

A review of Welsh Government statistics for benchmarking the Additional Learning Needs and Education Tribunal Act 2018

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ABSTRACT

The Additional Learning Needs and Education Tribunal (Wales) Act (ALNET) 2018 makes provision for a new statutory system for meeting additional learning needs (ALN) from 0 to 25 years. The Act has a transitional implementation phase from 2021 until 2025. Individual Development Plans (IDPs) will replace statements of special educational needs (SEN) and are available to a much wider population of learners. This research aim is to provide a quantitative baseline for benchmarking of the new ALN procedures at a future date. Official statistics from the Welsh Government (2010–23), have been used for the prevalence of ALN, for levels of funding and for appeals to Education Tribunal Wales. The 22 Local Authorities (LAs) have been grouped into three comparable clusters for analysis, using the Welsh Index of Multiple Deprivation. The findings indicate significant differences, in particular a disparity in budgeted expenditure on SEN provision of £25 million, although presently there is a level of sustainability not experienced in other UK nations. The on-going challenge for the Welsh Government and local government over the next 25 years is to scrutinise, maintain sustainability and regularly review the implementation of the new ALN legislation, to ensure fairness and consistency throughout policy and practice.

Keywords: Individual Development Plans, education finance, Wales local government, benchmarking, Tribunal appeals, Welsh Index of Multiple Deprivation

Introduction

The Additional Learning Needs and Education Tribunal (Wales) Act (ALNET) 2018 (Welsh Government, 2018b) received Royal Assent on 24 January 2018. The enactment of ALNET was then unfortunately delayed in 2020, due to school closure restrictions caused by the COVID-19 global pandemic. Ultimately, the ALN code of practice for Wales was approved by the Welsh Parliament in March 2021 (Welsh Government, 2021a), with a three year implementation phase commencing in September 2021.

ALNET has three overarching objectives:

1. a unified legislative framework to support all children of compulsory school age or below with ALN, and young people with ALN in school or further education (FE) from 0–25 years of age.
2. an integrated, collaborative process of assessment, planning and monitoring which facilitates early, timely and effective interventions; and
3. a fair and transparent system for providing information and advice, and for resolving concerns and appeals.

Approximately one in five learners in Welsh maintained schools have additional learning needs. Prior to ALNET, the needs of learners with ALN would be met through three graduated stages of intervention: 1) School Action provided by the schools themselves; 2) School Action Plus, whereby additional support would be provided by the schools together with the involvement of external agencies; 3) through a statement of SEN, where deemed necessary, which provided a legal recognition of need and entitlement to a specified package of support (National Assembly for Wales, 2015).

The Welsh Government (2018b) provided timeframes for learners with ALN to move to IDPs during an implementation period which initially lasted three years from September 2021 to summer 2024, but was extended in March 2023 to four years (Gov.Wales, 2023c). Statutory

plans (IDPs) under the new system are to be prepared for learners who are considered to have ALN that require additional learning provision (ALP) to mitigate these needs, most likely those learners that currently have a statement or are at School Action Plus.

However, for learners at School Action it is thought that not all pupils at this stage will meet the new criteria for ALN (Welsh Government, 2021a, Chapter 2). If a learner is considered to have ALN that requires ALP, they will have an IDP. A minority of IDPs (for children with the most complex needs) will be maintained by the LA. At September 2023, 2,225 (21 per cent) IDPs are LA maintained (range 2 per cent to 62 per cent) from an IDP total of 10,499 (StatsWales, n.d). All other IDPs will be prepared, reviewed and maintained by the school. The variation of 2% to 62% is large and appears to be in contravention of the Welsh Government's aim of improving equality of provision across Wales. Those learners that do not meet the criteria for ALN, will not have an IDP but will instead be provided for by the school under universal or targeted school provision.

The purpose of this present paper is to supplement the 2019 Arad Research (see subheading below Context of the Research) and presents a quantitative study of ALN and funding to assist with benchmarking and the ongoing review of ALNET, using official statistics from the Welsh Government.

Context of the Research

Arad Research and University of South Wales were commissioned by the Welsh Government to carry out qualitative research to establish a baseline of the current special educational needs system in Wales prior to the planned implementation of the Act in September 2020 (Welsh Government, 2019a). An e-survey with 726 responses and four LA case studies was undertaken, to gather professionals' views and experiences of the current system for children and young people with SEN and learning difficulties and/or disabilities (LDD). The findings covered the areas of timeliness, effectiveness, different conceptualisations of good practice for SEN and articulation of SEN as the responsibility of all teachers. The conclusions suggested that there was a general agreement by participants that the statutory assessment process was robust and fair with the right people involved. However, participants in Welsh-medium settings felt there was a lack of contemporary, age-appropriate Welsh-language SEN screening and

assessment tools suggesting this is an area where improvement is required. Practitioners also perceived there was a conflict between the pressure to conduct assessments and put special educational provision in place quickly, and the need to take a graduated response that enables progress to be monitored and decisions to be made based on sufficient evidence.

The ministerial foreword from a White Paper published in 2014, described the system for supporting children with special educational needs (SEN) as being no longer fit for purpose and in need of review after more than 30 years (Welsh Government, 2014a). The White Paper had its origins in a number of reports all highlighting the need for reform (Audit Commission, 2002; Estyn, 2003; Cambridge Education, 2004; National Assembly for Wales, 2006; Wales Audit Office, 2006; Welsh Assembly Government, 2008). It was considered that many Local Authorities (LAs) had already altered the way in which they provided for SEN, which had resulted in divergence and inconsistency in approaches across Wales. The White Paper proposed moving away from the legal framework of basing provision on statements of SEN and towards a wider concept of identifying and making provision for Additional Learning Needs (ALN). There was also the suggestion of a new statutory plan called the Individual Development Plan (IDP) to replace both the statutory statement of SEN and the non-statutory Individual Education Plan (IEP) provided at the School Action/School Action Plus stages of the existing SEN Code of Practice for Wales (Welsh Assembly Government, 2004). It was also proposed that the age range be extended to include those attending further education institutions (FEIs) up to the age of 25 years, with IDPs replacing post 16 learning and skills plans (LSPs) (previously covered under section 140 of the Learning and Skills Act 2000).

The Act and subsequent ALN Code are also underpinned by Person Centred Practice (PCP) and Welsh Government has consequently funded LAs in Wales to develop training for schools and other agencies in respect of PCP. Central to this is listening to the voice of the child/young person (CYP) and, under the Act, the CYP has a right to appeal decisions on their own behalf (with the support of a case friend or advocate, as required).

