

Constitutional and Legislative Affairs Committee

Meeting Venue:
Committee Room 2 – Senedd

Meeting date:
30 September 2013

Meeting time:
14:30

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales



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Agenda

1 Introduction, apologies, substitutions and declarations of interest

2 Subsidiarity Monitoring Report May to August 2013 (Pages 1 - 12)
CLA(4)22-13(p1) – Subsidiarity Monitoring Report May to August 2013

3 Papers to note (Pages 13 - 21)

CLA(4)22-13(p2) – Letter from Mick Antoniw AM, Committee of the Regions report on EU Public Employment Service draft legislation.

CLA(4)22-13(p3) – Letter from Gwenda Thomas AM, Deputy Minister for Social Services in relation to the Social Services and Well-being (Wales) Bill

4 Evidence in relation to the Inquiry into Wales' role in the EU decision-making process (Pages 22 - 26)

(Indicative time 14.45 – 15.30pm)

Tom Jones, Welsh Member of the Economic and Social Committee
CLA(4)22-13(p4) – Written Evidence

5 Evidence in relation to the Education (Wales) Bill

(Indicative time 15.30 – 16.30pm)

Huw Lewis, Minister for Education and Skills;

Emma Williams, Head of Support for Learner, Welsh Government;
Gemma Nye, Lead Policy Official Workforce Council, Welsh Government;
Iwan Robert, Legal Services, Welsh Government;
Ceri Planchant, Legal Services, Welsh Government;
Grace Martins, Legal Services, Welsh Government.

Education (Wales) Bill

<http://www.senedd.assemblywales.org/mglIssueHistoryHome.aspx?Ild=7186>

6 Motion under Standing Order 17.42 to resolve to exclude the public from the meeting for the following business:

(vi) the committee is deliberating on the content, conclusions or recommendations of a report it proposes to publish; or is preparing itself to take evidence from any person;

Draft Report Review of Powers to Welsh Ministers from UK Bills (Pages 27 - 54)
CLA(4)22-13(p5) – Draft Report

Constitutional and Legislative Affairs Committee

Summer 2013 subsidiarity monitoring report (May - August 2013)

Date of paper:

September 2013

This briefing has been produced by the Research Service for use by the Constitutional and Legislative Affairs Committee.

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Research
Service



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1. Introduction

Under Standing Order 21, a ‘responsible committee’ in the Assembly (currently the Constitutional and Legislative Affairs Committee) is empowered to consider draft EU legislation that relates to matters within the legislative competence of the Assembly or to the functions of the Welsh Ministers and of the Counsel General, to identify whether it complies with the principle of subsidiarity.

The principle of subsidiarity is enshrined in Article 5 of the Treaty on European Union:

1. The limits of Union competences are governed by the principle of conferral. The use of Union competences is governed by the principles of subsidiarity and proportionality.
2. Under the principle of conferral, the Union shall act only within the limits of the competences conferred upon it by the Member States in the Treaties to attain the objectives set out therein. Competences not conferred upon the Union in the Treaties remain with the Member States.
3. Under the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level.

The institutions of the Union shall apply the principle of subsidiarity as laid down in the Protocol on the application of the principles of subsidiarity and proportionality. National Parliaments ensure compliance with the principle of subsidiarity in accordance with the procedure set out in that Protocol.

4. Under the principle of proportionality, the content and form of Union action shall not exceed what is necessary to achieve the objectives of the Treaties.

The institutions of the Union shall apply the principle of proportionality as laid down in the Protocol on the application of the principles of subsidiarity and proportionality.¹

In addition, the application of the principle is governed by the Protocol on the Application of the Principles of Subsidiarity and Proportionality. The relevant part in relation to the work of the Assembly is included in the first paragraph of Article 6:

Any national Parliament or any chamber of a national Parliament may, within eight weeks from the date of transmission of a draft legislative act, in the official languages of the Union, send to the Presidents of the European Parliament, the Council and the Commission a reasoned opinion stating why it considers that the draft in question does not comply with the principle of subsidiarity. **It will be for each national Parliament or each chamber of a national Parliament to consult, where appropriate, regional parliaments with legislative powers.** *[RS emphasis]*²

¹ Official Journal of the European Union, [*Consolidated version of the Treaty on European Union*](#), C83/204, 30 March 2010

² Official Journal of the European Union, [*Protocol on the Application of the Principles of Subsidiarity and Proportionality*](#), C310/207, 16 December 2004

2. The monitoring process

In order to ensure that the Constitutional and Legislative Affairs Committee fulfils its subsidiarity monitoring function effectively as set out in Standing Orders, Assembly officials monitor all draft EU legislative proposals that apply to Wales on a systematic basis to check whether they raise any subsidiarity concerns. The way in which Assembly officials monitor these proposals is outlined below for information:

- The Assembly in the first instance is notified of all proposals published by the European Commission for consideration through a list (known as the “batch list”) which is sent by the Foreign and Commonwealth Office on behalf of the UK Government to the Assembly’s Research Service for information.
- The relevant UK Government department will then prepare an Explanatory Memorandum (EM) based on the proposals included on the batch list usually within 4 to 6 weeks of the initial notification by the Foreign and Commonwealth Office. Each EM includes an assessment of the policy impact of the proposals (including whether the UK Government department believes the proposal raises any subsidiarity concerns). Copies of each EM are sent to the Assembly via the Research Service.
- The Research Service filters the EMs received to check whether the proposal they relate to are ‘legislative’ or ‘non-legislative’³ and whether they encompass issues which may be of interest to the Assembly (i.e. relating to devolved matters).
- Those EMs that relate to proposals that are both ‘legislative’ and deal with issues of interest to the Assembly are then checked further by officials from the Assembly’s Legal Services, Brussels Office and the Research Service to see whether they raise any potential subsidiarity concerns.
- If a proposal raises subsidiarity concerns, Assembly officials will alert the Constitutional and Legislative Affairs Committee immediately whereupon Members will be asked to consider whether the Committee should ask either or both Houses at Westminster to issue a ‘reasoned opinion’ on the proposal or not.
- Those proposals which are ‘legislative’ and relate to devolved matters but raise no subsidiarity concerns are then collated in a monitoring report produced by the Research Service which is considered as a paper to note by the Constitutional and Legislative Affairs Committee during each term in an Assembly year (Autumn [September-December], Spring [January-April] and Summer [May – August]).

This report therefore includes a general overview of those draft EU legislative proposals received by the Assembly’s Research Service between May and August 2013, and provides further information about those proposals that were identified by Assembly officials as being both ‘legislative’ in nature and relating to devolved matters.

Please note however that this report only monitors ‘legislative’ proposals, **it does not contain details of any ‘non-legislative proposals’ that may be relevant to the work of the Assembly.** These are monitored on a separate basis by the Research Service.

³ Subsidiarity concerns can only be raised in relation to draft ‘legislative’ proposals.



3. Overview of draft EU legislative proposals received (May – August 2013)

A total of **370** UK Government EMs relating to EU proposals were received by the Assembly's Research Service from the UK Government between 1 May and 31 August 2013.

Of these, **18** EMs were identified by Assembly officials as being both 'legislative' in nature and of interest to the Assembly.

Following further analysis by officials from the Assembly's Legal Service, Brussels Office and Research Service, **none of the 18 proposals were identified as raising subsidiarity concerns.** Details of these proposals are included below.

