

Proposed Children and Families (Wales) Measure

Explanatory Memorandum

This Explanatory Memorandum has been jointly prepared by the Department for Social Justice and Local Government, the Department for Children Education, Lifelong Learning and Skills and the Department for Health and Social Services, and is laid before the National Assembly for Wales.

Member's Declaration on Legislative Competence

In my view the provisions of the proposed Children and Families (Wales) Measure, introduced by me on 2 March 2009 would be within the legislative competence of the National Assembly for Wales.

Dr Brian Gibbons AM

Minister for Social Justice and Local Government
Assembly Member in charge of the proposed Measure

2 March 2009

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Section 1: Background and Purpose of the Proposed Measure

1. Description

This Explanatory Memorandum has been prepared and laid in accordance with Standing Order 23.18. It sets out the background to the policy objectives, the provisions of the proposed Children and Families (Wales) Measure and explains its scope.

The Children and Families (Wales) Measure makes statutory provision, through a legislative framework, to take forward the Welsh Assembly Government's commitment in terms of child poverty, and to take forward early development of its strategy for vulnerable children by bringing forward legislation to provide greater support to families where children may be at risk, and strengthened regulatory enforcement in children settings.

The Measure is cross-cutting with the Department for Social Justice and Local Government, the Department for Children, Education, Lifelong Learning and Skills and the Department for Health and Social Services, and each section of the Explanatory Memorandum is addressed in four parts:

- Part 1: Eradicating Child Poverty
- Part 2: Child Minding and Day Care for Children
- Part 3: Integrated Family Support Teams
- Part 4: Miscellaneous and General

1.1. Part 1 – Eradicating Child Poverty

The Measure requires Welsh authorities to make and demonstrate their contribution towards eradicating child poverty.

The purpose of Part 1 of the Measure is to introduce a legislative framework which sets out:

- a range of broad aims for contributing to the eradication of child poverty;
- a duty on “Welsh authorities” to prepare and publish a strategy for contributing to the eradication of child poverty in Wales;
- details which apply to the Welsh Ministers in respect of their strategy;
- details which apply to local authorities in respect of their strategies;
- amendments to section 26 of the Children Act 2004 to tie the local authority's duty to have a strategy in to the duty under that section to prepare a plan;
- provision about the strategies to be prepared by Welsh authorities other than the Welsh Ministers and local authorities;
- a duty on local authorities to secure free childcare in accordance with Regulations and guidance;

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- a local authority power to secure parental support services and health support services;
- a requirement for local authorities to provide particular sorts of parental support services where required by regulations;
- a requirement for local authorities to provide particular sorts of health support services where required by regulations;
- A power for Welsh Ministers to issue statutory guidance about action to promote the broad aims for contributing to the eradication of child poverty and the exercise of functions under Section 1 to 9;
- a power for Welsh Ministers to direct the Welsh authority to take any action to secure compliance with the duty under relevant sections where it is felt that the Welsh authority is failing or is likely to fail to comply with any duty under Section 2, 6 or 9;
- the Welsh authorities subject to the duty under Section 2 of the Measure.

1.2. Part 2 – Child Minding and Day Care for Children

At present, childminders and other providers of childcare for children under the age of 8 in Wales are regulated by Part 10A and Schedule 9A of the Children Act 1989. The proposed Part 2 of the Measure repeals Part 10A of the Children Act 1989 together with Schedule 9A and makes new provisions with a view to improving coherence and clarity, whilst making new provision to enhance CSSIW regulation and enforcement powers in order to provide for:

- the ability to impose conditions of registration in an emergency,
- the imposition of fixed penalty notices on registered persons, and
- extending the time limit for prosecutions from six to twelve months.

1.3. Part 3 – Integrated Family Support Teams (IFST)

The Measure also requires local authorities to establish integrated family support teams (IFST) to provide services to families where there are children who need or who are looked after and this is related to certain sorts of need (e.g. dependence on drugs and alcohol) on the part of their adult carers. It also provides duties on the Local Health Board to assist the local authority in establishing and resourcing an IFST in order for a local authority to discharge its duties.

Provisions include functions, staff (core member of team, professional and occupational standards and registration requirements) and arrangements for establishing and resourcing IFST including strategic direction by an IFST Board who has specific statutory duties in relation to IFST.

The IFST will be multi-agency teams whose function will be to deliver evidence-based interventions direct to families where children are at risk of developing long term difficulties or experiencing significant discontinuity in their upbringing that may result in the child entering care. The IFST will also support the reunification of children who are voluntarily accommodated. The IFST will have a training role in providing supervised training for wider staff

working with families in local authorities and Local Health Boards on a range of techniques in engaging complex families and delivering evidenced based interventions.

1.4. Part 4: General and Miscellaneous

Local authorities will also be required to secure sufficient play opportunities for children in the light of a play sufficiency assessment which must be undertaken in accordance with regulations and guidance issued by Welsh Ministers.

Arrangements must also be made to ensure participation of children in local authority decision making.

The following Duties will be placed on local authorities:-

- Duty to assess the sufficiency of play opportunities for children in its area;
- Duty to secure provision of and access to sufficient play opportunities for children;
- To make arrangements to ensure participation of children in decisions of the authority which affect them.

2. Legislative Background

This section provides evidence in support of Standing Order 23.18(i)

The constitutional context to this proposal is set out by the Government of Wales Act 2006. The Act provides a mechanism for enhancing the legislative powers of the National Assembly for Wales.

The Assembly's Standing Orders (23.1 and 23.2) provides for a proposed Measure to be introduced by a member of the government as a 'government proposed Measure'.

On 10 December 2008, the National Assembly for Wales (Legislative Competence) (Social Welfare and Other Fields) Order 2008 had Royal Approval and extends Matters (15 and 16) of Schedule 5 of the Government of Wales Act 2006 which conferred on the National Assembly for Wales the legislative competence to pass this Assembly Measure for Social Welfare, and in a more limited way sport and recreation for the safeguarding and wellbeing of children and young people up to the age of 25 years old.

In accordance with Standing Order 23.18(i) and in support of the statement that the provisions of the proposed Measure are within legislative competence of the Assembly, the powers to make such a Measure are contained within Matters 5.8, 5.18, 15.2, 15.5, 15.6 and 15.7 and 16.1 of Schedule 5 to the Government of Wales Act 2006, as inserted by the National Assembly for Wales (Legislative Competence) (Social Welfare and Other Fields) Order 2008.

Specifically:

Field 5: education and training

Matter 5.8

Provision about the provision of services that are intended to encourage, enable or assist people -

- (a) to participate effectively in education or training,
- (b) to take advantage of opportunities for employment, or
- (c) to participate effectively in the life of their communities.