Importantly the Welsh Government have introduced a new Curriculum for Wales in 2022 (Welsh Government, (n.d.). following on from the findings of the Donaldson Review (Donaldson, 2015) and the Schools Challenge Cymru (2014–17). The latter was a national initiative to promote equity across the country (Ainscow, 2016). The overall purpose of Schools Challenge was to accelerate progress across the education system, in

particular it aimed to bring about rapid improvements in the performance of schools serving disadvantaged communities. A central principle was the recommendation for a much greater emphasis on schools working together and taking greater responsibility for their own improvement. Conn and Hutt (2020) draw on the Welsh Government (2019a) Arad research study to question whether the curriculum reform will lead to more effective pedagogy, higher expectations and improved outcomes for learners with ALN. The Arad study found that tensions were apparent in the core belief systems of interviewees. School-based practitioners were found to hold a strong belief in the continuation of current arrangements for ALN that are close to their present form and are reluctant to accept the changes.

The study

The levels of funding available for ALN will depend in part on the public expenditure allocated to Wales and then on spending decisions made by the Welsh Government, local authorities and regional consortia. The first reading of a private members Bill was presented to the House of Commons in June 2021 on proposals to replace the Barnett Formula, which is used to calculate adjustments to public expenditure allocated to Wales, Scotland and Northern Ireland (House of Commons. 2021). At the time of writing (October 2023) the date for the second reading has still to be announced. The HM Treasury continues to publish analyses of public expenditure by country, region and function (Gov.UK, 2020b), as does UNESCO (UIS.Stat., n.d.). Power (2016) examines the positioning of the Welsh education system within contemporary policy analysis and argues that there has been a form of misrecognition of Wales. Power contends there has been a tendency, taken by the media and academic coverage of education policy, to lump the two countries (England and Wales) together with the assumption that what happens in England must also apply to Wales. This paper will attempt to avoid the problem, but some relevant comparisons with the UK nations will be reported, to assist with the ongoing debate about levels of funding for additional learning needs.

Aims

To investigate trends and variations of individual LAs in Wales with regards to:

- the identification and funding for special educational needs / additional learning needs;
- appeals to the Special Educational Needs Tribunal for Wales (SENTW) / Education Tribunal for Wales (ETW) 2010–21;

in order to provide a quantitative baseline for evaluation of the new ALN procedures at a future date.

Data and methods

Comparison tables for Welsh LAs will be compiled for learners with additional needs including numbers of statements, budgeted expenditure on SEN provision and appeals registered with the Special Educational Needs Tribunal. The data for these analyses have been obtained from readily available online sources, namely:

- Detailed official data from StatsWales which is a free-to-use service that allows the user to view, manipulate, create and download tables from Welsh data (StatsWales, n.d.);
- Welsh Government Statistical First Releases analysing the Pupil Level Annual School Census (PLASC) to investigate and compare the number of learners with ALN from 2010 to 2023;
- Welsh Government Statistical First Releases examining the total budgeted expenditure on SEN/ALN including access to Parts 2 and 3 of the Section 52 financial returns 2020–1, obtained by personal communication (Gov.Wales, 2023a; Gov.Wales, 2023b);
- Annual reports from the Special Educational Needs Tribunal for Wales (SENTW, 2021; Welsh Government, 2023b) detailing the number of registered appeals to the SEN Tribunal from 2010 to 2021;
- Use of 2–18 population 2022 mid-year estimates to enable equitable comparisons to be made across local areas and authorities (ONS, 2022);
- Welsh Index of Multiple Deprivation (WIMD) LA comparisons (Welsh Government, 2019b).

Two reports commissioned by the Welsh Government have looked at the ‘viability’ of having 22 local authorities in Wales. The Hills Report (Welsh Government, 2013) and the Williams Report (Welsh Government, 2014b) both recommended a number of strategies, including the greater use of regional consortia to deliver educational services. This research initially

used the four regional consortia to describe the results (Welsh Government, 2015) together with reference to the 22 LAs. However the Education through Regional Working (ERW) regional body disbanded in March 2021 with Pembrokeshire, Carmarthenshire and Swansea clusters being overseen by the Partneriaeth school improvement service. The cabinet member for education, learning and skills expressed the view that the six counties are very different and it has been very hard to move in an equitable manner and to ensure the improvement of all schools (Wales Online, 2020). Table 1 and Figure 1 display the consortia with their constituent LAs and the ONS 2–18 population.

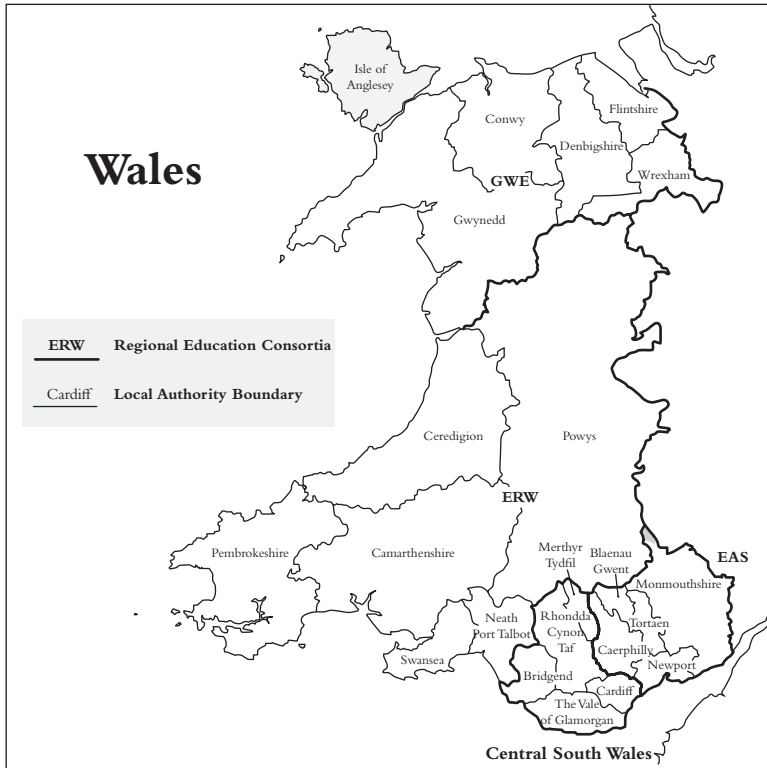
Table 1. Regional consortia in Wales and 2-18 population as at March 2021.

