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Welsh Assembly Government

Consultation Document

Cymry Ifanc Young Wales Statutory guidance for local authorities in Wales

Learning for children and young people in a youth
custody setting in Wales

Date of issue: 19 July 2010

Action required: Responses by 15 October 2010

Cymry Ifanc Young Wales Statutory guidance for local authorities in Wales

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| Overview | This consultation is to give information and seek views on the Welsh Assembly Government's draft guidance on the application of the new legislation Apprenticeships, Skills, Children and Learning Act 2009, Section 48–52. It relates to the education and training of children and young people from Wales in youth custody. The main purpose of those provisions of the Act is for the learning arrangements for children and young people in custody to mirror as far as is reasonably practicable the mainstream learning provision in the community. |
| How to respond | Responses to this consultation should be e-mailed to the RightsandEntitlementsBranch@wales.gsi.gov.uk consultation mailbox to arrive by 15 October 2010 at the latest. |
| Further information and related documents | <i>All Wales Youth Offending Strategy: Delivery Plan 2009–11</i> (2009) <i>The learning journey for young people placed by the Youth Justice Board (YJB) in Secure Children's Homes (SCHs) in Wales</i> (2009) <i>Learning to Change: Developing Skills to Reduce Re-offending in Wales</i> (2007) <i>Developing the Curriculum Cymreig</i> (Qualifications, Curriculum and Assessment Authority for Wales, 2003) <i>Statutory Guidance for Youth Support Services 11–25 and Learner Support Services (14–19)</i> (2009) (Consultation doc: 079/2009) <i>Stronger Partnerships for Better Outcomes</i> (2006) <i>Shared Planning for Better Outcomes</i> (2007) |
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Data protection

How the views and information you give us will be used

Any response you send us will be seen in full by Welsh Assembly Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Assembly Government staff to help them plan future consultations.

The Welsh Assembly Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Assembly Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

Foreword by Deputy Minister for Children Welsh Assembly Government

This year, for the first time, children and young people from Wales who are in custody will come under primary education legislation through the new Apprenticeships, Skills, Children and Learning Act 2009.

The Welsh Assembly Government has new responsibilities under this Act, and we want to make sure we deliver those responsibilities in the most effective way possible.



Many children and young people who find themselves in the youth justice system have, for whatever reason, had a difficult or troubled educational experience in their early lives. It is crucial that the youth justice system includes a focus on helping young people and helping them to gain the skills they need for further learning, training and employment thus improving their life chances.

We must equip all children and young people with the skills, self confidence and self esteem they need to participate actively and responsibly in the lives of their communities and society more broadly and to help prevent cycles of crime. Whilst it is clear that education is not the only factor in preventing offending and re-offending, research¹ suggests that learning plays a key role.

The youth justice system in Wales has made positive progress in recent years in improving the access to and opportunities in education, training and employment for young offenders.

However, we must have high aspirations for every child and young person and we are committed to continuous improvement. We want to ensure that all young people in the youth justice system participate, progress and achieve in education and training and get whatever support they need to fulfil their potential.

This guidance is a real step forward in focusing on the individual, personal support that children and young people need, both within custody and on release back into their communities. This is equally important for those Welsh children and young people placed within custodial establishments in England.

Your responses and feedback to the content of this draft guidance will be helpful in letting us know if our proposals for a new approach will make a difference. Please take time to read the document and let us have your views.

Yours Sincerely

A handwritten signature in black ink that reads "Huw Lewis". The signature is written in a cursive, flowing style.

Huw Lewis

¹ Barriers to engagement in education, training and employment. Youth Justice Board 2006.

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Summary

Where are we now?

The Welsh Assembly Government works in partnership with a wide range of Government Departments and agencies in England and Wales to support the learning of children and young people within the youth justice system. These include the Youth Justice Board (YJB) for England and Wales, the Department for Education (DfE), the Ministry of Justice (MOJ) and the third sector.

What are the main issues?

This document forms statutory guidance for local authorities in Wales underpinning their responsibilities for the education and training of children and young people in youth custody as set out in the Apprenticeship, Skills, Children and Learning Act (the ASCL Act) (2009)². This includes education and training provision for 10-17 year olds (and some 18 year olds who have remained in youth custody because they are near the end of their sentence) and who are detained in the following establishments:

- prison service young offender institutions for juveniles³ (prison service YOIs);
- privately managed young offender institutions (privately managed YOIs);
- secure training centres (STCs); and
- secure children's homes (SCHs).

What are we proposing to change?

We seek your views on this guidance because inevitably, supporting the learning of a group of children and young people of:

- different ages;
- varying needs; and
- within the constraints of a secure environment, is challenging.

We recognise this. We want to ensure that learning in custody is aligned as closely as possible with learning in the mainstream sector, whilst at the same time tailoring it to meet the needs of this particular group of children and young people.

² <http://www.DfE.gov.uk/apprenticeshipskillschildrenandlearningAct/>.

³ The amendments to the Education Act 1996 (through the ASCL Act 2009) apply only to children and young people detained in "youth detention accommodation". This means that the duties referred to in this guidance, and the guidance itself applies in relation to children and young people held in 'youth' accommodation only (sometimes known as 'juvenile' accommodation). Some YOIs hold 'young adults aged 18-20' and the duties and guidance do not apply to these young adults.

Proposals

This consultation is to give information and seek views on the new legislation Apprenticeships, Skills, Children and Learning Act 2009, section 48-52.

In Wales the duties that will commence **once the consultation process is completed** include:

- **home LAs to promote the fulfilment of children and young people's learning potential whilst in youth custody and on their release;**
- **duties on LAs to keep copies of children and young people's statement of Special Educational Needs (SEN) when they enter youth custody and to revive and review them on release;**
- **information sharing provisions, and the notification duties on Youth Offending Teams;**

Therefore, much of the guidance in this document will apply to all local authorities in relation to their roles as home local authorities.

Future duties on 'host' local authorities and the detail and process of their implementation are included within this guidance. Prison Service young offender institutions (YOIs) in England will be under the new additional responsibilities from September 2010. In order to provide information about how the system will work when fully implemented, to enable local authorities in Wales affected to start to prepare for it, a link is provided to the English guidance circulated March 22 2010.

<http://www.DofE.gov.uk/consultations/downloadableDocs/LA%20guidance%20-%20learning%20for%20young%20people%20in%20youth%20custody.doc>.

This work is an integral part of the broader Welsh Assembly Government's rights based approach to supporting all children and young people to learn effectively, to fulfil their potential and to play an active part in community life. This approach is implemented through statutory guidance for Children and young people's Partnerships entitled *Stronger Partnerships for Better Outcomes and for Children and Young People's Plans* (CYPP's) (2007), *Shared Planning for Better Outcomes* (2007), statutory guidance for Youth Support Services 11-25 and Learner Support Services 14-19 (2009). "All Wales Youth Offending Strategy" (2004) and AWYOS – Delivery Plan (2009-11), "Skills that work for Wales" (2008) and One Wales (2007).

Information on all Welsh Assembly Government strategies and policies related to children and young people, can be found at;

<http://wales.gov.uk/about/civilservice/departments/dcells/?lang=en>

The consultation period ends on the **15th October 2010**. Responses to be sent to RightsandEntitlementsBranch@wales.gsi.gov.uk consultation mailbox. It should be noted that the responses to the consultation will be made public. Normally, the name and address (or part of that address) of the author are published along with the response. If you do not wish to be identified as the author of your response please state this expressly in your response.

Introduction

The Youth Justice System covers England and Wales and only a minority of children and young people in the youth justice system spend time in custody (around 3%). This equates to around 7,000 children and young people (England and Wales) entering youth custody each year, with around 2,600 held in custody at any one time.

Currently these children and young people are held in 1 YOI and 1 SCH based in Wales and 14 Young Offender Institutions, 4 Secure Training Centres, and 9 Secure Children's Homes based in England.

As of February 2010, (YJB)⁴ there were 114 children and young people from Wales placed in a youth custody setting in England and Wales. 51 children and young people from Wales are in custody in England. (See Annex 5 for a breakdown of figures.)

At present, there are two youth custody establishments in Wales: HMP Parc Young Offender's Institution (YOI) in Bridgend and Hillside Secure Children's Home (SCH) in Neath Port Talbot. Parc is a privately managed prison and Hillside is contracted to the Youth Justice Board⁵.

These contracts include the provision of education to the children and young people and still have some years to run. It is not proposed to commence new duties in the ASCL Act (2009) on these two host authorities until the end of the existing contract. It will then be included as part of the new contract when put in place.

There are currently, in Wales, UK Government run adult prisons at Cardiff, Swansea and Usk/Prescoed (which is the amalgamation of HMP Usk and HMP Prescoed). There is also one privately managed prison run by G4s at Parc in Bridgend (HMP Parc). HMP Parc also has a YOI attached to it. HMP Parc's original tender to the Ministry of Justice outlined plans to deliver training provision as part of its main contract; as a result only a small amount of funding is made available to support training activities there.

The content of the document includes:

- statutory guidance for **all 'home' local authorities across Wales** in respect of their duties towards children and young people from their area who spend time detained in youth custody;
- statutory guidance for **'host' local authorities with youth custodial establishments in their area** to support them in exercising their responsibilities for securing education and training for children and young people in youth custody. Once the relevant provisions of the ASCL Act 2009 comes into force, this will apply at the end of the current contractual arrangement of the institution within their area;

⁴ <http://www.yjb.gov.uk/en-gb/>.

⁵ <http://www.yjb.gov.uk/en-gb/>.

- statutory guidance for all local authorities in relation to their responsibilities for children and young people with special educational needs who are in youth custody; and
- statutory guidance in relation to information transfer for children and young people who are detained in youth custody.

NB. The age range of the children and young people affected are 10-17 year olds within a youth custodial setting as part of the youth justice system. Children and young people aged 18 and over who are remanded or sentenced to custody are detained in 'young adult' or 'adult' custody accommodation and are not covered by this guidance.

This document includes a description of roles and responsibilities of the different partners and agencies involved in learning in youth custody currently. The information is included within Annex 4 of this document but does not form part of the statutory guidance.

Children and Young People in Wales Policy Context

The Welsh Assembly Government's commitment to children and young people is set out in Extending Entitlement: Supporting Children and young people 11-25 in Wales (2000 and 2002)⁶. Recently it has been revised as statutory guidance for Youth Support Services 11-25 and Learner Support Services 14-19 (2009)⁷, and has informed our approach to this guidance.

In 2004, the Welsh Assembly Government formally adopted the United Nations Convention on the Rights of the Child (UNCRC), as the basis for all policy for children and young people.

The Welsh Assembly Government has been working closely with the UNCRC Non Governmental Organisation Monitoring Group, the Children's Commissioner for Wales and other national and local partners to develop a coordinated approach to driving forward implementation of the Convention over the next 5 years via an agreed UNCRC Action Plan for Wales. The UNCRC 5 Year Action Plan for Wales – 'Getting it Right'⁸ is a 5-year rolling Action Plan that was launched on the 20th November 2009. It covers 16 priority areas and 90 actions responding to the recommendations of the UN Committee. A landmark document, as it is the first time Wales has demonstrated the extent of its programmes and how they are helping to deliver the rights in the UNCRC. Priority 16 of the Plan is about working to ensure that children and young people from Wales in the Criminal Justice System can claim their UNCRC and human rights.

⁶ http://wales.gov.uk/topics/educationandskills/policy_strategy_and_planning/extendingentitlement/?lang=en.

⁷ <http://cymru.gov.uk/consultations/childrenandyoungpeople/youthsupportlearnersupport/?jsessionid=LbcpLFyYPQn3DfL1p8RVlhN6yXwfp3h70YdcjZbp44j98nDrdnIS!1135659162?lang=en>.

⁸ <http://wales.gov.uk/topics/childrencyongpeople/publications/gettingitright2009/?jsessionid=2tnFLh2KWxGmhMQzvDkRgXQ2lpvyHSHZMjzpnBXGV1CvFvhKDTTq!-897520699?lang=en>.

Section 1 – Policy context and new legislative responsibilities

1.1 The ASCL Act provides specific duties and powers in relation to education and training for this group of children and young people. It represents a shift towards ensuring that the mainstream education sector takes responsibility for education and training for children and young people in custody. Prior to the Act, these children and young people were excluded from education legislation.

1.2 Inevitably, supporting the learning of a group of children and young people of different ages, varying needs, and within the constraints of a secure environment, is challenging. We recognise this. We want to ensure that learning in custody is aligned as closely as possible with learning in the mainstream sector, whilst at the same time tailoring it to meet the needs of this particular group of children and young people.

1.3 We should ensure that children and young people who spend time in youth custody can expect:

- high quality education and training which builds upon their prior learning;
- learning support aligned with opportunities available to them on their release and which fosters a consistent learning journey, ensuring that the same standards and progress are sustained in youth custody as in the mainstream learning sector in the community space; and
- effective support for transition of learning when they complete their custodial sentences.

1.4 Local authorities, as the mainstream commissioners of services for all children and young people in the community are well positioned to commission education in custody, and to ensure high standards of teaching and learning. It is also crucial that local authorities ensure that children and young people's educational needs are met upon the young person's release, within the context of their wider needs and resettlement.

All Wales Youth Offending Strategy

1.5 The All Wales Youth Offending Strategy (AWYOS) is the result of the Welsh Assembly Government, the Youth Justice Board and local agencies working together to develop a strategy that provides a national framework for preventing offending and re-offending among children and young people in Wales.

Youth Justice Board (2009) Delivery Plan 2009 -2011

The introduction states:

“During the last year, we have reconfigured the way in which the Welsh Assembly Government, YJB and our partners work together to achieve the objectives set out in the All Wales Youth Offending Strategy.

We have identified six priority areas that we will concentrate on over the coming years.

The way in which the YJB monitors the youth justice system in Wales has been tailored to match these priorities. We have streamlined the number of youth justice performance indicators to match our priority areas, redesigned indicators that relate to devolved policy areas and ensured that they measure as many real outcomes for children as possible.

Furthermore, we have made sure that wherever we could, the Wales Youth Justice Indicator Set (WYJIS) is represented in other performance frameworks in order to promote senior ownership of our objectives at a local level.” (YJB/WAG 2009)

1.6 Children and young people in custody are often challenging as highlighted in “Barriers to engagement in education, training and employment”⁹, many have complex needs and some have disengaged from school and further education by the time they enter custody.

1.7 Others have achieved well in school and therefore need higher levels of learning provision whilst in custody. For many children and young people, in this group, custody provides a stable environment for them to engage in learning and to make significant personal progress in improving their skills and achieving qualifications.

1.8 Length of stay in custody varies. The average is 3-4 months, with some staying for only a few days if they are for example, on secure remand (whilst awaiting trial). Others, who have committed the most serious offences, may stay for much longer, sometimes for several years. However, different custodial establishments tend to have a different ‘average length of stay’ and this will have a bearing on the most appropriate education and training to be provided in the establishment. For many children and young people, their time in youth custody presents a crucial opportunity to become re-engaged in education, to enjoy learning for the first time, to make real progress and achieve, and to make plans for their continued engagement on their release in their home area. Local authorities must ensure that a young person’s educational progress whilst in custody is backed up by continued engagement and achievement on their release back into their home communities.