Matter 5.18

The provision of any of the following for children and young persons -

- (a) facilities for social or physical training;

(b) educational activities.

In this matter “children” and “young persons” have the same meaning as in field 15.

Field 15: social welfare

Matter 15.2

Functions of public authorities relating to -

- (a) safeguarding children from harm and neglect;
- (b) safeguarding and promoting the well-being of vulnerable children;
- (c) reducing inequalities in well-being between children or young persons.

This matter applies to the functions of public authorities whose principal functions relate to any one or more of the fields in this Part.

Matter 15.2(b) gives the Assembly competence to legislate on matters relating to safeguarding and promoting the well-being of vulnerable children. The definition of ‘vulnerable children’ is defined so as to include all those who are ‘in need’ under the definition of section 17 of the Children Act 1989. Matter 15.2(c) provides competence to legislate more broadly than social care services or ‘vulnerable children’ in relation to reducing inequalities between children or young persons.

The scope of Matter 15.2 extends beyond the concept of ‘social services’ and gives competence to legislate across the functions of all public authorities whose principal functions relate to one or more of the Schedule 5 matters. This matter therefore allows the Assembly to legislate in relation to functions of bodies in devolved areas such as health with regard to the 15.2 Matters.

Matter 15.5

Social care services for any of the following -

- (a) children;
- (b) persons who care for, or who are about to care for, children;
- (c) young persons;
- (d) persons formerly looked after -
 - (i) who have attained the age of 25, and
 - (ii) who, immediately before attaining that age, have been pursuing, or intending to pursue, education or training.

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Matter 15.5 gives competence in relation to social care services and applies in relation to children, their carers or prospective carers and also in relation to young people. The definition of social care services includes services such as childcare and training for carers in parenting, and extends to 'advice' and 'assistance of any kind'.

Matter 15.6

Co-operation and arrangements to safeguard and promote the well-being of children or young persons.

This matter applies to co-operation by, and arrangements made by, -

(a) public authorities whose principal functions relate to any one or more of the fields in this part;

(b) police authorities and chief officers of police for police areas in Wales;

(c) the British Transport Police Authority;

(d) local probation boards for areas in Wales;

(e) the Secretary of State, in relation to the Secretary of State's functions under sections 2 and 3 of the Offender Management Act 2007, or any provider of probation services under arrangements made under section 3(2) of that Act;

(f) youth offending teams for areas in Wales;

(g) the governors of prisons, young offender institutions or secure training centres in Wales (or, in the case of contracted out prisons, young offender institutions or secure training centres or contracted out parts of such institutions, their directors);

(h) persons other than public authorities who are engaged in activities relating to the well-being of children or young persons.

This relates to the co-operation and arrangements to safeguard and promote the wellbeing of children or young persons by certain public bodies and others who are engaged in activities relating to the well-being of children or young persons.

Matter 15.7

Planning by local authorities for the discharge of their functions relating to the well-being of children or young persons.

This relates to planning by local authorities for the discharge of functions relating to the well-being of children or young persons.

Field 16: sport and recreation

Matter 16.1

The provision of recreational facilities and activities for children or young persons.

In this matter children” and young persons” have the same meaning as in field 15.

3. Purpose and intended effect of the Legislation

3.1. Section 3.1 Purpose of Existing Legislation

3.1.1. Part 1: Eradicating Child Poverty

The main piece of legislation that is currently in place to drive forward the child poverty agenda is the Children Act 2004.

Section 25 of the Children Act 2004 places a duty on local authorities to take the lead in promoting co-operation with 'relevant' partners and such other bodies as the local authority considers appropriate, with the aim of improving the well-being of children in each local authority's area.

Section 26 of the Children Act 2004 and regulations under this section require local authorities to work with their partners to write a Children and Young People's Plan (CYPP) that sets out their joint strategic vision for children and young people's services, priorities and targets.

The Children Act (as amended) defines relevant partners of the local authority as being:

- the police authority and the chief officer of police for the area;
- the local probation board;
- the youth offending team;
- the Local Health Board;
- NHS trusts providing services in the area of the authority;
- The Assembly Government to the extent that it is discharging functions under Part 2 of the Learning and Skills Act 2000.

Children and young people are defined as all those up to and including age 19 and those over 19 receiving services under Sections 23C to 23D of the Children Act 1989 (care leavers) or youth support services within the meaning of Section 123 of the Learning and Skills Act 2000.

Section 26 also requires local authorities to have due regard to guidance given to them by the Welsh Assembly Government. The planning guidance is found in 'Shared Planning for Better Outcomes' WAG Circular 31/2007. Note also the Children and Young People's Plan (Wales) Regulations 2007.

From 2008, each local authority area is required to have a Children and Young People's Plan covering all services for those aged 0-25 and maternity services.

Legislation similar to the Children Act 2004 does not currently apply to the partner bodies or other public agencies such as National Park authorities, or Assembly Government Sponsored Bodies (AGSBs).

3.1.2. Part 2: Child Minding and Day Care for Children

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The Health and Social Care Act 2008, which received Royal Assent in July 2008, contains new powers for Welsh Ministers (set out in Schedule 5 of the Act, which amends the Care Standards Act 2000). The following new powers apply in respect of persons registered with the Welsh Ministers in relation to establishments or agencies under Part II of the Care Standards Act 2000:

- A new power to vary/impose or remove conditions of registration urgently;
- A new power to impose a penalty notice where a person has committed an offence under the Act;
- An extension to the time limit in section 29 of the Act in which criminal proceedings must be brought, from 6 months to 12 months.

These new regulatory enforcement powers apply to all the services regulated by CSSIW and HIW under Part II of the Care Standards Act 2000, including children's homes, adult care homes, residential family centres, domiciliary care agencies and independent health care.

These new regulatory enforcement powers extend only to settings and agencies regulated under the Care Standards Act and do not extend to childminders and day care providers regulated under Part 10A of The Children Act 1989.

The proposal is to provide a new power to impose a penalty notice where a person has committed a fixed penalty offence under the Act and an extension to the time limit in section 29 of the Act in which criminal proceedings must be brought, from 6 months to 12 months. In addition the Measure will include provision permitting conditions to be imposed on registered persons in an emergency where there is risk of harm to a child. Currently the urgent imposition of conditions can only be undertaken by a Justice of the Peace.

3.1.3. Part 4: General and Miscellaneous

Section 26 of the Children Act 2004 and regulations under this section require local authorities to produce a Children and Young People's Plan (CYPP). The CYPP Guidance document 'Shared Planning for Better Outcomes' states that local authorities should plan with their partners to provide or secure play opportunities for children and young people. The relevant section of the Plan, under Core Aim 4, should include:-

- Play strategies, including plans for staffed adventure play;
- Out of school hours childcare and holiday play-schemes;
- Action to promote other out of school hours activity;
- Walking and cycling routes to schools and play areas that integrate appropriately and safely with other means of transport.