Note: Region ERW now disbanded (see text)

<i>Regional consortia (2–18 population, ONS 2022)</i>	<i>LAs</i>
North Wales (Gwasanaeth Effeithiolrwydd, GwE) (128,481)	Conwy (19,936) Denbighshire (18,367) Flintshire (29,666) Gwynedd (21,093) Isle of Anglesey (12,723) Wrexham (26,696)
South West and Mid Wales (Ein Rhanbarth ar Waith, ERW) (163,621)	Carmarthenshire (35,364) Ceredigion (11,291) Neath Port Talbot (27,371) Pembrokeshire (22,701) Powys (22,679) Swansea (44,215)
Central South Wales (Central South Consortium, CSC) (185,133)	Bridgend (28,141) Cardiff (71,234) Merthyr Tydfil (11,882) Rhondda Cynon Taff (47,300) Vale of Glamorgan (26,576)
South East Wales (Education Achievement Service, EAS) (115,858)	Blaenau Gwent (12,431) Caerphilly (35,037) Monmouthshire (16,217) Newport (33,883) Torfaen (18,290)

Figure 1. Regional Consortia in Wales as at March 2021.

Note: Region ERW now disbanded (see text).



A cluster analysis of the 22 LAs using the Welsh Index of Multiple Deprivation (WIMD) will be reported in the findings to examine another way to present the results based on comparable authorities methodology (Data Cymru, n.d.).

Findings

The findings will now be presented under four headings: PLASC SEN LA comparisons, budgeted expenditure on SEN provision, appeals to the

SEN Tribunal (SENTW) from 2010 to 2021 and Welsh Index of Multiple Deprivation (WIMD) comparisons.

Pupil Level Annual School Census (PLASC) SEN data

Prior to 2014 the Welsh Government collated the STATS2 return which was completed each January by LAs. The STATS2 form related to those children and young people resident in the LA and for whom the LA is responsible. A decision was made to discontinue the use of STATS2 as part of a policy drive to reduce outputs that add less value, to reduce the burden on data providers and to remove duplication (Welsh Government, 2014c). Since that time the Welsh Government has used annual census results completed directly by schools which may include learners resident in neighbouring LAs but does not include ALN pupils in the non-maintained sector.

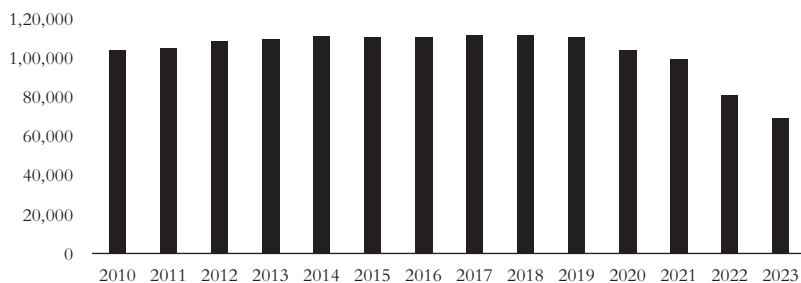
Under the new ALN arrangements Individual Development Plans (IDPs) are likely to be required for some pupils previously at School Action

Table 2. Pupils with additional learning needs (ALN) at 2010, 2020 and 2023

(source: Gov.Wales, 2023b; StatsWales, n.d.)

<i>Type of ALN</i>	<i>Number 2010</i>	<i>Number 2020</i>	<i>Number 2023</i>
Statements of SEN	13,760	13,515	12,110
Individual Development Plans			10,499
School Action Plus	30,980	33,289	17,904
School Action	54,255	50,749	22,568
Independent Schools Stmts	377	778	929
Independent Schools SA + SA	967	1,473	1,345
Education otherwise than at school (EOTAS)	808	1,540	1,814
2–18 ONS Popn	603,364	601,912	593,093
Total	101,147 16.8%	101,356 16.8%	67,153 11.3%

Figure 2. Number of CYP recorded as having SEN 2010–21 and ALN 2022 to 2023 (source: School Census StatsWales).



most pupils at School Action Plus and all with a statement of special educational needs. In January 2023, the schools' census recorded a total of 67,153 pupils in Wales with ALN (Gov.Wales, 2023b). The total was down by over 5 percentage points from 2020 (see Table 2). Table 2 also shows the breakdown of the ALN numbers into the previous categories of School Action, School Action Plus and statements and also the new category of Individual Development Plans). Figure 2 illustrates the number of Children and Young People (CYP) recorded as having SEN from 2010–21 and those recorded as ALN from 2022. The figures indicate stability in numbers recorded as SEN up to 2021, followed by a noticeable decline as the new system of ALN was introduced in 2022 and 2023.

The 2023 Welsh Government schools' census report suggested that the reason for the fall in numbers was due to a systematic review by schools of their SEN registers in readiness for the rollout of the ALN system (Gov.Wales, 2023b). Those pupils with low level needs, who were not identified as having a recognised ALN were removed from the register as they would not meet the new criteria (Welsh Government 2021a, Chapter 2).

Table 3 provides a summary of the ten-year trend in percentage gains or reductions in number of pupils with special educational needs in maintained schools in Wales from 2010 to 2020. The results indicate a slight increase of 7 per cent of learners deemed to be at School Action Plus and a slight decrease of 7 per cent in learners at School Action, with no overall growth. Table 4 and Table 5 reveal there was an increase of only 25 statements (0 per cent) from 2010–20 (StatsWales, n.d.),

Table 3. Ten year trend to show percentage gain or reduction in number of pupils with special educational needs in Welsh maintained schools.

	<i>Statements</i>	<i>School Action Plus</i>	<i>School Action</i>	<i>Total</i>
2010–20	0%	7%	-7%	0%

Table 4. Statements/EHC plans/Coordinated support plans in the United Kingdom 2020.

	<i>2-18 population</i>	<i>Statements / EHCPs / CSPs 0-19</i>	<i>% per 2-18 popn</i>	<i>% increase since 2010</i>
Wales	601,912	14,607	2.4%	0%
England	11,377,669	364,896	3.2%	60%
Northern Ireland	417,077	19,200	4.6%	50%
Scotland	982,490	1,534	0.2%	-60%

compared to a 60 per cent increase over the same 10 years in England for the age range 0–19 years (Gov.UK, 2021a). In Northern Ireland there has been a 50 per cent increase for the age range 0–19 years (NI Department of Education, 2020) (see Table 4).

The Education (Additional Support for Learning; Scotland) Act 2004 established the Scottish Coordinated support plan (CSP), for recording the needs of children with multiple, complex and enduring difficulties requiring significant multi-agency support. The qualification criteria for accessing a CSP is very high and in practice only 0.2 per cent of the 2–18 population have a CSP. Likely as the result of the tight criteria for a CSP, there has been in a 60 per cent reduction in CSPs over the last ten years in direct contrast with the other UK nations (Gov.Scot., 2021).

