Additional Learning Needs

Final Internal Audit Report

January 2024

Swansea Bay University Health Board

GIG CYMRU NHS WALES
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Executive Summary

Report Opinion

	Trend
Limited More significant matters require management attention. **Moderate impact** on residual risk exposure until resolved.	N/A

Assurance summary[1]

Objectives		Assurance
1	Strategy, Procedures, & Delivery Plans	Limited
2	Training and Engagement	Reasonable
3	Collaboration with Partners	Reasonable
4	Recording and Monitoring Outcomes	Limited
5	Quality Assurance, Complaints & Appeals	Reasonable
6	Governance Arrangements	Limited

Purpose

To provide assurance on the arrangements in place to ensure compliance with the Additional Learning Needs and Education Tribunal (Wales) Act.

Overview

Despite the evident commitment of the Designated Education Clinical Lead Officer (DECLO) and efforts of other staff in attempting to address some of the key issues which we have raised in our review, progress with implementing requirements under the ALN Act has been impacted by resourcing issues.

At the conclusion of the review, staffing capacity issues had not been addressed and there were concerns around future funding and staffing specifically within the Speech and Language Therapy department that could risk breaching the legal statutory obligations under the ALN Act.

Therefore, we have issued limited assurance on this area. The significant matters which require management attention include:

- Assessing how collaborative resources can meet the statutory requirements of the Act and ensuring there is effective business continuity arrangements to cover staff absence.
- Reviewing arrangements with the health board's partners to ensure roles and responsibilities are clearly documented.
- Developing key ALN priorities for the current academic year.
- Finalising documented guidance to provide clarity to staff of the correct process to follow.
- Establishment of an effective infrastructure to ensure that data is accurately recorded and reported.
- Developing reporting mechanisms to ensure there is effective oversight and escalation of key ALN risks and issues.

[1]The objectives and associated assurance ratings are not necessarily given equal weighting when formulating the overall audit opinion

Key Matters Arising		Objective	Control Design or Operation	Recommendation Priority
1	Governance Arrangements	1, 3, 6	Operation	Medium
2	Policies & Procedures	1,2,4,5	Design	Medium
3	Delivery Priorities	1, 6	Design	High
4	Resource Implications	1,4	Design	High
5	Effective Mechanisms	2,3,4	Design	High

1. Introduction

1.1 The additional learning needs (ALN) system supports children and young people aged 0 to 25 in Wales with ALN and will eventually replace the special educational learning needs (SEN) system. The ALN legislative framework was created by the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (the ALNET Act), the Additional Learning Needs Code for Wales 2021 (the ALN Code) and regulations made under the Act.

1.2 The Act became lawful from 2021 with the plan for implementation to be phased in over a three-year period. In March 2023, the Minister for Education and Welsh Language announced that the implementation period will be extended to 2025. While the Act is primarily education legislation, a key principle is collaboration so health boards can undertake a holistic approach aiming to improve the outcomes of children and young people with ALN.

1.3 In accordance with Section 61 of the Act, Local Health Boards must have a Designated Education Clinical Lead Officer (DECLO) for co-ordinating the functions in relation to children and young people with ALN. Chapter 9 of the ALN Code details their specific roles and responsibilities. The Act also continues the existence of the Special Educational Needs Tribunal for Wales, which hears and decides appeals and applications in relation to children and young people who have or may have ALN but renames it the Education Tribunal for Wales.

1.4 Swansea Bay University Health Board's (the health board) Integrated Medium-Term Plan (IMTP) for Recovery & Sustainability (2023/24 – 2025/26) details the requirement for continued collaboration with the local authorities to support the Act's implementation through development of regional pathways and local operational procedures. Non-compliance with the ALN Act continues to be escalated as an item on the health board's risk register (reference number 85).

1.5 The key risks considered in this review were:

- The health board does not comply with its statutory responsibilities resulting in children failing to access the multi-agency support that they need, poor outcomes, complaints, and Educational Tribunals.
- Reputational and financial implications associated with the failure to effectively comply with the requirements of the ALN Act.

1.6 The review is limited to assessing the effectiveness of arrangements being put in place by the health board to comply with their relevant responsibilities within the Act.

2. Detailed Audit Findings

2.1 The table below summarises the recommendations raised by priority rating:

	Recommendation Priority			Total
	High	Medium	Low	
Control Design	3	6	-	9
Operating Effectiveness	-	1	-	1
Total	3	7	-	10

2.2 Our detailed audit findings are set out below. All matters arising and the related recommendations and management actions are detailed in Appendix A.

Objective 1: Sufficient progress is being made to implement the ALN Act through developing strategies, policies and procedures, and delivery plans.

Strategy

2.3 The Institute of Public Care assisted the health board and its partners (education representatives from Neath Port Talbot County Borough Council and Swansea Council) with the development of the regional strategy, '*One Child, One Approach, One Life: A shared vision, principles for collaborative working through ALNET*' (June 2023). While there was appropriate consultation on the draft strategy, we have not been able to evidence the approval of the finalised version (see **Matter Arising 1**).

2.4 There is currently an absence of an effective mechanism in place to confirm that the shared principles of the regional strategy are being achieved (see **Matter Arising 3**). The DECLO explained that it is planned to incorporate them into the project delivery workplan (see para 2.7).

Policies and Procedures

2.5 Despite Welsh Government providing documented guidance to assist with complying with the Act, e.g. the ALN Code, the DECLO advised that there have been different interpretations of the process nationally. This is impacting data quality and the ability to carry out effective quality assurance arrangements (see para 2.44). Key policies and procedures have been prepared to provide clarity, with input from the health board's partners, but have not been finalised (see **Matter Arising 2**). Templates have been developed to provide consistency with elements within the process (Person-Centered Meeting Notification, Person-Centered Review Meeting Notification, and Section 20 Referral form).

Delivery Plan

2.6 While Welsh Government has provided a timescale for the scheduled transfer of learners, by year group, to the ALN system, there has been no indication when

other key elements need to be implemented, including policies and procedures and a mechanism for monitoring outcomes.

2.7 An ALN project plan has been developed with the health board's partners (see para 2.3) to support the implementation of the ALN Act. This details key workstreams for the academic year encapsulating SMART (Specific, Measurable, Achievable, Relevant, Timely) criteria, e.g., having action owners and providing timescales for completion.

