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Y Dirprwy Weinidog Gwasanaethau Cymdeithasol
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Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref LFGT043513

Vaughan Gething AM
Chair, Health and Social Care Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

20 May 2013

Dear Vaughan

Social Services and Well-being (Wales) Bill – Stage 1 Scrutiny

Thank you for your letter dated 24 April in which you raise a number of questions following my evidence session to your Committee on 18 April. You wrote to me again on 20 May with further questions. My responses to all of your questions are set out in **Doc 1**.

In your letter of 24 April you also set out the commitments I gave during my appearance at your Committee. As you suggest, I will be writing to the Committee with an updated Regulatory Impact Assessment in the Autumn and in doing so will aim to bring forward further detail on the provision of preventative and early intervention services, a national consistent system for assessments and eligibility and ensuring greater collaboration. I can also confirm that I will write to the Committee on the subject of the power of removal for adults and how the Adult Protection and Support Orders will work in practice, once the discussions between my Officials and their counterparts in the Ministry of Justice have progressed further.

As regards the commitment I gave in relation to the timetable for Regulations, I am pleased to include further information at **Doc 2**. I would however like to clarify the commitment I made in this area. You suggest in your letter that this timetable would include detail "of when draft Regulations will be available for consideration." Whilst the Health and Social Services Committee will, I hope, play a role in considering these Regulations as they are developed, I want to be clear that the draft Regulations (and the Code or Codes) themselves will not be available until 2014 although I do intend to sign off the policy intent for the priority subordinate legislation by the end of this calendar year and to share that information with you then.

In advance of the policy intent being finalised, I have taken this opportunity to provide additional information where it is available on matters which I am sure will be of interest to the Committee. To this end please find attached a series of information sheets providing further detail on arrangements relating to information, advice and assistance, assessment,

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care plans and portability and eligibility. Collectively these will assist the Committee's understanding of the new rights that are set out under the Bill (**Docs 4a-d**)

The attached 'table of destinations' (**Doc 3**) will also be of interest to Committee members. It sets out the sections of the Children Act 1989 and where they are replicated in the Bill. I hope that this will allay concerns that I am aware of regarding the location of 'children in need' in the Bill. A table of repeals is also attached as you requested in your letter of 20 May. Further information relating to the replacement provisions in the Bill will be sent to you after recess.

I would like to close this letter by referring to an exchange in the Chamber on 14 May during which a member of the Health and Social Care Committee asked the First Minister 'Do you stand by your Deputy Minister for Social Services' statement that, if the Bill passes, no additional money will be needed to implement it?' The statement attributed to me is incorrect. May I direct the Committee's attention to paragraphs 111, 112, 141, 143 and 144 of the Explanatory Memorandum where I refer to budgets available to support the transitional phase following the passing of the Bill and to support the implementation of the Bill.

I look forward to my next evidence session with you on 6 June.

Yours sincerely

A handwritten signature in cursive script, appearing to read 'Gwenda'.

Gwenda Thomas AC / AM

Y Dirprwy Weinidog Gwasanaethau Cymdeithasol
Deputy Minister for Social Services

Members commented on how comprehensive the Bill is and some suggested that it would be easier to navigate if it was cross-referenced. As the Bill is bringing lots of issues together in one Bill that would normally be separated, this can lead to confusion. Would you consider adding cross-referencing?

It is not clear as to what the Committee is proposing. In order that we may consider the proposal, I should be grateful if Committee could clarify precisely what is meant by cross-referencing, and perhaps provide a practical drafted example.

Would you consider adding statutory principles to the face of the Bill to help to stop some confusion as recommended by the Law Commission in their report on Adult Social Care?

I addressed the issue of statutory principles when I attended Committee on 18 April. My position remains that I do not feel it necessary to add a list of statutory principles to the face of the Bill. The legislation does however set out fundamental principles which will underpin the change I am seeking to introduce. For example, it sets out the clear requirement for a person's well-being, rather than a list of services, to determine the care and support that is provided. It establishes outcomes as the primary measure of success as well as the principle that an individual is best placed to make the decision as to what those outcomes should be.

We are legislating for a clear new direction for social care in Wales through this Bill and I feel that embedding the core changes throughout the provisions rather than simply including a list of statutory principles is the best way of achieving this systemic change.

It has been suggested that the Bill is too large in scope and that we would make better legislation if it was separated out. Do you agree with this?

The Bill is indeed bringing together a range of issues, although I do not agree that these would 'normally be separated'. I have also noted that the suggestion that the Bill is too large arose in evidence provided by the Children's Commissioner and some NHS organisations whilst other stakeholders including the WLGA and ADSS Cymru made reference to the scope making it hard to fully understand what the impact of the legislation would be.

It needs to be understood however that this is a Bill which seeks to transform care and support provision in Wales and as such requires a system wide approach. This Bill is meant to herald change for a generation, if not longer. If services are to be sustainable, efficient and are to work towards improving outcomes for people, then they need to be considered together in order to offer seamless provision based on people's needs and well-being outcomes, rather than by providing a predefined list of services which would could never be satisfactorily achieved.

The Bill also introduces duties in relation to the integration of health and social care. It is right therefore that a wide range of functions are considered together under a piece of primary legislation. In this regard the integration of law will help the integration of services. It is recognised that this is a complex field in terms of legislation at present. This is why one of the main aims of the Bill is to simplify the law in this area by creating interlocking

Regulations and a code of practice which will help users, their families, practitioners and the courts navigate this area of law. So whilst the Bill is complex and large, it needs to be if we are to achieve this ultimate aim and I therefore do not agree that separating out the legislation is the best way to proceed. It is also worth remembering the Law Commission's recommendation that social care law be consolidated so as to resolve the 'confusing', 'piecemeal' and 'complex' array of legislation that has been enacted over the past 65 years.

Similarly, it was suggested that this Bill is also being used to 'fix' some specific issues such as safeguarding. The suggestion was that the 'fix' items do not help with the coherence of the legislation. Do you have any comments?

Few issues are higher up the agenda than protection and safeguarding of people – this is a key priority for the Welsh Government. It is therefore not an 'add-on' placed in the Bill to 'fix' a problem, rather it is included to make sure that safeguarding provisions are improved as part of the overall system changes that the Bill seeks to bring about.

I am strongly of the view that it is just not possible to talk about social care and support without including safeguarding and to this end the Bill will ensure that there is clarity and focus in this area and will ensure that key safeguarding agencies have the statutory tools to work collaboratively to protect people who might be at risk.

The well-being agenda is complex and not primarily a social services agenda – it takes in health, social services and virtually all other public services. If social services are seen as the lead in providing well-being then the definition of well-being may well become narrowed in practice. Do you accept this and if not how do you expect a wide ranging well-being agenda to take place in practice?

I do not accept that well-being is 'not primarily a social services agenda' although I do appreciate that it is an agenda shared across social services, health and other public services. Committee members will be aware of the provisions in the Bill relating to the integration of health and social care as well as cooperation and partnership between local authorities, local health boards and other agencies and it is through these provisions that I expect a wide ranging well-being agenda to be met in practice.

Consent of UK Secretaries of State - Members noted that further work is on-going with the Westminster Government on competence. We would welcome regular updates on the position.

With regards to competence, I am confident that this legislation is within the competence of the National Assembly. On the issue of consents, to enable us to include provision which imposes or modifies functions of Ministers of the Crown, we continue to liaise with the UK Government. Obtaining Ministerial consent will allow us to re-instate some of the provision about safeguarding boards and cooperation which was amended prior to introduction. The main sticking point is the funding model for safeguarding boards which UK Ministers will not countenance. Committee members will recall that the Bill I introduced was not dependent on these consent issues being resolved. If, as I anticipate the issues around UK Minister consent are resolved, I am pleased to say that I intend to bring forward minor changes to the Bill by Government amendments for consideration at stage 2. I plan to provide the Committee with a detailed update on this when I come before you again on 6 June. This answer also deals with your question on this subject in your letter of 20 May.

Consolidation of existing legislation - We would welcome further information on where existing legislation is to be repealed by provisions in the Bill and where it is to be replaced within the Bill. Where existing legislation is to be repealed are there any provisions in place to ensure that existing important provisions are not lost?

Yes, there are provisions in place. The Committee will have noted the table of derivations in the Explanatory Memorandum. To support this, Legal Services have also produced a list showing the principle provisions being repealed. In addition, work has also been undertaken to produce a further detailed table of destinations which sets out where the existing provisions in part 3 of the Children Act 1989 are to be found in the Bill. Taken together, these documents will provide the Committee with sufficient assurances in this matter. The table of destinations is attached and the table of repeals will be forwarded to you in time for you to consider them during Stage 1 scrutiny.

Assessment - We touched on the new assessment arrangements but would welcome greater clarity on how you envisage they will work and how they will differ for specific groups of service users. Can you also expand on the reasons why an assessment would be refused and whether existing law provides for assessments to be refused?

To assist the Committee's understanding of the new rights for citizens in respect of access to care and support, assessment, eligible need and care plans and portability arrangements, I attach four information leaflets that provide a fuller explanation of these matters.

Transition from children's to adult services - We will be taking evidence on 16 May from disabled young people who have experienced the transition of moving from children's to adult services. Can you set out how you feel the Bill addresses and improves current practice on this important issue?

This Bill legislates for the concept of a 'people model'. The 'people' model is designed to benefit *everyone in need of care and support* and to enable a smooth transition through services at all stages in a person's life. Disabled young people are therefore part of this group. I am content therefore that the provisions for new core processes and portability mean that there transitional arrangements will be improved for disabled young people and that there will be no gap in the law. It should also be remembered that the Regulations and Code(s) of Practice to be developed in this area will help address specific issues of transition which may relate to this group in particular.

Charging - We had a detailed discussion in Committee about the cost implication of the Bill. The Committee will reserve judgement as to whether the Bill will be cost neutral. However, can you explain whether the Bill extends the range of services for which charges may be made or provides for the power to do so? Can you also confirm if the charging provisions in the Bill will replace those currently in force, for example, in the Social Care Charges (Wales) Measure 2010?

Part 5 of the Bill will allow local authorities the discretion to levy a reasonable charge up to the cost of the care and support it provides under the provisions in the Bill, on those who are able to afford this. This will consolidate the existing powers local authorities have to charge, albeit that some of these local authorities do not presently use. It will, for example,

replace the duty to charge under the National Assistance Act 1948 for the provision of accommodation with care to adults and the discretion to charge for non-residential care to adults under the Social Care Charges (Wales) Measure 2010. The Bill will also provide for the ability for authorities to levy a reasonable charge for preventative services, information, advice and assistance provided under Part 2 of the Bill, where they consider it appropriate to do so. I am aware that there has been some concern expressed about the range of the charging provisions and would want to remind the Committee that whilst local authorities will be able to charge for the same range of services under the Bill as they are able to at present, I will also have powers of Regulations and the Code(s) of Practice to set limits or disapply elements of the charging provisions.