Priority outcomes and measures for Core Aim 4 will reflect the principle that 'Every child and young person... engages in age appropriate play.'

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The direction and guidance on Extending Entitlement Services and support for 11-25 year olds in Wales under section 123 of the Learning and Skills Act 2000 places a duty on local authorities to work with their partners to support young people to participate effectively in education, training and employment, and in the lives of their communities.

3.2. Purpose of the New Legislation

This section is in accordance with Standing Order 23.18(ii) and 23.18(v),

3.2.1. Part 1: Eradicating Child Poverty

The Welsh Assembly Government has made a commitment to eradicating poverty and improving the life chances of the children of Wales. This Measure builds upon the *One Wales* commitment to, ‘...legislate to establish a duty on public agencies to make and demonstrate their contribution to ending child poverty.’

The policy objectives for Part 1 of the Measure are:

- a requirement for strategies for contributing to the eradication of child poverty to be prepared and published by the Welsh Ministers, and to publish a report containing an assessment of the extent to which the objectives contained within the strategy have been met;
- a requirement for strategies to be prepared by local authorities;
- a requirement for strategies to be prepared by other Welsh authorities;
- a power for the Welsh Ministers to require local authorities, by regulations to secure prescribed childcare free of charge for children of prescribed ages (with discretion to do this in relation to specified areas of a local authority);
- a local authority power to secure parental support services and health support services;
- a power for the Welsh Ministers to require local authorities to secure particular kinds of parental and health support services (with discretion to do this in relation to specified areas of a local authority);
- A power for Welsh Ministers to issue statutory guidance to all of the specified Welsh authorities in relation to their functions under Part 1 of the Measure and action on child poverty more generally;
- A power for the Welsh Ministers to direct an authority if it is failing to comply with its duties under Part 1.

Intended Effect

Part 1, Section 1: Broad aims for contributing to the eradication of child poverty

Section 1(1) does not impose duties. It sets out different areas of activity expressed as ‘broad aims’ which contribute to the eradication of child poverty, and provides a reference point for objective setting and other actions under the subsequent sections.

Subsection (2) provides a description of the broad aims for contributing to the eradication of child poverty and subsection (8) makes provision for the broad aims to be amended.

Part 1, Section 2: Strategies for contributing to the eradication of child poverty

The purpose of the new legislation is to ensure that all relevant Welsh authorities in Wales have a legislative duty to prepare and publish a strategy for contributing to the eradication of child poverty in Wales. The strategy will set out the objectives chosen by the authority and the actions to be performed and functions to be exercised by the authority.

Welsh Ministers and local authorities must choose a range of objectives relating to all of the broad aims for the eradication of child poverty, and other Welsh authorities must choose objectives which relate to one or more of broad aims.

Welsh Ministers must also choose objectives relating to their powers to provide funding to any person which promote the broad aims for the eradication of child poverty.

Welsh Ministers may, in regulations, specify objectives for a Welsh authority if the objectives relate to one or more broad aims and the objective can be pursued by the Welsh authority in the exercise of its functions.

A Welsh authority must take all reasonable steps to achieve the objectives in its strategy.

The Welsh authorities covered by this duty are set out in Section 12.

Part 1, Section 3: Strategies prepared by Welsh Ministers

It is intended that Welsh Ministers be required to prepare and publish a strategy for contributing to the eradication of child poverty in Wales in accordance with Section 2. The strategy will include objectives chosen by the Welsh Ministers in relation to each of the broad aims set out in Section 1. The Welsh Ministers must publish the first strategy in 2010 and keep the strategy under review, and from time to time remake or revise it.

Before Welsh Ministers can make, remake or revise their strategy, they must consult as they consider appropriate, and must publish the strategy when they make or remake it. If they revise the strategy, they must publish either the revisions or the revised strategy.

When Welsh Ministers publish a strategy or revisions, they must lay a copy of the strategy or revisions before the National Assembly for Wales.

Welsh Ministers must in 2013 and in every third year after 2013, publish a report containing an assessment of the extent to which the objectives within the strategy have been achieved. If an objective has not been achieved, the report should contain an assessment of the progress that has been made towards achieving the objective. The report must be laid before the National Assembly for Wales.

Part 1, Section 4: Strategies prepared by local authorities

It is intended that local authorities be required to prepare and publish a strategy for contributing to the eradication of child poverty in Wales in accordance with Section 2. The strategy will include objectives chosen by the local authority in relation to each of the broad aims set out in Section 1.

It is the intention that the objectives which a local authority sets in relation to parenting support (Section 1(2)(f)) and the reduction of inequalities in health (Section 1(2)(g)) and participation in education, training and the community as well as helping young persons take advantage of opportunities for employment (Section 1(2)(k-m)) should include activity currently funded by Cymorth specific grant and guidance will be issued to this effect. This provision is one of the mechanisms to maintain the current level of provision in respect of Cymorth activity. Others are discussed in relation to Part 1, Section 7-9 of this Explanatory Memorandum.

The duty for local authorities to prepare and publish a strategy for contributing to the eradication of child poverty in Wales under Section 2(1) is discharged on publication of a Children and Young People's Plan under Section 26 of the Children Act 2004.

There is no requirement to publish separately under Section 2 and in the Children and Young People's Plans.

Part 1, Section 5: Strategies prepared by other Welsh authorities

It is intended that Welsh authorities be required to prepare and publish a strategy for contributing to the eradication of child poverty in Wales in accordance with Section 2. The strategy will include objectives chosen by the Welsh authority in relation to one or more of the broad aims set out in Section 1. The relevant Welsh authorities affected by this duty are set out in Section 12 and are those listed excluding Welsh Ministers and Local authorities.

Provision is made for the duty to prepare and publish a strategy to be discharged if the strategy is an integral part of a Children and Young Persons Plan.

Welsh authorities that have not entered into arrangements with local authorities under Section 25 of the Children Act 2004 are required to prepare and publish their own plans.

Part 1, Sections 6-9

These provisions primarily seek to place in a statutory context activity currently funded through the Flying Start grant programme. Sections 7-9 also provide two of the mechanisms in this measure which local authorities and Welsh Ministers may utilise in the context of activity currently funded through the Cymorth specific grant, specifically local authority powers to secure

provision of services and Welsh Ministers' powers to make regulations requiring local authorities to secure those services.

Part 1, Section 6: Local authority duty to secure availability of free childcare

It is the intention that Welsh Ministers will be able to use regulation making powers in this section to require local authorities to provide free childcare for children aged between two and three years, in specified areas.