Legislation regarding education for persons detained in youth custody

1.9 The following paragraphs provide an overview of the new legislation regarding education and training for children and young people in youth custody. This is explained in greater detail, alongside guidance on what this means in practice, in the later sections of this document.

1.10 Prior to the ASCL Act 2009, children and young people detained in youth custody (both those held on remand and those who were sentenced) were not

⁹ Barriers to engagement in education, training and employment (YJB) 2006.

covered by the primary education legislation which applies to all other children and young people.

1.11 The ASCL Act 2009 reverses the effect of Section 562 for children and young people detained in relevant youth accommodation (known as 'juvenile', or 'youth' custody) and brings this group of children and young people under primary education legislation for the first time.

1.12 The Act inserts Section 562A into the Education Act 1996 which provides a power to prescribe for certain modifications to be made to provisions of the Education Acts in their application to children and young people who are detained. This is necessary because it would not be practical or desirable for all the duties imposed on parents, the Secretary of State, the Welsh Ministers and local authorities within the Education Act(s) to apply to this group of children and young people.

1.13 In addition, the Act inserts a new Section (18A) into the Education Act 1996 which makes specific provisions for the education and training of children and young people in youth custody. It places a duty on local authorities with youth custody establishments in their area (which we shall call 'host' LAs) to secure that enough suitable education and training is provided to meet the reasonable needs of children and young people subject to youth custody. The Welsh Assembly Government will provide host LAs with designated funding to support them to fulfil these duties when the powers commence for Wales. Other sections of the Education Act 1996 which are inserted or amended by the ASCL Act are as follows:

- Section 562E places a duty on 'host' LAs to ensure that all children and young people detained in youth custody in their area have their literacy and numeracy skills assessed (unless they are already satisfied that they have recent evidence of the person's literacy and numeracy skills).
- For children and young people with statements of Special Educational Needs (SEN) in place prior to entering custody, Section 312A provides that their statements should be 'put on hold' during their time in custody; Section 328(5) requires that a statement should be revived and reviewed on the young person's release by the authority responsible for maintaining it. However, whilst the young person is in youth custody, the relevant host LA is required by Section 562C to use their 'best endeavours' to secure appropriate education provision which will usually be provision corresponding to that specified in the person's statement. The Welsh Ministers propose to make regulations that will allow the host LA to recoup the cost of delivering this provision from the LA in whose area the young person belongs if the host LA needs to commission additional specific provision.
- Section 562B creates a duty on the child or young person's 'home' LA (i.e. usually the authority where they ordinarily reside and which is ordinarily responsible for them) to promote the fulfilment of the young person's learning potential whilst they are in custody and on their release. This is an 'individually owed' duty and is similar to one already placed on local authorities towards those children they look after under the

Children Act 1989¹⁰. The duty in new Section 562B does not apply to those children who are 'looked after' by an authority in order to avoid confusion over responsibilities for this small group of children.

- These duties are underpinned by a range of provisions (in particular Sections 562F to H) regarding education information transfer so that LAs can ensure that they have the information needed to make provision for the children and young people. The provisions will also help ensure that children and young people's learning records follow them through the system, and can be used to ensure their needs are quickly identified, that provision can be appropriately adapted and that they can receive consistent learning provision across their transitions.

As from September 2010 (NB. Initially, England only and in part) the following provisions of the Education Act 1996 (as inserted or amended by the ASCL Act) will be in force:

- Section 562B(1) to (3) which contains the new duty on a home authority to promote the fulfilment of the learning potential of a detained person during custody and on release.
- Section 562C (1) and (2) which requires a local authority that was maintaining a statement of special educational needs before custody to keep it while the person is detained.
- Sections 562F (1) to (4) which require home and host authorities to provide information in connection with a detained person's education when they receive a request from a person providing education to the person; subsections (5) and (6) which impose a duty on the Welsh Ministers via the relevant agency to provide assessment reports of learning difficulties to home and host authorities; subsection (11) which defines host authority.
- Section 562I which requires local authorities to have regard to the Welsh Ministers' guidance in performing their functions.
- Section 312A which provides that Part 4 of the Education Act 1996 (which deals with special educational needs) does not apply in relation to children and young people in custody. It also provides that on a child's or young person's release a statement that was being maintained by an authority prior to custody is to be treated as being maintained by that authority, so the statement comes back to life and the provisions of Part 4 of the Education Act 1996 apply. Where a different local authority becomes responsible for the child the old authority should transfer the statement to the new authority and that new authority is treated as maintaining the statement.
- Section 328(5) of the Education Act 1996 which provides that an authority is required to review a statement on release.

1.14 The new Section 39A of the Crime and Disorder Act 1998 will also be in force in September 2010. (Initially, England only.) This requires a youth offending team to notify the host and home authority when they become aware that a young person is

¹⁰ http://www.opsi.gov.uk/acts/acts1989/ukpga_19890041_en_1.

detained or transferred. They should also notify the home and host authorities (and any other authority where the young person may live) when that person is released.

1.15 It is likely that the other provisions of the ASCL Act relating to the education of young offenders and which relate mainly to the duties of host authorities will be brought into force in relation to Bridgend County Borough Council when the current contract for the provision of education in the privately run young offenders institution comes to an end, and similarly in relation to Neath and Port Talbot County Borough Council, when the current contract for the provision of education in the secure children's home based there comes to an end.

Clarification of legislative requirements for children and young people held in youth custody under Section 25 of the Children Act 1989

1.16 The new subsection 562(3) inserted by the ASCL Act clarified that Section 562 does not operate in relation to children and young people who are kept in secure accommodation under Section 25 of the Children Act 1989. Section 25 covers children who are the subject of court orders allowing the local authority to restrict their liberty because they would otherwise be at risk of suffering significant harm or they present a risk to others.

1.17 Therefore, looked after children placed in secure accommodation under Section 25 of the Children Act 1989 are not subject to the provisions set out in the Sections 18A and Chapter 5A of the Education Act 1996 to which this guidance applies. Local authorities' bear duties towards these children and young people under the "mainstream" education provisions in Sections 13 and 19 of the Education Act 1996. Local authorities' duties towards these children under the Education Acts are exactly the same as to other children and young people, including other looked after children, in their area.

Definition of 'home' and 'host' local authorities

Host local authorities

1.18 A host LA is defined, for the purposes of learning in youth custody, as the LA in which the custodial establishment is located. Host LAs are responsible for securing education and training for children and young people detained in youth custody in their area (regardless of where they usually reside).

Home local authorities

1.19 The definition of the 'home' local authority is the LA where the young person is ordinarily resident¹¹ (excluding any period when the person is subject to a custody order) or, in relation to a child or young person who immediately before their custody was, or at any time since then has been, looked after by an authority under the Children Act 1989, the LA that is or was most recently looking after the person.

¹¹ "Ordinary residence" means the place where the child or young person is habitually resident save for occasional periods of temporary absence (including the period of custody).

1.20 The home LA does not have any direct responsibility for the commissioning of education or training for children and young people in custody. However, the home LA has a duty to promote the fulfilment of the person's learning potential whilst in custody and on release.

1.21 In some cases, the home LA and host LA will be the same. In such cases, the LA will need to fulfil both duties set out above for home and host LAs. It means that the LA would be responsible for commissioning learning for all children and young people detained in youth custody in their area (regardless of where the children and young people are from) and will also be responsible for 'promoting the fulfilment of the person's learning potential' for the children and young people **from their area**. NB. An LA will need to fulfil duties as home LA and, once the relevant provisions of the ASCL Act are in force, as host LA.

Section 2 – Guidance for home local authorities in Wales: fulfilling the duty to promote fulfilment of children and young people’s learning potential

Legal provisions

2.1 This section applies to ‘home’ local authorities and describes their duties in respect of children and young people detained in youth custody.

New Provisions

- Section 562A (3) which defines a detained person.
- Section 562B(1) to (3) which contains the new duty on a home authority to promote the fulfilment of the learning potential of a detained person during custody and on release.
- Section 562C (1) and (2) which requires a local authority that was maintaining a statement of special educational needs before custody to keep it while the person is detained.
- Sections 562F (1) to (4) which require home and host authorities to provide information in connection with a detained person’s education when they receive a request from a person providing education to the person; subsections (5) and (6) which impose a duty on the Welsh Ministers to provide assessment reports of learning difficulties to home and host authorities; subsection (11) which defines host authority.
- Section 562I which requires local authorities to have regard to the Welsh Ministers' guidance in performing their functions.
- Section 562J which contains definitions.
- Section 51 inserts a new Section 39A into the Crime and Disorder Act 1998 and requires a youth offending team to notify the host and home authority when they become aware that a young person is detained or transferred to another custodial setting. They should also notify the home and host authorities (and any other authority where the young person may live) when that person is released.
- Section 52 inserts a new Section 312A into the Education Act 1996. This provides that Part 4 of the Education Act 1996 (which deals with special educational needs) does not apply in relation to children and young people in custody. It also provides that on a child's or young person’s release a statement that was being maintained by an authority prior to custody is to be treated as being maintained by that authority, so the statement comes back to life and the provisions of Part 4 of the Education Act 1996 apply. Where a different local authority becomes responsible for the child the old authority should transfer the statement to the new authority and that new authority is treated as maintaining the statement. It also amends Section 328(5) of the Education Act 1996 so that an authority is required to review a statement on release.

- Paragraph 54 to 56 of Schedule 6. These amend the Education Act 2002 and insert a new Section 208A which allows the Welsh Ministers to make regulations about recoupmnt between the Children and young people's Learning Agency for England and local authorities in Wales.

Guidance on how home LAs fulfil this duty

2.2 The home LA does not have any direct responsibility for the commissioning of education and training for children and young people in youth custody; however, home LAs should 'take such steps as they consider appropriate to promote the child or young person's fulfilment of his or her learning potential whilst in youth custody and on their release'. This is an individually owed duty, meaning that the child and young person's home LA has a duty towards the individuals to whom this applies. In fulfilling these duties we expect home LAs to have regard to any special educational needs or learning difficulties or disabilities that the person may have.

2.3 There is a range of ways in which the home LAs should fulfil their duty to promote the fulfilment of children and young people's learning potential whilst they are in custody and on their release.

2.4 This includes the home LA working in partnership with their YOT through, for example, the supervising officer in the YOT, and the local authority educational representative in the YOT. In addition, the home LA should be involved in the young person's Initial Planning Meeting in custody and should inform the development of the person's sentence plan and learning plan. The plan could include providing advice on which learning courses they consider that their children and young people should undertake whilst in custody.

2.5 Home LAs should also identify more steps they could take to promote the fulfilment of children and young people's learning potential whilst they are in custody and on their release and this is encouraged e.g. The Welsh Assembly Government's 'Personal Support in Custody Project'¹² pilot started in 2005.

2.6 The Welsh Assembly Government expects that in undertaking this role, the YOT education representative will liaise closely with the other Children and Young People's Partnership agencies, the local 14-19 Network, Careers Wales, statutory and voluntary youth services, and with voluntary sector more broadly.

Obtaining and transferring educational information

2.7 We expect that when a person is detained in custody, the home LA should request and obtain the person's learning records from their prior place of learning. The home LA should work closely with the YOT to facilitate the effective transfer of information and to integrate this within existing secure information transfer mechanisms available via the YOT.

¹² <http://wales.gov.uk/topics/childrenyoungpeople/publications/supportincustodypilotproject/jsessionid>.

2.8 In practice, the YOT will be aware when a young person is due to be sentenced and where a custodial sentence is a strong possibility. It is good practice for the home LA and YOT to obtain educational information at this early stage, prior to the sentence to feed the information into the person's Pre-Sentence Report. It also means that the information will be immediately available to the staff working in education to support sentence planning and education planning. However, at a minimum, following the custody of the young person, the home LA should work quickly with the YOT to collate information about the person's education.

2.9 The education information compiled should include information about any special educational needs, or learning difficulties and disabilities the person may have (including for example particular needs such as speech, language and communication needs). It should also include any available information about the person's learning which could be useful in informing their future learning provision. This could include, information about their prior engagement in learning, any truancy or bullying issues, their levels of skills (including literacy and numeracy skills, prior attainment, programmes of study, aspirations and plans, etc).

2.10 Should the young person's previous education provider be unable to supply educational records because, for example, the young person disengaged from education a long time ago, steps should be taken to collate as much relevant information as possible to inform his/her learning in custody and on release. For example, information relating to the young person's age when they ceased their education, the learning level and any qualifications achieved, as well as any learning difficulties that may have been identified.

2.11 The home LA should then ensure that this information is transferred to the young person's place of custody within the secure estate. It is expected that home LAs will choose to work in partnership with the home YOTs using their existing information-sharing mechanisms to achieve this.

2.12 Host LAs need to ensure that any learning providers they appoint to deliver learning in youth custody have regard to any educational information provided by a person's home LA (in conjunction with their YOT) in making any determination as to the education or training to be provided for the young person. Once the relevant provisions of the ASCL Act are in force.

2.13 Requests for educational information and the transfer of information to youth custody should take place as soon as this is practical. As detailed above it is good practice for YOTs to assist home LAs in gathering as much educational information about a person at the stage when the YOT is preparing the person's 'Pre-Sentence Report' and they are aware that custody will be considered as a sentencing option. In this case the educational information would feed into the person's 'Pre-Sentence Report' and would therefore be used to inform the person's sentence, their custodial placement, as well as being available for transfer to the custodial establishment should a custodial sentence be given.

2.14 As a minimum, requests for information from the person's previous learning providers should take place no later than 5 working days after the person has been detained. Information should also be passed to youth custody as soon as possible

and again no later than 5 working days after it has been received by the home LA. Local authorities will need to ensure that systems are in place to meet these deadlines.

2.15 The home LA should also check whether the person entering custody has a statement of SEN or a Section 140 assessment. If so they should ensure that a copy of the statement is transferred within 5 working days to both the host LA and the designated custodial establishment. Again it is good practice for this to be identified prior to sentence to feed into the child and young person's Pre-Sentence Report.

Responsibilities when a child or young person transfers to a different youth custodial establishment

2.16 The home LA, (working with the YOT) should ensure that the new host LA and custodial establishment receives the child and young person's educational information from the previous custodial establishment and if the person has a SEN statement they should ensure this also transfers to both the new host LA and the new custodial establishment and that the new host authority is aware that the person has a SEN statement. It is important here that the home LA makes the custodial establishment, and where relevant the new host authority, aware that a person has an SEN statement. Until the full duties on host authorities are eventually in place.

2.17 Once the relevant provisions of the ASCL Act 2009 come into force host LAs should require that their learning providers delivering education within the institution ensure the relevant educational information is transferred with the child and young person's wider records, and that this is integrated into the existing information transfer systems (e.g. eAsset).

Ensuring education and training placements are available on release

2.18 The home LA should, where it is appropriate for them to do so, make arrangements for the person to continue their education and training on their release to support effective resettlement and ensure a consistent learning experience for the child or young person.

