

# SPECIAL EDUCATIONAL NEEDS TRIBUNAL FOR WALES

## SENTW

### NOTES FROM FOLLOWING USER GROUP MEETINGS:

North Wales	Monday 30 <sup>th</sup> June 2014 at 10:30am	Oriel Hotel, St Asaph
South Wales	Wednesday 2 <sup>nd</sup> July 2014 at 10:30am	Miskin Manor, Pontyclun

#### 1. **Welcome - Rhiannon Walker, President**

The President of the Tribunal welcomed everyone. The President gave information regarding her meeting with the Minister for Education and Skills that took place in January 2014. The meeting discussed the “Voice of the Child” – the Children’s pilot research project. The President raised the question why the children’s right could not be implemented across all Local Authorities with immediate effect. The Minister for Education and Skills published a Written Statement on 26 June 2014, outlining that the new rights and duties will come into force across Wales in January 2015. Please see the attached link for the Welsh Government website for more information.

<http://wales.gov.uk/about/cabinet/cabinetstatements/2014/sentw/?lang=en>

#### 2. **Attendees and apologies**

As listed at Annex A

#### 3. **Meetings from Autumn 2013 – SENTW (13)02**

No matters arising

#### **4. Update on Children's Pilot Research Project Wrexham Local Authority and Carmarthenshire Local Authority**

**(Presentation notes available on request from SENTW)**

The Education (Wales) Measure 2009 introduced the right for young people to make their own appeals and claims to SENTW. The new right is currently only applicable to those that live in the pilot authorities (Wrexham and Carmarthenshire). The pilot study aims to evaluate the implementation of the new rights.

A presentation was given regarding the background of the pilot study, work carried out, some initial findings and what this may indicate.

The requirements of the project were to:

- Inform children of their appeal rights to make an appeal or claim to SENTW

- To clarify duties places on LA's about the rights, dispute resolution and the provision of independent advocacy services

Two models were established in the pilot authorities. Each authority took a slightly different approach to meeting the requirements of the project.

One model primarily mirrored existing processes for parents and carers, whilst the second developed new processes for families.

Existing structures and process were used (e.g. annual reviews, SENCO meetings)

The pilot LAs also extended some existing services (e.g. advocacy)

The progress with Wrexham:

- Continuing to build on existing good practice of involving pupils at earlier stages of the SEN Code of Practice, as well as statutory assessment and annual review processes.

- Statutory assessment paperwork has been adapted using young people and practitioner expertise to make it more accessible.

- Advocacy Service is offered to children and young people throughout the Statutory assessment process

- Advocacy leaflets / Information available in schools for all pupils

- On-going programme of awareness – raising and training is available for partner professionals

- Request for statutory assessments will not be accepted unless they include the views of the child

The progress with Carmarthenshire

Dedicated point of contact for the children's pilot.

Continuing to develop the Family Centred approach

More than 300 families have been involved with the project most have provided a positive feedback.

Information and advice – Dynamics were used to train teachers in schools to cascade the information. Speech and Language therapists and Child psychologist were used to develop the look and feel of the forms. Training in schools on rights including workshops on wants and needs and how children like information presented.

Free resources from Dynamics have been added to AMDRO, the authority's online resource system, and can be accessed for free.

Children's views have to be obtained through any processes e.g.' statutory assessments, annual reviews, transition

Early intervention

Decrease in the number of tribunals – have dropped to 0 cases in 2014.

Sustainable model – Services and information is free to download.

Close working with families appears to bring appeal numbers down.

Comments from attendees of the User Group meetings included:

North Wales users asked Carmarthenshire LA – *Is there an advocacy service?*

Snap Cymru are actively promoted in the packs that are sent out to families.

*Does it cost for the additional services / resources?*

The only real cost is the pay for the ALN support worker, all other resources are already in place.

*How do you find out about the service?*

The service contacts families during the Statutory Process or if any concerns are raised by schools or professionals and is advertised on the website, its profile is also raised through word of mouth and packs.

