

Third Sector Additional Needs Alliance (TSANA)
Paper for meeting of TSANA and WG meeting on Monday 23rd February 2015

TSANA welcomes the opportunity to work with WG on the development of the Code of Practice in general, including the section on the principles of the code. We consider this section to be important in setting the scene for the way the legislation will be delivered across Wales.

The overarching aim of the current Special Education Needs Code of Practice for Wales 2002 is to enable “pupils with additional learning needs to reach their full potential, to be included fully in their learning communities and make a successful transition to adulthood”. This is an aim which TSANA fully endorses and we would like to see this replicated as an overarching aim in the new Additional Learning Needs Code of Practice for Wales which needs to be improved on and made more robust than the last one.

The Welsh Government has provided TSANA with ten proposed principles to underpin the Code of Practice. These are as follows:-

- giving consideration to the rights set out in the United Nations Convention on the Rights of the Child (UNCRC) and giving consideration to the United Nations Convention of the Rights of Persons with Disabilities
- Early identification should be promoted and all learners should expect to have their needs identified and met with the best interests of the learners as a primary consideration;
- Learners’ opinions should be placed at the heart of decisions;
- Parents and families have a vital role in supporting their child’s education and should be fully enabled to participate in decisions made;
- learners must be supported to participate in mainstream education and participate in the national curriculum as fully as possible wherever this is feasible;
- Welsh language is to be treated no less favourably than the English Language;
- agreeing assessment and provision for learners should be simpler and less adversarial;
- disagreements should be resolved as quickly and easily as possible; and
- all those involved in providing support to learners should work together to provide a seamless service and transitions should be planned for in advance

TSANA broadly concurs with most of these high level principles but considers that they should be further strengthened. We also consider that these principles must be underpinned by clear duties on local authorities and partners when implementing the legislation and the code of practice.

The remainder of this Paper outlines our initial response to each of these proposed principles and is intended as a discussion aid for the Task and Finish Group meeting on 23rd February.

Principle: Giving consideration to the rights in the United Nations Convention on the Rights of the Child (UNCRC) and giving consideration to the United Nations Convention of the Rights of Persons with Disabilities;

TSANA welcomes the inclusion of this and feels it is imperative that the code and systems encompass the rights of the child. We accept the principle but recommend it is reworded as “Giving consideration to human rights as described in the United Nations Convention on the Rights of the Child (UNCRC) and giving consideration to the United Nations Convention of the Rights of Persons with Disabilities. As such, we recommend that the words “should give consideration to” are strengthened to emphasise that the new system must encompass these vital rights.

Principle: Learners’ opinions should be placed at the heart of decisions

In line with Article 12 of the UNCRC, we strongly support the principle that “learners’ opinions should be placed at the heart of decisions”. However, we recommend that the word “should” be replaced with “must” and that the words “views, wishes, feelings” should be included. So this reads: “Learners’ views, wishes, feelings and opinions must be placed at the heart of decisions”. We further recommend that person centred practice should be at the heart of all planning. Further, in line with Article 12, Local authorities should follow a child centred approach which is in line with Article 12 of the UNCRC which says that when adults are making decisions that affect children, children have the right to say what they think should happen and have their opinions taken into account.

Parents, carers and families have a vital role in supporting their child’s education and should be fully enabled to participate in decisions made

We support the above principle. TSANA recommends that local authorities must ensure that parents/carers are not only involved in discussions and decisions about the child’s individual support and local provision, but also provided with the timely, appropriate and accessible information, advice and support necessary to enable them to participate. We therefore propose that the phrase “through being provided with independent information and support necessary to enable participation in those decisions” be added, with the support being provided by independent parent partnership schemes. We would urge that, given the importance of this principle, the word “should” be replaced with “must”. Local authorities must ensure that children, young people and parents are provided with the information, advice and support necessary to enable them to participate in discussions and decisions about their support. This should include information on their rights and entitlements in accessible formats and time to prepare for discussions and meetings.

Principle: Early identification should be promoted and all learners should expect to have their needs identified and met with the best interests of the learners as a primary consideration

The early years are crucial in a child's development and it is imperative that children with additional learning needs and their families are well supported. TSANA therefore recommends that an IDP referral is made following identification of ALN to ensure appropriate support is in place at the earliest opportunity i.e. waiting for an assessment should not be a barrier to a setting providing suitable provision. We would also highlight that some children will develop a need later in their childhood and that staff such as teachers should feel able to make referrals if they become concerned about a child. This will help to assist early identification in these cases...

TSANA recommends that the above principle should be strengthened and contain reference to the importance of early intervention. We suggest rewording as: "Early identification and early intervention are essential and all learners should expect to have their needs identified and met in a timely fashion with the best interests of the learners as a primary consideration." This places the responsibility on the local authority to ensure that professionals have the appropriate skills to identify children and young people's additional learning needs and make provision to meet these needs as early as possible.