One Wales includes a commitment to progress provision of free full-time high quality childcare for two year olds in areas of greatest need. The Flying Start programme is the current delivery mechanism for this commitment and the childcare places currently being made available in specific disadvantaged areas sit alongside health visitor support with low caseloads and access to well evaluated parenting programmes and language and play programmes.

Although there are no current plans to alter the funding arrangements of this programme, the new powers for Welsh Ministers to require by regulations local authorities to secure availability of free childcare demonstrates Welsh Ministers' long-term commitment to the programme which supports the One Wales commitment to the provision of free childcare for two year olds in areas of greatest need.

Intended Effect

This section allows for a duty to be placed on local authorities to secure free childcare in specific areas. The duty is triggered by the making of regulations by Welsh Ministers which would specify the type of provision to be secured, duration of provision, eligibility and delivery area. Such regulations would only be made if a decision were taken to move funding currently associated with Flying Start into RSG. Regulations and guidance would also inform the nature of the provision. All secondary legislation will be subject to full public consultation.

The potential duty on local authorities to provide prescribed free childcare in specific areas would not place any new burdens on local authorities beyond those associated with delivery of the Flying Start programme at current levels.

Part 1, Section 7: Parental support services

This provision gives local authorities powers to secure or provide services currently funded through both the Flying Start and Cymorth grant programmes in relation to parenting.

Flying Start parenting activity recognises that parents are in almost all cases the first and most important external influence on the way their infants and young children develop. Research shows that children who enjoy warm,

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secure, affectionate relationships with at least one primary caregiver are more likely to thrive and prove resilient in face of later difficulties, than those who do not. The way that parents and other caregivers treat children, interact with them and respond to their physical and emotional needs can exert an influence on their wellbeing and behaviour that endures through childhood, adolescence and on into adult life..

Cymorth Theme A – Family support – aims to ensure that families have access to support that will foster positive relationships between parents and children. This relates to the Core Aims to; “Ensure that all children have a flying start in life and the best possible basis for their future growth and development”, and; “Ensure that all children and young people enjoy the best possible physical and mental, social and emotional health, including freedom from abuse, victimisation and exploitation”.

Intended Effect

This section gives local authorities powers to secure or provide the provision of parental support services in respect of which Welsh Ministers may issue guidance. These powers are set within the context of Part 1 in order to reinforce that local authority performance of the functions should be undertaken in the context of their duty to account for achievement of their child poverty objectives.

Part 1, Section 8: Health support services

This provision gives local authorities powers to secure or provide services currently funded through both the Cymorth and Flying Start grant programmes in relation to health support and preventative services.

The Flying Start programme recognises the benefits of increased health visitor support for families that need it. A greater concentration of resources targeted at vulnerable children and families assists in combating the effects of social and economic disadvantage.

Cymorth Theme B – Health promotion – aims to promote the healthy development of children (including before birth) and young people by providing more intensive community health support or to break down barriers to mainstream health services. This also relates to the Core Aim to “ensure that all children and young people enjoy the best possible physical and mental, social and emotional health, including freedom from abuse, victimisation and exploitation.”

Intended Effect

This section gives local authorities powers to secure or provide the provision of health support services in respect of which Welsh Ministers may issue guidance. These powers are set within the context of Part 1 in order to reinforce that local authority performance of the functions should be

undertaken in the context of their duty to account for achievement of their child poverty objectives.

Part 1, Section 9: Regulations about services to tackle child poverty

This section gives Welsh Ministers powers to require local authorities by regulations to secure the provision of particular sorts of parental and health support services free of charge in areas specified either by Welsh Ministers or by local authorities in accordance with guidance.

It also gives Welsh Ministers powers to require local authorities by regulations to make such services available free of charge in areas specified either by Welsh Ministers or by local authorities in accordance with regulations and guidance.

This section also gives Welsh Ministers powers to make regulations which specify the areas where Flying Start and Cymorth activity should be targeted. Regulations may specify that the provisions are to apply in respect of one or more parts of a local authority area, or provide for the local authority itself to specify areas.

Intended effect

Welsh Ministers will be able to use powers under this Section to make regulations and issue guidance which will reflect activity currently carried out in this context using the Flying Start specific grant. They may also use them to make regulations in respect of Cymorth related activity, but this is not the primary intention.

It is the intention that Welsh Ministers will use these powers to identify areas in which the duties at section 6 and 9(1)(a) and (b) (regulations requiring availability of free childcare; parental support services; health support services); should be carried out. There is also provision for regulations to require local authorities to determine target areas, in which case guidance would be issued about the things they should take into account in doing this. In the context of Flying Start activity in particular decisions on a way forward with regard to targeting are subject to ongoing review in the light of the outcome of this consultation exercise, the ongoing evaluation of Cymorth and Flying Start and discussions with local partners.

It is not the intention to use the power to impose any new burdens on local authorities beyond those associated with delivery of related elements of the Cymorth and Flying Start programmes.

Part 1, Section 10: Guidance

It is intended that Welsh Ministers will issue statutory guidance about action to promote the broad aims for contributing to the eradication of child poverty and the exercise of functions under Section 1 to 9.

Part 1, Section 11: Directions

It is intended that Welsh Ministers will direct a Welsh authority to take any action to secure compliance with the duty under relevant sections where it is felt that the Welsh authority is failing or is likely to fail to comply with any duty under Section 2, 6 or 9.

Part 1, Section 12: Welsh authorities

Section 12 provides a definition of Welsh authorities and sets out those public bodies that have a duty under Section 2 of the Measure. There is provision for the list to be amended, for consultation to take place with an affected public body before the list is amended and for only public bodies to be included on the list.

3.2.2. Part 2: Child Minding and Day Care for Children

This effect of this proposal will be to ensure that the range of regulatory enforcement options is available to all establishments and agencies that Welsh Ministers (through Healthcare Inspectorate Wales and Care and Social Services Inspectorate Wales) regulate, and that its enforcement practices are consistent across all setting and agencies regulated.

The proposal to impose a penalty notice offers the registered person the opportunity of paying a penalty in respect of an identified breach, thus avoiding potentially protracted court proceedings. This new regulatory option will allow Welsh Ministers to take a quick and proportionate response to a regulatory breach, which also reduce the burden on the criminal court in relation to minor offences.

The proposals to extend the time limit in which criminal proceedings must be brought from 6 months to 12 months will assist Welsh Ministers in their prosecution functions by providing them with more time within which to investigate potential offences.

Since the introduction of regulation of childminders and other providers of childcare for children under the age of 8 under the Children Act 1989, comprehensive regulations and national minimum standards have set out the requirements of registration and inspection. Part 10A of the Children Act was introduced by the Care Standards Act 2000, which transferred the responsibility for childcare registration from local authorities to the Care and Social Services Inspectorate for Wales (CSSIW).