2.8 Progress with delivering the workstreams within the most recent plan (to August 2023) has been impacted following the departure of the ALN Project Manager. No workstream meetings have been held to discuss and monitor the plan, which has not been formally updated since June 2023 (although handover documentation in August 2023 provided a brief update to the workstreams) (see **Matter Arising 3**).

2.9 Workforce capacity (see para 2.12) has also impacted the development of key priorities for the current academic year (2023/24) (see **Matter Arising 3**). At the date of fieldwork conclusion, the DECLO advised that a meeting had been arranged in November 2023 to develop the forthcoming workplan with partners.

Resourcing

2.10 Welsh Government established the ALN Act on the basis that it would be 'cost neutral' for NHS bodies. Initially, grant funding was provided to support transformation, but this ended approximately two years ago with no further external funding available to NHS organisations.

2.11 Noting the significant financial challenges facing the health board, ALN has been re-prioritised within the IMTP (2023/24 – 2025/26) with no corporate funding allocated to ALN. Monthly finance meetings incorporate reporting on the ALN budget of £9,677, which was overspent by £28,559 in 2022/23. At Period 5 (2023/24), the budget was overspent by £7,517 and detailed a forecasted year-end overspend of £37,281. The overspend is due to costs associated with the project manager (see para 2.12) and DECLO posts (see para 2.13).

2.12 Despite there being no dedicated funding, there is a designated team within the Therapies & Health Sciences Directorate to support the health board in complying with the ALN Act. The team consists of the statutory role of DECLO (see para 1.3) and an ALN Administrative Assistant. The ALN budget also funded a Project Manager from the Transformation team, but the postholder left the health board at the end of August 2023. While recruitment is currently underway for project management support, there has been no provision in the interim, therefore impacting progress in several workstreams (see para 2.8 and **Matter Arising 3**).

2.13 The DECLO is a shared resource employed across three health boards. There is a recharge of 20% from Powys Teaching Health Board, 40% from Hywel Dda University Health Board, and 40% from the health board (as noted within para 2.11 without dedicated funding), but we were unable to obtain documentation to confirm the agreement (see **Matter Arising 4**). There is also a lack of defined arrangements in place to provide cover in the absence of the DECLO (see **Matter Arising 4**).

2.14 Reporting to the ALN Steering Group (May 2023) highlighted a lack of effective business continuity arrangements for the ALN Administrative Assistant who works part-time (see **Matter Arising 4**). Their duties include administering ALN requests and referrals, and capturing data required to provide assurance that the health board is complying with the statutory duties of the Act.

2.15 The lack of cover provided during their absence has resulted in delays in requests and referrals being passed onto other services and impacted on data accuracy to demonstrate ALN compliance. It has been recently agreed that administrators within other services could be responsible for some elements of the data capture, e.g. updating progress with referrals, and a documented procedure ('*Standard Operating Procedure: Health Board Administrative Processes*') is being revised to provide consistency and reflect the process after amendments to Microsoft List (see para 2.36) have been made. However, there will still be a lack of cover for other elements of the ALN Administrative Assistant's role, including recording the initial requests and referrals.

2.16 The IMTP noted the impact of the Act on operational service delivery, as waiting times could increase without additional resources. The health board's risk register (see para 1.4) includes a mitigating action to assess the demand/capacity implications of the Act (by 31 December 2023) (see **Matter Arising 4**), but there is recognition that additional resources may not be provided in the current financial climate requiring focus to develop collaborative working instead. The risk register will need to be updated to reflect this.

2.17 The Speech & Language Therapy's (SaLT) report to Performance & Finance Committee (November 2023) also noted that two local authorities were dissolving their service level agreements with the health board, resulting in a loss of income and 4.4 whole time equivalent (WTE) posts within the service not being funded from 1 April 2024 (see **Matter Arising 4**). At the conclusion of our review, this issue was being escalated to Management Board.

Conclusion:

2.18 The arrangements put in place to ensure the health board fulfils its duties are evolving noting that the ALN Act is currently under implementation phase. However, resourcing and funding issues are clearly impacting the development of a sustainable service provision. There is currently a lack of robust business continuity arrangements to provide cover in the absence of key staff impacting data quality relating to the health board's compliance with statutory duties; and the recent absence of project management support has hindered progress with delivering the work plan and developing key priorities. There is documented guidance to assist with embedding a consistent process, but it has not been finalised. Therefore, we provide **limited** assurance for this objective.

Objective 2: There is sufficient training and engagement with staff.

2.19 Training has been provided to staff, on various processes to assist with complying with the ALN Act, particularly in the early stages of implementation. Analysis was carried out regionally across the three health boards (see para 2.13) to establish

the key areas of training required to prepare for the Act's implementation during 2021. Training was delivered regionally for the priority areas identified that included Person-Centred Planning (PCP), Individual Development Plan (IDP) formulation, and legal frameworks.

2.20 More recently, further legal training has been provided to enable staff to complete the relevant sections of the IDP (see para 2.35) and there was also an overview of expected operational processes to be put in place to comply with the draft procedure ('*NHS involvement in Person-Centred Process to Develop Individual Development Plans'*) that needs to be ratified. This was not only provided to operational leads within the health board, but also to regional education representatives and ALN coordinators as part of collaborative working.

2.21 Speech & Language Therapy (SaLT) services and, more recently, the DECLO have undertaken measures to identify whether staff are proficient in their knowledge to fulfil duties as required by the Act. However, there is no robust tool in place to determine that all operational staff impacted by the ALN Act have had the required training (see **Matter Arising 5**).

2.22 There is regular engagement with operational services to ensure that staff are kept updated with changes in relation to the Act, but there is no central repository to store all key information relating to ALN to ensure it is easily accessible for staff (see **Matter Arising 2**).

Conclusion:

2.23 A regional programme was designed around training analysis undertaken in preparation for the Act's implementation. Since then, further training has been delivered, and there is regular engagement with staff on ALN issues. However, the process needs to be formalised to confirm that staff receive training appropriate to their needs, and there needs to be an effective mechanism to retain documented guidance and key updates relating to the Act. Therefore, we provide **reasonable** assurance for this objective.

Objective 3: Arrangements are in place to ensure effective multi-agency working between the health board, local authorities, and other partner organisations who cohesively engage and communicate with the public and service users.

