

Isos Partnership (UK) LLP

The Additional Learning Needs Reform Programme

Rapid problem-solving stakeholder workshops for the Welsh Government

October 2013



- Through the additional learning needs reform programme, the Welsh Government is considering introducing reforms of the current special educational needs (SEN) framework. In June 2012, the Welsh Government published *Forward in partnership for children and young people with additional needs*, a consultation document setting out a wide range of measures to reform SEN provision and improve outcomes for children and young people.
- The consultation was well-received, with respondents welcoming the overall vision and direction of travel, while emphasising the need for further detail about how the reforms would work in practice.
- Isos Partnership (UK) LLP was commissioned by the Welsh Government to facilitate a series of rapid problem-solving workshops with key stakeholders within the SEN sector in Wales. The workshops, which were held during September and October 2013, aimed to develop detailed, practical ideas for reforming the SEN framework, particularly the legislation and the Code of Practice. They focused on four themes:
 - **the definition of need;**
 - **partnership-working and accountability;**
 - **assessment and planning; and**
 - **resolving concerns and avoiding disputes.**
- For the sake of consistency, and given that terminology is one of the things under consideration, throughout this report we have used the term additional learning needs (ALN) to refer to children and young people who have SEN or learning difficulties or disabilities (LDD) under the current definition, and who would meet a new definition of need.
- We are grateful to everyone who made the time to participate in the workshops for their openness, honesty, and focus on improving the current system for. In each workshop, there was a strong collective desire to seize the opportunity offered by the ALN reform programme to improve provision and outcomes for children and young people with additional learning needs. We hope these workshops help to achieve this important goal.



1.

Defining need: colleagues felt that the current definition had important strengths, but was too narrow, lacked clarity, and should cover birth-to-25

The current definition recognises

...

- The importance of meeting the needs of children and young people with ALN, and provides a statutory underpinning where necessary
- That different children have different needs, and that provision should be differentiated accordingly
- The importance of early identification and intervention, by including pre-school as well as school-age children

... but ...

- The focus on 'school' and 'education' is too narrow – it does not focus on a child's broader needs and the impact these can have on their progress and development
- The definition is too vague and open to interpretation – e.g. how significant is 'significantly greater difficulty'?
- There is a separate definition for school-age and 16-25 young people

A new definition should ...

- Take a more holistic account of a child's development and needs
- Be sufficiently clear to allow greater national consistency, while remaining flexible enough to respond to the changing needs of young people
- Be consistent across the birth-to-25 age-range
- Be focused on need, not driven by resources

1.

Our colleagues identified four key “building blocks” from which could be constructed an amended definition of need

1. A consistent definition of need from birth to 25

This would combine the existing frameworks for SEN and LDD, and help to mitigate some of the risks at key transitions. Our colleagues noted that it was important to be clear how the new definition would apply to very young children and whether the new definition would apply to all 16-25s, or just those in learning settings.

2. A holistic view of a child’s or young person’s needs

The definition would not focus on education in a narrow sense, but ‘learning’, ‘development’ and ‘progress’ in a broader sense. This was seen as vital to recognising the impact a child’s broader needs can have on their learning, and ensuring that agencies and services have a common understanding and terminology for describing need.

The definition of need

4. A clear definition of ‘significantly greater support’ relating to consistent expectations of mainstream settings

The definition would define ‘significantly greater support’ in terms of what mainstream settings (nurseries, schools, colleges) were expected to provide to support learners. Colleagues identified three levels of need as a way of differentiating the support learners may require to progress.