In addition, the Childcare Act 2006, which came into force in Wales on 1 April 2008, places duties on local authorities to shape and secure childcare services, and focuses in particular on the provision of:

- sufficient, sustainable and flexible childcare that is responsive to parents' needs; and

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- information, advice and assistance to parents, prospective parents and those with parental responsibility or care of a child, relating to childcare.

The purpose of the proposed draft Part 2 of the Measure is to repeal and re-enact Part 10A of the Children Act 1989 together with Schedule 9A to improve coherence and clarity, whilst making new provision to enhance CSSIW regulation and enforcement powers.

The majority of the provisions detailed under Part 2 of the proposed Measure are technical in nature and closely mirror the current provision made under legislation for childminders and day care providers registered under the Children Act 1989. With the exception of the enhanced enforcement provisions, the Measure restates and modifies the law in a more cohesive way and does not provide for any significant burdens on childminders or providers.

In relation to section 13 of the Measure, it does allow the Welsh Ministers to make adjustments to the legislative schemes for registration. There is discretion to keep the current definitions of childminding and day care in Part 10A of the Children Act 1989, or to make changes using the affirmative procedure for the order making power, following consultation with stakeholders. It also promotes the Assembly Government's long term aim for consolidation of child law and is taking the opportunity to use an appropriate Measure to affect these wider aims.

Other amendments have been made to:

- Section 24 Regulations governing activities - inserts the new requirements at sub section (2) (f) that regulations deal with the procedures for dealing with complaints and at (2) (g) that regulations deal with the supervision of staff. This formalises existing good practice and will, for example, help address CSSIW concern that childminding assistants should not be left in sole charge of children. This will be further explored in regulations and consequent consultation on those regulations.
- Section 25 Cancellation of registration - inserts the new requirement at sub section (5) that the Welsh Ministers may prescribe circumstances in which the registration of a person's registration may be cancelled. This will provide CSSIW with the power to cancel a person's registration for example, if it appears that the person has not provided childminding for a period of more than 3 years during which that person has been registered.
- Section 26 Suspension of registration – inserts the new requirement at sub section (2) (c) that regulation may include provision about the suspension of registration at the request of the registered person. This could include for voluntary suspension of a registered person, for example, to cover a career break, maternity leave etc.
- Section 29 – Protection of children in an emergency: changes to conditions of registration – will allow CSSIW to vary or remove existing conditions, or add new conditions as a matter of urgency where there is

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a risk of harm to a child. There is provision for an appeal against such a step to the First-Tier Tribunal.

- Section 39 Penalty notices – provides for the imposition of fixed penalty notices on registered persons where the regulator is satisfied that a person has committed a fixed penalty offence. The proposal to impose a penalty notice offers the registered person the opportunity of paying a penalty in respect of an identified breach, thus avoiding potentially protracted court proceedings. This new regulatory option will allow Welsh Ministers to take a quick and proportionate response to a regulatory breach, which also reduce the burden on the criminal court in relation to minor offences.
- Section 41 Time limit for proceedings – the proposal to extend the time limit in which criminal proceedings must be brought from 6 months to 12 months will assist Welsh Ministers in their prosecution functions by providing them with more time within which to investigate potential offences.
- Section 48 Death of a registered person – section 35 of the Care Standards Act provides the power to make regulations to deal with the position where a sole registered persons dies, for the carrying on of the service. There is currently no such provision in Part 10A of the Children Act. The new requirement will address this in relation to day care.

3.2.3. Part 3: Integrated Family Support Teams

Part 3 of the Measure provides the legal framework to introduce new integrated family support teams to strengthen support to vulnerable children and families. The development of this policy has been informed by a substantial body of evidence from academic research and practice. It responds to concerns that services are not sufficiently meeting the needs of some children whose families have complex problems such as substance misuse, and /or mental health problems or illness, learning disabilities and domestic abuse. It delivers on the Welsh Assembly Government commitment in One Wales to reform the law to improve service delivery and outcomes for vulnerable children and their families through concerted arrangements to reconfigure service towards more effective targeted support delivered by multidisciplinary teams of highly skilled professionals to improve the outcomes for children and adults so that can live safely together as a family unit.

The rising population and poor outcomes indicators for children in care is a major concern for Government nationally and locally as is the welfare and wider social care of children and families in need. The population in care in Wales has risen by 34% since 2001 compared to 6% in England and there has been an 89% increase in the cost of care in Wales compared to a 70% increase in family support services. Wales is ranked in the top 5 countries on the rates of children in care and has a lower spend per capita on family support services. This suggests that Wales has become preoccupied with identifying and managing risk rather than identifying protective factors that might avoid the development of problems. The Chief Inspector for the Care

and Social Service Inspectorate (CSSIW) reports a complex and wide range of factors, which have contributed to this position

Around a third of all child care social work cases involve parental substance misuse. However other problems may be present such as mental health, learning disabilities and domestic abuse. Evidence suggests that parental substance misuse is an issue for around 60% of children subject to care orders. The picture is one of parents with severe personal problems trying to cope with children, some of whom will have multiple difficulties, in social situations that exacerbate those problems. Evidence also shows that these families do not seek help and are less likely to engage with programmes such as Flying Start or Cymorth which are targeted at groups of families, in specific areas, and not families with specific needs.

Integrated Family Support Teams

The Key aims of the Integrated Family Support Teams are:

- To improve the quality of service experience (and outcomes) by children and families when they meet professionals. This can be achieved through quality assessment and evidenced based interventions that are delivered by highly skilled staff through focussed training, support and supervision and managed through systems that allow for transfer of skills.
- to require the establishment of multi-disciplinary teams to: act as engines for system change in practice and organisational culture; break down interagency barriers; and create and nurture interagency relationships across child and adult services and professional disciplines.

The Integrated Service Teams deliver on a number of linked Welsh Assembly Government policies and strategies including; Fulfilled Lives, Hidden Harm, Mental Health National Service Framework for Children, Young People and Maternity Services and Action Plan and is a key plank in the developing Strategy for Vulnerable Children and Young People. The Integrated Service teams will also make the connections and promote access to services available more widely to disadvantaged families and communities including: Flying Start, Cymorth, Communities First and Community Safety Partnerships etc. Integrated Service teams will also link with the respective plans for Children and Young People Partnerships, Health Social Care and Wellbeing and the Community Plan.

It is proposed that the Integrated Family Support Teams will initially be available to parents with substance misuse and children who are in need or at risk including reunification of children who are voluntarily accommodated by a local authority. IFST will be implemented in three pioneer areas across Wales starting in 2010. The preparation for implementation over 2009 will include; establishing the infrastructure, selecting pioneers area, recruitment, - contracting and training of IFST staff in various techniques. The effectiveness

of the IFST will be rigorously evaluated in terms of benefits and outcomes for children and families and best value. If evaluation suggests that the reconfiguration of services through combined holistic targeted services for families with complex needs is improved through IFST, the establishment of IFST will become an All Wales requirement. The long term aim is to extend the individuals entitled to access the IFST to wider groups prescribed in the Measure or regulations made under the Measure. This will require sufficient lead time to build capacity and expertise on the range of most effective interventions to be applied in the differing circumstances, for example domestic abuse.