2.19 In practice we expect that home LAs will work with YOTs and the broader Children and Young People Partnerships and 14 -19 Networks, Careers Wales, Youth Services and voluntary services in fulfilling these duties to ensure that this can be embedded within resettlement planning for the young person. The person's home LA, working with the YOT, will need to consider the person's planned release date. They will need to liaise with the education provision in custody to ensure that, wherever appropriate for the young person's needs and in their best interests, suitable education and training is available for them to begin as soon as possible after their release from youth custody. In undertaking this, home LAs should ensure that any special educational needs or learning difficulties that the person may have are taken into account, as well as the learning they were engaged in while in custody.

2.20 There are some circumstances where it will not be appropriate for the home LA to make provision. This may be the case, where the young person is transferring to adult prison, or where they already have education, training or employment arranged for them on their release. For example, they may still be on a school or college roll, or they or their parents/carers may have already secured them a placement, etc. The home LA's role is to find out the person's plans and to ascertain whether suitable arrangements are already in place. Where suitable arrangements are not already in place, the home LA should make sure such arrangements are made. Home LAs should undertake this in partnership with the YOT (as the young person's supervising officer is part of the YOT and will be aware of the person's planned release date and wider resettlement plans).

2.21 Arrangements to ensure that children and young people leaving custody have suitable education or training arranged for them to begin as soon as possible on their release will help contribute to performance against the Wales Youth Justice Indicator 4¹³, part of the Local Government Performance Framework and the Children and Young People plan framework national indicator target. This is to ensure that 90% of children and young people supervised by the youth justice system are in education, training or employment by the end of their sentence. Ultimately it will help children and young people progress and achieve and contribute to reducing re-offending.

¹³ <http://www.yjb.gov.uk/en-gb/practitioners/Monitoringperformance/Youthjusticeplanning/>.

Section 3 – Guidance for host local authorities: commissioning suitable provision

3.1 This section applies to ‘host’ local authorities – i.e. those with “relevant youth accommodation” in their geographical area. “Relevant youth accommodation” is defined in new Section 562(1A) of the Education Act 1996 (inserted by the ASCL Act) and includes ‘juvenile’ or ‘youth’ secure accommodation in Young Offender Institutions (managed by both public and private operators), Secure Training Centres and youth justice beds in Secure Children’s Homes. This section therefore, covers children and young people in youth custody (including those on remand and those who are sentenced) aged 10-17, as well as some 18 year olds who remain in youth custody because they are near the end of their sentence and have therefore not been moved to ‘young adult’ or ‘adult’ prison.

3.2 The definition of “relevant youth accommodation” does not include children and young people detained in Secure Children’s Homes as welfare placements (as these children and young people are already covered by the Education Act 1996). Neither does it include persons aged 18 and over who are detained in ‘young adult’ accommodation in YOIs, or adult prisons which are part of the adult criminal justice system.

3.3 It is possible that a young person under the age of 18 can be held in young adult custody accommodation in YOIs, or adult prisons. This is rare but can happen when a young person’s behaviour is so challenging that they cannot be managed in the youth custody estate and they are therefore transferred to young adult/adult accommodation. When any young person is transferred to the adult estate, including a change in their age, the case manager in the youth establishment should transfer the person’s educational information to the new case manager in the adult estate. This should be embedded within existing practice for transferring sentence plans.

3.4 The make up of the secure estate can change over time as establishments can be de-commissioned or re-commissioned for use by the Youth Justice System and new establishments can be built.

3.5 Initially, the new legal responsibilities related to the commissioning of learning provision for children and young people detained in youth custody will be implemented only in prison service YOIs in England. There are none in Wales. The legal commissioning responsibilities will be commenced in the privately managed youth custody establishments as soon as current contract arrangements allow and relevant host local authorities will be notified at the appropriate time. The guidance in this section does not therefore apply until those provisions are commenced but is included so that LAs know what to expect when it is commenced.

Legal responsibilities

3.6 The new Section 18A places a duty on LAs in Wales with relevant youth accommodation in their area (host LAs) to secure that enough suitable education is provided to meet the reasonable needs of the children and young people held in those establishments. LAs should also secure suitable training for young people over compulsory school age detained in those establishments.

3.7 In determining whether or not education or training is suitable to meet a person's reasonable needs, the authority should have regard to the following:

- the person's age, abilities and aptitudes;
- any special educational needs or learning difficulties they may have;
- enabling children and young people with additional needs to complete programmes of study or training which they have begun;
- any relevant national curriculum, and the desirability that education received should be comparable with that which they could be expected to receive if they were attending a school or institution implementing a relevant curriculum¹⁴;
- where possible for Welsh children and young people serving their sentence within England access to [Y Cwricwlwm Cymreig](#) (Welsh Curriculum) is recommended. Information is included within the glossary as part of Annex 4. This does not form part of this statutory guidance;
- links should be made to 14-19 Networks which have been established in each local authority;
- ensure partners from all relevant sectors are involved. Networks implement Learning Pathways 14-19 to ensure a strategic, efficient and effective approach for learners in their area¹⁵; and
- 'host' LAs should ensure that all children and young people detained in youth custody in their area are assessed for their literacy and numeracy skills (unless the LA are already satisfied that they have evidence of the person's current literacy and numeracy skills).

3.8 LAs should also require that any learning providers they engage to deliver education and training in youth custody have regard to any information provided by a person's home LA under Section 562F of the Education Act 1996. This means that the host LA's learning provider in custody has regard to all available information when making any determination as to the education or training to be provided to that person.

¹⁴ A number of children and young people from Wales serve their sentence within England and a small number from England reside in Wales.

¹⁵ <http://wales.gov.uk/topics/educationandskills/learningproviders/learningpathways1419/>.

Background to the Secure Estate for Children and young people

3.9 The Youth Justice Board (YJB) is actively reconfiguring the children and young people's estate in line with its Secure Estate Strategy. As a result, the number of beds in an establishment and/or its function can change.

3.10 The YJB commissions places for children and young people in the secure estate. The YJB determines the physical composition of the estate, including the type and number of establishments, the location, and the number of places (or 'beds') purchased. The YJB also specifies the overall requirements for how establishments should be run and what services should be delivered to children and young people through its operating specifications, Service Level Agreements (SLAs) and contracts with its custodial providers. The YJB works collaboratively and actively with its custodial providers to monitor delivery, ensure compliance with its contracts, to ensure the overall safety and effectiveness of establishments, and to foster continuous improvement of services in order to achieve positive outcomes for children and young people.

3.11 The YJB will continue to have an interest in the learning provision commissioned by the host LA and the quality of delivery, as education forms an important part of the overall service in custody. Host LAs will need to work in partnership with the YJB to ensure a coordinated and aligned approach to commissioning which ensures the safe and effective operation of establishments. This is in relation to both commissioning new secure accommodation for children and young people, as well as the 'business as usual' commissioning cycle.

3.12 Host LAs need to work collaboratively with custodial providers. Education and training provision is an integral element of the overall operation of custody establishments. The delivery of education and training provision is likely to impact on reoffending rates, on the establishment's wider regime and on the ability of the custodial establishment to safeguard children and young people. Similarly, the custodial operator leads on related activity which supports and underpins the education provider's performance, including for example, sentence planning and timetabling, and ensuring children and young people get to their lessons on time. The host LA will therefore need to work collaboratively with the custodial provider through all stages of the commissioning cycle.

Guidance on the commissioning learning within youth custody

3.13 Host LAs will need to commission learning provision for children and young people detained in youth custody in their area. They will be responsible for all aspects of the commissioning process, including analysis, planning, funding, procuring and monitoring the provision of education and training services. The focus of 'host' LAs' new role as commissioner should be on achieving better outcomes for children and young people detained in youth custodial establishments in their area.

3.14 Host LAs will need to commission a range of provision in youth custody which is capable of being adapted to meet the likely needs of the children and young people who are/will be detained in their area. We expect that host local authorities will choose to appoint learning providers to deliver learning in youth custody and

these providers will need to tailor the offer commissioned by the host LA to, as far as possible, meet the needs of the children and young people in the establishment at any given time.

3.15 Dedicated funding for learning and skills provision will be routed from the Welsh Assembly Government to host LAs in the form of a grant. Host LAs will therefore need to adhere to any specific requirements about learning which the Welsh Assembly Government sets out through the conditions of the grant.

3.16 We expect that LAs may choose to exercise many of their legal duties through the learning providers that they appoint to deliver education and training in youth custody, although LAs will ultimately remain accountable for fulfilling their duties. They will need to make their requirements on their providers clear through for example their contracting arrangements or arrangements for the delegation of funds to their providers.

Understanding the national requirements for provision in custody

3.17 Host LAs will need to ensure that when commissioning learning in custody, they adhere to the relevant legislative requirements. These include:

- securing enough suitable education to meet the reasonable needs of the children and young people subject to youth custody in their area, including those who are over Compulsory School Age but under 18 held in youth custody in their area;
- in determining whether education or training is suitable to meet a person's reasonable needs, the LA should have regard to a person's age, abilities and aptitudes, any special educational needs or learning difficulties they may have, the desirability of continuing with any courses started, the relevant national curriculum, and the core and additional entitlements being satisfied;
- ensuring the learning providers engaged by Host LAs, to deliver education and training in youth custody, have regard to any educational information provided by a person's home LA when making any determination as to the education or training to be received by that person; and
- guidance issued by the Welsh Ministers in exercising these functions.

Undertaking a needs assessment to understand and agree the learning provision needed for children and young people in youth custody

3.18 Host LAs will need to undertake a needs assessment to establish the education and training provision needed for children and young people in youth custody in their area. Different children and young people from different areas will flow in and out of the establishment during the year and therefore host LAs will need to use a range of information and data to develop a specification of the learning provision that will most likely meet the needs of the children and young people who will be detained in custody in their area during the year. The needs assessment should take into account a range of information, including, for example:

- the number and age range of children and young people expected to be held in the establishment(s) during the year;
- historical information and data about the needs of the custodial population, including information about the level of learning and SEN and LLDD needs;
- the facilities and capital infrastructure available for the provision of education and training in the secure estate;
- information about the wider training and personal development activities already delivered and commissioned by the custodial operator which make up the wider regime in custody, for example in YOIs this should include the 'constructive activities' provision delivered by the Prison Service;
- the amount of provision needed throughout the year in terms of the amount of hours and classes to be provided, including the need for year-round provision (rather than just adhering to academic term-times);
- any apparent patterns in where the children and young people tend to come from and return to before and after their time in the establishment which have a bearing on learning provision needed; and
- the average length of stay in the establishment.

3.19 The Host LA will need to work in partnership with a range of stakeholders to compile this information and conduct the needs assessment. This includes the custodial operator, the YJB the National Offender Management Service (NOMs) Cymru.

3.20 The YJB will provide information on the number of places for children and young people in the establishment and the population type, including for example, whether the establishment has any 'vulnerable children and young people units'.

- The 'home' local authority will provide historical information on learning and achievement for individual children and young people in the establishment.
- The custodial operator will be able to contribute detailed information about the usual population held in the establishment, what has been delivered previously, the views of the children and young people, the facilities in the estate, information about the wider regime, and their views on what is needed and information about the general needs of the population, including SEN and Learners with Learning Difficulties and or Disabilities (LLDD).
- The needs assessment should be agreed between the custodial operator, YJB Wales, NOMs Cymru (if appropriate) and this should be used to inform the planning stage. Gaining joint agreement will be critical in ensuring that all relevant partners are signed up to what is needed and to ensure that the education provision commissioned can be fully integrated into the wider custodial regime.

Specification

3.21 The Host LA will need to use information from the needs assessment to develop and agree a 'specification' for the provision of learning in a young offenders' institute. This should be developed and agreed in partnership with wider stakeholders including the custodial operator, YJB Wales, and NOMs Cymru.

3.22 In relation to any secure children's home in Wales, the specification should be directly linked to 'learning journey' guidance developed in 2009¹⁶.

3.23 The specification should be developed in light of:

- the needs assessment detailing the partners' collective view of what is needed in terms of delivery of learning in youth custody;
- the legal requirements and this statutory guidance document which includes expectations about the core learning that we expect to be delivered in custody (including, for example a focus on literacy and numeracy skills). The flexibilities around the curriculum where LAs will want to consider the children and young people's needs as well as the facilities available when determining provision;
- information from the YJB about the secure establishments and the number of places for children and young people in the establishment; and
- information from the Welsh Assembly Government about the planned level of funding.

3.24 The specification should include detail on exactly what provision needs to be delivered and how this fits in with the facilities and wider regime in the custodial establishment. It should include, for example, information about the amount of delivery needed, the staffing levels required, and the amount of learning support and SEN and LLDD support required. It should also be clear on how the learning provision should link with Information Advice and Guidance (IAG) services in custody.

3.25 Host LAs will then need to consider how best to secure the provision of the learning agreed in the specification in order to secure the best possible provision and value for money. This could be through, for example, a procurement exercise where the LA would go out to tender and invite bids from organisations such as colleges, private providers, third sector providers, or a consortium of providers, etc for the delivery of the service. Alternatively host LAs could (subject to their procurement rules), appoint a provider (such as a local school, college or voluntary sector provider) whom they see fit to deliver education, or they could appoint a consortium of providers, or decide to deliver the service directly by employing teachers to deliver in custody, etc.

3.26 In the case of the latter arrangement systems for achieving strategic progress would also need to be put in place, alongside relevant quality assurance systems.

¹⁶ The learning journey for children and young people placed by the Youth Justice Board (YJB) in Secure Children's Homes (SCHs) in Wales July 2009.

3.27 Host LAs should encourage the involvement of third sector organisations who often have a wealth of expertise in supporting and meeting the needs of children and young people in the youth justice system and in delivering re-engagement activities. Host LAs should also encourage the inclusion of a range of non-formal and informal learning arrangements, with the long term aim of developing skills for employment.

3.28 Host LAs should play a role in developing the market for the provision of education and training in juvenile custody with the aim of driving up quality and standards. They should also consider the use of volunteer schemes to support children and young people's learning in custody, including the use of mentors.

3.29 LAs may also wish to consider more innovative solutions for securing learning provision for children and young people in custody which could, for example, involve arrangements with local providers for sharing staffing and wider resources.

3.30 The host LA's specification and plans for securing provision should be agreed by the key stakeholders including the local Children and Young People's Partnership.

3.31 Host LAs will be expected to let contracts for up to 3 years where they see fit to do so (in line with their procurement and commissioning arrangements and rules). For any arrangements that are anticipated to last for longer than one year LAs should build in annual reviews of provision to ensure that the planned provision continues to be appropriate to meet needs.

3.32 Host LAs' plans for the provision of learning in youth custody should be included in the LA's wider commissioning planning processes set out in Children and Young People's Plans.¹⁷ The Welsh Assembly Government will need to agree the host LA's plans for learning in youth custody and will seek to ensure coherence of plans and value for money in youth custody across the country.

Commissioning provision

3.33 Following agreement by the Welsh Assembly Government of the host LA's plan for securing learning provision in custody (as explained above), the host LA will need to proceed to implement the agreed plan and commission provision.

Management and Monitoring

3.34 Host LAs should develop robust performance management arrangements with their providers and custody operators to monitor the learning delivery and outcomes for children and young people in youth custody. LAs should use these arrangements to ensure that they are fulfilling their responsibilities for education and training for children and young people in youth custody and to ensure that their designated learning providers are delivering effectively on their behalf.