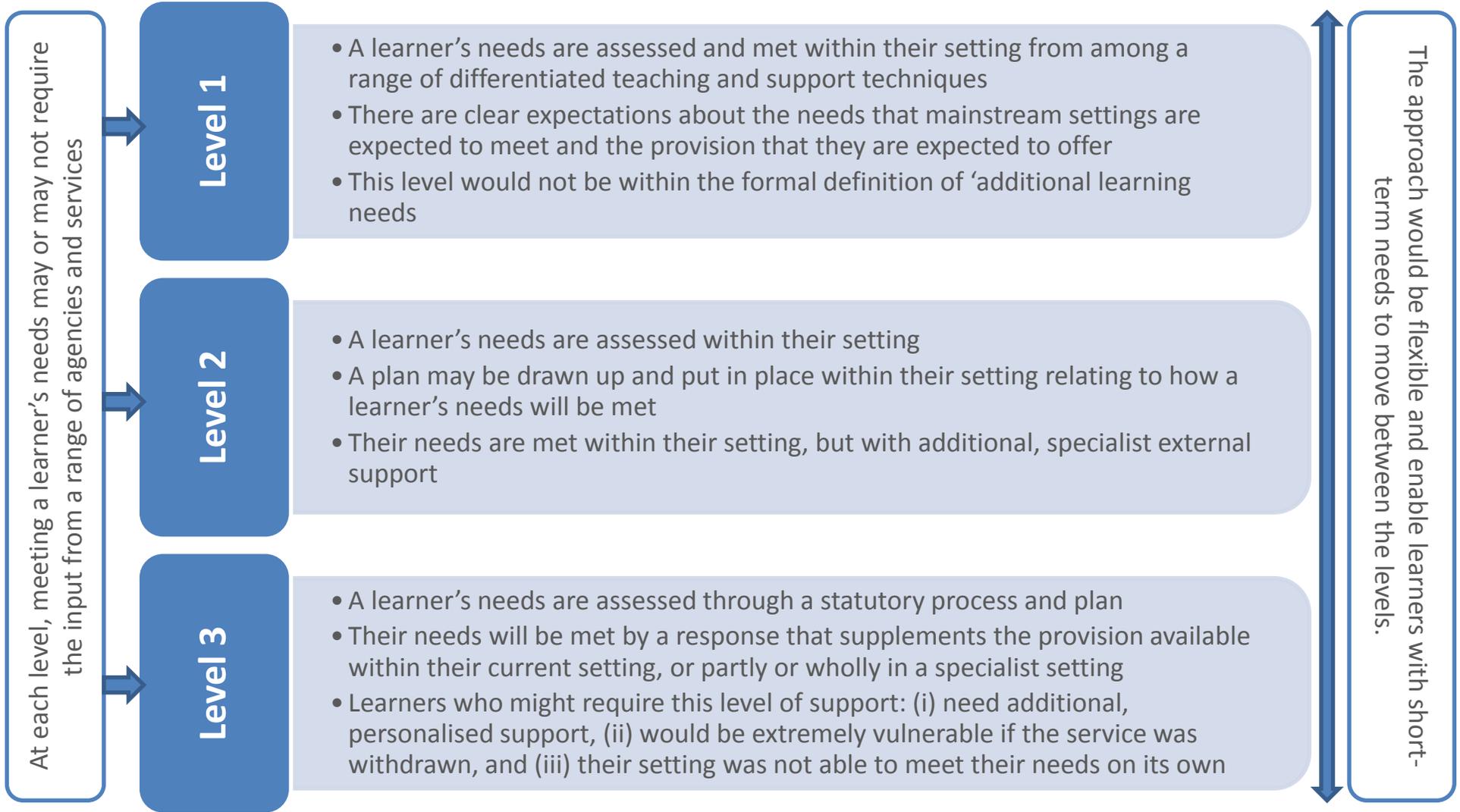
3. A focus on what a child or young person needs to progress, not what they cannot do

The definition would focus on those who require ‘significantly greater support’ in order to progress. It was noted that the definition should not require that learners had to be seen to fail before support was provided. It was suggested that the definition could apply to learners who required significantly greater support or were likely to do so.



1.

Colleagues conceived of three levels of need based on clear expectations of mainstream settings and when additional support would be required



1.

Colleagues noted a number of important ways in which this proposed definition would build on the current definition of need

Key features of the proposed definition

- **The definition and the three levels of need would be flexible enough to take account of both short- and long-term conditions**, and to reflect changes in children's and young people's needs over time
- **The definition would not be based on a "medical model"**: specific conditions would not automatically fall within the definition of ALN
- The definition would be based on having **clear and consistent expectations of mainstream settings**
- **The focus of the definition is on ensuring needs are met**, rather than being driven by resources

Colleagues' key questions to consider further

- **The definition** – consider how to frame in legal terms a definition of ALN based around the four building blocks and three levels of need
- **Information** – what information would be needed to ensure families and professionals understood how a learner's needs would be met at each level, and how should it be provided?
- **Thresholds and assessment** – consider the precise thresholds between each level, and how this links to statutory assessment
- **Terminology** – what are the words that all agencies could recognise and use to refer to a child's 'progress' and 'development'?