2.24 The ALN Code (Chapter 9) details the responsibilities in developing effective multi-agency collaborative working between the health service (primary and secondary care), public health, local authorities (education and social care departments), advocacy services, schools, further education institutions (FEIs) and the third sector. It also encourages co-operation between DECLOs to share best practice and develop consistency.

2.25 Originally, there was a Regional Operational Group that included the health boards of Powys and Hywel Dda, but then it was agreed that health boards would set up their own governance arrangements. The health board's ALN Steering Group met for the first time in March 2022, and there is also an ALN Operational Group.

Membership of both groups have recently been extended to include local authority representation (see para 2.3) to align with the collaborative ethos of the Act. However, we have been unable to evidence the approval of the finalised terms of reference for both groups (see **Matter Arising 1**).

2.26 The level of discussion and scrutiny of agenda items was evident from our review of meeting minutes for both the Steering and Operational groups, which were quorate. A minor improvement is that sometimes the meeting minutes were unclear in recording attendance to confirm membership as per the terms of reference, e.g. representatives not recorded as attendees nor had their apologies being recorded or names were used instead of job titles (see **Matter Arising 1**).

2.27 Governance arrangements with the health board's partners are still evolving. While this may not have been a priority due to other demands of the Act, it is important to review these arrangements regularly and to ensure that existing documentation sufficiently clarifies the key roles and responsibilities expected of a partnership, e.g. performance and monitoring arrangements, information sharing, dispute resolution, etc. (see **Matter Arising 1**).

2.28 Management advised that the health board is also represented on governance mechanisms already set up by other partners that discuss ALN-related issues, including Swansea Council's ALN Strategic Group and Neath Port Talbot's Post-16 Steering Group. Reporting to the Quality & Safety Committee (July 2022) noted that there had been engagement with SNAP Cymru, a national charity who provides advocacy and facilitates dispute resolution.

2.29 In compliance with the ALN Code, the DECLOs also meet regularly to discuss collaborative opportunities. Welsh Government requested the DECLOs establish an assurance framework and to comply with this, draft key performance indicators around NHS duties have been submitted. Collaboration has also been undertaken in relation to strengthening the Section 20 referral process, sharing a common understanding of 'Additional Learning Provision' to provide consistency; and contributing to the Welsh NHS Confederation's response on the implementation of the Additional Learning Needs (ALN) system.

2.30 The Deputy Director of Therapies & Health Sciences is the NHS Wales representative on the National ALN Steering Group. She meets with the DECLOs to ensure they are aware of key outcomes arising from the meetings, and there is also a health and education sub-group that supports the Steering Group in addressing misinterpretations of the Act.

2.31 The health board has recently developed an ALN webpage on its website that includes videos on SaLT, Physiotherapy, Occupational Therapy and ALN; and links to the ALN information contained on the websites for both Swansea and Neath Port Talbot councils.

2.32 Paragraph 5.20 of the ALN Code details that opportunities should be provided for children and young people with ALN to, "*engage with and influence policies and services relating to ALN".* Workshop sessions have been held, including with parent-carer forums in both Swansea and Neath Port Talbot councils which

highlighted concerns about gaps in provision, e.g. meeting the mental health and emotional wellbeing needs of children with autism. While this has been discussed with Child and Adolescent Mental Health Services (CAMHS), further work to address this has been impacted by a lack of project management support (see **Matter Arising 5**). The health board's ALN webpage details, "*we are currently working on an effective mechanism by which to seek parent carer feedback throughout the school year 2023/2024*."

Conclusion:

2.33 A governance structure has been established to enable the health board to meet the requirements of the ALN Act and work collaboratively with other DECLOs and its local authority partners. Arrangements are still evolving as the Act is under a phased approach of implementation, this provides an opportunity to extend representation of other partner organisations within the governance structure when appropriate and review existing documentation to confirm that roles and responsibilities amongst partners are clear, and the approvals for terms of reference for both the ALN Steering Group and ALN Operational Group are recorded. In compliance with the ALN Code, engagement with children and young people with ALN has been impacted by not having project management support although an effective mechanism to rectify this was being pursued at the conclusion of our review. We provide **reasonable** assurance for this objective.

Objective 4: There is an efficient and consistent system for recording and managing ALN requests, referrals, and notifications along with monitoring outcomes.

2.34 Health boards have a statutory duty under the ALN Act to:

Referrals	Section 20 - A local authority or FEI could refer a matter to an NHS body, asking it to consider whether there is any relevant treatment or service that is likely to be of benefit in addressing the ALN of a child or young person, e.g. ALP. If the NHS body identifies such a treatment or service, it must secure the treatment or service for the child or young person and decide whether it should be provided in Welsh. A response to this referral must be provided within 6 weeks.
Notifications	Section 64 - Where a health body has formed the opinion that a child or young person has, or probably has, additional learning needs. The health body must inform the child's parent of its opinion and bring it to the attention of the local authority that is responsible for the child if it is in the best interests of the child.
Requests	Section 65 - Where a local authority may request information or other help from relevant persons, including health bodies. A response to this request must be provided within 6 weeks unless it considers that doing so would be incompatible with its own duties or would otherwise have an adverse effect on the exercise of its functions.

2.35 Local authorities and further education institutions (FEIs) can submit a request to the health service to consider whether there is a relevant treatment or service that

can address a learner's ALN. If this has been identified, this will be included as Additional Learning Provision (ALP) within the Individual Development Plan (IDP).

2.36 There is a designated ALN inbox to receive these requests, referrals, and notifications, that the DECLO and ALN Administrative Assistant have access to. The ALN Administrative Assistant logs these on Microsoft List for the relevant operational service to action. It is recognised that improvements were being made to Microsoft List, at the conclusion of our review, to assist with data capture.

2.37 Ineffective business continuity arrangements (see paras 2.13-14 and **Matter Arising 4**) have resulted in the system not being updated promptly thereby affecting data accuracy, e.g. unclear of outcomes of referrals to services. Different interpretations of the Act (see para 2.4) have also impacted data compliance, but documented procedures and training should assist with improvements going forward (see para 2.5 and **Matter Arising 2**). However, clarity is also required amongst staff to confirm data retention periods for ALN documentation (see **Matter Arising 5**).

