whole school approach.

There should be training and upskilling of new ALNcos and this should be provided through the relevant bodies – mandatory training programmes. If ALNcos want to follow a qualification, there should be provision and finance available to support.

On-going professional development opportunities needed to support the change in role and the continued extension of needs met within mainstream schools.

Cluster based support is important to ensure all ALNcos feel supported.

**FEIs**

The model is based on the role of ALNcos/SENCOs in schools. FEIs operate very differently to schools.

In 24.15 the draft Code states “ALNcos must secure relevant services that will support the learner’s ALP. Some learners with ALN will need the support of external agencies and professionals. It will be the responsibility of the ALNcos to liaise with these specialist services”.

This requirement places an ALNCO in an invidious position. What happens when/if the specialist services are not able to provide the required service and it is not available elsewhere? What happens if the cost of such a service is unreasonable or unacceptable? The must in this paragraph need to be changed.

## Chapter 25 - Avoiding and resolving disagreements

**Question 42** – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input type="checkbox"/>	No	✓	Not sure	<input type="checkbox"/>
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**Supporting comments**

No, there seems to have been a dilution from the last draft Code which advocated independent dispute resolution services. There now appears to be no focus on independence

Clear role of LAs to ensure parent partnership services and independent advocacy. If this is in place it can be helpful for all stakeholders.

Importance of a clear SLA with expectations of all parties to ensure it works effectively and is independent with a clear understanding of systems and processes.

**Question 43** – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

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## Chapter 26 - Appeals and applications to the Tribunal

**Question 44** – Is the information about appeals and the appeals process set out in Chapter 26 of the draft ALN Code appropriate?

Yes	✓	No	□	Not sure	□
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### Supporting comments

Importance of upskilling school based staff in dispute resolution to reduce the cases which are referred to the Tribunal.

Clarity of all systems and process will support consistency and clarity around the identification of ALN and implementation of ALP.

We have to consider the time of austerity and deficit budgets in regards to providing ALP at the point of creating an IDP.

There needs to be mention of the alternative Health process for dispute resolution, i.e. *Putting Things Right*.

There also need to be mention of LA local complaints procedures. There are many points in the draft Code where dispute resolution can be held which would negate the need to progress to Tribunal.

There very much needs to be emphasis that this process is costly and breaks down relationships, and is a last resort

## Chapter 27 - Case friends for children who lack capacity

**Question 45** – Is the information about case friends, including the duties on the Tribunal to appoint and remove case friends, clearly explained in the Chapter 27 of the draft ALN Code?

Yes	□	No	✓	Not sure	□
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### Supporting comments

Young people felt strongly that advocacy services should be regulated. Perhaps a list of properly qualified persons could be put onto LA web-sites so that YP could access support with a degree of certainty of the professionalism of the advocate

## Any other comments

**Question 46** – Please provide any other comments that you would like to make on the draft ALN Code. Where your comments relate to a specific chapter or paragraph within the draft ALN Code, please indicate this in your response.

### General Reflections on Chapter 24

In many schools, headteachers take on the role of ALNCo – should this be considered? The size of the school and the number of children on the ALN Register need to be taken into account when placing the ALNCo within the staffing structure and in relation to the release time provided to the role. There is a concern around the word 'sufficient', as this is open to interpretation and also is budget dependent in times of austerity.

The accountability and importance of the role requires a level of consideration of the wellbeing of the ALNCo, alongside teaching and support staff.

Many concerns raised around recruitment and retention of ALNCos. In a few schools, this is a role given to a member of staff or an extra as part of a SLT role. How do we encourage people to apply for these posts and then ensure they are upskilled and experienced within the role and remain in post?

There needs to be a clear professional pathway within ALN that leads to positive recruitment and retention.

#### General Reflections

There needs to be a whole workforce approach to the ALN Act 2018 and implementation of the Code. Further training at an ITT level is needed, ensuring people enter the profession with an awareness and understanding of meeting the needs of all learners.

In many aspects of the Code we have to consider the role of Independent Assessments provided to schools and the interpretation of these.

Funding and resources will inevitably impact the implementation of the Code.

## Part 2 of the consultation: Draft Education Tribunal for Wales regulations

**Question 47** – Overall, do the draft Education Tribunal regulations provide clear processes and procedures relating to appeals and claims to the Education Tribunal?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 48** – Overall, will the processes and procedures outlined in the draft Education Tribunal regulations enable the Education Tribunal to deal with cases fairly and justly?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 49** – Is the proposed case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 50** – Are the proposed timescales for each party in the case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) reasonable?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 51** – Is the 6 week timescale within which NHS bodies must report to the Education Tribunal in response to a recommendation (regulation 65 of the draft Education Tribunal regulations) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 52** – Are the timescales relating to compliance with Education Tribunal orders appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 53** – Is the approach to extensions to timescales (regulation 66 of the draft Education Tribunal regulations) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 54** – Are the proposed regulations relating to case friends (draft Education Tribunal regulations 61 to 64) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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## **Part 3 of the consultation: Draft ALNCo regulations**

**Question 55** – Are the prescribed qualifications to be an ALNCo set out in the draft ALNCo regulations appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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### **Supporting comments**

Yes- but clarification needs to be produced quickly to reassure profession that the ALN route will be a professional progression pathway and sufficient funding will be available-until when?

#### **FEIs**

General feedback is that the proposed ALNCo role follows a ‘school based’ model, that is that teachers are best placed to have ‘a strong focus on leadership’ and are ‘likely to have better access to senior management’ (section 3.6 of Consultation). This is not the same in FEIs. The management structure and access to SLT is likely to look different. It is possible that the individual at a strategic level in an FEI could be named as the *statutory* ALNCo but more than one or a team of staff carry out the co-ordination of ALN in the FEI. Does this fit in with the Code’s proposed Role of the ALNCo?

Should the prescribed qualifications for an ALNCo include a requirement for more specific expertise in dealing with ALN or in specific types of ALN?

In 24.25 it states that “governing bodies of FEIs should consider whether the individual has the requisite experience to carry out the role of an ALNCO.” This is not the responsibility of the governing body of a FEI. It would be the responsibility of senior leaders in an FEI.

**Question 56** – Do you agree with the tasks that ALNCoS must carry out or arrange to carry out as set out in the draft ALNCo regulations?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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### **Supporting comments**

Yes, however there needs to be stronger emphasis on the role of every teacher. The ALNCo should co-ordinate but will not be able to have a strategic function of overwhelmed by operational issues

For example, should co-ordinate IDP process, not be responsible for preparing every IDP.

This is contradictory throughout Code and needs clarification

Could the professional learning standards be referenced here to ensure teachers and head teachers know that this is everyone’s business

There is no reference to time allocation- this needs to be stressed that the ALNCo will have to have off timetable space to deliver all these job roles and responsibilities

#### **FEIs**

Agree that the tasks that an ALNCo must carry out are appropriate but also to note that these form only part of the job description of an ALNCo. An ALNCo in any organisation will have additional duties and responsibilities for all learners with an ALN and not just those with IDPs.

Section 24.15 suggest wording of code changed as unreasonable to state that ALNCoS must secure services over which they have no control. Suggest must seek?

Should the Code be strengthened to ensure that ALNCoS have ‘sufficient time and resource to undertake their responsibilities effectively’ (24.5) by stating what percentage of time must

or should be in place depending on the size of the organisation/ number of IDPs in place?  
It should also be recognised that, particularly in FEIs where the statutory duty to carry out reviews is completely new, this *does* bring with it an additional cost / staffing need to meet the administrative duties alone.

## **Part 4 of the consultation: Looked after children**

### **(a) Proposed regulations to be made**

**Question 57** – Do you agree that the Looked after Children in Education (LACE) Co-ordinator should be a statutory role?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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#### **Supporting comments**

It is a statutory role now. LACE post must be sited within Education  
 There should be a mandatory qualification developed  
 Current LACE job description, within WG guidance “Making a Difference” needs to be completely rewritten for this role. It needs to reference link to senior management within LAs and to have a clear “voice” to make decisions  
 Financial implications of training? Will grant be available from Welsh Government  
 Who will develop LACE progression pathway and will funding be diverted from other pathways to construct and support or will this be specific ring fenced grant funding?

#### **FEIs**

The statutory role of LACE co-ordinator IS WELCOMED. It is anticipated that this has the potential to be an invaluable link to ensure effective sharing and transfer of information. However, it is not clear what (if any) role the LACE co-ordinator will have with looked after young people (i.e. post 16).

### **(b) Chapter 14 of the draft ALN Code – Content of an IDP for a looked after child**

**Question 58** – Do you agree that there should be a separate standard form for looked after children and is the proposed standard form, together with the guidance and requirements related to it, appropriate?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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#### **Supporting comments**

Yes, agree separate form  
 All parts of the PEP need to be standardised and compulsory. All to be completed  
 Reinstate the KPI associated with PEPs to enforce above point  
 No decision should be made regarding a LAC pupil without a reviewed PEP.  
 The IDP should be a combination of PEP, PCP, Care and support plan. Multi-agency input e.g. health. So one agreed template

#### **FEIs**

Yes, the reasons for a separate standard IDP form for looked after children are understood, as the IDP will be incorporated into the PEP.  
 The College would like the One Page Profile to still be a part – unless this is covered in PEP?

However, as the Act defines ‘looked after’ as *not* over compulsory school age, this appears to mean that a looked after young person’s IDP ceases to be maintained by the local authority post 16 but their PEP could continue (maintained by the LA) whilst in college. For an FEI this raises significant concerns on how can an IDP be reviewed and maintained with the involvement of the all the relevant professionals *separately* from the PEP. There appears to be a mismatch between the role of the LA in a PEP and IDP for Looked after children/ young

people. We would like the LA to continue to maintain IDPs for post 16 looked after young people (but it looks as though the Act will not allow that).

### (c) Proposed revisions to the Part 6 Code

**Question 59** – Do the draft revisions to the Part 6 Code provide a clear explanation of the duties on local authorities in relation to their social services functions for looked after children with ALN and what these duties mean in practice?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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#### Supporting comments

**Musts- mean mandatory- no should**  
**Code reference 1.2 no mention of funding not going to LAs. Sits within schools now.**  
**Therefore why would schools not be responsible for school based IDPs and ALP for LAC pupils- not LAs? Very contradictory practices described here**  
**There needs to be a contingency funding pot for LAs to solve problems that arise**  
**LAC funding to schools. No accountability. What is the role of the designated teacher, needs s clear job description linked to school LAC funding-not in**  
**place across Wales at present?**  
**SI consortia- do they monitor school grant spend and measure impact?**  
**LACE links to consortia and SI must be made obvious**  
**The current Belongings regulations are a problem. IDP is a statutory plan and must be delivered as that multiagency plan**  
**Directive to school e.g. must to prioritise LAC pupil as part of the statutory response(reference in Code)**  
**Problematic with LAC pupils with ALN and LA officers having to secure ALP identified as part of IDP, within areas that are unknown to LA officers. There will be pressure on local places so that workload will be manageable. Monitoring of IDPs will cause workload pressures on communication, travelling etc. Pressure on education and social services. This may cause friction between local service departments and UK wide departments with placing a pupil outside the LA**

**Question 60** – Overall, do you agree with the approach taken in the draft revised Part 6 Code to explaining the legislative changes, including the integration of personal education plans (PEPs) and IDPs and the mandatory content of PEPs? Are the requirements and expectations and what these mean in practice clearly explained?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	✓
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#### Supporting comments

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**FEIs**

**As outlined in Q.58 above there are concerns from a post-16 perspective around the integration of PEPs and IDPs and what these mean in practice for post-16. This is not clearly explained.**

**Not really well explained, needs more clarity, perhaps worked examples of documents required by Code could be available?**

**Question 61** – Do the changes that have been made to the Part 6 code clearly explain the role of the LACE Co-ordinator in overseeing the ALN arrangements for looked after children and what this means in practice?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

**LACE and ALN departments must work together –should be in job description**

## **Part 5 of the consultation: Impact of proposals**

**Question 62** – What impacts do you think there will be as a result of the proposed regulations?

**Question 63** – What impact do you think the proposals in the draft ALN Code and proposed regulations would have on the Welsh language?

**Would strengthen responsibilities of LAs**

**Question 64** – How do you think the proposals in the draft ALN Code and proposed regulations could be formulated or changed so as to have:

- i) positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?;
- ii) no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?

**There is a lack of research in this area. The issue of bilingualism needs to be seen in the wider context of Bilingualism in Education. There is more evidence based research here which needs to be considered by academics and the cross overs and transferability clearly signposted re: Welsh language acquisition.**

**There are too few skills presently in specialist responses to ALN within the Welsh first language population. No standardised assessments, lack of clear guidance. This could be addressed through learning from EAL and WAL practitioners**

**So join up- and WG need to take a lead to make this happen**

**Question 65** – We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

**No mention of graduated response**

**Success depends on quality of teaching and learning within schools. The role of the consortia within this transformed system of high expectations and aspirations for all pupils is somehow missing from this Code, or only fleetingly mentioned. If the majority of pupils with ALN requiring ALP will be in mainstream schools then the Code should put expectations onto school improvement services as well. It is implicit, especially within Chapter 7 but needs to be *explicit***

FEIs

***The consultation does not ask any questions about the funding and resource implications of complying with the Act and adhering to the Code of Practice. Strategic dialogue between the FE sector and the Welsh Government would seem to indicate that no additional funding is going to be made available. This is not an acceptable arrangement as one possible consequence could see current funding having to be diverted to meet additional ALN costs. The College strongly suggests that a funding and resource review of the introduction of the Code be undertaken prior to the Code's implementation in FE in September 20121.***

***The status of students enrolled on to Work Based learning (trainees/ apprentices) at an FEI is not made clear in the Code. Further clarity is needed on how the Code would apply to these learners. Apprentices spend significant periods of time with their employer and it is not clear what responsibilities will apply to employers.***

### **SEWC**

***This is a coordinated response from SEWC which incorporates the views of:***

- ***HTs***
- ***ALNCos***
- ***Early Years leads***
- ***EPs***
- ***Central ALN staff***
- ***FEIs***
- ***Specialist ALN services***

***Parent's views have been canvassed by SNAP Cymru and they will submit a coordinated response***

The views of the regional youth forum have been collated and are submitted separately

Inserted here is a response collated for Directors of Education SEWC on key issues

### **Issues Arising from the Code consultation events January to March 19**

Events undertaken with:

- ALNCos
- Regional ALNCos
- Head teachers
- Governors
- Scrutiny
- Members briefing sessions
- Parents
- Regional Youth forum
- Coleg Gwent, Coleg Cymoedd
- Early Years Leads
- Schools, clusters, special schools

The Welsh Government launched the consultation regarding the ALN Code and associated documents (ALN regulations, Tribunal regulations and revisions to the Social Services and Well-being (Wales) Act 2014 Part 6 Code of Practice – Looked After and Accommodated Children) in December 2018.

The draft ALN Code focuses on describing the functions placed on bodies or individuals by the Act and regulations. The Code also imposes requirements on Local Authorities and governing bodies of maintained schools and FEIs in Wales.

The ALN Code is divided in 27 chapters, and 100,000 words.

There are 65 questions asked in the consultation linked to 5 areas:

- The draft ALN Code
- Draft Education Tribunal regulations
- Draft ALN coordinator (ALNCos) regulations
- Looked after children
- Impact proposals

The consultation ends on 22.3.19. All LAs will be submitting their own comments but SEWC through the ALN Transformation lead will also be sending a regional response. It is hoped that the final version of the mandatory Code will be ready in Autumn term 19

Key issues to consider

- Key principles seems appropriate, however there is insufficient emphasis on early intervention for children who might have emerging needs and that early intervention may reduce the need for later ALN identification and additional learning provision. It would be better in this section, and then later as relevant, to ensure the graduated response is embedded and that children may have additional support even if they do not have an identified ALN and therefore IDP
- It is felt terms 'significant' 'reasonable' 'promptly' 'exceptional' are open to interpretation and more specificity and quantifiable measures are needed to ensure clarity of identification and equity of ALP across Wales.
- The bureaucracy around the link of funding and numbers of children / young people identified as having an ALN needs to be considered.
- Early Years - where a child is under compulsory school age and may have an ALN the LA must determine whether this is the case and must seek educational psychology (EP) advice. Thereafter the LA must secure provision and maintain the individual development plan.
- The LA must have a designated EY officer responsible for coordinating actions. (Early Years ALN Lead Officer) a strategic role in an LA. The functions are about partnership, funding, developing and implementation of systems, being a single contact / lead, to ensure the wider operational functions are implemented
- Need clarity on what is the definition of early years education and/or training for a child aged 0-3
- Changes to Belonging Regulations-In relation to LAC there is a mandatory framework for a statutory education plan which will form part of the Personal Education Plan (PEP) - a mandatory template will be developed. Where a LAC pupil may have an ALN the LA must determine whether this is the case and must seek advice from an EP. The LA must then determine provision and maintain the plan.
- Role of LACES coordinator-statutory role. Need to consider qualifications, current WG JD. Best sited in education?
- In relation to pupils who are dual registered the duty to identify the ALN, involve an EP and maintain a plan lies with the LA. (PRUs)
- Where schools do not consider they can secure the additional learning provision (ALP) to meet needs they can refer to the LA to take responsibility for the plan and secure provision.
- For children post 16 FEIs can ask the LA to take over the responsibility for the IDP  
LAs will be responsible for determining specialist college placements from 2021

- Where a young person is not in FE or a maintained school the LA has responsibility to decide if there is an ALN, involve an EP and there must be a designated person responsible for coordinating the resulting actions (EHE)
- The role of social services in relation to young people post 16 and up to the age of 25
- IDP template very bureaucratic-loses/diminishes the PCP approach
- Importance of upskilling school based staff in dispute resolution to reduce the cases which are referred to the Tribunal.
- Regional clarity of all systems and process will support consistency around the identification of ALN and implementation of ALP.
- Concerns raised around recruitment and retention of ALNCoS. In a few schools, this is a role given to a member of staff or as an “add on” as part of a SLT role. How do we encourage people to apply for these posts and then ensure they are upskilled and experienced within the role and remain in post? The role appears to include significant amount of work for the ALNCo without specifying the time allowance and the remuneration. ‘Should’ around SLT role and release time – this needs to be a ‘must’.
- Clarity needed around the DECLO role and the duties expected of health bodies within the Code

## Respondent Details

Information	
<b>Name</b>	Judith Paget
<b>Organisation (if applicable)</b>	Aneurin Bevan University Health Board

**Question 1. Is the explanation in paragraphs 1.10 -1.16 of the draft ALN Code of the use and meaning of the different terms must, must not, may, should and should not clear?**

The meanings are clear

**Question 2. Do you agree with the general approach to the timescales for compliance with duties (that is, to act promptly and in any event within a fixed period), as explained in paragraphs 1.31 – 1.32 of the draft ALN Code?**

The approach to a transparent expectation of timelines is welcome. However it is important that the response times requested do not create the unintended consequence for health of ALN priority being in conflict with clinical priority response targets. We do not want to drive more people into the ALN route in the hope of a quicker response from Health. Section 1.32 could be confusing. It starts by saying the 'responsible body 'must' but then goes on to state that the requirement does not apply where it is 'impractical' due to 'circumstances beyond its control'.

For example, in the Speech and Language Therapy service, six weeks is an appropriate timescale to respond if the child or young person is known to health services. However there are concerns about how workable this timescale would be in relation to a child or young person who is not known to services at the time of referral. Services currently adhere to priority targets (referral to treatment timescales of 14 weeks). There will be times where NHS bodies are not able to meet the timescales suggested and will therefore be 'exceptional situations' due to the requirements on the NHS to provide services to the population and to meet targets as reported to Welsh Government. Failure to meet these targets could potentially contradict the principle of prudent healthcare to 'care for those with the greatest need first'. It is important to emphasise however, that the IDP can include information about how a child's speech, language and communication needs are going to be addressed prior to information being obtained from a Speech and Language Therapist (due to training delivered by the regional training service, the Communication Intervention Team (ComIT) within the Sensory and Communication Support Service.

**Question 3. Is the general exception which applies in the case of timescales, as described in paragraphs 1.33-1.35 of the draft ALN Code, appropriate?**

Yes see above. It will be interesting to see how the limits of this flexibility is interpreted by Tribunal. The term 'circumstances beyond the responsible body's control' could be open to a wide interpretation.

**Question 4. Is the structure of the draft ALN Code and the separation of the chapters appropriate, clear and easy to follow?**

The structure and separation are clear however see comments below from Health care professionals who have not worked in this area before but are familiar with other Codes of Practice. Whilst the structure is clear the detail is weak on practice guidance for specific common issues, it reads as a layman interpretation of the legal language in the Act. There is a lot of repetition and e.g. guidance on transition, a key area comes into at least two areas separated by 16 chapters.

**Question 5. Is the draft ALN Code's focus on describing and explaining the functions and processes appropriate?**

The focus on process and principles is helpful but translation to practice on the ground is more difficult to work out. The Code does not clarify how functions and processes will support an effective interface between key agencies for children with wide ranging ALN.

**Question 7. Are the principles set out in Chapter 2 of the draft ALN Code the right ones?**

The principles are correct although amplification would be useful. The UNCROC duties could be specifically referenced and a needs based outcome focus could be more clearly stated at the start. A stronger focus on Person Centred Planning within this chapter would be helpful as a key principle.

**Question 8. Is the explanation of the duties relating to involving and supporting children, their parents and young people provided in Chapter 3 of the draft ALN Code appropriate?**

Yes although it would be helpful to use similar wording/strands to the Wales participation standards and rights approach developed by Children in Wales and the Children's Commissioner for Wales

**Question 9. Is Chapter 4 of the draft ALN Code clear about what is expected of local authorities and NHS bodies when discharging their duties to have due regard to the UNCRC and UNCRPD?**

See above. ALN code should just reference extant expectations as public bodies for all their work not make it appear ALN specific The code guidance is very vague, e.g. it states in 4.16 'It is for the local authority or NHS body to decide how to exercise its functions and how it does so will depend upon the context'.

**Question 12. Is this explanation of the definition of ALN provided in paragraphs 7.4 – 7.32 of the draft ALN Code clear?**

No it is not. 7.10 and 7.21 would be more usefully used as context to guide the subsequent decision making. The COP could helpfully provide a structured approach to decision making in that context. E.g. Is the child or young person developing/learning in the range of normality expected for their age? If no, what is the obstacle/ need that is affecting this development within the child or environment? This is the ALN. What support is required from services to address that need or obstacle? This is the ALP. If the support is something that Health Boards provide as part of their usual services then this is the Health Board responsibility. The decision making process should be collaborative across agencies/with children and carers/families.

**Question 13. Does Chapter 7 of the draft ALN Code provide a clear and comprehensive explanation of the evidence on which decisions about ALN and ALP**

**should be based, the sources from which this evidence might be collated, and the way in which it should be considered?**

We consider there is too much information and it needs structuring to gather the information. It could be usefully broken down to age and overarching principles with possible annex of more detail. Specific concerns include:

- The checklist of symptoms and signs is unhelpful, at any one stage of development these are present in the vast majority of children and represents normal variation. This is particularly the case if the young person has some delay in development.
- 7.36 seems vague in terms of 'other services' and perhaps should reference health specifically.
- 7.53 references 'medical advice from a health body' but Health Boards offer more than medical advice – we offer therapeutic and other health related advice.
- 7.61 – again references only 'medical advice from health care professionals'.

**Question 14 – Is the guidance on the role, experience and expertise of the Early Years ALNLO set out in paragraphs 8.40 – 8.47 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have the appropriate experience and expertise to meet the expectations of the role)?**

It would be helpful for 'early years' to be defined for the purposes of the code. It is currently defined inconsistently in different parts of the code. For example, 'under compulsory school age' in some places. It may be helpful if the slightly fuller definition was used consistently e.g. 'under compulsory school age and not the responsibility of a governing body of a school'.

**Question 18 Are the elements of the mandatory content of an IDP which are required by the ALN Code, appropriate?**

Yes, most important is that it is viewed as the child/young person's form and filling it is driven by their needs and input rather than just for Education purpose so Child view is central

**Question 19. Is the proposed mandatory standard form for an IDP (included at Annex A of the draft ALN Code) appropriate?**

Mandatory content rather than form would be preferable to ensure an accessible useable version. A standard form may lead to completion of the form becoming more important than the content and purpose behind it. We should really ensure young people and families themselves are happy with it.

**Question 20. Is the guidance in Chapter 13 of the draft ALN Code clear?**

There is lack of clarity regarding the ALN and the causes of factors creating the ALN. Diagnosis is a cause not an ALN in itself. In particular the issues of 'quantifiable' ALP can

create conflict with private therapy reports. We must move away from the notion of ‘therapy once a week for 45 minutes’ to a more person centred, goal based, and outcome focussed approach within episodes of care and school based intervention.

**Question 22. Is the proposed timescale and exceptions for relevant persons to comply with a local authority request for information or other help (under section 65 of the 2018 Act) appropriate?**

Yes but see answer to Q.2

**Question 23. Is the proposed period and exception within which an NHS body must inform others of the outcome of a referral to it (under section 20 of the 2018 Act) to identify whether there is a relevant treatment or service, appropriate?**

The period is appropriate but the exception description is very unclear. Again it is important that ALN provision does not trump clinical need or have accelerated time frames compared to national NHS standards to avoid ALN provision being seen as route of choice for access. For instance, NHS Wales standards require therapy services to see all children referred within 14 weeks. Children with ALN referred by education, who require a new specific assessment, may have to await this long for identification in terms of whether there is a relevant treatment or service that will form part of the ALP. Specific concerns include:

- Point 1.66 states that ‘*NHS bodies have a direct role in providing Additional Learning Provision (ALP) in instances where that ALP is a treatment or service normally provided by the NHS and likely to be of benefit in addressing a child or young person’s ALN.*’ This point is also raised in 8.23, 8.33, 9.22 and 9.75. Clarity is required around the term ‘likely to benefit’ as we are concerned that this may be open to interpretation in many different ways and be a source of dispute between families and key partners. Prudent health care for health services in Wales ensures a health economic, value based healthcare system. This requires health professionals to base their decisions on the need for intervention on clinical need not on likely benefit. ‘Clinical need’, is the ability to affect positive change outcomes for a patient balanced with the resource/cost. ‘Likely benefit’ in health culture also means a health economic judgement where the cost benefit is analysed. For instance, Speech and Language Therapy services have devised All Wales clinical pathways for some clinical areas and implement Malcomess Care Aims principles in clinical decision making skills. All components are vital in determining the need and effectiveness of interventions.
- Point 9.75 states, ‘*Where, following a referral to an NHS body, the body identifies **relevant** treatment or service likely to be of benefit in addressing the pupil’s ALN, the local authority must describe the treatment or service in the IDP, specifying that it is ALP to be secured by the NHS body.*’ The addition of the word ‘relevant’ has significant meaning and indicates a treatment or service which is appropriate to the individual’s needs and normally provided by the health service in Wales, as judged by a balance of benefit and cost. This would be in line with clinical pathways and evidence based approaches, which is key in terms of delivering intended outcomes. To aid clarity, the term ‘relevant’ should consistently be included in other statements about the treatment or services NHS bodies are required to provide e.g point 1.66 and 8.23. Insertion of the phrase ‘evidence-based’ would provide further clarification.