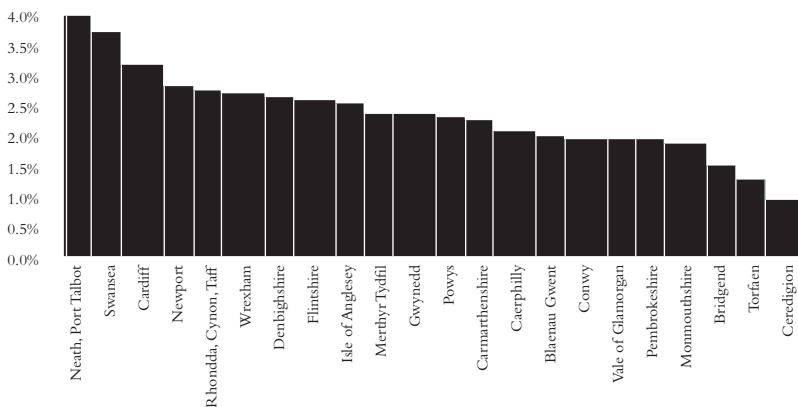
Table 5 provides a comparison of the total number of statements in Wales over the decade 2010–20 and includes those in maintained schools, education otherwise than at school (EOTAS), independent non-maintained early years provision and independent non-maintained schools. The average percentage of statements in Wales during this period, taking the 2–18 population as the denominator, has remained

Table 5. Number and percentage of 2–18 population with statements in Wales

	2010	2020
Total number statements	14,582	14,607
ONS population 2–18	603,364	601,912
Average statements	2.4%	2.4%
Highest LA statements (%)	3.0%	3.8%
Lowest LA statements (%)	1.2%	0.9%
Standard deviation	0.5%	0.7%

Notes: Total statements for 2010 include learners in maintained schools (n=13,760), education otherwise than at school (EOTAS) (n=445) and independent non-maintained special schools (n=377). Total statements for 2020 include learners in maintained schools (n=13,515), EOTAS (n=575) and independent non-maintained special schools (n=517) <https://statswales.gov.wales>

Figure 3. Percentage of 2–18 population with statements at Jan 2020 by LA.



consistent at 2.4 per cent over the 10 years. Conversely, the variation in statements between the highest and lowest LAs has increased, as portrayed by the higher standard deviation in 2020.

The 2014 White Paper expressed concern in relation to a lack of clear criteria as to when and for whom a statement should be made, which resulted in an inconsistent approach between local authorities. Figure 3 displays the wide range in numbers of statements of SEN between LAs in Wales which in 2020 ranged from 3.8 per cent in Neath Port Talbot to 0.9 per cent in Ceredigion. Table 6 shows the average percentage of statements for each regional consortia, together with the range for the highest and lowest LAs. Table 6 demonstrates for the large variation in the disbanded ERW region. This previous consortia region exhibited an LA with the highest percentage of statements (Neath, Port Talbot) and the LA with the lowest percentage (Ceredigion) and provides an indication of the disparity in provision of statements of SEN between regions.

Table 6 confirms the Estyn (2020) finding that the proportion of pupils with SEN with statements varied considerably between local authorities. Table 7 lists the percentage of 2–18-year-olds with statements, and those who were at school action plus, school action and Welsh speakers (Welsh Government, 2023a). There is no correlation with the overall proportion of pupils with SEN (Stats Wales, 2020) in that authority with school action plus ($r=-0.06$), with school action ($r=-0.08$) or with Welsh speakers ($r=-0.14$). So, a higher number of statements in one school or local authority did not therefore necessarily mean a larger number of pupils with significant needs, but rather reflects differing arrangements between local authorities to meet pupils' SEN. For example, in 2020 Cardiff had 3.0 per cent of the 2–18 population with a statement of SEN which was above the

Table 6. Percentage of 2–18 population with statements by regional consortia.

<i>Regional Consortia</i>	<i>Jan 2020 average statements</i>	<i>Highest LA</i>	<i>Lowest LA</i>
North Wales (GwE)	2.4%	2.6%	1.9%
South West and Mid Wales (ERW)	2.7%	3.8%	0.9%
Central South Wales (CSC)	2.5%	3.0%	1.4%
South East Wales (EAS)	2.0%	2.7%	1.2%
Wales	2.4%	3.8%	0.9%

Table 7. Local Authority statements, school action plus and school action 2020

<i>LA</i>	<i>Statements¹</i>	<i>Schools Action Plus¹</i>	<i>School Action¹</i>	<i>Welsh Speakers² 5–15</i>
Blaenau Gwent	1.9%	5.6%	6.4%	20.4%
Bridgend	1.4%	4.6%	7.8%	20.4%
Caerphilly	2.0%	5.2%	7.9%	28.5%
Cardiff	3.0%	4.6%	7.2%	28.4%
Carmarthenshire	2.2%	6.9%	11.8%	57.9%
Ceredigion	0.9%	6.0%	14.9%	74.9%
Conwy	1.9%	8.0%	7.2%	43.8%
Denbighshire	2.5%	8.8%	7.3%	37.3%
Flintshire	2.5%	3.8%	8.2%	27.4%
Gwynedd	2.3%	6.8%	6.5%	88.6%
Isle of Anglesey	2.4%	5.4%	8.1%	75.7%
Merthyr Tydfil	2.3%	6.0%	10.5%	21.6%
Monmouthshire	1.8%	4.7%	4.9%	33.1%
Neath Port Talbot	3.8%	5.8%	9.4%	25.8%
Newport	2.7%	5.9%	7.7%	25.2%
Pembrokeshire	1.9%	5.9%	10.9%	34.0%
Powys	2.2%	4.8%	8.7%	35.5%
Rhondda Cynon Taf	2.7%	4.9%	9.8%	27.0%
Swansea	3.6%	5.9%	10.2%	25.8%
Torfaen	1.2%	7.6%	8.3%	28.2%
Vale of Glamorgan	1.9%	4.4%	6.5%	29.2%
Wrexham	2.6%	4.0%	6.0%	27.6%
Total	2.4%	5.5%	8.4%	34.3%

Source: 1. Stats Wales (n.d.); 2. Welsh Government (2023a).

Wales average of 2.4 per cent. However, the percentage of the 2–18 population at School Action Plus was 4.6 per cent (Wales 5.5 per cent) and

at School Action 7.2 per cent (Wales 8.4 per cent). Whereas in Bridgend only 1.4 per cent had a statement, but the values for School Action Plus (4.6 per cent) and School Action (7.8 per cent) were similar to Cardiff.

This next two sections will explore the variations in LA budgeted funding for SEN provision and will address the trendline and variations in appeals to the Special Educational Needs Tribunal for Wales (SENTW).