User voice and control - Can you expand on how voice and control is realised in the Bill including details of how the Bill will enable individual participation in setting and shaping services?

Voice and control is realised right the way through the Bill: from the strategic level with the national outcomes framework, to the organisational level with the needs assessment, information, advice and assistance, to the individual when identifying need.

I believe that the starting point is well-being for people who need care and support and carers who need support. In setting out the meaning of well-being the Bill is clear: this is about rights, and for adults, control over day to day life. The overall approach is about transparency, giving people greater voice and control. We believe that an adult is best placed to make decisions about their own well-being; and that is at the heart of what we are seeking to deliver in securing a citizen centred approach.

At the strategic level, the national outcomes framework will support voice and control. That is all about well-being. Well-being is everyone's right and everyone's responsibility. By making this clear and putting in place an outcomes framework, we are setting out what the dimensions of well-being are, and making it clear that individuals themselves, communities and organisations will have roles to play.

At the organisational level, there is a duty to identify the needs of the local population, and to provide clear information advice and assistance. This again secures voice and control: a strong and transparent platform for people to make plans for meeting their care and support needs.

At the individual level, individual outcomes will have the well-being principle at their heart. The new assessment arrangements will be proportionate to an individual's needs, not suitability for a particular service. Our aim to simplify assessment, empower people and professionals and support people to make informed judgements about the level of support they need.

How do you expect the Bill will provide for the development and encouragement of co-production?

The Bill at this stage is largely one of broad principle in relation to this aspect: subordinate legislation will provide the detail. I envisage that co-production, 'organisationally', would find its legislative foundations in Section 7(1)(c) of the Bill which is specifically about 'promoting social enterprises, co-operatives, user led services and the third sector'. There is a duty at sub-section (1)(c) where there is a requirement for local authorities to

promote... 'the provision of care and support and preventative services in its area in ways that involve service users in the design and running of services'. The Bill as currently crafted gives proper endorsement to the principles that inform co-production.

Co-production at a more individual level finds its context in the Welsh Government's commitment in *Sustainable Social Services: A Framework for Action* to develop a model of self-directed support that is consistent with the Welsh Government's principles for social care - including a stronger infrastructure of support for those who choose these routes. That commitment has been developed through the provisions of the Bill which places citizens at the centre of services that will be shaped by the definition of well-being upon which the whole Bill is built. This includes that adults should have control over their day to day lives (Section 2(4)). The Bill also states 'A person exercising functions under this Act in relation to an adult must have regard to the importance of beginning with the assumption that the adult is best placed to judge the adult's well-being.' Section 2(3) (in relation to adults) enshrines an approach based on voice and control and which would invoke co-production and other support directed by the citizen themselves.

The Bill will also enable the extension of Direct Payments. Taken overall the Bill embeds in law a Welsh model in which co-production and other forms of partnership and co-operative activity could flourish.

User/community controlled providers - Do you believe that a duty 'to promote' is strong enough to secure effective implementation by local authorities to promote social enterprises, co-operatives, user-led services and the third sector to provide care and support and preventative services? Do you see this duty as leading to a preference for non-statutory sector service provision in future over statutory provision?

I believe that a 'duty to promote' provides a clear direction for local authorities to follow. It is for local authorities to create the conditions in which these types of services can thrive so a 'duty to promote' is, I believe, the correct language to use. I have been clear on a number of occasions that the current model of delivery is not sustainable and I think local authorities and other partners also recognise this. A key way of moving to a more sustainable model is to involve a wider range of partners who can deliver services in new ways. The Bill provides a framework under which local authorities and their partners will need to determine how best to do this, by increasing the use social enterprises and other initiatives according to their own local experiences and circumstances.

I do not think that this provision will automatically lead us towards favouring non-statutory provision over statutory provision in all cases but I do expect it to result in greater consideration of new ways of delivering services with the choice of the best way forward being dependent on the assessment of population needs in service areas. In this way I would expect it to remove any presumption that statutory provision is the automatic best choice for service delivery in all cases.

I should also add that when I attended Committee on 18 April I said that I would be keen to hear what ideas the Committee has in this area should it be of the view that a duty to promote is insufficient and that the inclusion of these ideas in its Stage 1 report would be very welcome.

Direct payments - How do you envisage the Bill will change existing arrangements including the take up of direct payments?

The provisions in the Bill relating to Direct Payments broadly maintain the current legal framework whereby a local authority may in most circumstances, make payments to a person (adult or carer) towards the cost of meeting their needs for care and support where that is the person's choice.. However, they will enable us to promote and extend Direct Payments in a number of ways. The Welsh Ministers will be able to make provision in Regulations about the kind of support that local authorities must provide to those who receive Direct Payments. We know that one of the key factors which makes a difference to the take up of Direct Payments is the nature and extent of the support available to users. To some extent this already happens through local authority contracts with support scheme providers. However, the Bill takes this further as it will also allow the Welsh Ministers to make provision in Regulations about the circumstances in which a local authority must act as an agent for the purpose of making contracts with providers on behalf of a person in receipt of Direct Payments. For example, the local authority would be able to act as a broker and survey the market of social care providers to identify which were best able to provide services to meet the individual's needs, to negotiate terms and introduce them to the provider.

In addition, the changes that we will be making to the assessment process, ensuring that users are alerted at an early stage of the financial implications of receiving a services and how these might be handled will mean that service users will be informed about Direct Payments as an option at the earliest opportunity. There are also linkages to be made with the promotion of social enterprises, co-operatives and user-led services under section 7 of the Bill and we will be exploring these further as we develop the Regulations and Code(s) of Practice.

The Committee noted that you are working with Mark Isherwood AM on an opt-out method for people who do not wish to use direct payments. How do you envisage this will work in practice and can you provide regular updates on the progress of this work?

There appears to be some misunderstanding over my recent discussion with Mark Isherwood AM. The Welsh Government is not intending to introduce an opt-out system for Direct Payments. We wish to promote the uptake of Direct Payments, but believe that this should be an informed choice by the individual needing care and support.

I met with Mark Isherwood to discuss his Member Proposed Bill on Direct Payments, which sought to introduce an opt out system, and its relationship with the Direct Payment provisions in the Bill. I assured him of my commitment to continue to work with him and stakeholders as we move forward with developing our own model of citizen directed support in Wales and as a result he agreed to withdraw his motion during the debate on his Bill proposal. I also gave a commitment to ask the Direct Payments Overview Group (which consists of stakeholders from the statutory and third sectors, and user / carer representatives) to work with the Welsh Government on developing a set of principles to underpin the Regulations and the code or practice on Direct Payments under the Bill and this task is now underway. I have undertaken to keep Mark Isherwood informed of progress.

Safeguarding - We have received a considerable amount of evidence suggesting that merging children and adult safeguarding boards may lead to the agenda being dominated by one group over the other leading to a loss of focus. Do you agree with this and if not, how do you envisage that both groups will be protected?

Can you expand on the rationale for providing powers to allow for the merging of children and adult boards and how a merger will result in improved services for both groups?

I am aware that, for example, ADSS Cymru and the WLGA have questioned the value or need of merging Adult and Children Safeguarding Boards: their reasoning being is that this could result in a loss of focus on both adults and children, with the more advanced position of the work of children's boards in particular being put in jeopardy. I do not agree with this analysis.

This provision within the Bill flows from the work and final report of the Wales Safeguarding Children Forum. The Forum was established by the Deputy Minister for Social Services in October 2009. It drew together significant expertise and experience in the field of safeguarding and protection to consider what steps might be taken to further strengthen the existing arrangements in Wales. Its members included senior leaders drawn from all aspects of the safeguarding agenda, including Welsh Local Government Association, Association of Director of Social Services, the Children's Commissioner and the Police.

Another aspect of the safeguarding proposals which has caused some concern is that which would allow for the merger of safeguarding children and adults boards. Again this is something which stems from the work of the Forum. Their report concludes, and I quote:

'There is a strong case to establish and develop combined Adult and Children's Safeguarding Boards to reflect the National Board proposal. This would strengthen further leadership and accountability for safeguarding and protection at a sub-national level. There is a rationale to progress this combined model at the same time as establishing the National Safeguarding Board for Adults and Children. It may, however, be advisable to work toward this, when a more robust statutory framework for adult protection in Wales has been introduced.'

The Deputy Minister for Social Services accepted the Forum's recommendations in October 2011. Twelve months on, she noted that 'the proposal that these boards should merge in time is one that has received considerable comment. I continue to be committed to the principle.. but recognise and appreciate the anxieties expressed.' Despite reassurances from the Deputy Minister subsequently, this issue has been raised again during the Bill scrutiny, including [disappointingly] by members of the Forum which made the original recommendation.

I want to reiterate, therefore, that in the short to medium term there is no intention to use the proposed powers to merge the boards. However this is a Bill for a generation and in that context we have decided to accept the Forum's advice and include the provision. This is because, we can see the benefits over the longer term that could arise from considering the safeguarding needs of people as a whole rather than separately as adults and children. However, any proposal to merge would be subject of formal consultation.

I believe that with the proper considerations and structures put in place, the merging of boards could in fact serve to raise the performance across the piece by allowing for the best practices in either board to become the norm.

Nevertheless, the current differences between the operation and performance of boards, is recognised and their merging is not a decision we would rush in to. In my evidence to your Committee on 18 April, I said that there are no current plans to merge these boards and that the intention is to set up strengthened safeguarding children boards and adult boards on the footprint of six.

I also stated that if it became apparent that it would strengthen safeguarding to merge boards, I would consider it at that time. The provision is included therefore to allow for this and to recognise the potential benefits over the longer term that would arise from considering the safeguarding needs of people as a whole rather than separately as adults and children.

Partnership working - Can you expand on the intentions behind Part 9, Chapter 2 of the Bill on partnership arrangements and the ways in which the Regulations will promote them?

Provisions in Part 9 Chapter 2 respond to evidence of the need to strengthen cooperation and integration of delivery of health and social services through requirements to work in partnership that can be determined by Regulations and guidance. Outcomes for individuals cannot be delivered unless service providers collaborate effectively. Previous arrangements for children under the Children Act 2004 are updated and replicated for the adult population, requiring local authorities and health boards to work in partnership and to integrate services, pool budgets and use other flexibilities. The new arrangements can also apply more widely than between a single LA and LHB.

Regulations and guidance will specify requirements for developing the proposed formal partnerships between local authorities, health bodies and other partners that will increase attention to delivery to users, clarify service access, generate flexibility and transparency in use of resources, achieve coherence in performance management and quality assurance and increase capacity to plan for future demand. These provisions incorporate the Children and Families (Wales) Measure 2010 which provides the legislative basis for the Integrated Family Support Services.

How do you envisage issues around charging for social services and non-chargeable health services would be resolved in integrated health and social care arrangements?