2.38 A performance dashboard has been developed to enable reporting on mandated targets but is currently unreliable due to the poor data quality. Reporting to the Patient Safety & Compliance Group (November 2023) noted that, "*it is anticipated that it will be possible to report against some key indicators for data captured from January 2024 onwards. However, there are indicators against which the health board will be unable to report its compliance*". Further development to the data infrastructure is required and have been requested, however there is no capacity within the health board to provide this digital support until 2024/25 (see **Matter Arising 5**). This could mean that the health board is unable to report on compliance with some of the national key performance indicators when these are finalised.

2.39 A key intention of the Act is to improve the outcomes and experiences of children and young people with ALN. Management advised that there has been limited progress in developing an effective mechanism to capture this across Wales, noting that it is still during the Act's implementation phase. While the health board has endeavoured to take this forward with its partners, this has not been a priority due to other demands of the Act placed on local authorities (see **Matter Arising 5**).

Conclusion:

2.40 The health board is putting in place measures to address the data quality issues that have been widely reported. Enhancements include distribution of elements of the data capture responsibilities that rest with the ALN Administrative Assistant, drafting documented procedures and providing training to provide clarity on the Act. However, these had not been fully implemented at the conclusion of our review and do not fully address the capacity issues, therefore data quality is likely to remain of a poor standard. Further development to the data infrastructure is also required to record outcomes and enable the health board to meet reporting requirements when the national performance dataset is finalised, but there is currently no capacity to undertake this work. Therefore, we provide **limited** assurance for this objective.

Objective 5: There are robust quality assurance measures in place to demonstrate compliance with the ALN Act, and there are appropriate mechanisms for dealing with complaints, disputes, and appeals to the Tribunal.

Quality Assurance

2.41 The ALN Code details the following in relation to the health boards' responsibilities for quality assurance arrangements:

ALN Code	Paragraph 9.22 details the responsibilities of health boards in ensuring the DECLO has oversight of the "development *of processes to collect and analyse robust data to measure its compliance with duties under the Act, measure the effectiveness of arrangements for partnership working, and provide quality assurance of its activities in relation to children and young people with ALN*." The following could be monitored as part of this: *"(a) feedback from children, young people and parents;* *(b) outcomes for children and young people;* *(c) the time taken by the Local Health Board (including instances where the requisite timescale is not met or where exceptions are invoked) to respond to-* *i. requests from local authorities for information and other help;* *ii. referrals to consider whether there is a relevant treatment or service likely to be of benefit in addressing the ALN of a child or young person;* *(d) numbers of complaints, disputes and Tribunal appeals which relate to the Health Board's functions under the Act, the length of time it takes to resolve them, and how they are resolved*".

2.42 One of the shared principles of the regional strategy (see para 2.3) is to, "*build shared arrangements across services for monitoring our effectiveness, assuring quality and improving performance*". Initial attempts to capture and report performance have also highlighted significant challenges with compliance, but there has been no further reporting recognising the data quality issues raised within this report.

2.43 Both the ALN Operational Group and ALN Steering Group received performance reports noting progress with the delivery of project workstreams, but this stopped when it was identified that data quality is not robust. The last highlight report (July 2023) detailed the following:

Workstream	**On track**
Individual Healthcare Plans (IHP)	
Individual Development Plans (IDP) and Statutory Processes	
Early Years	
Quality Assuring IDPs	
Inclusive Practice	
Health Board Offer	
Post-16	

Complaints and Concerns and Complaints Reporting	
Training and Communications	
Metrics and Reporting	
Risks	

2.44 The health board and its partners did endeavour to carry out a quality assurance review of a sample of ALN cases in July 2023, but due to different understandings of the operational processes through which the health board fulfils its duties under the Act (see para 2.5), this could not proceed. Measures have been taken to improve clarity in interpretation, including the collaborative refinement of these processes and the development of a Standard Operating Procedure. A further quality assurance review is planned for Spring 2024.

Complaints & Disputes

2.45 The ALN Codes states the following in relation to complaints and disputes:

ALN Code	Paragraph 9.17 - the DECLO should have oversight, "*over any complaint or dispute that relates to the exercise of the Local Health Board's functions under the Act*."
	Paragraph 9.18 – the DECLO should promote, "*the use of the NHS complaints system ("Putting Things Right") in relation to any complaints relating to the exercise of the Local Health Board's functions under the Act*".
	Paragraph 9.23 – "*The Local Health Board should also expect the DECLO to identify the themes arising from disputes and seek to address the root causes*".

2.46 There has been engagement with the Patient Feedback team to develop an agreed process for dealing with complaints in relation to ALN. This includes the DECLO's involvement prior to responding to the complaint, ensuring that a collaborative approach is undertaken to address concerns and identify themes and learning. A documented procedure ('*Standard Operating Procedure: ALNET Act Related Formal Concerns'*) has been drafted but not yet finalised (see **Matter Arising 2**).

2.47 Promotion of the complaints system is currently under development, particularly in relation to the appeals process. This is a complex area as the ALN Code indicates that complaints in relation to the IDP's content is automatically appealable, but the Education Tribunal for Wales' website details that concerns must be escalated through the local authority first. We note that the DECLO was discussing the matter with local authority partners at the conclusion of our review.

2.48 There is a clear marker on the Putting Things Right system to differentiate ALN complaints, which are reported separately within the Patient Experience Stakeholder report to the Executive Board. A low number of complaints have been received during 2023, with the latest report (November 2023) reporting no ALN-related complaints being received since July 2023. ALN themes and trends will be incorporated in an annual report and circulated for shared learning and assurance.

Appeals

2.49 The ALN Code details the following in relation to appeals and the Tribunal process:

ALN Code	Paragraph 9.20 - *"The Local Health Board should expect the DECLO to co-ordinate the Local Health Board's involvement in appeals to the Tribunal; including ensuring it provides evidence as required and oversees the engagement of the Local Health Board generally in appeals".*
	Paragraph 9.21 - "*The Local Health Board should expect the DECLO to be responsible for leading on the Local Health Board's consideration of recommendations made to it by the Tribunal, deciding whether and what action to take in response to such recommendations, and reporting back to the Tribunal*."
	Paragraph 33.21 – "*If the Tribunal makes a recommendation to an NHS body, that body must report to the Tribunal, before the end of 6 weeks beginning with the date on which the recommendation was made*".

2.50 A documented procedure ('*NHS Participation in Appeals to Education Tribunal Wales: Standard Operating Procedure'*) has been drafted in collaboration with the health board's partners (see **Matter Arising 2**).