3.35 LAs should require their appointed learning providers in custody to report performance data using the Individualised Learner Record (ILR) data arrangements

¹⁷ <http://www.opsi.gov.uk/legislation/wales/>.

(consistent with data arrangements in the mainstream learning sector) and data via the Youth Offender Learning 1 returns (YOL1) (a custody based form to report on children and young peoples' learning). This data will be aggregated by the YJB/Welsh Assembly Government shared data service and will be used by the YJB/Welsh Assembly Government to monitor outcomes nationally.

3.36 Estyn and Her Majesty's Inspectorate of Prisons will continue to inspect the provision of education and training in youth custody in Wales to foster continued improvement in provision.

3.37 The Welsh Assembly Government will have a power to intervene if it is satisfied that an LA is failing or is considered likely to fail in their duties regarding the provision of learning for children and young people detained in youth custody.

Expectations for delivery of learning in youth custody

3.38 This section provides the expectations for the delivery of learning in youth custody, which host LAs will need to consider within their commissioning plans for provision in youth custody.

Involvement in learning

3.39 All children and young people detained in youth custody, are expected to take part in education or training. However, there may be some exceptions for children and young people who are unable to do so because for example they need to complete substance misuse detoxification programmes or they have court appearances or legal visits etc.

3.40 There is a range of core curriculum requirements that we expect host LAs to provide in juvenile custody, this includes:

- every young person having an individual learning plan¹⁸ which should be detailed enough to support progression and available in an electronic version, where possible, for ease of passing information around the system. (An example format developed by the Welsh Assembly Government has been piloted in the youth justice system);
- a strong focus on provision to improve children and young people's Literacy, Language, Numeracy and ICT Skills, i.e. 'Functional Skills' and the 'Learning Core'¹⁹. Innovative techniques should be encouraged to engage children and young people in this learning including approaches such as 'embedded learning' and for example linking this learning with engagement in the Arts, etc;
- a full-time programme of education and/or training whenever this is appropriate to their needs and best interests. In YOIs, LAs should take account of constructive activities and training linked to the regime (such as catering for example) which is provided by the Prison Service; and

¹⁸ <http://wales.gov.uk/topics/childrenyoungpeople/publications/individuallearningplanpilot2008/?lang>.

¹⁹ <http://wales.gov.uk/topics/educationandskills/learners/learningpathways1419/?lang=en>.

- beyond these core expectations, host LAs have the flexibility to deliver learning which they consider to be appropriate to meet the needs of the youth custody population. This may be influenced by the facilities and capital infrastructure available in the custodial establishment(s) in the LA area as some establishments have facilities to support particular vocational training for example such as bricklaying, sports, painting and decorating, and motor mechanics, which can be particularly effective in engaging and motivating young offenders. LAs are encouraged to consider capitalising on particular vocational facilities available in planning the education and training to be delivered.

3.41 In commissioning suitable learning provision, LAs should consider the following:

- provision should, wherever possible be appropriate to the needs of the children and young people and dovetail with the national curriculum for children and young people of school age thereby ensuring that they have similar opportunities to those who are educated in the mainstream sector. However, this requirement is flexible in that we recognise that children and young people in custody can have a mix of very complex needs and may sometimes need flexible provision which falls outside of the national curriculum. It might include, for example 're-engagement' provision which can be an important first step in re-engaging children and young people in learning;
- that the Learning and Skills Measure Wales²⁰ indicates that the pupil or student must be provided with a document that records their learning pathway (learning pathway document). This means that it needs to record the course of study that they are entitled to follow (as per section 116E(1) of the Education Act 2002 or section 33F(1) of the Learning and Skills Act 2000); and the learner support services (if any) to be provided under the LS(W)M 2009;
- there should be a focus on delivering pre-entry and entry level related courses. This should be supported by relevantly qualified staff²¹ and resources;
- the majority of provision should contribute to recognised accreditation and achievement of national qualifications, although it is recognised that for some disengaged children and young people, wider non-accredited provision will be needed. NB. This must be in the context of a progression on to accredited qualifications leading in the longer term to skills for employability;
- the use of modular courses and accreditation should be encouraged to help ensure that learning and achievement can be transferred with the children and young people across their transitions linked to their individual learning plan as mentioned in paragraph 3.45 bullet point 1;

²⁰ http://www.opsi.gov.uk/legislation/wales/mwa2009/mwa_20090001_en_1.

²¹ <http://educationcymru.org/index.htm>.

- although it is recognised that it will be unlikely that one establishment would be able to offer the delivery of a full diploma course and qualification, we expect that establishments can support elements of learning which contribute to diploma courses in certain subjects and this should be considered in commissioning;
- apprenticeships cannot be delivered fully in custody because an apprenticeship programme requires that the person be employed. However, we expect that pre-apprenticeship training and learning which contributes to apprenticeships can be delivered in custody, just as this can be delivered in a college in the community;
- the delivery of vocational based courses which lead or contribute to the achievement of nationally recognised qualifications should be encouraged and in many cases this can be linked to the running of custodial regimes (e.g. catering and industrial cleaning);
- for children and young people for whom it is appropriate, provision should be available at level 3; and
- provision can include distance learning and e-learning when the young person is supported appropriately to get involved in this type of learning. This could include continued support from a tutor from the person's home community and school/college to help them continue their existing course of study/qualifications wherever possible.

Learning Coach

3.42 Learning Coaches work with children and young people in schools, colleges, workplaces, careers centres and youth clubs. The coaches have diverse backgrounds including teaching, careers guidance, classroom support, and company training. Two key interests underpin their work: (i) helping 14-19 year olds develop appropriate study skills and (ii) facilitating choice between options made available by the Learning Networks in Wales.

3.43 The defining characteristic of the Learning Coach is “anogaeth” – encouragement – based on helping children and young people to make sense of various learning worlds which extend beyond the classroom:

- Provision should include PSE (personal, social education)/citizenship education. An essential part of personal and social development is the cultivation of personal and social skills. These skills can be learned and practised in the classroom and applied in the many contexts and experiences offered in the wider school community²².
- Provision should also include arts and enrichment activities, and embedding of education and links to qualifications within this (e.g. literacy and numeracy, etc).

²² <http://wales.gov.uk/psesub/home/framework/?lang=en>.

- Provision should be available to meet the needs of children and young people on short periods of remand or short sentences, as well as those with longer sentences. For children and young people due to stay in custody for only short periods, for example for less than 2 months, we expect the local authority to commission provision which can assist in developing children and young people's literacy and numeracy skills in short periods, as well as engagement based programmes which seek to motivate and engage children and young people with the desire to learn further. This should specifically include literacy and numeracy courses which should be arranged so that children and young people on short stays can benefit from this provision.

Additional Learning Needs (ALN)

What are Additional Learning Needs?

3.44 The term ALN is much wider in scope than the term 'special educational needs' in order to recognise the diverse and complex needs of learners and to reflect a more holistic approach to meeting the needs of individual learners.

3.45 Additional learning needs can include people who, for whatever reason, require additional learning support because they are struggling to learn in comparison with their peers²³. School pupils may therefore require additional learning support if they have difficulty in learning because they have:

- special educational needs;
- a disability;
- medical needs;
- gaps in their knowledge or skills due to prolonged absences from the education system e.g. school refusers, school phobics or children and young people within the criminal justice system;
- difficult family circumstances e.g. due to bereavement;
- accessed education inconsistently e.g. Gypsy and traveller pupils;
- their first language is not English or Welsh, e.g. Asylum seekers/refugees/children of migrant workers;
- or because they are looked after by the local authority e.g. a child whose schooling was disrupted before being taken into care or has had frequent changes of school since taken into care;
- underachieving due to care responsibilities e.g. young carers;
- pregnant or a young parent;
- being bullied by their peers or other persons, due to their sexual orientation e.g. lesbian, gay, bisexual and transgender pupils; and
- pupils who perform or who have employment.

²³ www.wales.gov.uk/inclusionandpupilsupport.

3.46 Pupils defined as more able and talented are not considered to have ALN unless they have SEN or they have for whatever reason, greater difficulty learning a particular subject or skill in comparison with the majority of persons of the same age who are not able and talented (refer to above examples).

3.47 Estyn guidance to Registered Inspectors identifies some of the above groups of learners as potentially vulnerable (i.e. 'at risk' socially and educationally and needing attention to their social inclusion and well-being) as distinct from learners with additional support needs. The guidance makes it clear that not all learners within vulnerable groups are socially excluded or failing educationally, but that they are more at risk than other learners.

3.48 Some learners may belong to both groups e.g. learners with special educational needs who are looked after by the local authority. There are associated statutory requirements for some, but not all of these groups.

- *Support for Special Educational Needs (SEN) and Learners with Learning Difficulties and or Disabilities (LLDD):* LAs should ensure that they commission provision which is capable of meeting the needs of children and young people with a wide range of SEN and LLDD needs. This should include specialist advice and support.
- *Support for children and young people from England:* For children and young people from England who are held in custody in Wales, support should be provided to enable them to engage with the relevant educational curriculum.

Information on Cwricwlwm Cymreig and the Welsh Language Act 1993

3.49 In order to help mirror the mainstream provision available to children and young people in Wales, this is included for those providers in England working with children and young people placed with them from Wales.

Y Cwricwlwm Cymreig (Welsh curriculum) can help pupils to:

- understand and celebrate the distinctive quality of living and learning in Wales in the Twenty-First Century;
- identify their own sense of Welshness;
- feel a heightened sense of belonging to their local community and country; and
- help to foster in pupils an understanding of an outward-looking and international Wales.

3.50 Schools/education departments should be committed if they are to deliver Y Cwricwlwm Cymreig successfully and this commitment should arise from a realisation that the Welsh experience, in all its aspects, can provide an invaluable opportunity to extend the educational experience for all pupils in Wales.

3.51 To help schools achieve this, ACCAC, a former Assembly Sponsored Public Body (ASPB) whose functions are now part of DCELLS published guidance designed to help schools to plan and develop learning activities that promote the Cwricwlwm Cymreig. It will also be useful for those who are involved in initial teacher training and professional development. Information can be accessed via²⁴.

3.52 The Welsh Language Act 1993, which puts Welsh and English on an equal basis in public life in Wales, represents a milestone in the modern history of the language. The Act:

- places a duty on the public sector to treat Welsh and English on an equal basis, when providing services to the public in Wales;
- gives Welsh speakers an absolute right to speak Welsh in court; and
- establishes the Welsh Language Board to oversee the delivery of these promises and to promote and facilitate the use of the Welsh language. Further information can be accessed via²⁵.

Ensuring provision meets the needs of children and young people staying for both short and long periods of time

3.53 Provision should be available to meet the needs of children and young people on short periods of remand or short sentences, for example for less than two months, as well as those with longer sentences. For instance we expect the local authority to commission provision which can assist in developing children and young people's functional skills in short periods, as well as engagement-based programmes which seek to motivate and engage children and young people with the desire to learn further. This should specifically include literacy and numeracy courses which should be arranged so that children and young people on short stays can benefit from this provision.

Assessment of learning needs

3.54 Host LAs should ensure that providers assess children and young people's educational needs. This assessment should build on the educational information available from the young person's home LA or prior learning providers, as well as evidence from any prior educational assessments.

3.55 The host LA should ensure that all children and young people are assessed for their literacy and numeracy skills (unless the local authority is satisfied that they already have evidence of the person's current literacy and numeracy skills). This should usually occur within 2 weeks of the young person entering custody, unless the young person's personal circumstances mean this is inappropriate (e.g they need drug rehabilitation before they can be assessed etc). Repeat assessment of children and young people's skills should be avoided where this is unnecessary (because for example, results from a recent assessment are already available). Repeat assessments are generally thought to be de-motivating for children and young people and should therefore be avoided wherever possible.

²⁴ <http://accac.org.uk/eng/content.php?cID=3&pID=112>.

²⁵ <http://www.byig-wlb.org.uk/English/Pages/index.aspx>.

3.56 Information from assessments and the person's learning records should be used to inform any decision made on the particular learning to be provided to the person. This should also feed into the young person's learning plans and sentence planning.

Provision for children and young people with SEN/LDD

3.57 LAs should ensure that they commission provision which is capable of meeting the needs of children and young people with a wide range of SEN and LLDD needs.

Screening for SEN/LDD

3.58 Any prior information or information resulting from an assessment in custody which provides information about the person's SEN/LLDD should be recorded in the young person's learning plan.

Communication needs

3.59 Home LAs should work with the local health board who have the responsibility (unless it's stated specifically in part 3 of the statement of SEN) for speech, language and communication needs in order to require their providers to consider the needs of children and young people with communication difficulties and should consider how their needs are best supported. It is expected that speech, language and communication needs of the secure estate population in their area will be a consideration for host LAs commissioning provision.

3.60 Support for children and young people who speak English as a second language: Support should be provided for children and young people who speak English as a second language. Speaking English as a second language does not fall within the definition of a 'SEN', but the host LA is obliged to secure provision in order to meet their 'reasonable needs' as detailed in Section 18A and therefore support for this group of children and young people should be provided.

Release on Temporary License (ROTL) 'Mobility' and Information, Advice and Guidance (IAG)

3.61 Use of 'Release on Temporary License' (ROTL)/'Mobility': Subject to sentence requirements and passing risk assessments, some children and young people in custody can be eligible for 'day release' from custody for the purpose of engaging in opportunities in the local community to develop their skills and/or to prepare for resettlement. This can include, for example, attending a local college course, or undertaking work experience locally. This can be a very valuable mechanism to promote learning and achievement and effective resettlement, and LAs should consider and encourage this. LAs can achieve this through encouraging their designated learning providers to encourage and accommodate "Integrated timetabling": In commissioning learning provision in custody, LAs should work to encourage and support the use of "integrated timetabling" to ensure that education activities are fully embedded into the wider custodial regime.

3.62 In Wales, the Welsh Assembly Government contracts with Careers Wales companies for the delivery of impartial careers and labour market information, advice and guidance to all children and young people in education.

3.63 IAG services form an important element in the initial assessment of children and young people's learning needs to identify both relevant learning programmes during their stay in custody, and opportunities for further learning or employment on release that fit with their needs and aspirations.

3.64 It is good practice for learning providers in custodial settings to involve IAG service providers during initial assessment, the development of Individual Learning Plans and sentence planning.

3.65 Careers Wales companies have already developed good links with their local YOTS (Estyn 2008)²⁶ and it will be important for these links to be further developed and co-ordinated to provide greater consistency across Wales.

3.66 In looking at further advice and support available, CLIC online offers advice and information access for all ages between 11-25²⁷. There are 2.9 million people living in Wales. Children and young people constitute 30% of that population.

- An online channel and a quarterly magazine offering information, news and advice for all young people aged 11-25 in Wales.
- Information on a wide range of subjects and issues and where to get support in your local area.
- The online channel allows young people and the organisations that work with them to upload articles, pictures, videos, designs and publicise events and activities.
- Local county websites will be created and developed to become part of the 'All Wales' channel to share information, news and projects.
- Youth-led editorial groups will be set up nationally and locally for young people to develop content.

NB. Access to online services within custodial settings is still extremely limited.

²⁶ Meeting the learning needs of children and young people who offend June 2008.

²⁷ <http://www.cliconline.co.uk/>.