Total Budgeted Expenditure for SEN provision

The issue of pressure on school budgets and the effect this has on the provision of education has been frequently raised during a number of inquiries by the Welsh Government, for example, Bramley et al. (2011). The implementation of the new ALN system is a key policy area which some stakeholders perceive to be at risk from insufficient funding (Welsh Government, 2019c). An independent review was commissioned as part of the inquiry by the Welsh Government's Children, Young People and Education (CYPE) committee, into the sufficiency of school funding, which included a short section on ALN (Welsh Government, 2020a, p.87–8). In 2013–14 the total budgeted expenditure for special educational needs provision was £359 million compared to £549 million in 2023/24 (Gov.Wales, 2023a). This equates to a 53 per cent increase over the ten years which is 16 per cent in real terms (Bank of England, n.d.). The Welsh Government expects the new system for ALN to be revenue-neutral and not add to the long-term costs in net terms, with higher costs of support effectively cancelled out by reduced costs of dispute and conflict in the system (Welsh Government, 2020b).

The Welsh Government publishes the budgeted expenditure on special educational needs provision each year as a Statistical First Release (SFR) (Gov.Wales., 2023a). The SFR still uses the term special educational needs. This article will use SEN/ALN to denote the new arrangements. SFR notes that it is particularly important to be aware that there is variation in the criteria local authorities use to identify pupils with SEN/ALN. There are also differences in how local authorities provide educational services to these pupils. Some services can be funded through delegated budgets within nursery, primary, middle and secondary schools, or through delegated budgets within special schools that are recognised by the LA as being reserved for children with SEN/ALN. Other services may be supported by funds retained centrally by the LAs.

Figure 4. Budgeted ALN expenditure per 2–18 population by LA for 2023–4.

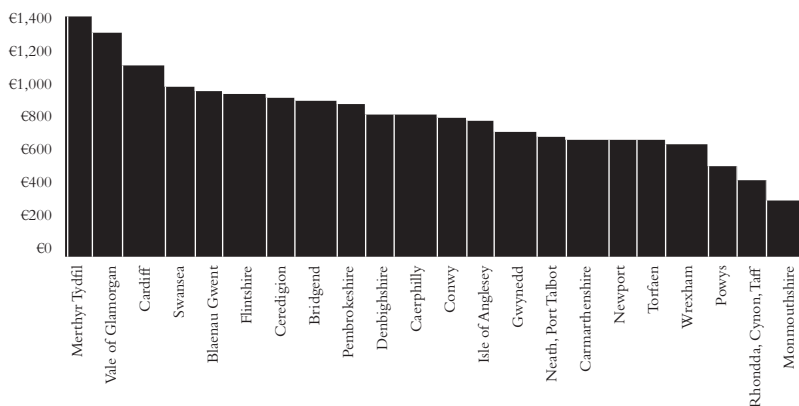
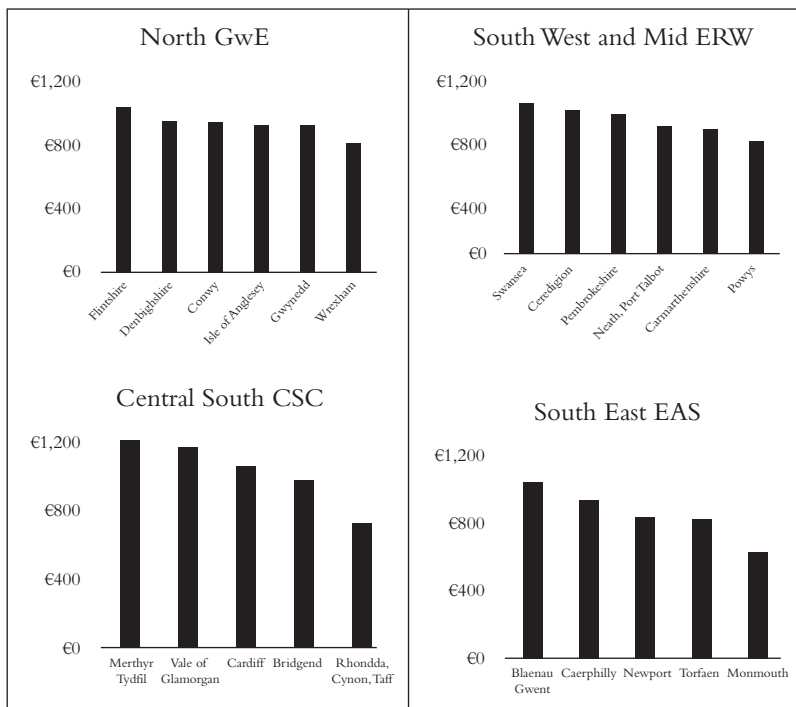


Table 8. Total budgeted ALN funding 2023–4 per 2–18 pupil for the regional consortia.

<i>Regional Consortia</i>	<i>2023–4 average</i>	<i>Highest LA</i>	<i>Lowest LA</i>
North Wales (GwE)	£920	£1,025	£800
South West and Mid Wales (ERW)	£916	£1,040	£773
Central South Wales (CSC)	£1,029	£1,247	£716
South East Wales (EAS)	£846	£1,034	£621
Wales	£926	£1,247	£621

Note: The Statistical First Release (Welsh Government, 2023c) observes that the tables includes notional allocations to schools in respect of amounts provided for SEN/ALN as part of the individual LA formula for distributing funds to schools. It is for each school to determine how much of its delegated budget to spend on SEN/ALN, the actual spend can vary from the notional allocations.

Figure 5. Budgeted ALN expenditure per 2–18 by LA and regional consortia for 2023–4.



The SFR provides an analysis of Part 1 of the Section 52 (S52) return required under the School Standards and Framework Act 1998. The data is also published on the StatsWales website. The CYPE committee recommended that the Welsh Government should review the operation of the S52 to ensure that the data is comparable and consistent and that the S52 budget statements are more readily available. As part of this present study a personal request was made to the Finance section at the Welsh Government for access to Part 2 and Part 3 from the 2020–21 S52 budget statements of all LAs, so as to analyse more comprehensively the total SEN/ALN spend to include all budgeted costs for SEN/ALN pupils. This

analysis is not reported in this article as there was inconsistent use of data within the Part 2 budget entries for pupil led SEN/ALN funding and place led SEN funding for special units and learning support resource bases. The delegated budgeted total ALN funding includes notional SEN expenditure, special school expenditure, schools budget, inter-authority recoupment and the LA budget (S52 Part 1).

Figure 4, Figure 5 and Table 8 show the budgeted total ALN funding per pupil for each LA and for each regional consortia. In 2023–24 the average for Wales is £926 per 2–18 resident with a range from £621 in Monmouthshire to £1,247 in Merthyr Tydfil. The average for the regional consortia is from South East Wales (EAS) (£846) to Central South Wales (CSC) (£1,029). Note again that the region ERW has been disbanded in March 2021.

The independent review of school spending in Wales reported that there are large differences in spending per learner across similar authorities. The review also noted that comparing central spending by local authorities is fraught with difficulties, however this is partly because of different choices on what responsibilities to delegate to schools, but also because of data inconsistency (Welsh Government, 2020a, p. 81). Figure 5 confirms the different levels of funding for ALN between LAs within their regional consortia. There is a clear risk however that the present system may not be providing an accurate assessment of differences in all needs and costs. The review recommended that LAs and Welsh Government should work together to improve the transparency, coverage and description of data on local authority spending.