Integration of health and social services in the context of older people with complex needs is not being developed with a view to changing the charging arrangements across the interface, but is about ensuring that unscheduled admissions and delayed transfers of care are diminished and managed more appropriately and that the right service at the right time is provided in a joined up manner to better meet the individual's needs. It will still be the case that an individual will be entitled to free NHS care, an assessment for continuing health care, for NHS funded care and for social care need. The social care element will still be chargeable up to the cap that the Welsh Government has introduced for domiciliary care services. As I indicated in my recent Written Statement and the related debates in Plenary, we are also looking at how charging for residential care might be reformed in

Wales in the light of the UK Government's response to the Dilnot Report. The greater use of pooled budgets to integrate services between Councils and LHBs will also help minimise the problems with charging across health and social services boundaries.

Definitions - I am aware that you said you are prepared to give further consideration to the list of definitions in the Bill and that you asked Committee to consider this issue. We will address this in our report but it would be helpful if you could explain your reasons for not including definitions as discussed in Committee?

The core definitions on which the legislative framework will hang are set out on the face of the Bill. It is through the Code of Practice that further definitions will be provided. The approach ensures the flexibility necessary to respond to the changing needs of individuals or the population that may occur, or the development of other legislation in Wales and the UK that may be enacted, over the lifetime of the Bill. Therefore I do not feel it would be sensible to include any further definitions on the face of the Bill. To do so could potentially shorten the Bill's lifespan and could increase the likelihood of the Assembly having to amend primary legislation.

The following questions were raised in your letter of 20 May:

National Eligibility Framework

I am grateful for the Committee's interest in the national assessment and eligibility framework and its potential impact. The SSIA report *Access to Care and Wellbeing* recognised the challenges of developing the national assessment and eligibility framework; how it will operate and its status in the new integrated model for care and wellbeing. The SSIA report and the work my officials are progressing provides a clear context to developing a person centred approach to the care and well-being of people.

I have taken the bold step to include on the face of the Bill circumstances where individuals will be passported to have an eligible need: those at risk and looked after and other accommodated children. In such cases, the local authority will have **a duty** to meet the care and support needs and the outcomes that individuals wish to achieve. The national assessment and eligibility framework (through Regulations and the Code(s) of Practice) will define the circumstances in which other individuals who are determined as having eligible needs.

The information leaflets attached to this letter will aid your understanding of the new arrangements and how they connect.

In addition, I can give my assurance that I am giving great care to the planning and implementation of care and well-being this area including the need to ensure continuity of care for individuals in relation to the transition of the current system to the application of the new law. Transformation on this scale and the impact it holds for many people is significant and it is my plan to test these arrangements in advance of their implementation.

In June, I will make a statement where I will set out more detail on this and my plans for the next phase of co-production and testing of the new integrated model of care and well-being.

Repeals of Existing Legislation

A list detailing where the Bill will repeal existing legislation, identify areas in the Bill where there will be replacement legislation and provide assurances that existing rights will not be diminished.

A table is attached which lists the legislation being repealed. It is possible this list could be added to. A further list detailing the provisions in the Bill which replace the provisions being repealed will be available following recess. It will be important for both of these tables to be read together. I take this opportunity to reiterate one of my key messages which is that this Bill will bring no detriment to service users and carers in relation to the entitlements and rights they already enjoy.

I am also aware that, during scrutiny, concerns have been raised in relation to the following issues and I thought it would be helpful to provide you with my view on these matters:

Charging policy and concerns regarding children and young people for information

These are matters on which I will want to consult and have the power to do so. The charging provisions are enabling powers and replicate the principles of the charging provisions that currently exist in sections 17 and 29 of the Children Act 1989. What I will say is that I do not think it is unreasonable to expect a child or family that has the means to pay for a service to do just that.

Section 17 of the Children Act 1989 and the potential loss of focus on children, for example, the status of disabled as children in need resulting in their automatic passporting to social services.

We have not re-created the phrase "child in need" in the Bill and section 17, and the other sections in part 3 of the Children Act 1989, will be repealed. The rights we have created however go beyond what is provided by section 17 of the 1989 Act by creating, on the face of the Bill, a duty on local authorities to carry out an assessment of children where they appear to need care and support and then a duty to meet those needs which meet the eligibility criteria. The Bill also makes provision to allow for a mature child who is deemed to be competent to refuse a right to assessment unless there are overriding protection issues.

The eligibility framework will provide a higher level of detail about the kinds of needs which will be prioritised and the eligibility criteria will be the means by which priority is accorded to, for example, children who are at risk of harm or children who are disabled.

It is also worth noting that there is no automatic right to a service for a disabled child under section 17 of the Children Act 1989. Under section 17, a disabled child's entitlement to services depends upon the assessment disclosing sufficient evidence to prompt the provision of a service. Section 17(1) of the Children Act 1989 does impose a duty on a local authority to safeguard and promote the welfare of a child in need (the definition of which includes a "disabled" child) by providing a range and level of services appropriate to the child's needs. However, there is no automatic right to services: the local authority must determine that the child has needs that can be met by the provision of a service under section 17. There is no guarantee that a disabled child will necessarily have a need for services, and if he or she does have a need that the local authority will provide a service to meet that need. Please see the 'table of destinations' for further information.

Language and terminology: avoiding potentially discriminatory terms.

I intend to introduce Government amendments at Stage 2 which will deal with matters of terminology by replacing the term 'blind' with the term 'sight impairment or severe sight impairment' and replacing the term 'both blind and deaf' with the term 'deafblind'. My decision to do this follows a number of direct representations from stakeholder organisations about the terminology that is used in section 9 of the Bill which makes provision for registers of blind, deaf and other disabled people. These representations have also been made in written evidence to your Committee as part of your Stage 1 scrutiny of the Bill.

You are also aware of my support for the Social Model of Disability and of the Bill's provision for Regulations which may provide that a person falling within a specified category is or is not to be treated as disabled for the purposes of this legislation. I have said that I would be happy to bring forward at an early stage a commitment to consider how the concept of the social model can be promoted in Regulations and/or Code(s) of Practice.

The Regulations regarding merging regional safeguarding boards and dealing with this via the affirmative procedure.

Yes, I am persuaded that this issue should be dealt with via the affirmative procedure.

*Should it be mandatory that health and social services **must** work together?*

I assume in relation to this issue that the question is raised in terms of partnership working as in relation to integrated working and co-operation, the provision states that local authorities must exercise the relevant functions. In terms of partnership working, the use of the word 'may' only applies in relation to whether the Welsh Ministers decide to make such Regulations. I fully intend to do so and they will be subject to the affirmative procedure.

Is there a requirement in the Bill in relation to post-adoption support?

Local authorities currently have functions in relation to adoption support services under the Adoption and Children Act 2002. We are not repealing these provisions to merge this with the general duties to provide care and support under the Bill. Adoption support services will be affected by the Bill because the intention is that this is one of the local authority adoption functions which will be pooled and which will be carried out through the National Adoption Service. It will continue what is done now by commissioning this service from the Third Sector but will be able to coordinate the provision of the services over bigger areas.

Social Services and Well-being (Wales) Bill

Development and Making of Subordinate Legislation

The purpose of this paper is to provide the Health and Social Care Committee with additional assurance on the development of subordinate legislation under the Social Services and Well-being (Wales) Bill and to provide, more explicitly, the rationale behind the balance of the primary and subordinate legislation.

The balance between Primary and Subordinate Legislation

As I have stated in my response to the questions raised by the Finance Committee, I think it is important to recognise that this Bill is quite unlike any other that the National Assembly, and indeed any committee within it, have scrutinised since devolution. It aims to create a framework and solid foundation for sustainable social services in Wales, a foundation on which we can build social services that will meet the needs of the people of Wales for years to come. In order to do that, the system that enables the provision of social services, and the legal footing that that system sits on (this Bill), needs to be flexible.

This flexibility cannot be achieved if the fine details are set out on the face of the Bill as this would result in a potentially significant number of changes to the primary legislation in years to come, once the Bill has completed its journey through the Assembly process and has been enacted.

Instead, allowing the more operational details of the system to be defined through subordinate legislation provides the opportunity to 'future-proof' the Bill, to enable it to remain relevant and appropriate as circumstances and requirements change and as policies and evidence develop and grow over time. It also allows timely reactions to any amendments that may be needed as a result of the UK Government's legislation and policy changes, which are due to take place during the coming years.

In these circumstances, therefore, I feel the balance between primary and secondary legislation is not only proportionate, but necessary.

Managing the development of Subordinate Legislation

The deadline for the delivery and implementation of this Bill, including subordinate legislation, is April 2016, prior to the end of the current Assembly.

A timetable such as this calls for a project-managed approach - one that manages the legislation, both primary and subordinate, in a holistic manner. To that end, I have agreed with senior officials that the role and remit of the team within the Social Services Directorate that have managed the Bill Project thus far, will be extended in order to continue the project management of the subordinate legislation. This approach will ensure strategic management of the whole picture of legislation for the Social Services and Well-being (Wales) Bill. This is vital, given that some of the detail of the new core system for

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social services will be taken forward through subordinate legislation – the reasons for which, I have already outlined above.

The timetable at **Annex 1** works backwards from April 2016, and sets out the key activities which need to have taken place in order to achieve implementation of the Bill by that date. While the timescales are tight, they are achievable and will ensure the following key elements of subordinate legislation are covered by allowing for:

Detail on the policy intent of Regulations to be developed for Ministerial sign-off in December 2013;

The Regulations to be developed and consulted upon during 2014 and in a way that ensures the links between them are maintained and that they are presented to stakeholders as a holistic and coherent package - thus accurately reflecting the joined up and 'full system' nature of the changes they shall bring into force;

Key Regulations, or sets of Regulations, to be accompanied by the publication of an Explanatory Memorandum and Regulatory Impact Assessment in time for those Regulations to be laid before the Assembly. Regulations to be made under the Affirmative procedure will then be scrutinised by the relevant Committee and those made under the Negative procedure will be laid for 40 days and therefore also subject to scrutiny;

The Code(s) of Practice to be developed in parallel with the making of Regulations where required; and

Sufficient time to be allowed during 2015 for the trailing of Regulations to be undertaken where necessary and for training to take place ahead of the coming into force of the majority of statutory instruments by 1 April 2016.

In order to provide a sound footing for this timetable, officials have undertaken a further analysis of the Regulation making powers contained within the Bill and have categorised according to the priority in which they need to be developed and made. The three categories are as follows:

- **Priority** – Those Regulations which are essential to the enactment of the Bill, which will need to be developed and commenced in conjunction with one another; and commenced prior to implementation to enable the core system to be implemented effectively. These Regulations include those relating to the core processes of the Bill such as assessment and eligibility and those relating to some of the safeguarding, looked after children and elements.
- **Optional (as required)** – Those Regulations which relate to priority areas, but are not essential to the implementation of the core system. These can therefore be developed to a different timescale to those in the 'Priority'

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category. These include those relating to extending the range of definitions and some of the partnership elements.