Section 4 – Commissioning for children and young people with statements of special educational needs (SEN) or learning difficulties and/or disabilities (LDD)

Overview

4.1 This section applies to both home and when the relevant provisions of the ASCL Act are in force host local authorities and describes LAs' duties in respect of all children and young people in youth custody with special educational needs (SEN) or learning difficulties and/or disabilities (LDD), including those who have statements of SEN immediately prior to entering youth custody. This section of the document also covers children and young people with suspected but as yet unidentified SEN or LDD.

Legal responsibilities

For children and young people with SEN or LDD but without statements or learning difficulty assessments

4.2 For children and young people in custody who have special educational needs or learning difficulties and/or disabilities but who immediately prior to their entering custody did not have a statement of SEN, the host LA has an overarching duty when securing 'suitable provision' in youth custody, to have regard to any special educational needs or learning difficulties and/or disabilities the persons may have. This means that the host LA, in securing learning for children and young people in youth custody, should ensure that provision is capable of meeting the needs of children and young people with special educational needs and learning difficulties and/or disabilities. This duty will apply for host LAs when they begin their new commissioning functions for education in youth custody under the Education Act 1996 (as amended by the ASCL Act 2009).

4.3 The new Section 562H in Part 10 of the Education Act 1996 places a duty on the host LA to inform the Welsh Ministers, if the home LA is in Wales. As well as this on the individual's release, if they believe the child or young person has special educational needs or a learning difficulty and/or disabilities which should be assessed, then they must inform the home LA. Again this will apply for host LAs when they begin their new commissioning functions for education in youth custody under the Education Act 1996 (as amended).

4.4 It is the Welsh Ministers who have this power in Wales, and the assessments are conducted under section 140 Learning and Skills Act 2000²⁸.

For children and young people with SEN statements immediately prior to entering custody

4.5 The ASCL Act inserted a new Section 312A into the Education Act 1996 and amended Section 328 of that Act. New Section 312A suspends Part 4 of that Act

²⁸ http://www.opsi.gov.uk/acts/acts2000/en/ukpgaen_20000021_en_1.

while a person is detained in relevant youth accommodation. This means that the local authority that was maintaining a SEN statement for a child or young person before they were detained should treat the statement as being 'on hold' during the time that the child and young person is detained in youth custody. The authority is required under s562C (2) to keep the statement while the person is detained. This will apply for all children and young people in youth custody (regardless of where they are detained).

4.6 New Section 312A and the amendment to Section 328 also provide that a child's statement of special educational needs, which was maintained before they were held in custody, should be revived and reviewed on their release by the LA responsible for maintaining it, if the child or young person is one for whom it is still responsible (that is, the child or young person is still of compulsory school age or is over that age and has not yet reached 19 but is still registered at a school). Where a new authority becomes responsible for the child or young person under Part 4 of the Education Act 1996 on their release (i.e. an authority other than the one responsible for maintaining the statement prior to their custody), the old authority should transfer the statement to the new authority and from the child's or young person's release the statement is treated as being maintained by the new authority. It is good practice to begin the process of reviewing the child or young person's statement prior to their release.

4.7 In addition, the new Chapter 5A in Part 10 of the Education Act 1996 confers a range of new duties on 'home' and 'host' local authorities in respect of people detained in youth custody for whom an LA was maintaining a statement of special educational needs prior to their custody.

4.8 Section 562C provides that the host LA should use its 'best endeavours' to ensure that appropriate special educational provision is made for the child or young person whilst they are in juvenile custody. It requires that this should be either the special educational provision specified in the person's statement, or provision corresponding as closely as practicable to that specified in the statement. If the provision specified is no longer considered appropriate, such provision as reasonably appears to the authority to be appropriate to meet the person's needs should be provided. This might be the case, where for example a young person has had a statement for a number of years and has recently been re-assessed – indicating that their needs have changed, but where the statement has not yet been amended before the person entered custody. This will apply for host LAs when they begin their new commissioning functions for education in youth custody under the ASCL Act.

4.9 Regulations made under Section 207 of the Education Act 2002²⁹ (as amended within the ASCL Act), enable host LAs to recoup the cost of making appropriate special educational provision for a child and young person under new Section 562C from the authority in whose area they normally reside. This means that host LAs will be able to recoup of the costs of delivering additional specialist provision to meet the needs of children and young people as set out in their SEN statements, where additional provision has been necessary. The

²⁹ http://www.opsi.gov.uk/acts/acts2002/ukpga_20020032_en_1.

Welsh Ministers propose to make regulations that will allow the host LA to recoup the cost of delivering this provision from the LA in whose area the young person belongs if the host LA need to commission additional specific provision.

4.10 Section 562C also requires that the LA which was maintaining the persons' statement prior to their custody should keep a copy of the statement while the person is detained. In addition the LA responsible for maintaining the statement should revive and review it on the person's release (as required by amendments to Part 4 of the Education Act 1996 in the ASCL Act). This will apply for all children and young people in youth custody (regardless of where they are detained) from September 2010.

4.11 Section 562D simply allows an authority to supply goods and services to the host LA or the actual person providing the special educational provision. This will apply for all children and young people in youth custody (regardless of where they are detained). It will apply when host LAs begin their new commissioning functions for education in youth custody under the ASCL Act.

4.12 Section 562G makes provisions to ensure that relevant LAs are aware when a child or young person is in custody and previously had a statement of SEN, so that the authorities can fulfil their new duties in relation to these children and young people. It requires the home LA to notify the host LA that the young person had a statement prior to entering custody and (where they were the authority previously maintaining statement) to transfer a copy of the child and young person's statement to the host authority. If the home LA is aware that another local authority was maintaining a SEN statement for the person prior to their custody, the home LA should notify the host authority of this fact and the identity of this LA. This will apply for all children and young people in youth custody (regardless of where they are detained). It will apply when host LAs begin their new commissioning functions for education in youth custody under the ASCL Act.

4.13 It also provides that any authority which was maintaining a child or young person's statement prior to their custody should, on request by the host LA, send a copy of the statement to the host LA. On the child or young person's release, the host LA should inform the home LA (and if different, the authority which prior to the child or young person's custody was maintaining the statement) of the child or young person's release. Also if the home LA is not the authority which prior to the child's and young person's custody was maintaining the statement, the host LA should inform the authority that the person had a statement and which LA was maintaining it.

4.14 Section 562G also provides that LAs need not make notifications of any matter of which they are already aware or to send copies of any statement to an LA which already has a copy of it.

4.15 To facilitate the above legal requirements, new provisions created by the ASCL Act allow for the transfer of educational information from a young person's previous education provider to the home and host LA. This includes any information relating to a young person's special educational needs, including their SEN statement. Further details and guidance on the transfer of educational information is set out in Section 6 of this document.

Guidance on meeting the needs of all children and young people with SEN or learning difficulties

NB. *Most of the rest of Section 4 will not apply until host LAs begin their new commissioning functions for education in youth custody under the ASCL Act. That includes the duties on home authorities to send information to host authorities (as until the host authorities are under a duty to make the provision there will be no purpose in home LAs sending them information).*

Paragraphs 4.20 and 4.21 apply as from the completion of the consultation process in Wales but otherwise the paragraphs will apply as and when the provisions of the ASCL Act on host authorities' duties are commenced. Para 4.32 also applies as from the completion of the consultation process in Wales but there will be no duty on the host LA to notify the home authority of the release and the existence of the statement. The YOT will be under a duty to notify of the release and the LA responsible for the SEN statement will have to revive or review it (as sections 51 and 52 of the ASCL Act are being commenced in September).

4.16 The host LA, should in their commissioning of provision in youth custody, secure a range of education and support which is capable of meeting the needs of children and young people with varying degrees of SEN. Host LAs should then require their learning providers to ensure that children and young people with SEN in youth custody receive appropriate provision and learning support to meet their individual needs.

4.17 Host LAs should require that their learning providers in custody ensure that all children and young people in custody are screened for SEN/LDD. For most children and young people this should be during the first 2 weeks of their time in custody, or whenever is most appropriate for the young person given their personal circumstances and wider needs. Host LAs should ensure that the information from the screening process feeds into and informs the young person's learning plan and the learning provision and support which they receive.

4.18 Where screening tests identify that children or young people have complex SEN or LDD needs, LAs should require that their providers use further assessment tools in order to be able to identify the young person's range of needs and use this to inform the provision and support to be provided for them.

Children and young people without identified SEN but who on release may require a statutory SEN assessment

4.19 Host LAs should notify the child or young person's home LA, on their release, if the host LA considers that they may need a statutory SEN assessment. Therefore, host LAs will need to require that their providers identify children and young people who they consider may have SEN needs warranting an assessment on their release and should inform the home LA of this fact on their release (through the transfer of the person's learning records). The home LA on receiving this information should then make appropriate arrangements to ensure the child and young person receives a statutory assessment (as detailed in wider 'mainstream' guidance for SEN). Where the home authority are not the authority responsible for the child on their release

under Part 4 of the Education Act 1996, the home authority should ensure that the authority now responsible for the child is aware that a SEN assessment may be required.

For children and young people with SEN statements immediately prior to entering custody

4.20 A local authority which was maintaining a statement for a child or young person immediately prior to their detention should, during their period of custody, treat the statement as if it is 'on hold'. However, the authority which was maintaining the statement should keep a copy of the statement whilst the child and young person is detained in custody, and subject to meeting the usual requirements for a statement, the statement should be reviewed on the child and young person's release.

4.21 In the unlikely event that a young person under the age of 18 was held in 'young adult' or 'adult custody' the local authority responsible for maintaining a copy of the statement immediately prior to custody should keep a copy of the statement in case the child and young person is returned to youth custody, and is then released from youth custody, meaning that the statement should be reviewed.

4.22 For children and young people with SEN statements immediately prior to entering custody, host LAs should use their best endeavours to deliver provision to meet the child and young person's needs as set out in their SEN statement. Host LAs will need to consider whether the menu of provision and support they have commissioned to be delivered in custody is enough to meet the child or young person's needs, or whether they need to commission additional support/provision to meet particular special educational needs. In fulfilling these responsibilities, the host LA will need to secure delivery of the special educational provision specified in the child or young person's statement, or provision corresponding as closely as practicable to that specified in the statement.

4.23 The host LA may decide that the provision specified in the child or young person's SEN statement is no longer appropriate because, for example, the statement was drawn up a long time ago and a more recent assessment of the child and young person's needs has revealed that their needs have changed and that they therefore require different provision and support from that specified in the statement. In the event that the provision specified in the statement is deemed no longer appropriate, LAs should assess the young person to determine what provision is needed and should take into account the person's wider educational records and, for example, the views of the young person in line with the National Participation Standards for Wales³⁰ and their parents/carers:

³⁰ <http://www.participationworkerswales.org.uk/participation/what-is-participation>.

³¹ *'Participation means that it is my right to be involved in making decisions, planning and reviewing an action that might affect me. Having a voice, having a choice.'* WAG (2004).

4.24 Host LAs should ensure that their appointed provider(s) in custody is informed that a child or young person has a SEN statement and that a copy of the statement is passed to them. They should also require that the provider in custody ensures that teachers working with the child or young person are aware of their SEN statement.

4.25 Host LAs should seek to ensure consistency in SEN support for the child or young person wherever possible.

4.26 If the existing education provision and SEN support commissioned by the host LA is insufficient to meet the needs of those with SEN statements, LAs will need to commission further provision and can recoup the cost from the LA in whose area the person belongs. The host LA should recoup these costs in the usual manner as for SEN provision linked to statements in the community when this is provided in a different local authority area. The Welsh Ministers propose to make regulations that will allow the host LA to recoup the cost of delivering this provision from the LA in whose area the young person belongs if the host LA need to commission additional specific provision.

Notifications that a person has a statement and transfer of the statement

4.27 When a home LA is notified by the local YOT that a child or young person normally resident in their area who has a SEN statement has entered custody, they must notify the relevant host LA of the existence of the statement and which local authority was maintaining it.

4.28 The home LA should then transfer a copy of the person's SEN statement to the host LA (in practice the home LA should work with the YOT to ensure this happens which will allow for the use of existing information transfer mechanisms).

4.29 If a scenario arises where the host LA has been informed that a person in custody has a SEN statement but has not yet received it – the host LA should request a copy from the LA which was maintaining the statement. When LAs receive such a request they are legally obliged to comply with the request. The documents should be forwarded as soon as possible and within 5 working days.

4.30 When the young person is released from custody, the host LA should notify the home LA (and if different, the LA that was maintaining the statement) that the person is being released and that they had a statement of SEN.

³¹ In November 1989, the United Nations General Assembly adopted the Convention on the Rights of the Child (UNCRC). In December 1991, the UK signed up to ('ratified') the Convention. In line with this the Welsh Assembly Government has made a commitment to promote and support children and young people's participation and to implement children and young people's right to participate as stated in Article 12 through formally adopting the (UNCRC). The right to participation helps children and young people to claim all the other rights set out in the UNCRC.

4.31 The LA responsible for maintaining the SEN statement should then revive and review it. If the young person no longer meets the relevant criteria for a SEN statement (for example they may be over the age limit), the LA responsible for maintaining it would no longer be obliged to revive or review the statement.

4.32 Where, on the young person's release, the host LA is aware that the statement was being maintained by a different LA to the home LA, the host LA should inform the home LA of this fact.

Learning Difficulty Assessments

4.33 In Wales the assessments are carried out under section 140 of the Learning and Skills Act 2000 as indicated in the earlier paragraph 4.4.

4.34 For host institutions within Wales, if the person's home authority is an authority in England, the host LA should inform the YJB placement team who in turn will communicate with that particular home LA. Also where the home authority is not the authority responsible for the person on their release, the home authority should ensure that the authority now responsible for the child is aware that an assessment may be required.

Home LA checklist

- When a young person from their area enters youth custody and has a SEN statement, they should notify the relevant host LA of this fact, and should ensure that a copy of the statement is transferred.
- When a young person from their area enters youth custody and has a SEN statement, the home LA should treat this as being 'on hold' and they should keep a copy of the person's statement.
- On the young person's release, the LA should consider whether the person is still eligible for a statement and if they are, they should revive and review the person's statement.
- If the home LA receives a request from a host LA to forward a copy of a person's SEN statement (for a young person detained in youth custody in their area), they should provide it and should do so within 5 working days.

Host LAs checklist

- Commission provision in youth custody which is capable of meeting the needs of children and young people with varying degrees of SEN and LDD needs.
- Require learning providers in custody to ensure all children and young people in custody are screened for LDD during their first two weeks of entering custody, and that the outcome is fed into their learning plans.
- Require learning providers in custody to use further assessment tools for SEN/LDD when screening tools indicate this is necessary, and that the outcomes are used to feed into the young person's learning plans.

- Require learning providers in custody to notify them when they consider a person may need a section 140 assessment and in relation to those assessments the duty is to inform the Welsh Ministers. It is in relation to the SEN assessments that the duty is to inform the home LA.
- Put in place arrangements to ensure that when children and young people with SEN statements enter youth custody in their area, that they consider whether the menu of provision available in youth custody is sufficient or whether they need to commission specific additional provision and to commission this provision when necessary (and recoup the costs of this from the relevant home LA).
- Ensure learning providers in custody are aware of when children and young people in the establishment have SEN statements/LDD assessments and have a copy of these.
- Request a copy from the home LA (which the home LA is legally obliged to comply with). If the host LA becomes aware that a person in youth custody in their area has a SEN statement and the host LA has not received a copy of it, they should.
- Notify the home LA when a person with a statement is being released. If the host LA is aware that the statement was being maintained by a different LA, they should inform the home LA of this fact.