Partnership-working and accountability: colleagues identified the key ingredients of successful collaboration, but also a set of common barriers

Key ingredients of success

- **“A willingness”** – an organisational ethos and attitude that helps to build trust and sustain a shared culture
- **A person-centred agenda** – the child is at the heart of the process, not at its whim
- **Clear, aligned priorities** – at a strategic level and a practical level: an overarching plan that informs joint assessments of need, shared practices, and shared success-measures
- **Robust leadership** – there is clear leader or team of leaders driving the partnership, and to whom professionals can go to resolve issues

Barriers to effective collaboration

- **A lack of clear roles and responsibilities**, particularly in relation to funding
- **Unrealistic expectations** – it is often unclear to families how services are commissioned and decisions taken, which can lead to strong demands being placed on services and then passed on by one service to another
- **Competing strategic priorities** of partners, and even within the same organisation
- **A lack of facilitating processes** – sometimes the basic, practical processes for sharing information do not exist, or protocols impede collaboration
- **Narrow focus** – outcomes focus on academic attainment, not wider progress and development

What does success look like?

- **A professional culture** that encourages collaboration based on mutual understanding and joint practice development
- **Aligned processes** where possible and clear information-sharing protocols to improve the practicalities of partnership-working
- **Transparent decision-making processes** to promote greater understanding and engagement from families and young people
- **Clear priorities and outcomes** shared by all statutory partners
- **Clear roles and responsibilities** regarding leadership and funding
- **A shared focus on meeting need**, not on competing for resources



2.

Colleagues suggested a number of ways of encouraging partnership-working, from which they identified three key “drivers”

Ways of encouraging partnership-working

- A single point of accountability
- A legal duty on services
- Multi-agency inspection
- Joint governance
- A specified post with clout to lead and co-ordinate partnerships
- Building capacity and expertise in mainstream settings
- Joint funding mechanisms
- Clear data-sharing protocols
- A national directory of good practice
- Consistent national strategy documents and professional guidance

Key drivers of effective partnership-working

Legislative duties on all statutory partners – e.g. duty to collaborate, duty to provide, duty to deliver

Accountability – e.g. single “named-individual” accountability, shared outcome-measures

Combining funding streams – e.g. pooling budgets, personal budgets

- **Our colleagues felt that the key to effective partnership-working was not only documents setting out duties and processes, nor the right people and relationships: it was both in combination.**
- Colleagues noted that while the ultimate aim should be to have a shared evidence base, a shared set of professional practices and tools, and a shared set of operating processes, **there had to be a key “driver” or set of drivers that encouraged and sustained those shared practices.**
- **Three potential key “drivers” were identified:** legislative duties, joint accountability, and joint funding.
- **Our colleagues felt that legal duties and accountability were potentially more powerful drivers of partnership-working than combining funding streams,** although they suggested it would be useful to understand more about the different models of pooled funding and personal budgets used in other public services.

a. Legal duty

- A legal **'duty to deliver'** could be placed on all statutory partners
- This duty could be linked to the new definition of ALN, and the three levels of need developed by colleagues in the first workshop in this series
- The duty to deliver would underpin a set of joint accountability mechanisms
- There was, however, some debate about whether a legal duty was necessary, specifically whether legislating for multi-agency meetings would be effective – improved and sharper implementation of statutory guidance was offered as an alternative to a legal duty

b. Joint accountability

- A **single point of accountability** was seen as important– e.g. aligning education and children's social care – but more is needed to influence each level of the system
- **"Most appropriate person"** – clear responsibility for co-ordinating assessment and the plan
- **Multi-agency inspections focusing on joint outcomes:** (a) well-being, (b) early language and physical development, (c) educational progress measures linked to levels of need, and (d) destinations, although further work is needed to track the impact of all key services
- **Joint governance arrangements**, building on existing structures, e.g. Local Service Boards, Local Safeguarding Children Boards, and regional school improvement consortia

