

[An update on the Welsh Government's approach to addressing the healthcare needs of children in school](#)

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Healthcare needs in school

There cannot be much disagreement that children with medical needs must be supported to ensure they are able to access and enjoy their education and have the opportunity to reach their full potential. Schools in Wales should have policies in place to administer medication. They should also be clear about how they will support children with short-term healthcare needs so that it doesn't affect their participation in educational activities. **There is also a small, but significant number of children and young people with complex and/or long-term healthcare needs, which requires more attention.**

Diabetes UK and the Royal College of Paediatrics and Child Health are among several stakeholders concerned that many schools in Wales do not have adequate arrangements in place to provide effective support for the healthcare needs of children and young people. They have been calling on the Welsh Government to establish a legal duty on school governing bodies to meet the healthcare needs of learners, recognising that health conditions can be life threatening and that they can also affect how a child learns.



This issue has been raised in evidence to the [Children, Young People and Education Committee](#) during its scrutiny of the **Additional Learning Needs and Education Tribunal (Wales) Bill**. Stakeholders have highlighted the connection between medical needs and learning needs and want the new Additional Learning Needs (ALN) framework to explicitly encompass medical (also referred to as healthcare) needs.



Members of the Committee are currently preparing their Stage 1 report on the general principles of the Bill and will be considering whether any amendments are needed regarding the relationship between ALN and medical needs. (There is further discussion on the ALN Bill later in this article.)

‘Supporting Learners with Healthcare Needs’

The main concern highlighted by stakeholders has been that Welsh Government guidance on supporting learners with healthcare needs has been **non-statutory**. Assembly Members will undoubtedly have dealt with constituency cases where children with healthcare needs have been excluded from educational activities and/or where parents have had to give up work to support their children in the absence of adequate support from their children’s schools. As such, stakeholders have called for **statutory duties in line with provisions in England** where there is a duty in the Children and Families Act 2014 on schools to support pupils with medical conditions.(see previous [blog article](#)).

The Welsh Government had stated in its consultation document accompanying new draft guidance (published February 2016) that it intended for **some of the healthcare needs guidance** to be statutory. On 30 March 2017, the Minister for Lifelong Learning and Welsh Language announced that **the whole of the document** aimed at schools and local authorities is to be issued as statutory guidance.

The **new statutory guidance** ‘[Supporting Learners with Healthcare Needs](#)’ (PDF 2.30 MB) provides advice to local authorities and governing bodies on meeting their duties towards learners with healthcare needs. **The guidance is issued in accordance with Section 175 of the Education Act 2002**. Section 175 of the Education Act 2002 places a duty on local authorities and governing bodies to make arrangements to ensure their functions are exercised with a view to safeguarding and promoting the welfare of children in school or another place of learning. This includes supporting children with healthcare needs. In meeting their duties under section 175 of the Education Act 202, local authorities and governing bodies must have regard to guidance issued by the Welsh Ministers.

Nevertheless, there remain key concerns about the substance of the guidance and whether the provisions in the Education Act 2002 relating to welfare are adequate for this purpose.



In their [further written evidence](#) on the Bill to the Children, Young People and Education Committee, Diabetes UK along with 11 other organisations in a joint submission reiterated their call for medical needs to be explicitly included within the new ALN framework:

The guidance doesn't negate the need to amend the ALN Bill and Code, rather intensifies and accelerates it.

Additional Learning Needs and Education Tribunal (Wales) Bill



Whilst medical needs are not specifically included within the definition of ALN, they will be covered where they affect a pupil's learning to the extent that they cause ALN.

The **definition of ALN** within Section 2 of the Bill, states that a person has additional learning needs if he or she:

- Has a significantly greater difficulty in learning than the majority of others of the same age; or
- Has a disability for the purposes of the Equality Act 2010 (c.15) which prevents or hinders him or her from making use of facilities for education or training of a kind generally provided for others of the same age in mainstream maintained schools or mainstream institutions in the further education sector.

The **same definition** as is currently used for Special Education Needs (SEN) is retained in the Bill for ALN. The definition does not include medical/ healthcare needs which do not necessarily cause the learner to have a significantly greater difficulty in learning, or hinder their access to the education or training generally on offer.



The [draft ALN Code](#) acknowledges that **not all children and young people with a healthcare need will have ALN**. It provides a clear link through to the Welsh Government's guidance on healthcare needs, which has been revised and strengthened. However, the draft Code recognises that healthcare needs may impact on pupils' capacity to learn and should be factor to consider when determining if a learner has ALN.

Previous consultation on widening the SEN/ALN framework

In a [letter](#) to the Children, Young People and Education Committee on 11 April 2017, the Minister for Lifelong Learning and Welsh Language emphasised that the Welsh Government **had previously consulted on a possible widening of the scope of the definition of ALN in 2012**. The Minister explained that this would have included all children and young people from particular minority or vulnerable groups and those with healthcare needs or with behavioural issues. He goes on to say that **a high level of concern was expressed that using a wide definition might dilute the benefits of those learners who most needed support**. The letter states:

Extending the definition to cover healthcare needs/medical conditions, for example, would significantly increase the number of learners entitled to a statutory plan and the rights attached to that. It would also extend the provision set out in the plan – it would no longer be confined to educational or training provision, but also include healthcare provision which did not educate or train.

Such an extension of the system would not be appropriate or proportionate in my view.

If a child or young person has an additional learning need, including where that is caused by a medical condition, they will be covered by the system introduced by the Bill. But not all healthcare needs will involve additional learning needs.

Where does that leave children and young people with healthcare needs? Stakeholders representing children and young people with medical needs remain very concerned and the Children's Commissioner for Wales [states](#) that there is room for improvement. The Children's Commissioner's view is that **the guidance has made**



some progress and may be sufficient to meet the healthcare needs of learners in Wales, highlighting the importance that “a child’s healthcare needs should not automatically be regarded as an additional learning need”.

There is a view that while the healthcare needs guidance document is better than it was, it still needs strengthening. Some [stakeholders](#) say that “it feels like the ALN Bill is the only route available to ensure the rights of pupils with medical needs can be protected in law”.

The Children’s Commissioner for Wales has suggested:

The Rights of Children and Young Persons (Wales) Measure 2011 confer Ministerial powers to amend legislation and guidance for the purpose of giving effect to the UNCRC. Section 2 of the Measure established a Children’s Rights Scheme as the underpinning guidance for implementing the legislation. The scheme requires Welsh Ministers to publish a report every 2.5 years on how well they have given effect to the UNCRC in policy and legislation. The Scheme’s reporting round between 2018 and 2020 could also be a timely opportunity to carry out a full assessment on the effectiveness of ‘Supporting learners with healthcare needs’ and potentially provide a key opportunity for change under Section 6 of the Rights Measure should the guidance not be having the desired effect.

Next steps

The impact on children and families where a child has a complex and/or long term healthcare need cannot be understated. The Children, Young People and Education Committee will consider how this issue relates to the Bill as they prepare their stage 1 report. The reporting deadline for publication of the Children, Young People and Education Committee’s report is **24 May 2017**.

The new guidance on *Supporting learners with healthcare needs* is now in effect and places statutory responsibilities on schools and local authorities.

Article by [Sarah Hatherley](#), National Assembly for Wales Research Service.

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