*How does your job differ (now the ALN support works with LA) to that with SNAP?*

The ALN support worker role is involved with a wider group, such as schools, social worker etc, 300 plus families involved with the project over the last 18 months, and finds a lot of cross overs from her work with SNAP and her current role as an ALN support worker.

*Have you experienced any problems during the pilot?*

I find that parents are not keen to have children present during meetings.

*How do you collate information to ensure a clear profile is developed about the child?*

Different ways have been developed to collate the information one of which is to use cards when dealing specifically with children and easy read forms that are use prior to any review/meeting and during statutory process.

South Wales user groups asked the following of Wrexham LA

*What has the impact been with the pilot in place?*

Its difficult to gauge as there haven't been any claims or appeals received as yet. Feedback from children is very limited and Wrexham feel they should chase up responses.

*Have you given any talks to foster parents about the pilot?*

No – social services have been informed. Sessions have also been hosted where parents have attended. Wrexham feel it would be a good idea to bring in foster carers.

*If you have a case friend in school, is there an issue with confidentiality?*

No issues have been raised, Children do have the right to deal with a claim / appeal by themselves if they wish. But perhaps something that should be looked at.

*Are there any issues with a school case friend helping children to make a claim?*

Children wishing to be making a disability discrimination claim will be offered advocacy, rather than a school case friend.

*Have there been any instances with parents disagreeing with the case friend allocated from school?*

The case friend is always chosen by the child. Its felt that a member of staff from the child's school will know and understand the child better, and this will help when obtaining the child's view.

**5. Legislation proposals for Additional Learning Needs, Welsh Government - Charlie Thomas / Paul Williams**

*(Presentation notes available on request from SENTW)*

The Welsh Government held a preliminary consultation in 2007 on the assessment and statementing system. Between 2009 – 2012 there were a series of pilots to trial models for reform.

The presentation highlighted the proposed legislative objective for the new white paper as the following:

A unified legislative framework to support children and young people aged 0 to 25 with additional learning needs.

An integrated, collaborative process of assessment, planning and monitoring which facilitates early, timely and effective interventions.

A fair and transparent system for providing information and advice, and resolving concerns and appeals.

The white paper is proposed to include:

1. **New code of Practice** – this is to ensure that any reforms are applied uniformly across Wales, and professionals are supported to undertake their roles.

Welsh Ministers will consult on and issue an ALN Code of Practice – this will include:

Mandatory requirements in accordance with which relevant bodies must act.

Guidance to which those bodies must have due regard.

2. **New terminology** – to remove inconsistencies and unfairness when different levels of needs are categorised and the rights attached to them.

Introduce the terms “Additional Learning Needs” and “Additional Learning Provision” to replace the existing terms “Special Educational Needs” and “Special Educational Provision”

3. **Individual Development Plans** – To enable a more flexible process of ongoing assessment for a child’s or young person’s needs.

- i. Introduce Individual Development Plans (IDPs) to replace Statements of SEN, post-16 assessments and non-statutory Individual Education Plans and post-16 plans.
- ii. IDPs to be reviewed on an annual basis, but to be conducted earlier or more often where appropriate.

4. **Unifying the legislation / extended age range** – Deliver a unified assessment and planning process for all children and young people with ALN from birth to 25.

Local Authorities to prepare an IDP, and any additional learning provisions set out in the IDP action plan is put in place who are receiving or wish to receive education or training.

Require maintained schools, FE Institutions, and pupil referral units to use their best endeavours to secure that the additional learning provision set in the IDP is provided.

5. **Learners at the heart of the process** – Ensure that children, young people and their families are supported and views are at the heart of the process so informed decisions can be made.

- iii. Local authorities to ensure that children, young people and their families are involved and consulted with and their views taken into account throughout the IDP assessment and planning process.
- iv. Require local authorities to put in place arrangements to give information and advice. Welsh Government to set out guidance (to authorities), including mandatory requirements where necessary.

