

Natspec (Wales) response to the December 2016 Consultation on the Additional Learning Needs and Education Tribunal (Wales) Bill.

Natspec is the membership body for organisations which specialise in providing for students with learning difficulties and disabilities. Our vision is that all young people with learning difficulties or disabilities access high quality education and training, which meets their individual needs and supports their aspirations for skills, work and life.

Our members offer day and/or residential provision for the further education of students aged 16-25 with complex learning difficulties or disabilities.

General Principles

In principle, we agree that the Bill has the capacity to ensure that the needs of children and young people with ALN would be protected and promoted. Our concern is that without a robust operational infrastructure, there could be limited choice and control for young people with multiple and complex learning difficulties and disabilities and their families. Young people with the most complex needs require highly specialised support and expertise, which could be lost without ring fenced funding, resulting in Local Authorities being compromised to make finance driven decisions rather than promote and protect the best interests of such disabled young people.

To protect the most vulnerable and complex group of learners, we suggest that this ring fenced funding should be held nationally, freeing LAs from a potential conflict of interest in being responsible for both assessing the young person and funding their place.

A further fundamental concern, linked to ensuring appropriate choice and comparable options for young people, is the ongoing inequity in quality assurance monitoring of mainstream ALN (ILS) provision and specialist providers. Mainstream FE ILS provision is not inspected with anywhere near the rigour of Estyn inspections of Specialist Colleges. Estyn currently makes no judgment on the quality of ILS when they are inspecting mainstream FE provision. This raises key questions including:

1. How can young people and parents make a judgment on the suitability of mainstream FE to meet their needs when the Education & Training Inspectorate make judgments on the whole mainstream college with no explicit overall judgement on standards of the ALN provision within the mainstream college? In comparison, judgments on the quality of ISCs are readily accessible. Current arrangements can result in a mainstream college receiving a judgment of excellent, however their ILS provision may be poor.
2. We assume that ALNCOs will be required to establish that mainstream FE can meet an individual's needs. Without comparable quality judgements, how can ALNCOs, young people and their parents/carers make informed decisions on whether a mainstream college is able to meet individuals' needs?
3. Moreover, given the importance of the appropriateness of such judgments, how can the greatly reduced (in comparison to ISCs) assessment requirements asked of mainstream colleges on whether they are able to meet individuals' needs be justified?
4. What measures will be in place to ensure ALNCO's across Wales be supported in understanding what the ISC, mainstream FE and other offers are both in Wales and the UK?
5. Given that judgments made will be necessarily subjective and qualitative, how will ALNCO's be guided to identify a 'tipping point' when the option of specialist provision should be introduced?

Learner Progress and Destinations

Of critical significance is that the Bill has an over-emphasis on accredited learning to the detriment of the recognition of the need for young people with learning difficulties to be at the centre of a holistic and person-centred approach to education and training. This is seemingly contrary to the Welsh Government commissioned Estyn Thematic report (2016) [on Learner progress and destinations in independent specialist colleges](#). Another Welsh Government commissioned piece of research concludes that

educational outcomes in independence and employability skills within mainstream colleges are lacking ([Welsh Government 2013](#)). Given that such skills are of crucial significance to individuals' life chances, how will ALNCO's be in a position to make informed judgments on a mainstream college's ability to meet individuals' learning needs? We ask that there is greater recognition within the Bill of the importance of non accredited provision that recognises and records progress in a quality manner.

Unintended consequences

- Young people's life chances are hindered by inappropriate learning environments;
- Increased stress and anxiety for young people – particularly those with autism;
- Placement breakdowns and;
- Associated stress on families;
- Increased numbers of Tribunals.

Financial implications

The proposals in the Bill contain no financial protection to ensure that young people with multiple and complex learning difficulties and disabilities are able to access appropriate specialist provision. Without ring fenced funding to ensure that fit for purpose placements for these young people are secured , the potential ramifications for Local Authorities cover a breadth of challenges. Mainstream Further Education Colleges do not have the specialist expertise to provide for this group, and without some ring fenced protection for specialist provision, there will be a rise in issues relating to safeguarding, learner well-being, lack of staff skills to manage disruptive behaviours, increases in placement breakdowns, subsequent Tribunals and legal costs. Moreover without the expertise and educational provision currently within Specialist Colleges , the skills bases and life chances of such disabled young people will be further disadvantaged.

