



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

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

25 September 2013

Dear David,

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

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

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

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

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

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

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

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

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

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

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

Yours sincerely

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

Gwenda Thomas AC / AM

Y Dirprwy Weinidog Gwasanaethau Cymdeithasol
Deputy Minister for Social Services