6. **Multi-agency working** – Services to work together to provide well co-ordinated support to children and young people with ALN.

- v. Local authorities, Local Health Boards and Further Education Institutions to co-operate and share information in assessing, planning and delivering provisions to meet additional learning needs.
- vi. The Code of Practice to provide guidance to support effective multi-agency working practices.
- vii. The Code of Practice to provide guidance to professionals on the early identification of children with ALN including those aged below compulsory school age.

7. **Avoiding duplication** – Integrate, where possible, existing plans and processes which do the same thing.

Enable IDPs to replace or serve the function of Personal Education Plans (PEPs) for children and young people who are looked after by a local authority.

8. **Dispute resolution** – Reduce the likelihood of disputes arising, in the event that they do, disagreements are to be resolved at the earliest possible opportunity.

Local authorities to put in place disagreement resolution arrangements and use local complaints processes prior to appeal to tribunal.

Restate the existing provisions to independent advocacy services and case friends. The Welsh Government to set out guidance on this, including mandatory requirements where necessary.

9. **Right of appeal** – Retain and extend the right of appeal to the Tribunal in relation to adequacy of support provided to every child and young person who has ALN, not just those who have complex needs.

Provide a right of appeal to any child or young person of school age or below who has an IDP (or their parent) or believes they should have one.

Extend the right of appeal to post-16 learners with ALN, up to the age of 25, who are receiving or wish to receive education or training.

Enable a right of appeal to Tribunal against:

A decision not to put an IDP in place

A refusal of a request to review an IDP

The content of an IDP, including the description of the child / young person's needs or the educational provision to meet needs.

Failure to provide provision identified through the IDP

A decision to cease to continue an IDP.

10. **Post-16 specialist and independent provision** – to ensure systems are effective in securing appropriate post-16 specialist provision and placements in independent schools.

Local authorities to secure specialist education provision for post-16 learners where IDP indicates that this is necessary to meet the needs.

Prohibit the placement into an independent school that has not been registered to provide the type of additional learning provision identified in the IDP.

## Next Steps

White paper consultation from 22 May – 25 July 2014  
Engagement with children, young people and families  
Full assessment of costs  
New Code of Practice – development and consultation  
Introduction of a Bill to the Assembly  
Transition planning

There was much discussion at the User Group meetings. Some of the points raised include:

*How will the mandatory requirements of the code of practice be interpreted if a student goes to an FE in England?*

Welsh Government will work closely with colleagues in the Department for Education in England to ensure all cross-border issues are considered and the new Code of Practice will provide guidance on this.

*Who will be responsible for drafting the IDPs?*

Local authorities will be responsible for ensuring that the needs of all learners with ALN in their area are being met effectively and that IDPs are in place for all children/young people who need them. However, in practice local authorities would not be expected to have direct involvement in producing the IDPs of the majority of learners with less severe and/or complex needs – in these cases, schools and FEIs are likely to take the lead in drafting IDPs. Local authorities would only be expected to become directly involved where the provision set out in the IDP is disputed or where identified needs are severe and/or complex. However, local authorities will be expected to have effective governance arrangements in place to assure themselves that all learners' needs are being met effectively across their area.

*How are LAs to manage the additional work load? Will there be additional resources? (LAs are concerned about taking on additional functions as resources are stretched enough.)*

There will be a transfer of funding between the Welsh Government and local authorities in order to fund the costs associated with local authorities taking on the responsibilities for the assessing post-16 learners (as part of the IDP process) and for securing specialist post-16 provision for them. Significant financial resources are already allocated to support children and young people with SEN (£358 million in 2013-14). The Welsh Government will undertake a comprehensive consideration of the costs associated with supporting learners with Special Educational Needs (SEN) or a Learning Difficulty and/or Disability (LDD) under the current legislative frameworks, and consider the impact of the proposed legislative reforms. This will be published as part of a regulatory

impact assessment when the Bill is introduced to the Assembly.