These changes would be consistent with duties on schools, Further Education Institutions and Local Authorities who can consider the efficient use of resources when deciding on the Additional Learning Provision (7.69).

It is very important that people who work with children and young people who feel that the child (and they) would benefit from information from a Therapist are able to refer to the relevant service in a local Health Board. The table on page 180 of the code (after 15.25) currently indicates that only Local Authorities are able to refer to Health Services.

**Question 24. Is the guidance on the role, experience and expertise of the DECLO set out in paragraphs 15.37 – 15.53 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have appropriate experience and expertise)?**

The description in the question is far simpler than the explanation in the document. The document should focus on the key functions, expectations and competencies as otherwise the likelihood of appointment will be significantly reduced. The statement that the DECLO should develop referral processes is over ambitious, it should be the task that they ensure Health Board referral systems are able to fulfil their responsibilities under the ALN act. It must also allow for the different structures in Health Boards as each will have to make modifications of authority lines and reporting lines. We are unsure how the sharing of best practice can then be mandated into delivery across NHS Wales. The development of IT will be a key challenge, particularly as Education have not been part of the major Social Care and Health Service IT system (WCC18) roll out.

**Question 25. Is the content and structure of Chapter 16 of the draft ALN Code clear?**

Overall this is clear. The flow chart is very helpful, however there is some repetitive content. There is a need to consider how we reconcile the person centred care planning and care delivery approach whereby children can come on and off caseloads with greater ease depending on identified need at any point in time with the need for the IDPs to be altered every time.

**Question 26. Is the proposed period and exception for completing reviews in response to a request from a child, their parent, a young person or an NHS body (set out in paragraph 16.18 of the draft ALN Code) appropriate?**

Yes see Q.2, 22, 23

**Question 29. Are the principles and the guidance provided in Chapter 18 of the draft ALN Code on meetings about ALN and IDPs appropriate?**

The guidance is useful but the principles aren't clearly stated. It appears that the underlying principles for meetings are similar to the principles underpinning the whole Act. If this is so then state it and use guidance as to how these may be applied in practice. The fundamental importance of Person Centred Planning practice is relevant here to ensure that agencies and professionals, in playing a role in identifying ALD and ALP and reviewing an IPD, do so based on a mutually agreed framework. This will ensure that where professional are unable to attend IDP meetings, the reports they submit will have context and meaning.

**Question 30. Is the guidance in Chapter 19 of the draft ALN Code on supporting children and young people to make effective transitions appropriate?**

See answer to Q.4. There is a risk of repetition. Given the number of transition documents across health education and social care, a shared set of principles and wording would be helpful. A stronger requirement to work together would be helpful ie rewording to must not should would stress this point.

**Question 42. Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?**

It may be helpful to give some clear principles in the chapter that is currently hidden in the narrative i.e. a clear transparent process that builds on voice of the child, needs of the child, define the point of disagreement, independence, early negotiation etc. PTR has some similar values and principles which again should be consistent across systems. Local authorities and health boards require joined up complaints systems to ensure that learning is shared across both agencies in the best interests of developing a less divisive system of identifying ALN and meeting ALP (not your problem, or my problem, but **our** problem), moving towards shared accountability for solution focussed agency interventions with families.

**Question 43. Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of the provision of independent advocacy services appropriate?**

Yes the duties under UNROC are almost impossible to deliver and evidence without it. Feedback from clinical staff report that the document is very difficult to read and understand. Most 'codes' are written as practice documents.

It is crucial that the code is easy to read in order for it to be interpreted consistently by practitioners and families. The code in its current form is long and unwieldy. This is perhaps inevitable given the breadth of the code but it may be helpful for officials to consider additional presentation options to ensure the code is as accessible as possible. Additions such as the flow charts are very welcome when they accurately reflect the processes and are clear to those who need to understand them. The flow chart for the early years decisions about determining whether ALN was present was interpreted differently by practitioners in Health and Education.

In order for the legislation to achieve its stated ambitions, it is vital that the essence of person-centred-planning underpins the additional learning needs transformation programme. This needs to be reflected throughout the code.

## Respondent Details

Information	
<b>Name</b>	The Down's Syndrome Association
<b>Organisation (if applicable)</b>	Julian Hallett

### General Concerns

The Code isn't easy to read and some of the language is inaccessible. In meetings with the Third Sector a number of Welsh Government officials have said that the code was not a 'Code relating to good practice' but about the workings of the Act. We feel it falls short on this measure, too. It is not an implementation guide and does not demonstrate how an individual professional can be supported in their practice. The intended purpose of the code is therefore unclear.

There has been widespread criticism of the accessibility and usability of the code. Professionals (and families) seem united in their view that, in its current format it is impenetrable and very difficult to navigate. At the very least, some flowcharts and better organisation of the various sections would be helpful, especially where sections cross reference with another – you have to continually move through the document to find the information that is needed.

Chapter 18 does give guidance around good practice on how to conduct meetings and seems incongruous with the purpose of the rest of the code. This doesn't seem to sit well with the rest of the document.

A definition of what is meant by "all reasonable steps" (1.55) should be given and included in the glossary, as well as examples of what this means in practice.

We have concerns about issues relating to mental capacity for young people and how this will impact on their rights and access to advocacy. The Code suggests that Welsh Government has the facility to step aside from certain elements of Mental Capacity Act, there is some confusion about whether Parents and guardians still have responsibility up to 16 or 18? UK-wide legislation on mental capacity is being consulted on, the Code will need to adequately reflect any changes.

For some while some local authorities and some schools appear to be taking elements of both the new and the old system and many are giving erroneous information to parents about the status of statements and IDPs. The fact that there will be a 2 year roll-out period will add to this confusion. Robust guidance and public information strategies need to be issued to address this changeover period, so that individual children and young people are not disadvantaged.

Training needs for education and health professionals: we are aware that Welsh Government awarded a tender to ALESIA for training for personnel involved in the ALN. We feel that there is a need for condition-specific training, and not just general training about the Code. Face-to-face training will be needed as well as online provision. It is important that

there are some quality assurance and uptake monitoring measures to ascertain the value and impact of this training.

## **Diagnosis of ALN**

This does not appear to be a transparent process

The word 'decision' suggests people are making determinations of whether a child does or does not have ALN without following a due process. These decisions can only be made following appropriate access to an Education Psychologist, many schools struggle to access this as there is an insufficiently of psychologists.

7.47 states that consideration will need to be given to whether there are reasons for underperformance other than ALN and if so, whether there are alternative and more appropriate ways to support the child's access to learning, such as referral to an education psychologist. We are aware of schools being unable to refer to education psychologists if their allocated funding in relation to education psychology has been spent. This is unacceptable and a children's rights issue.

## **Strengthening Personal Choice**

We feel that the Code needs more explicit reference to the young person and their family's choice. There is specific concern that section 10.67 regarding placements put greater limits on parental choice.

We also note that no duty is placed on FEI to provide notifications to parents (1.42). Good practice would suggest that this should occur.

## **Additional Learning Needs Coordinators (ALNCo)**

The Down's Syndrome Association agrees that the ALNCo should form part of the senior leadership team within a school and we feel that they **MUST** have sufficient time and resources to undertake their responsibilities effectively, including time away from teaching.

The Down's Syndrome Association is disappointed that the Code does not go further in prescribing the required qualifications and experience of Additional Learning Needs Coordinators (ALNCo).

We are concerned that the workload, expectations and responsibilities of the ALNCo are onerous. We have concerns about capacity issues. We would support a mechanism for determining whether a school requires more than one ALNCo.

## **Individual Development Plans**

We welcome the provision of an All Wales IDP template. The template has been improved on previous incarnations, but it is still not sufficiently specific. We have concerns that IDPs will not specify provision and be too weak. Currently statements have different sections where it is clear which section provision should be specified and (as a legal document) this helpful to all parties. IDPs risk losing this specificity.

IDPs are legal documents, which will be open to challenge. We are aware of concerns within schools that the devolution of this task from local authority specialist personnel to

school based (teaching) staff is causing anxiety. It is a complex, daunting, task, with legal implications. Many staff feel ill prepared.

Budgets for additional learning needs are often very opaque and it isn't always clear where funding routes lie. We have concerns that the new school based IDP system will encourage a stand-off between schools and local authorities - who will be paying for the provision, will there be conflicts between the two and encouragement for schools to pass IDP responsibility to their local authority?

We have very many concerns about Annex C of the IDP – the section of the document that NHS professionals are required to complete. Where IDPs have been piloted, many NHS employees have not had the capacity to attend IDP planning meetings and so have based their advice on what they submit in this section of the document. We feel that some health professionals may feel limited in what they can include in their input to the IDP and that schools will be at risk of losing more informal advice that aids learning.

The timescale of 6 weeks for health professionals to provide their input is (for NHS settings) very pressing. Within a health context, they may consider a 6-week timeframe an 'emergency' and therefore provide very scant input, as capacity issues prevent more detailed advice.

Recurring misconceptions about IDPs still remain

We have concerns that the following issues remain unaddressed by the Code:

1. Some schools are talking about a 'statutory' and 'non-Statutory' IDP. There seems to be many misconceptions about the status of IDPs and the Code needs to be more explicit about this.
2. Some settings seem to believe that a child in a special school might not need an IDP, as resources would be in place already. This is incorrect. Support provided should be based on child's needs and aspirations and personalised to them within an IDP.

### **Portability of the IDP**

One of the major selling points of the new process was the portability and transfer of IDPs between schools and LAs, if a child or young person moved setting or location. We feel that the Code isn't robust enough in this area.

We feel there are various potential conflicts which will arise, especially in the instances of the transfer of an IDP from a school to the local authority.

Section 9.45 states each Local Authority can determine the principles for transferring an IDP from a school based one. There is little expansion on what criteria they might use to reach this decision - this will lead to a postcode lottery.

### **Provision within schools**

The code rightly refers to differentiated teaching. For many children and young people with Down's syndrome this is the main additional learning need provision - differentiation to meet the specific learning profile of the child. The Code is unclear when does a school move from differentiated teaching to the need for an IDP? We feel there should therefore be

guidance on when an IDP is provided which is above and beyond what is universally provided in school.

Schools, teachers and support staff need to be able to access training on the learning profile of pupils with Down's syndrome in order to meet the support needs and successfully differentiate the curriculum to achieve inclusion within their class settings.

The old Code had a chapter on the duties placed on School Governors around Additional Learning Needs, but there is nothing in the new Code. This should be rectified.

Transparency of funding for schools and delegation of budget: we feel it would be helpful if each local authority provided a document stating the arrangements for Additional Learning Needs funding delegated directly to each school and the level of funding retained centrally.

### **Provision in the Early Years**

We welcome the introduction of an Early Years ALN Lead Officer. We are again concerned about capacity issues as the local authority must delegate just one officer to cover the whole of the authority. This seems impracticable. We have some reservations that assessment at Early Years are meaningful. They can obviously only focus on the child's development and needs at the age of the assessment, but may also need to project what needs they might have if they were of compulsory school age – this is very difficult and unreliable.

The Down's Syndrome Association recommends that the Early Years ALN Lead Officer receives appropriate training which must include basic awareness of disabilities and some condition-specific training in order for them to carry out their role effectively.

The Lead Officer must work with specialists in disability, including condition –specific Third Sector organisations, such as The Down's Syndrome Association as well as those agencies named at 8.44.

### **Omission of Careers Service advice within the Code**

We are concerned that there is a lack of reference to careers advice within the Code. We view this as a backward step from the status quo i.e. the Code no longer requires Careers Advisors to be invited to a year 9 review.

Transition planning is generally very weak across the Code.

### **Further Education Institutions**

We have significant concerns regarding FEIs ability to embrace the Code. This is on various levels: awareness and skills of the personnel concerned; capacity of each setting to appoint relevant ALNCOs; availability of funding to support provision.

Aspirations for disabled young people post 16 have rightly been raised. There are capacity issues as to whether FEIs can fulfil these.

It is very regrettable that the Code states that Post 16 education can only be funded for 2 years. This is a backwards step and we strongly recommend this guidance is reviewed. Clarity on supporting young people who have breaks in study needs to be made

The Down's Syndrome Association has significant concerns that the funding for colleges post 16 is being transferred to Local Government as part of their Revenue Support Grant without being ring fenced. Welsh Government has previously said a formula would be created to support this, but this hasn't happened. This is a serious omission.

### **Sufficiency of Welsh Language Provision 2.25**

The Code recommends that this is reviewed every 5 years, which seems insufficient. Other Public Bodies have a 2-year review period and we feel this is more appropriate.

### **Access to School Transport**

The Down's Syndrome Association receives very many calls to our helpline relating to difficulties families encounter in accessing school transport. In many cases the child's placement is jeopardised, as the without transport, a child is often unable to take up the place on offer. Welsh Government has previously indicated that guidance to local authorities on school transport would be revised, but this hasn't yet happened.

This is a grey area currently and councils should receive robust guidance about what is lawful and provision across Wales should be standardised, so that there isn't the current inequality across different locations.

We feel that any appeal about non provision of school transport should be dealt with as discrimination under The Equality Act.

We feel that a child's IDP should have a separate section to cover transport issues, as it is such a fundamental consideration and impinges on whether a child can take up a school place.

### **Disagreement Resolution**

The Code suggests that this is something that a local authority can provide internally through the use of leaflets etc. and "information should be factual". We strongly recommend that this disagreement resolution cannot be the responsibility of the local authority. It is a basic principle that advice and disagreement resolution should be independent of the parties providing the services. In England, it is clear that disagreement resolution cannot be provided by someone internally.

We believe that advocacy and advice should be funded so that it is free at the point of delivery. We fear that the suggested model will lead to the setting up of commercial advice companies, who will charge fees and put this advocacy out of the reach of many young people and their families.

Under the new Code disagreement resolution will also relate to health provision and we have some considerable concern about the capacity for current independent advocacy services – who is going to provide information and advocacy relating to health complaints? Advocates working within a putting things right framework may not have the relevant skills and knowledge for this specialist area.

We have concerns that parents will be steered towards Putting Things Right route and deterred from auctioning a more formal Appeal process. Whilst unnecessary bureaucratic and legalistic routes should be avoided if possible we feel that some families will be waiting for the outcome of Putting Things Right before they can progress to an Appeal. This will

cause an unwelcome delay, especially as there is no time frame for concluding Putting Things Right.

At its worst, there could be advantages to Local Authorities to use Putting Things Right as a means of delaying resolving a dispute and avoiding putting provision in place.

### **Lack of reference to The Equality Act 2010**

We are concerned that there are not more references in the draft Code to The Equality Act 2010. The duty to make reasonable adjustments for disabled children / young people under The Equality Act is anticipatory and this is not sufficiently highlighted in the Code. Instead section 24.23 mentions (in passing) that key responsibilities of the ALNCo should include: - Working strategically with the senior leadership team and governors to ensure the education setting is meeting its responsibilities under the Act, this Code the Equality Act 2010.

The Equality Act duties should be referenced within the Code.

### **Review Obligations**

Chapter 5 of the Code states that local authorities have a duty to 'keep additional learning provision under review'. We welcome this and feel that this chapter is very positive. However, 5.13 states that a Local Authority 'may consider guidance to schools on what should be provided' we recommend that this is strengthened to become a requirement. We feel that clearer guidance about monitoring is required. The old Code included a section on monitoring which does not appear in the new Code.

**Respondent Details**

Information	
<b>Name</b>	Helen James
<b>Organisation (if applicable)</b>	Welsh heads of Health Visiting & School Nursing Forum

**Part 1 of the consultation: The draft ALN Code****Chapter 1 - Introduction**

The meaning of 'must', 'must not', 'may', 'should' and 'should not' in the ALN Code

**Question 1** – Is the explanation in paragraphs 1.10 -1.16 of the draft ALN Code of the use and meaning of the different terms 'must', 'must not', 'may', 'should' and 'should not' clear?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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Timescales

**Question 2** – Do you agree with the general approach to the timescales for compliance with duties (that is, to act promptly and in any event within a fixed period), as explained in paragraphs 1.31 – 1.32 of the draft ALN Code?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 3** – Is the general exception which applies in the case of timescales, as described in paragraphs 1.33-1.35 of the draft ALN Code, appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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### Structure of the draft ALN Code

**Question 4** – Is the structure of the draft ALN Code and the separation of the chapters appropriate, clear and easy to follow?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 5** – Is the draft ALN Code’s focus on describing and explaining the functions and processes appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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### Pupil referral units (PRUs) - Proposed regulations to be made under Paragraph 15 of Schedule 1 to the Education Act 1996

**Question 6** – Do you agree with the proposal to use regulations to delegate functions from a local authority to a Management Committee of a PRU?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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## **Chapter 2 - Principles of the Code**

**Question 7** – Are the principles set out in Chapter 2 of the draft ALN Code the right ones?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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## Chapter 3 - Involving and supporting children, their parents and young people

**Question 8** – Is the explanation of the duties relating to involving and supporting children, their parents and young people provided in Chapter 3 of the draft ALN Code appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

## Chapter 4 - Duties on local authorities and NHS bodies to have regard to the UNCRC and the UNCRPD

**Question 9** – Is Chapter 4 of the draft ALN Code clear about what is expected of local authorities and NHS bodies when discharging their duties to have due regard to the United Nations Convention on the Rights of the Child (UNCRC) and United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Yes, this is very clear

## Chapter 5 - Duty to keep additional learning provision (ALP) under review

**Question 10** – Is the guidance provided in Chapter 5 of the draft ALN Code in relation to the duties to keep ALP under review appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

## Chapter 6 - Advice and information

**Question 11** – Is the guidance provided in Chapter 6 of the draft ALN Code in relation to making arrangements to provide advice and information about ALN and the ALN system appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

## Chapter 7 - The definition of ALN and ALP, identifying ALN and deciding upon the ALP required

**Question 12** – Is this explanation of the definition of ALN provided in paragraphs 7.4 – 7.32 of the draft ALN Code clear?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

This is very clear in regard to how it applies to children < 3 years old so highlights the role of the Health Visitor to recognise and advise LAs in advance when a suspected ALN has been identified via assessments carried out under the Healthy Child Wales Programme. Also addresses when a temporary issue is identified and notes that not all c&yp with a disability also have an ALN and that chronic health conditions do not always result in an ALN

**Question 13** – Does Chapter 7 of the draft ALN Code provide a clear and comprehensive explanation of the evidence on which decisions about ALN and ALP should be based, the sources from which this evidence might be collated, and the way in which it should be considered?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

7.33 -7.69: Yes because it highlights when differentiated learning is what a pupil requires for support rather than 'labelling' as ALN. Also identifies the possible need for health advice on specific conditions/disabilities. Clearly describes need to link all involved from the outset providing a list of 'possibly involved' as guidance.

7.65: Re: Data Protection Law could signpost to WASPI Accord to ensure this is not a reason for failure to share info as GDPR can be a 'red herring' as it concerns agencies but provided their Privacy Notices are in line with the guidance it is not a block to sharing information

## Chapters 8 to 12 – Duties on schools, FEIs and local authorities

Early Years ALN Lead Officer

**Question 14** – Is the guidance on the role, experience and expertise of the Early Years ALNLO set out in paragraphs 8.40 - 8.47 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have the appropriate experience and expertise to meet the expectations of the role)?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

Duties on schools, FEIs and local authorities

**Question 15** – Is the structure and content of Chapters 8 to 12 of the draft ALN Code clear?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 16** – Are the timescales for decisions by schools, FEIs and local authorities on ALN and preparing an IDP as set out in Chapters 8-12 appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

Deciding whether it is ‘necessary’ for a local authority to prepare and maintain an IDP for a young person not at a maintained school or FEI - Proposed regulations to be made under Section 46 of the 2018 Act

**Question 17** – Are the proposed requirements and guidance in paragraphs 12.22 – 12.51 of the draft ALN Code on when it is necessary for a local authority to maintain an IDP for a young person not at a school or FEI in Wales appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

## **Chapter 13 - Content of an IDP**

**Question 18** – Are the elements of the mandatory content of an IDP which are required by the ALN Code, appropriate?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

Yes, point 13.44 is reassuring in that it states the body responsible for the preparing the IDP 'MUST' ensure health is content with the description in an ALP before it is finalised

**Question 19** – Is the proposed mandatory standard form for an IDP (included at Annex A of the draft ALN Code) appropriate?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

Yes, point 13.44 is reassuring in that it states the body responsible for the preparing the IDP 'MUST' ensure health is content with the description in an ALP before it is finalised

**Question 20** – Is the guidance in Chapter 13 of the draft ALN Code clear?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

Yes it is clear but it needs to be noted that regarding transition; the ages at which this takes place for young people in need of ongoing health input vary according to the speciality area in health providing their care.  
As an IDP is up to age 25 (as appropriate) the HB DECLLO will need to consider these issues at their senior strategic level.

Transport

**Question 21** – Is the guidance on transport in paragraphs 13.74 - 13.76 of the draft ALN Code appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

## Chapter 15 – Duties on health bodies and other relevant persons

Statutory requests by local authorities to relevant persons for information or other help - Proposed regulations to be made under Section 65(5) of the 2018 Act

**Question 22** – Is the proposed timescale and exceptions for relevant persons to comply with a local authority request for information or other help (under section 65 of the 2018 Act) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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### Supporting comments

No not as current resources stand, to set a time limit of 6 weeks is totally unrealistic. The time taken to gather all relevant information, make a decision and put input in place as necessary/appropriate It sets HBs (and particularly therapies departments) up to fail as it raises expectations and will result in complaints from parents and young people. Current waiting lists for many services also impact on a HBs ability to adhere to this timeline.

ALP to be secured by NHS bodies - Proposed regulations to be made under Section 21(10) of the 2018 Act

**Question 23** – Is the proposed period and exception within which an NHS body must inform others of the outcome of a referral to it (under section 20 of the 2018 Act) to identify whether there is a relevant treatment or service, appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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### Supporting comments

As above for Q 22

The Designated Education Clinical Lead Officer (“DECLO”)

**Question 24** – Is the guidance on the role, experience and expertise of the DECLO set out in paragraphs 15.37 – 15.53 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have appropriate experience and expertise)?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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### Supporting comments

Yes but to expect this to be an ‘add on’ to a current senior role and responsibilities is unrealistic if the role is to be manageable and effective in meeting expectations of children, young people & families.

## Chapter 16 - Review and revision of IDPs

**Question 25** – Is the content and structure of Chapter 16 of the draft ALN Code clear?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 26** – Is the proposed period and exception for completing reviews in response to a request from a child, their parent, a young person or an NHS body (set out in paragraph 16.18 of the draft ALN Code) appropriate?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

Yes but it will have to be clearly advised to children, young people & parents when the 35 term time days are impacted by school holidays e.g. an additional 2 weeks (10 term time days) at Easter break

## **Chapter 17 – Local authority reconsiderations and taking over responsibility for an IDP**

**Question 27** – Is the content and structure of Chapter 17 of the draft ALN Code clear?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 28** – Is the proposed period and exception for a local authority reconsidering a school IDP (set out in paragraph 17.20 of the draft ALN Code) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

## **Chapter 18 - Meetings about ALN and IDPs**

**Question 29** – Are the principles and the guidance provided in Chapter 18 of the draft ALN Code on meetings about ALN and IDPs appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

Yes. Providing guidance about a standardised approach supports the ‘portability’ of an IDP but essentially ensures that when a learner changes school or address to a new LA area the process will be at least very similar and promote confidence in the process.

## Chapter 19 – Planning for and supporting transition

**Question 30** – Is the guidance in Chapter 19 of the draft ALN Code on supporting children and young people to make effective transitions appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

Yes, but due to the variable ages of transition to adult services for specific chronic conditions across health this will be something the DECLO will need to keep in focus and they may be able to influence within HBs to better meet children and young people’s rights which a Children’s Charter (where in place) will support.

## Chapter 20 - Transferring an IDP

**Question 31** – Is the content and structure of Chapter 20 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

Transfers of IDPs - Proposed regulations to be made under Section 36(3) of the 2018 Act and Section 37 of the 2018 Act

**Question 32** – Are the requirements that are intended to be included in regulations in relation to requests to transfer an IDP to an FEI (as described in paragraphs 20.12 - 20.17 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

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**Question 33** – Are the arrangements that are intended to be included in regulations in relation to all other transfers (as described in paragraphs 20.18 – 20.21 of the draft ALN Code) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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## **Chapter 21 - Ceasing to maintain an IDP**

**Question 34** – Is the content and structure of Chapter 21 of the draft ALN Code clear?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 35** – Is the period of time for making a reconsideration request (described at 21.18 of the draft ALN Code), appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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## **Chapter 22 – Children and young people subject to detention orders**

**Question 36** – Is the content and structure of Chapter 22 of the draft ALN Code clear?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 37** – Are the proposals for the regulations in relation to deciding whether it will be necessary to maintain an IDP for a detained child or young person upon their release appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 38** – Are the proposals for the regulations in relation to children or young people who are subject to a detention order and detained in hospital under Part 3 of the Mental Health Act 1983 (as described in paragraphs 22.45 – 22.74 of the draft ALN Code) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 39** – Are the timescale requirements to act “promptly” in relation to decisions about ALN and preparing IDPs for children and young people subject to detention orders (as set out in Chapter 22) appropriate, rather than also having a requirement to comply within a fixed period subject to an exception or exceptions?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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## **Chapter 23 - Children and young people in specific circumstances**

**Question 40** – Is the guidance in Chapter 23 of the draft ALN Code on children and young people in specific circumstances appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

## Chapter 24 - Role of the Additional Learning Needs Co-ordinator (ALNCo)

**Question 41** – Is the information set out in Chapter 24 of the draft ALN Code about the role and responsibilities of the ALNCo appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

## Chapter 25 - Avoiding and resolving disagreements

**Question 42** – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

Yes, it appears to be

**Question 43** – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

## Chapter 26 - Appeals and applications to the Tribunal

**Question 44** – Is the information about appeals and the appeals process set out in Chapter 26 of the draft ALN Code appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

## **Chapter 27 - Case friends for children who lack capacity**

**Question 45** – Is the information about case friends, including the duties on the Tribunal to appoint and remove case friends, clearly explained in the Chapter 27 of the draft ALN Code?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

## **Any other comments**

**Question 46** – Please provide any other comments that you would like to make on the draft ALN Code. Where your comments relate to a specific chapter or paragraph within the draft ALN Code, please indicate this in your response.