- **Stand Alone** – Those Regulations which can be developed in isolation from all others as the core system is not reliant upon them, are likely to be of a smaller scale, and can therefore also be developed to a different timescale. These include those relating to social enterprises and co-operatives.

Procedures

In response to my appearance at the Constitutional and Legislative Affairs Committee on 22 April I indicated a willingness to change the procedure from Negative to Affirmative for the following Regulations:

Section 3(6) relating to Regulations may provide that a person falling within a specified category is or is not to be treated as disabled for the purposes of this Act.

Section 23, 26, 27 relating to the duty to meet the care and support needs of a child, the duty to meet the support needs of an adult carer and the duty to meet the support needs of a child carer (Affirmative for the initial set and negative thereafter).

Section 105(9) relating to Adult Protection and Support Orders

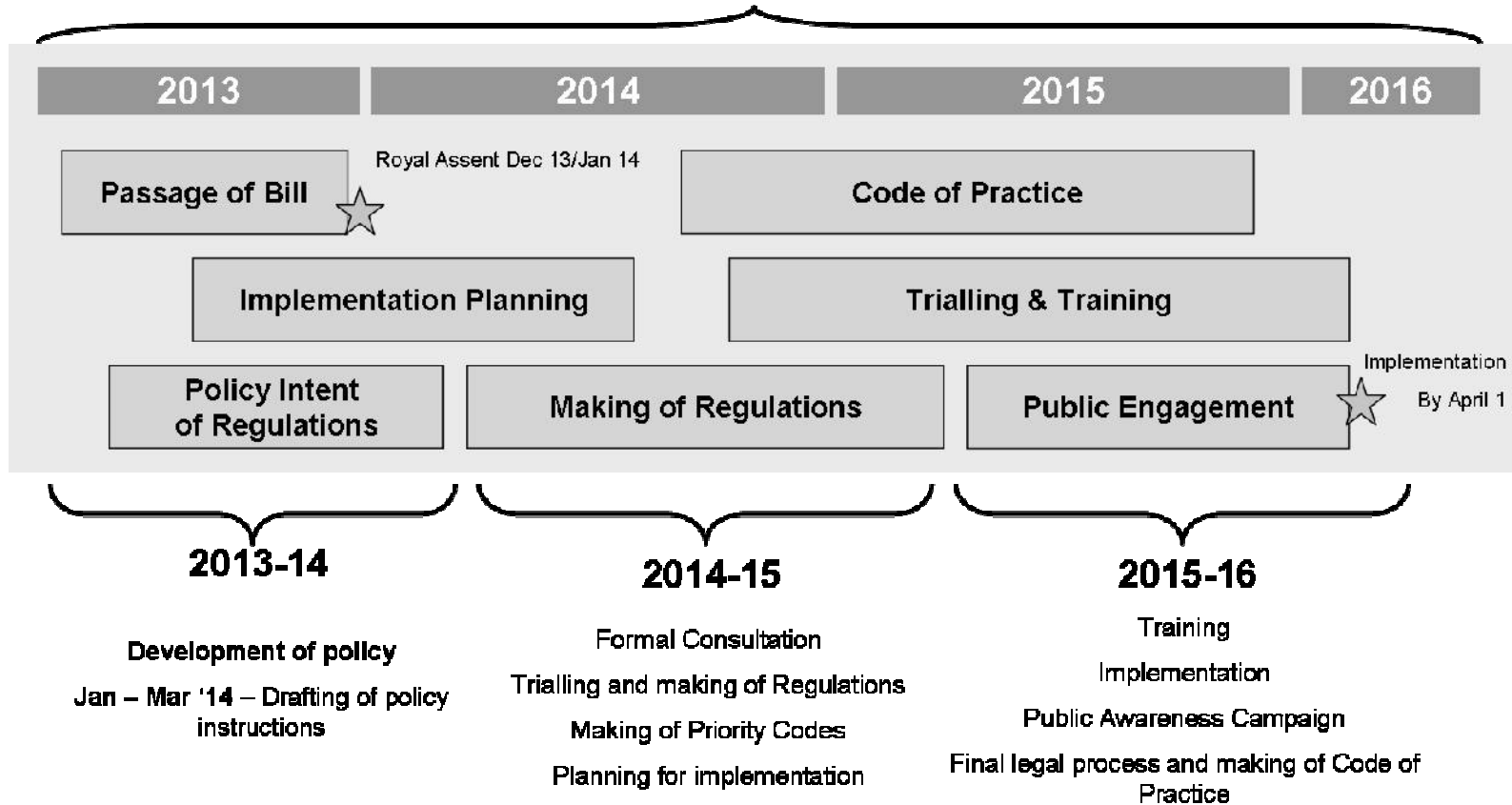
Section 112(4) relating to the functions and procedures of Adult Safeguarding Boards

I am also willing to consider recommendations regarding the appropriate procedure for regulations from the Finance Committee or the Health and Social Care Committee where there are good reasons.

Timeframe for the development of Subordinate Legislation

A commitment has been made to implement the core legislation under the Bill by April 1 2016. The timeframe set out below would ensure that regulations are made early enough to allow for trialling, training and public engagement.

Engagement with Stakeholders throughout



New Service Model under the Social Services and Well-being (Wales) Bill: Information, Advice and Assistance

What is the new Information, Advice and Assistance service (IAA)?

Under the Social Services and Well-being (Wales) Bill, each local authority – with the assistance of their LHB partners – must secure the provision of a service for providing people with information and advice relating to care and support, and (where appropriate) assistance in accessing these services.

Getting the right information and advice is the first step for people seeking some level of care and support to help them maximise their well-being. The quality of this service, and the ease of use is fundamental as the criticism of the existing social care system is that it is fragmented and difficult to navigate.

The IAA service must be sufficient to enable citizens to make plans for meeting their care and support needs now, and in the future.

What will the service offer?

Whilst each local authority (with support from its LHB and local third sector organisations) will develop its own IAA provision to serve its area, it is envisaged that there will be several common elements:

It will serve as the **first point of entry** and be sufficiently flexible and responsive to deal with enquiries directly from the citizen and queries/referrals from professionals.

It will provide **information** to help people understand how the care and support system operates within their area; the types of services available, and how they can access them.

This service will be **available to all citizens** who may have needs for care and support, regardless of whether they will self fund or be reliant on some level of local authority funding.

It will allow citizens to begin the **exploration of their care and support needs** and to identify what they want to achieve (in terms of their well-being). It will offer first line assessment and triage to offer a response that is proportionate to citizens' needs.

It will **present options and signpost citizens** towards appropriate care and support, including advice on the range of preventative services available in the community.

Where appropriate, the IAA will also **actively assist** some people in accessing services e.g. booking appointments or commissioning services on their behalf. This may also extend to providing some level of care package management.

IAA services will be supported by a quality assurance framework that will set national standards across Wales.

How will this service be delivered?

IAA provision will need to be sufficiently flexible and comprehensible to provide integrated information and advice to a wide range of client groups, of all ages and abilities.

With this in mind, it is clear that a simple, yet multifaceted approach will be required to serve those people in need of care and support.

In practice this will mean that IAA is accessible:

Through a number of mediums: This may include e.g.

- a face to face consultation
- a telephone conversation
- a dedicated online service

By a range of people including:

Children/ their families

Adults

Carers; or

an appropriate professional, acting on their clients behalf

Separate information sheets are available which deal with needs assessments; eligibility; and care and support plans (including portability)

New Service Model under the Social Services and Well-being (Wales) Bill: Assessment

What is an assessment?

An assessment is the process by which the local authority considers a person's circumstances and makes a decision about whether they need care and support to help them live their day-to-day lives.

It will usually be carried out by a social worker, and will consider a number of factors. It will look at what needs the person has and consider their individual circumstances. However, not all of the needs will require or be met by public care and support.

Why do we need to change the law?

Local authorities' responsibilities for assessments are currently set out in a number of statutes and there are a range of different processes for adults, children and carers. The law needs to be simplified so duties are more coherent and understandable. At the moment the focus (in particular for adults and carers) is on identifying a service to be provided, rather than on the needs of the person and the outcomes they wish to achieve.

We want to develop a system which is more streamlined, focussed on an individual's needs and gives people a stronger voice and real control in identifying what care and support is right for them in order maintain their independence for longer, make better choices about their care and maximise their well-being.

What does the Social Services and Well-being (Wales) Bill do?

It creates a single right to an assessment for *people* – adults, children (and their families) and carers – where it appears to the local authority that the individual may have needs for care and support, or support needs in the case of a carer. This means that carers will have a right to an assessment of their needs for support, without having to formally request one.

The Bill aims to help foster a different relationship between practitioners, individuals and their community – creating a partnership in understanding needs, and as far as possible, achieving the right outcomes for people and their families.

Under the Bill, an assessment must:

- Focus on whether the person has needs for care and support, and what those needs are;

- Consider the outcomes that the person (and/or person with parental responsibility) wishes to achieve;
- Assess whether and to what extent the provision of care and support could contribute to the achievement of those outcomes.
- Be undertaken in a manner that the local authority considers *proportionate* in the circumstances i.e. if the person's needs can be met by the provision of information or advice, or a universal preventative service, then a fuller assessment will not be required.

Where the person is a child, the needs assessment must also include a consideration of their developmental needs; their parents' capacity to meet their needs; and other circumstances affecting their well-being.

Where the person is a carer, the assessment must take into account their ability and willingness to continue caring as well as their employment, education, training or leisure needs (if an adult) and development needs (if a child). If the carer is a child, the local authority must also have regard to whether it is appropriate for them to provide care in light of their own needs.

All assessments must be made regardless of the apparent level of need; financial resources available to the person (or their family, if a child); and any consideration of whether the person may be eligible for services.

Importantly the Bill also:

- makes clear the circumstances in which a person's refusal of an assessment (or a person with parental responsibility's refusal, in respect of a child) does not discharge the local authority's duty to undertake one i.e. where there is a risk of abuse or neglect.
- makes provision for combining assessments; for people and their carers (where appropriate); and for people who require multiple needs assessments (e.g. mental health, substance misuse, special education needs).

What happens after assessment?

After carrying out an assessment, the local authority will then consider whether any of the needs identified can be met and whether the person is eligible for care and support, or whether their needs can be met through universal preventative services. *A separate information sheet on eligibility is also available.*

New Service Model under the Social Services and Well-being (Wales) Bill: Care and Support Plans

What is a care and support plan?

Care and support planning is the process by which a local authority helps a person (and any carer they may have) to decide which services will best meet their assessed needs.

It considers what 'eligible needs' the person has, what outcomes they want to achieve, what they could do by themselves or with the support they already have, and what types of care and support might be available to them.

It records a person's assessed and 'eligible needs' and describe how a local authority plans to meet, or make arrangements to meet, those needs. Plans are reviewed on a regular basis to ensure that they remain effective and current.

Why do we need to change the law?

