

# Legislation Committee No.2 - Proposed Children and Families (Wales) Measure

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## Welsh Local Government Association

### Introduction

1 The Welsh Local Government Association (WLGA) represents the 22 local authorities in Wales, and the three national park authorities, the three fire and rescue authorities, and four police authorities are associate members.

2 It seeks to provide representation to local authorities within an emerging and dynamic policy framework that satisfies the key priorities of its members and delivers a broad range of services that add value to Welsh local government and the communities it serves.

3 The WLGA welcome the opportunity to provide written evidence on the Children and Families Measure which will have a significant impact on the structure and delivery of key local authority services for children, young people and their families.

### Overview and Context

4. The Children's and Families Measure is a complex piece of legislation that aims to address a number of issues affecting vulnerable children and young people in Wales. Fulfilling this aim demands a clear understanding of the legal requirements that are placed upon bodies, a coherent policy framework that supports the legislation, appropriate levels of resources for delivery and a commitment to achieving identifiable outcomes that can be measured clearly. "One Wales" identified a number of commitments in relation to child poverty and vulnerable children and young people which are taken forward through this Measure. While these aims are laudable, it is unclear whether or not the Measure, and the requirements it introduces, will lead to the changes and impact envisaged by WAG in its strategy document. Indeed, there is a risk that some parts of the Measure, as currently drafted, will confuse rather than clarify existing legislation. For example, while the Measure introduces changes to the availability of childcare, and much discussion has taken place on what this will mean in practice, it is not clear what the long term intentions of WAG are in relation to using the legislation once introduced.

5. There is also a need to acknowledge and understand the contribution local government can and already does make to tackling child poverty, both through the direct provisions of core services (education, youth services, social services, advice, transport, economic development etc) and through its community leadership role working in partnership with other organisations and communities. Improving the outcomes for children and young people is an important corporate priority for local authorities, crossing many service areas and requiring a cross-cutting approach. As with all cross-cutting issues, there are many challenges in ensuring this strategic approach and related priorities are reflected within all statutory plans and departmental objectives. Partnership working is central to success in reducing both the number of children living in poverty and in combating the impact of poverty on children, young people and families. While local authorities have a significant contribution to make in this area, it must be recognised that other public bodies also have considerable contributions to make and that the key financial levers that could impact on the number of children living in poverty lie with the UK Government. As such, the expectations placed on local authorities need to be realistic and need to be reflective of the wider context. The desire to be aspirational in seeking to combat the effect of poverty and vulnerability is supported fully but a sense of reality must also be retained.

6. In previous evidence on the LCO, the WLGA has argued that the vehicle for delivery of the aims of the proposed legislation should be the Children and Young People's Plans. Given that the Measure has now been published, the Association still holds this view but there are concerns about the additional responsibilities likely to be placed on Partnerships. For example, there appears to be an expectation that local authorities set objectives against each of the Broad Aims of the Measure. The Association is concerned that if this is the case, it will place significant additional responsibilities on Children and Young People's Partnerships. While CYP Partnerships work closely with all local authority departments that have an impact on the children and young people agenda, it is not clear that they can address all of the 'broad aims' of the Measure. There must be a sense of realism when it comes to what Partnerships can and cannot achieve.

7. While many of the Broad Aims fall clearly within the remit of CYPPs and directly relate to services for children and young people, some are outside the scope of their current remit. The likelihood is that this will require additional work by CYPPs which might also require additional resourcing to ensure that Partnerships are able to manage and co-ordinate effectively the delivery of a child poverty strategy.

8. Effective delivery also requires a long term perspective. There is significant research evidence that indicates that interventions which seek to offset the impact of poverty and deprivation take time to become embedded and cannot be evaluated in the short term. The RAISE initiative has attempted to target resources and effort on raising education standards in deprived areas but the evaluation of that programme has highlighted the need for long term investment to be put in place if such interventions are to be meaningful and the almost impossibility of satisfactory evaluation in the short term. Where such programmes are successful, lessons must be learned and continued support and investment is essential.

9. Members of the WLGA have consistently stressed the importance of learning from experience and ensuring that relevant existing initiatives are used to best effect in delivering on this agenda. An example of this is the level of funding that has and is being made available to Communities First Partnerships. While it is appreciated that the new "Vision Framework" identifies child poverty as a specific

theme and emphasises the need for closer working with public and third sectors, and local partnerships such as CYPPs, further work needs to be undertaken to ensure that local strategies and programmes are all joined up. At a time of scarce resources, and given the scale of the challenge, it is important to avoid duplication and ensure that all partnerships add value at community level.

10. For these reasons, the WLGA is keen to have ongoing dialogue with both National Assembly Members and the Welsh Assembly Government to ensure that the Measure in its final form will deliver better outcomes for children, young people and their families that improve their life experiences.