2.51 The DECLO advised that health board representation has not been required at tribunals since the ALN Act has been implemented, although they have previously been involved in recent appeals made under the Special Education Needs (SEN) system (during the Act's implementation period, the ALN and SEN systems are running concurrently). A spreadsheet has been set up to record progress where there is health involvement at a tribunal (for ALN or SEN) and captures key points of learning. At the conclusion of our review, the health board is involved in a 'live' appeal under the ALN system. In addition, three cases record an anticipated tribunal date; and there is currently one area of learning relating to a requirement to include more detail within the health board's recommendations.

Conclusion:

2.52 There are a number of mechanisms to monitor the effectiveness of arrangements including performance reporting and undertaking a collaborative quality assurance review, but progress has been impacted by resourcing, data quality issues, and different interpretations of the process. At the conclusion of our review, enhancements were being made to address this, including training and the development of documented guidance. Engagement with the Patient Feedback team has assisted with the design of a complaints process which ensures the DECLO has appropriate oversight and enables a cohesive response with the local authority, where required. Appeals that required health board involvement have been minimal, but a record has been set up to monitor progress with tribunal cases and provides an opportunity to identify any lessons learnt. Therefore, we provide **reasonable** assurance for this objective.

Objective 6: Appropriate governance framework is in place to provide oversight of compliance with the ALN Act including that the statutory roles and responsibilities of the Designated Educational Clinical Lead Officer (DECLO) are being met.

DECLO Roles and Responsibilities

2.53 The ALN states the following in relation to roles and responsibilities of the DECLO:

ALN Code	Paragraph 9.2 – "*The DECLO must either be a registered medical practitioner or a registered nurse or another health professional*."
	Paragraph 9.5 – "*The Local Health Board should ensure that the officer it designates as the DECLO:* *(a) has experience of senior health service leadership;* *(b) is capable of providing overall strategic direction with a view to ensuring the Local Health Board meets its duties related to ALN;* *(c) is able to identify and solve problems and conflict at the earliest opportunity;* *(d) is able to escalate issues to the Local Health Board's Executive Board, as appropriate;* *(e) has experience at a senior level in an aspect of healthcare relevant to ALN, for example in a field such as Medical (primary or secondary care), Nursing, Midwifery, Allied Health Professional, or Public Health practitioner*".
	Paragraph 9.7 – "*The DECLO need not be responsible for carrying out the Local Health Board's functions, rather for co-ordinating them. Other officers may carry out those functions on a day to day basis, and this might be particularly appropriate for administrative or operational matters; or where subject specific technical knowledge is required, or a health professional is already involved in the child or young person's care*."

2.54 To comply with the ALN Code, the DECLO:

- reports to the Director of Therapies & Health Sciences;
- is a registered Practitioner Psychologist with senior operational, strategic and clinical leadership experience in both adult and children's mental health services;
- has experience in collaboratively developing and implementing transformative approaches in partnership with local authorities (including Education) and the third sector; and
- has close working relationships with relevant clinical leads in his current role to keep him informed of key ALN issues. He is establishing a system where twice a year, he will have a two-day visit to meet with practitioners, observe practice, and attend person-centred meetings.

Governance Framework

2.55 A governance framework has been developed to record the reporting arrangements for ALN consisting of monthly meetings of the ALN Operational Group, bi-monthly

meetings of the ALN Steering Group (see objective 3); bi-monthly reporting to Patient Safety & Compliance Sub-Group (PSCG); and reporting to the Quality and Safety Committee, Executive team, and the Board.

2.56 The DECLO advised that there has been no requirement to date for health boards to externally report on compliance with their statutory duties under the Act, though with support of the DECLOs, Welsh Government are developing an assurance framework that will include regular reporting requirements. As noted in Objective 4 (para 2.42), data quality issues have impacted on internal performance reporting to provide effective oversight of compliance with the Act (see **Matter Arising 3**).

2.57 Terms of reference for the ALN Steering Group note that, "*the group will be a single point for accountability for activity under the ALN Act and will provide assurance to the Executive Board via the Patient Safety and Compliance Group*". Reports have been provided to PSCG, highlighting concerns relating to the ability of the health board to meet the Act's requirements due to data quality and resourcing issues.

2.58 The PSCG's terms of reference details that a written report will be submitted to the Quality & Safety Group (that the PSCG is a sub-group of) following their meetings. While a highlight report is submitted, we have been unable to evidence the escalation of issues through to the QSG or the Management Board to confirm adequate oversight of ALN (see **Matter Arising 1**). A similar enhancement in relation to sub-group reporting and escalation was identified in our review of '*Quality and Safety Governance Framework'* (May 2023).

2.59 The Quality & Safety Committee has been assigned responsibility for the ALN risk within the health board risk register. One of the controls detailed to mitigate the risk of non-compliance with the ALN Act is that thrice-yearly updates are provided to the Committee, which was provided in March 2022, July 2022, and January 2023. Key issues detailed in the January 2023 report covered:

- Activity to support implementation of the Act, including developments in collaborative working;
- Breaches in statutory duties under the Act; and
- Risks to implementation work and ongoing compliance risks.

2.60 Since then, the health board has extended its quality governance arrangements to include the QSG and PSCG. However, due to the lack of escalation to the QSG, reporting to the Quality & Safety Committee and Board mainly consists of highlighting the ALN risk in relation to health board risk management reporting and there is insufficient escalation of key issues for the Committee to effectively monitor the ALN risk.

2.61 Similar enhancements have been recognised by both Audit Wales (*Structured Assessment 2023 – Swansea Bay University Health* Board') and Deloittes ('*Swansea Bay University Health Board Effectiveness Review*' – September 2023) relating to improving information flow of key risks and issues within the health board. Therefore, we have not replicated a recommendation in this report, but advise that the review should extend to include the reporting to the Management Board.

2.62 Elsewhere, reports have been submitted to the Performance and Finance Committee (June and November 2023) detailing responsibilities of the Speech and Language Service to comply with the ALN Act, and a report to Workforce & Digital Committee (August 2023) noted that an ALN dashboard had been implemented.

