

# [Update on the Additional Learning Needs Bill](#)

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This article provides an update on the current position regarding the [Additional Learning Needs and Education Tribunal \(Wales\) Bill](#). We [last blogged](#) on this subject ahead of the Bill's Stage 1 (general principles) debate in Plenary in June 2017.

## The Welsh Government's response to Stage 1 scrutiny

During the [Stage 1 debate on 6 June](#), the Minister for Lifelong Learning and Welsh Language, Alun Davies, acknowledged the importance of the scrutiny process and outlined his initial position on a number of issues that had emerged. These included the relationship between healthcare needs and Additional Learning Needs (ALN), children's rights, the involvement of the NHS, and the role of ALN Co-ordinators in schools and designated lead officers in health boards.



The Welsh Government then responded to three Assembly Committees' reports on the general principles of the Bill on 18 July 2017.

- [Children, Young People and Education Committee report](#) (PDF 1.96MB);  
[Welsh Government response](#) (PDF 415KB)
- [Finance Committee report](#) (PDF 370KB); [Welsh Government response](#) (PDF 342KB)
- [Constitutional and Legislative Affairs Committee report](#) (PDF 1.13MB);  
[Welsh Government response](#) (PDF 339KB)

The Minister **accepted 32 of the 47** recommendations the **Children, Young People and Education Committee** made to the Welsh Government, accepted a further four in



principle, rejected seven and is still considering four others. The four that are still under consideration include making it more explicit within the Bill's definition of ALN that **medical conditions** are to be deemed as ALN if they meet the criteria within that definition. The Minister said he is 'considering the benefits and risks of an amendment to the definition of ALN in section 2 of the Bill to demonstrate its scope in relation to medical conditions'. Other recommendations still under consideration include extending the remit of the Tribunal to include power to direct health bodies.

The Minister has **rejected** the Committee's recommendation that the Bill include a specific duty on relevant bodies to have **due regard to the [UN Convention on the Rights of the Child](#)**. The Welsh Government believes that the existing duties on the Welsh Ministers are sufficient and that the Bill creates the architecture whereby children's rights are inherently considered. A **[letter from the First Minister to the Children's Commissioner](#)** (PDF 197KB) in May 2017 set out this position.

The Minister has **accepted four of the Finance Committee's nine recommendations**, including to publish a revised Regulatory Impact Assessment updating the Welsh Government's cost and saving estimates (more on this below). Alun Davies has accepted a further four recommendations in principle and rejected a recommendation about providing separate estimate of costs of implementing subordinate legislation made under the Bill.

The Minister has **accepted 7 of the Constitution and Legislative Affairs Committee's 12 recommendations**, including applying the Assembly's affirmative rather than negative procedure to the making of the ALN Code. He has accepted one recommendation in principle and rejected four.

## Revisions to the estimated costs of the Bill

On **[6 June 2017](#)**, Assembly Members voted to agree the general principles of the Bill, which then proceeded to Stage 2 (the Committee amending stage). However, the Minister for Lifelong Learning and Welsh Language, **Alun Davies**, **decided not to move the financial resolution**, which seeks the Assembly's approval for the Welsh Government to incur the expenditure necessary to implement the legislation. This means that whilst Stage 2 has commenced and amendments can be tabled, the Children, Young People and Education Committee cannot meet to 'dispose' (debate and vote) of the amendments until a financial resolution has been passed.



Alun Davies set out his reasons for not moving the financial resolution in a [letter to Assembly Members on 6 June 2017](#) (PDF 238KB). Both the Finance and CYPE Committees recommended that the Welsh Government reconsider its financial estimates, as evidence taken during Stage 1 suggested that it had **overestimated the extent to which savings would be made from lower dispute resolution costs**. The Committees also pointed to a lack of transparency in how the costs of implementing the Bill itself relate to the [£20 million the Minister announced in February 2017](#) to support the wider [ALN Transformation Programme](#).

On 25 May 2017, one day after both Committees had published their Stage 1 reports, the [Minister informed the Finance Committee and Children, Young People and Education Committee](#) (PDF 241KB) of changes to the estimated costs and savings.

The changes were substantial. The original RIA that was published alongside the Bill in December 2016 outlined an overall **saving of £4.8 million** over the period of implementation (four years, 2017–18 to 2020–21). The Welsh Government now estimates that the Bill will have an overall **cost of £8.3 million** during the four years, representing a £13.1 million change.

The Welsh Government recognises that it should publish a revised Regulatory Impact Assessment (RIA) and update the projected costs of the Bill before seeking the Assembly's approval for the necessary expenditure through a financial resolution in Plenary, in the interests of proper scrutiny.

### Next steps in the Bill's passage through the Assembly

The Minister has said the **Welsh Government will publish a revised RIA in September and he will attend Finance Committee** to discuss the updated cost estimates with Members. Alun Davies intends to then table and move a financial resolution in Plenary, after which point the Children, Young People and Education Committee can meet to consider amendments to the Bill at Stage 2.

The **Welsh Government has so far tabled two tranches of amendments**, on [30 June](#) (PDF 77.8KB) and [21 July 2017](#) (PDF 72.3KB). The CYPE Committee is scheduled to dispose of amendments on 4 October 2017, with a tabling deadline of 27 September 2017.



## Transition to the new Additional Learning Needs system

Although scrutiny and consideration of the proposed new ALN system is still underway, attention is understandably focusing on when and how the new arrangements will be introduced (subject to the Bill being passed).

Between February and June 2017, the [Welsh Government consulted](#) on options for transitioning to the new system. The consultation document assumed that all new entrants to the ALN system, following commencement of the Act's provisions, would be provided with an Individual Development Plan (IDP) under the new arrangements. The question is therefore how to transition learners who already have statements or receive support under School Action or School Action Plus to the new system. The consultation included **options for either a 'big bang' approach** where everyone would move to the new system at a single date, **or various models for phasing** in the new system.

Welsh Government officials told a [Policy Forum for Wales conference](#) on 18 July 2017 that they expect to publish a **summary of the consultation in September** alongside a **Ministerial statement** signalling the proposed way forward. They said that **respondents 'overwhelmingly' preferred a phased approach** rather than a 'big bang' and clear prescription over implementation. The two options that proved most popular in the consultation were to introduce IDPs for learners already on statutory plans first, or to do it by key transition points (key stages etc).

The Welsh Government added that the first introduction of the new ALN system is likely to be in September 2019:

In terms of timescales for implementation, we're looking to **Royal Assent in probably January now**. So following that, the Bill requires us to **consult formally on the Code and on the regulations** that underpin the Bill. So there'll be a process of consultation and then us making any amendments following feedback to that consultation, then both of those sets of things have to be laid before the Assembly for them to be formally approved. We think that will take the **vast majority of 2018** and so then **we'd be looking to implement probably in September 2019**. We want to start from the beginning of the next academic year, so that would give us the early part of 2019 to really rollout all of that training and awareness raising on the final set of the legislative package of Act, code and regulations.



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