## **Part 2 of the consultation: Draft Education Tribunal for Wales regulations**

**Question 47** – Overall, do the draft Education Tribunal regulations provide clear processes and procedures relating to appeals and claims to the Education Tribunal?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 48** – Overall, will the processes and procedures outlined in the draft Education Tribunal regulations enable the Education Tribunal to deal with cases fairly and justly?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 49** – Is the proposed case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 50** – Are the proposed timescales for each party in the case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) reasonable?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 51** – Is the 6 week timescale within which NHS bodies must report to the Education Tribunal in response to a recommendation (regulation 65 of the draft Education Tribunal regulations) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 52** – Are the timescales relating to compliance with Education Tribunal orders appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 53** – Is the approach to extensions to timescales (regulation 66 of the draft Education Tribunal regulations) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 54** – Are the proposed regulations relating to case friends (draft Education Tribunal regulations 61 to 64) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

## **Part 3 of the consultation: Draft ALNCo regulations**

**Question 55** – Are the prescribed qualifications to be an ALNCo set out in the draft ALNCo regulations appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 56** – Do you agree with the tasks that ALNCoS must carry out or arrange to carry out as set out in the draft ALNCo regulations?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

Part 4 of the consultation: Looked after children

### **(a) Proposed regulations to be made**

**Question 57** – Do you agree that the Looked after Children in Education (LACE) Co-ordinator should be a statutory role?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

Yes. It is essential that Looked After Children with an ALN have a plan that is linked to their PEP and the LACE role needs to be a statutory requirement to ensure equity of provision and focus across Wales. This will also ensure that if a child is no longer LAC Status their ALN IDP will have had expert scrutiny

### **(b) Chapter 14 of the draft ALN Code – Content of an IDP for a looked after child**

**Question 58** – Do you agree that there should be a separate standard form for looked after children and is the proposed standard form, together with the guidance and requirements related to it, appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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### Supporting comments

Not sure. With separate forms what happens if the child ceases to be 'looked after' status, the label of having ever been LAC could continue through to age 25. Guidance is needed on content if a child/young person ceases to be LAC

## (c) Proposed revisions to the Part 6 Code

**Question 59** – Do the draft revisions to the Part 6 Code provide a clear explanation of the duties on local authorities in relation to their social services functions for looked after children with ALN and what these duties mean in practice?

Yes	✓	No	□	Not sure	□
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### Supporting comments

**Question 60** – Overall, do you agree with the approach taken in the draft revised Part 6 Code to explaining the legislative changes, including the integration of personal education plans (PEPs) and IDPs and the mandatory content of PEPs? Are the requirements and expectations and what these mean in practice clearly explained?

Yes	✓	No	□	Not sure	□
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### Supporting comments

Yes overall with the caveat as described above in Q 58

**Question 61** – Do the changes that have been made to the Part 6 code clearly explain the role of the LACE Co-ordinator in overseeing the ALN arrangements for looked after children and what this means in practice?

Yes	✓	No	□	Not sure	□
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### Supporting comments

## **Part 5 of the consultation: Impact of proposals**

**Question 62** – What impacts do you think there will be as a result of the proposed regulations?

**Question 63** – What impact do you think the proposals in the draft ALN Code and proposed regulations would have on the Welsh language?

**Question 64** – How do you think the proposals in the draft ALN Code and proposed regulations could be formulated or changed so as to have:

- i) positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?;
- ii) no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?

**Question 65** – We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

## Respondent Details

Information	
<b>Name</b>	
<b>Organisation (if applicable)</b>	All Wales Children & Young People Occupational Therapy Network

## Part 1 of the consultation: The draft ALN Code

### Chapter 1 - Introduction

The meaning of 'must', 'must not', 'may', 'should' and 'should not' in the ALN Code

**Question 1** – Is the explanation in paragraphs 1.10 -1.16 of the draft ALN Code of the use and meaning of the different terms 'must', 'must not', 'may', 'should' and 'should not' clear?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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#### Supporting comments

This is valuable in making it explicit where statutory duties lie. The clarity is valuable. The information would be better presented in a visual table for ease of reading and referencing

#### Timescales

**Question 2** – Do you agree with the general approach to the timescales for compliance with duties (that is, to act promptly and in any event within a fixed period), as explained in paragraphs 1.31 – 1.32 of the draft ALN Code?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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#### Supporting comments

It is agreed in principle that we agree with the general approach to the compliance with timescales and the principle that timescales are required.

The wording in the draft Code appears over complicated and is unnecessarily wordy.

Ensuring these timescales can be achieved consistently across all professional bodies/agencies will be difficult

6.

7.A clear definition of what is 'impractical' will be required to remove contradictions and confusion

**Question 3** – Is the general exception which applies in the case of timescales, as described in paragraphs 1.33-1.35 of the draft ALN Code, appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

It is apparent that ‘promptly’ means quicker than the timescale given but this is vague and will create inequity in delivery.

“impractical” This requires clearer definition. It will create inequity. Examples need to be given regarding what are acceptable and impractical reasons to ensure clarity.

Agencies have different commitments and timescales for their organisations duties. These need to be defined.

“circumstances beyond its control” “some other reason” require further clarification. From a Health perspective would these constitute staffing/resource shortages/ capacity issues/waiting list times? This is open to interpretation which will cause conflict and challenge. More detailed definition is required.

Structure of the draft ALN Code

**Question 4** – Is the structure of the draft ALN Code and the separation of the chapters appropriate, clear and easy to follow?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

The chapters are not clear or easy to follow.

Long and detailed document – more visual diagrams to ensure clarity. Pathway maps could be used more. Examples would be useful.

It is essential that there is an easy read guide for children and families to understand.

It is apparent that you have to read all of the code as well as the specific chapters about the relevant matters in order to gain full understanding.

By splitting the chapters and giving the impression that they are “stand alone” the full content and requirements of the Code may be missed/misinterpreted by those who do not read or refer to the whole Code.

In addition to reading the Code there is reference to a number of implementation guidelines and other Acts. The amount of cross referencing required in general appears unworkable.

A risk of interpreting the Act and it’s code differently across all the chapters.

Are the Introductions in each chapter required if these are covered in the Act?

**Question 5** – Is the draft ALN Code’s focus on describing and explaining the functions and processes appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

It is felt that the descriptions could be more specific. Definitions need to be clear as there is a risk that interpretation across agencies would differ. It requires more practical help in implementation.

Occupational Therapists work within settings and identify children’s needs in relation to their ALN, so they are key to this process.

For OTs working within health settings in deciding whether ALP is required/to be provided “identifies a service or treatment likely to be of benefit”, this is considered to be too vague and does not relate to the clinical requirements of the Child or Young Person. Clarification is needed in clinical terms. “Likely” is very vague and open to interpretation.

Pupil referral units (PRUs) - Proposed regulations to be made under Paragraph 15 of Schedule 1 to the Education Act 1996

**Question 6** – Do you agree with the proposal to use regulations to delegate functions from a local authority to a Management Committee of a PRU?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

This needs further comment from agencies with an expertise in this area.

## Chapter 2 - Principles of the Code

**Question 7** – Are the principles set out in Chapter 2 of the draft ALN Code the right ones?

<b>Yes</b>	✓	<b>No</b>	☐	<b>Not sure</b>	☐
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### Supporting comments

In theory the principles of the Code are correct and we support the principles set out.

Some of this section may be able to be reduced as it is lengthy and also in the Act.

‘Identifying ALN at an early stage and delivering appropriate interventions may also prevent the need for future more costly and less effective interventions’.

Occupational therapists have a key role to play in identifying additional learning needs at an early stage. Early intervention reduces the need for more costly, specialist interventions later on but will require a shift in practice models and resources from specialist to targeted, universal interventions.

Collaboration across agencies is paramount to achieving best practice and outcomes for the child and young person, however barriers to achieving this need to be considered and worked through at a strategic level to achieve robust collaborative practice.

Collaboration with parents and those most proximal to the child and young person needs more emphasis as this is best practice to meet outcomes – this document feels opposed to that with a reliance on health and education. Occupational therapists are a limited resource but can support the needs of children and young people by training and supervising others to ensure that interventions and adjustments are embedded into children’s daily routines.

Person centred planning

Occupational therapists are experienced and well placed to contribute to person centred practice and the involvement of families and children at all stages of the therapeutic process is key to delivering and ensuring outcomes

As occupational therapists we assess the views, ambitions and aspirations of the child and young person as our foundation, this ensures that children’s views are captured in a meaningful and relevant way as they develop and grow.

Should some comment to safeguarding be referenced in this section?

## Chapter 3 - Involving and supporting children, their parents and young people

**Question 8** – Is the explanation of the duties relating to involving and supporting children, their parents and young people provided in Chapter 3 of the draft ALN Code appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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### Supporting comments

Concern regarding how capacity is assessed and determined – a coordinated approach of all those involved is required.

How the views wishes and aspirations of children with complex needs and communication difficulties are included in the process is very important. More thought and detail is required for this group of children so they have an equal voice. The skills of the workforce needs consideration to achieve this.

## Chapter 4 - Duties on local authorities and NHS bodies to have regard to the UNCRC and the UNCRPD

**Question 9** – Is Chapter 4 of the draft ALN Code clear about what is expected of local authorities and NHS bodies when discharging their duties to have due regard to the United Nations Convention on the Rights of the Child (UNCRC) and United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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### Supporting comments

This is a complicated and wordy chapter that requires simplification for direction to ensure agencies have due regard to these statutes.

## Chapter 5 - Duty to keep additional learning provision (ALP) under review

**Question 10** – Is the guidance provided in Chapter 5 of the draft ALN Code in relation to the duties to keep ALP under review appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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### Supporting comments

We agree that ALP is kept under review to ensure outcomes are reviewed and are still relevant and appropriate.

Collaboration and working together to share resources is a positive idea however, how this is achieved needs further thought and direction. Accountability of this in practice needs referencing. ?  
Regional Consortia/ Transformational Leads

More robust ways of ensuring equity of shared resources is required. Pathways to ensure packages of care of education health and social support and equally funded and all partners agree to this in principle.

Occupational therapy is a limited resource, we agree that in principle improving access to specialist advice and support should be available but there needs to be a recognition that this may be provided via a targeted approach to those most proximal to the child i.e parent, LSA, teacher.

## Chapter 6 - Advice and information

**Question 11** – Is the guidance provided in Chapter 6 of the draft ALN Code in relation to making arrangements to provide advice and information about ALN and the ALN system appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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### Supporting comments

We agree that information and advice needs to be available, this needs to be clear, concise and easy to understand so that parents and carers feel they are included and understand the principles set out.

## Chapter 7 - The definition of ALN and ALP, identifying ALN and deciding upon the ALP required

**Question 12** – Is this explanation of the definition of ALN provided in paragraphs 7.4 – 7.32 of the draft ALN Code clear?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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### Supporting comments

The definitions need to be clearer, it is confusing as it stands in the document.

Phrases such as “significantly greater difficulty in learning than the majority of others of the same age” is not helpful as it is open to interpretation. It could be detrimental to the child achieving their potential and having the right support.

We feel that if a child has ALN they should have an IDP. This may be simple in its format in terms of differentiated teaching.

The term ‘Usually requires an IDP’ is confusing and open to debate.

It is not clear how a targeted approach as part of a graduated response should be captured.

The phrase “goes beyond that generally made available” – will cause inequities across schools and LAs as to the requirement of ALP. A general lack of differentiated Teaching/Universal programmes will change the need for IDPs to specify the ALP required.

Timescales are mentioned but not defined. This will be open to interpretation.

Prior to children being in school who will take the lead on writing the IDP – this needs to be clearer.

**Question 13** – Does Chapter 7 of the draft ALN Code provide a clear and comprehensive explanation of the evidence on which decisions about ALN and ALP should be based, the sources from which this evidence might be collated, and the way in which it should be considered?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

**8.**

Consistency is required for the use of “significant”. There is a difference under this point (7.34) where it states that some presenting difficulties require a significant level of delay and others do not.

7.34: This may be interpreted as an exhaustive list of the types of difficulties that are required/the child should present with to have ALN. This is not child led or person centred. Some children e.g. with co-ordination difficulties will have ALN others also with co-ordination difficulties will not have ALN. This lead may be misleading and runs the risk of becoming a check-list.

Definition of how progress is made is not clear – this could cause conflict between agencies and parents/carers.

Occupational therapists have specialist knowledge and skills to look at the holistic needs of the child. However, as we are a limited resource we would therefore have emphasis on training educational staff to deliver targeted intervention. Schools are advised that there ‘should’ be in place clear processes to highlight concerns regarding children accessing learning once they have tried sufficient targeted interventions. Why is this not ‘must’ if not assistance is sought at this point the child will not progress

## **Chapters 8 to 12 – Duties on schools, FEIs and local authorities**

### Early Years ALN Lead Officer

**Question 14** – Is the guidance on the role, experience and expertise of the Early Years ALNLO set out in paragraphs 8.40 - 8.47 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have the appropriate experience and expertise to meet the expectations of the role)?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

The early years ALNLO role needs to complete strategic functions, it also states that it is an operational role, therefore there is a concern regarding clarity and capacity to exercise all functions

It appears that the role is a full time role with the requirement of an early years ALN team to support it.

### Duties on schools, FEIs and local authorities

**Question 15** – Is the structure and content of Chapters 8 to 12 of the draft ALN Code clear?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

Occupational Therapists working in Health will require a clear summary of the child/young person's ALN in order to identify if a treatment or service is likely to be of benefit. It would also be helpful where an Educational Psychologist has been involved for their reports and findings to be shared.

In order to remove delays and barriers to multi-agency collaboration electronic communication will need to be maximised e.g. sharing draft IDP's and finalised copies.

"Treatment or service likely to be of benefit in addressing the child's ALN" – Further clarification of this definition is required, and it would be helpful if likely is replaced with 'clinical benefit'.

Clarification is also required in the ACT/Code as to what is considered to be an Educational need and what a Health need is and this may be achieved by focusing on the outcome. This is relevant in terms of funding resources as within Occupational Therapy you can work within a Health setting and Education depending on the needs to be met. Should there be funding arrangements in place between the LA/NHS to address this and included in the Code?

It is not clear what is 'low incidence' needs and whether the IDP should be prepared by the LA. These thresholds for what is referred to the LA or not needs to be clarified, particularly so that other agencies are clear who they are liaising with to provide input into the IDP.

ALN in relation to FEI is not clear. It appears that for over 18s each young person might fall under the code for up to 2 years while in a FEI under the age of 25. The 0-25 principle of the code is therefore deceptive as it doesn't span the age 0-25 in its entirety.

We have concerns that there is currently not an Occupational Therapy workforce post 18+ in place or with the necessary skills to meet the needs of the young people with ALN. Occupational Therapists in adult services if in a given area will work on an area of specialism e.g. Rheumatology, stroke. Service development is going to be required in order to provide these services.

**Question 16** – Are the timescales for decisions by schools, FEIs and local authorities on ALN and preparing an IDP as set out in Chapters 8-12 appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

Education staff should not have to rely on health staff to provide a specialist assessment to help them identify whether a child has ALN or not.

There are general concerns about the ability of Health to meet the timescales. Health already have timescales in place for RTT of 14 weeks set by WG. There is therefore a different timescale for ALN. This causes inequity. There will be capacity issues.

Deciding whether it is 'necessary' for a local authority to prepare and maintain an IDP for a young person not at a maintained school or FEI - Proposed regulations to be made under Section 46 of the 2018 Act

**Question 17** – Are the proposed requirements and guidance in paragraphs 12.22 – 12.51 of the draft ALN Code on when it is necessary for a local authority to maintain an IDP for a young person not at a school or FEI in Wales appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

Requires advice from transitional officers within LA

## Chapter 13 - Content of an IDP

**Question 18** – Are the elements of the mandatory content of an IDP which are required by the ALN Code, appropriate?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

Yes, focusing on outcomes of ALP is essential for the child and young person but also for all the agencies working together as it removes the barriers.

More advice and clarification is required in relation to how other agencies will input to the IDP and there will be a need for this to be electronic with information sharing protocols developed locally in order for IDP to be completed in a timely way.

**Question 19** – Is the proposed mandatory standard form for an IDP (included at Annex A of the draft ALN Code) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

9.It is welcomed that there is a mandatory standard form for an IDP. The body of it can be adapted

to the specific needs of the child and young person. It is important that the ALP relates to the outcome for the child and evidence base prior to intervention being agreed.

10.

The form should be an integrated document however there needs to be the ability to separate out actions or provision from health. Also health need to be able to contribute to other sections of the IDP where there is a delegated role.

**Question 20** – Is the guidance in Chapter 13 of the draft ALN Code clear?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

The focus of the IDP should not be in separating out Education and health provision but how the child accesses learning in the environment with therapeutic strategies to support. Health input is not always separate, it is integrated in the child’s occupations enabling them to participate.

It is reassuring that this chapter addresses different ALP will be required to be provided by Health to meet the needs of a child dependent upon the type of Educational facility they attend e.g. mainstream with support vs special school. Being informed of a placement setting prior to defining the ALP will be essential in order to specify the outcome to be achieved and the provision to match this in relation to the environment.

All the professionals involved with a child/young person IDP will not always be able to attend the PCP meetings therefore a section will need to be included on how decisions are made and priorities. Given that not all those involved may be able to attend PCP meetings (although a written report should be issued), it will be important to determine how decisions about the priorities for the IDP are made and what happens after this. Timescales for receiving finalised IDP and recommendations will be essential.

Whilst it is best practice for there to be collaboration for all professionals involved with a child to be present at an IDP meeting, due to limited resources there is already capacity issues for Occupational Therapists to attend every meeting. There is concern that the Code implies that they will be present therefore raising expectations.

Transport

**Question 21** – Is the guidance on transport in paragraphs 13.74 - 13.76 of the draft ALN Code appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

n/r

**Chapter 15 – Duties on health bodies and other relevant persons**

Statutory requests by local authorities to relevant persons for information or other help - Proposed regulations to be made under Section 65(5) of the 2018 Act

**Question 22** – Is the proposed timescale and exceptions for relevant persons to comply with a local authority request for information or other help (under section 65 of the 2018 Act) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

There is acknowledgement in this chapter that NHS services have other demands such as Referral to Treatment (RTT) targets which have to be met. The differences in the RTT and ALN timescales needs to be addressed as this is going to cause inequity and confusion.

We would welcome the premise of short timescales to ensure that children’s needs are identified and met within a defined time frame. However, within finite NHS Occupational Therapy resources the timeframes offered would be challenging to meet, and there is risk that work directed by the Code ALN would take precedence over children with greater clinical need,

There is confusion in this chapter as it states that the duty only applies when the LA makes the request to the health body however later is contradicted by stating schools and FEIs may still make requests for information. Health will not be able to reply to all the individual requests from schools or upskill those settings in its referral criteria or provision.

There needs to be recognition that the 6 week timeframe may not be able to achieved particularly for children/young people with complex needs as more than one assessment may be required to ensure the quality of information in order to decide if they have ALN and the ALP that is required.

The phrase ‘beyond its control’ is not clear when applied to timescales and could this include for NHS bodies working to their own clinical priorities a reason to breach the timescale?  
Timescales for responses for requests for support from NHS bodies do not align with the WG target of 14 weeks, this will lead to a two tier system related to legislation rather than clinical need.

ALP to be secured by NHS bodies - Proposed regulations to be made under Section 21(10) of the 2018 Act

**Question 23** – Is the proposed period and exception within which an NHS body must inform others of the outcome of a referral to it (under section 20 of the 2018 Act) to identify whether there is a relevant treatment or service, appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

‘ALP is something they would normally provide as part of the health service in Wales’. There needs to be recognition that what as Occupational Therapists we would normally provide would be in line with other principles of the NHS (for the population) across Wales, and where there is a clinical pathway, should be evidence based which is very important regarding the intended outcomes.

It may be useful to add 'relevant' to the description of any interventions to be considered/carried out, also 'evidence-based'.

There are references that the referrer to an NHS body should be the person who is asking for the assistance. We are concerned that Health Occupational Therapists will potentially have a lack of capacity dealing with multiple referral routes to respond to all requests from all schools for information.

It is appropriate that the NHS body is not required to provide ALP as directed by the Tribunal unless it agrees to do so. The Tribunal experience for considering evidence from NHS bodies is essential to assess clinical need and the evidence in relation to the intended outcomes.

### The Designated Education Clinical Lead Officer ("DECLO")

**Question 24** – Is the guidance on the role, experience and expertise of the DECLO set out in paragraphs 15.37 – 15.53 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have appropriate experience and expertise)?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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#### **Supporting comments**

The DECLO role should have a uniform job description and a set number of hours proportional to population to ensure that sufficient resource at a high enough level is allocated. In line with the comments made in relation to the Early Years ALN Lead Officer post it is also acknowledged that the description of the DECLO role describes a role that contains both a strategic (which is vitally important) and operational element. Should consideration be given to this being two posts: one of which is a strategic role (The DECLO) and the other to carry out many of the operational roles required by the DECLO.

The role is considered to be cost neutral. It is not clear how this post will be cost neutral?

## **Chapter 16 - Review and revision of IDPs**

**Question 25** – Is the content and structure of Chapter 16 of the draft ALN Code clear?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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#### **Supporting comments**

There are a number of references to the Act and other guidance. This becomes confusing and complicated. It is unnecessarily wordy e.g. 16.1 could literally say "the IDP must be reviewed and revised at least annually" If this principle was applied to all of the Code it would be much shorter and easier to read without losing its actual content.

**Question 26** – Is the proposed period and exception for completing reviews in response to a request from a child, their parent, a young person or an NHS body (set out in paragraph 16.18 of the draft ALN Code) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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## Supporting comments

16.3 It must be acknowledged that this will have resource/capacity implications for Health services.  
16.9 – Therapy plans can be changed at least 3 times a year, i.e. intended outcomes changing every term. This system seems to be based on annual intended outcomes. Would it be the Health Professional's responsibility to ask ALNCo for IDP review at the start of every therapy plan?  
The Code implies that any time NHS provision is recommended to be changed, a full review of the IDP is required. ALP in the current IDP format is very specific and so may need to be changed with every new set of targets. That is potentially a large administrative burden on schools and clinical services alike in the current form.

16.10 Would Health also be notified?

16.22 Would an NHS body have to request a review of an IDP prior to discharge from the service if the child/young person has an IDP? In particular how does this work when the child/YP has been discharged as they have failed to attend appointments? WG guidance states that children are automatically discharged if they fail to attend agreed appointments. How will this work in practice?

It has to be recognised that there are generally a lack of Health services for post 18 which will be able to contribute to IDPs.

## Chapter 17 – Local authority reconsiderations and taking over responsibility for an IDP

**Question 27** – Is the content and structure of Chapter 17 of the draft ALN Code clear?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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### Supporting comments

Requires response by LA

**Question 28** – Is the proposed period and exception for a local authority reconsidering a school IDP (set out in paragraph 17.20 of the draft ALN Code) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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### Supporting comments

Requires response by LA

## Chapter 18 - Meetings about ALN and IDPs

**Question 29** – Are the principles and the guidance provided in Chapter 18 of the draft ALN Code on meetings about ALN and IDPs appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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### Supporting comments

11.

There is concern that not all Health Occupational Therapists will be able to attend every child/young

person's IDP meeting. Whilst this would be something we would endeavour to achieve we currently cannot manage this for children with statements and with the predicted increase in IDP's it is anticipated that capacity will be an issue.

## Chapter 19 – Planning for and supporting transition

**Question 30** – Is the guidance in Chapter 19 of the draft ALN Code on supporting children and young people to make effective transitions appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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### Supporting comments

Coordnation or key worker is a positive idea. This should be changed form 'should' to 'must'.

Transition workshops are a positive idea and would be welcomed by OTs. Involvement across agencies would be beneficial.

Chapter 20 - Transferring an IDP

**Question 31** – Is the content and structure of Chapter 20 of the draft ALN Code clear?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

Transfers of IDPs - Proposed regulations to be made under Section 36(3) of the 2018 Act and Section 37 of the 2018 Act

**Question 32** – Are the requirements that are intended to be included in regulations in relation to requests to transfer an IDP to an FEI (as described in paragraphs 20.12 - 20.17 of the draft ALN Code) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

**Question 33** – Are the arrangements that are intended to be included in regulations in relation to all other transfers (as described in paragraphs 20.18 – 20.21 of the draft ALN Code) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

A concern regarding the new area picking up responsibility for ALP when they haven't specified this. More clarity is needed.

## Chapter 21 - Ceasing to maintain an IDP

**Question 34** – Is the content and structure of Chapter 21 of the draft ALN Code clear?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

**Question 35** – Is the period of time for making a reconsideration request (described at 21.18 of the draft ALN Code), appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

## Chapter 22 – Children and young people subject to detention orders

**Question 36** – Is the content and structure of Chapter 22 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

n/r

**Question 37** – Are the proposals for the regulations in relation to deciding whether it will be necessary to maintain an IDP for a detained child or young person upon their release appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

**Question 38** – Are the proposals for the regulations in relation to children or young people who are subject to a detention order and detained in hospital under Part 3 of the Mental Health Act 1983 (as described in paragraphs 22.45 – 22.74 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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**Supporting comments**

**Question 39** – Are the timescale requirements to act “promptly” in relation to decisions about ALN and preparing IDPs for children and young people subject to detention orders (as set out in Chapter 22) appropriate, rather than also having a requirement to comply within a fixed period subject to an exception or exceptions?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

## Chapter 23 - Children and young people in specific circumstances

**Question 40** – Is the guidance in Chapter 23 of the draft ALN Code on children and young people in specific circumstances appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

n/r

## Chapter 24 - Role of the Additional Learning Needs Co-ordinator (ALNCo)

**Question 41** – Is the information set out in Chapter 24 of the draft ALN Code about the role and responsibilities of the ALNCo appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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### Supporting comments

ALNCO role needs to be specified in terms of responsibilities and time required to meet the needs of the ALN within the specific school.

It is very welcomed that this role is considered to have strategic responsibilities as well as the operational aspects of being responsible for the IDP'S.

It needs to be clear that this role is different to the current SENCO role.

## Chapter 25 - Avoiding and resolving disagreements

**Question 42** – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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### Supporting comments

It is not clear what happens if a child/family are reluctant to participate in dispute resolution therefore there is a potential for the complaint to move straight to tribunal.

**Question 43** – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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### Supporting comments

The principle that 'putting things right' is used for complaints and concerns about health is welcomed however, there is concern that a complaint will be going through both educational tribunal and health route -putting things right.

## Chapter 26 - Appeals and applications to the Tribunal

**Question 44** – Is the information about appeals and the appeals process set out in Chapter 26 of the draft ALN Code appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

Timescale for health to prepare information is not clear – does this sit within the 4-week timescale given to LA?

The flow chart on page 288 is good but requires the timescales being added and would be helpful if the writing at the bottom is included into the diagram.

## **Chapter 27 - Case friends for children who lack capacity**

**Question 45** – Is the information about case friends, including the duties on the Tribunal to appoint and remove case friends, clearly explained in the Chapter 27 of the draft ALN Code?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

Needs information response via other agencies.

### **Any other comments**

**Question 46** – Please provide any other comments that you would like to make on the draft ALN Code. Where your comments relate to a specific chapter or paragraph within the draft ALN Code, please indicate this in your response.

Improving access to specialist advice and support is stated throughout the document, for example to services such as therapies, which includes our profession. Whilst the will is there to share our specialist skill and knowledge, we only have a limited workforce and therefore it is important that creative thinking and collaboration is facilitated to maximise outcomes for children and young people.