3.1. EU legislative proposals that did not raise any subsidiarity concerns

<u>Date EM emailed</u>	<u>Title and description</u>
8 May 2013	<p><i>An amended proposal for a Regulation of the European Parliament and of the Council on <u>the European Maritime and Fisheries Fund</u> (COM(2013)245).</i></p> <p>This amended proposal aims to align the management and control system for the European Maritime and Fisheries Fund with those for the other European Structural Investment (ESI) funds under the Common Provisions Regulation.</p>
9 May 2013	<p><i>Proposal for a Council Decision establishing the position to be taken by the European Union within the Committee on Government Procurement with respect to decisions implementing certain provisions of the Protocol Amending the <u>Agreement on Government Procurement</u> (COM(2013)142).</i></p> <p><i>Proposal for a Council Decision on the conclusion of the Protocol Amending the <u>Agreement on Government Procurement</u> (COM(2013)143).</i></p> <p>These proposals aim to conclude the 'Protocol' which amends the Agreement on Government Procurement ('GPA') on behalf of the EU. The GPA is an international agreement under the World Trade Organisation whose signatories agree to mutually open up their public and utilities procurement markets.</p>
14 May 2013	<p><i>Amended proposal for a Regulation of the European Parliament and of the Council laying down common provisions on the <u>European Regional Development Fund, The European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund covered by the Common Strategic Framework and laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation</u> (COM(2013)246).</i></p> <p>This proposal amends the Common Provisions Regulation to align the management and control system of the European Maritime and Fisheries Fund with that of the cohesion policy.</p>

28 May 2013	<p><i>Proposal for a Regulation of the European Parliament and of the Council on <u>animal health</u> (COM(2013)260).</i></p> <p>This proposal establishes a legal framework to support the Animal Health Strategy for the EU, published in 2007. The specific objectives of the proposed Regulation are: to establish a single, simplified regulatory framework that sets out the objectives, scope and principles of regulatory intervention based on good governance and compliant with international (e.g. OIE) standards that will enable quick reaction in case of emerging diseases, ensure consistency across the field of animal health, reduce the impact of animal diseases on animal and public health, animal welfare, economy and society as far as possible, and ensure the smooth functioning of the internal market of animals and animal products.</p> <p>The proposal relates to COM(2013)262, 265 and 267 below.</p>
28 May 2013	<p><i>Proposal for a Regulation of the European Parliament and of the Council on the <u>production and making available on the market of plant reproductive material</u> (plant reproductive material law) (COM(2013)262).</i></p> <p>The proposal aims to update, simplify and consolidate the current EU regulatory regime comprising 12 directives and some 90 secondary acts, which will be repealed.</p> <p>Whilst the proposed regulation includes many aspects of the current EU regime, it also includes additional requirements seeking to clarify and harmonise existing approaches throughout the European Union to ensure the free movement of plant reproductive material.</p>
28 May 2013	<p><i>Proposal for a Regulation of the European Parliament and of the Council on <u>protective measures against pests of plants</u> (COM(2013)267).</i></p> <p>The proposal seeks to strengthen the current plant health regime so as to protect European agriculture, horticulture, forestry, parks, gardens and the environment by preventing the entry and spread of harmful non-native pests and diseases. In particular, the proposal aims to replace deficiencies encountered in the current regime in order to put in place a robust, sustainable and transparent regulatory framework.</p> <ul style="list-style-type: none">▪ The proposal provides detailed technical rules on:▪ Preventing the entry of harmful pests and diseases;▪ Prioritising risks;▪ Controlling outbreaks;

- Tightening internal controls; and
- Improved communication and collaboration.

The proposed regulation is one of five in a package of interconnected proposals to update and simplify controls in the agri-food chain and improve EU harmonisation. The others cover feed and food controls, plant reproductive material and animal health, and financial measures.

29 May 2013

*Amendment of the **Environmental Accounts Regulation** (COM(2013)247).*

This proposal amends the Environmental Accounts Regulation to implement three additional modules of accounts, namely:

- Environmental Protection Expenditure;
- Environmental Goods and Services; and
- Physical Energy Flow Accounts.

3 June 2013

*Proposal for a Regulation of the European Parliament and of the Council on **promoting the free movement of citizens and businesses by simplifying the acceptance of certain public documents** in the European Union (COM(2013)228).*

This Regulation proposes that public documents originating in Member States are exempted from all forms of 'legalisation'. Legalisation refers to confirmation that the signature, seal or stamp on a public document is genuine.

Public documents are defined for the purposes of the proposal as those issued by authorities of a Member State and having formal evidentiary value relating to birth, death, name, marriage and registered partnership, parenthood, adoption, residence, citizenship and nationality, real estate, legal status and representation of a company or other undertaking, intellectual property rights, and absence of a criminal record. The UK does not require the legalisation of documents for use in the UK.

The Regulation also proposes to establish EU multilingual standard forms for birth, death, marriage, registered partnership and legal status, and representation of a company or other undertaking. In addition, standard forms could be established at a later stage for public documents relating to name, parenthood, adoption, residence, citizenship and nationality, real estate, intellectual property rights and absence of a criminal record.

3 June 2013	<p><i>Proposal for a Regulation of the European Parliament and of the Council on official controls and other <u>official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health, plant reproductive material and plant protection products</u> (COM(2013)265).</i></p> <p>This regulation relates to COM(2013)267 (see above) and proposes a new framework for the organisation of official controls, such as inspections and audits, undertaken by Member States and their delegated enforcement authorities to verify business compliance with agri-food chain law.</p> <p>The proposal aims to simplify the current legislative framework and create a more integrated approach to official controls along the entire agri-food chain by including in its scope food, animal feed, animal health and welfare, plant health and plant reproductive material controls.</p>
7 June 2013	<p><i>Proposal of the European Parliament and of the Council amending Regulation (EU) No 528/2012 concerning the making available on the market and use of <u>biocidal products</u> with regard to certain conditions for access to the market (2013/0150(COD)).</i></p> <p>Biocides are chemicals used to control harmful organisms. Examples include wood preservatives, disinfectants, rodenticides and insecticides. They are currently regulated by a new direct-acting Regulation EU No 528/2012 which came into force on 1 September 2013.</p> <p>This proposal seeks making further amendments to the Regulation to correct certain errors.</p>
14 June 2013	<p><i>Proposal for a Regulation of the European Parliament and of the Council establishing a framework on the <u>market access to port services and the financial transparency of ports</u> (COM(2013)295 & 296).</i></p> <p>These proposals seek to impose a regulatory framework aimed at improving the efficiency and competitiveness of all EU ports and to contribute towards their ability to cope with increased demand in the transport and logistics sector.</p> <p>The proposed Regulation would provide for the following:</p> <ul style="list-style-type: none">▪ establishment of the principle of freedom to provide specified types of port services, subject to certain requirements;▪ the number of competing providers may be limited, and where a limit is applied, there must be a transparent selection process for contracts;

- Member States may impose public service obligations, and in these circumstances they can keep port services in-house, and so not be obliged to tender them;
- provisions requiring transparency of payments by public authorities and certain other specific accounting requirements;
- requirements relating to charges for port services (including cargo-handling) and infrastructure, including a power for the Commission to adopt delegated acts in relation to the basis for and principles of port charges;
- requirements relating to consultation by ports of port-users and other stakeholders;
- creation or specification of a new 'independent supervisory body' that would be required to investigate and rule on complaints of alleged breaches of the Regulation's requirements.