*Will the proposal to extend the age range mean that learners with ALN stay in education up to the age of 25?*

The Welsh Government does not intend that learners with ALN will remain in continuous education up to the age of 25. The intention is simply that those wishing to access further education will have a right to request an IDP to ensure that the right support is put in place to meet their additional learning needs.

*What will be the role of local authorities in planning and providing for young people in post-16 specialist provision?*

Local authorities will be responsible for agreeing and securing specialist post-16 provision for those young people whose learning needs cannot be met in FEIs. Currently, responsibility for assessing the needs of these young people and securing specialist provision is the responsibility of the Welsh Ministers. Transferring these responsibilities to local authorities will enable them better plan and manage the transition from school settings and ensure that the provision which is secured best meets the learner's needs. Local authorities will continue to have direct involvement in the review for these young people's IDPs. Determination of the amount of funding which should transfer in to the Revenue Settlement Grant to enable local authorities to secure specialist post-16 provision will be subject to the normal negotiation process.

*What is the proposal for independent school 'consents'?*

An individual consent process is currently required if independent schools are selected by a local authority for a child/ young person with SEN. It is planned that under the new system, any independent specialist school wishing to accept learners with ALN will have to register that they can look after a person with ALN whereby removing the need for individual consents each time a local authority wants to place a learner with ALN.

*What does that wording in the White Paper about "best endeavours" mean for schools?*

This is the wording in the current law which requires school governing bodies to use their 'best endeavours' to secure the special educational provision required by a pupil with SEN. We want a similar duty in relation to children and young people with ALN which applies to both school governing bodies and FEIs. Although the term 'best endeavours' is used in the White Paper, the eventual duty, as it appears on the face of the Bill, may be worded differently. The Code will provide guidance on how this duty is expected to be delivered in practice. The SENTW President said that the wording should be looked at as 'best endeavours' interpreted in a Court of Law means that any requirements covered under this must be done by the LA and FE institutions, *which types of education settings are covered by the reforms?*

The White Paper makes it clear that it'll cover only early years, schools and FE institutions. Higher Education (HE) is not included in the proposals for reform

because of the infrastructure already in place in the HE sector to support learners with ALN.

*Will the Code make clear what is guidance and what are mandatory requirements?*

Anything listed in the Code of Practice also needs to be made very clear so guidance isn't open to individual interpretation and confusion.

*Will there be a single system for concerns/ complaints that relate to ALN provision which includes health, social services and education?*

The Welsh Government has recently introduced regulations to improve the NHS complaints process, 'Putting Things Right'. Therefore, if there are any concerns about health provision this should go through the appropriate health channels to air concerns and complaints. Welsh Government will ensure that there is clear guidance in the new ALN Code of Practice and the guidance on 'Putting Things Right' to make sure the process is clearly advertised – including the right to complain / appeal.

*Will SENTW have the right to order the health organisations to provide provision?*

The proposals in the White Paper do not extend SENTW's remit to direct health boards. *(Concerns were expressed that appeals could go through and a decision be drawn only for parents to have to go through another appeal to ensure the health provisions are put in place.)*

*Concerns were raised that children may feel constrained when giving their views if a parent is present as they may not want to disappoint*

## **.6. Tribunal updates- Sarah Smith, SENTW**

2013-14 data from September 2013 to June 2014 has seen a 23% increase in appeals registered. It's notable that there have been a greater number of unregistered appeals this tribunal year. Reasons for these include:

- Submitted out of time
- Outside of jurisdiction
- Withdrawn

Refusal to assess has increased this year. It's likely that refusal to statement will also see an increase.

Appeals against the statement continue to make up the majority of appeals. The distribution of appeals appears to follow the general trend.

Registered appeals by local authorities – the distribution of appeals across local authorities follows the general trend from previous years.

Outcome of appeals – Its anticipated that we will see a 25% increase in the number of hearings. However, a large percentage of appeals are being withdrawn or conceded.

Disability discrimination claims registered and discharged – We have seen a 66% increase in the number of claims compared to the previous tribunal year.

This year has seen the largest number of claims registered in a tribunal year.