## **Part 2 of the consultation: Draft Education Tribunal for Wales regulations**

**Question 47** – Overall, do the draft Education Tribunal regulations provide clear processes and procedures relating to appeals and claims to the Education Tribunal?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

It is considered potentially challenging and confusing that complaints can follow both the Education Tribunal and Putting Things Right, potentially at the same time. This will cause added pressure to

Health Professionals and Health Bodies who will potentially need to participate in both processes.

**Question 48** – Overall, will the processes and procedures outlined in the draft Education Tribunal regulations enable the Education Tribunal to deal with cases fairly and justly?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

Further information regarding the way in which Tribunal will consider/evaluate the validity of “Private” and “NHS” evidence provided for Tribunal.

**Question 49** – Is the proposed case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 50** – Are the proposed timescales for each party in the case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) reasonable?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

4 weeks appears a limited amount of time for the LA to submit the evidence.

**Question 51** – Is the 6 week timescale within which NHS bodies must report to the Education Tribunal in response to a recommendation (regulation 65 of the draft Education Tribunal regulations) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

6 weeks is a short timescale. There may be a number of circumstances where adherence to a 6 week timescale is not possible. This will have resource and Capacity implications for Health Bodies.

**Question 52** – Are the timescales relating to compliance with Education Tribunal orders appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 53** – Is the approach to extensions to timescales (regulation 66 of the draft Education Tribunal regulations) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 54** – Are the proposed regulations relating to case friends (draft Education Tribunal regulations 61 to 64) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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## **Part 3 of the consultation: Draft ALNCo regulations**

**Question 55** – Are the prescribed qualifications to be an ALNCo set out in the draft ALNCo regulations appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

Education needs to provide response to this
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**Question 56** – Do you agree with the tasks that ALNCo must carry out or arrange to carry out as set out in the draft ALNCo regulations?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

Education needs to provide response to this
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## **Part 4 of the consultation: Looked after children**

### **(a) Proposed regulations to be made**

**Question 57** – Do you agree that the Looked after Children in Education (LACE) Co-ordinator should be a statutory role?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

It is important that LAC have the most appropriate access to services in a timely and coordinated approach. Research states that LAC have a poor educational achievement on the whole and therefore a LACE coordinator would be positive.

## (b) Chapter 14 of the draft ALN Code – Content of an IDP for a looked after child

**Question 58** – Do you agree that there should be a separate standard form for looked after children and is the proposed standard form, together with the guidance and requirements related to it, appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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### Supporting comments

This will potentially cause confusion and will require Health professionals to be familiar with a number of forms. There is a potential for confusion.

## (c) Proposed revisions to the Part 6 Code

**Question 59** – Do the draft revisions to the Part 6 Code provide a clear explanation of the duties on local authorities in relation to their social services functions for looked after children with ALN and what these duties mean in practice?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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### Supporting comments

Needs LA response

**Question 60** – Overall, do you agree with the approach taken in the draft revised Part 6 Code to explaining the legislative changes, including the integration of personal education plans (PEPs) and IDPs and the mandatory content of PEPs? Are the requirements and expectations and what these mean in practice clearly explained?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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### Supporting comments

n/r

**Question 61** – Do the changes that have been made to the Part 6 code clearly explain the role of the LACE Co-ordinator in overseeing the ALN arrangements for looked after children and what this means in practice?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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### Supporting comments

n/r

## **Part 5 of the consultation: Impact of proposals**

**Question 62** – What impacts do you think there will be as a result of the proposed regulations?

It is anticipated that the Act and Code will have positive impacts for those children and young people with ALN and will transform the way in which they learn/receive the additional support they require.

There are concerns around the alignment of timescales across agencies and adherence to targets as they are different.

Inequity of service could be a result due to prioritisation of a child with ALAN requiring ALP from health over a child with a medical/health need but no ALN.

It is considered that there will be an increased demand on services within Health. The number of children with IDPs that will require input from Health will increase (as this will now be statutory) and therefore the resource and capacity implications for Health must be considered. It is also anticipated that more schools will seek advice/support for Health in identifying ALN and requesting the provision of ALP.

There will be an increase in the amount of “administrative” work (including clinical administrative work) that Health Professional will need to undertake.

There will however be a number of positive impacts for the children and Young People. The fact that it is clearly stated and accepted that ALN is now every Teachers responsibility is a very positive one and must result in positive outcome for the students.

There are a lack of post age 18 services in Health to meet the requirements of the young people requiring IDPs and ALP from Health. The exact requirement/impact of the post 18 age group is currently not known for certain.

**Question 63** – What impact do you think the proposals in the draft ALN Code and proposed regulations would have on the Welsh language?

There is a possibility that services in Welsh will increase as per the Welsh Language Standard

**Question 64** – How do you think the proposals in the draft ALN Code and proposed regulations could be formulated or changed so as to have:

- i) positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?;

- ii) no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?

**Question 65** – We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

## Respondent Details

Information	
<b>Name</b>	
<b>Organisation (if applicable)</b>	Royal College of Nursing Wales

### **Response from the Royal College of Nursing Wales to the consultation on the draft Additional Learning Needs Code**

The Royal College of Nursing Wales is grateful for the opportunity to respond to this consultation and would like to raise a number of issues and concerns with the draft Code.

Overall, the Royal College of Nursing (RCN) Wales continues to be strongly supportive of the aims of the Additional Learning Needs (ALN) Act and the draft Code to enhance the standard of care and education received by children and young people with ALN, but we remain concerned that the Code as currently drafted will not allow that aim to be met. Our concerns are outlined below according to different thematic areas.

#### **Healthcare Needs and Associated Guidance (Supporting Learners with Healthcare Needs)**

- I. RCN Wales maintains that there should be parity between the requirement to meet a child's health needs and meeting their learning and educational needs. The Code should therefore reflect and acknowledge the fact that if a child's health needs are not met, then they will not be able to learn or access education as they should. A child's right to an Individual Health Plan (IHP) should be just as strong as the right to an Individual Development Plan (IDP). It is our concern however, that because of the interrelation between the ALN Code and other associated statutory guidance referred to in the Code, that this will not be the case in practice.
- II. The Code refers to the Supporting Learners with Healthcare Needs guidance, and it is clearly the intention of Welsh Government that it is this guidance, not the ALN Code, that will provide the necessary support and statutory backing that children and young people with healthcare needs require. Indeed, the Code explicitly states: "There will be many instances where a child or young person with healthcare needs does not have a learning difficulty or disability, or if the person does, the learning difficulty or disability does not call for ALP. In these cases, the child or young person's needs should be met through other means." There is a lack of clarity however in exactly how the needs of children and young people in these cases will be met.
- III. RCN Wales has, in previous consultation responses, raised concerns regarding the Supporting Learners with Healthcare Needs guidance and the need for it to be updated and strengthened. The need for this is becoming increasingly urgent given the clear intention for this piece of guidance to provide statutory support and protection for the needs of children who do not fall under scope of the ALN Act i.e. children and young people who have healthcare needs but are not deemed to have additional learning needs. It is the view of RCN Wales that the Supporting Learners with Healthcare Needs in its current form is not fit for purpose and needs updating, not

least because the guidance refers throughout to SEN and SENCo's, both terms having been superseded by the ALN Act.

- IV. Also significant is the fact that in the Supporting Learners guidance, the section on Individual Health Plans contains insufficient clarity around the requirement for registered health professionals to be involved in identifying the needs of the learner, and in devising and establishing the IHP. RCN Wales believes the guidance should stipulate this very clearly. It is also of concern that the guidance states "If consensus [about whether or not an IHP should be made] cannot be reached, the headteacher should take the final decision, which can be challenged through the complaints procedure." This puts children and learners with healthcare needs but no ALN, at a significant disadvantage if any disputes or issues do arise, compared to those who fall under the ALN legislation who would be able to bring any disputes to the Education Tribunal. The final decision should lie with a health professional; it is after all an Individual Health Plan.
- V. In this way, neither the draft Code nor the associated guidance referred to in the Code, are broad enough in scope or strong enough in their direction to fully protect the rights of children and young people with healthcare needs. It is essential that all existing and proposed statutory guidance is able to empower both learners and professionals such as Registered Nurses who closely work with children and young people, to uphold their rights of children and young people to health services, to an education, and to having their best interests prioritised (as set out in the UN Convention on the Rights of the Child).
- VI. RCN Wales urges Welsh Government to radically strengthen the Supporting Learners guidance and put it on a firmer statutory footing, before the final version of the ALN Code is issued.

#### Role of the DECLO

- VII. RCN Wales continues to have concerns around the role of the designated education clinical lead officer (DECLO). The details included in the draft Code around the role of the DECLO do not make it clear exactly what the role entails, nor how they interact with Additional Learning Needs Co-ordinators (ALNCos) or other professionals such as School Nurses.
- VIII. Furthermore, RCN Wales continues to have reservations about the requirement for this individual to be "either be a registered medical practitioner or a registered nurse or another health professional". If the role is primarily operational and strategic (as is implied in the draft Code) and is not involved in assessing the needs of the child or young person and determining whether they would benefit from a healthcare intervention, nor in devising the detail of the IDPs, then requiring this role to be fulfilled by a registered health professionals risks unnecessarily diverting valuable healthcare professionals into an administrative service, albeit a high level one.
- IX. It may be however that it is entirely appropriate and necessary for the DECLO to have a clinical background, in which case the Code must contain further detail and explanation of the role and function of the DECLO in order for this to be fully appreciated.

- X. There should also be specific reference to the need for the DECLO to have undertaken disability awareness training within the list of relevant experience and expertise.

#### Lists of professionals

- XI. There are instances throughout the Code where lists of professionals or agencies are included. For instance, in Chapter 7, the section on identifying ALN and deciding upon the ALP, the Code states "Lots of different agencies, professionals and individuals have a role to play in identifying and supporting children and young people who may have ALN" and then includes a list of relevant professionals and agencies. Whilst we welcome that key professionals such as Health Visitors are being highlighted, the lists are not comprehensive and do not include key professionals such as Special School Nurses, Learning Disability Nurses, Children's Community Nurses or Specialist Dietetic/Nutrition Nurses.
- XII. RCN Wales view is that it is unhelpful to include an incomplete list in these circumstances, and that the list should either be comprehensive or not included at all.

#### Nursing workforce shortages

- XIII. The Royal College of Nursing is aware of the very many difficulties that children and young people with diverse healthcare needs face in order to continue access to education. We believe that more specialist nurses, including Learning Disability Nurses and Children's nurses, are needed in the community, to provide the right type and level of care to children and young people at home, and in school.
- XIV. The shortage of nurses in Wales is felt most acutely in speciality areas. This includes Children's Community Nurses, Special Schools Nurses, Learning Disability Nurses and Psychiatric Nurses in CAMHS teams (for children with Autism Spectrum Disorders who have additional mental health needs). Without addressing the shortage of nurses in these areas, we remain concerned that the needs of school-aged children with additional learning needs, and healthcare needs which impact upon their learning, cannot be met. This issue needs to be referenced in the workforce plan for Health & Social Care that Health Education & Improvement Wales (HEIW) are drafting.
- XV. It should also be noted that extension of the Nurse Staffing Levels (Wales) Act 2016 into the areas of nursing listed above will help to support the effective implementation of the ALN Code.

#### Comments on other specific sections or Chapters

##### **Duties on local authorities and NHS bodies to have regard to the UNCRC and the UNCRPD (Chapter 4)**

- XVI. RCN Wales welcomes that specific reference is made to the social model of disability. However, at present the Code only makes reference to attitudinal and physical barriers. It would be helpful to identify a wider range of barriers such as financial, social and structural barriers.

## **Involving and supporting children, their parents and young people (Chapter 6)**

- XVII. It is positive to note that attention has been given to the need to adapt communication and supporting involvement to the needs of children, young people and their families. However, it would be helpful to make explicit reference to the requirements of the Equality Act 2010 and the need to make reasonable adjustments. In addition where reference is made to the need to make specific provision where a child / young person's first language isn't Welsh or English then reference should also be made to the need for provision where children/ young people/ families use alternative or augmentative forms of communication.
- XVIII. The guidance must be inclusive and a clear communication strategy will need to be in place with appropriate resources to ensure that children and young people are able to read and understand the guidance. The needs of children and young people who have limited or no communication need to be understood and expressed in appropriate formats.

## **The definition of ALN & ALP (Chapter 7)**

- XIX. Previous Chapters in the Code stress the importance and value of the Social Model of Disability approach. It is unfortunate therefore that this chapter reverts to an individual model of disability by indicating that a child's disability "prevents or hinders" their access to mainstream educational provision. This detracts from the congruency and message of the Code and the Royal College feels it would be helpful to acknowledge that it may not be the child's impairment that prevents or hinders their access, but rather it is the barriers to access in mainstream provision.

## **Content of an IDP (Chapter 13)**

- XX. There must be sufficient flexibility within IDPs to be able to incorporate care plans and pathways that have already been established. Developing and maintaining care plans and pathways takes significant time and resource, particularly where children have complex healthcare needs alongside ALN, and it is important that work already undertaken is appropriately utilised and not repeated unnecessarily. Whilst Chapter 13 does note the importance of flexibility, it is not clear exactly how existing care plans and pathways can be adapted into the mandatory IDP form without duplicating or replicating previous work.

## **Planning for and supporting transition (Chapter 19)**

- XXI. RCN Wales welcomes the specific chapter is focused on transitions and that different types of transitions are explored. One of the key areas of stress and concern for individuals and families of young people with learning disabilities is the transition from child to adult services that occurs when the individual leaves full time education. This often involves multiple transitions in relation to (for example) local authority and health services. If such transitions could be more closely coordinated then that would reduce stress and the potential for individuals to fall out of the system when they have a continuing need for specialist support. It may, therefore, be better to refer to 'organisations or services' rather than 'organisation or service' (19.23).
- XXII. However, what is lacking in this chapter is detail on transition from child to adult beyond FEI. The document does not contain sufficient advice or guidance on transition

into adulthood at the age of 18 up to the age of 25, as covered by the scope of the definition of 'children and young people' as provided in the Code, and this needs to be incorporated into the final document.

### **Avoiding and resolving disagreements (Chapter 25)**

XXIII. An Information Sharing Protocol for dispute resolution should be required on an all Wales basis in order to ensure consistency of approach across different agencies, and to minimise complaints.

## Respondent Details

Information	
<b>Name</b>	Andrea Waters
<b>Organisation (if applicable)</b>	Tredegar Comprehensive School

## Part 1 of the consultation: The draft ALN Code

### Chapter 1 - Introduction

The meaning of 'must', 'must not', 'may', 'should' and 'should not' in the ALN Code

**Question 1** – Is the explanation in paragraphs 1.10 -1.16 of the draft ALN Code of the use and meaning of the different terms 'must', 'must not', 'may', 'should' and 'should not' clear?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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Timescales

**Question 2** – Do you agree with the general approach to the timescales for compliance with duties (that is, to act promptly and in any event within a fixed period), as explained in paragraphs 1.31 – 1.32 of the draft ALN Code?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

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**Question 3** – Is the general exception which applies in the case of timescales, as described in paragraphs 1.33-1.35 of the draft ALN Code, appropriate?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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## Structure of the draft ALN Code

**Question 4** – Is the structure of the draft ALN Code and the separation of the chapters appropriate, clear and easy to follow?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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### **Supporting comments**

It would be better to have separate booklets for Early Years/Mainstream School/F.E to make the document more user friendly.

**Question 5** – Is the draft ALN Code's focus on describing and explaining the functions and processes appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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### **Supporting comments**

## Pupil referral units (PRUs) - Proposed regulations to be made under Paragraph 15 of Schedule 1 to the Education Act 1996

**Question 6** – Do you agree with the proposal to use regulations to delegate functions from a local authority to a Management Committee of a PRU?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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### **Supporting comments**

## **Chapter 2 - Principles of the Code**

**Question 7** – Are the principles set out in Chapter 2 of the draft ALN Code the right ones?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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### **Supporting comments**

Concern as to how it is expected in 2.22 that the school must secure that the child engages in the school's activities with other children who do not have ALN.

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### Chapter 3 - Involving and supporting children, their parents and young people

**Question 8** – Is the explanation of the duties relating to involving and supporting children, their parents and young people provided in Chapter 3 of the draft ALN Code appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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### Chapter 4 - Duties on local authorities and NHS bodies to have regard to the UNCRC and the UNCRPD

**Question 9** – Is Chapter 4 of the draft ALN Code clear about what is expected of local authorities and NHS bodies when discharging their duties to have due regard to the United Nations Convention on the Rights of the Child (UNCRC) and United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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### Chapter 5 - Duty to keep additional learning provision (ALP) under review

**Question 10** – Is the guidance provided in Chapter 5 of the draft ALN Code in relation to the duties to keep ALP under review appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	✓
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Supporting comments

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### Chapter 6 - Advice and information

**Question 11** – Is the guidance provided in Chapter 6 of the draft ALN Code in relation to making arrangements to provide advice and information about ALN and the ALN system appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

## Chapter 7 - The definition of ALN and ALP, identifying ALN and deciding upon the ALP required

**Question 12** – Is this explanation of the definition of ALN provided in paragraphs 7.4 – 7.32 of the draft ALN Code clear?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

The content was not a clear process; it contained too many words and was contradictory. It was felt it was not a useable Code, more like a tome rather than a tool for support.

Definitions were fine and ALNCoS were used to using the terms used. It was felt it would be helpful to have a ‘what can be done under reasonable adjustments’ that would then not call for an IDP.

A flow chart could probably be more meaningful and the introduction could end at the end of the first paragraph.

Still unclear on

- the role of Health in Chapter 7
- where the ALP sits in the IDP
- Do all present IEP’s move to an IDP with an ALP in the middle or can it just be an ALP
- What is the criteria for moving it from being school based to LA based
- Responsibility on preparing the IDP and who should be involved

The flowchart on page 73 is confusing.

Pupils who are EAL / MAT / HCN not necessarily ALN

‘Significantly’ not defined. It is too subjective as it stands.

Equally ‘generally’ needs defining.

- What does ‘significant’ mean? It was recognised that similar language is used in the present Code of Practice, but the statutory nature of the new Code made this seem more important.
- Would like more clarity around the variety of data and information that could be used to ‘prove’ significant difference.

- there wasn't clarity around definitions of learning difficulty and disability, though others were happy with this.

**Question 13** – Does Chapter 7 of the draft ALN Code provide a clear and comprehensive explanation of the evidence on which decisions about ALN and ALP should be based, the sources from which this evidence might be collated, and the way in which it should be considered?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

- The checklist of possible needs is prefaced with 'such as', indicating that it is not meant to be exhaustive... in which case, what's the point of having it? View was that it might provide more questions than answers. Also, a view that there should be more regarding context and evidence to be provided.

## Chapters 8 to 12 – Duties on schools, FEIs and local authorities

### Early Years ALN Lead Officer

**Question 14** – Is the guidance on the role, experience and expertise of the Early Years ALNLO set out in paragraphs 8.40 - 8.47 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have the appropriate experience and expertise to meet the expectations of the role)?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

### Duties on schools, FEIs and local authorities

**Question 15** – Is the structure and content of Chapters 8 to 12 of the draft ALN Code clear?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

Chapter contradictory throughout.

Concerns expressed on

- the criteria for responsibility is not clear
- information sheets are needed to protect schools and LA when decisions are made

- 9.41 needs to be a MUST rather than SHOULD
- How the LACE Co-ordinator works with the school to develop IDP for the CLA pupils. Schools are aware that there is one person in this role and they are attached to SSD
- (Feel that EP allocation will need to change as this will be demand led often by parents)
- 9.91, it was queried will this require more specific information – quantifying and specifying? If this is the case then the chapter needs to be clearer.
- 9.107/9.108 – it was felt that LA can overrule schools in admitting pupils without consultation for school to include them in all mainstream activities – how will this work when there is no additional funding.

9.2 Real doubt that ‘low incidence’ makes sense here.

Use of the word ‘usually’ – what does this actually mean?

More clarity needed around the more severe and complex cases, particularly for pupils in CNRBs.

9.3(d) Questions raised around the process for dual-registered pupils; Despite several re-readings, I could not nail down the meaning of the relevant paragraph, in relation to referral by governing body to LA.

There may be an issue with the 35 days timescale in terms of getting information from other schools/agencies. At secondary it also takes longer for key people to get to know pupils.

Effectiveness of targets vs ticking a box. Secondary targets and securing buy in from all teachers.

Designated person to write IDP – could be unqualified or inexperienced. Although the Code states it is not the role of the ALNCo to write IDPs who else would have that level of expertise.

9.6-9.8 Clear guidance needed regarding notification of ALN need. There is a concern that lawyers would take advantage here.

The chapter says that it is the maintained school’s duty to decide about an IDP whereas Ch24 says it’s the ALNCo. There needs to be clarity on who is responsible for this duty.

**Question 16** – Are the timescales for decisions by schools, FEIs and local authorities on ALN and preparing an IDP as set out in Chapters 8-12 appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

Deciding whether it is ‘necessary’ for a local authority to prepare and maintain an IDP for a young person not at a maintained school or FEI - Proposed regulations to be made under Section 46 of the 2018 Act

**Question 17** – Are the proposed requirements and guidance in paragraphs 12.22 – 12.51 of the draft ALN Code on when it is necessary for a local authority to maintain an IDP for a young person not at a school or FEI in Wales appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

## Chapter 13 - Content of an IDP

**Question 18** – Are the elements of the mandatory content of an IDP which are required by the ALN Code, appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

**Question 19** – Is the proposed mandatory standard form for an IDP (included at Annex A of the draft ALN Code) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 20** – Is the guidance in Chapter 13 of the draft ALN Code clear?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 21** – Is the guidance on transport in paragraphs 13.74 - 13.76 of the draft ALN Code appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

## **Chapter 15 – Duties on health bodies and other relevant persons**

Statutory requests by local authorities to relevant persons for information or other help - Proposed regulations to be made under Section 65(5) of the 2018 Act

**Question 22** – Is the proposed timescale and exceptions for relevant persons to comply with a local authority request for information or other help (under section 65 of the 2018 Act) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

ALP to be secured by NHS bodies - Proposed regulations to be made under Section 21(10) of the 2018 Act

**Question 23** – Is the proposed period and exception within which an NHS body must inform others of the outcome of a referral to it (under section 20 of the 2018 Act) to identify whether there is a relevant treatment or service, appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

The Designated Education Clinical Lead Officer (“DECLO”)

**Question 24** – Is the guidance on the role, experience and expertise of the DECLO set out in paragraphs 15.37 – 15.53 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have appropriate experience and expertise)?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

## Chapter 16 - Review and revision of IDPs

**Question 25** – Is the content and structure of Chapter 16 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

**Question 26** – Is the proposed period and exception for completing reviews in response to a request from a child, their parent, a young person or an NHS body (set out in paragraph 16.18 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

## Chapter 17 – Local authority reconsiderations and taking over responsibility for an IDP

**Question 27** – Is the content and structure of Chapter 17 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

**Question 28** – Is the proposed period and exception for a local authority reconsidering a school IDP (set out in paragraph 17.20 of the draft ALN Code) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

## Chapter 18 - Meetings about ALN and IDPs

**Question 29** – Are the principles and the guidance provided in Chapter 18 of the draft ALN Code on meetings about ALN and IDPs appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

## Chapter 19 – Planning for and supporting transition

**Question 30** – Is the guidance in Chapter 19 of the draft ALN Code on supporting children and young people to make effective transitions appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

## Chapter 20 - Transferring an IDP

**Question 31** – Is the content and structure of Chapter 20 of the draft ALN Code clear?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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Transfers of IDPs - Proposed regulations to be made under Section 36(3) of the 2018 Act and Section 37 of the 2018 Act

**Question 32** – Are the requirements that are intended to be included in regulations in relation to requests to transfer an IDP to an FEI (as described in paragraphs 20.12 - 20.17 of the draft ALN Code) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 33** – Are the arrangements that are intended to be included in regulations in relation to all other transfers (as described in paragraphs 20.18 – 20.21 of the draft ALN Code) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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## **Chapter 21 - Ceasing to maintain an IDP**

**Question 34** – Is the content and structure of Chapter 21 of the draft ALN Code clear?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 35** – Is the period of time for making a reconsideration request (described at 21.18 of the draft ALN Code), appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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## Chapter 22 – Children and young people subject to detention orders

**Question 36** – Is the content and structure of Chapter 22 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

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**Question 37** – Are the proposals for the regulations in relation to deciding whether it will be necessary to maintain an IDP for a detained child or young person upon their release appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

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**Question 38** – Are the proposals for the regulations in relation to children or young people who are subject to a detention order and detained in hospital under Part 3 of the Mental Health Act 1983 (as described in paragraphs 22.45 – 22.74 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

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**Question 39** – Are the timescale requirements to act “promptly” in relation to decisions about ALN and preparing IDPs for children and young people subject to detention orders (as set out in Chapter 22) appropriate, rather than also having a requirement to comply within a fixed period subject to an exception or exceptions?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

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## Chapter 23 - Children and young people in specific circumstances

**Question 40** – Is the guidance in Chapter 23 of the draft ALN Code on children and young people in specific circumstances appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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### Supporting comments

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## Chapter 24 - Role of the Additional Learning Needs Co-ordinator (ALNCo)

**Question 41** – Is the information set out in Chapter 24 of the draft ALN Code about the role and responsibilities of the ALNCo appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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### Supporting comments

In principal I feel that having one ALNCO was the way forward so an overview can be kept on all pupils, but I do feel that only one person in a Comp could be difficult if they were responsible for the whole ALNCo role. I feel that it needed to be non- teaching post as there is are a number of MUST's in the post.

The role is too large to do effectively without having appropriately allocated non-teaching time. I feel that it needs to stipulate that Head's MUST give time for the role rather than SHOULD.

There is a contradiction as it states the ALNCO must be registered in school as a teacher and with EWC ( 24.24) but 24.26 allows the continuation of SENCO's to undertake the role of ALNCo without the above registration. One ALNCO had seen something similar to this written elsewhere in the CODE. All expressed concerns of the contradictions.

Q41 – query re: para 24.1 – do special schools have to appoint an ALNCo?

Felt that, generally, the role was clearly explained but would appreciate more direction re: time and resources e.g. to fulfil 24.7 (the strategic nature of the role)

Need to be clearer on the role of all school staff.

What is considered 'exceptional'?

Do we need chapter 24 if we have chapter 9?

'Highly qualified' – what does that mean? The ALNCo should be a part of the Senior Leadership Team.

Time for undertaking the role is needed. It can't just be left to the discretion of the Headteacher.

Overall, the group was positive and felt that change was needed but not so sure that this CODE supports the ALNCO role.

## Chapter 25 - Avoiding and resolving disagreements

**Question 42** – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

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**Question 43** – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

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## Chapter 26 - Appeals and applications to the Tribunal

**Question 44** – Is the information about appeals and the appeals process set out in Chapter 26 of the draft ALN Code appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

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## Chapter 27 - Case friends for children who lack capacity

**Question 45** – Is the information about case friends, including the duties on the Tribunal to appoint and remove case friends, clearly explained in the Chapter 27 of the draft ALN Code?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

### Any other comments

**Question 46** – Please provide any other comments that you would like to make on the draft ALN Code. Where your comments relate to a specific chapter or paragraph within the draft ALN Code, please indicate this in your response.