Of particular concern to TSANA is that the importance of support and provision in the early years is not adequately addressed in the White Paper. We suggest that learning from the 4 year Welsh Government funded Early Support programme which offered improved, coordinated multi-agency support for disabled children age 5 and under and their families is reviewed and that the Early Support model is adopted as a model to support children aged 0 – 5 towards a seamless transition into school. TSANA expects the Code of Practice to detail the responsibilities of all agencies in identifying ALN in the 0 to 5 age group.

TSANA is concerned about the lack of detail on how the new system will work outside of the school setting. We therefore recommend that a new principle is included on supporting children from early years through to adulthood. This will be supported by further information in the code which will highlight how children pre-school age and young people post school age should be supported.

Principle: Learners must be supported to participate in mainstream education and participate in the national curriculum as fully as possible wherever this is feasible

TSANA strongly opposes this principle. Children and young people with additional learning needs must be supported to access and participate in the educational provision that best meets their needs, whether this be in mainstream or special education provision.

A learner's needs must be established following an assessment by a suitably qualified person. This assessment will determine whether the learner's needs can be appropriately met by participating in mainstream education and through accessing the national curriculum. Consideration should be given to the learner's wider development, including access to appropriate peer groups and specialist curriculums. For those

learners for whom assessment has deemed mainstream education and participating in the national curriculum as appropriate, the feasibility of their full participation will be dependent on: having trained staff, including mainstream teachers, specialist advisory teachers holding the mandatory qualification for sensory impairment, and learning support staff; as well as the provision of communication aids and accessible educational materials.

We suggest amending the principle to read:

“Learners must be supported to access education provision that best meets their assessed needs, including being supported to participate in mainstream education and access the national curriculum wherever this is feasible and their assessed needs deem this appropriate”.

“Principle: Welsh Language is to be treated no less favourably than the English Language;

Members of TSANA are supportive of the principle and are aware of many children with additional needs having to be educated in English medium schools because the appropriate provision is not available in Welsh, which would have been the parent’s language of choice. We consider that the following would provide a more robust principle:

“Welsh language is to be treated no less favourably than the English Language; where a child or young person requires ALN support in the medium of Welsh this must be provided.”

Principle: agreeing assessment and provision for learners should be simpler and less adversarial

TSANA supports this principle but we have reservations about the word “simpler”. Sometimes children’s needs are complex and many factors will need to be considered. As such, we would prefer that the emphasis is placed on greater “clarity” and “accessibility”. We also recommend that the children receive support from an independent advocacy provider. The provision should also be reviewed regularly and that the principle is reworded as: “Interventions for each child are reviewed regularly to assess their impact, the child’s progress and the views of the child, their teachers and their parents/carers. Amendments must also be made if the review deems the interventions to be inadequate.”

Principle: Disagreements should be resolved as quickly and easily as possible

TSANA believes that effective disagreement resolution arrangements should play an important part in delivering timely and straightforward solutions to disagreements about additional learning provision between children, young people or their parents and school or local authorities. We therefore support principle that “disagreements should be resolved as quickly and as easily as possible”. Parents, carers and families have a vital role in supporting their child’s education and must be fully enabled to participate in disagreement resolution processes

Principle: All those involved in providing support to learners should work together to provide a seamless service and transitions should be planned for in advance

TSANA supports this principle. We also recommend that all those involved in providing support to learners, including those from education, health and social care services, should work in a multi-agency way to provide a seamless service for children and young people.” Furthermore, there should be independent scrutiny of multi-agency partnership working and funding decisions to drive forward the multi-agency agenda. Early Support and The Real Opportunities programme provide good examples of multi-agency working which include the provision of a key worker to the child / young person/ family. This ensures that a person centred approach is adopted and limits the number of professionals visiting the family, which has the added benefit of driving down costs.

Recommendations for additional principles

TSANA notes that one of the aims for the legislative changes is to create a unified legislative framework to support children and young people aged 0 to 25 with additional learning needs. We believe that this process is an evolving one which will provide support across this age range including the transition to adulthood. We don’t feel that last point is adequately addressed in the legislative proposals and therefore recommend that a new principle is included which highlights the need for learners to be supported to make the successful transition to adulthood with local authorities, education providers and their partners working together to help children and young people realise their ambitions in relation to :-

- Higher education and / or employment
- Independent living – enabling young people to have choice and control over their lives and the support they receive. This will link in with a fundamental principle of the Social Services and Well-being (Wales) Act and
- Participating in society – including having friends and supportive relationships and participating in and contributing to the local community.

This support for learners going through transition to adulthood could be based on the learning from the Transition Key Worker Pilots previously funded by Welsh Government as well as the Real Opportunities Project. We suggest: Learners should be supported to make transitions between settings and life stages by thorough advanced planning by all relevant agencies.

-Further suggestions to strengthen this and other principles will be offered in the meeting.

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