

P-06-1392 Reform of the additional learning needs Code of Wales 2021 – Correspondence from the Petitioner to the Committee, 26 February 2024



ALN Reform Wales was founded by 9 mothers of children with ALN; Caryn Williams, Cath Drew, Connie Brooks, Natalie Munaiwa, Dayna Parry, Jen Moss, Laura Painter, Sarah Rees and myself Vicci Lightbown. The voices of a further 3000 plus families, teachers and carers have passed through our communication channels over the past few months.

Please find below a response to some of the points outlined in the document provided by Mr Miles.

What are your thoughts on the attached document?

[paragraph 2 - 18 January 2024 from Jeremy Miles] Together, the curriculum for Wales and additional learning needs and educational tribunal (Wales) Act 2018 (ALNET) are designed to meet the needs of all learners.

Firstly, I would like to address the issues that materialised because of the current reform being rolled out. The evidence clearly shows that 42,000 children suddenly lost the monitoring and support that they were receiving through the SEN system. The ALNET Act 2018 states that IDP's should be for all learners with ALN from mild to complex needs. ANLET have acknowledged many times that any child that was supported by school action or school action plus should have an IDP, as well as those on statements of educational need. Clearly the evidence of the above figure demonstrated that this did not happen. That these families are still, three years on, fighting for their children to 're-gain' the support that they lost in 2021. On Wednesday I will be supporting a family whose child was supported by school action plus, that the school reported to the health board had ' a significantly greater difficulty in learning than their peers' and yet, despite having no option but to re request ALN determination, being refused by the school, appealing to the school to reconsider, making it clear that the evidence from ALNET had already been made clear within a tribunal hearing for that County that children on school action plus should have an IDP. This family (supported by ALN Reform) had to appeal to the LA. This appeal is still on going. It should never have got to this stage. The question is why and how did it? The answer is

quite simple, the ALN code 2021 being the guidance where schools and LA's make their decision from is not written in a manner to prevent them interpreting it their own way. The evidence clearly shows that the needs of all learners are not being met by the current system. The Education Minister requested a report from Estyn which detailed that the current system was inadequate. The meeting notes from the online advisory group for the inquiry as to whether or not children and young people have equal access to education and childcare has reported a continual theme of lack of adequate support, poorly written policies, misinterpretation of the ALN Code 2021 and lack of adequate provision, funding and training.

ALN reform requested a small sample of data from teachers and TA's which indicated a common theme as detailed above. Snap Cymru and the tribunal reports from cases heard also report similar trends and issues.

All of these issues are detailed in Mr Miles document addressed to you, 18 January 2024. Therefore, the question must be, why, three years into the reform of the education system for learners with additional learning needs, is every source, whether it be commissioned by the education minister or collected by a group of parents with children with ALN, reporting the same problems? Mr Miles would like you, other Members of the Senedd, LA's and parents / carers and learners, to believe this is simply down to the current system being in the implementation phase. Suggesting that things will, with a bit of tinkering, improve in time.

ALN reform Wales (as a group of parents / carers / teachers / support staff) disagree with this. The ALN code 2021 is written in an ambiguous way. It is open to interpretation or misinterpretation (as reported in my sons ALNET report). Quite simply, this should not be possible. If the code was written clearly, with better definitions and clarity of criteria many of the difficulties families find themselves fighting against would not occur. Examples are seen in the lack of clarity over what Additional learning provision is. Mr Sargent may recall a letter that Jeremy Miles sent to him detailing that Universal Provision was something that had been constructed by schools and LA's. That Universal Provision was not in the ALN Act 2018 or in the ALN code 2021. Yet, Universal Provision is what is being used a reason for a child not to have ALN. During my son's tribunal it was noted that Universal Provision could only be universal if it was available to all children in all schools in Wales. That LA's could not simply make up their own definition of universal provision. A fellow founding member of the ALN reform team was told by her LA that 'Universal Provision was provision that was available to all children in that school. If a child was in the school 'next door' that they would not be able to access the same Universal Provision. Feedback from our teaching staff survey included ' inclusive classrooms are a nice idea but not practical in reality. The change in criteria which makes it harder than ever to get support and help for children with ALN. The graduated response of Universal provision to target Universal Provision to ALN determination is too slow and doesn't give any support or additional resources that actually help individual children.

The use of universal and universally targeted provision is what is used to reject that a child has ALN. The legal test for ALN determination resulting in an IDP is 'does the child have a significantly greater difficulty in learning than children of the same age' and does this then require additional learning provision. LA's and schools are using the ideology of universal provision to state that a child's needs can be met by universal provision. What this is different in every school, so not universal at all. It also means that LA's are encouraging teachers to complete training that will enable them to state a particular provision is universal

in the school and therefore a child in that school does not need an IDP and can have their needs met by universal provision. However, this is not the legal test. The test asks if the learner has a greater difficulty in learning, not whether a school has done an extra training course in the hope that this will meet the child's needs.

So, I ask you, to try and make sense of this example. Universal provision which is not a definition in the legislation or in the code, that Jeremy Miles himself has reported to Mr Sargent in a recent letter. It is acknowledged by ALNET that Universal provision is not in the legislation or code. However, schools can use these terms and this 'ideology' to refuse ALN and therefore an IDP to a learner. This is a Wales wide issue. It is only possible that this can be the case by the way in which the code is written. Therefore, the code needs addressing and needs addressing immediately. Not after the education minister has decided that the 'implementation phase' has ended.