### **Part One - Eradication of Child Poverty**

11. Local government acknowledges the importance of the new proposals to eradicate child poverty. It welcomes the clear leadership role for the Assembly Government and the extension of duties to prioritise the eradication of child poverty to other public bodies such as the NHS. The extension of these statutory duties is important as local authorities alone can not take forward this complex agenda. The proposed duties should, in practice, enhance multi agency working and the development of shared vision for poverty reduction across relevant agencies named in the Measure.

12. The WLGA welcomes the fact that the Measure is explicit in its expectation that any local authority strategy to reduce child poverty is as part of, or in alignment with, Children and Young Peoples Plans. This is crucial as C&YP Plans are the driver for integrated working and are responsible for the delivery of the 7 core aims for children and young people, each of which are relevant to the poverty agenda. In addition, the Measure will enable the mainstreaming of work on poverty within relevant organisations, building on work led by local government as part of the Child Poverty Solutions Wales project with Save the Children and WAG. It is important however that this Measure is developed and implemented to complement the current Children and Young People's planning cycles and the development of new guidance for C&YP Partnerships.

13. The WLGA welcomes the priority the Assembly Government has attached to tackling child poverty, but there are some concerns. Whilst tackling child poverty is a "One Wales" priority, no specific funding for the work associated with the Measure has been identified and the WLGA believes that WAG may have under-estimated the burden and cost of implementing the Measure. No matter how laudable the aims of the measure, it will not succeed if it is not appropriately resourced. The WLGA is not entirely convinced by the statement that "we envisage that this funding will be sufficient" and would like to have more confidence in the amount of funding that has been set aside for the impact of these legislative changes. The recent experience with the Foundation Phase emphasises the importance of a realistic assessment of costs.

14. For these reasons, the Association would like to draw attention to the objectives outlined in Part 1 section 1 (a-m) of the Measure. The WLGA recognises that these objectives are extremely important but believes that it would be more appropriate if they were seen as a list of aspirations that will underpin the relevant statutory guidance. Child poverty is such a complex area that it does not lend itself easily to such a definitive list of objectives. While this list is a very positive statement and extremely encouraging and clearly points to priority areas for action, it also neglects a number of relevant issues such as promoting equality of opportunity and reducing inequality. The complexity of defining a definitive list such as this emphasises the need for such aspirations to be in guidance so as not to limit the scope of future strategies and interventions.

15. The funding implications of these objectives are also a concern for the WLGA. Should the aspirations be included in the Measure they would have a significant cost to service providers such as local authorities. For example the requirement 'to ensure that all children grow up in decent housing' "(1h) would have a significant cost implication.

### **Part One - Childcare**

15. The second section of Part One of the Measure seeks to re-enact Part 10A of the Children Act 1989. It would place a duty on local authorities to secure the availability of free childcare. The WLGA recognises and supports the benefits of the provision of free childcare, namely that it would potentially encourage more parents back into work. It is also recognised that good child care is good for the well-being of children. The duty would give Welsh Ministers powers through regulations however which would specify the type of provision to be secured, duration of provision, eligibility and delivery area. The WLGA is concerned that the full implications of these powers have not been taken into account and cannot be anticipated at this point. While officials have confirmed that there would be prior discussion and formal consultation before the introduction of new regulations, there is concern that this approach undermines the important role of local needs assessments and local decision making processes.

16. It is understood that the duty would be triggered by the making of regulations and that such regulations would only be made if a decision were taken to move funding currently associated with Flying Start into the local government Revenue Support Grant (RSG). This WLGA is anxious about this approach as it is out of step with other discussions taking place between local and central government. There is a growing recognition that the large number of specific grants from WAG to local government needs to be reduced and that the related administrative and bureaucratic burden is inefficient and needs to be reduced. The WLGA has set out its views on these matters in written and oral evidence to recent Assembly Committees on education grants and children's budgeting. The approach proposed in the Measure is at odds also with the principles underpinning the current arrangement for funding local government through the RSG - the belief that strategy is set nationally by WAG and delivered locally by local authorities. The prescriptive approach proposed by the Measure would limit local government's capacity to deliver according to local needs and would continue the wasteful bureaucracy associated with the specific grant regime. The WLGA is currently discussing Outcome Agreements in education with WAG with the expectation that agreements on Outcome Agreements will be accompanied by a reduction in specific grants and greater local discretion in how funding is allocated. The approach proposed within the measure is inconsistent with this progressive debate and current thinking on central-local relations.

### Part Three - Integrated Family Support Teams

17. The proposal to develop Integrated Family Support Teams is supported in principle by both the WLGA and the ADSS and reflects evidence provided previously to the National Assembly by both organisations calling for the development of a clear vision for family support services in Wales.