*Proposal for a Regulation of the European Parliament and of the Council laying down provisions for the **management of expenditure relating to the food chain, animal health and animal welfare, and relating to plant health and plant reproductive material** (COM(2013)327).*

21 June 2013

The proposal provides a strategic framework and sets clear objectives for the implementation of funded programmes. It will set indicators for success and provide increased clarity over funding rates.

The regulation also provides the scope and objectives for feed and food expenditure. In line with the MFF negotiations, it also sets the maximum ceiling for expenditure in relation to food and feed during the whole period 2014-2020.

*Proposal for a Decision of the European Parliament and of the Council on enhanced **co-operation between Public Employment Services (PES)** (COM(2013)430).*

10 July 2013

The proposal aims to expand, reinforce and consolidate on-going initiatives (such as the European Network of the Heads of Public Employment Services) to modernise Public Employment Services (PES) and improve the operation of labour markets.

17 July 2013	<p><i>Proposal for a Regulation of the European Parliament and of the Council on the monitoring, reporting and verification of <u>carbon dioxide emissions from maritime transport</u> (COM(2013)480).</i></p> <p>The proposal requires the CO2 emissions of ships (above 5000 Gross Tonnage) to be monitored and to be reported on an annual basis. The requirement to monitor and report would fall to the company which has responsibility for the ship's operations and reports would be verified by an independent, accredited verifier.</p> <p>The proposal also amends existing Regulation EU No 525/2013 to include the monitoring and reporting of CO2 emissions from maritime transport.</p>
1 August 2013	<p><i>Proposal for a Decision on the participation of the Union in a Research and Development Programme aimed at <u>supporting research performing small and medium-sized enterprises</u> (COM(2013)493).</i></p> <p>The proposal sets out rules for participation of Eurostars-2, the successor programme to the Eurostars Joint Programme. Eurostars is a joint research programme which supports Research and Development performing SMEs in executing market-orientated research in transnational projects.</p> <p>The Commission proposes that Eurostars will continue as a programme between 2014-2020.</p>
1 August 2013	<p><i>Proposal for a Council Regulation on the <u>Bio-Based Industries Joint Undertaking</u> (COM(2013)496).</i></p> <p>The regulation concerns the creation of a Bio-Based Industries Joint Undertaking ('BBI JU') which is intended to enable the demonstration of new technologies and development of new business models leading to the creation of new building blocks for the chemical industry, bio-based materials and consumer products.</p> <p>The main objective of the BBI JU is to encourage greater cooperation and coordination of the bio-based industries across the EU.</p>
2 August 2013	<p><i>Proposal for a Decision of the European Parliament and of the Council on the <u>participation of the Union in the Active and Assisted Living Research and Development Programme</u> jointly undertaken by several Member States (COM(2013)500).</i></p> <p>This proposal seeks to allow the European Union to financially contribute to</p>



a programme undertaken by several Member States on the development of ICT-based solutions for active and assisted living, the Active and Assistive Living Research and Development Programme ('AAL2').

The proposal describes the governance model, project-selection procedures and other operational aspects of AAL2.

*Proposal for a Council Regulation on the **Electronic Components and Systems for European Leadership Joint Undertaking** (COM(2013)501).*

2 August
2013

This regulation concerns the creation of a Joint Undertaking on Electronic Components and Systems for European Leadership that will undertake and support EU-level research, development and innovation activities in the areas of micro / nanoelectronics, embedded systems and smart systems.

This JU will build on and combine the work of two previous Joint Undertakings; ARTEMIS (on embedded systems) and ENIAC (on nanoelectronics) and additionally support work on smart systems identified by the European Technology Platform on Smart Systems Integration (EPoSS).



Mick Antoniw

Aelod Cynulliad dros
Bontypridd

Assembly Member for
Pontypridd

17 September 2013

David Melding AM
Chair of Constitutional and Legislative Affairs Committee
National Assembly for Wales
Cardiff Bay
Cardiff
CF99 1NA

Dear David,

Committee of the Regions report on EU Public Employment Service draft legislation

I am writing to you in my capacity as the National Assembly for Wales' representative on the Committee of the Regions to draw to the attention of the Constitutional and Legislative Assembly Committee the work I am currently undertaking for the Committee of the Regions.

At the beginning of July I was nominated by the Economic and Social Affairs (ECOS) Commission as rapporteur to prepare the Committee of the Regions opinion on draft legislative proposals published by the European Commission in June that aim to strengthen and formalise cooperation between European Public Employment Services (PES). Such co-operation, which has been ongoing for over a decade, is very much focused on improving performance in the services provided to job seekers and employers, aimed ultimately at increasing employment.

My draft report (copy attached) goes through a two-stage formal adoption process:

- 2 October: the 'committee' stage – meeting of the ECOS Commission
- 28-29 November: full Committee of the Regions plenary

The report was prepared on the basis of evidence gathering in Brussels, Wales and London over the summer, with the support of my expert Nia Lewis from the Welsh Government's office in Brussels. It was clear from this work that the co-operation between European PES has been a very positive development at EU level, providing an excellent opportunity for mutual learning and sharing of best practice. I very much welcome the proposals to give a stronger formal basis to this co-operation, through the proposed 'Decision', and my draft report proposes two amendments which I think strengthen the proposals.

Within the UK employment services continue to be a reserved matter, meaning that the Department for Work and Pensions participates in the European PES co-operation on behalf of the UK as a whole. However, there is scope within this arrangement for the devolved administrations to share their experiences with other countries, and my report seeks to encourage a stronger engagement with sub-State employment services and governments by the European PES framework, including requesting direct participation of the Committee of the Regions in the PES network. I have emphasised in particular the importance of focusing on sharing of good practice in combatting youth unemployment as a priority area for this network.

As regards subsidiarity issues, through our evidence gathering the only concerns that we have seen expressed have come from Italy – the Emilia Romagna region – and I am conscious that the Committee is aware of these through the access you gain to such shared information through participation of the Assembly in the Committee of the Regions Subsidiarity Monitoring Network. Italy is one of the rare examples in the EU where employment services are devolved to the regional level, and the response by Emilia Romagna reflects this.

If in your reflections on my draft report the Committee identifies issues that it would like raised, I would be very happy to take this into consideration in the context of amendments before the draft goes to the Committee of the Regions plenary session. I would ideally need to receive these by the end of October in order to make this possible.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Mick Antoniw', with a long horizontal stroke extending to the right below the signature.

Mick Antoniw
Assembly Member for Pontypridd

CC. Gareth Williams, Clerk of Constitutional and Legislative Affairs Committee



Ein cyf/Our ref LF/GT/0897/13

David Melding AM
Chair
Constitutional and Legislative Affairs Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

25 September 2013

Dear David,

I am writing to place on record my thanks to the Committee for its comprehensive consideration of this Bill. Your scrutiny is essential if we are to make this legislation a success and I understand my Private Office has been in touch to arrange a meeting to discuss the report further ahead of the plenary debate on 8 October.

Ahead of this, I wanted to share with the Committee my responses to a number of the recommendations made and for which I am minded to table amendments. These are as follows:

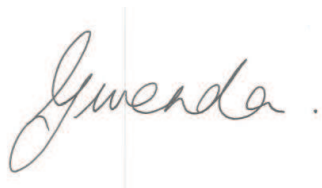
- Procedural changes from the Negative to Affirmative legislative procedure relating to the following sections:
 - 3(6) – Meaning of ‘disabled’
 - 7(3) – Definitions of ‘social enterprises, co-operatives and third sector organisations’
 - 9(3) – Definitions of ‘blind, deaf, and both blind and deaf’
 - 23 – Duty to meet care and support needs of a child
 - 26 – Duty to meet care and support needs of an adult carer
 - 27 – Duty to meet care and support needs of a child carer
 - 105(9) – Adult Protection and Support Orders
 - 112(4) – Functions and procedures of Safeguarding Boards
- A change in procedure from Affirmative to Super-Affirmative for Section 117, which relates to the power to merge Adults and Children’s Safeguarding Boards.