There has been criticism of the disjointed and often overlapping arrangements for the care management and review of services for children and adults. This has led to inefficiencies and fragmentation within the current system causing difficulties for services users, as well as for practitioners, regulators and the judiciary in seeking to apply the law fairly and equitably.

We want to address these concerns through the introduction of a simplified (and where possible common) approach to care and support planning.

What does the Social Services and Well-being (Wales) Bill do?

Where the local authority is required to meet the 'eligible needs' of a person, they must prepare and maintain a **care and support plan**.

Looked after and other accommodated children are also required to have a care and support plan and a pathway plan must be prepared for young adults leaving care.

Regulations will also provide further detail on:

Preparation and prescribed format of plans

Review or revision of plans

People to be involved/consulted in developing/reviewing plans

Combining the preparation and review of plans with other statutory plans e.g. those under Mental Health (Wales) Measure 2010.

These provisions create an opportunity to reduce overlapping arrangements and will ensure integrated planning and delivery of care to individuals to enable them to maximise their well-being. The aim is to simplify an individual's journey to receiving care and support that is better tailored to their needs, and more likely to achieve their identified outcomes.

Portability of Care and Support

Importantly the Bill introduces the portability of care and support plans for people with 'eligible needs' across Welsh local authority boundaries.

- Duties on the 'sending authority' will require them to notify the 'receiving authority' when an individual has informed them that they will be moving to the new area.
- The 'receiving authority' must then put transitional arrangements in place for care and support to continue until it carries out a review/re-assessment of the person's needs.

This means that if people (adults or children) with 'eligible needs' relocate within Wales, possibly to move closer to their families, the receiving authority has a duty to maintain the care and support set out in the plan (i.e. equivalent services in their areas), at least until the new authority has had the opportunity to review their needs.

Beyond this, the proposed National Eligibility Framework should ensure that appropriate care and support based on the person's current needs is, as far practicable, maintained.

It is important to note that these portability arrangements will not apply in relation to support plans for carers. Therefore in such cases there will be no duty on the new authority to put transitional arrangements in place.

However, as the Bill creates a duty on local authorities to undertake an assessment of carers needs in their own right, this will now be triggered, so carers living within the new local authority's area can exercise this right.

For those who previously received a discretionary service from their former local authority, the receiving authority will now have a duty to assess their needs, if it appears to them that the person may have needs for care and support.

New Service Model under the Social Services and Well-being (Wales) Bill: Eligibility

How is eligibility for care and support services established?

Currently the NHS and Community Care Act 1990 places a duty on local authorities to decide whether, following an assessment of a person's needs, they require a service to be provided.

For adults, *Creating a Unified and Fair System for Assessing and Managing Care (2002)* provides a standardised framework within which local authorities can also specify their own local criteria concerning the level of needs they will meet. If a person's needs fall within those criteria, the authority must meet those needs.

The guidance sets out four levels – critical, substantial, moderate and low – against which need should be assessed. Most authorities in Wales currently set their access threshold at 'substantial' or 'critical'.

For children, the Children Act 1989 established the definition of a 'child in need'. Under the *Framework for the Assessment of Children in Need and their Families (2001)* local authorities set their own local criteria on the access thresholds for a child in need.

Why do we need to change the law?

In 2010, the Care and Social Services Inspectorate Wales (CSSIW) reviewed access to care services and reported that it is difficult to ascertain whether the system is fair and consistent across Wales. CSSIW have also reported on the variable of thresholds for children, in particular those with disabilities.

In its *Adult Social Care Report* of May 2011, the Law Commission:

- highlighted the complexity and lack of consistency in determining eligibility
- proposed a new interpretation of the legal duty to meet 'eligible needs'.
- called for greater clarity as to what service users are entitled to.

What does the Social Services and Well-being (Wales) Bill do?

After conducting a needs assessment, if a person has needs for care and support, the local authority will be required to determine whether those needs are 'eligible' or whether they can be met through preventative services.

The Bill provides for regulations that will prescribe national criteria of the circumstances that are to be regarded as 'eligible need', where local authorities will **have a duty** to consider what can be done to meet the individual's care and support needs.

As a minimum, all local authorities will be required to meet the national criteria.

What about those people who do not have 'eligible needs'?

Irrespective of whether a person's needs meet the eligibility criteria, there will be a duty for local authorities to provide care and support where:

- an individual is at risk of harm, abuse or neglect; or
- a child is to be or has been accommodated by the local authority (including looked after children, other accommodated children and care leavers)

What outcomes will the Bill achieve?

Service users and their carers will see more consistency in the way that their eligibility for services is determined.

Establishing a national framework that requires minimum service levels will encourage greater collaboration between local authorities and regions in the delivery of care and support services. The portability of care and support plans will also contribute to more equitable services across Wales.

Separate information sheets are available which deal with needs assessments; eligibility; and care and support plans (including portability)

TABLE OF DESTINATIONS

| SECTION / PARAGRAPH CHILDREN ACT 1989 | CORRESPONDING REFERENCE IN SOCIAL SERVICES AND WELL- BEING (WALES) BILL | COMMENT |
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| CHILDREN ACT 1989 - PART 3 : LOCAL AUTHORITY SUPPORT FOR CHILDREN AND FAMILIES (PROVISION OF SERVICES FOR CHILDREN AND THEIR FAMILIES) | | |
| section 17 - provision of services for children in need and their families | | |
| (1) | section 4 – overarching well-being duties; section 2(3) – meaning of well-being | concept of “child in need” within the CA 1989 is not replicated in the Bill, the “people” model is used instead |
| (2) | | CA 1989 provision refers to Part 1 of Schedule 2 – provision of services for families |
| (3) | section 12(2) – duty to assess needs of a child for care and support; section 23(2) – duty to meet care and support needs of a child; section 24(1) – power to meet care and support needs of a child; section 20(1)(c) – how to meet needs | these provisions maintain the concept of a LA being responsible for a child “within” its area; power to provide services for someone other than the child who has needs for care and support is maintained; |
| (4) | | the power for the Welsh Ministers to amend the duties of a LA contained in Part 1 of Schedule 2 CA 1989 by order is not replicated in terms; this is not an issue |
| (4A) | section 12((5)(a)(i) – duty to assess the needs of a child for care and support | duty to ascertain wishes and feelings of child and |
| (5) | section 7 – promoting social | wider duty than |

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| | enterprises, co-operatives, user led services and the third sector | currently exists in CA 1989 |
| (6) – (9) | <p>section 20 – how to meet needs;</p> <p>section 43 – power to impose charges;</p> <p>section 44 – persons upon whom charges may be imposed;</p> <p>section 45 – regulations about the exercise of a power to impose a charge;</p> <p>section 46 – regulations disapplying a power to impose a charge;</p> <p>section 47 - duty to carry out a financial assessment;</p> <p>section 50 – determination as to a person’s ability to pay a charge;</p> <p>section 51 – duty to give effect of determination to pay a charge</p> | |
| (10) | section 166(1) – general interpretation and index of defined terms (for the definition of “family”) | the concept of a “child in need” is not replicated in the Bill |
| (11) | section 3 – meaning of “adult”, “child”, “carer” and “disabled” | the CA 1989 definition of “disabled contained in subsection (11) is not replicated in our Bill, the definition used in the Equalities Act 2010 is applied (subject to a regulation-making power within section 3(6) of the Bill to make modifications for any purposes of the Bill) |
| (12) | | the regulation-making power for the Treasury contained in section 17(12) is not replicated in our Bill. DWP have been notified about our treatment of references to benefits for the purposes of charging provisions. Consent not required for the removal of this |

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| | | Minister of the Crown function – the amendment is incidental to another provision |
| section 17A – direct payments | | |
| (1) | section 35 – direct payments to meet a child’s needs, subsections (1), (2), (4) and (6) are relevant | |
| (2) | section 35 – direct payments to meet a child’s needs, subsections (2) and (5) are relevant | |
| (3) | section 37 – direct payments : further provision, subsections (1) and (2) are particularly relevant | 17A(3) operates by incorporation of the provision within section 57(3) to (5) and (7) of the Health and Social Care Act 2001. Note that section 57(7) is not replicated in our Bill because we will no longer be preventing the use of direct payments for purchase of residential care |
| (4) | section 37 – direct payments : further provision, subsection (6) | |
| (5) | section 37 – direct payments : further provision, subsection (7) | |
| (6) | | No longer required |
| section 17B – vouchers for persons with parental responsibility for disabled children | | Provision not replicated in our Bill |
| section 18 – day care for pre-school and other children | section 6 – preventative services; section 20 – how to meet needs | |

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| section 19 – ... | | Section 19 CA 1989 was repealed by section 149(2) of the Education Act 2002 |
| section 20 – provision of accommodation for children : general | | |
| (1) | section 60 – accommodation for children without parents or who are lost or abandoned etc, subsection (1) | |
| (2) | section 60 – accommodation for children without parents or who are lost or abandoned etc, subsection (2) | |
| (3) | section 60 – accommodation for children without parents or who are lost or abandoned etc, (3) | |
| (4) | section 19 – determination of eligibility and consideration of what to do to meet needs; section 20 – how to meet needs | |
| (5) | section 19 – determination of eligibility and consideration of what to do to meet needs; section 20 – how to meet needs | |
| (6) | section 4 – overarching well-being duties, subsections (2) and (4) | |
| (7) | section 60 – accommodation for children without parents or who are lost or abandoned etc, subsection (4) | |
| (8) | section 60 – accommodation for children without parents or who are lost or abandoned etc, subsection (5) | |
| (9) | section 60 – accommodation for children without parents or who are lost or abandoned etc, subsection (6) | |

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| (10) | section 60 – accommodation for children without parents or who are lost or abandoned etc, subsection (7) | |
| (11) | section 60 – accommodation for children without parents or who are lost or abandoned etc, subsection (8) | |
| section 21 – provision of accommodation for children in police protection or detention or on remand, etc | section 61 – accommodation for children in police protection or detention or on remand, etc | Note that section 21(2)(c) CA 1989 is not replicated as it was repealed by the Legal Aid, Sentencing and Punishment of Offenders Act 2012 |
| section 22 – general duty of local authority in relation to children looked after by them | | |
| (1) and (2) | section 58 – meaning of “looked after child” | |
| (3) – (8) | section 62 – principal duty of local authority in relation to a child it looks after | |
| section 22A – provision of accommodation for children in care | | This section is not replicated in our Bill. This section together with section 23 was replaced by sections 22B – 22F (in accordance with amendments made in the Children and Young Persons Act 2008). A policy decision was taken to replicate the effect of the substituted provisions in our Bill, notwithstanding that not all such provision has been commenced in relation to Wales |