Appeals to the Education Tribunal for Wales formerly known as SEN Tribunal for Wales (SENTW) from 2011 to 2021

The England and Wales Special Educational Needs Tribunal was established by the 1993 Education Act to hear appeals from parents against decisions in connection with the assessment and preparation of final statements for pupils with special educational needs. In 2002 there was a distinct SEN Code of Practice for Wales which provided a pathway to the establishment of a Wales-only Special Educational Needs Tribunal. The Special Educational Needs Tribunal for Wales (SENTW) was created on 1 April 2003 following the amendment of the 1996 Education

Figure 6. To show total number of appeals to the SENTW per 10,000 2–18 population for 2011–21 by LA.

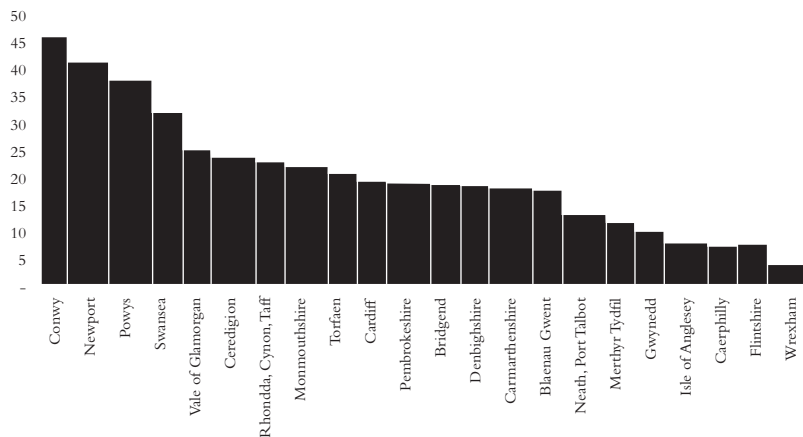


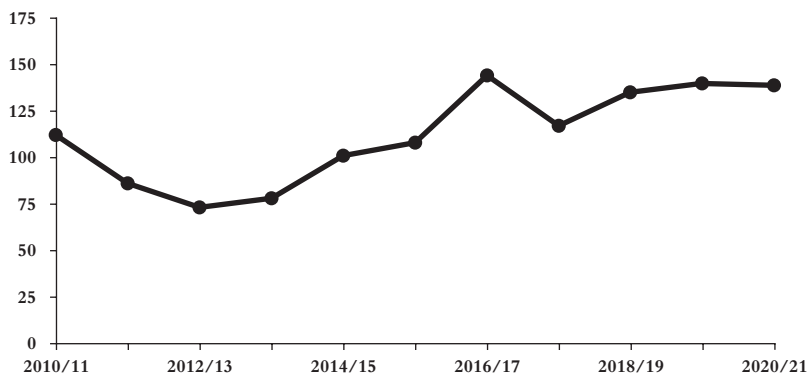
Table 9. Rate of appeals to SENTW per 10,000 for 2011–21.

<i>Regional Consortia</i>	<i>2011–21 average</i>	<i>Highest LA</i>	<i>Lowest LA</i>
North Wales (GwE)	16	47	4
South West and Mid Wales (ERW)	24	38	13
Central South Wales (CSC)	20	25	12
South East Wales (EAS)	22	42	7
Wales	21	47	4

Act by the Education Act 2002. The ALN and Tribunal Wales Act (2018) has replaced SENTW with Education Tribunal for Wales (ETW).

Table 9 displays the 10-year rate of appeals to the SEN for Wales Tribunal for the regional consortia by calculating the total appeals for each LA for the 10 years and dividing by the 2–18 population. There are large variations between the LAs which are shown in Figure 6. The highest and lowest LAs, Conwy (47 per 10,000) and Wrexham (4 per 10,000), are both from the North consortia. Further research

Figure 7. Total number of appeals to the SEN Tribunal for Wales per year.



would help to identify the qualitative factors associated with lower levels of appeals. Analysis of the appeals to the newly formed Education Tribunal for Wales, in respect of disagreements in relation to statutory ALN processes, will also provide an indication of whether the new system is perceived to be ensuring additional learning provision (ALP) is secured as required.

Figure 7 illustrates the trend line for the number of registered appeals to the SEN Tribunal for Wales (SENTW) from 2011 to 2021 and shows a 24 per cent increase over the ten years (SENTW, 2022). However, the number and growth in appeals in Wales is still low when compared with the rest of the United Kingdom. There has been a 400 per cent rise in statements in Northern Ireland since 2011 (NI Department of Justice, 2021) and a 160 per cent increase in England since 2010 (see Marsh, 2022).

Table 10 shows that the appeal rate in Wales for 2020/21 was 2.3 per 10,000, compared to Northern Ireland (10.0) (NI Tribunals Unit, 2022) and England (8.2) (Gov.UK, 2022). The appeal rate in Scotland was also low at 1.3 per 10,000 (Judiciary of Scotland, 2021), but has risen from a low baseline by 140 per cent since 2010. The low appeal rate in Scotland is explained by the decline in the use of statutory plans, which has had consequences for access to the Scottish Additional Support Needs (ASN)

Table 10. Tribunal appeals in the United Kingdom.

	<i>ONS 2–18 population</i>	<i>Appeals 2021/22</i>	<i>Appeals per 10,000</i>	<i>% increase since 2010</i>
Wales	593,093	139	2.3	24
England	11,218,337	9,184	8.2	160
Northern Ireland	414,293	416	10.0	400
Scotland	984,256	132	1.3	140

Tribunal. Only parents who already have a Coordinated Support Plan (CSP) or can make a reasonable case that their child meets the criteria, are eligible to make a request (Riddell at al., 2010).

Cullen and Lindsay (2019) explore the drivers of complaints and disagreements in the English system where more recent trends show no signs of flattening, with a 250% increase in appeals since 2015 (Gov.UK., 2022). Cullen and Lindsay’s paper explains why some SEN disagreements become very distressing for parents and how such disagreements can be prevented or resolved. A complementary article by Lindsay et al., (2021) examined the effectiveness and cost effectiveness of mediation in resolving disagreements between parents or young people and LAs, where parents or the young person are considering an appeal to the SEN Tribunal in England.