I would also like to take this opportunity to share with you a table which sets out a summary of the categories of amendments I am proposing to table on behalf of the Government during Stage 2. I wanted to do this ahead of the process formally starting in October so you had as much time as possible to consider the potential impact of these changes.

I hope you will agree that both the amendments above and those included in the table attached are a clear representation of my commitment to listening to the Committee and to stakeholders.

I am copying this letter and table of my responses to your recommendations to the Chair of the Health and Social Care Committee.

Yours sincerely

A handwritten signature in cursive script that reads "Gwenda". The signature is written in black ink on a white background. A vertical line is drawn through the signature, likely for scanning or archival purposes.

Gwenda Thomas AC / AM

Y Dirprwy Weinidog Gwasanaethau Cymdeithasol
Deputy Minister for Social Services

Proposed Stage 2 Government Amendments

Topic	Amendments relate to...	Proposed Change / Purpose	Effect	Reason	Estimated number of drafting amendments	Tabling Tranche	Bill Part
1	ASSESSMENT & ELIGIBILITY LF/GT/0442/13	<p>Assessment: To amend Section 10, 12 and 15 in order to require that an assessment includes an assessment of whether, and if so, to what extent other factors could contribute to meeting any needs identified;</p> <p>Amend Sections 10, 12 and 15 in order to require a local authority to assess whether the provision of preventative services or information, advice or assistance could contribute to meeting a person's needs or desired outcomes.</p> <p>Amend Sections 10 and 12 in relation to the persons who are required to be involved in the assessment.</p> <p>Amend Sections 10, 12 and 15 to ensure consistency across the Sections; consistency with the language used in Sections 26, 27 and 29; and to change references to 'consult' to 'involve'.</p> <p>Eligibility: Amend Section 19 to remove the power for Local Authorities to set their own (lower) eligibility level. Also amend Section 19 to include a regulation making power to specify eligible needs, including describing those needs by reference to the effect that those needs have, and the person's circumstances.</p> <p>Amend Sections 22 and 24 so that the duty to meet needs does not apply to needs that are being met by a carer.</p> <p>Eligibility and Preventative Services: Amend Section 19 to include an additional requirement on Local Authorities, following their determination of whether a person's needs meet the eligibility criteria. That requirement will be to consider whether the person would benefit from the provision of services under Sections 6 or 8 of the Bill. This requirement would apply, regardless of the determination of eligibility.</p>	The intended effect of these amendments is to strengthen the connections between assessment; eligibility; preventative services; and information, advice and assistance. The changes will require Local Authorities to take into account a wider range of factors when considering if a person has eligible needs; and will ensure that the person being assessed has other options, even if the Local Authority has determined that they do not meet the eligibility criteria for care and support. The amendments will also ensure consistency with section 15, which already makes provision for the persons who are required to be involved in relation to the assessment of the needs of a carer.	Following extensive work with the Social Services Improvement Agency (SSIA) and stakeholders, and the publication of their report: Access to Care and Well-being; in addition to working closely with the Department of Health on the development of their framework for the Care Bill; the Deputy Minister agreed to amend the Bill in order to meet the principles of the SSIA report, and to achieve the flexibility required to deliver the new core services for assessment and eligibility in Wales.	29	1	3 and 4
2	Section 117 of MHA (1983) LF/MD/0476/13	To amend Section 37 to remove subsection (5).	The effect of this amendment is the removal of a regulation making power in relation to the interface between direct payments under the Bill and after-care services provided under Section 117 of the Mental Health Act 1983.	Technical amendments for consistency.	1	1	4
3	FOSTER TO ADOPT LF/GT/0425/13	To amend section 65 in a way that would enable looked after children to be placed with 'matched' prospective adopters at an earlier stage in the adoption process.	It is intended that these amendments would remove the necessity for prospective adopters to undergo the lengthy assessment process for Local Authority foster parent registration. This would reduce the delay in the placement of children in such cases, thereby ensuring earlier placement with their adoptive parent(s) (under a fostering placement) and avoid the need for changes of placement for the child. Those relevant prospective adopters would also receive the same entitlements as regular approved foster carers, including support and any appropriate fees.	We have proposed these amendments in an attempt to tackle the issue of delay without the potential risk of adverse effects on the child or prospective adopters. This is also something that was raised by Stakeholders and the Children and Young People's Committee during Scrutiny as something they wished to see within the Bill.	19	3	6