NB. Under the home LA checklist, bullet points 2 and 3 refer to the home LA but it is not necessarily the home LA that will be responsible for the statement. It is the LA responsible for maintaining the statement that must treat it as on hold and keep it. Similarly for bullet point 2 it is the LA responsible for the child that must revive and review the statement, and that won't necessarily be the home LA. Both these bullet points apply at the completion of the consultation process in Wales, whereas the rest of the checklists will not apply until the relevant provisions of the ASCL Act on host authority duties are commenced.

Section 5 – Information transfer for children and young people in youth custody

Overview

5.1 This section applies to both home and host local authorities and describes LAs duties and powers in respect of information transfer relating to education for children and young people in youth custody.

NB the information about the programme below within Wales has been placed as part of this section as it links closely to the 'Information Transfer' content. However, it is important to highlight this underpins most of the guidance focus in all of its sections.

Legal responsibilities

5.2 The Welsh Assembly Government has established a single, national programme to improve the sharing of personal information on children, young people and vulnerable adults across public services. The initiative grew from the Laming Report³², and Children Act 2004³³, as a result of which a scoping study on information sharing across professionals and agencies working with children and young people was commissioned by the Department for Children, Education, Lifelong Learning and Skills (DCELLS) and carried out by Atkins Consulting.

5.3 In response to the study recommendations, a Director General level Corporate Programme Board has been established to lead the programme and the scope of the work has been extended to include vulnerable adults. The first phase will focus on extending effective use of the Wales Accord for the Sharing of Personal Information (WASPI), and establishing Information Sharing Communities at local level, bringing together representatives from key agencies to advise practitioners on safe and legal practice. The developing information sharing programme will raise practical implications for the provisions of this guidance, which will be taken into account as the details are implemented. Arrangements have been made to engage those to whom this guidance is directed in the programme, particularly as members of its Stakeholders' Forum.

5.4 The new Chapter 5A in Part 10 of the Education Act 1996 confers a framework of duties and powers relating to the transfer of educational information for 'home' and 'host' local authorities and other relevant organisations in respect of children and young people detained in "relevant youth accommodation".

5.5 New Section 562F of the Education Act 1996 allows for the transfer of educational information from a young person's school or previous place of learning, to the home and host LA. It provides that any person who has provided education or training for a detained person (including while they are in custody) can provide information relating to the detained person to the home and host LA for the purposes

³² <http://publications.everychildmatters.gov.uk/default.aspx?PageFunction=productdetails&PageMode=publications&ProductId=HC+330>.

³³ http://www.opsi.gov.uk/acts/acts2004/ukpga_20040031_en_1.

of, or in connection with the provision of education or training for the person. This will enable the person's school, or other place of learning and any provider of education in custody to share information with the home and host authority for the purposes of securing the provision of education both during their period of custody and on their release.

5.6 The provisions also require LAs to comply with any requests for such information made by a youth offending team (YOT), another LA, the custodial operator and any provider, or proposed provider, of education to the detained person. This means that when requested by any of these bodies, the LA should provide such information as it holds relating to a person as the requesting person requires for the purposes of or in connection with the provision of learning for the person. It is important also to highlight the duty on Welsh Ministers to provide copies of section 140 assessments (see s562F(5) and (6)).

5.7 These assessments enable educational information to be transferred by the home or host LA to those who will be providing education or will be involved in the person's education in custody and on their release. The types of information shared might, for example, include the educational achievements of the person, their current programme of study and information relating to any special educational needs the person may have (including a person's SEN statement).

5.8 New Section 562I provides that when exercising any of the functions under the new Chapter 5A, local authorities should have regard to any guidance issued by the Welsh Ministers. This document provides such guidance.

Guidance on how this should be delivered

***NB.** Duties do not apply until host LAs are under a duty to provide education for young offenders.*

5.9 The transfer of educational information about children and young people in youth custody should occur quickly in order to have most impact on learning plans and sentence plans in custody. It is therefore important that children and young people's personal learning information and or records are obtained and transferred promptly.

5.10 This guidance provides practical examples for how a person's educational information should be obtained and transferred and how this can be integrated within existing systems. Information should be transferred electronically wherever possible and linked to existing youth justice system information sharing mechanisms (for example through eAsset, secure email and the new YOT Case Management System currently being developed).

5.11 The young person's home LA, working with the YOT should request and collate information about their education. This should include, for example whether they are, or recently have been in learning and any other relevant information about their education which the LA may hold. The YOT should also ask whether the person has a SEN statement.

5.12 If the person is or was recently in learning the YOT (on behalf of the home LA) should request relevant educational information from the young person's prior education provider(s). This should include information such as the person's attainment, skills levels, course of study, learning needs. The person's providers should be encouraged to supply this information to the YOT within 5 working days and all transfers should be in accordance with the Data Protection Act 1998.

5.13 The home LA, working with the person's supervising officer in the YOT, should then ensure that the information is sent to the case manager in custody who ensures that the information is used to inform the person's initial planning meeting and development of learning and sentence plans. The host LA should ensure the arrangements require that the young person's educational information is shared with the other relevant people in custody (for example, the learning provider in custody, the IAG provider and the Head of Learning and Skills in YOIs). The young person's learning plan should then be developed and agreed, and form part of the sentence plan. Learning providers appointed by host LAs to deliver education and training in custody should have regard to any information provided by the person's home LA. Therefore learning providers should ensure that this information feeds into the person's learning plans.

5.14 If the person transfers from one establishment to another, the young person's information (including their education record) should be transferred to the case manager in the new establishment. This information should be distributed to the relevant people (including the education provider), and should then be used to plan their sentence and education provision in the establishment.

5.15 When a young person is released, the home LA (working with the YOT) will need to ensure that they receive the person's learning records from custody to inform their education-related resettlement plans. The home YOT should already be in contact with the custodial establishment, through the supervising officer, to be planning the person's resettlement and so should know the person's release date and be planning appropriate education and training for the person's release. Until the duties for host local authorities are in place it is important that the home LA working with their YOT, build a working relationship with the education providers commissioned within the custodial estate and support the information transfer to help the child or young person progress with their educational needs entering custody and on their release.

5.16 The expectation is that the parties will work collaboratively to ensure a seamless transition and to put in place supportive arrangements to ensure children and young people have the best possible chance of re-settlement.

5.17 If, at the beginning of this process, it is identified that the young person has a SEN statement, then the Home YOT should obtain a copy from the LA, and acting on behalf of the home LA they should send a copy to the case manager in custody and to the host LA (at the same time). This allows the case manager in custody to ensure this is seen by those who need to see it (e.g. the education provider and the IAG provider) and that it is considered in the sentence (and learning planning meeting etc). *NB. The duty is on the home LA (not the YOT) to send the copy. Again this paragraph will not apply until host LAs are under a duty to provide education for*

young offenders. It is important however the home LA works in partnership with the YOT supervising the young person within their area.

Information sharing when children and young people transfer establishment during their sentence or following remand

5.18 The YOT Supervising Officer will be aware when a young person transfers to a different custodial establishment and YOTs are required to inform home and host LAs of this fact through the amendment in the ASCL Act to the Crime and Disorder Act 1998³⁴ (new Section 39A).

5.20 The home LA, working in partnership with the home YOT, should at this point ensure that the person's educational records are transferred to the new establishment (the case manager should transfer their records to the case manager at the new establishment). This should include any additional information collated while the young person was detained in custody. It should also include a copy of the person's SEN statement if they have one.

5.21 The host LA for the new establishment should ensure that the person's relevant educational information is copied to those who need to see it (including the education provider, the IAG provider, etc.) to ensure that the new custodial establishment is able to plan and deliver suitable education provision to meet the young person's actual needs.

5.22 When a young person transfers from one establishment to another, education providers appointed by host LAs should ensure that any decisions as to the education or training to be provided for a person, where possible, enable the person to continue studying a course they have already started. This substantially increases the likelihood of the young person continuing to engage. *NB. These paragraphs will not apply until host LAs in Wales are under a duty to provide education for young offenders within custody.*

Information sharing in preparation for the young person's release

5.23 The young person's supervising officer at the home YOT will be aware of when the person is due to be released. The home LA should work with the YOT to consider the person's educational information and use this to inform the person's resettlement plans and plans for education and training on their release.

5.24 The final review meeting is part of the process for the release of a young person from custody and is used to establish the young person's needs and ensure that they are met while addressing any underlying behaviour thereby reducing the likelihood of re-offending. Information detailing any education the young person has undergone during custody will be used to inform this meeting and will enable the YOT to facilitate their educational progress upon release.

³⁴ http://www.opsi.gov.uk/acts/acts1998/ukpga_19980037_en_1.

Annex 1

Funding

When existing contracts are terminated, host LAs will receive dedicated funding from the WAG in order to commission education and training for children and young people in youth custody (and the YJB will continue to fund the wider cost of placements for children and young people in youth custody).

From September 2010 in England only, local authorities with Prison Service YOIs in their area will inherit existing contracts and associated funding formula from the Young People's Learning Agency (YPLA). The existing contracts are based on a 'bed price' funding formula for the cost of learning in youth custody in order to ensure equitable spend across the secure estate. The contracts fund a minimum of 15 hours of provision for each young person (and in addition the Prison Service delivers a range of further 'constructive activities' in each establishment).

The funding provided for learning in youth custody should be spent solely on this purpose.

The contracts provide a 5% claw-back mechanism for under-performance which host LAs will be able to utilise, however, any savings will need to be reinvested within the establishment to improve education and training services further.

Annex 2

Glossary

'Youth' Custody

This term should be taken to mean secure establishments for children and young people in the youth justice system, and these are otherwise known as 'juvenile secure establishments', 'juvenile custody' or the 'juvenile secure estate'. It covers secure establishments which hold children and young people either remanded or sentenced to secure custody and includes children and young people aged 10-17, and some 18 year olds who remain in the youth secure estate because they are near the end of their sentence and have therefore not been moved to secure custody in the adult prison estate (which includes custodial places in 'young adult' accommodation for young people aged 18-20 in YOIs and 'adult' prison). The term 'youth custody' therefore covers youth accommodation in Prison Service YOIs, Private YOIs, Secure Training Centres and Secure Children's Homes.

'Young adult' and 'adult' custody

In Wales, the Welsh Assembly Government has the responsibility for adult education and training within custody for adults in Wales. The term 'Young adult' custody covers custodial accommodation accommodating persons aged 18-20 and this forms part of the adult custodial estate. Some YOIs cater purely for 'young adults'. Some YOIs are 'split-site' and have a site for 'young offenders' and a site for 'young adults'. Under the ASCL Act, in England learning for persons in 'young adult' and 'adult' custody will be the responsibility of the Chief Executive of the Skills Funding Agency.

'Children and young people' within youth custody

Within the context of this document, 'children and young people' in youth custody are taken to mean children and young people aged 10-17, as well as any young people aged 18 who have remained in youth custody because, for example, they are near the end of their sentence. The new duties imposed by the ASCL Act on local authorities in relation to young offenders apply in relation to this group of young people.

'Host' LAs

A 'host' LA is defined as any local authority with a youth custodial establishment in their geographical area. There are currently 2 host LAs in Wales and 22 in England.

'Home' LAs

This is the local authority where the detained young person is ordinarily resident (excluding any period when the young person is subject to a custody order) or, in relation to a child or young person who immediately before their custody was or, at any time since then, has been looked after by an authority under the Children Act 1989, the LA that is or was most recently looking after the person.

The Youth Justice System

Describes the full justice system for young offenders aged under 18 (and some 18 year olds near the end of their sentence). It spans prevention, pre-court, court and sentencing, custody and resettlement. A number of agencies are involved in the youth justice system including Youth Offending Teams, local authorities, Health and the Police.

The Criminal Justice System (CJS)

The general network of institutions and policies which serve to deter criminal activity and take action against those who commit crimes including sentencing. The CJS operates in relation to all persons who are involved or suspected of being involved in criminal activity, however under 18s are referred to the youth justice system to ensure that their particular needs are met.

NB. Children and young people's Learning Agency (YPLA) NB

This is England only but is included for information purposes.

The new YPLA which together with the Skills Funding Agency (SFA) will supersede the Learning and Skills Council (LSC) and from April 2010, will be responsible for 16-19 funding, as well as funding for young people aged 19-25 with learning difficulties and disabilities, and in future will take on responsibilities for young offenders in youth custody.

Skills Funding Agency (SFA)

NB. This is England only but is included for information purposes.

The new Skills Funding Agency, which together with the new YPLA supersedes the Learning and Skills Council (LSC) from April 2010. The SFA will be responsible for funding post 19 learning, as well as offender learning in adult custody (including 'young adult' custody).

Core partnership

This describes the prison operator, the provider in custody and the host LA. This group should meet regularly (for example, every 6 weeks) and be integral to planning and commissioning learning provision in youth custody and to monitor delivery.

Information, Advice and Guidance (IAG)

This consists of impartial information, advice and guidance for children and young people including about education, training and employment. In Wales, this is primarily provided by Careers Wales, along with CLIC and should inform a young offender's education and training provision and resettlement plans.

Initial Planning Meeting (IPM)

This should take place within 10 working days of a young person receiving a custodial sentence. This meeting is used to discuss the young person's sentence plan including their learner plan.

Mainstream education provision

For the purposes of this guidance, 'mainstream' is intended to refer to the education provision supplied for children and young people who are not part of the criminal justice system. The children and young people who follow the more 'traditional' routes of education, i.e. through mainstream school, college etc.

National Offender Management Service Cymru (NOMs Cymru)

NOMs is an agency of the Ministry of Justice responsible for commissioning and delivering offender management services for offenders both in custody in Prison Service establishments and adult offenders within the community. NOMs oversee and monitor the Prison Service secure estate, including YOIs.

Prison Service Young Offender Institutions (Prison Service YOIs)

There are no Prison Service YOIs in Wales. There are currently 14 Prison Service YOIs in England, four of which include a girls unit. Ashfield and Stoke Heath remain the places where the largest numbers of Welsh children and young people are placed in England. Eastwood Park is where Welsh females are placed. These YOIs are managed by Her Majesty's Prison Service and tend to be the largest establishments (many cater for several hundred children and young people). They take children and young people aged 15-17, and also hold some 18 year olds who are near the end of their sentence. The new duties in the ASCL Act 2009 in relation to young offenders would apply in relation to Prison Service YOIs as from September 2010 in England only.

Privately managed Young Offender Institutions (Private YOIs)

In Wales there is one privately managed YOI, HMP Parc in Bridgend. There is currently only one privately managed YOI in England and this is managed by a private contractor through a long term Private Finance Initiative contract. Private YOIs hold children and young people aged 15-17, and some 18 year olds who are near the end of their sentence.

