The NASUWT welcomes the opportunity to comment on the draft Additional Learning Needs and Education Tribunal (Wales) Bill (the draft Bill).

2. The NASUWT is the largest teachers’ union in Wales and the UK representing teachers and school leaders.

GENERAL COMMENTS

3. The NASUWT notes that although the consultation document is brief and the response form asks just seven questions, the accompanying documents are extremely detailed and lengthy. It is, however, recognised that the Easy Read explanation of the draft Bill presents an extremely helpful oversight of the proposals.

4. In addition, the NASUWT recognises that the draft Additional Learning Needs Code (the draft Code) provides the most accessible means of understanding the purpose of the Bill.

5. The NASUWT submitted a detailed response to the 2014 White Paper, Legislative Proposals for Additional Learning Needs, which was broadly positive of the changes that were being proffered (a copy of the NASUWT response is attached as Annex A, including the annexes to that response).
6. However, the Union identified three important areas that would need to be addressed in the Bill, in order to protect those charged with the responsibility of implementation, namely:
   - workload impact assessment;
   - access to professional development;
   - sufficiency of funding.

7. The NASUWT is disappointed to note that the draft Explanatory Memorandum, accompanying the draft Bill, does not include a specific impact assessment of the workload implication associated with the draft Bill.

8. Likewise, apart from stating that teaching practitioners have responsibility for their own professional learning and development, and that they should undertake professional learning in relation to additional learning needs (ALN), neither the draft Explanatory Memorandum, nor the draft Code, provide any confidence that the training and development needs of the education workforce have been given careful consideration.

9. The NASUWT maintains that references to teaching practitioners being able to access information guidance, tools and/training materials, and suggestions that there are a range of organisations able to offer support and professional learning in relation to ALN, demonstrate a woeful lack of understanding of teachers’ contractual rights and entitlements, especially, but not exclusively, the right to a work/life balance.

10. The NASUWT is concerned that the failure to undertake an assessment of the workload and of the training and development implications associated with the draft Bill, casts grave doubt on the credibility of the costs attributed to options 2 and 3 in the draft Explanatory Memorandum.

11. The NASUWT believes that the funding requirements of the person-centred approach, the enhanced duties and responsibilities placed on the Additional Learning Needs Coordinator (ALNCo) and all teaching...
practitioners, and the introduction of the individual development plan (IDP) envisaged in the draft Bill, have been seriously underestimated.

12. The NASUWT maintains that the draft Bill must make provision to:
   - protect teaching practitioners, and others, from excessive workload and unnecessary bureaucracy;
   - require the identification of the provision of time within the timetabled teaching week for the ALNCo to fulfil the duties and responsibilities associated with the role, including access to professional development;
   - require the identification of time within the timetabled teaching week to enable teaching practitioners to adopt the person-centred approach, including access to professional development;
   - place a duty on the Welsh Government to assess and provide annually sufficient funding to support, fully and transparently, the requirements of the Bill;
   - place a duty on the Welsh Government to establish a formula for restricting class and group size, and identifying the number of teachers and support staff required, in relation to the number of pupils in receipt of an IDP.

SPECIFIC COMMENTS

13. The NASUWT offers the observations and comments that follow in relation to the questions posed on the consultation response form.

**Question 1 – The introduction of the term ALN and a 0–25 age range**
Do you agree that the definitions of additional learning need ALN and ALP set out in the draft Bill appropriately reflect our intended focus on educational needs and do you agree that the draft Bill would deal properly with the age range it sets out to capture?

<table>
<thead>
<tr>
<th>Agree</th>
<th>Disagree</th>
<th>Neither agree nor disagree</th>
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Supporting comments

Although it is accepted that the draft Bill reflects appropriately the Welsh Government’s intended focus on educational needs, it is clear from the draft Explanatory Memorandum, where the advantages and disadvantages of Option 3 (the option on which the draft Bill and the draft Code has been progressed) are considered, that the draft Bill will limit the scope of learners to be captured by the proposed definition of ALN to those most in need of support.

Indeed, it is suggested that the number of learners who would come under the new definition of ALN should be no greater than those currently captured under the special educational needs (SEN) definition in schools or the learning difficulties and/or disabilities (LDD) definition in post-16 education. The NASUWT is concerned that, despite assurances that both non-statutory and statutory provision for children and young people with SEN and LDD will fall within the scope of an IPD, this could imply that fewer children and young people will benefit from additional learning provision (ALP) than is the case under the current system.

Consequently, the NASUWT reserves judgement on whether the draft Bill will deal properly with the age range it sets out to capture.