Conclusion:

2.63 The DECLO responsibilities contained within paragraphs 9.2, 9.5 and 9.7 of the ALN Code are being met, but we have noted compliance with other responsibilities within the Code have been impacted by capacity. There is frequent reporting on key issues from the ALN Steering Group to the Patient Safety & Compliance Sub-Group, but data quality issues (see Objective 4) have also impacted on the ability to carry out performance reporting to enable effective monitoring of compliance with the Act. Reporting arrangements need to be improved in line with the ALN Governance framework to ensure there is appropriate escalation and effective oversight of risks and key issues arising. Therefore, we provide **limited** assurance for this objective.

Appendix A: Management Action Plan

Matter Arising 1: Governance Arrangements (Operation)	Impact
The following enhancements were identified: • Strategy: The regional strategy, '*One Child, One Approach, One Life: A shared vision, principles for collaborative working through ALNET*' (June 2023) was shared as a final version with relevant service leads within the health board, and to local authority partners (Swansea Council and Neath Port Talbot Council), but we have been unable to evidence its approval; • Terms of Reference: we were unable to evidence the approval of the terms of reference for both the ALN Steering Group and the ALN Operational Group; • Meeting Minutes: meetings minutes for the ALN Steering Group and ALN Operational Group were sometimes unclear in recording attendance to confirm membership as per the terms of reference; • Reviewing Arrangements: There is a need to reflect on current governance arrangements to encapsulate the views of all key partners and ensure that existing documentation sufficiently clarifies key roles and responsibilities; and • Oversight: Highlight reports are submitted by the PSCG to the QSG, but we have been unable to evidence the escalation of issues through to the QSG or the Management Board to confirm adequate oversight of ALN. A recommendation, regarding sub-group reporting and escalation was identified in our review of '*Quality and Safety Governance Framework'* (issued May 2023 – Reasonable Assurance) has now been closed as a new reporting template was put in place from July 2023 to allow for escalations to be recorded. However, subsequently the PSCG has identified that further improvement is required with the escalation of key issues.	Potential risk of: • Unclear governance arrangements could result in poor decision making and a lack of accountability and oversight.

Recommendation			Priority
1.1	To demonstrate effective governance arrangements, the Health Board should ensure that it: • Reviews, assesses, and documents its arrangements regularly to ensure roles and responsibilities are clear, and that the intended outcomes are achieved. • Evidences approvals within meeting minutes for key decisions, e.g. strategy and terms of reference. • Enhances meeting minutes to confirm the attendance or apologies received for members of the ALN Steering Group and ALN Operational Group. • Clarifies the process for escalation to ensure that the QSG has appropriate oversight of key risks and issues relating to ALN (existing controls within the Health Board's risk register may have to be amended to reflect the current reporting structure noting that thrice-yearly updates should be provided to the Quality & Safety Committee).		**Medium**
Agreed Management Action		**Target Date**	**Responsible Officer**
1.1	To address the above bullet points: • The ALN Steering Group will review and assess current Terms of Reference for the ALN Steering and Operational Groups, the jointly developed strategy, and collaborative governance arrangements around ALN more generally. The review / assessment will focus on the extent to which current arrangements provide clarity regarding roles and responsibilities (including clear accountability arrangements) and thereby enable intended outcomes to be achieved. Improvements will be agreed, and the outcome of this review / assessment will be documented through Steering Group minutes.	June 2024	Director of Therapies & Health Sciences

	• ALN Steering Group minutes moving forward will explicitly document approval for key decisions made. ALN Steering Group minutes moving forward will also explicitly document will document attendance and apologies in a way that aligns with the meetings' terms of reference.	Effective Immediately	Director of Therapies & Health Sciences
	• ALN Operational Group minutes moving forward will explicitly document approval for key decisions made. ALN Operational Group minutes moving forward will also explicitly document will document attendance and apologies in a way that aligns with the meetings' terms of reference.	Effective Immediately	DECLO
	• Guidance will be sought from the Director of Corporate Governance regarding how issues from the ALN Steering Group and the Patient Safety and Compliance Group are escalated from these structures to Quality and Safety Group, Quality Safety Committee and Management Board. The intention of this is to raise the organisational visibility of the ALN Act's statutory requirements and associated risks.	March 2024	Director of Therapies & Health Sciences / Director of Corporate Governance
	• The Health Board Risk Register ALN risk will be amended to reflect controls in place.	Effective immediately	Director of Therapies & Health Sciences

Matter Arising 2: Policies and Procedures (Design)	Impact
To provide consistency and clarity in complying with the ALN Act, the following policies and procedures have been developed in conjunction with the health board's partners, but have not been finalised: • Standard Operating Procedure: NHS Involvement in Person-Centred Processes to Develop Individual Development Plans • NHS Additional Learning Provision: Section 2C Guidance • Standard Operating Procedure: Health Board Administrative Processes (to provide a consistent approach to data entry to recording requests, referrals, and notifications) • Standard Operating Procedure: ALNET Act Related Formal Concerns • NHS Participation in Appeals to Education Tribunal Wales: Standard Operating Procedure	Potential risk of: • Process being managed inconsistently which are not compliant with the ALN Act and cause confusion to staff and partners. • Roles and responsibilities are unclear resulting in a lack of accountability and oversight.

Recommendations		Priority
2.1	Existing draft guidance should be reviewed to ensure it clearly outlines the process to ensure compliance with the ALN Act.	**Medium**
2.2	Guidance should be finalised and approved by an appropriate forum, communicated to all key individuals involved in the process, and subject to a regular review with the date recorded.	
2.3	All guidance and any key updates should be stored in a centralised location to ensure it is easily accessible for staff.	