Secure Children Homes (SCHs)

There is one Secure Children's Home in Wales, Hillside Neath Port Talbot. NB. For information there are currently 9 Secure Children's Homes in England and a small number of children and young people from Wales are placed in SCHs in England who hold contracts with the Youth Justice Board. These are currently all managed by LAs, and hold children and young people aged 10 to 17. They are the smallest type of establishment and typically house between 4 and 25 children and young people.

Secure Training Centres (STCs)

There are no Secure Training Centres in Wales. There are currently 4 Secure Training Centres in England. A small number of children and young people from Wales are placed in STCs in England. They are privately managed under long term Private Finance Initiative (PFI) contracts and cater for children and young people aged 12-17 as well as some 18 year olds near the end of their sentence. They typically hold 40-80 children and young people per establishment.

Education has been funded as part of the contract for operating the establishment and is therefore commissioned by the YJB.

Youth Justice Board (YJB)

The YJB is a public body which oversees the youth justice system in both England and Wales. It works to prevent offending and re-offending in under-18s, and to ensure that custody for this vulnerable age group is safe, secure and effective. To this end, they focus attention on addressing the underlying causes of the person's offending behaviour.

Youth Offending Teams (YOTs)

There are 18 Youth Offending Teams in Wales. (NB. Some areas in Wales are joined together e.g. Monmouth and Torfaen.) YOTs bring together representatives from the police, Probation service, housing, health, education, drug and alcohol misuse, and social services to tackle the issues surrounding youth offenders. Each LA is required to appoint a YOT. For the purposes of this guidance, the 'home' YOT is the YOT based in the area the young person is ordinarily resident in. There is no 'host' YOT per se since the YOT based in the same area as the custodial establishment will have no involvement with the young person during their time in custody.

Children and young people plans

The Welsh Assembly Government requires (Children Act 2004) that every authority in Wales should cooperate with partners to develop a plan which sets out the priorities and actions which will be put in place to improve outcomes for children, young people and their families over the three-year period 2008-2011.

14-19 Learning Networks

14-19 Networks are groups of strategic organisations, learning providers and learners within a local authority. They secure the range of programmes and support necessary to ensure learners have access to all elements of Learning Pathways at age 14-19.

Annex 3

Background to the secure estate

The youth justice system covers England and Wales and around 6000-7000 children and young people aged 10-17 enter youth custody each year. Children and young people held in youth (or 'juvenile') custody are aged 10-17, as well as some 18 year olds who stay in the youth custodial estate because they are near the end of their sentence (and it would be disruptive to move them). The overall average length of stay for a young person in youth custody is between 3 and 4 months, although the length of stay can vary widely from a few days to many years and average length of stay varies in different establishments.

The Youth Justice Board (YJB) is responsible for overseeing the youth justice system and is responsible for commissioning places in secure custody for children and young people remanded or sentenced to custody. The YJB therefore contracts with custodial establishments to purchase 'beds' for children and young people in youth custody. The YJB is also responsible for placing children and young people who are remanded or sentenced to custody into a custodial establishment, and they take into account a range of factors in doing so (e.g. the person's level of vulnerability, closeness to home, as well as wider factors including education, etc).

Because the Youth Justice System operates across England and Wales, this means that children and young people from England can be placed in custody in Wales (and vice versa).

Annex 4

Roles and responsibilities

This annex provides an overview of the roles and responsibilities of key national, regional and local partners with regards to the delivery of education and training services to meet the needs of children and young people in the youth justice system and for the raising of standards.

Department for Education (DforE)

In the area of supporting the learning of young people within the criminal justice system, the Welsh Assembly Government works at a national level in partnership with a wide range of other Government Departments and agencies; including the Youth Justice Board (YJB) England and Wales and the Department for Children Schools and Families (DOFE). The Welsh Assembly Government also works closely with a range of national and local partners within Wales to secure delivery of its policy objective.

Host local authorities

Local authorities with secure establishments in their area will need to fulfil their responsibilities in the ASCL Act towards young offenders in youth custody. This includes securing suitable education and training. In fulfilling this duty host LAs will need to have regard to statutory guidance issued by the Welsh Assembly Government.

The host LAs will also need to adhere to any conditions of grant passed down from the Welsh Assembly Government.

Home local authorities

All local authorities will likely at some point be a home local authority – and most if not all host LAs will at the same time be home LAs. Home LAs will need to fulfil their new responsibilities in the ASCL Act 2009 towards children and young people who ‘belong’ in their area but who enter youth custody (whether they enter custody in the same LA area or in a different LA area). This means that they need to fulfil their duty to promote the fulfilment of a person’s learning potential in custody and on their release and in doing so they will need to have regard to statutory guidance issued by Welsh Ministers. It will be up to local authorities to determine how they fulfil their duties, for example via their education authority staff, or through YOT staff (or both), however ultimately the LA Chief Executive will be responsible for fulfilling the duties.

Youth Offending Teams (YOTs)

Each LA is legally required to have a YOT. The new duties in the ASCL Act 2009 require that YOTs should inform LAs when a young person enters youth custody, leaves youth custody or transfers establishment. In practice LAs should already be aware of when a young person enters custody but YOTs will need to ensure that routine arrangements are in place to ensure that LAs are aware of this and for this

information to be shared with appropriate education staff so that the new duties can be properly fulfilled, e.g. including transferring educational information and learning records. It is expected that LAs will work closely with YOTs to embed information transfer within existing information transfer mechanisms.

Youth Justice Board (YJB)

The YJB continues to be responsible for placing children and young people in custody and ensuring that custody is safe, secure and tackles the causes of offending etc. The YJB will remain responsible for overseeing regimes in youth custody, monitoring the secure estate and spreading best practice. This means that the YJB will continue to influence the provision of education and training in youth custody and advise on how this is best integrated with wider services and regimes in custody. This will involve working with government to influence and advise on policy and to advise on the number of places in the secure estate, the needs of the populations, the facilities available in custodial establishments, the development of funding formulas, integration with wider regimes, and the core expectations that should be required in the secure estate, etc. The YJB will also continue to monitor education and training to fulfil their legal duties to monitor the secure estate.

National Offender Management Service (NOMs) Cymru

NOMs oversee the operations of the prison service and set standards and targets for prison service establishments. NOMs will need to contribute advice and expertise to the WAG to ensure that the WAG's expectations for provision in youth custody is fit for purpose in the secure estate and to advise on funding formulas etc. NOMs monitoring of the secure estate will need to feed into the YJB monitoring.

Education leads in the youth custodial estate

The Head of Learning and Skills post-holders (HOLS) in YOIs are employed by the prison service to oversee the provision of learning and skills and to ensure full integration of this into the wider regime. In YOIs, the HOLS provides an important link between the prison service as the manager of the establishment and the provision delivered by the LA (or their designated provider). It is critical that there is a strong relationship between the HOLS and the provider in custody – as the HOL has a role in influencing the provider in terms of advice and expertise on delivering education in the secure estate etc, and in linking to the prison senior management to promote education and help resolve issues affecting the provision of education and training etc.

Y Cwricwlwm Cymreig

The Common Requirements of the School Curriculum in Wales provide that:

'Pupils should be given opportunities, where appropriate, to develop and apply knowledge and understanding of the cultural, economic, environmental, historical and linguistic characteristics of Wales.' This statement is deliberately inclusive and aims to reflect the plurality and diversity of Wales in the twenty-first century. Its

requirements will help pupils to understand what is distinctive about life in Wales, to celebrate diversity and to acquire a real sense of belonging.

The Common Requirements statement identifies five aspects of Y Cwricwlwm Cymreig – cultural, economic, environmental, historical and linguistic. The following ideas are intended to illustrate what might contribute to each. The lists vary in style and content. Some items are subject-based; others require whole school approaches. They aim to stimulate thought and discussion in schools.

Managers of the youth custodial estate (Governors/Directors)

In relation to the education and training, managers of the secure estate will work closely with the LA and their designated provider(s) (and they will have a duty to co-operate with LAs through secondary legislation). Custodial operators should work to foster an integrated timetable/regime, where education and training delivered by the LA is seen as an integral part of the regime for every young person. All children and young people should receive education delivered by the LA's providers. The operator should ensure that children and young people can get to education provision and that they are not diverted from education to participate in other non urgent/critical activities. In YOIs the prison service is also responsible for delivering 'constructive activities' for children and young people which can include training activities linked to the wider custodial regimes for example.

Providers delivering in custody

Providers in youth custody will be responsible for delivering education and training for children and young people in youth custody and will fulfil many of the legal responsibilities on behalf of the local authority. The providers will be responsible for fulfilling any conditions of grant set by the LA (and fulfilling any contractual agreements which are held between them and the LA). This will include a core set of expectations about what education and training is delivered in custody.

Providers in custody will need to fully cooperate with the organisation and staff responsible for managing the establishment and those delivering wider services. This will include joint planning with the establishment to fully integrate learning and skills provision into the establishment regime; it will also include adhering to security procedures and wider relevant custodial procedures.

Ofsted

Ofsted will continue to be responsible for assessing the quality of education and training in youth custody, and for YOIs, this continues to be in partnership with Her Majesty's Inspectorate of Prisons and Estyn. Ofsted will continue to foster sustained improvements in the quality of provision in youth custody.

Estyn

Is the office of Her Majesty's Inspectorate for Education and Training in Wales. Estyn will be working with Ofsted to further develop their future role.

Section 140 assessment:

Section 140 [of the Learning and Skills Act 2000] sets out the statutory provision for the assessment of young people with LDD. The legal requirement is placed upon the Secretary of State. Connexions Partnerships will deliver it'. (Connexions Service National Unit/Department for Education and Skills, 2004). 'Section 140 of the Learning and Skills Act 2000 requires an assessment of the young person in the final year of compulsory schooling, where this person is likely to move on to post-16 education, training or higher education.' (Connexions Service National Unit, 2002b). The responsibility for carrying out this assessment lies with the local Connexions Service.

Annex 5

Placement of children and young people in custody (Wales) – YJB February (2010)

| | YOI | | | | | | | STC | | | SCH | | | | Grand total | |
|------------------------------------|-----------|---------------|----------|-----------------------------|-----------|-------------|-----------|-----------------|-------------|-------------|-----------------------------|-----------|-----------|-----------------------------|-------------|--------------|
| | Ashfield | Eastwood Park | Hindley | Oswald Unit (Castington) | Parc | Stoke Heath | Werrinton | Hssockfield STC | Oakhill STC | Rainsbrooke | Barton moses Secure Unit | East Moor | Hillside | Red bank Community House | | Vinney Green |
| Bridgend | 1 | | | | 11 | | | | | | | | 1 | | | 13 |
| Caerphilly and Blaenau Gwent | 1 | | | | 6 | | | | 1 | | | | | | | 8 |
| Cardiff | | 1 | | | 14 | 1 | | 1 | | | | 2 | | 1 | | 20 |
| Carmarthen- shire | 1 | | | | 3 | | | | | | | | | | | 4 |
| Conwy and Denbigh- shire | 1 | | 2 | | | 4 | | 1 | | | | | | 1 | | 9 |
| Flintshire | 1 | | | | | 3 | 2 | 1 | | | 1 | | | | | 8 |
| Gwynedd and Ynys Môn | | | 1 | | | | | 1 | | | | | | | | 2 |
| Merthyr Tydfil | 3 | | | | 5 | | | | 1 | | | 1 | | | | 10 |
| Monmouth- shire and Torfaen | | 2 | | | 2 | | | | | | | 2 | | | | 6 |
| Neath Port Talbot | 1 | | | | 1 | | | | | | | 1 | | | | 3 |
| Newport | 1 | | | | 2 | | | | | | | | | | | 3 |
| Powys | | | 1 | | | 2 | | | | | | | | | | 3 |
| Rhondda Cynon Taf | 3 | | | | 4 | | | | | | | 1 | | | | 8 |
| Swansea | 2 | | | | 1 | | | | | | | 2 | | | | 5 |
| Vale of Glamorgan | 1 | | | | 1 | | | | | | | 3 | | | | 5 |
| Wrexham | | | | 1 | | 2 | 1 | 1 | | | | 1 | | 1 | | 7 |
| Grand total | 16 | 3 | 4 | 1 | 50 | 12 | 3 | 4 | 1 | 2 | 1 | 1 | 13 | 1 | 2 | 114 |

Annex 6

Welsh Assembly Government policies and initiatives

One Wales

Making the Connections

Delivering Beyond Boundaries

The Learning Country: Vision into Action

Extending Entitlement: Services and Support for 11-25 year olds in Wales

Youth Support Services: Directions and Guidance on Extending Entitlement 2002 replaced by; Youth Support Services 11-25 and Learner Support Services 14-19 (2009)

Rights to Action 2004

Children and young people; Youth Work: the Youth Service: the National Youth Service Strategy for Wales 2007

The School Effectiveness Framework (SEF)

Learning Pathways 14-19

Quality and Effectiveness Framework for post-16 learning in Wales: Delivering Skills that Work for Wales

Skills that Work for Wales: A skills and employment strategy and action plan

Reducing the proportion of children and young people not in education, employment and training in Wales: Delivering Skills that Work for Wales

Reaching Higher

National Behaviour and Attendance Review (NBAR) Action Plan

<http://wales.gov.uk/topics/educationandskills/publications/guidance/focusonpedagogy/?lang=en>

The European Social Fund (ESF) Reach the Heights Project

The Child Poverty Implementation Plan (2006)

Children and young people's Partnerships and Children and young people's Plans

Stronger Partnerships for Better Outcomes 2007

'Inclusion and Pupil Support Guidance Circular No 47/2006'

Special Educational Needs Code of Practice for Wales. 2004

Shared Planning for Better Outcomes 2007

Community Focused Schools

The review of special educational needs

The development of a new annual census collecting information on children and young people educated otherwise than at school (EOTAS)

The Parenting Action Plan

Specific approaches being developed for specific groups of pupils with additional learning needs (for example looked after children, pupils with English as an additional language and young offenders)

Anti-bullying approaches

Plans for primary to secondary school transition

The development of community-focused schools

The introduction of the revised National Curriculum from September 2008, particularly Personal and Social Education

Raising Attainment and Individual Standards in Education (RAISE)

Forced Marriage Action Plan

The Welsh Network of Healthy School Schemes

Health and Well Being Strategy

The All Wales Youth Offending Strategy

All Wales Schools Liaison Core Programme

The Safeguarding Vulnerable Children Review

The Inclusion Quality Mark currently being developed by the inclusion group of the Association of Directors of Education in Wales (ADEW)

Maternity Services

The School-Based Counselling Strategy

The Common Assessment Framework

The Integrated Specialist Advocacy Services

<http://wales.gov.uk/topics/health/publications/health/reports/nursing/?lang=en>

Suicide Prevention Action Plan

Working Together to Reduce Harm: The Substance Misuse Strategy for Wales 2008-2018

Child and Adolescent Mental Health Services: Everybody's Business

Children and young people Workforce Development Strategy

Children First

Towards a Stable Life and a Brighter Future

Learner Travel (Wales) Measure 2008

Learner Travel Operational Guidance (Published April 2009)

All Wales Guidance for Educational Visits and Outdoor Learning 2009

Annex 7

Consultation with children and young people

'Your Voice, Your Choice' – Liberty Stadium, Swansea event – February 2010

1. Think about a new law that will affect young people's learning in a detention/custodial setting.
2. Working together to improve learning for young people in detention.
3. Taking ideas from you to be used to improve how learning delivery is improved.