18. Integrated Family Support Teams will provide 'additionality' to existing family support services. This will enable local authorities to target resources at a specific population of children deemed to be on the 'edge of care' thus ensuring that a more holistic package of support is secured for both the child and family through a multi agency approach, prescribed in law.

19. The WLGA supports the principle of the IFST but much depends on the additional secondary legislation. Section 51(2) of the Measure appears to imply that secondary regulations would be prescriptive in relation to spending and the provision of posts and services. The WLGA has consistently argued that such decisions are a matter for local determination, in line with existing protocols between WAG and WLGA where it is recognised that local authorities are best placed to determine local spend based on need. The WLGA would therefore expect that before any such secondary regulations are prescribed, there would be full consultation with key partners concerning the content and implications of any such regulations.

20. Many authorities have already implemented Family Support services but these have been hindered by the lack of available funding for services at lower tiers of need and due to lack of engagement from partners. The WLGA and the ADSS have long argued for additional funding and resources to enable local government to develop robust and sustainable family support structures and for more recognition of the need for a multi agency approach to service delivery. The proposals in the Measure are welcomed therefore as an appropriate mechanism for delivering such objectives.

21. The commitment to provide £0.6 million per year to each of the three pioneer sites is also welcome but it is suggested that the remaining funding, which totals £400,000 per year, should also be passed directly to local government so as to ensure that the potential of such significant additional resources is maximised and is spent on direct service delivery or training.

22. The WLGA welcomes the indications from the Assembly Government that, should the initiative prove to be successful, any future roll out of IFSTs across all 22 authorities would be funded at or above the level of the pilots. This has not always been the case with other WAG initiatives so further reassurances are needed. Whilst the constraints of the financial planning system make such commitments difficult, agreement on the principle is fundamental.

23. Whilst it is right that local authorities should be the lead partners on this agenda, the WLGA has long stressed the need for partnership and shared ownership across local government and those agencies named in the Measure. The statutory requirements set out in the Measure will further enhance this development.

24. It is accepted that an agreed structure for Integrated Family Support Teams needs to be prescribed to ensure that there is an adequate baseline for evaluation of the pioneer sites and to provide a consistent approach to service delivery. The WLGA and partners such as the ADSS, ADEW and the CYPP Association all share concerns, however, that the Measure is currently describing the discharge of functions and that this should be part of guidance that follows rather than the Measure.

25. For Integrated Family Support Teams to successfully provide seamless support to vulnerable families, it is essential that they operate in a way that is both flexible and responsive in recognition of the different local needs and issues that lead to children being placed on the child protection register. To enable this to happen, there needs to be recognition that a drive to deliver IFST carbon copies across each of the pioneer sites is likely to severely undermine the responsiveness of the teams to support the target population, and would potentially increase risk at a local level.

26. The WLGA support the need for strong governance arrangements to oversee the delivery of functions in pioneer sites and, whilst the desire for the creation of an 'IFST Board' at a local level is understood, the creation of another stand alone 'board' will not help to integrate partnership working, or align the objectives of the IFST with priorities of local statutory partnerships such as the Children and Young Peoples Partnership, Community Safety Partnership and Health, Social Care and Wellbeing networks. Further discussions are needed with partners to develop a more innovative approach to better support partnership working and to avoid any additional and unnecessary layers of [bureaucracy](#).

28. There is also concern about some of the detail with regard to the proposed boards. For example, the inclusion in section 53 (7) that, "a local authority may pay remuneration and allowances to a member appointed under subsection (5)". "There is a risk that such payments would divert important resources from frontline services. This proposal is also not in line with the operation of similar boards such as Local Safeguarding Children's Boards or Children and Young Peoples Partnership Boards. If these boards are created, it should be clear that they add value, that they increase accountability and that they perform a strategic management function.

29. While the clear need for evaluation of the work and effectiveness of the IFSTs as outlined in section 50 (8) is accepted, it is important that an appropriate balance is struck between service delivery and evaluation. Resources must be focused on the primary function of the IFST, which is to work with children and their families, developing strong relationships in order to provide appropriate and responsive services. Lessons must be learnt from current issues within the social work workforce where many social workers now spend more time record keeping than they do working at the frontline with families.

30. During consultation with WLGA members, a number of concerns have been raised regarding the definitions set out in Part 3 of the Measure, and specifically those outlined in section 50 (20) stating that 'Family Support functions are: prescribed social services functions (within the meaning of the Social Services Act 1970). The Social Services Act provides the foundation for social services and encompasses

all elements of relevant work, thus there is a danger that core child protection duties could be seen as being part of the role of IFSTs. It is apparent that clearer definitions are needed in the Measure to prevent any misinterpretation of the law regarding the role, function and responsibility of IFST's. The Children ACT 1989 may be more appropriate in that the Act referred for the first time to provision of services for Children in Need and reflecting that the value of the IFST is the additionality provided rather than subsuming core functions from either health or social services.