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| section 22B – maintenance of looked after children | section 64 – maintenance of looked after children | |
| section 22C – ways in which looked after children are to be accommodated and maintained | | |
| (1) – (9) | section 65 – ways in which looked after children are to be accommodated and maintained, subsections (1) – (9)* | * subsections (10) – (12) of section 65 of the Bill are new provisions – they derive from the Children and Families Bill and gives priority to placements with foster parents which will afford “early permanence” for a child who is to be adopted |
| (10) | section 65 – ways in which looked after children are to be accommodated and maintained, subsection (13) | |
| (11) | section 71 – regulations about children looked after by local authorities | |
| (12) | section 65 – ways in which looked after children are to be accommodated and maintained, subsection (14) | |
| section 22D – review of child’s case before making alternative arrangements for accommodation | section 66 – review of child’s case before making alternative arrangements for accommodation | |
| section 22E – children’s homes provided by the appropriate National Authority* | section 70 – children’s homes provided, equipped and maintained by the Welsh Ministers | * the Welsh Ministers are defined as the “appropriate national authority” in relation to Wales by section 30A(b) CA 1989 |

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| <p>section 22F – regulations as to children looked after by local authorities*</p> | <p>section 71 – regulations about children looked after by local authorities</p> | <p>*this section of the CA 1989 introduces Part 2 of Schedule 2, which makes further provision as to children looked after by local authorities and in particular as to the regulations that may be made by the Welsh Ministers</p> |
| <p>section 22G – general duty of local authority to secure sufficient accommodation for looked after children</p> | <p>section 59 – general duty to of local authority to secure sufficient accommodation for looked after children</p> | |
| <p>section 23 – provision of accommodation and maintenance by local authority children whom they are looking after</p> | | <p>This section is not replicated in our Bill. This section together with section 23 was replaced by sections 22B – 22F (in accordance with amendments made in the Children and Young Persons Act 2008). A policy decision was taken to replicate the effect of the substituted provisions in our Bill, notwithstanding that not all such provision has been commenced in relation to Wales.</p> |
| <p>section 23ZA – duty of local authority to ensure visits to, and contact with, looked after children and others</p> | <p>section 81 – duty of local authority to ensure visits to, and contact with, looked after children and others</p> | |
| <p>section 23ZB – independent visitors for children looked after by a local authority</p> | <p>section 82 – independent visitors for children looked after by a local authority</p> | |

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| <p>section 23A – the responsible authority and relevant children</p> | | <p>In the Bill, the concept of a “relevant child” has been replaced with that of a “category 2 young person” although the qualifying criteria remains the same in section 88 of the Bill</p> |
| (1) and (2) | <p>section 88 – young people entitled to support under sections 89 – 96, subsections (1) and (2)</p> | |
| (3) and (5) | <p>section 88 – young people entitled to support under sections 89 - 96 subsection (7),</p> | |
| (4) | <p>section 88 – young people entitled to support under sections 89 – 96 subsection (5)</p> | |
| <p>section 23B – additional functions of the responsible authority in respect of relevant children</p> | | |
| (1) | <p>section 89 – keeping in touch, subsection (1)</p> | |
| (2) | <p>section 90 – personal advisers, subsections (1) and (2)</p> | |
| (3) | <p>section 91 – pathway assessments and plans, subsections (2) – (4)</p> | |
| (4) – (7) | | <p>these subsections are not replicated in the Bill; they were replaced by the insertion of section 23CA (further assistance to pursue education or training) and amendments to section 23E (pathway plans) of the CA 1989 (by the Children and Young Persons Act 2008, section 22),</p> |

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| | | which although not commenced in relation to Wales are incorporated into the Bill in their stead |
| (8) | section 92 – safeguarding and promoting the well-being of category 2 young people, subsection (1) | |
| (9) | section 92 – safeguarding and promoting the well-being of category 2 young people, subsection (9) | |
| (10) | section 92 – safeguarding and promoting the well-being of category 2 young people, subsection (10) | |
| (11) | section 89 – keeping in touch, subsection (3) | |
| (12) | section 95 – charging for provision under sections 92 to 94; section 45 – regulations about the exercise of a power to impose a charge; section 46 – regulations disapplying a power to impose a charge; section 47 – duty to carry out a financial assessment | |
| (13) | section 4 – overarching well-being duties, subsections (2) and (4)(b) | |
| section 23C – continuing functions in respect of former relevant children | | In the Bill, the concept of a “former relevant child” has been replaced with that of a “category 3 young person” although the qualifying criteria remains the same within section 88 of the Bill |
| (1)(a) and (b) | section 88 – young people entitled to support under sections 89 to 96, subsections (1), (2) and (5) | |

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| (2)(a) | section 89 – keeping in touch, subsection (1) | |
| (2)(b) | section 89 – keeping in touch, subsection (2) | |
| (3)(a) | section 90 – personal advisers, subsections (1) – (2) | |
| (3)(b) | section 91 – pathway assessments and plans, subsections (2) – (4) | |
| (4)* | section 93 – support for category 3 young people, subsection (1) | * by incorporation of reference to provision in sections 24B(1) and 24B(2) CA 1989 |
| (5) | section 93 – support for category 3 young people, subsection (2) | |
| (5A) | section 93 – support for category 3 young people, subsection (3) | |
| (5B) and (5C) | section 93 – support for category 3 young people, subsection (4) | |
| (6) and (7) | section 88 – young people entitled to support under sections 89 to 96, subsections (1), (2) and (5) | |
| (8) | section 88 – young people entitled to support under sections 89 to 96, subsection (6) | |
| (9)* | section 93 – support for category 3 young people, subsection (5) | * by incorporation of provision within section 24B(5) CA 1989 |
| (10) | section 95 – charging for provision under sections 92 to 94; section 45 – regulations about the exercise of a power to impose a charge; section 46 – regulations disapplying a power to impose a charge; section 47 – duty to carry out a financial assessment | |

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| <p>section 23CA – further assistance to pursue education or training*</p> | | <p>* obligations to young persons covered within this provision of the CA 1989 are included within the definition of a “category 3 young person”</p> |
| (1) | <p>section 88 – young people entitled to support under sections 89 to 96, subsections (1) and (2)</p> | |
| (2) | <p>section 90 – personal advisers, subsections (1) and (2)</p> | |
| (3) | <p>section 91 – pathway assessment and plans, subsections (2), (3) and (4)</p> | |
| (4) and (5) | <p>section 93 – support for category 3 young people, subsection (1)</p> | |
| (6) | <p>section 88 – young people entitled to support under sections 89 to 96 subsection (2)</p> | |
| (7) | <p>section 88 – young people entitled to support under sections 89 to 96, subsection (7)</p> | |
| (8) | <p>section 95 – charging for provision under sections 92 to 94; section 45 – regulations about the exercise of a power to impose a charge; section 46 – regulations disapplying a power to impose a charge; section 47 – duty to carry out a financial assessment</p> | |
| (9) | <p>section 93 – support for category 3 young people, subsection (5)</p> | |
| (10) | <p>section 93 – support for category 3 young people, subsection (4)</p> | |
| (11) | <p>section 88 – young people entitled to support under sections 89 to 96, subsection (5)</p> | |

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| section 23D – personal advisers | section 90 – personal advisers | |
| section 23E – pathway plans | section 91 – pathway assessments and plans | |
| section 24 – persons qualifying for advice and assistance | | |
| (1) and (1A)* | section 88 – young people entitled to support under sections 89 to 96, subsections (1) and (2) | * this category of young person has been defined as a “category 4 young person” within the Bill |
| (1) and (1B)* | section 88 – young people entitled to support under sections 89 to 96, subsections (1) and (2) | * this category of young person has been defined as a “category 5 young person” within the Bill |
| (2) | section 88 – young people entitled to support under sections 89 to 96, subsection (3) | |
| (3) | section 89 – keeping in touch, subsection (4) | |
| (4) | section 88 – young people entitled to support under sections 89 to 96, subsection (5)(b) | |
| (5)(za) | section 88 – young people entitled to support under sections 89 to 96, subsection (5)(c) | |
| (5)(a) | section 88 – young people entitled to support under sections 89 to 96, subsection (5)(b) | |
| (5)(b) | section 88 – young people entitled to support under sections 89 to 96, subsection (5)(d) | |
| section 24A – advice and assistance | | |
| (1) | section 94 – support for category 4 and 5 young people, subsection (1) | |
| (2) | section 94 – support for category 4 | |

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| | and 5 young people, subsection (2) | |
| (3) | section 94 – support for category 4 and 5 young people, subsection (3) | |
| (4) | section 94 – support for category 4 and 5 young people, subsection (4) | |
| (5) | section 94 – support for category 4 and 5 young people, subsection (5) | |
| (6) | section 95 – charging for provision under sections 92 to 94; section 45 – regulations about the exercise of a power to impose a charge; section 46 – regulations disapplying a power to impose a charge; section 47 – duty to carry out a financial assessment | |
| section 24B – employment and training | | |
| (1) | section 94 – support for category 4 and 5 young people, subsections (4), (5) | |
| (2) | section 94 – support for category 4 and 5 young people, subsections (4) and (5) | |
| (3) | section 94 – support for category 4 and 5 young people, subsection (6) | |
| (4) | section 88 – young people entitled to support under sections 89 to 96, subsection (6) | |
| (5) | section 94 – support for category 4 and 5 young people, subsection (7) | |
| (6) | section 94 – support for category 4 and 5 young people, subsection (8); | |

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| | section 93 – support for category 3 young people, subsection (6) | |
| section 24C – information | section 96 – information | |
| section 24D – representations: sections 23A to 24B | | |
| (1) | section 157 – representations relating to former looked after children etc, subsections (1) and (2) | |
| (1A) | section 157 – representations relating to former looked after children etc, subsection (3) | |
| (2) | section 157 – representations relating to former looked after children etc, subsection (4)(b) | |
| section 25 – use of accommodation for restricting liberty | section 97 – use of accommodation for restricting liberty | |
| section 25A – appointment of independent reviewing officer | section 83 – appointment of independent reviewing officer | |
| section 25B – functions of the independent reviewing officer | section 84 – functions of the independent reviewing officer | |
| section 25C – referred cases | section 85 – referred cases | |
| section 26 – | | |

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| review of cases and inquiries into representations | | |
| (1) | section 86 – review of cases and inquiries into representations, subsection (1) | |
| (2) | section 86 – review of cases and inquiries into representations, subsection (2) | paragraph (2)(k) and subsections (2A) – (2D) of section 26 CA 1989 have been repealed by the Children and Young Persons Act 2008 (section 10) although we have not commenced the repeal in relation to Wales we have replicated section 26 as though the repeal has been commenced |
| (3) – (8) | section 155 – representations relating to certain children | |
| section 26ZB – representations: further consideration (Wales) | | |
| (1) and (2) | section 86 – review of cases and inquiries into representations, | |
| (3) | section 155 – representations relating to certain children, subsections (1) and (3) | |
| (3A) | section 155 – representations relating to certain children, subsection (2) | |
| (3B) | section 155 – representations relating to certain children, subsections (1) and (5) | |
| (3C) | section 155 – representations relating to certain children, subsections (1) and (4) | |
| (4) | section 155 – representations relating to certain children, subsection (6) | |
| (4A) | section 156 – representations | |