Responses: What were the possible barriers and issues for you at school/college and your learning?

| Comments group 1 | Comments group 2 |
|--|---|
| <p>How can education be improved from your experience?</p> | <p>How can education be improved from your experience?</p> |
| <p>Suggestions?</p> | <p>Suggestions?</p> |
| <ul style="list-style-type: none"> • More training for staff - long term • More understanding of ADHD • Need to give young people a chance • Consultations with young people • Speak to kids before assuming • Involve help from Care home staff and YOT • Rules need to be fair • Verbal responses accepted by staff as opposed to written • Family centres • Counselling or other options • Advice and info about causes to help prevent it. i.e. young people getting into difficulties • Another part time teacher in the class • Less people in the class • Teachers need to learn about how young people feel • Group work • Sometimes use computers | <ul style="list-style-type: none"> • Pastoral sessions required for teacher awareness to be promoted • Drop in sessions • Trust! • EMA incorrect incentive to learn - more funding in communities to alleviate this • Counselling clubs and focus groups • Different method for home funding? NB not sure what this comment meant • EMA based on attendance, not achievement - backward thinking!!! • Each individual should reach their zone for proximal development and then be rewarded • Focus groups, pastoral sessions on offer to parents who feel disjoined from education system • Intensive support • Reduce sizes of classes • Students should share about their issues |

| | |
|---|---|
| <p>Comments group 1</p> <ul style="list-style-type: none"> • Teachers need to give you space or a chance • If they treat you fair you treat them fair <p>Barriers?</p> <ul style="list-style-type: none"> • Substance misuse • Teachers assume, assumption • Lack of communication • Lack of individual support. Helping with real needs • Not listening • Written work difficult • Patronising teachers • Things thrown at you • Too many rules • Drugs and alcohol • Bullying • Peer pressure | <p>Comments group 2</p> <ul style="list-style-type: none"> • Teachers should be able to give more time to students who have issues • More training • Cater for students interest, if don't like Welsh for example, allow them to do something else <p>Barriers?</p> <ul style="list-style-type: none"> • Overcrowded rooms • Disruption • No control of kids • Lack of parental interest • Material deprivation • Bullying • Misbehaving • Lack of teacher awareness • Lack of time spent on kids • Illness • Lack of interest in compulsory subjects • School itself - methods of punishment are outdated |
|---|---|

Children and young people consultation at Hillside Secure Children's Home, Neath Port Talbot and HMP Parc Bridgend South Wales

Session 1

Hotseating Barney puppet – what can you tell him about education here – what's good/not so good?

- D+T – want more of these lessons.
- Some bits I really like – D+T, sport, bits of maths, ICT.
- Don't like homework.
- Some things – not teacher, the subject.
- D+T – make whatever we want – in mainstream school, you only have a short time to make something.
- We don't have metalwork here, only woodwork and pottery.
- Too much homework – 2 homeworks on Mon, Weds and Fri.

- What's good about D+T? – you can make stuff for your family – creative – can make bizarre stuff like different shaped CD racks, coffee table etc – whatever you want.
- Sometimes do bricklaying outside (building/mechanics/hair and beauty etc. will be coming in new building due later this year – to provide more vocational subjects).
- Would like to do chemistry and science – we do do single science (risk of accidents/misuse of substances etc).
- Hopefully will do same options as in school.
- Classrooms small, have computers – biggest ones are English and D+T.
- Some of us are good at using the computer.
- We don't need more computers – just ones that work.
- Need more ICT.
- Network doesn't allow downloads at the mo (this is being looked into).
- Would be good to get music programmes.
- Music (lesson) xxxxx – have a go on the piano.
- More instruments/microphones (would be good).
- No Welsh lessons – tho other young people might teach you some.
- 1 yp comes from a Welsh medium school, but there are no opportunities here to learn in Welsh. – would like to.
- Some yp come in, Welsh first language – English not so good.
- Languages – would like some French/Spanish/Italian – would like to travel – I know a bit.
- When leave here, won't fit straight back into school. Depends on your age – 11 – straight back in, 15/16 – can go to college. You'll maybe go back a year or two.
- You get some education on how to deal with stuff – eg anger issues. What could mainstream school have done to keep you there and enjoying it?
- It was rubbish.
- I hated school – never got on .kicked out – my fault – they didn't care about me, didn't want me in, excluded too many times. Don't think I'd settle down if went back. Schools exclude too quickly. Brother excluded 3 times – he's only 12, just for xxxxx around.
- Bored in lessons.
- Staff saying 'don't bully' doesn't work – they only do something if your mother shows up.
- I was in fights most days because I was being bullied – then kicked out.

Police - have they got a job to do?

- Yes – but it's like they're waiting for me to do something - search me for no reason, don't trust me.
- Programme the other day about hoodies – 12 of us just sat around chatting, threatened to arrest us – have been xxxxx but mostly just a meeting point.
- Shouldn't have groups of more than 3 people.
- Sitting outside a shop – told to xxxxx off.

Making school work

- Could go into school for a couple of lessons a few days a week – so you can get used to it again.
- Outdoor pursuits – outlets for energy.
- Teachers don't judge you on stuff.
- Should make a school for yp who have been young offenders – then could maybe go back into mainstream – kind of halfway.
- Deal with bullying really well.
- More D+T lessons, cookery, sport.
- Small class sizes –10/4-5.
- Get to listen to music.
- Maths – good teachers – have a laugh with you, treat you like normal.

What obstacles does a yp leaving a secure setting face when they want to go back into education of some kind? (Bricks in the wall activity.)

- Aggressiveness*.
- YOT education units separate*.
- People's reactions*.
- Police*****.
- Catching up*.
- Having a record*.
- Other people don't trust me*****.
- Schools give up***.
- Behaviour.
- I don't trust other people.
- No work experience – missed opportunities in school.
- Responsibility.

- Fitting in – don't know anyone.
- Getting up on time.
- Stigma.
- You're written off.
- Can't carry on where you left off.
- Being out of social circle.
- Money skills.
- Acting before thinking.
- Hanging out with the wrong people.
- People judging us as hoodies.
- Dealing with substance misuse.

What do you need from your education whilst in a secure setting? (Body in a box activity.)

- Making your own music.
- Fitness items eg free weights*, better exercise machines*.
- Karate/mixed martial arts.
- Careers advice.
- Find placements for us when we leave – college/apprenticeships.
- Home living.
- More D+T lessons.
- Life skills.
- Construction – once you're in yr 10.
- Plumbing.
- Painting and decorating.
- Learning welsh language.
- More opportunity to go into the college to do vocational stuff.
- Swimming pool.
- Staff to have more rugby training* - go on course – it's always football – players could come in – and we should be able to play tackle not just touch. Touch = push and causes fights – “I'd get frustrated about getting it wrong”.
- Mountain biking.
- Coasteering etc – outdoor pursuits.
- Careers advice.

- Proper gardening.
- Welsh kids shouldn't get moved to England – family can't get to visit – 'I got sent to Nottinghamshire because no beds here.'
- Cookery (to be a chef).
- Would like – big outdoor area for us outside, to play sports on.

Session 2

Finding out about education in Hillside (Barney puppet on hotseat)

- Do you have school here? – yes we do!
- When do you have lessons? – 9-3.45.
- Homework (rubbish) Mon, Weds, Fri - hard stuff, takes up to an hour sometimes.
- Subjects – PSE; humanities – boring, keep on about the same stuff - culture; D+T, sports – best lessons. Maths; science; English; art. Hate English - too much work on corrections.
- Use wood in D+T. Exams – build a box/cd rack/cupboard and send it away.
- Big Pit – Wales – history and culture. Other cultures too.
- Sport – football.
- Can you carry on with your options (chosen in school)? Depends on which subjects you were doing.
- If you don't do schoolwork, you lose activities/power (electricity in room). High level/age - depends on power you get. You should have it 'til later. By going to school they earn power – (adult says – it's about earning rather than losing out). Also get points towards CD's. (Adult – was a time before, if you had a consequence you'd automatically lose power – it's about yep taking responsibility – also for making beds/other life skills.
- Less power on a school night. Level 6 = all night power on Fridays/Saturdays.
- Can't learn Welsh – would like to.
- What if you didn't really go to school before? Not bothered to do the work. Couldn't do it – dyslexia – didn't want to say in front of people.
- Can't handle the crowds.
- Don't do any languages here – learn little bits of Italian from (native speaking) teacher.
- Don't like Welsh anyway.
- Culture and history important. Be proud of where you're from, wherever it is.

- Not allowed to use the internet – they don't trust us – rude stuff and guns! Access to internet not available. If you stay on level 6 you should be trusted. Could block some websites. They trust us in D+T – tools, could take anything. (when we had it before – inappropriate stuff) Even though over 16 – can't see any flesh. If we could have it, we could find stuff to build in D+T, info about topics for lesson, (inspiration) leisure time stuff (games), see football and news. Could use Google just for relevant stuff for lessons. Should be allowed to use computers after school for research stuff ('you are' – I didn't know").
- I need music on in the background - only way I can concentrate. Get to listen to it in some lessons.
- Should be more variety of lessons – Welsh, French, cooking – mainstream lessons/options. Carry on with most of options. Was doing graphics, but they don't have the equipment here.
- We should have a reversal of roles day.
- Forced to go to school here.

What barriers do you face going back into school/college/work after leaving here? (Bricks in the wall.)

- Disability*.
- Drugs.
- Need experience.
- Not good at getting up.
- Staff + students won't trust you – won't let you onto course.
- Criminal record.
- Don't have contacts.
- Money.
- Reputation.
- Paying for courses.
- Illness.
- Don't have skills.
- Not having ability.
- Being a xxxxx.
- Qualifications.
- People don't trust us.
- People label you forever.
- Medical conditions.
- Trust*.

- Anger.
- Transport.
- Alcohol.

What would improve these things?

- People giving us confidence.
- People seeing other side of us.
- People giving us a go.
- Proof (that will do it) – council, police, Hillside, YOT.
- Let them know what your skills are.
- People who have offended themselves in the past and made it good – role models, might give you a chance.

What do you need in your education in Hillside? (Body in a box.)

- Languages.
- Proper games – football and be allowed to slide tackle.
- Are you getting the skills here to go on after – should have more than one teacher in every class to give enough support.
- Cooking.
- Sex and relationships ed – a bit childish. Should be small groups rather than big. Some boys don't like talking about that xxxxx. Need to be able to ask questions in private.
- Construction.
- 2 hours – day of D+T.
- Qualifications – anything.
- Not English.
- More sports lessons – than twice a week.
- Treat all groups the same way – not 'reds are the worst group' – teachers don't think there's a difference but we do.
- Brick laying.
- Fitness.
- Lessons more interesting.
- Cooking – ask, but not happening. Level 6 get to cook but not very exciting.
- Something to look forward to (like girlfriend) – can keep you going in here. Want to do some college, some work.
- Apprenticeships.

- Better fitness machines.
- Mechanics.

HMP Parc children and young people's unit

Body in a box activity – what education do young people need whilst in a Y.O.I.?

- Sports coaching.
- Cooking.
- Proper carpentry.
- Football teams.
- Hairdressing course.
- Welsh culture.
- Making t-shirts.
- Kit has to be authorised.
- Drug workers – already here.
- Bricklaying.
- English.
- Maths – all levels – basic – ocn.
- Gardening.
- Painting and decorating – qualifications.
- PSE – sex ed.
- Proper jobs – experience.
- More challenges – eg with decorating.
- Welsh speakers – not catered for at mo.
- More recipes – why can't we do it ourselves – not just the same stuff.
- Qualified teachers for the courses.
- Not repetitive.
- More money.

Hot seating – Parc YOI/education

- One Welsh speaker in the group; no education in welsh available, so just tends to use English.
- Some Welsh classes are available – optional don't tend to bother.
- PSE – just tend to do same stuff – race/culture stuff.

- D+T good.
- Woodwork – can make things, things to give as presents. Cd rack, coffee table. Can go towards a qualification.
- Tools – would like more tools. Will have some but when had them before some disappeared, we're waiting for ones in now to be cleared.
- Painting and decorating – paint must be 2 inches thick, just go over the same bits on the same wall again and again. Would like to do more tricky stuff – wallpapering etc, stuff you need to get a job.
- Can get some qualifications – gcse's, vocational stuff, etc. depends on what you can do (academic level) Wallpapering might be able to do soon.
- You can do some of the same stuff you'd be doing in school, but not all the subjects.
- I've never been to a high school – sneaked in with friends and had a look, but don't know what it's like to go to one.
- Would like to do more vocational stuff – bricklaying, hairdressing. I'd do hairdressing. Cookery – we get to do basic stuff. Depends on what level you're on (behaviour) some get to do more complicated stuff. I'd love to make more exciting food. (Backed up by 4/5 others) Kebabs; Bolognese, etc. Kievs.
- We need to be doing stuff that can get us jobs after. There's some of that here but not enough. (Vocational subjects.) Plastering, bricklaying.
- Would like to do **proper** gardening – do some - little bit but need more that's useful for jobs.
- Art is good – get to listen to music.
- Sport – good – would like more – pitch for Rugby and football.
- Gym.
- Ashfield – in England – has got loads of stuff – great sports facilities, loads of vocational stuff you can do.
- Music – cool, get to have a go at different things. Creating own beats. Would like to be able to download own music onto cd to listen to in rooms or to share – not allowed cd's.
- Lesson times – ok, bit long sometimes. Changed recently. Something to do.
- Homework – couple of times a week. You've got to do it. It's too hard sometimes.
- I've been in prison in Manchester – hard for your family to visit. Don't know if exams (board) the same.
- Science – don't do much, don't have labs or anything! No chemicals. (Not safe!)

- If you're hungry you can't concentrate. End up mixing weird stuff together at meal times just so you're not hungry. People serving food put best bits behind for themselves for after, then they've run out by the time you get there. I have rice and gravy sandwiches sometimes just to fill up.
- I was doing a course at college before I was in here, sports.

After Parc – what will happen in terms of education/training?

- My uncle is going to take me on as a roofer – he's got his own business so said he will.
- Yeah, someone in my family going to give me a job.
- I'd like to go back to my course, but don't know if it will be easy – friends moved on.
- I'll probably go back to old ways. No choice for someone like me – rob to the rich and give to the poor!
- Dunno.
- I want to go into the army but probably can't because of my record. (Tutor pointed out taken on individual cases.)
- (After a chat about who would employ yp with a record if no family connections to do so) – like the idea of successful people with past record who would be willing to give us a chance.
- Would be good to have a list of potential employers who would be happy to take us on.

Barriers to getting back into education/training?

- Trust **.
- Not having connections outside ***.
- Having a record ***.
- Missed too much.
- They won't want someone like me.
- No friends there now.
- Not having qualifications.
- Anger.

Anything else you'd like us to pass on? (eg. Things you would like.)

- We get fed rice, beans and boiled potatoes.
- Swimming pool.
- Boxing *.
- Rugby*.

- More sport.
- KFC/McDonalds/Pizza Hut.
- Food (backed up by all – main issue on their minds!).