Question 2 – A unified planning process with increased participation by children and young people
Do you agree that the draft Bill would create a robust legal framework for the preparation, maintenance and review of Individual Development Plans (IDPs)?

<table>
<thead>
<tr>
<th>Agree</th>
<th>Disagree</th>
<th>Neither agree nor disagree</th>
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Supporting comments

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The NASUWT has identified several deficiencies in terms of the robustness of the legal framework for the preparation, maintenance and review of an IDP as set out in paragraphs 6 to 12 of this response.

Further, the NASUWT notes that the draft Code provides Health Boards (HBs) and National Health Service Trusts (NHS Trusts) with the option to disagree with requirements, which must be made by a school, further education institution (FEI) or local authority (LA) in IDPs that seek the input of health professionals. The draft Code is silent on how such decisions by HBs and NHS Trusts can be challenged.

The NASUWT is concerned that a school, FEI or LA could be left to provide for the requirements of an IDP and ALP where a HB or NHS Trust does not agree to provide the support requested.

Question 3 – High aspirations and improved outcomes
Do you agree that the draft Bill would help to ensure that the interests of children and young people with ALN would be protected and promoted?

<table>
<thead>
<tr>
<th>Agree</th>
<th>Disagree</th>
<th>Neither agree nor disagree</th>
</tr>
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Supporting comments

The NASUWT recognises that the draft Bill could help to ensure that the interests of children and young people with ALN are protected and promoted but maintains that the issues raised in this response must be addressed, if high aspirations are to result in improved outcomes.

Investment in, and the protection of, the education workforce will be vital to the successful implementation of the provisions of the draft Bill.

Question 4 – Increased collaboration
Do you agree that the draft Bill would provide the basis for an improvement in the way that agencies work together to deliver for children and young people with ALN?

| Agree | Disagree | Neither agree nor disagree |

Supporting comments

Regrettably, the NASUWT must disagree here, as it appears that the burden of delivery will fall mainly on schools and FEIs (especially, but not exclusively on the ALNCo) and on LAs.

The concerns of the Union are compounded by the provision in the draft Code that allows HBs and NHS Trusts to decide if they agree to collaborate with the requirements of an IDP or ALP, as referred to in answer to question 2.

Question 5 – Avoiding disagreements, earlier disagreement resolution and clear and consistent rights of appeal

Do you agree that the draft Bill would provide an appropriate framework to support disagreement avoidance and resolution, and that the provisions relating to appeals are properly founded?

| Agree | Disagree | Neither agree nor disagree |

Supporting comments

In noting, with concern, the extent of the responsibilities placed on LAs in relation to making arrangements for both avoiding and resolving disagreements in relation to ALP, the NASUWT acknowledges the appropriateness of the proposed framework and recognises that the draft Explanatory Memorandum makes it clear that Option 3 (the option on which the draft Bill and the draft Code has been progressed) would not require

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dispute resolution procedures to take place before an appeal can be made.

**Question 6 – Supporting documents**
Please provide any feedback you think would be useful in relation to the supporting documents published alongside this consultation, i.e. draft Explanatory Memorandum (including the Regulatory Impact Assessment), all Impact Assessments and the draft ALN Code (which will be published in the autumn).

As stated previously, the NASUWT felt that the Easy Read explanation of the draft Bill provided a helpful oversight to the proposals and that the draft Code provided the most accessible means of understanding the purpose of the draft Bill.

In addition, the draft Explanatory Memorandum proved useful for carrying out specific word searches, such as ‘funding’, ‘workload’, and ‘professional learning’ (this is, of course, not possible with a hard copy) and the draft Explanatory Notes at Annex A, in particular the commentary on sections of the draft Bill, provided a good synopsis of the provisions of the Bill.

As referred to elsewhere in this response, the NASUWT found the impact assessments to be deficient in relation to workload, professional development and funding.

**Question 7**

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.

The NASUWT notes, from the Ministerial Foreword to the consultation document, the desire of the Welsh Government to introduce the Bill as early as possible in the next assembly term.

The Union expects due regard to be given to the raft of changes that the...
schools, in particular, are currently coping with, and that the New Deal on professional learning and development is in its early stages, when considering the date of enactment of the Bill.

In addition, the NASUWT maintains that the timescale, of one year, for transferring learners with statements of SEN to an IDP is far too short and will place those involved in the process of developing or contributing to the IDP under pressure, which could be alleviated by extending the transfer period.

Chris Keates (Ms)
General Secretary

For further information on the Union's response, contact Rex Phillips, National Official Wales.

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