4.1	CARE LEAVER ENTITLEMENTS - PART 1	<p>Section 88 - Young people entitled to support – to amend the Categories of young person entitled to support and assistance from 5 to 6. The amendment effectively splits the “former relevant children” definition into two separate Categories as opposed to a single Category:-</p> <p>Category 3, former relevant children who has passed the age of 18 and for whom the LA is providing support and assistance (previously 23CA of the Children Act 1989); and Category 4, former relevant children who have ceased contact with the local authority but before reaching the age of 25 wish to re-engage with the local authority and seek support and assistance to pursue a programme of education or training (previously 23CA of the Children Act 1989).</p> <p>Section 88(6) which prescribes the circumstances whereby the duties for Category 3 and 4 young people cease, is deleted and is re-stated in Sections 94C and 94D.</p> <p>Section 89 - Keeping in touch</p> <p>amends duties to “keep in touch” to reflect the revised Categories of children from 5 to 6; limits the duty to “keep in touch” with Category 3 young people to the provisions of 94C; amends existing Children Act 1989 references from “assistance” to “advice and other support” to provide greater consistency of language with the Bill;</p> <p>Section 90 – Personal Advisors: Pathway assessment and Plans: amends existing Children Act 1989 references from “assistance” to “advice and other support” to provide greater consistency of language with the Bill and limits the duty to keep the pathway plan of Category 3 and 4 young people under review to the provisions of 94C and 94D.</p> <p>Section 91 - Pathway assessment and Plans: amends existing Children Act 1989 references from “assistance” to “advice and other support” to provide greater consistency of language with the Bill.</p>	The intended effect of these amendments is to preserve the entitlements currently under the Children Act 1989 for each of the current categories of care leavers – “eligible child”, “relevant child”, “former relevant child”, “(young persons entitled to) further assistance to pursue education or training” and “persons qualifying for advice and assistance”. These have been translated within the Bill into Category 1 - 6 young persons.	The reason for the amendments proposed follows further analysis of the consolidation of entitlements for care leavers under the Children Act 1989 into the Bill, has identified a number of issues where the preservation of entitlement has not been fully achieved. These amendments are required in order to achieve that preservation. LF/GT/0495/12 identified that there would likely be a requirement for amendments to the Children's provisions to ensure compatibility with extant children's legislation.	78	4	6
4.2	CARE LEAVER ENTITLEMENTS - PART 2	<p>Section 92 - Support for Category 2 young people - Desirable “stylistic” amendment to subsection (1).</p> <p>Section 93 - Support for Category 3 young people -</p> <ul style="list-style-type: none"> • desirable “stylistic” amendments to subsections (1), (4), (7) and (8); • clarifies that “support” under this section extends to the contribution it makes to individuals’ well-being, and education and training; • limits the duty to provide support to Category 3 and 4 young people under review to the provisions of 94C; • clarifies that duties to pay relevant to young people pursuing higher education is additional to duties under this section; and • section 93(6) is deleted but restated as section 94B. <p>Section 93A - Support for Category 4 young people - Inserts provisions to re-state existing Children Act entitlements resulting from revised definition of Category 4 young people.</p> <p>Section 94 - Support for Category 5 and former Category 5 young people - desirable “stylistic” amendments to subsections (1), (4) and (5) and provides that a LA may disregard interruptions in education or training;</p> <p>Section 94A - Support for Category 6 and former Category 6 young</p> <ul style="list-style-type: none"> • Inserts provisions to re-state existing Children Act entitlements resulting from revised definition of Categories of young people. <p>Section 94B – Supplementary provision about support for young people in further or higher education</p> <ul style="list-style-type: none"> • Re-states Welsh Ministers regulation making power to define “full-time”, “further education”, “higher education” and “vacation” for the purposes of this Part (previously section 93(6)). 	See Part 1 above	See Part 1 above	\	4	6
4.3	CARE LEAVER ENTITLEMENTS - PART 3	<p>Section 94C - Cessation of certain duties in relation to Category 3 young persons</p> <ul style="list-style-type: none"> • Inserts provisions to re-state existing Children Act entitlements resulting from revised definition of Categories of young people including provision for local authorities to dis-regard interruptions to programmes of education or training. <p>Section 94D - Cessation of certain duties in relation to Category 4 young persons</p> <ul style="list-style-type: none"> • Inserts provisions to re-state existing Children Act entitlements resulting from revised definition of Categories of young people including provision for local authorities to dis-regard interruptions to programmes of education or training. <p>Section 95 - Charging: amends existing Children Act 1989 references from “accommodation maintenance and support” to “support” to provide greater consistency of language with the Bill.</p> <p>Section 96 Information: amends existing Children Act 1989 references from “accommodation maintenance and support” to “support” to provide greater consistency of language with the Bill.</p> <p>Section 157 – Representations relating to former looked after children etc: Inserts provisions to re-state existing Children Act entitlements resulting from revised definition of Categories of young people.</p> <p>Policy has asked Counsel to consider renumbering the highlighted provisions, to immediately follow the provisions specifying “Support for Category 3 and 4 young people” (which are currently s93 and 93A respectively.)</p>	See Part 1 above	See Part 1 above	\	4	6
5	VISITS - Looked after and Accommodated Children DC/GT/0396/13	Amend Subsection 81(1) to insert a regulation making power after 81(1)(b). The new subsection - 81(1)(c) - will allow Welsh Ministers to specify in regulations other categories of children for which the duty under Section 81 would apply.	The amendment will allow Welsh Ministers to prescribe in regulations additional categories of children to whom the duty should apply. These children, whilst not current or former LAC, may be considered vulnerable, or may otherwise benefit from a visit and assessment on entering the secure estate; and subsequently in preparation for their release and re-integration into the community. It is intended that this will assist with reducing re-offending; whilst also, in conjunction with Regulations under subsection (4), help to clarify the balance of responsibilities of all agencies engaged with such children, such as the secure estate in which the child has been placed, the broader Local Authority, LHBs and Youth Offending Teams.	Section 81 of the Bill, as currently drafted does not provide the power to prescribe those circumstances in which the duty extends. The proposed amendment, therefore, is required in order to ensure that specific groups of children, such as those on remand, are appropriately supported by the Local Authority through the duty under S.81.	1	3	6

6	SAFEGUARDING - Duty to report Children at Risk LF/GT/0427/13	Amend S.108 to extend the duty to report children at risk to 'relevant partners' of Local Authorities. Amend S.106 (duty to report adults at risk) to align the wording of the two duties and provisions at 106 and 108. Amend section 145 to align with the revised definition of 'relevant partner'.	The intended effect of these amendments is to align the duty to report children at risk with the duty to report adults at risk; and to align the revised definition of 'relevant partner' throughout the Bill, so far as is possible.	The reason for these amendments is to align the duty to report children at risk at S.108, with the duty to report adults at risk at S.106.	5	1	7
7	ADVOCACY LF/GT/0433/13	To extend provision for statutory advocacy and meet the Deputy Minister's intention to provide: For a regulation making power to place duties on Local Authorities to make advocacy available in prescribed circumstances to prescribed persons; A duty to require Local Authorities to promote and inform people of their right to advocacy; A duty to require registered care home providers to inform people about the availability of advocacy services by the Local Authority; and A power to charge for the provision of those advocacy services.	The intended effect is to give the Welsh Ministers power to require Local Authorities to arrange for advocacy services to be made available to certain persons with need for care and support, to ensure that those persons are aware of their right to those advocacy services and to enable Local Authorities to charge for those services.	These amendments are being pursued following significant feedback and evidence submitted from stakeholders and opposition parties during stage 1 scrutiny. This will provide an enabling power to ensure that Local Authorities provide advocacy for some people who may have complex needs and do not have the capability or the wider support network to advocate on their behalf in decisions about their care. This will strengthen the 'voice and control' element of the Bill.	5	1	10
8	Definition of Third Sector (Promoting Social Enterprise) LF/GT/0508/13	To amend the wording of Subsection 7(1)(d) to clarify that 'promoting the availability of care and support and preventative services from third sector organisations' can encompass, but not exclusively, social enterprises and co-operative organisations.	It is intended that the re-wording of this Section will clarify that social enterprises and co-operatives come within the term 'third sector organisations'.	This amendment is being pursued following feedback and evidence submitted from stakeholders throughout the Scrutiny process.	1	4	2
9	REGISTERS (Terminology used) GT/0372/13	To amend the wording of Section 9 and the corresponding reference in Section 1 to remove references to 'blind' and 'deaf' and replace with 'sight-impaired' and 'hearing-impaired'.	The proposed amendments will bring the Bill in line with modern language, whilst further reflecting the broad range and levels of hearing and sight loss.	These amendments are being pursued following feedback and evidence submitted from stakeholders throughout the Scrutiny process.	5	1	2
10	Safeguarding, Co-operation and Guidance	1. Amend subsection (4) of Section 25 of the Children Act 2004 to include, as a relevant partner, any other Local Authority with which the authority agrees it would be appropriate to co-operate under this Section. 2. Amend Section 144 of the Bill to remove subsections (6) and (8). 3. Include a new guidance power in the Bill, to enable Welsh Ministers to issue guidance to Local Authorities and 'relevant partners' in the context of safeguarding and co-operation.	1. The intended effect of 1 is that the arrangements for co-operation and the relevant partners in relation to those arrangements for both adults and children are aligned. 2. The intended effect of 2 in the case of 144(8) is to retain the provision within subsection 25(9) of the Children Act 2004, in order that Secretary of State consent is required in order to issue guidance under this Section. In the case of 144(6), it will no longer insert the provision to enable local authorities and their relevant partners to share information for the purposes of co-operation to improve well-being. 3. The intended effect of 3 is to enable Welsh Ministers to issue statutory guidance to all relevant partners in relation to safeguarding and co-operation.	1. The reason for 1 is to align the co-operation arrangements for both adults and children. 2. The reason for 2 and the removal of subsections (6) and (8) of Section 144 of the Bill is an issue of competence. Consent has not been provided by the Secretary of State for this provision – which is required as it, in the case of 144(8), removes a pre-commencement power from a Minister of the Crown; and in the case of 144(6) confers a function on a Minister of the Crown. Therefore these subsections need to be removed in order to keep the Bill within competence. 3. The reason for 3 and the new guidance power is that on further reflection of the introduced Bill, it was felt that it did not adequately meet the policy needs required in relation to the ability of the Welsh Government to issue statutory guidance to all relevant partners listed in Section 143; and its impact on safeguarding and co-operation.	4	1	9
11	Changes to procedures for Regulations LF/GT/0548/13	Amend the Bill in order to effect a change in procedure for the following regulation making powers: Negative to Affirmative for Sections – 3(6); 7(3); 9(3); 23(1); 26(1); 27(1); 105(9); 112(4) Affirmative to Super-Affirmative for Section 117 To apply a Negative procedure to Section 25 of the Children Act 2004, by amending Section 66 of that Act. The regulation making power will be inserted into Section 25 of the 2004 Act following commencement of Section 144 of the Bill. To amend Section 85 to remove subsection (2), which states that the Lord Chancellor requires the consent of Welsh Ministers in order to make regulations under this Section. To amend section 77 to clarify that directions can be varied or revoked by later directions.	The effect of these amendments is that all of the regulation making powers contained within the Sections and subsections referenced will be subject to revised levels of procedure; and that the direction-making power in section 77 will be clarified.	The reason for these amendments follows requests and recommendations by the Health and Social Care; and Constitutional and Legislative Affairs Committees to reconsider the procedures for these powers during their scrutiny of the Bill during Stage 1 proceedings; and their subsequent Stage 1 reports. HSC Recommendation 37; and CLAC Recommendations 3, 5, 9, 10 and 13 refer. In relation to Section 85 (Referred cases – family procedures) - This is a technical matter which was discussed with Whitehall counterparts during discussions regarding consent in other areas of the Bill. Welsh Government and Whitehall officials agreed that it would be inappropriate to provide that the Lord Chancellor's regulation making power under this section be subject to Welsh Ministers' consent. The amendment to section 77 is being made to ensure that there is clarity throughout the Bill as to the ability to vary or revoke codes.	13	2	11