[paragraph 2 - 18 January 2024 from Jeremy Miles] With ALNET providing the statutory framework to provide additional support or provision for some learners to help them achieve their full potential.

In order to achieve their full potential learners, need access to the correct support, techniques, resources and settings that meet their individual needs. There is much written about the need for inclusivity and equity within education. The importance of a social model, a needs led model and approach to a learners needs. Within the wider community of learners and their families with ALN you will not find many, if any, that would disagree with this concept. However, one size does not fit all. Without the correct assessments from both education and health professionals, strategies and resources used to support the learner can be more harmful. These learners then are either offered substandard education or are unable to reach their potential because they are having to try and learn through methods which do not meet their needs. One example of this is a young man within North Wales who is desperate to go to college. He wishes to study towards two very specific qualifications, those which would be considered vocational qualifications. They would enable him to go on to have meaningful employment, an increased confidence, less change of mental health difficulties in the future, to be an active part of his community and an active part of his country, where he could earn a living and contribute to the social and economic functioning of the world in which he lives. He had a statement of educational needs, which was taken away from him at 16 (despite the ALN system being open to those up to 25 years of age) and refused an IDP. He was offered a place at the most local college, one not trained in his individual needs. One that offered him simply a 'life skills' course. Taking away from him the opportunity to gain skills in an area that would give him meaningful employment, taking away from him his right to a choice, merely because he has a disability. The reason given for his ALN refusal – because the post 16 roll out of IDP's has not happened in his area yet. The question is how and why has this been allowed to happen? The legislation and guidance is there. This young man is legally entitled to the same opportunities of support. The answer is again quite simple. The roll out of the current system was not done effectively with clear expectations and guidance and the ALN Code 2021 enables these problems by not being clear.

The training given on the ALN legislation and code to teachers and parent governors was that the new system would see a DECREASE in IDP's in comparison to the SEN system by 40%. With no SEN register, no formal system in place other than an IDP, this decrease came to fruition and 42,000 learners were left unsupported. This demonstrates a deliberate

attempt to reduce the support to learners. This goes against the ALN Act 2018 and because the ALN Code is ambiguous LA's and schools are able to manipulate the system in a way which suits them.

[paragraph 4 – 18 January 2023 from Jeremy Miles) but they are now more learner-centred in their approach to curriculum design, with the flexibility to tailor support accordingly.

While flexibility in the delivery of the curriculum is welcomed, this does not indicate that there is an understanding of the types of needs a learner may have and how those things may need to be supported. Simply offering a differentiated curriculum which is an option of 1 star, 2 star or 3 star difficulty does not offer support to those children with ALN that have executive function difficulties which are capable of 3 star work, but are only able to complete 1 star work because the support they are offered is 'easier work' not the correct support. Not an alternative way to sit or stand to complete their work which gives them the correct sensory support which aids their executive functioning so that they can work to a higher level. This then raises the question of who is the appropriate person to determine these needs and what support is appropriate. Without mandatory training, with bigger classes to manage, teachers are not equipped to make these assessments. Access to educational psychology is limited with schools only being allowed an allocated number of slots per term, meaning they have to decide who may get support and who will continue to fail or not have their needs met. Few health boards have access to occupational therapists (OT) trained in more than just functional OT. Without mandatory training for teachers, learners are in a postcode lottery as to who may be 'seen' as struggling and needing assessments and support and who will be 'cast over'

[paragraph 4 – 18 January 2023 from Jeremy Miles) there was a greater focus on the use of the learners voice.

Many learners are not equipped with the ability to 'voice' their needs. Children as young as 4 and 5 are being excluded from school due to difficulties with their behaviour, which is seen as a problem on the fault of the child and sometimes the parent. Parents should be listened to and not accused when they advocate for their child. We were approached by a family whose son is so anxious he is wetting himself in school. He does not have any difficulties with toileting at home or when out in his community. The schools response was to do nothing. The same child, so anxious that he was unable to eat or drink during school time, was told quite simply he will have to make it up when he gets home. Imagine being that by. Being picked up at 7.30 in the morning to attend a specialist provision and being dropped at home at 5 pm. Spending all that time with no food, no water and urinating all over yourself because your anxiety is so high, because your needs are not met. Mandatory training for ALL school staff is essential to prevent situations like this.

Does it adequately address the issues that you raised?

The response given by Mr Miles is the same response he has give the inquiry regarding access to education and childcare. It is the same response give to journalists when questioned about our petition. It does not indicate that changes are going to happen to address the failings of the ALN Code which is seeing so many thousands of learners unsupported.

Is there anything additional that you would like the committee to know at this stage, either in response to this document or as an update to the committee.

The need for debate in the Senedd is essential. The failing of this system is such that every reporting body, from Estyn, the inquiry into access to education and childcare, snap cymru, ALNET and our own small sample of data collected, echo each other. Teaching unions supported our petition. Members of the Senedd are sought out by hundreds of families reporting the struggles they are experiencing with regards to unmet needs within education. These members from all the different political parties should be given the right to question why the system implemented has failed on such huge level. The families of the learners subjected to these failings have the right to know that the members in which they have communicated with have been given the opportunity to demand an explanation and a plan of the failings and how they will be fixed. Not merely an acknowledgment of the issues raised by reporting bodies.

The system isn't failing just because of bad training of the legislation and code or lack of teachers and support staff (although these are factors in affecting the implementation of any ALN system) but that the code is written in such manner that is not clear and should not be open to interpretation.

We request that you enable the democratic process to take place. That the real reasons behind the failings of the system are reported to all members of the Senedd.