The potential for a false economy is evident if LAs divert budgets into mainstream provision for those who would both prefer a specialist college and whose needs are best met in specialist provision. There is a risk that funds that could be allocated to ensuring that disadvantaged young disabled people are given every opportunity to develop independence, vocational skills and self esteem (and the subsequent

reduction on the longer term public purse as a result), through the expertise of Specialist Colleges will be channelled instead to pay legal fees and may result in Local Authorities paying further costs if placements in an ISC is the outcome of a Tribunal. There is unambiguous evidence that investing now will reduce future costs. (reference NAO report 2011?)

It is important that the Bill is not constructed in such a way that Local Authorities are pressured by budgetary constraints into making unsatisfactory decisions in the knowledge that a Tribunal with the associated disruption, costs and distress they bring is a preferred and defensible vehicle to an initial agreement that a placement at an ISC best meets an individual's educational needs.

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

We are hopeful that the Bill will provide a basis for an improvement in the way that agencies work together to deliver for children and young people with Additional Learning Needs. Any collaborative framework must ensure that decisions made are done so in the best interests of individual learners and that person-centred educational outcomes guide decision making. The different priorities, resources, knowledge, experience and seniority of stakeholders has the potential to result in gross inequalities within and across Local Authorities. The weight of budgetary constraints and management will inevitably compromise participation and ability for co-operation from being able to attend relevant meetings to agreeing funds available to support the educational needs of young people with multiple and complex learning difficulties and disabilities. This reinforces the importance of clarity in thresholds of responsibility and that young people and their families are provided with independent and impartial Advocates who can ensure decisions made are done so in full light of the options available to them.

Whether Bill will establish a genuinely age 0-25 system;

The move to more stream lined planning is broadly welcomed. In terms of the Bill properly dealing with the age range it sets out to capture, there is little recognition of

and reference to processes for pre-school children identified as or possibly having additional learning needs. At such a critical time for multi-agency collaboration and appropriate professional assessments to identify the needs of individuals, it is suggested that the final Bill would be strengthened by more explicit reference to the needs of pre-school children and their families.

At the other end of the age spectrum there has been much debate in England regarding post 19 education since the SEND reforms have been implemented, leading to unnecessary disputes as LAs refuse to fund post 19 education even where evidence of progress is readily available. Based on this experience, it is essential that the lessons from England are learnt and that there is a clear statement that young people with ALN may need to stay in education beyond the age of 19 to achieve their outcomes. The ALNET Bill is limited in its definition of education and should acknowledge the broader scope of learning not least for young people with high needs.

As it stands the Bill does nothing to support learners in exploring all post-16 options available to them. The Bill should also ensure that destination aims and individuals' aspirations post-25 are supported with requisite transition planning particularly in relation to multi-agency working.

The capacity of the workforce to deliver the new arrangements.

Much here depends on the calibre and workload of ALNCO's. Success will necessitate them being both in senior roles and in having the workload capacity to fulfil their roles. We have doubts that resources are in place to achieve this.

Another critical factor is the need for clarity for all stakeholders regarding the relationship between partners representing education providers, Health, Local Authorities and Social Services. More specifically, questions arise on how the different priorities and agendas will be aligned, balances of power and expectations of responsibilities.

The proposed new arrangements for dispute resolution and avoidance.

The proposal to require full co-operation from all parties to resolve any disputes that arise is positive; the supporting guidance must be clear about the importance of rapid resolution in order to reduce the stress levels on families and young people. Those involved in the process will require good skills and comprehensive training. There is a need for a genuinely impartial convenor/chair to manage this process once it is clear there is a disagreement and to ensure that it is dealt with in the timely fashion indicated in the consultation.

In essence, the provision of a clear appeal system is to be welcomed. Emergent issues are consistent in that the success of the process will rely upon:

- constancy within and across Local Authorities;
- impartiality of decision makers;
- young people and their families being informed and supported about processes;
- associated professionals have skills bases and work load capacity to support disagreement avoidance and resolution.