3.2.4. Part 4: General and Miscellaneous

Part 4, Section 60: Local authority duties in respect of play activities for children

This potential duty reflects the Assembly Government's commitment to the UN Convention on the Rights of the Child and in particular to Article 31.1 which states that "State Parties recognise the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts." and to Article 31.2 which states that "State Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity". This commitment is reflected in activity carried out in the context of the Cymorth Play, Leisure and Enrichment Theme and in the Assembly Government's *Play Policy Implementation Plan*.

Intended Effect

The potential duty requires local authorities to carry out assessments of the sufficiency of play opportunities in their area in accordance with regulations and guidance made by Welsh Ministers. It also places a general duty on local authorities to ensure that children have sufficient access to opportunities to play having regard to the assessment.

Regulations will set out the date by which the local authority must publish its first sufficiency assessment, as well as arrangements for the review and publication of the assessment. The Measure also gives Welsh Ministers powers to issue guidance in respect of this duty. The intention is that the scope of this guidance should include the content of the Play Sufficiency Assessment, Cymorth Guidance and National Minimum Standards for play provision in due course.

Part 4, Section 61: Participation of Children and Young Persons in local authority decision making

This duty reflects the Assembly Government's commitment to the UN Convention on the Rights of the Child and in particular to Article 12.1 which states that "State Parties shall assure to the child which is capable of forming

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his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child”.

The duty places a general duty on local authorities to make arrangements to promote and facilitate participation by children in decisions of the local authority which affect them. It also requires local authorities to publish and keep up to date information about its arrangements for participation, which reflects the Local Participation Strategies currently being developed using Cymorth funds.

Intended effect

The intended effect of this section is that Local Participation Strategies developed using Cymorth funding, as well as the National Participation Standards will be placed on a statutory basis by virtue of powers to issue guidance.

4. Consultation

This section is in accordance with Standing Orders 23.18(iv)

The policy proposals within the Measure have been consulted upon as two discrete consultation documents. Prior to the formal consultation process in 2008 key stakeholders were engaged as policy was being developed.

Part 1 and aspects of Part 4 of the Measure were addressed through the 'Taking Action on Child Poverty' consultation document which closed on 30 September 2008 and the 'Taking Action on Child Poverty' consultation document can be found on the website at:

<http://wales.gov.uk/consultations/closedconsultations/childrenyoungpeople/takingaction/?lang=en>

<http://wales.gov.uk/consultations/closedconsultations/childrenyoungpeople/takingaction/?skip=1&lang=cy>

Part 2 and Part 3 of the Measure were addressed through Stronger Families – A new approach to Integrated Family Support Services consultation document which closed on 3 October 2008 and the 'Stronger Families – a new approach to Integrated Family Support Services' consultation document can be found on the website at:

<http://wales.gov.uk/consultations/closedconsultations/childrenyoungpeople/strongerfamilies/?lang=en>

4.1. Part 1: Child Poverty - Taking Action on Child Poverty

The Minister for Social Justice and Local Government and Welsh Assembly Government officials have met with key stakeholders to explore the impact of introducing a child poverty duty on public agencies. These stakeholders included the Welsh Local Government Association (WLGA) and representatives of NHS trusts.

The discussions focussed on the value of legislation to establish a duty on public agencies to make and demonstrate their contribution to ending child poverty. These discussions formed the development of the policy proposals for the Measure.

The policy proposals for three aspects of the Measure in 'Taking Action on Child Poverty' were consulted upon in a public consultation exercise. The three aspects relevant to Part 1 of the Measure were:

- A duty on public agencies to make and demonstrate their contribution to ending child poverty;
- A duty on local authorities to provide free childcare places and other early years' services in specific places;
- Duties on local authorities that will match the guidance under which the Cymorth grant is provided.

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The document also included a proposal for a non-statutory agreement on child poverty between the Welsh Assembly Government and public agencies.

The consultation commenced on 11 June 2008 and closed on 30 September 2008, and included two consultation events in Llandrindod Wells. Consultees included: local authorities; children and young people's partnerships; Children's Commissioner for Wales; youth forums; police authorities and police forces, fire and rescue authorities; the third sector, local health boards; NHS trust; National Parks and other public and private sector organisations.

65 responses were received from a broad spectrum of stakeholders and interested parties, and these were analysed. A summary of consultation responses is available on the website at:

Summary of responses to Child Poverty Consultation Doc - English:

<http://wales.gov.uk/consultations/closedconsultations/childrenyoungpeople/takingaction/?lang=en>

Summary of responses to Child Poverty Consultation Doc – Cymraeg:

<http://wales.gov.uk/consultations/closedconsultations/childrenyoungpeople/takingaction/?skip=1&lang=cy>

Almost all respondents welcomed the intended proposals set out within the consultation paper on child poverty to place a duty on public agencies and agreed that legislation was appropriate. There was also broad support for the reserve powers within the policy proposals. The health bodies that responded to this consultation supported the framework proposed for the child poverty duty. The duty was also supported by the Welsh Association of Chief Police Officers on behalf of the police services in Wales, play associations and third sector organisations. The Assembly Government Sponsored Bodies that responded also expressed support for the duty on public agencies. Some of the above responses, including that from the WLGA sought assurances that this duty would not create an extra financial burden on the Partnerships, given that there is no extra funding being made available.

The consultation responses also showed broad support in principle for the proposed new duty on local authorities to provide free childcare places and other early years' services in specific places, and for that which will match the guidance under which Cymorth grant is provided.

A number of responses indicated that adequate resources should be made available to allow local authorities to meet these new duties, and about defining the specific areas where free childcare should be provided. These issues will require further detailed policy consideration in light of the outcome of the consultation process and the ongoing national evaluation of Flying Start.

Following the consultation, no major changes have been made to the policy proposals within 'Taking Action on Child Poverty', and these are consistent with the proposals in the Measure.

4.2. Part 2 – Enhanced Regulatory Enforcement Powers for regulated child minding and day care.

Consultation on proposals to strengthen enforcement in respect of regulated child minding and day care services were undertaken as part of broader consultation on the ‘Stronger Families’ consultation.

Respondents agreed in principle with the proposals to align enforcement arrangements for wider adult and children services and to provide operators with greater flexibility in responding but also felt further clarification was necessary on the circumstances under which the proposed enhancement regulatory enforcement options will be applied before any powers are introduced into the service.