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| | relating to certain children: further provision, subsection (3) | |
| (5) | section 155 – representations relating to certain children, subsection (7); section 156 – representations relating to certain children: further provision, subsection (1) | |
| (5A) | section 155 – representations relating to certain children, subsection (8) | |
| (6) | section 156 – representations relating to certain children: further provision, subsection (2) | |
| (7) | section 156 – representations relating to certain children: further provision, subsections (4) and (5) | |
| (8) | section 155 – representations relating to certain children, subsection (9) | |
| section 26ZB – representations: further considerations (Wales) | section 158 – further consideration of representations | |
| section 26A – advocacy services | section 159 – assistance for persons making representations | |
| section 27 – co-operation between authorities | section 145 – duty to co-operate and provide information in the exercise of social services functions | the obligations within section 145 are apply to wider range of persons and bodies than apply in relation to section 27 CA 1989 |
| section 28 – consultation with local education authorities ... | | repealed by the Secretary of State in the Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order (S.I. 2010/1158) in |

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| | | accordance with powers in sections 162 and 181(2) of the Education and Inspections Act 2006 with the consent of the Welsh Ministers |
| section 29 – recoupment of cost of providing services etc | | |
| (1) | section 43 – power to impose charges; section 44- persons upon whom charges may be imposed | |
| (2) | section 47 – duty to carry out a financial assessment; section 50 – determination as to a person’s ability to pay a charge | |
| (3) | section 43 – power to impose charges, subsection (3); section 45 – regulations about the exercise of a power to impose a charge; section 46 regulations disapplying a power to impose a charge; section 50 – determination as to a person’s ability to pay a charge | |
| (3A) | section 43 – power to impose charges, subsection (3); section 45 – regulations about the exercise of a power to impose a charge; section 46 regulations disapplying a power to impose a charge; section 50 – determination as to a person’s ability to pay a charge | |
| (3B) | section 43 – power to impose charges, subsection (3); section 45 – regulations about the exercise of a power to impose a charge; section 46 regulations disapplying a power to impose a charge; | |

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| | section 50 – determination as to a person's ability to pay a charge | |
| (4) | section 44 – persons upon whom charges may be imposed, subsection (3) | |
| (5) | section 55 – recovery of charges, interest etc, subsections (1) and (3) | |
| (6)* | section 66** – contributions towards the maintenance of children looked after by local authorities | * subsection (6) introduces Part 3 of Schedule 2 to the CA 1989 ** section 66 introduces Schedule 1 to the Bill |
| (7) | section 162 – recovery of costs between local authorities, subsection (3) | |
| (8) | section 162 – recovery of costs between local authorities, subsections (4) and (5) | |
| (9) | section 162 – recovery of costs between local authorities, subsection (6) | |
| (10) | section 162 – recovery of costs between local authorities, subsection (7) and (8) | |
| section 30 – miscellaneous | section 164 – disputes about ordinary residence and portability of care and support | |
| section 30A – meaning of appropriate national authority | | this provision is not repeated within the Bill as it superfluous |
| section 85 – children accommodated by health authorities and local education authorities | section 98 – assessment of children accommodated by health authorities and education authorities | |
| section 86 – children accommodated in care homes or independent hospitals | section 99 – assessment of children accommodated in care homes or independent hospitals | |
| section 86A – | section 100 – visitors for children | |

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| visitors for children notified to local authority under section 85 or 86 | notified to local authority under section 85 or 86 | |
| SCHEDULE 2 – Local Authority Support For Children And Families | | |
| PART 1 Provision of services for families | | |
| paragraph 1 – identification of children in need and provision of information | section 5 – assessment of needs for care and support, support for carers and preventative services; section 6 – preventative services; section 7 – promoting social enterprises, co-operatives, user led services and the third sector | |
| paragraph 2 – maintenance of a register of disabled children | section 9 – registers of blind, deaf and other disabled people | |
| paragraph 3 – assessment of children’s needs | section 17 – combining needs assessments and other assessments | |
| paragraph 4 – prevention of neglect and abuse | | |
| subparagraph (1) | section 6 – preventative services, subsections (1) and (2)(e) | |
| subparagraph (2) | section 108 – duty to report children at risk | |
| subparagraph (3) | section 108 – duty to report children at risk | |
| paragraph 5 - provision of accommodation in order to protect a child | | |
| subparagraphs (1) and (2) | section 20 – how to meet needs, in particular, subsection (2)(c) | |
| subparagraph (3) | section 43 – power to impose charges; section 44 – persons upon whom | |

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| | <p>charges may be imposed;</p> <p>section 45 – regulations about the exercise of a power to impose a charge;</p> <p>section 46 – regulations disapplying a power to impose a charge;</p> <p>section 47 - duty to carry out a financial assessment;</p> <p>section 50 – determination as to a person’s ability to pay a charge;</p> <p>section 51 – duty to give effect of determination to pay a charge</p> | |
| paragraph 6 – provision for disabled children | | |
| subparagraph (1)(a) and (b) | section 6 – preventative services, subsections (1) and (2) | |
| subparagraph 1(c) and subparagraph (2) | section 121 – power to issue codes | |
| paragraph 7 – provision to reduce need for care proceedings etc. | section 6 – preventative services, subsections (1) and (2) | |
| paragraph 8 – provision for children living with their families | section 20 – how to meet needs | |
| paragraph 8A – provision for accommodated children | <p>section 101 – services for children notified to a local authority under section 98 and 99;</p> <p>section 20 – how to meet needs</p> | |
| paragraph 9 – family centres | <p>section 6 – preventative services;</p> <p>section 20 – how to meet needs</p> | |
| paragraph 10 – maintenance of family home | section 25 – duty to maintain family contact | |
| paragraph 11 – duty to consider racial groups to which children in need belong* | | * This provision is now otiose and will not be repeated in the Bill |

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| PART 2 Children looked after by local authorities | | |
| paragraph 12A* – regulations as to conditions under which child in care is allowed to live with parent, etc. | section 72 – regulations as to conditions under which child in care is allowed to live with parent, etc | * There is no paragraph 12 |
| paragraph 12B – regulations as to placements of a kind specified in section 22C(b)(d) | section 73 – regulations as to placements of a kind mentioned in section 65(6)(d) | |
| paragraph 12C – placements out of area | section 74 – regulations about placements out of area | |
| paragraph 12D – avoidance of disruption in education | section 75 – regulations about avoidance of disruption in education | |
| paragraphs 12E and 12F – regulations as to placing of children with local authority foster parents | section 76 – regulations about the placing of children with local authority foster parents; section 77 – regulations providing for approval of local authority foster parents | |
| paragraph 12G | section 78 – regulations about agency arrangements | |
| paragraph 15* - promotion and maintenance of contact between child and family | section 79 – promotion and maintenance of contact between child and family | * There is no paragraph 13 or 14 |
| paragraph 16 – visits to or by children: expenses | section 80 – family visits to or by children: expenses | |
| paragraph 17* - appointment of visitor for child who is not being visited | | This provision is not replicated in the Bill. Instead sections 23ZA and 23ZB (which were inserted into the CA 1989 by sections 15 and 16 of the Children and Young Persons Act 2008) deal with visits to and contact with looked after or |

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| | | accommodated children has been included (see notes to sections 23ZA and 23ZB earlier in the table) |
| paragraph 18* - power to guarantee apprenticeship deeds etc | | * This provision is not repeated within the Bill as it is now otiose. |
| paragraph 19 – arrangements to assist children to live abroad | section 102 – arrangements to assist children to live outside England and Wales | |
| paragraph 19A - preparation for ceasing to be looked after | section 87 – befriending, advising and assisting looked after children | |
| paragraph 19B – preparation for ceasing to be looked after | | |
| subparagraphs (1) and (2)* | section 88 – young people entitled to support under sections 89 to 96, subsections (1) and (2) | *These provisions deal with the duties and of a local authority towards an “eligible” child. In the Bill, the concept of a “eligible” child has been replaced with that of a “category 1 young person” although the qualifying criteria remains the same in section 88 of the Bill |
| subparagraph (3) | section 88 – young people entitled to support under sections 89 to 96, subsection (7) | |
| subparagraph (4) | section 91 – pathway assessments and plans, subsections (1) and (3) | |
| subparagraph (5) | section 91 – pathway assessments and plans, subsection (7) | |
| subparagraph (6) | section 91 – pathways assessments and plans, subsection (8) | |

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| subparagraph (7) | section 91 – pathway assessments and plans, subsection (5) | |
| subparagraph (8) | section 91 – pathway assessments and plans, subsection (6) | |
| paragraph 19C – personal advisers | section 90 – personal advisers | |
| paragraph 20 – death of children being looked after by local authorities | section 103 – death of children being looked after by local authorities | |
| PART 3 – Contributions towards maintenance of children | | |
| paragraph 21 – liability to contribute | Schedule 1* – contributions towards maintenance of looked after children, paragraph 1 – liability to contribute | * Schedule 1 is introduced by section 69 – contributions towards the maintenance of children looked after by local authorities |
| paragraph 22 – agreed contributions | Schedule 1 – contributions towards maintenance of looked after children, paragraph 2 – agreed contributions | |
| paragraph 23 – contribution orders | Schedule 1 – contributions towards maintenance of looked after children, paragraph 3 – contribution orders | |
| paragraph 24 – enforcement of contribution orders | Schedule 1 – contributions towards maintenance of looked after children, paragraph 24 – enforcement of contribution orders | |
| paragraph 25 – regulations | Schedule 1 – contributions towards maintenance of looked after children, paragraph 5 - regulations | |

Social Services and Well-being (Wales) Bill

Extract from Explanatory Memorandum - Paragraphs 111, 112, 141, 143, 144

Transitional arrangements and funding

111. The Bill is part of a wider transformation programme for social services in Wales. The Sustainable Social Services for Wales: A Framework for Action programme is designed to enable the transformational change necessary and the Bill provides for part of that change. Much of the change necessary to support the introduction of the Bill is being driven through this wider programme. Current funding streams, for example, the workforce grant of £8.41 million are already being focussed to support the transition process and underpin implementation.

112. The Welsh Government has recognised this transitional agenda in 2012-13 and increased the funding available for leadership and improvement within the sector itself to approximately £2million. We plan for that transitional support to continue. In addition, the Welsh Government is supporting transformational change through its 'Invest to Save' programme. It is currently investing £10 million in projects which have a substantial social services element and is contributing to the overall transformation of social services.

Reform and integration of social care law in Wales

141. The Welsh Government already provides substantial grant funding to local authorities to support workforce development across the social care sector. The grant is a match funded grant with planned expenditure on the Social Care Workforce Development Programme (SCWDP) for 2012-13 totalling £12,015,714. The grant element, which provides 70% of the cost of the programme, is £8,411,000. The SCWDP grant is intended as a supplement to employers' own training resources. The funding is provided in acknowledgement of the considerable additional training requirements of the social care workforce and is already directed at up-skilling, obtaining new qualifications and building on existing qualifications.