12	Provider Failure (Market Management) LF/GT/0387/13 & LF/GT/0524/13	To include provisions to place temporary duties on Local Authorities in Wales to meet the needs of an adult/carer; or help the adult/carer to meet those needs; which immediately prior to business failure, were being met by the failed business, where the business is an establishment or agency registered under Part II of the Care Standards Act 2000. To provide a power for the Local Authority on which the temporary duty is placed, to recover costs from the Local Authority in which the person is ordinarily resident, or, where the person is funding their own care, a power to impose a charge upon that person. To place duties on other Local Authorities and Local Health Boards to co-operate with the Local Authority on which the temporary duty is placed.	It is intended that the proposed amendments will ensure continuity of care for adults in receipt of residential care or domiciliary care, where a provider in the Local Authority's area has ceased to provide that care due to business failure. Details were set out in LF/GT/0287/13 and LF/GT/0524/13.	The main reason for including these provisions is to protect those people that would be affected should another provider fail, such as those affected by the recent issues with Southern Cross and Castle Beck. The Department of Health in England have sought to protect against these issues in Clauses 47-49 of their Care Bill, in addition to some amendments that are currently being planned. Those provisions, however, place duties on Local Authorities in Wales to arrange emergency care for those people that have been placed with a provider located in a Welsh Local Authority area, by a Local Authority in England, Scotland or Northern Ireland, where that provider ceases operation due to business failure. Failure to include the proposed provisions within our Bill would create an inequity of protection between those adults that have been placed by a Local Authority in Wales, and those that have been placed by a Local Authority in England, even though the provider may be based in a Welsh Local Authority area. The legal provision by which Local Authorities have assisted adults in these circumstances previously, was contained in a power under Section 47(5) of the NHS and Community Care Act 1990. Section 47 of that Act will be repealed by the Social Services and Well-being Bill, with the effect of Section 47(5) having been replicated in Section 22 of our Bill. This, however, is not considered to be sufficient in these circumstances, as it is a power and not a duty to meet needs. There is no current requirement for a Local Authority to meet needs in these circumstances; and no clear distinction of duty.	3	2	11
13	Exception for provision of health services	Amend subsections (1) and (2) of Section 31 of the Bill to add reference to "a health enactment" which is then defined in subsection (10) and which adopts a four nation approach, referring to (a) the National Health Service (Wales) Act 2006, (b) the National Health Service Act 2006, (c) the National Health Service (Scotland) Act 2006, (d) the Health and Personal Social Services (Northern Ireland) Order 1972 and (e) the Health and Social Care (Reform) Act (Northern Ireland) 2009.	The effect is that the scope of a local authority's power or duty to provide care and support, or its power to secure preventative services, does not extend to services or facilities which are required to be provided under the NHS whether this is under an NHS enactment applying not just to Wales or England, but also to Scotland or Northern Ireland.	The adoption of the four nation approach, which will allow persons to be placed in Wales by local authorities or health bodies in England, Scotland and Northern Ireland requires the augmentation of the healthcare exception in section 31 of the Bill to include reference to the health legislation in the other home nations to avoid the risk of over-lapping duties arising.	8	4	4
14	Research	To amend the Bill to include provisions equivalent to the provisions in the Children Act 1989 for Welsh Ministers, local authorities and local health boards to conduct or assist in research relating to their functions under the Bill and to transmit information relating to their functions under the Bill to Welsh Ministers.	To ensure that Welsh Ministers, local authorities and local health boards are able to conduct, commission or assist in the conduct of research in relation to matters connected with functions under the Bill; and that local authorities and local health boards are able to transmit information about the performance of their functions to Welsh Ministers. Key examples include the shared duty to assess the need for care and support etc of their population (under section 6) as well as their duties of co-operation and partnership (under Part 9).	Technical amendment to ensure current ability in relation to research are preserved.	3	4	11
15	Non- Consequential Repeals	Expenses of Council Officers – The proposal is to place a new provision within the Bill that would dis-apply S.49 of NAA '48 in relation to Local Authorities in Wales.	Expenses of Council Officers – The effect of this amendment is the dis-application of S.49 of NAA '48 in relation to Local Authorities in Wales.	The decision for the dis-application in relation to Wales, in this instance, has been taken to improve the coherence of the legal framework in relation to social services in Wales – one of the key objectives of the Bill. The disapplication of s.49 NAA is not consequential on any provision in the Bill, and so cannot be addressed by means of regulations under section 167 of the Bill.	2	4	M
16	PUBLIC SERVICE OMBUDSMAN WALES LF/GT/0024/13	Section 34Y forms part of what will become Part 2B of the Public Services Ombudsman for Wales (PSO(W)) Act 2005, upon commencement of Section 160 of the Social Services and Well-being (Wales) Bill/Act. The current provision provides a power to a Minister of the Crown to prohibit the Public Services Ombudsman for Wales from disclosing documents or information which may be prejudicial to the safety of the State or contrary to public interest. Subsection (3) of 34Y limits that power to only such information that is in relation to an investigation under what is currently Part 2 of the PSO(W) Act. This amendment will remove subsection (3) from Section 34Y of Schedule 3.	It is intended that this proposed amendment will widen the powers of a Minister of the Crown under Section 34Y to include the ability to prohibit the disclosure of such information that is in connection with investigations under the new, broadened powers of the Public Services Ombudsman for Wales, for which the Bill legislates.	The reason for this amendment arises from a previous competence issue. Consent from the Secretary of State was required due to a conferral of new functions on a Minister of the Crown, as a result of the widened powers of the PSOW brought about by the Bill. As consent was not provided prior to introduction, subsection (3) was added to the proposed new section 34Y of the PSO(W) Act 2005 in order to bring the Bill into competence. This amendment seeks to return this section of the Bill to that that was originally intended, prior to introduction. N.B. The Secretary of State for Wales has agreed in principle to provide consent for the conferral of new functions in this instance; and noted that formal clearance will be provided by the UK Government after the summer recess.	1	4	10
17	Ordinary Residence	Amend section 163(1) to clarify that its purpose is to make provision about the ordinary residence of adults living in accommodation of a specified type in Wales and insert new provision to deal with situations where an adult lives in such accommodation for consecutive periods. Amend section 163(2) to make provision about the ordinary residence of persons provided with accommodation under the health enactments of any of the four nations. Amend section 163(4) so as to disregard any periods spent in accommodation provided by or on behalf of a local authority in England when determining a child's ordinary residence.	The effect of the amendment to Section 163(1) is to ensure there is no overlap between the Bill and Schedule 1 of the Care Bill when determining an adult's ordinary residence. The effect of the amendment to section 163(2) is to ensure a consistent approach when determining the ordinary residence of persons provided with accommodation under the four nations' health enactments. The amendment to the current subsection (4) in relation to children will ensure parity with the current legislative provision (within section 105 of the Children Act 1989).	These amendments are being made in part as a consequence of the provisions in Schedule 1 of the Care Bill and mirror provisions in Sections 22 and 31 of the Care Bill. Others will ensure that the is continuity in the way in which the place of a child's ordinary residence is determined which will ensure that the Bill will operate in tandem with the Children Act 1989.	9	4	4

