# Draft Additional Learning Needs Code

**Proposed subordinate legislation under the Additional Learning Needs and Education Tribunal (Wales) Act 2018**

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| **Consultation response form** | Your name:  Organisation (if applicable):  e-mail/telephone number:  Your address: |

Responses should be returned by **22 March 2019** to

Additional Learning Needs Transformation Team

Support for Learners Division

Education Directorate

Welsh Government

Cathays Park

Cardiff

CF10 3NQ

or completed electronically and sent to:

e-mail: [SENreforms@gov.wales](mailto:SENreforms@gov.wales)

The questions that are asked in this consultation document cover a broad range of matters relating to the draft Additional Learning Needs (ALN) Code and proposed regulations.

Respondents are reminded that they only need to respond to the questions in the consultation in which they have an interest in or that are relevant to them.

The Welsh Government values and appreciates the time spent and the input from all stakeholders and members of the public who submit responses to this consultation. All responses will be carefully considered by the Welsh Government and will be used to help refine and shape the final Code and regulations.

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| Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here: |  |

# 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?

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| --- | --- | --- | --- | --- | --- |
| Yes |  | No |  | Not sure |  |

**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?

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| --- | --- | --- | --- | --- | --- |
| Yes |  | No |  | Not sure |  |

**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?

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| --- | --- | --- | --- | --- | --- |
| Yes |  | No |  | Not sure |  |

**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?

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| --- | --- | --- | --- | --- | --- |
| Yes |  | No |  | Not sure |  |

**Supporting comments**

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

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| --- | --- | --- | --- | --- | --- |
| Yes |  | No |  | Not sure |  |

**Supporting comments**

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Pupil referral units (PRUs) - Proposed regulations to be made underParagraph 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?

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| --- | --- | --- | --- | --- | --- |
| Yes |  | No |  | Not sure |  |

**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?

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| --- | --- | --- | --- | --- | --- |
| Yes |  | No |  | Not sure |  |

**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?

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| --- | --- | --- | --- | --- | --- |
| Yes |  | No |  | Not sure |  |

**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)?

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| --- | --- | --- | --- | --- | --- |
| Yes |  | No |  | Not sure |  |

**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?

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| --- | --- | --- | --- | --- | --- |
| Yes |  | No |  | Not sure |  |

**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?

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| --- | --- | --- | --- | --- | --- |
| Yes |  | No |  | Not sure |  |

**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?

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| --- | --- | --- | --- | --- | --- |
| Yes |  | No |  | Not sure |  |

**Supporting comments**

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**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?

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| --- | --- | --- | --- | --- | --- |
| Yes |  | No |  | Not sure |  |

**Supporting comments**

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## 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)?

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| --- | --- | --- | --- | --- | --- |
| Yes |  | No |  | Not sure |  |

**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?

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| --- | --- | --- | --- | --- | --- |
| Yes |  | No |  | Not sure |  |

**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?

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| --- | --- | --- | --- | --- | --- |
| Yes |  | No |  | Not sure |  |

**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?

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| --- | --- | --- | --- | --- | --- |
| Yes |  | No |  | Not sure |  |

**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?

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| --- | --- | --- | --- | --- | --- |
| Yes |  | No |  | Not sure |  |

**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?

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| --- | --- | --- | --- | --- | --- |
| Yes |  | No |  | Not sure |  |

**Supporting comments**

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

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| --- | --- | --- | --- | --- | --- |
| Yes |  | No |  | Not sure |  |

**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?

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| --- | --- | --- | --- | --- | --- |
| Yes |  | No |  | Not sure |  |

**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?

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| --- | --- | --- | --- | --- | --- |
| Yes |  | No |  | Not sure |  |

**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?

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| --- | --- | --- | --- | --- | --- |
| Yes |  | No |  | Not sure |  |

**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)?

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| Yes |  | No |  | Not sure |  |

**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?

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| --- | --- | --- | --- | --- | --- |
| Yes |  | No |  | Not sure |  |

**Supporting comments**

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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?

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| --- | --- | --- | --- | --- | --- |
| Yes |  | No |  | Not sure |  |

**Supporting comments**

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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?

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| --- | --- | --- | --- | --- | --- |
| Yes |  | No |  | Not sure |  |

**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?

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| --- | --- | --- | --- | --- | --- |
| Yes |  | No |  | Not sure |  |

**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?

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| --- | --- | --- | --- | --- | --- |
| Yes |  | No |  | Not sure |  |

**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?

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| --- | --- | --- | --- | --- | --- |
| Yes |  | No |  | Not sure |  |

**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?

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| Yes |  | No |  | Not sure |  |

**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?

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Yes |  | No |  | Not sure |  |

**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 |  | Not sure |  |

**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?

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| Yes |  | No |  | Not sure |  |

**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?

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| --- | --- | --- | --- | --- | --- |
| Yes |  | No |  | Not sure |  |

**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?

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| --- | --- | --- | --- | --- | --- |
| Yes |  | No |  | Not sure |  |

**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?

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| Yes |  | No |  | Not sure |  |

**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 |  | No |  | Not sure |  |

**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?

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| --- | --- | --- | --- | --- | --- |
| Yes |  | No |  | Not sure |  |

**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?

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| --- | --- | --- | --- | --- | --- |
| Yes |  | No |  | Not sure |  |

**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?

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| --- | --- | --- | --- | --- | --- |
| Yes |  | No |  | Not sure |  |

**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?

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| --- | --- | --- | --- | --- | --- |
| Yes |  | No |  | Not sure |  |

**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?

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| Yes |  | No |  | Not sure |  |

**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?

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| --- | --- | --- | --- | --- | --- |
| Yes |  | No |  | Not sure |  |

**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?

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| --- | --- | --- | --- | --- | --- |
| Yes |  | No |  | Not sure |  |

**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.

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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?

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| --- | --- | --- | --- | --- | --- |
| Yes |  | No |  | Not sure |  |

**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?

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| Yes |  | No |  | Not sure |  |

**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?

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| --- | --- | --- | --- | --- | --- |
| Yes |  | No |  | Not sure |  |

**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?

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| --- | --- | --- | --- | --- | --- |
| Yes |  | No |  | Not sure |  |

**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?

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| Yes |  | No |  | Not sure |  |

**Supporting comments**

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

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Yes |  | No |  | Not sure |  |

**Supporting comments**

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

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| Yes |  | No |  | Not sure |  |

**Supporting comments**

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

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| --- | --- | --- | --- | --- | --- |
| Yes |  | No |  | Not sure |  |

**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?

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| Yes |  | No |  | Not sure |  |

**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?

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| Yes |  | No |  | Not sure |  |

**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?

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| Yes |  | No |  | Not sure |  |

**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?

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| Yes |  | No |  | Not sure |  |

**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?

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| Yes |  | No |  | Not sure |  |

**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?

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| Yes |  | No |  | Not sure |  |

**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?

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| Yes |  | No |  | Not sure |  |

**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?

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**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:

1. 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?;
2. 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.