143. Beginning in 2014-15, this grant funding will be re-directed to ensure the relevant staff receive the training they need throughout the preparation for, and implementation of, the Act.

- b. the costs of disseminating information on the changes; and
- c. the costs to the Welsh Government from implementing the changes.

144. The above costs (b. and c.) are transitional costs that will be borne by the Welsh Government. It has not been possible to estimate these costs at the present time due to the need for a substantial implementation project and full implementation plan to be developed first. The development of this plan, which will be undertaken in parallel with the passage of the Bill, will afford the opportunity for operational implications, and hence costs, to be worked out in conjunction with key stakeholders. Any such costs will be incorporated into existing work streams concerned with the development of social services in Wales. As noted at 141 and 143 above, it is the Welsh Government's intention to re-direct existing grant funding to cover these costs.

SOCIAL SERVICES AND WELL-BEING (WALES) BILL**TABLE OF INTENDED REPEALS SHOWING WHERE RELATED PROVISION IS FOUND IN BILL**

NB This list may be subject to further minor change.

| Statute | Provision to be repealed | Section/Part of Bill which corresponds |
|--|---------------------------------|--|
| National Assistance Act 1948 Part III | Section 21 | Provision of accommodation for those in need is now incorporated within Part 4 of the Bill. |
| | Section 22 | The duty to charge is dealt with through the powers of a local authority to charge for services under Part 5. |
| | Section 23 | Management of premises in which accommodation provided – not reproduced |
| | Section 24 | The “deeming” provisions” in Section 24 are dealt with in Section 163 (ordinary residence). |
| | Section 26 | Arranging for a person other than the local authority to provide accommodation is provided for in Section 20 (how to meet needs) |
| | Section 29 | Provision of non-residential services is incorporated into Part 4 of the Bill and through Section 6. |
| | Section 30 | Power for local authorities to use voluntary organisations as agents in carrying out their functions –Section 20 (how to meet needs) provides for the local authority to meet needs by arranging for a person other than the authority to provide something. |
| | Section 30A | There will be a clause introduced dealing with Welsh Ministers and local authorities powers to conduct or contribute to research. |
| | Section 32 | Recovery of costs between local authorities is dealt with under s.162 |
| National Assistance Act 1948 – Part IV | Section 45 | Section 55(5) – recovery of expenditure following misrepresentation |
| | Section 47 | Not reproduced – power of local authority to remove person in need of care and attention from premises |
| | Section 48 | Section 42 - protection of property of those cared for away from home |
| | Section 49 | Power to charge for services of council officers acting as receivers – not reproduced in the Bill |

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| | | but equivalent provision is to be made in the Mental Capacity Act 2005. |
| | Section 51 | Offence of failure to maintain oneself -not reproduced. |
| | Section 52 | Offence of making false statements in relation to liability for charging - not reproduced |
| | Section 55 | Section 42(6) - Offence of obstructing a person exercising a power of entry for the purpose of exercising the duty in Section 42(2) |
| | Section 56 | Section 55 – recover of charges as debt |
| | Section 60 | Compensation of displaced officers – not reproduced |
| | Section 61 | Payment of receipts to exchequer – not reproduced |
| Disabled Persons (Employment) Act 1958 | Section 3 | Power of local authority to provide facilities for employment of disabled persons – incorporated into Part 4 (meeting needs) and also Section 6 (preventative services) |
| Mental Health Act 1959 | Section 8 | Provision dealing with overlap in functions of local authorities – not reproduced |
| Health Services and Public Health Act 1968 | Section 45 | Power of local authorities to promote the welfare of old people –. incorporated into Part 4 meeting needs and also Section 6 (preventative services) |
| Chronically Sick and Disabled Persons Act 1970 | Section 1 | Duty to discover the extent of need for welfare services in local authority area – Section 5 |
| | Section 2 | Duty to meet needs if necessary – this provision is replaced by Part 4 – Meeting Needs |
| | Section 28A | Application of the Section 2 duty to children in need – replaced by Part 4 – Meeting Needs |
| Local Authority Social Services Act 1970 | Section 1 | Section 1 defines what constitutes a local authority for the purposes of the Act. Such provision is made within Section 166 of the Bill – general interpretation and index of defined expressions. |
| | Section 1A | Section 119 of the Bill – Social Services functions of local authorities. |
| | Section 6 | Section 120 of the Bill contains similar provision – directors of Social Services. |
| | Section 7 | This provision is not repeated in terms as Sections 121 – 125 of the Bill require local authorities to exercise relevant functions in accordance with a code or codes of practice issued by the Welsh Ministers. |
| | Section 7A | This provision is not repeated in terms as Sections 121 – 125 of the Bill require local authorities to exercise relevant functions in accordance with a code or codes of practice issued by the Welsh Ministers. |
| | Section 7C | Provision made by this Section is not repeated |

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| | | in the Bill. Welsh Ministers have extensive powers to hold inquiries under the Inquiries Act 2005. |
| | Section 7D | The provision contained in Section 7D is contained within more extensive powers for intervention by central government into the exercise by local authority of its Social Services functions within Sections 126 – 136 of the Bill. The provision in the Bill applies to the provision of services for children and adults, whereas Section 7D applies only in relation to the exercise of Social Services for adults. |
| | Section 7E | Not repeated in the Bill Wider and more flexible powers exist in other legislation. |
| | Section 9 | Event-specific provision therefore not repeated in the Bill. |
| | Section 12 | Section 12 deals with the application of the Act to the Scilly Isles and is not relevant. |
| | Section 13 | Section 165 of the Bill – orders and regulations. |
| | Section 14 | Section 167 of the Bill – power to make consequential and transitional amendments. |
| | Section 15 | Sections 166 and 169 of the Bill contain analogous provision. |
| | Schedule 1 | Schedule 2 to the Bill. |
| | Schedule 2 | Contains textual amendments to other enactments. Such provision is not relevant to our Bill and is not repeated. |
| Health and Social Services and Social Security Adjudication Act 1983 | Section 17(2A) | Not repeated within the Bill, Section 17(2A) is a Wales-specific provision dealing with the Carers and Disabled Children Act 2000 which is also being repealed. |
| | Section 20 | Not repeated in the Bill. Section 20 contains amendments to the National Assistance Act 1948, which is also being repealed. |
| | Section 21 | Principles in Section 21 of this Act, are reflected in Section 57 of the Bill, transfer of assets to avoid charges. |
| | Section 22 | Section 56 of the Bill – creation of a charge over an interest in land derives from Section 22. |
| | Section 23 | Not repeated in the Bill. |
| | Section 24 | The provision made in Section 24 is contained within Section 55 of the Bill – recovery of charges, interest etc. |
| | Schedule 9 Part 2 | Part 2 of Schedule 9 allows a local authority to provide and facilitate the provision of "meals and recreation for old people". Such provision may be made in the future in accordance with Sections 6, 7 and Part 4 of the Bill. |

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| Disabled Persons (Services, Consultation and Representation) Act 1986 | Section 3 | Section 3 makes provision which requires a local authority which is undertaking an assessment of the need for services by a disabled person, it must permit the person or their authorised representative to make representations during the process. Similar obligations are contained within Section 4 and Part 3 of the Bill. |
| | Section 4 | This Section contains provision which glosses a local authority's obligations under the Chronically Sick and Disabled Persons Act 1970 which is also being repealed. |
| | Section 8 | This Section imposes a duty on local authorities to take into account abilities of a carer. New duties towards carers are provided for in parts 3 and 4 of the Bill. |
| | Section 9 | This Section contains an amendment to the Local Authority Social Services Act 1970, which is also being repealed. |
| | Section 11 | This Section requires the laying before Parliament of an annual report which details the development of health and Social Services in the community for persons suffering from mental illness or mental handicap who are not resident in hospitals. It is not repeated in the Bill |
| Children Act 1989 – Part 3 | | Dealt with in separate table of destinations |
| Children Act 1989 – SCHEDULE 2 – Local Authority Support For Children And Families | | |
| PART 1 Provision of services for families | | |
| PART 2 Children looked after by local authorities | | |
| PART 3 – Contributions towards maintenance of children | | |

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| NHS and Community Care Act 1990 | Section 46 | Plans for community care services – Section 5 |
| | Section 47 | Duty to assess needs – Section 10, 12 and 15. |
| The Carers (Recognition and Services) Act 1995 | The whole Act | Entirely new provision for assessment of carers is dealt with in part 3 of the Bill. New duties to meet the needs of carers are contained in part 4 the Bill. |
| Carers and Disabled Children Act 2000 | The whole Act | Entirely new provision for assessment of carers is dealt with in part 3 of the Bill. New duties to meet the needs of carers are contained in part 4 the Bill. |
| Health and Social Care Act 2001 | Section 49 | Similar provision is contained within Section 31 of the Bill – exception for the provision of health services. |
| | Section 53 | This Section contains an amendment to the National Assistance Act 1948, which is also being repealed. |
| | Section 54 | The principles set out in Section 54 are included in Section 41 of the Bill – cases where a person expresses preference for particular accommodation. |
| | Section 55 | The principles set out in Section 55 are included in Section 53 of the Bill – deferred payment agreements. |
| | Section 57 | Section 57 makes provision about direct payments; such provision is included within Sections 34 – 37 of the Bill. |
| | Section 58 | Section 58 makes provision about direct payments for children by amendment to the Children Act 1989; such provision is included within Sections 34 – 37 of the Bill. |
| | Section 64(4) | Not repeated in the Bill. Relates to provision in the 2001 Act which is being repealed in relation to Wales. |
| Carers (Equal Opportunities) Act 2004 | The whole Act | Entirely new provision for assessment of carers is dealt with in part 3 of the Bill. New duties to meet the needs of carers are contained in part 4 the Bill. |
| Community Care (Delayed Discharges etc) Act 2003 | Section 16 | Power of WMS to prescribe services to be provided free of charge – incorporated within Part 5 Charging and Financial Assessment |
| Health and Social Care (Community Health and Standards) Act 2003 | Sections 114 – 118 | Complaints about Social Services – incorporated into Part 10 Chapter 1 |
| Children Act 2004 | Sections 31 - 34 | Local Safeguarding Children Boards–new Safeguarding Children Boards are established in Part 7 Safeguarding |
| National Health Service | Section 192(1) | Additional Social Services functions – incorporated into Part 4 meeting needs and |

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| (Wales) Act 2006 | | also Section 6 |
| | Schedule 15 | |
| Social Care Charges (Wales) Measure 2010 | The whole Measure | Charging for non-residential services - incorporated into Part 5 Charging and Financial Assessment |
| Children and Families (Wales) Measure 2010 | Part 3 - Integrated Family Support Services | Power to direct partnerships is provided for in Sections 147 to 150 |
| Carers Strategies (Wales) Measure 2010 | The whole Measure | The information, advice and assistance service in Section 8 of the Bill covers support to carers. Section 5(3) deals with well-being strategies that will include provision about carers. |