18	Part 3 Children Act 1989, Miscellaneous	<p>1. To amend the Bill to ensure there is comprehensive equivalence in the definitions between the Bill and those provisions of the 1989 Act that are not being repealed / dis-applied in relation to Wales.</p> <p>2. Amend section 67 to provide that a care and support plan prepared under section 67 can be used as the plan for the purposes of section 31A of the 1989 Act.</p> <p>3. To amend the reference in section 79(4) to section 60.</p> <p>4. To amend sections 98(5), 99(3) and 100(3) to require local authorities to consider whether their continuing duties or functions under the Children Act 1989 in relation to children duties should be exercised.</p> <p>5. To amend the reference in section 59(3) to section 60(1).</p>	<p>1. The overriding policy aim remains to maintain the rights and entitlements currently available within the 1989 Act within the context of the Social Services & Well-being Bill and for ensuring that our Bill dovetails with those provisions of the 1989 Act that are not being repealed / dis-applied in relation to Wales.</p> <p>2. The policy requirement is that local authorities should not be required to prepare multiple plans. Relevant information contained within the Care and support plan prepared under section 67 of the Bill will be capable of extraction in order to formulate the care plan provided to the Court under section 31A of the 1989 Act.</p> <p>3. To provide appropriate cross reference.</p> <p>4. The overriding policy aim remains to maintain the rights and entitlements currently available within the 1989 Act within the context of the Social Services & Well-being Bill.</p> <p>5. To provide appropriate cross reference.</p>	<p>1. There is insufficient congruence with parallel interpretation section of the Children Act 1989.</p> <p>2. Part 4 of the Children Act 1989 creates duties for local authorities in relation to care plans for children in public law family proceedings. Despite the different purposes for which care plans for children are prepared under the 1989 Act and this Bill, this provision will avoid unnecessary duplication of effort.</p> <p>3. Technical. Inappropriate cross reference.</p> <p>4. Sections 98 and 99 are derived from sections 85 and 86 of the Children Act 1989. As currently drafted, the duty to assess is too narrowly drawn.</p> <p>5. Technical. Inappropriate cross reference.</p>	25	3	6
19	Direct Payments	<p>1. To amend Section 37 to include new subsections that state any regulations made under Sections 34, 35 or 36 must require local authorities to take specified steps to enable relevant persons to make informed choices about Direct Payments. A 'relevant person' in this context is anyone whose consent must be obtained as set out under Sections 34, 35 and 36.</p> <p>2. To make miscellaneous minor technical changes.</p>	<p>1. The effect of these amendments is that any regulations under Sections 34, 35 and 36 must place a duty on local authorities to ensure that they enable relevant persons to make informed choices about Direct Payments.</p> <p>2. To clarify the intended meaning.</p>	<p>1. This was a request made under Recommendation 31 in the Health and Social Care Committee's Stage 1 report.</p> <p>2. Technical</p>	6	2	4
20	Safeguarding - Board Partners	Amend Section 111 to include the Probation Service as a partner in the context of Safeguarding Boards, insofar as is possible within the legislative competence.	The effect of this amendment is that any provider of probation services that is required by arrangements under section 3(2) of the Offender Management Act 2007 will be included as a partner in relation to Safeguarding Boards.	This was a request made under Recommendation 39 in the Health and Social Care Committee's Stage 1 report.	1	2	7
21	Co-operation and Partnership	Amend Section 147 to clarify the elements that any Regulations made under 147(1) must make provision for; and what those Regulations may make provision for. Amend Section 150 to place a duty on Welsh Ministers to issue guidance in relation to any partnership arrangements made under regulations under Section 147.	The effect of these amendments is a strengthening of co-operation and partnership arrangements under the Bill, in that any Regulations made in relation to partnership arrangements under 147(1), must make provision that specifies the local authorities and Local Health Boards that are to take part in partnership arrangements; the form of and the responsibility for the operation and management of those arrangements; the sharing of information; and the guidance that must be issued by Welsh Ministers in relation to those arrangements.	This was a request made under Recommendation 50 in the Health and Social Care Committee's Stage 1 report.	6	2	9
22	Aids & Adaptations	To amend Section 20 to include 'aids and adaptations' in the list under subsection (2).	The effect of this amendment is that aids and adaptations will be included as an example of what may be provided or arranged to meet needs under Sections 21-29.	This was a request made under Recommendation 59 in the Health and Social Care Committee's Stage 1 report.	1	2	4
23	S.12				TBC	4	3
24	S.23	To amend the Bill to clarify that the references to 'a child looked after by a local authority' within subsections 12(7), 23(4) and 24(4); (which disapply the duties and power under Sections 12, 23 and 24 in relation to those children); are taken to mean a child who is 'looked after' by a local authority in either Wales, England, Scotland, or Northern Ireland.	The effect of these amendments will be that the duty to assess the needs of a child for care and support under Section 12; the duty to meet care and support needs of a child under Section 23; and the power to meet care and support needs of a child under Section 24; are disapplied in relation to any child who is 'looked after' by a local authority in any of the countries referenced.	As currently drafted, the duties and power under these sections of the Bill do not apply where children are looked after by a local authority in Wales; but do apply where children are looked after by a local authority outside of Wales, but who have been placed within the area of a Welsh local authority – effectively discriminating against children who are looked after by Welsh local authorities. These amendments seek to rectify that issue.	TBC	4	4
25	S.24				TBC	4	4
26	S.54 Technical	To amend Subsection (1) of Section 54 to remove the word 'under', and replace with the term 'by virtue of' before the word 'Section' in both (1)(a) and (1)(b).	N/A - Technical amendment.	The reason for this amendment is to achieve consistency in drafting throughout the Bill.	1	4	5
27	Consequential & Transitional provision	To amend 167(1) to provide greater clarity in relation to the power it provides. It will be re-worded so as to read: "If the Welsh Ministers consider it necessary or expedient for the purposes of giving full effect to any provision of this Act or in consequence of any such provision, they may by regulations make-"	This amendment will ensure clarity in relation to the Welsh Ministers' powers to make regulations in order to put in place transitional or consequential provisions.	The reason for this amendment is to ensure clarity in relation to the Welsh Ministers' powers to make regulations in order to put in place transitional or consequential provisions.	1	4	11
28	S.154 Welsh change	To amend Section 154 of the Welsh text of the Bill to clarify the difference between 'support' and 'assistance'.	The effect of this amendment will be the clarification of the difference between 'support' and 'assistance' in the Welsh version of the Bill.	This amendment is a correction to the Welsh text only, there is no change required to the corresponding English text.	7	4	10
29	Safeguarding - Technical	Amend Sections 106 and 108 to remove the word 'including', and replace with the word 'or'.	N/A - Technical amendment.	The reason for this amendment is to achieve consistency in drafting throughout the Bill.	2	4	7
30	Enactment Amendments	Amend section 166 to widen the definition of 'enactment' to include legislation from Scotland and Northern Ireland, in addition to Wales and England. Amend sections 117, 153(7) and 167 to limit the definition of 'enactment' for those provisions to only legislation from Wales and England.	The effect of these amendments is that where a provision in the Bill relates to an enactment, this will include legislation from all 4 nations, rather than Wales and England only; except for sections 117, 153(7) and 167, where that definition will be limited.	The reason for these amendments is that the definition of 'enactment', as currently set out in Section 166 of the Bill, places unnecessary and unintended limitations on our legislation. These amendments seek to rectify that issue. There are also links to the way in which Cross Border issues are being dealt with.	TBC	4	V