Agreed Management Action		Target Date	Responsible Officer
2.1	All draft guidance documents to be finalised or reviewed and revised as necessary to ensure documents are clear and that they align with the requirements of the ALN Act.	May 2024	DECLO

2.2	On completion, all guidance documents / Standard Operating Procedures will be brought to the ALN Steering Group via the Operational Group for approval and for direction regarding any other fora at which approval is required. Approval / ratification will then be sought through the appropriate forum as needed. Review arrangements and the mechanism for review for all documents will be formally documented.	September 2024	Director of Therapies & Health Sciences / DECLO
2.3	A centralised location accessible to all relevant staff will be established and documents will be saved to this. Information about this will be shared with relevant staff. A mechanism will be established for ensuring that this resource receptacle remains up to date.	September 2024	DECLO

Matter Arising 3: Delivery Priorities (Design)	Impact
A project plan was developed to provide focus on key deliverables to support implementation of the ALN Act for 2022/23 academic year detailing 15 workstreams. However, the ALN Project Manager post has been vacant since August 2023 that has resulted in the plan not being updated since June 2023, which recorded that 50% of activities within the workstreams had been undertaken. The DECLO confirmed that progress with delivery has been impacted in the absence of project management support, and there is no regular monitoring or progress reporting of the delivery of key priorities. Previously, a project highlight report was submitted to both the ALN Steering Group and ALN Operational Group. Our review of the July 2023 report identified that there needed to be more alignment in the reporting compared against the project plan, e.g. detailing workstream names. Categorisation of actions should be clearly defined to reflect the current status, e.g. an action recording the quality assurance of IDPs was rated green when the moderation workshop that was addressing this could not proceed and has been re-scheduled for Spring 2024. A workplan detailing the key priorities for the 2023/24 academic year has not yet been developed despite it being discussed at ALN Operational Group in May and June 2023. The DECLO explained that a meeting had been arranged with partners to develop the forthcoming workplan in November 2023.	Potential risk of: • Failure to deliver key priorities resulting in the health board's duties under the Act not being fulfilled. • Children and young people not getting the support required leading to poor outcomes.

Recommendations		Priority
3.1a	Establishing progress with the workstreams contained in the project plan (2022/23) so that any outstanding activities can be transferred to the new workplan.	**High**
3.1b	A project workplan with key deliverables for the current academic year (2023/24), that incorporates the shared principles from the regional strategy, '*One Child, One Approach, One Life: A shared vision, principles for collaborative working through ALNET'*, should be developed.	

3.2a 3.2b	There should be regular monitoring of progress with the workplan so key priorities and the strategy's principles can be evaluated and adjusted if required. Once it has been confirmed that data quality is robust, performance reporting of deliverables should be re-introduced within governance arrangements to provide effective oversight of compliance with the Act that clearly defines risks and aligns to the information held within the project plan.	**Medium**

Agreed Management Action		Target Date	Responsible Officer
3.1a 3.1b	Progress with workstreams from the 2022/23 workplan will be established and next steps and associated timescales will be developed and captured as part of the 2023/24 workplan. A workplan for the 2023/24 school year will be produced. The plan will aim to align with principles from the regional strategy, '*One Child, One Approach, One Life: A shared vision, principles for collaborative working through ALNET'*. However, it must be recognised that this document is itself being reviewed and assessed (see Agreed Management Action 1.1) and may require revision on the basis of this. The 23/24 workplan may therefore not align perfectly with the strategy, reflecting changing priorities.	February 2024	DECLO with Operational Service Leads (ALN Operational Group)
3.2a	Progress on the new workplan will be monitored with regular reports provided to the ALN Steering Group (which meets bi-monthly). The plan will be iterative and will be adjusted as needed as key priorities and principles evolve.	From April 2024	DECLO with Operational Service Leads (ALN Operational Group)

3.2b	Systems and processes will be in place to ensure reportable data regarding Health Boards' compliance with their duties under the ALN Act from April 2024. Reports on this data will be available from June 2024 onwards, as until this date there will be insufficient data available for meaningful reporting. Reports will be provided to the ALN Steering Group and to the Patient Safety and Compliance Group relating to all statutory requests for involvement under the Act received by the Health Board from the 1st April 2024 onwards.	From June 2024	DECLO

Matter Arising 4: Resource Implications (Design)	Impact
External funding was initially provided, but there has been no further financial support as the Welsh Government established the ALN Act with the intention of it being 'cost neutral' for NHS organisations. Noting the significant financial challenges facing the health board, there is no corporate funding for ALN, but budget forecasting at Period 5 (2023/24) detailed a year-end overspend of £37,281. The financial risk has been escalated within the health board and as part of ALN reporting. Despite there being no dedicated funding, there is a designated team to support the Health Board in complying with the ALN Act. The DECLO is a shared resource employed across three health boards, but we were unable to obtain documentation to confirm the agreement for the recharge. The ALN budget also funded a Project Manager, but the postholder left the health board at the end of August 2023. Workforce capacity is limited within the health board to assist with the additional demands resulting from the Act impacting on the ability to provide robust business continuity arrangements in the absence of key staff, e.g. ALN Administrative Assistant and DECLO. This was recently discussed at ALN Steering Group (October 2023) and concluded that the Director of Therapies & Health Sciences will discuss with financial leads. The Act has a broader age group than operational paediatric services provide encompassing children and young people up to the age of 25. The Act is within an implementation phase, but demand will only increase as more children and young people transition to the ALN system impacting assessment and waiting times. However, there is not the data available to demonstrate the impact of the Act to the health board to assist with longer-term planning. Assessing demand and capacity implications for operational services is a mitigating action on the health board's risk register, but the focus is now on how collaborative working can meet the statutory requirements of the Act. The Speech & Language Therapy's (SaLT) report to Finance and Performance Committee (November 2023) detailed a significant risk with the cessation of service level agreements (SLAs). Prior to the ALN Act, local authorities commissioned therapy services from the health board under the Code of Special Educational Needs (SEN), but this is no longer a requirement and both Swansea and Neath Port Talbot councils have provided written notice to SaLT to dissolve all or part of their SLA. This will mean that from the 1 April 2024, there is a loss of income of £236,327 resulting in 4.4WTE posts (headcount 8) not being funded thus further impacting capacity. The service is currently developing a transition	Potential risk of: • The Health Board is unable to meet its duties under the ALN Act resulting in an increase in complaints and Educational Tribunals. • Children and young people not getting the support required leading to poor outcomes.