Use of Welsh Index of Multiple Deprivation (WIMD) for comparable Authorities

The Welsh Index of Multiple Deprivation (WIMD) is the Welsh Government’s official measure of relative deprivation for small areas in Wales. It identifies areas with the highest concentrations of several types of deprivation. In this study the income domain has been used as a proxy indicator for income deprivation affecting children. The WIMD divides the country into small areas (Lower Layer Super Output Areas, LSOAs) (n=1,909), each with an average population of 1,600 people. The range is from 214 LSOAs in Cardiff to 36 LSOAs in Merthyr Tydfil. Figure 8 and Tables 11, 12 and 13 demonstrate three clusters of LAs for the most deprived (n=9), mid deprived (n=9) and least deprived (n=4), to show the percentage of LSOAs in the top 20 per cent of WIMD deprivation (Welsh

Figure 8. Cluster analysis using Welsh Index of Multiple Deprivation against Free School Meals

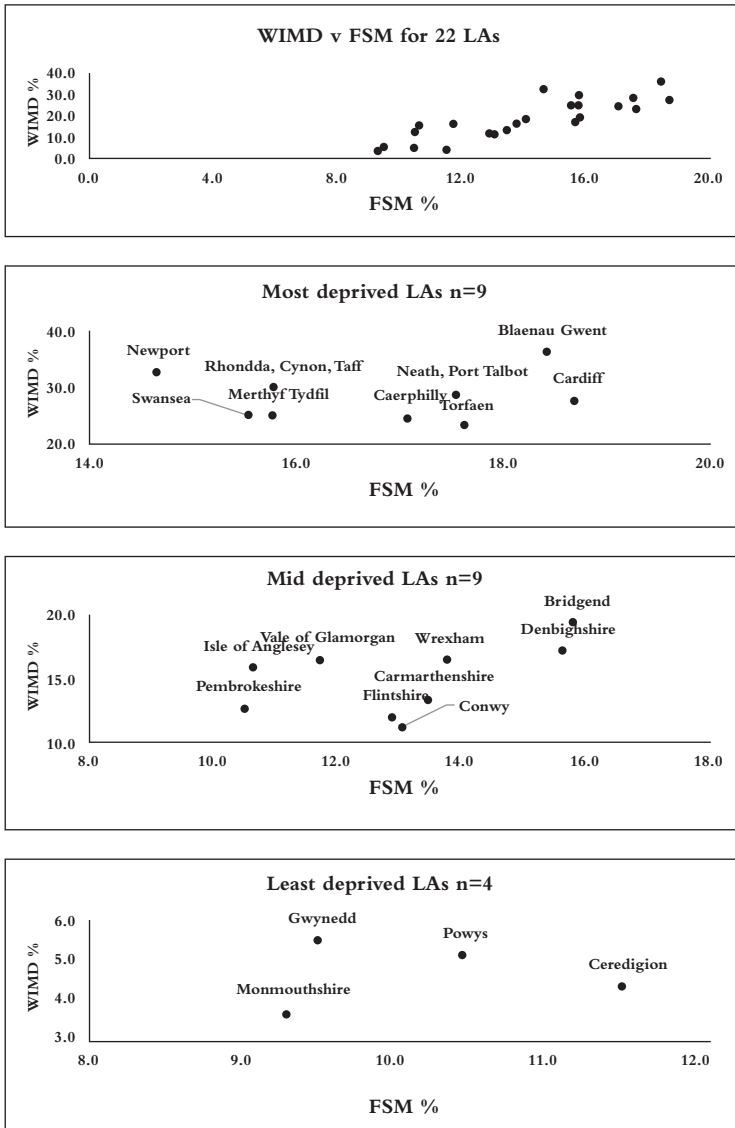


Table 11. Most deprived cluster of comparable Welsh Local Authorities

<i>Most deprived Cluster</i>	<i>ONS 2–18 popn</i>	<i>% LSOAs in most deprived 20%</i>	<i>Free School Meals %</i>	<i>Statements %</i>	<i>Tribunal appeals per 10,000 2010-20</i>	<i>SEN Budget £ per 2-18 popn 2023-24</i>
Blaenau Gwent	12,431	36.2	18.4	1.9	18	1,034
Caerphilly	35,037	24.5	17.1	1.9	7	932
Cardiff	71,234	27.6	18.7	2.9	16	1,051
Merthyr Tydfil	11,882	25.0	15.8	2.3	11	1,247
Neath, Port Talbot	27,371	28.6	17.5	3.8	13	874
Newport	33,883	32.6	14.6	2.7	35	828
Rhondda Cynon Taff	47,300	29.9	15.8	2.7	18	716
Swansea	44,215	25.0	15.5	3.6	29	1,040
Torfaen	18,290	23.3	17.6	1.2	20	815
Wales	593,093	20.0	14.1	2.4	28	926

Government, 2019b, p. 36) against the percentage of ONS population aged 5–15 eligible for free school meals (averaged from 2020/21 to 2022/23) (StatsWales, n.d.), to identify LAs which are demographically comparable and to provide a summary of the similarities and differences between comparator LAs. The variations and differences offer further evidence to the White Paper’s contention (Welsh Government, 2014a) of divergence and inconsistency in approaches across Wales. Table 11 shows the variation in the total budgeted expenditure on SEN provision for the most deprived LAs is from £716 to £1,247. In Table 12 for mid deprived LAs the ALN budget varies from £800 to £1,159 and in Table 13 the difference is from £621 to £991.

Table 12. Mid deprived cluster of comparable Local Authorities

<i>Mid deprived Cluster</i>	<i>ONS 2-18 popn</i>	<i>% LSOAs in most deprived 20%</i>	<i>Free School Meals %</i>	<i>Statements %</i>	<i>Tribunal appeals per 10,000 2010-20</i>	<i>SEN Budget £ per 2-18 popn 2023-4</i>
Bridgend	28,141	19.3	15.8	1.4	17	970
Carmarthenshire	35,364	13.4	13.4	2.4	16	862
Conwy	19,936	11.3	13.1	1.8	43	931
Denbighshire	18,367	17.2	15.6	2.6	15	935
Flintshire	29,666	12.0	12.9	2.3	5	1,025
Isle of Anglesey	12,723	15.9	10.6	2.5	7	915
Pembrokeshire	22,701	12.7	10.5	1.9	14	956
Vale of Glamorgan	26,576	16.5	11.7	1.9	18	1,159
Wrexham	26,696	16.5	13.8	2.6	3	800
Wales	593,093	20.0	14.1	2.4	28	926

Table 13. Least deprived cluster of comparable Local Authorities

<i>Least deprived Cluster</i>	<i>ONS 2-18 popn</i>	<i>% LSOAs in most deprived 20%</i>	<i>Free School Meals %</i>	<i>Statements %</i>	<i>Tribunal appeals per 10,000 2010-20</i>	<i>SEN Budget £ per 2-18 popn 2023-4</i>
Ceredigion	11,291	4.3	11.5	1.1	22	991
Gwynedd	21,093	5.5	9.5	2.5	6	911
Monmouthshire	16,217	3.6	9.3	1.8	24	621
Powys	22,679	5.1	10.5	2.2	28	773
Wales	593,093	20.0	14.1	2.4	28	926

Discussion

The introduction of the new statutory multi-agency system for meeting the additional learning needs of children and young people in Wales from 1 September 2021, aims to deliver a fully inclusive education system where needs are identified early and addressed quickly and where the support is flexible, responsive and consistent. The consultation process has been thorough and extensive having been implemented in two parts: 1) the draft Additional Learning Needs and Education Tribunal Bill from July 2015 to the Royal Assent in January 2018, and 2) the ALN transformation programme including the draft Code of Practice from September 2018 to March 2021. The Welsh Government's Children, Young People and Education Committee listed 48 recommendations in their consultation report on the draft Bill (National Assembly for Wales, 2017) and a further 16 discussion points in their response on the draft Code of Practice (National Assembly for Wales, 2019).