2. Shared practices and joint funding arrangements

c. Shared practices

- **Joint priorities and outcomes would inform shared practices**, such as shared assessments of local need and shared assessment thresholds
- All professionals would be answering “**the same set of questions**” and aware of how their contributions were linked together, reinforced by **aligned staff performance management**
- **‘Expert family’ and ‘expert professional’ approaches and tools** would increase mutual understanding of how services work, and build capacity within mainstream settings to meet less severe needs, thus helping to target specialist resources more effectively

d. Joint funding

- **Shared practices, such as agreed criteria and responsibilities for funding support and a shared “map” of local provision would be key ingredients of effective joint funding arrangements** – they would also ensure decisions were transparent to families
- **Colleagues were keen to explore models of pooled and personalised funding** used in other areas of public service across the UK
- **Joint funding approaches could be trialled for learners with the most complex needs** (level 3), there are also opportunities to explore at level 2, linked to the regional school improvement consortia (e.g. better regional planning of low-incidence provision)

Questions

- Would a 'duty to deliver' underpin effective joint accountability, or would it create unnecessary burdens?
- What would a suite of joint outcome-measures need to include that could capture the combined impact on a young person's development of key services' contributions?
- What data is collected currently at a national, regional and local level that is not currently used to track the progress and development of children and young people with ALN, but that could be?
- What would be the key components of a multi-agency ALN inspection framework?

Suggestions

- Engage local authority chief executives on ways to improve alignment and collaboration between education and social care services
- Bring together senior leaders of health, education and social care to build on the appetite for collaboration among front-line professionals
- Consider how local leadership of ALN provision could be incorporated into existing public service governance structures in Wales, including the regional school improvement consortia
- Consider how examples of good practice could be brought together and the learning shared
- Consider aligning practice guidance for professionals working with learners with ALN
- Clarify information-sharing requirements and restrictions, specifically in relation to health, social care and education services for learners with ALN

3.

Assessment and planning: Colleagues identified seven key pieces of information that should be in an individual development plan (IDP)

1. **Basic biographical information** about the child and their family

2. **The child's holistic needs**, including their strengths and their views

3. **Who is involved in the process** – (a) ensuring the child and their family are engaged, and (b) who is responsible for the plan, including at key transition points (e.g. moving between phases or between settings)

4. **“Action-planning”** – (a) who is going to do what, by when, and how in order to support the child and meet their needs; (b) the SMART success-measures, and who is accountable for each

5. **Connectivity** – it should be clear how the IDP was put together, what information was gathered from where, and how this links to any other plans that the child has

6. **Accessibility** – the plan should be constructed in a way that is accessible to the child and their family, engaging them where possible in its design

7. **Any unresolved issues** that were not resolved through the planning process

3.

Colleagues felt that the IDP template that had been piloted provided a good starting-point, and offered ideas on how it could be strengthened

Strengths of the IDP template

- **The IDP *feels* person-centred** – the child is at the heart of the plan
- **Focus on strengths** – the IDP focuses not just on what the child needs, but also what they are good at and their strengths
- **Action-orientated** – there are clear actions, timescales, and success-measures
- **Language** – it is accessible, to the point and child-/family-friendly

Aspects of the template that could be strengthened

- **Clearer ownership** – ensure the document feels like it is owned by the child and their family
- **More dynamic** – the plan feels static, rather than a dynamic, living document
- **Applicability** – is it applicable to the whole birth-to-25 age-range?

What's missing?

- **About me** – the child's view of themselves could be included at the outset
- **Who is responsible and who has been involved** – the IDP should say who has been involved in developing the plan (e.g. through a relationship-circle diagram) and who is responsible for maintaining the IDP
- **Reasons why** – a 'Why' section should be included under 'What's not working for X'
- **'This IDP has been informed by ...'** – connections to other assessments and action-plans



- **The benefits of person-centred planning and the IDP** – colleagues recognised that, even if it was not possible to develop a single plan for children and young people with ALN that brought together all assessments of their needs and plans for supporting them, there were ways in which the development of an IDP could improve the assessment and planning process. The IDP was seen as:
 - embedding a person-centred approach;
 - helping children and families to be engaged and feel in control of the process; and
 - ensuring the involvement of key partners.
- **A good starting-point** – colleagues felt that the seven criteria were a good starting-point for the requirements for assessing need that would be written into the new legislation.
- **The key suggested next steps** identified by colleagues were:
 - determining the way in which assessment and planning would fit with a new definition of need, such as that developed in the first workshop, and which children and young people would have an IDP (e.g. learners with needs at level 3);
 - specifically, to consider how to encourage, but not mandate, the use of elements of the IDP and person-centred planning for other learners with less severe needs (e.g. learners with needs at levels 1 and 2); and
 - developing the template for the IDP to link with the proposed new legislative requirements, an amended Code of Practice, and stakeholders' suggestions.