plan in response to the cessation of the SLAs. The DECLO is unaware of other operational services affected by this that could impact ALN.			
Recommendations			**Priority**
4.1a	Assessment of shared resources to provide clear direction and ensure the service is appropriately designed to meet the duties of the Act.		**High**
4.1b	Putting in place appropriate measures to provide cover in the absence of key ALN staff.		
4.1c	The written agreement that records the basis for the DECLO's salary recharge should be retained in a central location.		
Agreed Management Action		**Target Date**	**Responsible Officer**
4.1a	Corporate resources required to support effective ALN implementation and to enable compliance have been captured in an SBAR developed by the DECLO and shared with the ALN Steering Group on the 10th October 2023. The Director of Therapies & Health Services is working with the Director of Finance & Performance with the aim of securing the necessary resource, from April 2024.	March 2024	Director of Therapies & Health Services / Director of Finance & Performance
4.1b	A contingency plan will be developed to clarify roles and responsibilities in the event of key corporate ALN staff being absent (specifically, the DECLO and the ALN Administrative Assistant) and articulating any associated risks.	June 2024	Director of Therapies & Health Services
4.1c	There will be liaison between Swansea Bay, Hywel Dda and Powys Health Boards to formally document the agreement that the DECLO post for the three Health Boards, hosted by Swansea Bay University Health Board, is jointly funded by the three Health Boards with salary recharge arrangements in place.	June 2024	Director of Therapies & Health Services / Director of Finance & Performance

Matter Arising 5: Effective mechanisms to assist with complying with the Act (Design)	Impact
The following enhancements were identified: Training Needs Analysis: • In March 2023, a full staff survey was issued to determine confidence and competence levels around ALN within the Speech and Language Therapy department. Other operational services impacted by ALN have not undertaken a similar analysis (see para 2.21). • In September 2023, the ALN Operational Group (that includes representatives from operational services within the health board and Education partners) discussed the revised operational processes where NHS professionals are invited to person-centred meetings, provide information to assist local authorities' decision-making and for inclusion of services and treatments in the Individual Development Plan. The DECLO asked Group members for assurance that training is being cascaded across all relevant operational services. Confirmation has not been provided from all attendees. Engagement with children and young people with ALN: • Reporting to the Quality & Safety Committee (July 2022) noted that there had been engagement with SNAP Cymru, a national charity who provides advocacy and facilitates dispute resolution, which could assist in incorporating the perspectives of children, young people, and their parents / carers into the Health Board's planning around ALN. Yet there have been limited opportunities provided for children and young people with ALN to engage and influence on planning and processes to comply with the ALN Code. The health board's website details, "*we are currently working on an effective mechanism by which to seek parent carer feedback throughout the school year 2023/2024*" (see para 2.32). Data Compliance and Outcomes: • Despite efforts, data quality is currently poor. Further development is required, but capacity is currently limited to enable this, which could impact reporting to Welsh Government on compliance with some of the national key performance indicators when these are finalised (see para 2.38). • During our review, staff were unclear how long documentation in relation to ALN needed to be retained for (see para 2.37). • There is not a framework for monitoring the outcomes or experiences of children and young people with ALN (see para 2.39).	Potential risk of: • Without a clear assessment, or appropriate detail of requirements, there could be inconsistencies in the training of staff. • Failure to comply with the ALN Act resulting in poor outcomes for children and young people with ALN.

Recommendations		Priority
5.1	Analysis should be undertaken to identify where there are any gaps in ALN training, e.g. for new members of staff so that appropriate provision can be put in place to allow them to effectively carry out their role.	**Medium**
5.2	Develop a mechanism to ensure there is appropriate engagement with children and young people with ALN, and that feedback is incorporated within ALN planning and processes.	
5.3a	Clear timescales should be agreed when further developments to the data infrastructure can be undertaken along with putting in place an effective outcomes framework (noting that the latter has not been a priority due to the other demands required by the Act). These should be recorded within the project delivery workplan.	**High**
5.3b	Any changes to the data infrastructure should incorporate agreed data retention periods. If this is not possible, these should be clearly communicated to staff to ensure that ALN documentation is not retained for longer than necessary.	

Agreed Management Action		Target Date	Responsible Officer
5.1	a) An audit will be carried out to assess the knowledge and confidence of all relevant operational staff from services impacted by the ALN Act that provides assurance that they are able to effectively carry out their role.	April 2024	DECLO with Operational Service Leads (ALN Operational Group)
	b) Following this audit, a plan will be developed setting out the actions required to address current gaps in the knowledge and confidence of staff. A regular process to assess staff's knowledge and confidence will be developed.	June 2024	
	c) An 'ALN Induction Pack' will be developed, comprising resources to be provided to new staff that ensures they are able to effectively carry out their role.	September 2024	

5.2	Mechanisms to ensure that the voices of children and young people with ALN and their parents / carers will be developed, with a clear plan in place to achieve agreed outcomes. This will be built into the ALN workplan.	July 2024	DECLO
5.3a	Subject to the outcome of the Digital Prioritisation Process, it is anticipated that the data infrastructure required to ensure reliable data regarding the Health Board's compliance with its statutory duties will be in place to enable reporting from April 2024.	April 2024	Director of Therapies & Health Sciences / Director of Digital
	Measurement of outcomes and experience will be brought to the ALN Steering Group as an agenda item for consideration and agreement of ways forward, linking to partnership and national work as appropriate.	July 2024	Director of Therapies & Health Sciences
5.3b	As part of finalising the ALN data infrastructure, clarity will be provided regarding data retention requirements. This will be informed by engagement with Information Governance colleagues	April 2024	DECLO / Information Governance Team

Appendix B: Assurance opinion and action plan risk rating

Audit Assurance Ratings

We define the following levels of assurance that governance, risk management and internal control within the area under review are suitable designed and applied effectively:

	Substantial assurance	Few matters require attention and are compliance or advisory in nature. **Low impact** on residual risk exposure.
	Reasonable assurance	Some matters require management attention in control design or compliance. **Low to moderate impact** on residual risk exposure until resolved.
	Limited assurance	More significant matters require management attention. **Moderate impact** on residual risk exposure until resolved.
	Unsatisfactory assurance	Action is required to address the whole control framework in this area. **High impact** on residual risk exposure until resolved.
	Assurance not applicable	Given to reviews and support provided to management which form part of the internal audit plan, to which the assurance definitions are not appropriate. These reviews are still relevant to the evidence base upon which the overall opinion is formed.

Prioritisation of Recommendations

We categorise our recommendations according to their level of priority as follows:

Priority level	Explanation	Management action
High	Poor system design OR widespread non-compliance. Significant risk to achievement of a system objective OR evidence present of material loss, error or misstatement.	Immediate*
Medium	Minor weakness in system design OR limited non-compliance. Some risk to achievement of a system objective.	Within one month*
Low	Potential to enhance system design to improve efficiency or effectiveness of controls. Generally issues of good practice for management consideration.	Within three months*

* Unless a more appropriate timescale is identified/agreed at the assignment.

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