The outcomes to the consultation and list of consultees are published as part of the Stronger Families report.

4.3. Part 3: Stronger Families – a new approach to Integrated Family Support Services

There has been extensive consultation on the proposal to establish Integrated Services Teams across a range of bodies that have a statutory responsibility for children, young people and their families (largely local authorities, NHS, Local Health Boards and Children and Young people Partnerships) and other bodies connected to the delivery of services including; the voluntary and independent sector, universities, those representing professional skills and workforce and universities.

The consultation - Stronger Families – a new approach to Integrated Family Support Services (now referred to as Integrated Family Support teams in the proposed Measure) period ran for eight weeks from 8 August 2008 to 3 October 2008.

70 responses were received; Many of these responses included views of representative groups (for example, Children and Young People’s Partnerships, Children in Wales forum (200 people)) so the actual number of organisations and professionals who have contributed runs into several hundreds. The consultation summary report was published on 5 December and is accessible on the website at:

Summary of responses to IFSS Consultation Doc – English:
<http://wales.gov.uk/dhss/publications/children/reports/strongerfamilies/reportfamilysupporte.doc?lang=en>

Summary of responses to IFSS Consultation Doc – Cymraeg:
<http://wales.gov.uk/topics/childreanyoungpeople/publications/reports/stongerfamilies/?skip=1&lang=cy>

In addition, on 11 and 14 November 2008 the Assembly Government hosted two major workshops attended by over 250 delegates from statutory, voluntary and independent sectors including researchers and academics.

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The workshops provided an opportunity for delegates to consider the detailed proposals and how the Integrated Services Teams would work in practice. A Key workshops messages report was published and widely disseminated in December 2008. A report is available on the website at

<http://wales.gov.uk/docs//dhss/report/081215integratedfamilysupporten.doc?lang=en>

Key messages from the consultation and workshops include;

- Strong support for statutory integrated support service with multidisciplinary professionals to provide targeted support through evidenced based intervention that had proven efficacy to most vulnerable children and families.
- Acceptance that seeking change through legislation to be the best lever to: strengthen partnerships, shift service attitudes and culture towards greater integration, and to reinvigorate service values of the importance of 'the family' as a unit.
- The importance of shared legal duty on local authorities and health (as main service providers for children and adults) to deliver on the vision , stressing the importance of bridging children's and adults' services to provide holistic family support.
- Caution was expressed over the potential risk of Integrated Services Teams becoming a silo specialist service unless the vision of cascading of skills and processes to wider workforce partners was set within the framework of current arrangements.
- Welcomed the proposed changes and career structure for the social care workforce, and saw development of consultation social worker and shift in emphasis and investing in increase skills and capacity of social care workforce to deliver high quality service to vulnerable families as a positive step.
- Need for clear leadership and scrutiny at national and local level to mobilise, manage and monitor the implementation of Integrated Services Teams in particular the roll out of the three pioneer areas (proposed to start in 2010) to ensure there is no drift across a range of areas.

The main impact will fall on local authorities and their health partners. The Welsh Local Government Association, Association of Director of Social Services, Association of Directors of Education Wales and the National Health Service (Chief Executives Trust and Local Health Boards) have been involved from an early stage of the policy development, legislative framework and criterion for selection of pioneer areas. The dialogue will continue through the legislative passage of these Integrated Services Teams powers and in preparation for implementation of the Integrated Services Teams in three pioneer areas by 2010.

5. Power to make subordinate legislation

This section is in accordance with Standing Orders 23.18(vii)(a, b and c)

Welsh Ministers Powers to make Regulations and Orders

5.1.

The measure contains a number of provisions which confer on the Welsh Ministers, a power to make regulations in relation to certain functions under the measure. The power in each case is to be exercised by the Welsh Ministers by statutory instrument. The powers are listed below:

Section 1(5): power to make regulations for the determination of material deprivation and median income;

Section 4(3): under strategies prepared by Welsh children's services authorities, amends section 26 of the Children Act 2004, giving the Welsh Ministers power under that act to make regulations in relation to children's plans;

Section 5(3): power to make regulations in relation to strategies prepared by other Welsh authorities, including the period of the strategy; its publication; review and consultation before publication;

Section 6(1)(a); power to make regulations in relation to a local authority duty to secure availability of free childcare; prescribe the type of childcare; prescribe the description of children entitled to it and their age;

Section 9(1) : power to make regulations to impose duties on local authorities in relation to the provision of particular sorts of parental support services and health support services for particular sorts of children or parents; power to require that the duty triggered by the making of regulations under section 6(1) or a duty in relation to parental support services or health support services, is to apply in one or more parts of a local authority area;

Section 9(2): power to make regulations about the areas in which services specified by the regulations are to be provided either in the regulations or by requiring that the authorities themselves specify the areas.

Section 18(2)(a) and (c): power to make regulations to prescribe the information to be provided by applicants for registration as a childminder and the relevant fee;

Section 19: power to make regulations to prescribe further information to be provided by applicants for registration as a childminder;

Section 20(2)(a) and (c): power to make regulations to prescribe the information to be provided by applicants for registration as a day-care provider and the relevant fee;

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Section 21: power to make regulations to prescribe further information to be provided by applicants for registration as a day-care provider;

Section 22: power to make regulations to prescribe information about prescribed matters, to be included on a certificate of registration: power to prescribe fee for replacement of lost certificate of registration;

Section 24(1),(2),(3) and (4): power to make regulations governing activities of persons registered as childminders or day-care providers, including welfare and development of children; suitability; qualifications and training; maximum numbers of children cared for; staffing levels; premises; complaints procedure; staff supervision; records; provision of information; obligations of third parties (under section 23(3)) and (under section 24(4)), offences and penalties;

Section 25(5): power to make regulations to prescribe the circumstances under which a person's registration may be cancelled;

Section 26(1): power to make regulations to prescribe the circumstances under which a person's registration may be suspended;

Section 32(2),(3),(4) and (5): power to make regulations in relation to the disqualification of a person from registration (section 32(2)); to prescribe particular circumstances in which a person may be disqualified from registration (section 32(3)); further provision in relation to a person living in a household where a person has been disqualified (section 32(4)) and power of Welsh ministers to consent to a person not being disqualified (section 32(5));

Section 34(1),(2) and (3): power to make regulations in relation to inspection of childminding and day-care; publication of reports (section 34(1)); inspection by Welsh Ministers or Chief Inspector of Education and Training or another (section 34(2)) and application of section 29(2) to (4) of the Education Act 2005 to reports published under the regulations (section 34(3));

Section 37(1),(2) and (3): power to make regulations in relation to supply of information to local authorities; Welsh Ministers to supply prescribed information to local authorities on taking certain steps;

Section 39(2) and (5): power to prescribe offences which are fixed penalty offences; period in which proceedings for an offence may not be instituted;

Section 40(1) and (2): power to make regulations making supplementary provision with respect to penalty notices; amounts payable under fixed penalties;

Section 44(1)(a) and (b): power to make regulations to require a local authority to secure information and advice as to childminding and day-care; training in to childminding and day-care;

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Section 45(1) and (2): power to make regulations as to payment of fees by registered persons: amount and waiver of fees;

Section 48(1) and (2): power to make regulations to provide for death of registered person;

Section 50 (2) and (9): power to make regulations to say which health and social services functions can be assigned to an IFS team by a local authority and power to assign functions to the team and to allow referrals to IFS teams in different circumstances.