31. There is a further inconsistency in section 50 (12) of the Measure which states that 'abuse' includes sexual activity without consent and unreasonable behaviour liable to cause serious psychological harm'. "This definition does not align with the one used in the 'All Wales child protection procedures' which are used by all professionals in Wales. The Assembly Government needs to revisit this definition to ensure it is compatible with the All Wales Child Protection Procedures'.

32. The provision of sustainable funding will be key to the success of the IFST's, with the recognition that investment is needed in the long term to build and embed additional family support services within a local authority area. The WLGA has met with Assembly officials on a number of occasions to express the need for a resource commitment from the Government and this has also been reflected in meetings between social services cabinet members and the Deputy Minister for social services. The current financial settlement provided by the Assembly Government to local authorities does not allow for additional investment in non core services, so there is concern over the inclusion in section 51 (1) which suggests that an authority 'may' pay towards the expenditure incurred by or for purposes connected with the IFST.

33. This concern is two fold, first there is no clear commitment from the Assembly Government to provide long term funding for IFST and there is some suggestion in the Measure to local authority funding of IFST's. This position is neither sustainable nor acceptable. Secondly, even if long term funding is provided by the Welsh Assembly Government, assurances are needed that appropriate funding will be provided to local authorities. Previous evidence indicates that weak regulations suggesting that partners 'may contribute' towards costs have not worked. In 2008 the WLGA undertook a scoping exercise on funding for LSCB's and found that in the majority of cases, local authorities were the only contributor to the running costs of LSCB's with no or little support from partners as a result of weak regulations.

#### **Part Four - Miscellaneous**

34. The Measure would place a duty on local authorities to carry out assessments of the sufficiency of play opportunities in their area in accordance with regulations and guidance made by Welsh Ministers. Whilst the WLGA welcomes the commitment reflected by this duty to the UN Convention on the Rights of the Child (UNCRC) and to the principles of the 2006 Play Policy Implementation Plan, the implication of this duty is that once local authorities have carried out these assessments, they will then be required to make any changes and improvements highlighted in the results of the assessment. Our concern is that this will add extra burden to local authorities at a time when local authority budgets are already stretched. The WLGA would therefore welcome the recognition of any potential financial implications of undertaking regular assessments as outlined in the measure.

35. The Measure would also place a general duty on local authorities to ensure that children have sufficient access to opportunities to play. The WLGA would welcome greater clarity around this duty especially in relation to the definition of sufficiency and how this should be measured by authorities and how potential financial implications are to be considered.

36. The Measure would also place a duty on local authorities to make and publish their arrangements to promote and facilitate participation by children in the decisions of the local authority which affect them. Whilst the WLGA again welcomes the commitment reflected in this duty to the UNCRC, the requirement of local authorities to publish and keep up to date information on its arrangements for participation may be seen as adding extra burden to local authorities who are already working to ensure the participation of children and young people through the children and young people's plans - which should be the main vehicle for improving participation and projects such as the school councils. The Measure is also unclear whether any guidance (on the publication) would be issued to authorities or how the outcomes of this duty would be measured. The WLGA would therefore welcome further clarity on this and further recognition of what work is already taking place within authorities. In addition, the WLGA would welcome greater clarity around the procedures for inspection and regulation likely to apply if the measure is implemented.

#### **Conclusion**

38. Throughout the development of this Measure the WLGA has stressed the need for the proposed new legislation to consolidate and strengthen existing policy rather than create additional burdens that may not 'add value'. While it is recognised that much of the content of the proposed Children and Families Measure seeks to build on and strengthen existing policy and work underway in local authorities via mechanisms such as Children and Young Peoples Plans and Family Support services, the Measure should be an enabling tool, strengthening existing policies and supporting implementation and resulting in an holistic policy and legal framework that is joined up and built around the needs of the child.

40. There are remaining concerns, however that should legislation be introduced and local authorities have additional duties to meet, as set out in the Measure, then there would be further strains on funding streams. If the amount of funding made available is also frozen this will also increase pressure on authorities. Currently local authorities commit Cymorth funding to supporting projects targeted at the most vulnerable children and young people and the WLGA would not want to see these projects diluted in order to create the necessary capacity to meet new duties.

41. The WLGA would therefore not support any new or additional responsibilities that are unfunded and place additional burdens on local government, particularly at a time when public bodies are facing the real possibility of reduced public expenditure in the future.

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