The findings in this study have demonstrated significant differences in the ALN indicators for identification across comparable Local Authorities together with significant variations in tribunal appeals and budgeted expenditure on SEN provision. Recommendations from an Estyn report (2003) emphasised the lack of fairness in the funding arrangements and a policy review, undertaken by the Welsh Assembly Government (2008), also stressed the essentiality that there is a high level of consistency across Wales.

A key driver of ALN reform is to reverse some of the inconsistencies that were occurring across Wales in terms of identification of and making suitable provision for those with learning needs. The new code, unlike the previous one, is statutory rather than guidance and it is therefore considered by Welsh Government that this should help ensure parity of processes. However, there are some early anecdotal indications that this may not be the case, with LAs across Wales already interpreting and enacting the code differently (BBC News, 2022; BBC News, 2023).

There are a number of other ongoing concerns regarding the new ALN system, all previously expressed in the consultation process. Firstly, the principle of a rights-based approach. Wales was the first UK nation to incorporate the United Nations Convention on the Rights of the Child (UNCRC) into domestic law in 2004 and the first to appoint a children's commissioner. The Children, Young People and Education Committee published their report on children's rights in Wales in August 2020 and

concluded that there is still progress to be made, for example Child Rights Impact Assessments being produced far too late in the policy development process. The committee considered that this demonstrates that children's rights are not driving the Welsh Government's decision-making as the legislation intended (Gov.Wales, 2020). Ware (2019) also makes the case that more needs to be done for the voices of children with profound and multiple learning difficulties or very severe communication difficulties to be heard and how these can be addressed if their preferred language is Welsh.

Secondly, the Welsh Local Government Association (WLGA) has expressed concerns about some of the estimated costs/savings to LAs (WLGA, 2017). The Welsh Government expects the new ALN system to be revenue-neutral and not add to long-term costs in net terms. Savings are expected to be achieved from provisions which aim to remove the current adversarial nature of the statement process as set out in the Regulatory Impact Assessment (RIA) (Welsh Government, 2017, p. 138). The WLGA and local government consider that the RIA has underestimated the risk of additional disputes arising from the new procedures (Welsh Government, 2017, p. 11–12). Table 10 has already demonstrated the significant increase in Tribunal appeals across the other nations of the UK since 2010 particularly following the period of legislative reform in England. Tribunal appeals in Wales actually decreased in 2021–2 by 35 per cent (Welsh Government, 2023). Various mitigating actions have been taken by the Welsh Government to reduce the danger of a spike in costs and Tribunal appeals. Specifically, the Welsh ALN transformation programme is introducing the reforms gradually over a four-year implementation period, rather than on a specific date as occurred in England. There has also been significant grant funding to LAs to support the transformation processes, such as training for additional learning needs coordinators (ALNCos) and other school and central LA staff, and the development of information for parents and CYP to help them understand the new processes.

The WLGA and Sibieta's commissioned Review of School Spending in Wales (Welsh Government, 2020a) both believe that the revenue-neutral ambition by the Government might be problematical. Sibieta presented his school funding recommendations spanning key themes which are all relevant to this ALN study.

1. Spending decisions based on empirical evidence and clear expectations on future costs throughout the system.

The total budgeted expenditure for SEN provision has increased in real terms by 16 per cent in last 10 years (Gov.Wales, 2023a), without any reduction in the high level of variation in statements since 2010 (see Table 5). If there is a growth in ALN numbers after the completion of the four year implementation period then a decision may be needed to further increase the ALN budget whilst ensuring the costs are sustainable. It is worth noting that the high needs budget in England has increased by 75 per cent in real terms in the last decade (Marsh et al., 2024).

2. Fairness and transparency in funding across schools and areas.

Tables 11 to 13 have shown that are significant differences in the budgeted expenditure on SEN provision. The variation in the most deprived cluster of LAs (Table 11) is from £716 to £1,247 which is equivalent to a £25 million ALN budget difference (that is ONS 47,300 * budget difference £531). In the mid deprived cluster the budget difference is £9.6 million (Table 12), and in the least deprived cluster the difference is £6 million.

3. Effective scrutiny enabled by consistent and transparent data.

This study involved the collection and attempted analysis of the 2020–1 section 52 financial budget returns from each LA. It was apparent that there were inconsistent methods of reporting for SEN. The School Funding report (Welsh Government, 2020a) recommended that the transparency, coverage and description of data on local authority spending could be improved by reference to a consistent financial reporting framework (DfE, 2023).

The 25th anniversary of the establishment of 22 unitary authorities in Wales, each represented by the Welsh Local Government Association (WLGA) was marked on the 1 April 2021. The on-going challenge over the next 25 years for the WLGA, local government and the Welsh Government is to: 1) scrutinise, maintain sustainability and regularly review the implementation of the new ALN legislation; 2) ensure fairness and consistency throughout policy and practice and 3) embrace the call for better investment in and planning of the specialist workforce for children and young people (House of Commons Hansard, 2023).

Postscript

As this article was accepted for publication on 02.11.23., the following paragraph is a June 2024 update.

Local authorities (LAs) across Wales are now reaching the final phases of ALN transformation and at this stage it appears that there has been some positive change in terms of developing awareness and agreement that providing quality teaching and learning opportunities for children and young people (CYP) with ALN across Wales is the responsibility for all teaching and support staff and not just those who hold additional responsibility or specialist roles for ALN. Additionally, the grass roots approach to training all school staff in person centred planning, appears to be helping to broaden understanding of needs led approaches to learning and development of CYP with ALN. However, ongoing challenges continue to present in terms of variation in provision for ALN between LAs, at least in part due to a lack of clarity in the ALN Code as to what constitutes universal provision, as opposed to Additional Learning Provision (ALP), the information that should be contained within an IDP, and the threshold for deciding whether IDPs for those determined as having ALN are maintained by the school or LA.

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