## **Part 2 of the consultation: Draft Education Tribunal for Wales regulations**

**Question 47** – Overall, do the draft Education Tribunal regulations provide clear processes and procedures relating to appeals and claims to the Education Tribunal?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 48** – Overall, will the processes and procedures outlined in the draft Education Tribunal regulations enable the Education Tribunal to deal with cases fairly and justly?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 49** – Is the proposed case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 50** – Are the proposed timescales for each party in the case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) reasonable?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 51** – Is the 6 week timescale within which NHS bodies must report to the Education Tribunal in response to a recommendation (regulation 65 of the draft Education Tribunal regulations) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 52** – Are the timescales relating to compliance with Education Tribunal orders appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 53** – Is the approach to extensions to timescales (regulation 66 of the draft Education Tribunal regulations) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 54** – Are the proposed regulations relating to case friends (draft Education Tribunal regulations 61 to 64) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

## **Part 3 of the consultation: Draft ALNCo regulations**

**Question 55** – Are the prescribed qualifications to be an ALNCo set out in the draft ALNCo regulations appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

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**Question 56** – Do you agree with the tasks that ALNCo must carry out or arrange to carry out as set out in the draft ALNCo regulations?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

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## **Part 4 of the consultation: Looked after children**

### **(a) Proposed regulations to be made**

**Question 57** – Do you agree that the Looked after Children in Education (LACE) Co-ordinator should be a statutory role?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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### **(b) Chapter 14 of the draft ALN Code – Content of an IDP for a looked after child**

**Question 58** – Do you agree that there should be a separate standard form for looked after children and is the proposed standard form, together with the guidance and requirements related to it, appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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### **(c) Proposed revisions to the Part 6 Code**

**Question 59** – Do the draft revisions to the Part 6 Code provide a clear explanation of the duties on local authorities in relation to their social services functions for looked after children with ALN and what these duties mean in practice?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 60** – Overall, do you agree with the approach taken in the draft revised Part 6 Code to explaining the legislative changes, including the integration of personal education plans (PEPs) and IDPs and the mandatory content of PEPs? Are the requirements and expectations and what these mean in practice clearly explained?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 61** – Do the changes that have been made to the Part 6 code clearly explain the role of the LACE Co-ordinator in overseeing the ALN arrangements for looked after children and what this means in practice?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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## **Part 5 of the consultation: Impact of proposals**

**Question 62** – What impacts do you think there will be as a result of the proposed regulations?

**Question 63** – What impact do you think the proposals in the draft ALN Code and proposed regulations would have on the Welsh language?

**Question 64** – How do you think the proposals in the draft ALN Code and proposed regulations could be formulated or changed so as to have:

- i) positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?;
- ii) no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?

**Question 65** – We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

## Respondent Details

Information	
<b>Name</b>	Central South Consortium
<b>Organisation (if applicable)</b>	Central South Consortium Joint Education Service

## Part 1 of the consultation: The draft ALN Code

### Chapter 1 - Introduction

The meaning of 'must', 'must not', 'may', 'should' and 'should not' in the ALN Code

**Question 1** – Is the explanation in paragraphs 1.10 -1.16 of the draft ALN Code of the use and meaning of the different terms 'must', 'must not', 'may', 'should' and 'should not' clear?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

Timescales

**Question 2** – Do you agree with the general approach to the timescales for compliance with duties (that is, to act promptly and in any event within a fixed period), as explained in paragraphs 1.31 – 1.32 of the draft ALN Code?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 3** – Is the general exception which applies in the case of timescales, as described in paragraphs 1.33-1.35 of the draft ALN Code, appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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Structure of the draft ALN Code

**Question 4** – Is the structure of the draft ALN Code and the separation of the chapters appropriate, clear and easy to follow?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 5** – Is the draft ALN Code’s focus on describing and explaining the functions and processes appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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Pupil referral units (PRUs) - Proposed regulations to be made under Paragraph 15 of Schedule 1 to the Education Act 1996

**Question 6** – Do you agree with the proposal to use regulations to delegate functions from a local authority to a Management Committee of a PRU?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Chapter 2 - Principles of the Code**

**Question 7** – Are the principles set out in Chapter 2 of the draft ALN Code the right ones?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**This supports the wider reforms and promotes the national mission. There is a need however, to ensure that the overlaps with the wider reforms are made explicit otherwise this will be seen as just an ALN initiative.**

### Chapter 3 - Involving and supporting children, their parents and young people

**Question 8** – Is the explanation of the duties relating to involving and supporting children, their parents and young people provided in Chapter 3 of the draft ALN Code appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

### Chapter 4 - Duties on local authorities and NHS bodies to have regard to the UNCRC and the UNCRPD

**Question 9** – Is Chapter 4 of the draft ALN Code clear about what is expected of local authorities and NHS bodies when discharging their duties to have due regard to the United Nations Convention on the Rights of the Child (UNCRC) and United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

### Chapter 5 - Duty to keep additional learning provision (ALP) under review

**Question 10** – Is the guidance provided in Chapter 5 of the draft ALN Code in relation to the duties to keep ALP under review appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

**There are significant implications for education consortia to be able to support the duties to keep ALP under review. In order to be able to comply with this there is a need to develop a joint and shared understanding between school improvement and inclusion teams of what is considered to be good practice in relation to the teaching and learning of pupils with ALN. For those pupils that need small group or individual interventions there is a need to ensure consistency in promoting only those that are evidence-based and research informed. There is a particular need to develop interventions through the medium of Welsh that are evidence-based and research informed. There are implications for the professional development of Challenge Advisers to ensure they**

are able to support schools in delivering high quality ALN practice. The new accountability measures currently being developed need to take into account the expectations of the ALN Act and Code. Under the current accountability system ALN does not have a high profile and therefore very little emphasis is placed on the progress of ALN learners. There are implications for consortia in developing professional learning programmes that specifically promote inclusive practices so that all teachers are teachers of ALN. There are implications for consortia in developing leadership programmes that ensure schools can successfully carry out their ALN functions.

## Chapter 6 - Advice and information

**Question 11** – Is the guidance provided in Chapter 6 of the draft ALN Code in relation to making arrangements to provide advice and information about ALN and the ALN system appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

## Chapter 7 - The definition of ALN and ALP, identifying ALN and deciding upon the ALP required

**Question 12** – Is this explanation of the definition of ALN provided in paragraphs 7.4 – 7.32 of the draft ALN Code clear?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 13** – Does Chapter 7 of the draft ALN Code provide a clear and comprehensive explanation of the evidence on which decisions about ALN and ALP should be based, the sources from which this evidence might be collated, and the way in which it should be considered?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

This will only perpetuate the situation that we currently have in that all schools define ALN differently. There is considerable variation across schools, even within clusters about how ALN is defined and therefore what ALP is used to support pupils. In order to address this there would be benefit to a regional if not national understanding of what 'significant' means.

## Chapters 8 to 12 – Duties on schools, FEIs and local authorities

### Early Years ALN Lead Officer

**Question 14** – Is the guidance on the role, experience and expertise of the Early Years ALNLO set out in paragraphs 8.40 - 8.47 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have the appropriate experience and expertise to meet the expectations of the role)?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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### Duties on schools, FEIs and local authorities

**Question 15** – Is the structure and content of Chapters 8 to 12 of the draft ALN Code clear?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 16** – Are the timescales for decisions by schools, FEIs and local authorities on ALN and preparing an IDP as set out in Chapters 8-12 appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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### Deciding whether it is 'necessary' for a local authority to prepare and maintain an IDP for a young person not at a maintained school or FEI - Proposed regulations to be made under Section 46 of the 2018 Act

**Question 17** – Are the proposed requirements and guidance in paragraphs 12.22 – 12.51 of the draft ALN Code on when it is necessary for a local authority to maintain an IDP for a young person not at a school or FEI in Wales appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Chapter 13 - Content of an IDP**

**Question 18** – Are the elements of the mandatory content of an IDP which are required by the ALN Code, appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 19** – Is the proposed mandatory standard form for an IDP (included at Annex A of the draft ALN Code) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 20** – Is the guidance in Chapter 13 of the draft ALN Code clear?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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Transport

**Question 21** – Is the guidance on transport in paragraphs 13.74 - 13.76 of the draft ALN Code appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Chapter 15 – Duties on health bodies and other relevant persons**

Statutory requests by local authorities to relevant persons for information or other help - Proposed regulations to be made under Section 65(5) of the 2018 Act

**Question 22** – Is the proposed timescale and exceptions for relevant persons to comply with a local authority request for information or other help (under section 65 of the 2018 Act) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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ALP to be secured by NHS bodies - Proposed regulations to be made under Section 21(10) of the 2018 Act

**Question 23** – Is the proposed period and exception within which an NHS body must inform others of the outcome of a referral to it (under section 20 of the 2018 Act) to identify whether there is a relevant treatment or service, appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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The Designated Education Clinical Lead Officer (“DECLO”)

**Question 24** – Is the guidance on the role, experience and expertise of the DECLO set out in paragraphs 15.37 – 15.53 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have appropriate experience and expertise)?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

## Chapter 16 - Review and revision of IDPs

**Question 25** – Is the content and structure of Chapter 16 of the draft ALN Code clear?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 26** – Is the proposed period and exception for completing reviews in response to a request from a child, their parent, a young person or an NHS body (set out in paragraph 16.18 of the draft ALN Code) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

## Chapter 17 – Local authority reconsiderations and taking over responsibility for an IDP

**Question 27** – Is the content and structure of Chapter 17 of the draft ALN Code clear?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 28** – Is the proposed period and exception for a local authority reconsidering a school IDP (set out in paragraph 17.20 of the draft ALN Code) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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## **Chapter 18 - Meetings about ALN and IDPs**

**Question 29** – Are the principles and the guidance provided in Chapter 18 of the draft ALN Code on meetings about ALN and IDPs appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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## **Chapter 19 – Planning for and supporting transition**

**Question 30** – Is the guidance in Chapter 19 of the draft ALN Code on supporting children and young people to make effective transitions appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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## **Chapter 20 - Transferring an IDP**

**Question 31** – Is the content and structure of Chapter 20 of the draft ALN Code clear?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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Transfers of IDPs - Proposed regulations to be made under Section 36(3) of the 2018 Act and Section 37 of the 2018 Act

**Question 32** – Are the requirements that are intended to be included in regulations in relation to requests to transfer an IDP to an FEI (as described in paragraphs 20.12 - 20.17 of the draft ALN Code) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 33** – Are the arrangements that are intended to be included in regulations in relation to all other transfers (as described in paragraphs 20.18 – 20.21 of the draft ALN Code) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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## **Chapter 21 - Ceasing to maintain an IDP**

**Question 34** – Is the content and structure of Chapter 21 of the draft ALN Code clear?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 35** – Is the period of time for making a reconsideration request (described at 21.18 of the draft ALN Code), appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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## Chapter 22 – Children and young people subject to detention orders

**Question 36** – Is the content and structure of Chapter 22 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

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**Question 37** – Are the proposals for the regulations in relation to deciding whether it will be necessary to maintain an IDP for a detained child or young person upon their release appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

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**Question 38** – Are the proposals for the regulations in relation to children or young people who are subject to a detention order and detained in hospital under Part 3 of the Mental Health Act 1983 (as described in paragraphs 22.45 – 22.74 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

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**Question 39** – Are the timescale requirements to act “promptly” in relation to decisions about ALN and preparing IDPs for children and young people subject to detention orders (as set out in Chapter 22) appropriate, rather than also having a requirement to comply within a fixed period subject to an exception or exceptions?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

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## Chapter 23 - Children and young people in specific circumstances

**Question 40** – Is the guidance in Chapter 23 of the draft ALN Code on children and young people in specific circumstances appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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## Chapter 24 - Role of the Additional Learning Needs Co-ordinator (ALNCo)

**Question 41** – Is the information set out in Chapter 24 of the draft ALN Code about the role and responsibilities of the ALNCo appropriate?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

As consortia are responsible for creating professional learning programmes this chapter has significant implications for CSC. Very little currently exists that specifically supports the development of ALNcos as described in this chapter.

There is a need for better collaboration between school improvement and inclusion services to co-construct professional learning offers for current and prospective SENCos/ALNcos. In addition there are implications for the consortia in developing professional learning opportunities for Head Teachers and other senior leaders so that they in turn know what is the role of the ALNco and what is the role of SLT in developing systems and process in school to allow the ALNco to carry out the duties as set out in the Code.

## Chapter 25 - Avoiding and resolving disagreements

**Question 42** – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 43** – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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### **Chapter 26 - Appeals and applications to the Tribunal**

**Question 44** – Is the information about appeals and the appeals process set out in Chapter 26 of the draft ALN Code appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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### **Chapter 27 - Case friends for children who lack capacity**

**Question 45** – Is the information about case friends, including the duties on the Tribunal to appoint and remove case friends, clearly explained in the Chapter 27 of the draft ALN Code?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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### **Any other comments**

**Question 46** – Please provide any other comments that you would like to make on the draft ALN Code. Where your comments relate to a specific chapter or paragraph within the draft ALN Code, please indicate this in your response.



## **Part 2 of the consultation: Draft Education Tribunal for Wales regulations**

**Question 47** – Overall, do the draft Education Tribunal regulations provide clear processes and procedures relating to appeals and claims to the Education Tribunal?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 48** – Overall, will the processes and procedures outlined in the draft Education Tribunal regulations enable the Education Tribunal to deal with cases fairly and justly?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 49** – Is the proposed case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 50** – Are the proposed timescales for each party in the case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) reasonable?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 51** – Is the 6 week timescale within which NHS bodies must report to the Education Tribunal in response to a recommendation (regulation 65 of the draft Education Tribunal regulations) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 52** – Are the timescales relating to compliance with Education Tribunal orders appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 53** – Is the approach to extensions to timescales (regulation 66 of the draft Education Tribunal regulations) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 54** – Are the proposed regulations relating to case friends (draft Education Tribunal regulations 61 to 64) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

## **Part 3 of the consultation: Draft ALNCo regulations**

**Question 55** – Are the prescribed qualifications to be an ALNCo set out in the draft ALNCo regulations appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 56** – Do you agree with the tasks that ALNCoS must carry out or arrange to carry out as set out in the draft ALNCo regulations?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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## **Part 4 of the consultation: Looked after children**

### **(a) Proposed regulations to be made**

**Question 57** – Do you agree that the Looked after Children in Education (LACE) Co-ordinator should be a statutory role?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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### **(b) Chapter 14 of the draft ALN Code – Content of an IDP for a looked after child**

**Question 58** – Do you agree that there should be a separate standard form for looked after children and is the proposed standard form, together with the guidance and requirements related to it, appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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### **(c) Proposed revisions to the Part 6 Code**

**Question 59** – Do the draft revisions to the Part 6 Code provide a clear explanation of the duties on local authorities in relation to their social services functions for looked after children with ALN and what these duties mean in practice?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 60** – Overall, do you agree with the approach taken in the draft revised Part 6 Code to explaining the legislative changes, including the integration of personal education plans (PEPs) and IDPs and the mandatory content of PEPs? Are the requirements and expectations and what these mean in practice clearly explained?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 61** – Do the changes that have been made to the Part 6 code clearly explain the role of the LACE Co-ordinator in overseeing the ALN arrangements for looked after children and what this means in practice?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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## **Part 5 of the consultation: Impact of proposals**

**Question 62** – What impacts do you think there will be as a result of the proposed regulations?

**Question 63** – What impact do you think the proposals in the draft ALN Code and proposed regulations would have on the Welsh language?

**Question 64** – How do you think the proposals in the draft ALN Code and proposed regulations could be formulated or changed so as to have:

- i) positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?;
- ii) no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?

**Question 65** – We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

## Respondent Details

Information	
<b>Name</b>	Tim Pratt
<b>Organisation (if applicable)</b>	ASCL Cymru

## Part 1 of the consultation: The draft ALN Code

### Chapter 1 - Introduction

The meaning of 'must', 'must not', 'may', 'should' and 'should not' in the ALN Code

**Question 1** – Is the explanation in paragraphs 1.10 -1.16 of the draft ALN Code of the use and meaning of the different terms 'must', 'must not', 'may', 'should' and 'should not' clear?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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#### Supporting comments

*It is absolutely clear.*

#### Timescales

**Question 2** – Do you agree with the general approach to the timescales for compliance with duties (that is, to act promptly and in any event within a fixed period), as explained in paragraphs 1.31 – 1.32 of the draft ALN Code?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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#### Supporting comments

*The general approach to the timescales is acceptable. However, this should not be taken to mean that we agree with all the detail of the proposed timescales. We are concerned that these timescales do not seem to take into account the impact of waiting for responses from those outside education (e.g. health), which could mean delays that might prevent compliance through no fault of the school. Have school holidays been taken into account? We cannot expect school staff to work during holiday periods.*

**Question 3** – Is the general exception which applies in the case of timescales, as described in paragraphs 1.33-1.35 of the draft ALN Code, appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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#### Supporting comments

*We feel this also needs to reflect the possibility that the exception might apply in the case of absence/illness of key staff and the late/non-arrival of evidence from outside bodies.*

### Structure of the draft ALN Code

**Question 4** – Is the structure of the draft ALN Code and the separation of the chapters appropriate, clear and easy to follow?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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#### **Supporting comments**

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**Question 5** – Is the draft ALN Code’s focus on describing and explaining the functions and processes appropriate?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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#### **Supporting comments**

<i>It would be useful to have supporting guidance/case studies available as a separate document.</i>
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### Pupil referral units (PRUs) - Proposed regulations to be made under Paragraph 15 of Schedule 1 to the Education Act 1996

**Question 6** – Do you agree with the proposal to use regulations to delegate functions from a local authority to a Management Committee of a PRU?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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#### **Supporting comments**

<i>Providing appropriate funding and training is provided to enable this to happen.</i>
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## **Chapter 2 - Principles of the Code**

**Question 7** – Are the principles set out in Chapter 2 of the draft ALN Code the right ones?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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#### **Supporting comments**

<i>A critical element here is the interpretation of the phrase “have regard to”. It is vital to understand that this does not always mean that the wishes of the young person and/or parents are necessarily in their best interest or practical. A statement to that effect at this point in the document might be useful to ensure there is no misunderstanding later.</i>
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### Chapter 3 - Involving and supporting children, their parents and young people

**Question 8** – Is the explanation of the duties relating to involving and supporting children, their parents and young people provided in Chapter 3 of the draft ALN Code appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

*Please see our comment above about the phrase “have regard to “. We remain concerned that an appropriate level of funding is required to enable all these to happen.*

### Chapter 4 - Duties on local authorities and NHS bodies to have regard to the UNCRC and the UNCRPD

**Question 9** – Is Chapter 4 of the draft ALN Code clear about what is expected of local authorities and NHS bodies when discharging their duties to have due regard to the United Nations Convention on the Rights of the Child (UNCRC) and United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

### Chapter 5 - Duty to keep additional learning provision (ALP) under review

**Question 10** – Is the guidance provided in Chapter 5 of the draft ALN Code in relation to the duties to keep ALP under review appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

*We would like to see an statement here reflecting the need for the local authority to provide appropriate funding and access to support for school-based staff. 5.13 we feel should start with “Local authorities **must**”*

## Chapter 6 - Advice and information

**Question 11** – Is the guidance provided in Chapter 6 of the draft ALN Code in relation to making arrangements to provide advice and information about ALN and the ALN system appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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### Supporting comments

*We feel 6.10 and 6.12 should both start with **must**, they appear to contradict each other.*

## Chapter 7 - The definition of ALN and ALP, identifying ALN and deciding upon the ALP required

**Question 12** – Is this explanation of the definition of ALN provided in paragraphs 7.4 – 7.32 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

*There needs to be greater clarity about what is meant in 7.3 and 7.6 by “significantly greater difficulty”. This, as it stands, is too vague and open to interpretation.*

**Question 13** – Does Chapter 7 of the draft ALN Code provide a clear and comprehensive explanation of the evidence on which decisions about ALN and ALP should be based, the sources from which this evidence might be collated, and the way in which it should be considered?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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### Supporting comments

*The danger with providing comprehensive lists is that it can be limiting and/or exclusive. We feel that, for example, 7.34 should state “... to learn or access education such as, **but not limited to**”. 7.39 refers to National Curriculum level descriptors and needs to reflect the changes proposed under the Donaldson reforms. 7.41 is vague and open to interpretation – how do you define “significantly slower”*

## Chapters 8 to 12 – Duties on schools, FEIs and local authorities

### Early Years ALN Lead Officer

**Question 14** – Is the guidance on the role, experience and expertise of the Early Years ALNLO set out in paragraphs 8.40 - 8.47 of the draft ALN Code appropriate for achieving

the objectives (that the role is strategic and such officers have the appropriate experience and expertise to meet the expectations of the role)?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

*This seems appropriate.*

Duties on schools, FEIs and local authorities

**Question 15** – Is the structure and content of Chapters 8 to 12 of the draft ALN Code clear?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 16** – Are the timescales for decisions by schools, FEIs and local authorities on ALN and preparing an IDP as set out in Chapters 8-12 appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

*No references are made to school holidays. Please see our comments for Question 2.*

Deciding whether it is ‘necessary’ for a local authority to prepare and maintain an IDP for a young person not at a maintained school or FEI - Proposed regulations to be made under Section 46 of the 2018 Act

**Question 17** – Are the proposed requirements and guidance in paragraphs 12.22 – 12.51 of the draft ALN Code on when it is necessary for a local authority to maintain an IDP for a young person not at a school or FEI in Wales appropriate?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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## Chapter 13 - Content of an IDP

**Question 18** – Are the elements of the mandatory content of an IDP which are required by the ALN Code, appropriate?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 19** – Is the proposed mandatory standard form for an IDP (included at Annex A of the draft ALN Code) appropriate?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

*We feel that the option to adapt the form is unhelpful in the case of a child moving from one local authority to another. Additional information could more helpfully be included in an annexe rather than as part of the main form.*

**Question 20** – Is the guidance in Chapter 13 of the draft ALN Code clear?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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### Transport

**Question 21** – Is the guidance on transport in paragraphs 13.74 - 13.76 of the draft ALN Code appropriate?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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## Chapter 15 – Duties on health bodies and other relevant persons

Statutory requests by local authorities to relevant persons for information or other help - Proposed regulations to be made under Section 65(5) of the 2018 Act

**Question 22** – Is the proposed timescale and exceptions for relevant persons to comply with a local authority request for information or other help (under section 65 of the 2018 Act) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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### Supporting comments

*15.7 does not impose the same level of compulsion on health workers that is required on teachers. This could lead to delays which might mean that the school were unable to comply with their timescales. The duty to respond only when requested by the local authority is unhelpful and impractical. There needs to be a common approach.*

ALP to be secured by NHS bodies - Proposed regulations to be made under Section 21(10) of the 2018 Act

**Question 23** – Is the proposed period and exception within which an NHS body must inform others of the outcome of a referral to it (under section 20 of the 2018 Act) to identify whether there is a relevant treatment or service, appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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### Supporting comments

*This does not recognise that this period and exception may well impact upon the ability of schools to meet their own deadline. This “knock-on” effect needs to be factored into the regulations.*

The Designated Education Clinical Lead Officer (“DECLO”)

**Question 24** – Is the guidance on the role, experience and expertise of the DECLO set out in paragraphs 15.37 – 15.53 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have appropriate experience and expertise)?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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### Supporting comments

## Chapter 16 - Review and revision of IDPs

**Question 25** – Is the content and structure of Chapter 16 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

*Whilst this is clear, we do not feel it represents an economic and sustainable approach without significant further investment in funding, staffing, time and training.*

**Question 26** – Is the proposed period and exception for completing reviews in response to a request from a child, their parent, a young person or an NHS body (set out in paragraph 16.18 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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### Supporting comments

*We feel the relevant periods should be expressed in the same way for both schools and FEIs, e.g. 35 term-time working days, otherwise it could lead to impossible deadlines. There does not appear to be any mention of a limit to the number of requests for a review in any twelve-month period. Without this, the workload could become unmanageable.*

## Chapter 17 – Local authority reconsiderations and taking over responsibility for an IDP

**Question 27** – Is the content and structure of Chapter 17 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

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**Question 28** – Is the proposed period and exception for a local authority reconsidering a school IDP (set out in paragraph 17.20 of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

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## Chapter 18 - Meetings about ALN and IDPs

**Question 29** – Are the principles and the guidance provided in Chapter 18 of the draft ALN Code on meetings about ALN and IDPs appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

*There needs to be recognition about the time this could take in a large school, the cost and need for both financial, staffing support and training to enable this to happen.*

## Chapter 19 – Planning for and supporting transition

**Question 30** – Is the guidance in Chapter 19 of the draft ALN Code on supporting children and young people to make effective transitions appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

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## Chapter 20 - Transferring an IDP

**Question 31** – Is the content and structure of Chapter 20 of the draft ALN Code clear?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

*This highlights the need for mandatory forms to be the same across all local authorities. The level of funding for an individual student from one authority to another may undermine the ability of a school to maintain the content of an IDP.*

Transfers of IDPs - Proposed regulations to be made under Section 36(3) of the 2018 Act and Section 37 of the 2018 Act

**Question 32** – Are the requirements that are intended to be included in regulations in relation to requests to transfer an IDP to an FEI (as described in paragraphs 20.12 - 20.17 of the draft ALN Code) appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

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**Question 33** – Are the arrangements that are intended to be included in regulations in relation to all other transfers (as described in paragraphs 20.18 – 20.21 of the draft ALN Code) appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

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## Chapter 21 - Ceasing to maintain an IDP

**Question 34** – Is the content and structure of Chapter 21 of the draft ALN Code clear?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 35** – Is the period of time for making a reconsideration request (described at 21.18 of the draft ALN Code), appropriate?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

<i>There needs to be a recognition that these timescales should not include school holidays.</i>
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## Chapter 22 – Children and young people subject to detention orders

**Question 36** – Is the content and structure of Chapter 22 of the draft ALN Code clear?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 37** – Are the proposals for the regulations in relation to deciding whether it will be necessary to maintain an IDP for a detained child or young person upon their release appropriate?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 38** – Are the proposals for the regulations in relation to children or young people who are subject to a detention order and detained in hospital under Part 3 of the Mental Health Act 1983 (as described in paragraphs 22.45 – 22.74 of the draft ALN Code) appropriate?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 39** – Are the timescale requirements to act “promptly” in relation to decisions about ALN and preparing IDPs for children and young people subject to detention orders (as set out in Chapter 22) appropriate, rather than also having a requirement to comply within a fixed period subject to an exception or exceptions?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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## **Chapter 23 - Children and young people in specific circumstances**

**Question 40** – Is the guidance in Chapter 23 of the draft ALN Code on children and young people in specific circumstances appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	✓
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**Supporting comments**

*It is important that where the child is still registered at the school, but receiving EOTAS and not attending the school, the responsibility for the IDP should pass to the local authority, as in 23.13*

## **Chapter 24 – Role of the Additional Learning Needs Co-ordinator (ALNCo)**

**Question 41** – Is the information set out in Chapter 24 of the draft ALN Code about the role and responsibilities of the ALNCo appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

*We need clearer definition of “highly qualified” (24.3). we feel there need to be specific qualifications that prepare someone to be operationally proficient.  
24.5 requires sufficient time and resource but does not require the local authority to ensure sufficient funding to enable this. We feel this is a significant omission that needs rectifying.*

## Chapter 25 - Avoiding and resolving disagreements

**Question 42** – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 43** – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

## Chapter 26 - Appeals and applications to the Tribunal

**Question 44** – Is the information about appeals and the appeals process set out in Chapter 26 of the draft ALN Code appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

*The timescales should state that they do not include school holidays.*

## Chapter 27 - Case friends for children who lack capacity

**Question 45** – Is the information about case friends, including the duties on the Tribunal to appoint and remove case friends, clearly explained in the Chapter 27 of the draft ALN Code?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Any other comments**

**Question 46** – Please provide any other comments that you would like to make on the draft ALN Code. Where your comments relate to a specific chapter or paragraph within the draft ALN Code, please indicate this in your response.

