



PLANT YNG NGHYMRU
CHILDREN IN WALES



Down's Syndrome
Association
A Registered Charity No. 1061474



Guide
Dogs
Cymru



Learning Disability Wales
Anabledd Dysgu Cymru



mudiad
meithrin
arbenigwyr y blynnyddoedd cynnar
Welsh early years specialists



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TSANA statement on post-16 ALN reform

November 2022

TSANA is concerned that ALN Transformation will result in inequitable access to further education and training for young people with complex ALN in Wales.

The Additional Learning Needs (ALN) code states a two-year entitlement to education and training, but it is unclear if this is a *post-16* or a *post-school* entitlement. Anything over and above a stated two-year entitlement requires local authority officials who are passed IDP responsibility when an FEI is not a learner's additional learning provision (ALP), to assess a 'reasonable need' for education and training.

TSANA is concerned that parity of opportunity for young people with complex ALN to access further education is put at risk by the move from a central Welsh Government division for decision-making on placements at specialist further education colleges to local authority responsibility. This is of particular concern for young people with low incidence and complex ALN whose needs cannot be met by a FEI.

The ALN code is very unclear in explaining that just because a FEI cannot meet a learner's needs this does not mean their additional learning needs are unmetable. For this reason, TSANA is concerned that IDPs may be ended rather than appropriate ALP sought. In contrast, when a 19-year-old learner transitions from a special school to having their IDP maintained by an FEI, the same assessments are not required.

TSANA believes that young people should not be discriminated against by the nature of the ALP they require to meet their ALN. To do so would be counter to the duties to have regard to the United Nations Convention on the Rights of the Child and the United Nations Convention on the Rights of Persons with Disabilities.

TSANA recognises Welsh Government's position that the law has not changed, however, we are concerned that the discretionary powers utilised by Welsh Government to date that have ensured young people with complex ALN can access the **post-school** further education whether at a FEI or specialist colleges are diluted by the ambiguous wording in the ALN Code.

TSANA is further concerned that uncertainty over how or if local authorities work with Careers Wales will jeopardise timely transition planning and access to sufficient and timely impartial information and guidance on post-16 options.

TSANA is aware that the ambiguous criteria in the Code (17.75) is being interpreted differently by stakeholders including those with statutory responsibilities. It is not acceptable to wait for the code to be tested by Tribunals and their associated costs, and stress on young people and their families.

TSANA is calling for clarification statements from Welsh Government on LA duties in respect of post-16 education and training for Wales' young people with complex ALN that will address the issues outlined above.



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Datganiad TSANA ar ddiwygio ADY ôl-16

Tachwedd 2022

Mae TSANA yn pryderu y bydd Trawsffurfio ADY yn creu mynediad anghyfartal i addysg bellach a hyfforddiant i bobl ifanc ag ADY cymhleth yng Nghymru.

Mae'r côd Anghenion Dysgu Ychwanegol (ADY) yn nodi bod hawl i ddwy flynedd o addysg a hyfforddiant, ond mae'n aneglur ydy'r hawl honno'n un ôl-16 neu *ar ôl gadael yr ysgol*. Mae unrhyw beth dros ben yr hawl i ddwy flynedd a nodir yn gofyn bod swyddogion awdurdod lleol, sy'n derbyn cyfrifoldeb am y CDUiau pan na fydd darpariaeth dysgu ychwanegol (DDY) dysgwr yn SAB, yn asesu 'angen rhesymol' am addysg a hyfforddiant.

Mae TSANA yn pryderu bod cyfle cyfartal i bobl ifanc ag ADY cymhleth gael mynediad at addysg bellach yn cael ei beryglu gan y symudiad o is-adran ganolog yn Llywodraeth Cymru ar gyfer gwneud penderfyniadau ynghylch lleoliadau mewn colegau addysg bellach arbenigol, i gyfrifoldeb awdurdod lleol. Mae hyn yn destun pryder arbennig i bobl ifanc sydd â digwyddiad isel ac ADY cymhleth, na all SAB ddiwallu eu hanghenion.

Mae'r côd ADY yn aneglur iawn o ran esbonio, oherwydd na all SAB ddiwallu anghenion dysgwr, nad yw hynny'n golygu nad oes modd diwallu'r anghenion hynny. O'r herwydd, mae TSANA yn pryderu y gallai CDUiau ddod i ben, yn hytrach na cheisio Darpariaeth Dysgu Ychwanegol briodol. Mewn cyferbyniad, pan fydd dysgwr 19 oed yn pontio o ysgol arbennig i gael eu CDU wedi'i gynnal gan SAB, nid yw'r un asesiadau yn ofynnol.

Mae TSANA o'r farn na ddylid gwahaniaethu yn erbyn pobl ifanc oherwydd natur y Ddarpariaeth Dysgu Ychwanegol - mae arnyn nhw ei hangen i ddiwallu eu Hangen Dysgu Ychwanegol. Byddai gwneud hynny yn groes i'r dyletswyddau i roi sylw i Gonfensiwn y Cenhedloedd Unedig ar Hawliau'r Plentyn a Chonfensiwn y Cenhedloedd Unedig ar Hawliau Pobl ag Anableddau.

Mae TSANA yn cydnabod safbwyt Llywodraeth Cymru nad yw'r gyfraith wedi newid, ond rydyn ni'n pryderu bod y pwerau disgrifiol a ddefnyddiwyd gan Lywodraeth Cymru hyd yma sydd wedi sicrhau bod pobl ifanc ag ADY cymhleth yn gallu cael mynediad i addysg bellach **ôl-ysgol**, p'un a yw hynny mewn SAB neu goleg arbenigol, yn cael eu gwanhau gan eiriad amwys y Côd ADY.

Mae TSANA yn pryderu hefyd y bydd ansicrwydd ynghylch a fydd awdurdodau lleol yn gweithio gyda Gyrfa Cymru, neu sut bydd hynny'n digwydd, yn peryglu cynllunio pontio amserol a mynediad at wybodaeth ac arweiniad digonol ac amserol ynghylch opsiynau ôl-16.

Mae TSANA yn ymwybodol bod y maen prawf amwys yn y Côd (17.75) yn cael ei ddehongli'n wahanol gan randdeiliaid, gan gynnwys y rhai sydd â chyfrifoldebau statudol. Nid yw'n dderbyniol aros i'r côd gael ei brofi gan Dribiwnlysoedd a'u costau cysylltiedig, a rhoi straen ar bobl ifanc a'u teuluoedd.

Mae TSANA yn galw am ddatganiadau eglurhad gan Lywodraeth Cymru ar ddyletswyddau Allau o ran addysg a hyfforddiant ôl-16 i bobl ifanc sydd ag ADY, a fydd yn rhoi sylw i'r materion a amlinellwyd uchod.