Outcome of disability discrimination claims – There have been 7 claims hearings this tribunal year.

## **7. Date of Next Meetings:**

North Wales Region: Mid January 2015 – date to be confirmed

South Wales Region: Mid January 2015 – date to be confirmed

**SEN TRIBUNAL FOR WALES****SUMMARY NOTES FROM REGIONAL USER GROUP MEETINGS****ATTENDANCE:**

Phoebe Thompson	Parent Partnership - Wrexham	North Wales Region
Michael Duke	Denbighshire	North Wales Region
Charlie Thomas	Welsh Government	_____
Paul Williams	Welsh Government	_____
Audrey Ostanek	Denbighshire	North Wales Region
Sally Richards – Simpson	Wrexham LA	North Wales Region
Clive Noble	Conwy LA - Retired	North Wales Region
Karen Parry	Flintshire LA	North Wales Region
Ian Davies	Conwy CC	North Wales Region
Kate Jones	Carmarthen LA	North Wales Region
Eurwin Pierce-Jones	Translator	North Wales Region
Denise Hawkins	Learning Advisor – Flintshire LA	North Wales Region
Claire Bridges	SEN Officer – Cardiff LA	South Wales Region
Deborah Davies	Cardiff LA	South Wales Region
Mrs Thomas	Parent	South Wales Region
Ms Darcy	Parent	South Wales Region
Ruth Mitchard	Caerphilly LA	South Wales Region
Irene Yendle	Caerphilly LA	South Wales Region
Meleri Thomas	National Autistic Society - Cymru	South Wales Region
Marie Macey	The Fostering Network	South Wales Region
Kay Poultney	Vale of Glamorgan LA	South Wales Region
Jane Werrett	Vale of Glamorgan LA	South Wales Region
Mary Greening	AEP Representative	South Wales Region

Karen James	Neath Port Talbot CBC	South Wales Region
Liz Bevan	CCFW	South Wales Region
Gavin Metherringham	SEN Manager	South Wales Region
Richard Azzopardi	Rhonda Cynon Taf	South Wales Region
Hayley Jeans	Rhonda Cynon Taf	South Wales Region
Carol Davies	SEN Independent advice	South Wales Region
Elin Wyn	National Deaf Childrens Society	South Wales Region
Sally Richards	Wrexham LA	South Wales Region
Sian Walton Jones	Wrexham LA	South Wales Region
Kay Williams	Childrens Commissioner for Wales	South Wales Region
Gill Smith	SNAP Cymru	South Wales Region

#### **SEN TRIBUNAL FOR WALES:**

Rhiannon Walker	President	All Regions
Sarah Smith	Secretary to the Tribunal	All Regions
Emma Munro	SENTW Regional Manager	All Regions
Leon Mills	AJTU Manager	All Regions
Sandy Boyle	SENTW - Panel Member	North Wales Region
Susan Taylor	SENTW - Panel Member	North Wales Region
Norman Donovan	SENTW - Panel Member	South Wales Region
Andrew Wilson	SENTW - Panel Member	South Wales Region
Gareth Roberts	SENTW - Panel Member	South Wales Region
Catrin Lewis	SENTW - Panel Member	South Wales Region
Jacqueline Blackmore	SENTW – Panel Member	South Wales Region
Richard Owen	SENTW - Panel Member	South Wales Region
Gwyn Griffiths	SENTW - Panel Member	South Wales Region

Gwyn Davies	SENTW - Panel Member	South Wales Region
		Hilary Hayward SENTW – Panel Member South Wales Region

**APOLOGIES:**

Nigel Pugh	_____	South Wales Region
Ceri Baxter	SEN Principal Officer for Monmouthshire	South Wales Region
Richard Jones	Contact a family Wales	South Wales Region
Sharon Davies	Swansea Local Authority	South Wales Region
Paul Lewis - Policy Officer	Childrens Commissioner	South Wales Region
Mark Allen	SENTW - Panel Member	South Wales Region