4.

Resolving concerns and avoiding disputes: Colleagues identified five inter-related factors that could cause concerns to arise and escalate

During the 2011/12 tribunal year, of a total of 80 cases, 21% of cases were decided at hearing, 49% of cases were withdrawn by parents, and 30% were conceded by local authorities. What are the causes of behind these statistics?

Access to resources
– a perceived
tension between
expectations of
services and
available resources

This can fuel
tension between
professionals and
services, as
unrealistic
expectations are
passed on

There is a lack of
accessible, clear,
reliable information
about the process
for families, and
often a lack of
communication

There is a lack of
available early
mediation services

This can create
mistrust and a
“fight culture”, and
ultimately can lead
to litigation

1. Mandatory mediation?

- Better information and advice is needed to guide families through the assessment and planning process
- What would be the trigger for mediation? Is it possible to target families pro-actively where concerns could arise?
- Some colleagues were in favour of *mandatory* mediation before an appeal could be launched
- There were caveats about instances when mediation would not be appropriate – (a) where resolving a dispute was time-critical, or (b) where all parties agreed to skip mediation

2. Who can appeal and on what grounds?

- There should be a presumption in favour of the child or young person being able to appeal, where they had the capacity to do so (as defined by the Mental Capacity Act)
- Families and “case friends” would also be able to bring appeals
- Legal clarification was needed on whether one service could appeal against another
- The grounds for appeal should be based around a learner’s needs not being met, if the IDP was not proving effective, or if there was not agreement on the outcome of the IDP process
- Colleagues debated whether there should be grounds to appeal a decision not to carry out an IDP, noting this depended on the threshold at which an IDP became statutory

4.

Colleagues identified four points in the process where concerns could be addressed, disputes managed, and lessons learned

3. Who judges the appeal?

- Option 1: broaden the remit of the SEN Tribunal for Wales (SENTW) – this would depend on whether a legal duty was placed on all statutory partners
- Option 2: distinguish between (i) appeals about the provision of care or support (with appeals heard by the complaints body for the service in question) and (ii) statutory partners failing to discharge their statutory duties (with appeals heard by the public service ombudsman)

4. Feedback loops

- SENTW and other appeals bodies would publish their decisions
- Local authorities and statutory partners should initiate a review process and publish their “lessons learned” and an action-plan
- SENTW could be asked to produce an annual, thematic report, setting out the key themes and patterns from the disputes it had heard in the past year, and to make recommendations to which the Welsh Government, local authorities and other statutory partners would be required to have regard

Colleagues' key suggestions for the Welsh Government to consider further

In addition to the specific suggestions raised during this series of workshops, five cross-cutting themes were identified that the Welsh Government could consider further in the course of the ALN reform programme.

- **A single approach from birth to 25** – the Welsh Government could consider the way in which a new single approach would apply to very young children, and specifically which elements of the assessment and planning process would be appropriate to their needs.
- **Thresholds for statutory assessment and planning** – the Welsh Government could consider how these thresholds could be defined and how that would map onto the three levels of need identified in the first workshop. Consideration might also be given to the ways in which a new definition, focused on needs and with clearer expectations of the available support at each level, could help to mitigate the risk that an IDP is seen as a “passport to additional funding”.
- **Making the most effective use of existing joint governance structures** – during the debates on accountability, colleagues noted that encouraging joint governance through existing structures, such as Local Service Boards or building on the regional school improvement consortia, may offer a “quick win” in terms of improving collaboration and partnership-working.
- **Information for families** – in a number of areas of the current SEN system, a lack of clear, consistent and accessible information for parents was identified as a barrier to the operation of effective, high-quality services.
- **Developing effective outcome-measures** – colleagues suggested that there may be merit in reviewing data collected nationally to try to identify measures or frameworks, such as the youth progression framework, that could be used to track the progress of learners with ALN and hold services to account.