Agenda Item 4

Constitutional and Legislative Affairs Committee

Inquiry into Wales' Role in the EU Decision Making Process

EU 7 – European Economic and Social Committee

Evidence to the National Assembly for Wales' Constitutional Committee –11-9-2013

Wales's role in EU decision making process

1. What is the EESC and its role in the decision making process?

The EESC- European Economic and Social Committee [eesc.europa.eu] was established in 1958 as a Statutory Consultative Body of the European Union. Its responsibilities were enhanced by the Treaty of Lisbon in recognition of the growing importance of participatory democracy and the need to increase citizen involvement in the decision making processes of the Union.

It is often described as a “sister body “ to the Committee of the Regions of which The Assembly is a member and actually shares Staff and Building resources on Rue Belliard in Brussels.

It also describes itself as a “bridge” between civil society and the other European Institutions, acting as an advocate of dialogue, a conciliator of differing views, a facilitator for citizen voices and champion of wide and transparent consultation.

It comprises some 350 appointed, non-salaried Members from all 28 Member States reflecting the views and expertise of Social Partners [employers, trade unionists etc] and civil Partners [SMEs, NGOs, Farmers, the Professions, Educationalists, Consumer experts, Disability and Rights Champions and the general Voluntary Sector].

The EESC 's ability to influence the EU decision making process depends on the ability of its Members, Staff and Experts to provide quality formal and informal Opinions on all aspects of European

Policies which are referred to it by the Council, the Parliament and/or the Commission. Members join working groups and thematic Sections to research and debate and eventually seek agreement through monthly Plenaries before forwarding Opinions reflecting the considered views of the EESC to the decision making Bodies. The European Commission in turn responds formally and publically to those Opinions indicating their influence and relevance. There is also scope for the EESC to issue its own- initiative Opinions to challenge the Institutions or develop new thinking from civil society. Most of the Opinions are researched through hearings and the involvement of civil society members across the Union, whilst acknowledging that there is much more scope for increasing participation levels, given the recent advances in technology and a desire for a more inclusive European Union.

The Committee is in regular contact with both Commission Officials, Parliamentarians and Commissioners who regularly attend and address Plenary meetings [as do State Representatives during the term of their Presidencies of the Council].

Apart from its policy Opinions the Committee is represented at International Conferences and works with the Economic and Social Committees – where they exist- within Member States. It holds an Open Day, has a schools education programme and champions the EU “Year of—eg- Volunteering, Citizenship [2013] “ Campaigns. It also plays a real role in helping to prepare civil society capacity in EU Candidate Member States as well as developing non political links with civil society organisations across Continents.

2-What is Wales’s role in the EESC ?

Wales’s involvement in the EESC and ability to influence.

[a personal and non-scientific observation!]

Wales has 3 Members of the 23 UK Government nominated membership in the 350 strong EESC. Before 2006 it had 2 very skilled and respected members in Rose D'Sa and Brian Curtis. In 2005 the WCVA[Wales Council for Voluntary Action] in recognition of the growing importance of the Third Sector to the active citizenship of Wales, the inclusiveness of the Assembly and Welsh Government in partnership working as exemplars of worth to other European States and Regions and as deliverers and facilitators of significant EU Resources and Programmes, requested to the then First Minister Rhodri Morgan that Wales should have increased participation opportunities at an European level .This to include an extra nomination to the EESC from Wales within the existing UK Complement, which the First Minister duly delivered. All Members act, once appointed, as individuals developing views based on their experiences and observations during debates and amendments at voting time. However the UK Membership as do some others, organise meetings with UK Government Officials which include Welsh Government representatives in Brussels, to exchange views. The First Minister also periodically invites the 3 Wales Members and MEPs for an exchange of views [diaries permitting!]

Both Brian and Rose have been actively involved in drafting Opinions and acting as Chairs and /or Rapporteurs and I have recently been elected to the Executive of the Rural, Agricultural and Environment Section [NAT].I also secured the right to speak in Welsh at Plenaries, with the full support of the Welsh Government's Staff in Brussels. Indeed I maintain regular contact with Welsh Government staff in Brussels who are very supportive. In all relevant Opinion debates I

try to assess any negative or positive impact that new EU policies might have on Wales. When I might not have a detailed competence I am able to seek advice primarily through WCVA or other relevant civil society organisation, though taking full responsibility for my final voting decision. WCVA , through its European Policy Officers have access to the EESC Draft Papers and are able to help me formulate a view by disseminating a request for consultation through relevant organisations. This is an attempt to improve connectivity and influence between Wales Civil Society and the EU Institutions.

With the support of WCVA, I have also facilitated study visits of European Colleagues and Officials to Wales and to the Senedd as well as facilitating visits and speaking opportunities for civil society representatives from Wales at Hearings in Brussels. My knowledge of developing European policies has also enabled me recently to contribute here in Wales, for example, as a member of the Welsh Government's Agriculture Minister's Rural Development Programme [2014-2020] Advisory Group. Whenever possible I try to speak to organisations and schools about the EESC and participative democracy at all levels of government. I have also used the Welsh Government's regular forum on European Affairs to engage with our Welsh Stakeholders as well as maintain contact with Officials of the European Commission's Wales Office.

The Future

The continuing increase in Member States joining the Union may place pressure on some Member States to reduce the size of their Delegation. I would hope that with just 3 members, Wales would not have its ability to influence reduced.

The challenge for Members is to increase knowledge of the work of the EESC and seek further ways of engaging with citizens in their

interaction with EU decision makers and other citizens across the Union.

Tom Jones, EESC member, 11-9-2013.

By virtue of paragraph(s) vi of Standing Order 17.42

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