## Part 2 of the consultation: Draft Education Tribunal for Wales regulations

**Question 47** – Overall, do the draft Education Tribunal regulations provide clear processes and procedures relating to appeals and claims to the Education Tribunal?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

**Question 48** – Overall, will the processes and procedures outlined in the draft Education Tribunal regulations enable the Education Tribunal to deal with cases fairly and justly?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

**Question 49** – Is the proposed case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

**Question 50** – Are the proposed timescales for each party in the case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) reasonable?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

**Question 51** – Is the 6 week timescale within which NHS bodies must report to the Education Tribunal in response to a recommendation (regulation 65 of the draft Education Tribunal regulations) appropriate?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 52** – Are the timescales relating to compliance with Education Tribunal orders appropriate?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 53** – Is the approach to extensions to timescales (regulation 66 of the draft Education Tribunal regulations) appropriate?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 54** – Are the proposed regulations relating to case friends (draft Education Tribunal regulations 61 to 64) appropriate?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

## **Part 3 of the consultation: Draft ALNCo regulations**

**Question 55** – Are the prescribed qualifications to be an ALNCo set out in the draft ALNCo regulations appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

*See our response to Q42 above.*

**Question 56** – Do you agree with the tasks that ALNCo must carry out or arrange to carry out as set out in the draft ALNCo regulations?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

*Although the tasks appear appropriate, we remain concerned about the financial implications for schools if they are to implement them properly.  
There will clearly be responsibility implications for all other school staff and a need for ongoing training which will add further pressure to the ALNCo role.*

## **Part 4 of the consultation: Looked after children**

### **(a) Proposed regulations to be made**

**Question 57** – Do you agree that the Looked after Children in Education (LACE) Co-ordinator should be a statutory role?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

### **(b) Chapter 14 of the draft ALN Code – Content of an IDP for a looked after child**

**Question 58** – Do you agree that there should be a separate standard form for looked after children and is the proposed standard form, together with the guidance and requirements related to it, appropriate?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

*Our same comments about commonality across local authorities applies here.*

### **(c) Proposed revisions to the Part 6 Code**

**Question 59** – Do the draft revisions to the Part 6 Code provide a clear explanation of the duties on local authorities in relation to their social services functions for looked after children with ALN and what these duties mean in practice?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 60** – Overall, do you agree with the approach taken in the draft revised Part 6 Code to explaining the legislative changes, including the integration of personal education plans (PEPs) and IDPs and the mandatory content of PEPs? Are the requirements and expectations and what these mean in practice clearly explained?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 61** – Do the changes that have been made to the Part 6 code clearly explain the role of the LACE Co-ordinator in overseeing the ALN arrangements for looked after children and what this means in practice?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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## **Part 5 of the consultation: Impact of proposals**

**Question 62** – What impacts do you think there will be as a result of the proposed regulations?

*These proposals will result in a significant increase in workload of ALNCOs at school level. We have real concerns that they will also involve a significant increase in costs to schools, not just in staff time to implement them, but also in training of all staff to meet the new expectations.*

**Question 63** – What impact do you think the proposals in the draft ALN Code and proposed regulations would have on the Welsh language?

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**Question 64** – How do you think the proposals in the draft ALN Code and proposed regulations could be formulated or changed so as to have:

- i) positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?;
- ii) no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?

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**Question 65** – We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

*We feel provision should be made for mentoring of new ALENCOs. This an extremely complex role, and those undertaking it for the first time will need support as they start the job.*

*It is clear that there will be new and additional requirements on all school staff as a result of the new code. It would be helpful for this to be acknowledged within the text of the code, and reference made to the need for ongoing training.*

*We remain concerned that the financial implications of implementation have not been addressed fully. It is of enormous importance that sufficient funding is found to enable effective implementation. We estimate that a medium sized secondary school with an average of 20-25% of students with ALN will need at least three full-time staff (ALENCO + Deputy + Clerical Support) in order to deliver the requirements of the code. We do not believe that currently most schools have sufficient funding to be able to support this level of staffing.*

## Respondent Details

Information	
<b>Name</b>	Dr Dai Lloyd
<b>Organisation (if applicable)</b>	Cross Party Group on Deaf Issues

I am writing as the Chair of the Cross Party Group on Deaf Issues regarding the Draft version of the Additional Learning Needs Code for Wales.

Myself and the Cross Party Group believe certain aspects of the act must be changed in order for Deaf children/ young people to access a successful educational experience which would be as fair and accessible for them as their peers.

We believe more focus is needed regarding basic Deaf awareness training for ALNCOs & their Early Years counterparts, as well as further educational changes, such as the integral use of teachers for the deaf in conjunction with any assessment that a deaf child undertakes.

I would also like to highlight the issue regarding transportation, where deaf learners would need to travel to access support. It is vital that transport needs are therefore met, and the current draft does not address the issue sufficiently.

It also appears that the draft does not allow sufficient input from health professionals (such as Audiologists & Speech and Language Therapists) in regards to the support and assessment plans of deaf children/ young people.

It is disappointing to see that the involvement of careers advisors is to be reduced in regards to them being invited to key planning meetings for learners with additional needs. I believe the code should enhance the currently existing duties surrounding careers advice.

I would also like to note that the template for support plans need to be improved to include more appropriately detailed descriptions of the support available. It also appears that the families may not have a clear understanding of their rights regarding any support plan , as at present said right are not presented clearly.

I would be grateful if the points raised above and those raised by others would be heavily considered when finalising the ALN Code for Wales.

## Respondent Details

Information	
<b>Name</b>	Anonymous
<b>Organisation (if applicable)</b>	

### Question 11.

I do not think it is appropriate. I feel that people need to have access to independent advice from people who have the time and expertise to explain things to them in an accessible way. Local Authorities are cash - strapped and short-staffed - how will they be able to provide such advice? Also, why would parents and carers believe that they were being given impartial advice? There is a clear conflict of interest here. local education authorities and their staff work hard - but if they always got things right first time, why do we have an increasing number of cases going to Tribunal? Educational reports are not always easy to understand and people need help to work out what the implications are. They also need help to know what services are available.

I think it is also important that the same standard of service is available to people across Wales. Therefore, independent advice needs to be provided, otherwise there will be a lot of confusion about what the different authorities are doing to meet the additional needs of children.

It is also important that there is access to people - websites, leaflets and handouts are helpful but are not accessible to parents and carers with poor literacy and cannot give the amount of detail that maybe be needed to understand a complicated situation. They would not give a personal service but a one-size- fits- all and this would be likely to cause more dissatisfaction on both sides of the table. The WAG is also committed to giving people the information they need to make choices about their lives and this proposal goes against this.

***As such, the Welsh Government is committed to strengthening information, advice and guidance services, with the aim of helping people to understand and exercise their rights and make informed decisions about their lives.***

### Question 41

The role of the ALNCO is vital and it is important that they are well qualified. At the same time, it is a very different role in a large 11-18 comprehensive and a small Primary school. Staff will have differing amounts of time to fulfil the role and this will impact on the provision that can be provided in different schools. They will also have differing positions in the management structure and will therefore have different amounts of decision-making authority. I feel that this will increase the amount of variation between different schools, resulting in different provision, different time scales for action being taken etc. While I welcome the importance that the WAG is giving to Additional Learning Needs, I think it will only work if there is more funding available to support equal provision for pupils and equal workload for staff. In a situation where LEAs are having to cut the number of EPs and therefore, the amount of support schools can offer, there is not much point asking for EP

reports before things can be done. Schools should not be in the position of rationing support.

#### **Question 42**

Equally, I feel that it is vital that Disagreement Resolution Services should be impartial and independent. Why would parents and carers believe that they would get a fair hearing from the LEA who had made the decision in the first place? I think that this would discourage parents and carers from getting involved at all. It is important that people feel that they will be given a fair hearing if they are going to engage with the process. Parents and carers who have little experience of education are often nervous of attending meetings in schools and worry about not being able to put across their argument. They benefit from having talked through the situation first, planning what they want to say, deciding what outcome they would be willing to accept etc etc. It is hard to see how an LEA could provide this very intensive support. It is also difficult to see how such a service would be the same in each authority. Given that the WAG is committed to "strengthening information, advice and guidance services, with the aim of helping people to understand and exercise their rights and make informed decisions about their lives." I feel that it should be legislating to ensure these services are available across Wales by providing designated funding. LEAs have many demands on them and some of these can be conflicting - eg the need for services versus the need to set appropriate budgets. Designated funding would enable the same services to be available to all Welsh children and their parents and carers.

#### **Question 43**

If independent advocates are to provide expert advice, information, advice and support, provide support to a case friend, or indeed act as a case friend, these advocates will need to have more than understanding the ALN system including the arrangements for avoiding and resolving disputes and Tribunal procedures (25.63). They will need to have expert knowledge of the ALN system and be suitably qualified to give this level of expert advice and support. Independent advocacy services working with eligible children and young people do not currently have the capacity to support them prepare a case for disagreement resolution or tribunal. They do not unpick and explain reports. They do not write detailed case statements. Most advocates currently working with children and young people in Wales rely heavily on advice and professional support about ALN issues from Parent Partnership Services – SNAP Cymru and CAB. If independent advocacy services are to fulfil this role they must hold an externally audited quality assurance mark and be working towards WG's information and advice quality framework for Wales (IAQF).

#### **Question 44**

The position of SENTW is difficult as it makes individual decisions - it has no responsibility for putting these decisions into practice. While the LEA has to provide for all children, the Tribunal is only responsible to the individual. This means that access to the Tribunal has to be available to all - and many parents will need help to put their case. LEAs are increasingly having to use legal support because of the financial implications for losing cases. I feel that there needs to be more thought given to making this system work - it is clear that in England, there has been a huge increase in the number of cases taken to Tribunal and this is a very expensive and time-consuming way of dealing with disputes.

I hope that this response will be useful.

## Respondent Details

Information	
<b>Name</b>	Mold Cluster Schools
<b>Organisation (if applicable)</b>	Flintshire County Council

## Part 1 of the consultation: The draft ALN Code

### Chapter 1 - Introduction

The meaning of 'must', 'must not', 'may', 'should' and 'should not' in the ALN Code

**Question 1** – Is the explanation in paragraphs 1.10 -1.16 of the draft ALN Code of the use and meaning of the different terms 'must', 'must not', 'may', 'should' and 'should not' clear?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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#### Supporting comments

The "Must" is clear, however the "Should" is not as clear as there is an element of subjectivity and no examples given to assist. The "Should" suggest an element of choice over allocation of resources which ALNCOs may have no control over but which may affect ability to deliver the Must.

#### Timescales

**Question 2** – Do you agree with the general approach to the timescales for compliance with duties (that is, to act promptly and in any event within a fixed period), as explained in paragraphs 1.31 – 1.32 of the draft ALN Code?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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#### Supporting comments

The principle of a timescale is supported; however, the current suggestion of a fixed period of 35 days is too short and therefore, unrealistic for the duties, requirements, assessments and notifications expected within it.

**Question 3** – Is the general exception which applies in the case of timescales, as described in paragraphs 1.33-1.35 of the draft ALN Code, appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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### Supporting comments

This is too subjective as there are no examples of what would constitute a general exception, especially if the involvement of an outside agency is required.

### Structure of the draft ALN Code

**Question 4** – Is the structure of the draft ALN Code and the separation of the chapters appropriate, clear and easy to follow?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

The structure is acceptable; however, the document is wordy and difficult to digest in parts.

**Question 5** – Is the draft ALN Code's focus on describing and explaining the functions and processes appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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### Supporting comments

It would be helpful for new duties and responsibilities to have been highlighted, perhaps in a different colour, so that comparisons can be made between what happens now and what will be expected in the new process.  
A synopsis of this would be helpful for practitioners now.

### Pupil referral units (PRUs) - Proposed regulations to be made under Paragraph 15 of Schedule 1 to the Education Act 1996

**Question 6** – Do you agree with the proposal to use regulations to delegate functions from a local authority to a Management Committee of a PRU?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

Concern over the capacity of PRU's to deliver for student placed within them or EOTAS receiving home tuition. LEA currently acts as a facilitator to resolve difficulties that would make individual situations more difficult to resolve if they did not act in this role.  
Also unclear where the consultation for other County funded Resource units has been facilitated. This Cluster has a number of separately funded resource provisions but no Cluster has yet been set up for them. Individual staff members have been welcomed into mainstream Cluster meetings but a separate group is more likely to allow resource provision leaders to discuss and consider feedback on a basis meaningful to their role.

## Chapter 2 - Principles of the Code

**Question 7** – Are the principles set out in Chapter 2 of the draft ALN Code the right ones?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

## Chapter 3 - Involving and supporting children, their parents and young people

**Question 8** – Is the explanation of the duties relating to involving and supporting children, their parents and young people provided in Chapter 3 of the draft ALN Code appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Having the resources required to create and maintain IDPs is a concern depending on the number of young people requiring them.

## Chapter 4 - Duties on local authorities and NHS bodies to have regard to the UNCRC and the UNCRPD

**Question 9** – Is Chapter 4 of the draft ALN Code clear about what is expected of local authorities and NHS bodies when discharging their duties to have due regard to the United Nations Convention on the Rights of the Child (UNCRC) and United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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Supporting comments

## Chapter 5 - Duty to keep additional learning provision (ALP) under review

**Question 10** – Is the guidance provided in Chapter 5 of the draft ALN Code in relation to the duties to keep ALP under review appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Depending upon what Additional Learning Provision is defined as. Having examples of the types of interventions that may be considered as ALP would have been helpful to consider the question more fully.

## Chapter 6 - Advice and information

**Question 11** – Is the guidance provided in Chapter 6 of the draft ALN Code in relation to making arrangements to provide advice and information about ALN and the ALN system appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

## Chapter 7 - The definition of ALN and ALP, identifying ALN and deciding upon the ALP required

**Question 12** – Is this explanation of the definition of ALN provided in paragraphs 7.4 – 7.32 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

The use of the word “significant “is subjective. The list of difficulties which may constitute ALN is also subjective and does not guide as to what extent a young person must present with a difficulty to be considered as having ALN.

Assessment methods are also different within different settings and there is no clarity over what is regarded as universal provision.

What is the level of differentiation expected of class teachers for those students who may no longer be at school action?

Examples of Universal provision would be helpful.

Entry and exit criteria for ALN is required. Assessment methods and tools within different schools may lead to anomalies within the process if not all use the same methods and benchmarks for assessment.

**Question 13** – Does Chapter 7 of the draft ALN Code provide a clear and comprehensive explanation of the evidence on which decisions about ALN and ALP should be based, the sources from which this evidence might be collated, and the way in which it should be considered?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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## Supporting comments

The list of difficulties is very subjective. “Little or no progress “is not sufficiently defined. “Has delayed physical development”- what does “delayed” mean and which specific tools/ measures are used to inform a judgement.

There is concern that some may fall through the net or be inappropriately identified as having ALN if this chapter is not more clearly defined and understood.

## Chapters 8 to 12 – Duties on schools, FEIs and local authorities

### Early Years ALN Lead Officer

**Question 14** – Is the guidance on the role, experience and expertise of the Early Years ALNLO set out in paragraphs 8.40 - 8.47 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have the appropriate experience and expertise to meet the expectations of the role)?

Yes	<input type="checkbox"/>	No	✓	Not sure	<input type="checkbox"/>
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### Supporting comments

There needs to be greater clarity on who has responsibility for those children who may be in playgroup or nursery settings and clarity around those who may not be in the system.

### Duties on schools, FEIs and local authorities

**Question 15** – Is the structure and content of Chapters 8 to 12 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	✓	Not sure	<input type="checkbox"/>
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### Supporting comments

There are a number of implications and duties within these chapters which are not immediately clear. The flowchart could be useful but does not include all the specific tasks required within the timeframes imposed when an assessment is necessary. This makes workload management more difficult to plan.

**Question 16** – Are the timescales for decisions by schools, FEIs and local authorities on ALN and preparing an IDP as set out in Chapters 8-12 appropriate?

Yes	<input type="checkbox"/>	No	✓	Not sure	<input type="checkbox"/>
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### Supporting comments

See answer to Q2

Deciding whether it is 'necessary' for a local authority to prepare and maintain an IDP for a young person not at a maintained school or FEI - Proposed regulations to be made under Section 46 of the 2018 Act

**Question 17** – Are the proposed requirements and guidance in paragraphs 12.22 – 12.51 of the draft ALN Code on when it is necessary for a local authority to maintain an IDP for a young person not at a school or FEI in Wales appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

### Chapter 13 - Content of an IDP

**Question 18** – Are the elements of the mandatory content of an IDP which are required by the ALN Code, appropriate?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 19** – Is the proposed mandatory standard form for an IDP (included at Annex A of the draft ALN Code) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

The templates are not very user friendly for children or young people.

**Question 20** – Is the guidance in Chapter 13 of the draft ALN Code clear?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

This is hard to answer until training on completing IDPs has been undertaken.

## Transport

**Question 21** – Is the guidance on transport in paragraphs 13.74 - 13.76 of the draft ALN Code appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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### Supporting comments

Transport is essential and an enabling factor for some CYP to take up places in resource provisions appropriate for them.

## Chapter 15 – Duties on health bodies and other relevant persons

Statutory requests by local authorities to relevant persons for information or other help - Proposed regulations to be made under Section 65(5) of the 2018 Act

**Question 22** – Is the proposed timescale and exceptions for relevant persons to comply with a local authority request for information or other help (under section 65 of the 2018 Act) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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### Supporting comments

The proposed timescale is appropriate, however there is concern this is unrealistic given current experience.  
Clarity around what is required in terms of an IDP or ALP whilst awaiting for advice or reports from a relevant person if the waiting time is lengthy.

ALP to be secured by NHS bodies - Proposed regulations to be made under Section 21(10) of the 2018 Act

**Question 23** – Is the proposed period and exception within which an NHS body must inform others of the outcome of a referral to it (under section 20 of the 2018 Act) to identify whether there is a relevant treatment or service, appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

See answer above.

The Designated Education Clinical Lead Officer (“DECLO”)

**Question 24** – Is the guidance on the role, experience and expertise of the DECLO set out in paragraphs 15.37 – 15.53 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have appropriate experience and expertise)?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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## Chapter 16 - Review and revision of IDPs

**Question 25** – Is the content and structure of Chapter 16 of the draft ALN Code clear?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

Cannot comment until we have learnt how to prepare an IDP.
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**Question 26** – Is the proposed period and exception for completing reviews in response to a request from a child, their parent, a young person or an NHS body (set out in paragraph 16.18 of the draft ALN Code) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

35 days may be unrealistic. What does a person centred outcome look like?
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## Chapter 17 – Local authority reconsiderations and taking over responsibility for an IDP

**Question 27** – Is the content and structure of Chapter 17 of the draft ALN Code clear?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

No.
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There is no information relating to the process which is intended to replace Statutory Assessment when this ceases next year. What will be the process for referring complex identified needs for consideration of an LEA IDP?

**Question 28** – Is the proposed period and exception for a local authority reconsidering a school IDP (set out in paragraph 17.20 of the draft ALN Code) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

## Chapter 18 - Meetings about ALN and IDPs

**Question 29** – Are the principles and the guidance provided in Chapter 18 of the draft ALN Code on meetings about ALN and IDPs appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

It may be unrealistic to have the number of meetings potentially required dependent on numbers remaining on registers.

## Chapter 19 – Planning for and supporting transition

**Question 30** – Is the guidance in Chapter 19 of the draft ALN Code on supporting children and young people to make effective transitions appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

It would be helpful to have more specific advice relating to transitions during the Implementation phases. How is it intended to deal with those students currently at School Action who may effectively be removed from registers as this category has become more of a monitoring function?

## Chapter 20 - Transferring an IDP

**Question 31** – Is the content and structure of Chapter 20 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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**Supporting comments**

Transfers of IDPs - Proposed regulations to be made under Section 36(3) of the 2018 Act and Section 37 of the 2018 Act

**Question 32** – Are the requirements that are intended to be included in regulations in relation to requests to transfer an IDP to an FEI (as described in paragraphs 20.12 - 20.17 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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**Supporting comments**

**What will be the involvement of Careers Wales advisory services who work so closely with students requiring specialist input and guidance to achieve the most effective placement post 16? Will this specialist guidance be lost to those students ?**

**Question 33** – Are the arrangements that are intended to be included in regulations in relation to all other transfers (as described in paragraphs 20.18 – 20.21 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

## Chapter 21 - Ceasing to maintain an IDP

**Question 34** – Is the content and structure of Chapter 21 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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**Supporting comments**

This links to entry and exit criteria for ALN. What will the exit criteria be and what safeguards will there be to ensure parity of treatment for CYP in comparable circumstances across the country. There is an element of subjectivity that may confuse the issue of when to cease an IDP.

**Question 35** – Is the period of time for making a reconsideration request (described at 21.18 of the draft ALN Code), appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

Recognise that it is important to have a focal time scale for decisions but this has to be realistic and sustainable to ensure the right outcome is achieved.

## Chapter 22 – Children and young people subject to detention orders

**Question 36** – Is the content and structure of Chapter 22 of the draft ALN Code clear?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 37** – Are the proposals for the regulations in relation to deciding whether it will be necessary to maintain an IDP for a detained child or young person upon their release appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 38** – Are the proposals for the regulations in relation to children or young people who are subject to a detention order and detained in hospital under Part 3 of the Mental Health Act 1983 (as described in paragraphs 22.45 – 22.74 of the draft ALN Code) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 39** – Are the timescale requirements to act “promptly” in relation to decisions about ALN and preparing IDPs for children and young people subject to detention orders (as set out in Chapter 22) appropriate, rather than also having a requirement to comply within a fixed period subject to an exception or exceptions?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

## **Chapter 23 - Children and young people in specific circumstances**

**Question 40** – Is the guidance in Chapter 23 of the draft ALN Code on children and young people in specific circumstances appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**What defines EOTAS ? Which specific staff have responsibility for considering issues of ALN? Will the role of Education Welfare change?**  
**The apparent difference in defining what constitutes a LAC CYP compared to those that may informally be used in schools now for the purposes of LAC funding available are likely to lead to confusion and be difficult to understand and apply.**  
**The principle that a CYP who has been looked after should continue to be supported into early adulthood is supported.**

## **Chapter 24 - Role of the Additional Learning Needs Co-ordinator (ALNCo)**

**Question 41** – Is the information set out in Chapter 24 of the draft ALN Code about the role and responsibilities of the ALNCo appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

There appears to be a disconnect between the role of the head teacher and governors who “should “support the ALNCO in the role which they “must” undertake. There should be parity within the “must” requirements to ensure the ALNCO is fully supported, resourced and enabled to carry out the duties and requirements imposed on them. The ALNCO must have time specified to carry out the requirements and duties of the role.  
 What position could the ALNCO be exposed to legally if the Head teacher is not willing/ unable to make the resources required to carry out the role available to the fullest extent?  
 Although it is recognised that a culture change is required and ALN is a whole school responsibility, it seems as if this message is diluted and caveats provided to those who control finances and resources.

## Chapter 25 - Avoiding and resolving disagreements

**Question 42** – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

**Question 43** – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

Is this not a duplicated question- see above ?

## Chapter 26 - Appeals and applications to the Tribunal

**Question 44** – Is the information about appeals and the appeals process set out in Chapter 26 of the draft ALN Code appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

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## Chapter 27 - Case friends for children who lack capacity

**Question 45** – Is the information about case friends, including the duties on the Tribunal to appoint and remove case friends, clearly explained in the Chapter 27 of the draft ALN Code?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

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## Any other comments

**Question 46** – Please provide any other comments that you would like to make on the draft ALN Code. Where your comments relate to a specific chapter or paragraph within the draft ALN Code, please indicate this in your response.

<p>The principal of the updated and revised code is welcomed, however, the timelines/ duties imposed are not realistic and the lack of clarity or information around specific circumstances could render the practical application of the code inconsistent.</p>
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## Part 2 of the consultation: Draft Education Tribunal for Wales regulations

**Question 47** – Overall, do the draft Education Tribunal regulations provide clear processes and procedures relating to appeals and claims to the Education Tribunal?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 48** – Overall, will the processes and procedures outlined in the draft Education Tribunal regulations enable the Education Tribunal to deal with cases fairly and justly?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 49** – Is the proposed case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 50** – Are the proposed timescales for each party in the case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) reasonable?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 51** – Is the 6 week timescale within which NHS bodies must report to the Education Tribunal in response to a recommendation (regulation 65 of the draft Education Tribunal regulations) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 52** – Are the timescales relating to compliance with Education Tribunal orders appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 53** – Is the approach to extensions to timescales (regulation 66 of the draft Education Tribunal regulations) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 54** – Are the proposed regulations relating to case friends (draft Education Tribunal regulations 61 to 64) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

## **Part 3 of the consultation: Draft ALNCo regulations**

**Question 55** – Are the prescribed qualifications to be an ALNCo set out in the draft ALNCo regulations appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

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**Question 56** – Do you agree with the tasks that ALNCoS must carry out or arrange to carry out as set out in the draft ALNCo regulations?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

<p>Please see answer to earlier question in relation to apparent disparity within the duties which must be carried out.</p>     
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## **Part 4 of the consultation: Looked after children**

### **(a) Proposed regulations to be made**

**Question 57** – Do you agree that the Looked after Children in Education (LACE) Co-ordinator should be a statutory role?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

### **(b) Chapter 14 of the draft ALN Code – Content of an IDP for a looked after child**

**Question 58** – Do you agree that there should be a separate standard form for looked after children and is the proposed standard form, together with the guidance and requirements related to it, appropriate?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

### **(c) Proposed revisions to the Part 6 Code**

**Question 59** – Do the draft revisions to the Part 6 Code provide a clear explanation of the duties on local authorities in relation to their social services functions for looked after children with ALN and what these duties mean in practice?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 60** – Overall, do you agree with the approach taken in the draft revised Part 6 Code to explaining the legislative changes, including the integration of personal education plans (PEPs) and IDPs and the mandatory content of PEPs? Are the requirements and expectations and what these mean in practice clearly explained?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 61** – Do the changes that have been made to the Part 6 code clearly explain the role of the LACE Co-ordinator in overseeing the ALN arrangements for looked after children and what this means in practice?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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## **Part 5 of the consultation: Impact of proposals**

**Question 62** – What impacts do you think there will be as a result of the proposed regulations?

**Question 63** – What impact do you think the proposals in the draft ALN Code and proposed regulations would have on the Welsh language?

**Question 64** – How do you think the proposals in the draft ALN Code and proposed regulations could be formulated or changed so as to have:

- i) positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?;
- ii) no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?

**Question 65** – We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

Concern that not all of the interested parties have been included in the Consultation via Clusters.

## Respondent Details

Information	
<b>Name</b>	Rachael Owen
<b>Organisation (if applicable)</b>	Ladywell Green Infant School

## Part 1 of the consultation: The draft ALN Code

### Chapter 1 - Introduction

The meaning of 'must', 'must not', 'may', 'should' and 'should not' in the ALN Code

**Question 1** – Is the explanation in paragraphs 1.10 -1.16 of the draft ALN Code of the use and meaning of the different terms 'must', 'must not', 'may', 'should' and 'should not' clear?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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Timescales

**Question 2** – Do you agree with the general approach to the timescales for compliance with duties (that is, to act promptly and in any event within a fixed period), as explained in paragraphs 1.31 – 1.32 of the draft ALN Code?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**For the most part – but would not want schools to be penalised if reports are slow to come in from other services.**

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**Question 3** – Is the general exception which applies in the case of timescales, as described in paragraphs 1.33-1.35 of the draft ALN Code, appropriate?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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Structure of the draft ALN Code

**Question 4** – Is the structure of the draft ALN Code and the separation of the chapters appropriate, clear and easy to follow?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

**We understand the reasoning behind separating out all the different sections. However, are concerned that there is not a clear ‘graduated response’ as there is now.**

**Question 5** – Is the draft ALN Code’s focus on describing and explaining the functions and processes appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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Pupil referral units (PRUs) - Proposed regulations to be made under Paragraph 15 of Schedule 1 to the Education Act 1996

**Question 6** – Do you agree with the proposal to use regulations to delegate functions from a local authority to a Management Committee of a PRU?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Chapter 2 - Principles of the Code**

**Question 7** – Are the principles set out in Chapter 2 of the draft ALN Code the right ones?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

**There is no mention of the opinions of professionals being taken into account aswell.**

## Chapter 3 - Involving and supporting children, their parents and young people

**Question 8** – Is the explanation of the duties relating to involving and supporting children, their parents and young people provided in Chapter 3 of the draft ALN Code appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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### Supporting comments

It is not clear how this will work for young children. Reading the document, I understand that a young person is someone above compulsory school age (ie 5 years). At this age, are they really able to understand the decision about saying 'no'? There is a lack of guidance, unless I have missed it, about how you decide a young person's mental capacity for making such decisions.

## Chapter 4 - Duties on local authorities and NHS bodies to have regard to the UNCRC and the UNCRPD

**Question 9** – Is Chapter 4 of the draft ALN Code clear about what is expected of local authorities and NHS bodies when discharging their duties to have due regard to the United Nations Convention on the Rights of the Child (UNCRC) and United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

## Chapter 5 - Duty to keep additional learning provision (ALP) under review

**Question 10** – Is the guidance provided in Chapter 5 of the draft ALN Code in relation to the duties to keep ALP under review appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

Although I am concerned that what local authorities 'must' do will get transferred to schools. Also, partnership working across authorities in south Wales, and to some extent the north, is easier. It is far more challenging in the authority of Powys due to small population and vast geographical area.

## Chapter 6 - Advice and information

**Question 11** – Is the guidance provided in Chapter 6 of the draft ALN Code in relation to making arrangements to provide advice and information about ALN and the ALN system appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

Information about the ALN Code and what parents, children and young people are told should come nationally, to ensure high quality and equal access of information to all in Wales. A single place for parents to go, in terms of a website etc, with links to LA contacts for following next steps within an area.

## Chapter 7 - The definition of ALN and ALP, identifying ALN and deciding upon the ALP required

**Question 12** – Is this explanation of the definition of ALN provided in paragraphs 7.4 – 7.32 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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### Supporting comments

There is a very grey area at the early stages of ALN – whereby schools may be trying interventions for periods of time. There is a lack of graduated response and timescales, which means that some schools could decide a pupil has ALN after one period of time, but another school could decide this based on a different timescale.

**Question 13** – Does Chapter 7 of the draft ALN Code provide a clear and comprehensive explanation of the evidence on which decisions about ALN and ALP should be based, the sources from which this evidence might be collated, and the way in which it should be considered?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

It is not clear. It reads that a person can have ALN, but may not require an ALP or IDP. Is this right? Or if someone has ALN, MUST they have an IDP? There are many examples of sentences throughout which imply the same. If someone has a disability that hinders, but if ALP is not required, does it mean they do not have ALN? This needs clarification.

## Chapters 8 to 12 – Duties on schools, FEIs and local authorities

### Early Years ALN Lead Officer

**Question 14** – Is the guidance on the role, experience and expertise of the Early Years ALNLO set out in paragraphs 8.40 - 8.47 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have the appropriate experience and expertise to meet the expectations of the role)?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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#### **Supporting comments**

### Duties on schools, FEIs and local authorities

**Question 15** – Is the structure and content of Chapters 8 to 12 of the draft ALN Code clear?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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#### **Supporting comments**

**Concerns about what is ‘reasonable’ ALP for schools to provide – with budget restrictions, staff shortages etc, we are concerned that schools will be expected to provide ALP which will then have a negative impact for other pupils due to reduced resources.**

**Paragraph 9.71 part (a) – concern that this will become the norm, even if points in paragraph 9.44 are of major issue to the school.**

**Question 16** – Are the timescales for decisions by schools, FEIs and local authorities on ALN and preparing an IDP as set out in Chapters 8-12 appropriate?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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#### **Supporting comments**

**Mostly – but concerned about length of time it can take for assessments by other services to be made and reported on – this currently takes longer than 7 weeks as the norm.**

### Deciding whether it is ‘necessary’ for a local authority to prepare and maintain an IDP for a young person not at a maintained school or FEI - Proposed regulations to be made under Section 46 of the 2018 Act

**Question 17** – Are the proposed requirements and guidance in paragraphs 12.22 – 12.51 of the draft ALN Code on when it is necessary for a local authority to maintain an IDP for a young person not at a school or FEI in Wales appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

## Chapter 13 - Content of an IDP

**Question 18** – Are the elements of the mandatory content of an IDP which are required by the ALN Code, appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

This document seems to have been prepared to cater for higher levels of need and ALP. There would be lower levels of need, where many of these sections then just make the document cumbersome and unwieldy. Could sections which are not required e.g. health, be deleted?

Also, PCP is about inclusion, and this document does not lend itself to being child friendly and accessible for learners. The good work over the last few years developing pupil friendly IEPs seems to have been ignored. Reviewing annually reduces burden, but takes away working towards small step targets which are more meaningful for pupils, which means that schools will probably end up creating additional documents to fulfil that need.

One IDP format does not address the different levels of need of ALN.

It is very difficult to get all stakeholders together for reviews of a PCP nature already – as a school we have been told that other services do not have the capacity to attend. There are key times in academic year when it makes sense to review, but timetabling becomes even more challenging e.g. mid-year and year end when preparing for transition etc.

**Question 19** – Is the proposed mandatory standard form for an IDP (included at Annex A of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Too cumbersome for less needs, and not PCP friendly.

**Question 20** – Is the guidance in Chapter 13 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

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Transport

**Question 21** – Is the guidance on transport in paragraphs 13.74 - 13.76 of the draft ALN Code appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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## **Chapter 15 – Duties on health bodies and other relevant persons**

Statutory requests by local authorities to relevant persons for information or other help - Proposed regulations to be made under Section 65(5) of the 2018 Act

**Question 22** – Is the proposed timescale and exceptions for relevant persons to comply with a local authority request for information or other help (under section 65 of the 2018 Act) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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ALP to be secured by NHS bodies - Proposed regulations to be made under Section 21(10) of the 2018 Act

**Question 23** – Is the proposed period and exception within which an NHS body must inform others of the outcome of a referral to it (under section 20 of the 2018 Act) to identify whether there is a relevant treatment or service, appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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The Designated Education Clinical Lead Officer (“DECLO”)

**Question 24** – Is the guidance on the role, experience and expertise of the DECLO set out in paragraphs 15.37 – 15.53 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have appropriate experience and expertise)?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

## Chapter 16 - Review and revision of IDPs

**Question 25** – Is the content and structure of Chapter 16 of the draft ALN Code clear?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

It is very difficult to get all stakeholders together for reviews of a PCP nature already – as a school we have been told that other services do not have the capacity to attend. There are key times in academic year when it makes sense to review, but timetabling becomes even more challenging e.g. mid-year and year end when preparing for transition etc.

**Question 26** – Is the proposed period and exception for completing reviews in response to a request from a child, their parent, a young person or an NHS body (set out in paragraph 16.18 of the draft ALN Code) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

## Chapter 17 – Local authority reconsiderations and taking over responsibility for an IDP

**Question 27** – Is the content and structure of Chapter 17 of the draft ALN Code clear?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 28** – Is the proposed period and exception for a local authority reconsidering a school IDP (set out in paragraph 17.20 of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

## Chapter 18 - Meetings about ALN and IDPs

**Question 29** – Are the principles and the guidance provided in Chapter 18 of the draft ALN Code on meetings about ALN and IDPs appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

## Chapter 19 – Planning for and supporting transition

**Question 30** – Is the guidance in Chapter 19 of the draft ALN Code on supporting children and young people to make effective transitions appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

## Chapter 20 - Transferring an IDP

**Question 31** – Is the content and structure of Chapter 20 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

Transfers of IDPs - Proposed regulations to be made under Section 36(3) of the 2018 Act and Section 37 of the 2018 Act

**Question 32** – Are the requirements that are intended to be included in regulations in relation to requests to transfer an IDP to an FEI (as described in paragraphs 20.12 - 20.17 of the draft ALN Code) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 33** – Are the arrangements that are intended to be included in regulations in relation to all other transfers (as described in paragraphs 20.18 – 20.21 of the draft ALN Code) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

## **Chapter 21 - Ceasing to maintain an IDP**

**Question 34** – Is the content and structure of Chapter 21 of the draft ALN Code clear?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 35** – Is the period of time for making a reconsideration request (described at 21.18 of the draft ALN Code), appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

## **Chapter 22 – Children and young people subject to detention orders**

**Question 36** – Is the content and structure of Chapter 22 of the draft ALN Code clear?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 37** – Are the proposals for the regulations in relation to deciding whether it will be necessary to maintain an IDP for a detained child or young person upon their release appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 38** – Are the proposals for the regulations in relation to children or young people who are subject to a detention order and detained in hospital under Part 3 of the Mental Health Act 1983 (as described in paragraphs 22.45 – 22.74 of the draft ALN Code) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 39** – Are the timescale requirements to act “promptly” in relation to decisions about ALN and preparing IDPs for children and young people subject to detention orders (as set out in Chapter 22) appropriate, rather than also having a requirement to comply within a fixed period subject to an exception or exceptions?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

## **Chapter 23 - Children and young people in specific circumstances**

**Question 40** – Is the guidance in Chapter 23 of the draft ALN Code on children and young people in specific circumstances appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

## **Chapter 24 - Role of the Additional Learning Needs Co-ordinator (ALNCo)**

**Question 41** – Is the information set out in Chapter 24 of the draft ALN Code about the role and responsibilities of the ALNCo appropriate?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**This is an increased role, and schools must be funded to ensure that whoever has this role is able to effectively carry out what is required.**

## **Chapter 25 - Avoiding and resolving disagreements**

**Question 42** – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 43** – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

## Chapter 26 - Appeals and applications to the Tribunal

**Question 44** – Is the information about appeals and the appeals process set out in Chapter 26 of the draft ALN Code appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

## Chapter 27 - Case friends for children who lack capacity

**Question 45** – Is the information about case friends, including the duties on the Tribunal to appoint and remove case friends, clearly explained in the Chapter 27 of the draft ALN Code?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Supporting comments

## Any other comments

**Question 46** – Please provide any other comments that you would like to make on the draft ALN Code. Where your comments relate to a specific chapter or paragraph within the draft ALN Code, please indicate this in your response.

**We are concerned about the lack of a graduated response through levels of need. A one size fits all approach may have benefits in terms of equality, but the risk is that different schools will take different approaches/apply different timescales to similar needs, particularly at the lower end of the ALN spectrum.**

## **Part 2 of the consultation: Draft Education Tribunal for Wales regulations**

**Question 47** – Overall, do the draft Education Tribunal regulations provide clear processes and procedures relating to appeals and claims to the Education Tribunal?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 48** – Overall, will the processes and procedures outlined in the draft Education Tribunal regulations enable the Education Tribunal to deal with cases fairly and justly?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 49** – Is the proposed case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 50** – Are the proposed timescales for each party in the case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) reasonable?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 51** – Is the 6 week timescale within which NHS bodies must report to the Education Tribunal in response to a recommendation (regulation 65 of the draft Education Tribunal regulations) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 52** – Are the timescales relating to compliance with Education Tribunal orders appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 53** – Is the approach to extensions to timescales (regulation 66 of the draft Education Tribunal regulations) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 54** – Are the proposed regulations relating to case friends (draft Education Tribunal regulations 61 to 64) appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

## **Part 3 of the consultation: Draft ALNCo regulations**

**Question 55** – Are the prescribed qualifications to be an ALNCo set out in the draft ALNCo regulations appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 56** – Do you agree with the tasks that ALNCoS must carry out or arrange to carry out as set out in the draft ALNCo regulations?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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## **Part 4 of the consultation: Looked after children**

### **(a) Proposed regulations to be made**

**Question 57** – Do you agree that the Looked after Children in Education (LACE) Co-ordinator should be a statutory role?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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### **(b) Chapter 14 of the draft ALN Code – Content of an IDP for a looked after child**

**Question 58** – Do you agree that there should be a separate standard form for looked after children and is the proposed standard form, together with the guidance and requirements related to it, appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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### **(c) Proposed revisions to the Part 6 Code**

**Question 59** – Do the draft revisions to the Part 6 Code provide a clear explanation of the duties on local authorities in relation to their social services functions for looked after children with ALN and what these duties mean in practice?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 60** – Overall, do you agree with the approach taken in the draft revised Part 6 Code to explaining the legislative changes, including the integration of personal education plans (PEPs) and IDPs and the mandatory content of PEPs? Are the requirements and expectations and what these mean in practice clearly explained?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 61** – Do the changes that have been made to the Part 6 code clearly explain the role of the LACE Co-ordinator in overseeing the ALN arrangements for looked after children and what this means in practice?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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## **Part 5 of the consultation: Impact of proposals**

**Question 62** – What impacts do you think there will be as a result of the proposed regulations?

**Question 63** – What impact do you think the proposals in the draft ALN Code and proposed regulations would have on the Welsh language?

**Question 64** – How do you think the proposals in the draft ALN Code and proposed regulations could be formulated or changed so as to have:

- i) positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?;
- ii) no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?

**Question 65** – We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

## Respondent Details

Information	
<b>Name</b>	Respondent requested anonymity
<b>Organisation (if applicable)</b>	

## Part 1 of the consultation: The draft ALN Code

### Chapter 1 - Introduction

The meaning of 'must', 'must not', 'may', 'should' and 'should not' in the ALN Code

**Question 1** – Is the explanation in paragraphs 1.10 -1.16 of the draft ALN Code of the use and meaning of the different terms 'must', 'must not', 'may', 'should' and 'should not' clear?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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#### Supporting comments

##### Powys County Council ALN Team:

- Yes, but it would be helpful to have them in a table for quick reference
- 'Must', 'must not', and 'may' are fit for purpose however should needs clarification and could lead to ambiguous decisions being made and increased challenges. A more robust definition of 'should' and 'should not' would assist in the delivery of the Act/Code of Practice.

##### Internal and External Professionals Supporting Children and Young People with ALN in Powys:

- Under 'must', what happens if it's not done?
- We are not lawyers! Open to misinterpretation. 'Should' and 'should not' are open to misinterpretation
- Define 'exceptional' in 'should not'
- Should give example of 'justified'
- Should give examples of 'exceptional circumstances'
- 'Should' – an example of 'justified' would be helpful
- 'Should not' – an example of something which may be considered to be an 'exceptional circumstance' would be helpful
- Does "may" mean it's not a legal requirement?
- 'Must' is clear, 'must not' starts clear then it becomes woolly.
- "Should act promptly" but definition includes "must" consider = legal obligation?
- Need additional definitions of "satisfied", "inappropriate", "justified" and "exceptional"
- Circularity - key terms used to define themselves
- "Must" - legal obligation? - consequences of not acting?

- "Prohibited" in law but on satisfaction of inappropriateness (?)
- "May" is too ambiguous.
- When using "should", who or what decides on what is justified?
- "Should" who can justify?
- What kind of justifications?
- "May" do we need it?
- "May" is too ambiguous, does not fit with SMART TARGETS
- 'Must' and 'must not' are clear, the others depend on the context.
- The definition of "justified" could be contentious: e.g. is lack of funding a justification?

### Timescales

**Question 2** – Do you agree with the general approach to the timescales for compliance with duties (that is, to act promptly and in any event within a fixed period), as explained in paragraphs 1.31 – 1.32 of the draft ALN Code?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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#### **Supporting comments**

##### **Powys County Council ALN Team:**

- Yes, agree with the general approach but have concerns that 'promptly' will not be understood, executed, will be misconstrued or abused.
- Agree with general approach and clarity of trigger point for the start of the timescale, however, there are concerns about the ambiguity of the terms 'promptly' and 'impractical'
- There is scope for the term 'immediately' to be used, for example when recording the date of a referral
- There needs to be more consideration given to what 'impractical' is and does this include non-working days i.e. school holiday and whether the clocks stops? If this is the case then a child or young person referred to the LA by a School or FEI would have a decision far earlier than a child whose ALN was suspected by or notified to a School or FEI, which creates a disparity.
- 1.32 - Will in all likelihood lead to a misunderstanding and potential conflict as individuals will have varying interpretations of what is thought to be 'promptly' or to 'act much more quickly due to the circumstances'. We would like to clarify we will act as quickly as possible however, individuals understanding of what is reasonable, particularly in complex cases where multiple agencies will need to be consulted, we would not want to falsely elevate parents and young people's expectations.

**Question 3** – Is the general exception which applies in the case of timescales, as described in paragraphs 1.33-1.35 of the draft ALN Code, appropriate?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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#### **Supporting comments**

**Powys County Council ALN Team:**

- It is appropriate but could be clearer and have its own heading
- 1.33 - There will be cases where it is obvious that an IDP can be finalised because the provision is clear, for example, where a wheelchair user needs specific alterations to the fabric of the building/classroom, however, where diagnosis and professional advice is essential to the ALP specification then this would be more difficult and possibly problematic. For example, a parent or young person may decide that ALP can be described and wish for an IDP to be finalised, however, this may not be the opinion of the Responsible Body/Person leading to unnecessary dispute. It would also seem inappropriate to agree ALP early but then have to withdraw or change upon receipt of further advices, again leading to unnecessary dispute and impact of additional specialised staff appointed to provide/assist with the initial ALP. This may also lead to potential legal challenge.

**Structure of the draft ALN Code**

**Question 4** – Is the structure of the draft ALN Code and the separation of the chapters appropriate, clear and easy to follow?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 5** – Is the draft ALN Code’s focus on describing and explaining the functions and processes appropriate?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Pupil referral units (PRUs) - Proposed regulations to be made under Paragraph 15 of Schedule 1 to the Education Act 1996**

**Question 6** – Do you agree with the proposal to use regulations to delegate functions from a local authority to a Management Committee of a PRU?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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## Chapter 2 - Principles of the Code

**Question 7** – Are the principles set out in Chapter 2 of the draft ALN Code the right ones?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

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## Chapter 3 - Involving and supporting children, their parents and young people

**Question 8** – Is the explanation of the duties relating to involving and supporting children, their parents and young people provided in Chapter 3 of the draft ALN Code appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

**Powys County Council ALN Team:**

- Yes, but a diagram or table may support the ease with which this information is viewed and understood

## Chapter 4 - Duties on local authorities and NHS bodies to have regard to the UNCRC and the UNCRPD

**Question 9** – Is Chapter 4 of the draft ALN Code clear about what is expected of local authorities and NHS bodies when discharging their duties to have due regard to the United Nations Convention on the Rights of the Child (UNCRC) and United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

**Powys County Council ALN Team:**

- The lists of UNCRC and UNCRPD articles that are most likely to require consideration were useful, as was the list of possible actions in 4.17.
- However, the chapter could be more explicit in its explanation of how duties on local authorities and NHS bodies should be discharged.

## Chapter 5 - Duty to keep additional learning provision (ALP) under review

**Question 10** – Is the guidance provided in Chapter 5 of the draft ALN Code in relation to the duties to keep ALP under review appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

#### Powys County Council ALN Team:

- Yes, but it would be helpful if it was more explicit in the introduction that the review will be 'a continuous process'
- It would be helpful to have guidance regarding deficiencies in ALP that are within the control of another responsible body i.e. paediatric occupational therapist or similar therapeutic services, and the responsibilities on those bodies.

## Chapter 6 - Advice and information

**Question 11** – Is the guidance provided in Chapter 6 of the draft ALN Code in relation to making arrangements to provide advice and information about ALN and the ALN system appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

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## Chapter 7 - The definition of ALN and ALP, identifying ALN and deciding upon the ALP required

**Question 12** – Is this explanation of the definition of ALN provided in paragraphs 7.4 – 7.32 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

#### Powys County Council ALN Team:

- Yes, although point 4 of the definition of ALP is confusing and unclear
- Clarification about behavioural, emotional, and social difficulties (BESD) is essential as there is little explicit reference to these issues within the scope of ALN and where the definition provided covers these

#### Internal and External Professionals Supporting Children and Young People with ALN in Powys:

- Point 2 in the definition of ALP reads as any education provision is defacto – does every child

need an IDP?

- Clarification of clear criteria for identifying learning difficulty and/or disabilities is needed
- What is happening to early intervention?
- Don't understand point 5 on the definition of ALN and ALP
- Point 4 in the definition of ALP – stat. instruments (regs) may do this anyway so why bother to include it?
- Point 2 in the ALN definition – what is the definition of 'significant'?
- What is the definition of 'majority'?
- Point 3 in the ALN definition – 'likely' is a judgement call
- Point 2 in the ALN definition – what is the measurement of 'significantly greater difficulty'? Parent challenges could become much more widespread
- Point 2 in the ALP definition needs clarification, it is too woolly
- In general, the ALP definition needs exemplification to make it useful – doesn't add clarify in its current form
- Point 2 in the ALN Definition – 'significant', what is the definition? 'Majority', how is this defined?
- Point 2 in the ALN definition – define 'significantly'
- Define 'likely'
- Is the use of 'majority' in the ALN definition "majority" the same as Estyn's "majority"?
- Point 2a in the ALN definition – is subjective, does it need a definition or "significantly greater"?
- EAL will slip through the net, EAL can mask ALN
- Finding legal jargon difficult to understand, even after discussion as a group.
- Point 4 in the ALN definition – what is meant by "or form of language"
- Point 2a in the ALN definition – how will we measure "significantly greater difficulty"?
- ALN - "significantly greater differences" what does this mean? 2 years behind? Standardised scores of 75? Needs to be the same nationally.
- ALP - secondary sector's ALPS tracking data will cause huge confusion of terminology if ALP is used to mean something different in the Code.
- What does "form of language" mean?
- How does the graduated response fit into the IDP process?
- Description of "significant" required

**Question 13** – Does Chapter 7 of the draft ALN Code provide a clear and comprehensive explanation of the evidence on which decisions about ALN and ALP should be based, the sources from which this evidence might be collated, and the way in which it should be considered?

<b>Yes</b>	✓	<b>No</b>	☐	<b>Not sure</b>	☐
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**Supporting comments**

**Powys County Council ALN Team:**

- Yes, but is there scope to condense or rearrange to provide further clarity and easy reference

## Chapters 8 to 12 – Duties on schools, FEIs and local authorities

### Early Years ALN Lead Officer

**Question 14** – Is the guidance on the role, experience and expertise of the Early Years ALNLO set out in paragraphs 8.40 - 8.47 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have the appropriate experience and expertise to meet the expectations of the role)?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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#### **Supporting comments**

##### **Powys County Council ALN Team:**

- The role and objectives are clear but it would be helpful to state if there was a prescribed job description or whether one should be created by each local authority or per consortia
- In terms of experience and expertise this is not clear, for example does it need to be a qualified teacher, have certain other qualifications relating to Early Years or strategic management, or experience of Early Years or ALN practice?

### Duties on schools, FEIs and local authorities

**Question 15** – Is the structure and content of Chapters 8 to 12 of the draft ALN Code clear?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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#### **Supporting comments**

##### **Powys County Council ALN Team:**

- Yes, however a table giving a quick overview of duties and associated timeframes would be very helpful, particularly for quick reference
- The flowchart in chapter 9, page 110 does not contain a box or comment which indicates that the school should inform the child and the child's parent or young person when they refer a case to the LA as per 9.42
- The flowchart in chapter 9, page 110 does not contain a box or comment which indicates that the school should inform the child and the child's parent or young person when a decision has previously been made and there are no changes or new information as per 9.62
- Could there be a flowchart detailing the process once the matter shown in the flowchart in chapter 9 is referred to the LA or at least there should be a box to indicate that the LA now has the duty to decide? This would be helpful.

**Question 16** – Are the timescales for decisions by schools, FEIs and local authorities on ALN and preparing an IDP as set out in Chapters 8-12 appropriate?

Yes	<input type="checkbox"/>	No	✓	Not sure	<input type="checkbox"/>
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## Supporting comments

### **Powys County Council ALN Team:**

- The timescales for local authorities is particularly tight where input is required from various specialists and given that a meeting with parents and, where appropriate, the child or young person, is required, and this runs the risk that the standard 12 weeks will be difficult to meet and many exceptions arise.
- There is a mixture of time units used within the Code, namely weeks for the LA, school days for schools and term days for FEI. It is not clarified whether inset days are included within or exclusive of school/term days (inset days vary across LAs and years). Also, it does not state whether bank holidays are included or exclusive of the terms 'weeks' for LAs, would it not be easier to translate to 'working days'?
- There does not seem to be any contingency built in for holiday periods in the LA where as it appears that holiday periods within schools/FEIs are accommodated creating a disparity in the timeline for decision making for a child or young person i.e. it could take longer if being decided by the school/FEI even though the timeframe is the same
- There should be a defined statement regarding referrals to the LA made at the end of a term (before a holiday) or where a holiday falls within the specified timeframe, so that it is clear that what is expected of all parties involved in this period where school staff and records are not accessible, and the impact that this has on the decision making process/timeframe
- Should such a clarifying statement to the above point not be provided, it is likely that it would present unrealistic data to WG as part of their monitoring requirement and in terms of the summer holiday period it may give false expectations that an IDP will have been prepared over break and be in place for when term commences.
- There is no clear guidance or explanation about the ramifications for not complying with the deadlines as specified within the Code of Practice or how this will be enforced
- The current timescale is 26 weeks for a statement and whilst it is undoubted that improvements need to be made regarding completing as possible, 12 weeks seems unrealistic considering that the basic process has not changed although the documentation has

### **Powys County Council School Governors:**

- Co-operation between the central ALN team and Health is vital
- Really welcome collaboration between schools and parents to make IDPs work
- This is the wrong question – the issue isn't if the timescales are appropriate. The timescale will only be effective if the governance and processes are in place and fit for purpose. This timeframe leaves the process open to subjectiveness and aspects beyond school's control
- There should be a consistent framework in place across all agencies and co-ordination responsibility assigned – accountability needs to be explicit
- The support should be provided against accountability and not assessed against a timescale
- With shortages in other key areas is this going to work?
- Will schools be deemed as failing because LA haven't responded?
- Across holidays half of the 12 weeks could be taken away
- I agree with the new timeframes for the new IDP, the old system was too prolonged
- In prisons an IDP is in place within 10 days for juveniles and referral to DECLO equivalent within 10 days. If non-compliant funding is reduced
- Good that it is being reduced to 12 weeks because ½ a year is too long for a child that has needs

- If action does not happen in a reasonable timeframe children lose confidence, become alienated, become difficult to control in school and home, and this lead to social alienation with can put a child at risk of grooming etc. This needs to be tackled quickly.
- Creating additional work for teachers and ALNCOs
- Working within the timeframe given will cause problems if a matter arises just before holidays
- It sounds wonderful and ideal! Realistically there is no way it can ever work. The lack of outside agencies to assist in the forming of the plan makes the whole process so slow. Schools are being forced into deficit budgets by the lack of funding. What more can we say.
- It is good that there are going to be fixed timescales for the activities
- Timeframes are dependent on outside factors that schools have no/very little control over eg Ed Psych, availability paediatric assessment, social work involvement, family availability.
- If there is any hope of the timeframes being achieved there will need to be closer and more importantly cooperative working between LA and schools. (I have personal experience of cases being thwarted by petty bureaucracy e.g. rejection as wrong date on referral form - a simple phone call to the school and it would have been sorted)
- There is huge onus on the LA to make the proposed system work as smoothly, easily and efficiently as possible. This is even more so as there will be no more ALNCO time and no more money in the system.
- Are the timescales reasonable? If they can be made to work, the answer is yes. The challenge is making them work.
- There will need to be a lot more support for the ALNCO.
- Greater workload due to IDP for all children with ALN. Current time frames difficult to achieve with current numbers.
- Risk of very generic IDP due to schools needing to meet the time scales.
- With extra workload time frames will not be achievable.
- Concerned that there will be a particular issue initially when parents realise that if they suggest that their child has a need the school will have to provide an IDP. This could cause a flood where parents think particular concerns haven't been dealt with.
- 35 working days for schools - Yes, with the proviso that it is a working document, written with the information to hand and to be updated as other information comes in - schools may need to change their practices.
- 12 weeks for LA - Good for children, families and schools
- 12 weeks for LA - LA need to get processes in order
- 12 weeks for LA - Capacity? Education is a statutory function of the LA if capacity is an issue then LA need to reduce / drop functions that are non-statutory in order to adequately resource this - be open and enterprising!
- 26 weeks is too long for the child to wait for support, 12 weeks is quite a short time to gather evidence especially if outside agencies are needed.
- Extra resource to support - agencies/authority staffing etc. in schools
- Good for the children that need urgent help - quick timescales
- Passing to LA within 20 days and LA possibly passing back to school. School still having to complete within 35 days! Timescale should take into account how long the LA hold on to the enquiry before passing back to school. School timescale should pause while LA consider, and only re-start once passed back to school
- Will there be capacity within the school and LA workforce to complete in new timescales?

- Concerns about the timeframes for completing an IDP
- Concerns that waiting for information from other professionals will hinder the completion of IDPs

**Internal and External Professionals Supporting Children and Young People with ALN in Powys:**

- Do the time periods run during holidays/bank holidays? Is it working weeks?
- Where is refers to the "decision" - whose decision is this? Most of us interpreted this as the LA's but not completely clear.
- LA wouldn't currently be able to meet timescales with current levels of staffing - how would this be achievable going forward?
- 20-day referral period for schools achievable.
- Who is the arbiter of this?
- Do the stages have to be worked through or can exceptional circumstances for instance jump some of the stages?
- A flowchart would be helpful.
- In each section, need to clarify roles and responsibilities of the school and LA.
- Open to interpretation
- Very complex terminology - woolly.
- 12 weeks not realistic with NHS waiting times. Also, more time needed as multi-agency.
- 20 days' insufficient time to manage parental expectations
- 20 days' insufficient time to try different strategies and give a graduated response.
- "Should" is linked to justifying why they have not done something. So who decides whether it is a justified, lawful reason?
- How can they demonstrate they are justified in not doing?
- Which circumstances would be considered "exceptional"
- Who makes the decision? Internal/external body - why included at maintained school level?
- Will there be more support for schools from County on the increased legal demands?
- 6 weeks FPP for a reason - outcome leads to ALN queries, but 4 weeks to refer doesn't allow for that
- Timescales - depends on the size of the IDP
- Weeks, days, working days, school days?
- When are governors having training on their new responsibilities?
- Surely it must need to be a professional to notify the LA of possible ALN, not anyone e.g. parent?
- Subjective, need more guidance
- 12-week timeframe is unrealistic, not enough time to gather information/access outside agencies.
- Workload issues - ALNCO allocated time is not sufficient to meet these deadlines
- What is "reasonable" provision?
- Money spent on administration rather than pupils
- One IDP format for whole Country would help
- How will funding of ALN reflect the level of need in a school without SA, SA+ etc.?
- "Should" to be used for timings allowing for difficulties but keeping pressure up to be as brief as possible.
- What happens if time frames are not met?

- All should be in weeks, not days
- Why is the LA timeframe more than schools?
- Unrealistic timeframes
- Workload concern
- HLTA responsibilities for stat. documents?
- We need to know whether school days or not e.g. summer holidays?

Deciding whether it is 'necessary' for a local authority to prepare and maintain an IDP for a young person not at a maintained school or FEI - Proposed regulations to be made under Section 46 of the 2018 Act

**Question 17** – Are the proposed requirements and guidance in paragraphs 12.22 – 12.51 of the draft ALN Code on when it is necessary for a local authority to maintain an IDP for a young person not at a school or FEI in Wales appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input checked="" type="checkbox"/>
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**Supporting comments**

**Powys County Council ALN Team:**

- Further clarification is required to support LAs in understanding their remit in relation to this. As post-16 education is not statutory it is possible that the statutory nature of IDPs may cause conflict
- Further definitions/explanations of 'value', 'desired objective', and 'reasonable period'

## Chapter 13 - Content of an IDP

**Question 18** – Are the elements of the mandatory content of an IDP which are required by the ALN Code, appropriate?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Powys County Council ALNCos/SENCOs:**

- One-page profile should be the first page for the IDP
- Positive to have statutory responsibility across all levels of the plan
- Concerns that IDPs at school level will have a legal standing – this will impact on how/what is written in IDPs
- Feel that parents are going to struggle with the idea of all pupils with an ALN having the same level of documentation – IDP regardless of complexity of need
- Noted that there is no statutory obligation on parents
- Concerns about the creation of statutory documents

**Question 19** – Is the proposed mandatory standard form for an IDP (included at Annex A of the draft ALN Code) appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

**Powys County Council ALN Team:**

- The IDP for a looked-after child should also include section 1c (One-page profile) as included in Annex A (Individual Development Plan (IDP): Mandatory Form)

**Question 20** – Is the guidance in Chapter 13 of the draft ALN Code clear?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

Transport

**Question 21** – Is the guidance on transport in paragraphs 13.74 - 13.76 of the draft ALN Code appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

**Powys County Council ALN Team:**

- Yes, but the guidance could be fuller and give examples

**Powys County Council – Principle Officer Admissions and Transport:**

- I personally feel that it is a good idea to consider the provision of transport in full before allocating a learner a place at any provision. If details of the transport are included in the IDP everyone is aware prior to the learner commencing at the provision. Parents/carers are then not left under any illusion regarding what is going to be offered by the Authority.

## **Chapter 15 – Duties on health bodies and other relevant persons**

Statutory requests by local authorities to relevant persons for information or other help - Proposed regulations to be made under Section 65(5) of the 2018 Act

**Question 22** – Is the proposed timescale and exceptions for relevant persons to comply with a local authority request for information or other help (under section 65 of the 2018 Act) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Supporting comments**

**Powys County Council ALN Team:**

- Do GPs come under the umbrella of the Health bodies as described within 15.6 (p. 176) of the Draft Code of Practice? If not, what duties are placed on them to release information in a timely manner and support the processes
- Furthermore, is it reasonable for health professionals, particularly GPs to charge for the information that is required as part of a statutory assessment? We feel that the inordinate amount of time that some GPs take to respond to a request and the excessive amount that some are charging for this information is unrealistic and potentially unethical, and conflicts with person-centred practice; the child, young person and family are not at the centre of their business model
- It would be helpful if the term 'impractical' had further clarification

ALP to be secured by NHS bodies - Proposed regulations to be made under Section 21(10) of the 2018 Act

**Question 23** – Is the proposed period and exception within which an NHS body must inform others of the outcome of a referral to it (under section 20 of the 2018 Act) to identify whether there is a relevant treatment or service, appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Powys County Council ALN Team:**

- The proposed period and exception is not appropriate as NHS bodies do not meet the 'existing deadline currently set for health authorities to respond for medical advice', therefore it is unlikely that they will meet this identical timeframe within the new Code.
- There is a concern that the exception caveat will become the norm

The Designated Education Clinical Lead Officer (“DECLO”)

**Question 24** – Is the guidance on the role, experience and expertise of the DECLO set out in paragraphs 15.37 – 15.53 of the draft ALN Code appropriate for achieving the objectives (that the role is strategic and such officers have appropriate experience and expertise)?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Powys County Council ALN Team:**

- Whilst the guidance on the role, experience and expertise is appropriate, it would give all other parties more confidence if it the requirements of the role of DECLO were a requirement (must) rather than a suggestion (should)

## Chapter 16 - Review and revision of IDPs

**Question 25** – Is the content and structure of Chapter 16 of the draft ALN Code clear?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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### Supporting comments

#### Powys County Council ALN Team:

- 16.12 (p. 189) is particularly confusing, especially point (b) - this is not easily understandable and would not be easy to explain to others

**Question 26** – Is the proposed period and exception for completing reviews in response to a request from a child, their parent, a young person or an NHS body (set out in paragraph 16.18 of the draft ALN Code) appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

## Chapter 17 – Local authority reconsiderations and taking over responsibility for an IDP

**Question 27** – Is the content and structure of Chapter 17 of the draft ALN Code clear?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

**Question 28** – Is the proposed period and exception for a local authority reconsidering a school IDP (set out in paragraph 17.20 of the draft ALN Code) appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

## Chapter 18 - Meetings about ALN and IDPs

**Question 29** – Are the principles and the guidance provided in Chapter 18 of the draft ALN Code on meetings about ALN and IDPs appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

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## Chapter 19 – Planning for and supporting transition

**Question 30** – Is the guidance in Chapter 19 of the draft ALN Code on supporting children and young people to make effective transitions appropriate?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

#### Powys County Council ALN Team:

- Yes, however, clarity is required to specify what is meant by 'sufficient time to enable ALP to be put in place prior to the child attending the setting' (19.28, p.217)
- 19.30 p. 217 - Further clarify is also required so substantiate what is meant by 'additional time and support to make the transition into education', how long is acceptable?
- 19.30 p. 217 Who should undertake the tasks prescribed eg. visiting the child at home? The workload attached to this, whilst important, is a vast undertaken that School and/or Local Authority staffing structures are not geared to support, particularly in large rural counties.

## Chapter 20 - Transferring an IDP

**Question 31** – Is the content and structure of Chapter 20 of the draft ALN Code clear?

Yes	✓	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

#### Powys County Council ALN Team:

- 20.14, p. 227- There is a mix of terminology for timings i.e. 20 term time days and 4 weeks, which fall in the same sentence and cause confusion. In addition, the timeframe needs to be explained more clearly.
- 20.14, p, 227 - Further clarification is required with regard to the definition of 'Welsh Ministers', as well as where this 'referral in writing' should be directed in terms of address.

#### Powys County Council ALNCos/SENCOs:

- How will access to County level support happen?
- How will schools know when to respond and when to push up to LA?
- A new graduated response will be needed

Transfers of IDPs - Proposed regulations to be made under Section 36(3) of the 2018 Act and Section 37 of the 2018 Act

**Question 32** – Are the requirements that are intended to be included in regulations in relation to requests to transfer an IDP to an FEI (as described in paragraphs 20.12 - 20.17 of the draft ALN Code) appropriate?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 33** – Are the arrangements that are intended to be included in regulations in relation to all other transfers (as described in paragraphs 20.18 – 20.21 of the draft ALN Code) appropriate?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Powys County Council ALN Team:**

- 20.10, p. 226 - In reference to this point and the 'Regional Provision for Special Educational Needs - Chapter 4 (School Standards and Organisation (Wales) Act 2013) there needs to be explicit reference in respect of cases where children who are looked after by one LA (their home LA) but reside in another LA (fostered/residential setting), particularly in terms of which has the responsibility of maintaining the IDP.

## Chapter 21 - Ceasing to maintain an IDP

**Question 34** – Is the content and structure of Chapter 21 of the draft ALN Code clear?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Powys County Council ALN Team:**

- We note that 21.8, p. 235 refers to a 'decision by a governing body or local authority' whereas the rest of the code refers to maintained schools, as referenced in 1.26, p. 6

**Question 35** – Is the period of time for making a reconsideration request (described at 21.18 of the draft ALN Code), appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	✓	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Powys County Council ALN Team:**

- Paragraph 21.18, p. 238 needs to be clearer for the full meaning and intent to be understood

## Chapter 22 – Children and young people subject to detention orders

**Question 36** – Is the content and structure of Chapter 22 of the draft ALN Code clear?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

#### Powys County Council ALN Team:

- Paragraph 22.2a, p. 241 is not clear and requires simplification for the meaning to be clear
- P. 241 could do with being clearer overall
- Greater clarity is required about whether ALP needs to be provided whilst a young person is detained, as the content of the chapter either appears to be conflicting or is not clear resulting and it appears to contain conflicting guidance.
- Paragraph 22.33, p. 247 – if reviews are not required for ‘IDPs being kept for a detained person’ how will the LA become aware ‘the ALP specified in the IDP is no longer appropriate’ and on what will it base its decision to ‘arrange ALP that the home authority considers appropriate’?
- Although paragraph 22.35, p. 247 states that ‘a home authority should work closely with the person in charge of the relevant youth accommodation and the education provider to arrange appropriate ALP for a detained person’, do they have to have regard to the Code and will they be experienced in ALN in order to provide information that will accurately inform the Home Authority’s decision about ALP? This requires further clarity.

**Question 37** – Are the proposals for the regulations in relation to deciding whether it will be necessary to maintain an IDP for a detained child or young person upon their release appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

**Question 38** – Are the proposals for the regulations in relation to children or young people who are subject to a detention order and detained in hospital under Part 3 of the Mental Health Act 1983 (as described in paragraphs 22.45 – 22.74 of the draft ALN Code) appropriate?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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### Supporting comments

**N.B.** 22.74 doesn't exist in the Code, the chapter finishes at 22.73.

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**Question 39** – Are the timescale requirements to act “promptly” in relation to decisions about ALN and preparing IDPs for children and young people subject to detention orders (as set out in Chapter 22) appropriate, rather than also having a requirement to comply within a fixed period subject to an exception or exceptions?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Powys County Council ALN Team:**

- There should be a designated timeframe so that decisions about ALN and the preparation of IDPs for children and young people subject to detention order are given the same importance as those for other children and young people. However, it recognised that this may need to be slightly longer than the 12 weeks designated for those children and young people that are not subject to detention orders to accommodate the treatment that children or young people may be receiving and to give a longer time to engage with parents/carers who may be feeling emotional due to the situation.

## Chapter 23 - Children and young people in specific circumstances

**Question 40** – Is the guidance in Chapter 23 of the draft ALN Code on children and young people in specific circumstances appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input checked="" type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Powys County Council ALN Team:**

- Paragraph 23.4, p. 256 – if the Local Authority in which the child or young person lives is in England, they would have an EHCP maintained by their home authority, therefore, how can the LA in Wales in which they attend school make amendments to a document that they do not maintain? There are concerns that any amendment may be immediately revoked or changed and this arrangement would not support collaborative working between LAs.
- Paragraph 23.9, p. 256 – if a child has an IDP maintained by a school prior to EOTAS being arranged, why is the LA ‘likely to be subject to the duty to decide whether the child has ALN’? For continuity would it not be simpler to transfer the IDP to the LA who could review as appropriate?

## Chapter 24 - Role of the Additional Learning Needs Co-ordinator (ALNCo)

**Question 41** – Is the information set out in Chapter 24 of the draft ALN Code about the role and responsibilities of the ALNCo appropriate?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Powys County Council ALN Team:**

- We support the strategic aspect of this role and the requirement to be a trained teacher who has completed their probation period.
- Will there be a limit on the period of time that a governing body can agree for their current ALNCO/SENCO, who is not a qualified teacher, to continue in their role? If not there are concerns that the support will differ from school to school.
- Further guidance on training provided by WG would be helpful with regard ALNCo development
- Paragraph 24.5, p. 261 – ‘sufficient time and resource’ may be better described and allowed for if stated as ‘regular and sufficient time and resource’

**Powys County Council ALNCOs/SENCOs:**

- Protected time and protected training time is essential to be able to fulfil the role
- Concerns about how the protected time will be enforced
- Further clarification is needed on protected time for ALNCOs – how much time?
- Queries about whether there will be compulsory training for ALNCOs
- A cluster ALNCo model would be a good idea for smaller schools
- Some agreement with the proposal that the ALNCo should be part of SLT
- No increase in budget, wanting more for less
- Concerned that that is no increase in budget, how will the role be achievable within the current budgets?
- Concern that there is no additional funding to support the ALNCo role
- ALNCOs that currently aren’t paid a TLR or SEN point will want the additional pay for the legal responsibility, causing more pressure on stretched budgets
- Have Unions given any feedback yet on the changes?
- There is no inducement to do the new role i.e. raise profile or pay scales
- All agencies need to have equal responsibility
- It would be good to have a model ALNCo job description

**Internal and External Professionals Supporting Children and Young People with ALN in Powys:**

- Who is the ALNCO in a three-year-old setting? They are not qualified teachers.
- Funding for training and time for ALNCOs is required

**Chapter 25 - Avoiding and resolving disagreements**

**Question 42** – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Powys County Council ALN Team:**

- Paragraph 25.36, p, 272 – whilst the statement that the independent person attempting to resolve disagreements ‘should have no previous involvement with the child, family or young person’ is ideal, it is possible particularly in a rural county such as Powys, and with the legislation covering 0-25, that an employee of the independent company we use may have had previous involvement with the child, family or young person.

**Question 43** – Are the requirements imposed in Chapter 25 of the draft ALN Code on local authorities in respect of arrangements to avoid and resolve disagreements appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**N.B.** we have not provided an answer as this is a duplicate of question 42.

## Chapter 26 - Appeals and applications to the Tribunal

**Question 44** – Is the information about appeals and the appeals process set out in Chapter 26 of the draft ALN Code appropriate?

<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	✓	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Powys County Council ALN Team:**

- Paragraph 26.20, p. 286 – we are of the feeling, as are all stakeholders that we have engaged with regarding the draft Code, that the requirements for NHS to comply with directions from Tribunal should be on the same footing as LAs, schools and FEIs rather than just ‘recommendations’.

## Chapter 27 - Case friends for children who lack capacity

**Question 45** – Is the information about case friends, including the duties on the Tribunal to appoint and remove case friends, clearly explained in the Chapter 27 of the draft ALN Code?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

## Any other comments

**Question 46** – Please provide any other comments that you would like to make on the draft ALN Code. Where your comments relate to a specific chapter or paragraph within the draft ALN Code, please indicate this in your response.

### **Powys County Council ALN Team:**

- Chapter 1: 17 - This states that 'a child is anyone not over compulsory school age and a young person means a person over compulsory school age, but under the age of 25', is it possible that this could cause a conflict with GDPR (Article 8)?
- Throughout the Code of Practice there is reference to the requirement to obtain the consent of a young person however there is no reference that we could see regarding gaining consent from a parent with regard to children. This is throughout the Code however an example is the flowchart in chapter 9 (p.110)
- There is a mixture of time units used within the Code, namely weeks for the LA, school days for schools and term days for FEI. It is not clarified whether inset days are included within or exclusive of school/term days (inset days vary across LAs and years). Also, it does not state whether bank holidays are included or exclusive of the terms 'weeks' for LAs, would it not be easier to translate to 'working days'?
- There does not seem to be any contingency built in for holiday periods in the LA where as it appears that holiday periods within schools/FEIs are accommodated creating a disparity in the timeline for decision making for a child or young person i.e. it could take longer if being decided by the school/FEI even though the timeframe is the same
- Should there be a defined statement regarding referrals to the LA made at the end of a term (before a holiday) or where a holiday falls within the specified timeframe, so that it is clear that what is expected of all parties involved in this period where school staff and records are not accessible, and the impact that this has on the decision making process/timeframe
- Should such a clarifying statement to the above point not be provided, it is likely that it would present unrealistic data to WG as part of their monitoring requirement and in terms of the summer holiday period it may give false expectations that an IDP will have been prepared over break and be in place for when term commences.
- There is no clear guidance or explanation about the ramifications for not complying with the deadlines as specified within the Code of Practice or how this will be enforced
- The ethos of collaborative working that is central to delivery of the ALN Code is undermined by the inequality of statutory requirement with regard the delivery of ALP, namely that the duties on Health bodies are not commensurate with those duties imposed on LAs and schools. During our consultation events this point has been raised with concern more than any other and is causing a picture of inequality prior to legislation being implemented, which is creating a negativity and tainting the many positive changes proposed. To note, this concern has been raised across the full range of stakeholders (excluding Health bodies) and is causing anxiety about the future state of play and statutory liability placed upon responsible bodies. An equal footing would have benefited all whereas the current proposals benefit Health. It is possible that families may need to go through other legislation such as

the Equality Act to support their case and secure the ALP from Health where there is a disagreement and Health choose to withdraw previously agreed support.

**Should there be opportunity to discuss or clarify points raised within this document we would be more than happy to do so.**

**Powys County Council ALNCos/SENCOs:**

- Concerned that Early Years settings currently don't have the correct skill set to be able to cope with this legislation
- Why aren't schools being treated the same as the NHS – i.e. 'should' rather than 'must'
- Will there be standard annual review forms?

**Internal and External Professionals Supporting Children and Young People with ALN in Powys:**

- Is there a plan to allow schools to have additional inset days during the implementation phase? Is there scope for this?
- Do the WG meet /discuss with nurses current caseloads/level of need/qualifications they may have when writing the school nursing framework for Wales???

## **Part 2 of the consultation: Draft Education Tribunal for Wales regulations**

**Question 47** – Overall, do the draft Education Tribunal regulations provide clear processes and procedures relating to appeals and claims to the Education Tribunal?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 48** – Overall, will the processes and procedures outlined in the draft Education Tribunal regulations enable the Education Tribunal to deal with cases fairly and justly?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 49** – Is the proposed case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) appropriate?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 50** – Are the proposed timescales for each party in the case statement process (regulations 12-15 and 19-21 of the draft Education Tribunal regulations) reasonable?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 51** – Is the 6 week timescale within which NHS bodies must report to the Education Tribunal in response to a recommendation (regulation 65 of the draft Education Tribunal regulations) appropriate?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 52** – Are the timescales relating to compliance with Education Tribunal orders appropriate?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 53** – Is the approach to extensions to timescales (regulation 66 of the draft Education Tribunal regulations) appropriate?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 54** – Are the proposed regulations relating to case friends (draft Education Tribunal regulations 61 to 64) appropriate?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

## **Part 3 of the consultation: Draft ALNCo regulations**

**Question 55** – Are the prescribed qualifications to be an ALNCo set out in the draft ALNCo regulations appropriate?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 56** – Do you agree with the tasks that ALNCoS must carry out or arrange to carry out as set out in the draft ALNCo regulations?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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## **Part 4 of the consultation: Looked after children**

### **(a) Proposed regulations to be made**

**Question 57** – Do you agree that the Looked after Children in Education (LACE) Co-ordinator should be a statutory role?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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### **(b) Chapter 14 of the draft ALN Code – Content of an IDP for a looked after child**

**Question 58** – Do you agree that there should be a separate standard form for looked after children and is the proposed standard form, together with the guidance and requirements related to it, appropriate?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Powys County Council ALN Team:**

- Yes, however, section 1c (One-Page Profile), as contained in Annex A should also be included

### **(c) Proposed revisions to the Part 6 Code**

**Question 59** – Do the draft revisions to the Part 6 Code provide a clear explanation of the duties on local authorities in relation to their social services functions for looked after children with ALN and what these duties mean in practice?

<b>Yes</b>	<input checked="" type="checkbox"/>	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

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**Question 60** – Overall, do you agree with the approach taken in the draft revised Part 6 Code to explaining the legislative changes, including the integration of personal education plans (PEPs) and IDPs and the mandatory content of PEPs? Are the requirements and expectations and what these mean in practice clearly explained?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

**Question 61** – Do the changes that have been made to the Part 6 code clearly explain the role of the LACE Co-ordinator in overseeing the ALN arrangements for looked after children and what this means in practice?

<b>Yes</b>	✓	<b>No</b>	<input type="checkbox"/>	<b>Not sure</b>	<input type="checkbox"/>
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**Supporting comments**

## **Part 5 of the consultation: Impact of proposals**

**Question 62** – What impacts do you think there will be as a result of the proposed regulations?

**Powys County Council ALN Team:**

- A particular concern that has been raised through our consultations relate to the role of the ALNCo. Many current SENCOs/ALNCOs have raised the point that they don't see the role as manageable and therefore see a decline in the amount of people wanting to do the role or in fact current professionals leaving the role. They suggest that there is no incentive to stay in the role.

**Question 63** – What impact do you think the proposals in the draft ALN Code and proposed regulations would have on the Welsh language?

**Question 64** – How do you think the proposals in the draft ALN Code and proposed regulations could be formulated or changed so as to have:

- i) positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?;
- ii) no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language?

**Powys County Council ALN Team:**

- There needs to be a summary of key points for both Welsh and English speakers. This guide should be a quick reference guide for professionals to use as a 'table-top' support.
- There should be a summary of key points for both Welsh and English speakers who are children, young people and parents. This guide should be an easy read reference for this particular cohort of people.

**Question 65** – We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

**Powys County Council ALN Team:**

- \* Chapter 4 (4:15) the sentence commencing 'This model' looks to have the word 'than' missing in between 'rather their'
- \* Chapter 9 (9:38) the sentence commencing 'School is subject to duties' has a space omitted between the text '16' and 'for'