Section 51(2): power to make regulations in relation to the way the IFS teams are funded.

Section 60: power to make regulations about the assessments which local authorities must make on the sufficiency of play opportunities in their area.

The procedure for these regulations is the **negative procedure**.

Regulations under these powers relate to matters which are technical or procedural in nature or will set out detail. The nature and content of the provisions made by any such regulations would not appropriate to be included on the face of the Measure. It is also desirable that the Welsh Ministers have the flexibility to amend provisions about matters such as those relating to the regulation of childminding and daycare quickly. The negative resolution procedure affords the Assembly a degree of scrutiny appropriate to the limited type of provision that can be made in these regulations.

In each of the cases detailed above, the rationale for the application of subordinate legislation rests upon the need to avoid excessive detail or to allow for flexibility, within the confines of the principles presented within the Measure itself. As these regulations will contain considerable detail, and will be subject to periodic review and amendment if required, it is held to be more appropriate that they be contained within subordinate legislation than appear on the face of the Measure.

5.2

Section 67 contains a power for the Welsh Ministers to make an order to commence provisions of the Measure. As is normal practice for commencement orders, **no procedure** will apply to such orders.

5.3

Section 1(7) provides power to amend those things identified as “broad aims” contributing to the eradication of child poverty in section 1(2).

Section 2(5) provides power to make regulations to specify objectives for a Welsh authority which relate to the broad aims in section 1 and the Welsh authority’s functions. Section 2(6) provides that the regulations may also disapply the authority’s choice of objectives to the extent specified.

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Section 12(2) provides power to amend the list of bodies named as “Welsh authorities” and who are subject to the duty to prepare and publish a child poverty strategy.

Section 13(4) provides power to amend the definition of what constitutes “childminding” and “day care” and so makes the person providing those services liable to register with the registration authority.

The procedure which applies to these regulation making powers is the **affirmative procedure**. In each case they provide power to amend a particular aspect of the Measure itself. The potential effect of amendments made under these powers is more far-reaching whether in relation to the child poverty duty or the regulation of the childminding and day care sector.

5.4 Provisions

Section 1: Broad aims for contributing to the eradication of child poverty

(5) Regulations may provide for the determination of material deprivation and median income in relation to a household for the purposes of this section.

The person upon whom the power is conferred is the Welsh Ministers. The powers are to be exercised by the Welsh Ministers. It is considered appropriate to delegate the power because it will confer flexibility; provide the ability to adapt to changing circumstances and afford the opportunity for ministers to consult from time to time with stakeholders and members of the public.

Section 1: Broad aims for contributing to the eradication of child poverty

(7) The Welsh Ministers may by order—

- (a) amend or omit any paragraph of subsection (2);
- (b) add paragraphs to that subsection;
- (c) amend or omit such additional paragraphs;
- (d) amend or omit subsections (3), (4), (5) and (6);
- (e) add subsections which relate to subsection (2);
- (f) amend or omit such additional subsections.
- (g) make any amendments to this Part that are necessary or expedient in consequence of any provision made under paragraphs (a) to (f) .

The person upon whom the power is conferred is the Welsh Ministers. The powers are to be exercised by the Welsh Ministers. It is considered appropriate to delegate the power because it will confer flexibility; provide the

ability to adapt to changing circumstances and afford the opportunity for ministers to consult from time to time with stakeholders and members of the public. The Assembly procedure in relation to the power under section 1(7) will be subject to the affirmative resolution procedure. It is considered appropriate to make it subject to this procedure because the power permits ministers to amend primary legislation, in the form of certain provisions of the measure itself.

Section 2: Strategies for contributing to the eradication of child poverty

The Welsh Ministers may specify objectives for a Welsh authority in regulations if—

- (a) the objectives relate to one or more of the broad aims for contributing to the eradication of child poverty, and
 - (b) the objectives may be pursued by the Welsh authority in the exercise of its functions.
- (2) Regulations under subsection (5) may also provide that subsection (1)(a) and paragraph (c) of that subsection (as it relates to paragraph (a)) do not apply to a Welsh authority to the extent specified in the regulations.

The persons on whom the power is conferred is the Welsh Ministers. The powers are to be exercised by the Welsh Ministers. It is considered appropriate in that it will provide a flexible power to specify objectives in relation to broad aims for authorities.

Section 4: Strategies prepared by local authorities (children's services authorities)

(3) In section 26 (children and young people's plans)—

(a) for subsection (1), substitute—

“(1A) A children's services authority in Wales must, in accordance with regulations made by the Welsh Ministers, prepare and publish a plan setting out the authority's strategy for discharging their functions in relation to children and relevant young persons.

Section 4 of the measure amends the section 26 of the Children Act 2004, by, in addition to other provisions, substituting a new section 1A which confers a power on Welsh Ministers to make regulations concerning the preparation of children's plans, by Children's Services Authorities in Wales. The power is to be exercised by Welsh Ministers.

Section 5: Strategies prepared by other Welsh authorities

(3) Regulations may make provision as to—

- (a) the period to which a strategy is to relate;
- (b) when and how a strategy must be published;

(c) keeping a strategy under review;

(d) consultation to be carried out before a strategy is published.

The person upon whom the power is conferred is the Welsh Ministers. The powers are to be exercised by the Welsh Ministers. It is considered appropriate to delegate the power because it will confer flexibility; provide the ability to adapt to changing circumstances and afford the opportunity to consult from time to time with stakeholders and members of the public.

Section 6: Regulations requiring availability of free childcare

(1) A local authority must secure that childcare of a prescribed description is available free of charge for such periods as may be prescribed for each child of a prescribed description in its area who—

(a) has attained such age as may be prescribed, but

The person upon whom the power is conferred is the Welsh Ministers. The powers are to be exercised by the Welsh Ministers. It is considered appropriate to delegate the power because it will confer flexibility; provide the ability to adapt to changing circumstances and afford the opportunity to consult from time to time with stakeholders and members of the public.

Section 9: Regulations about services to tackle child poverty

(1) Regulations may—

(a) require a local authority to secure the provision of parental support services of a prescribed description free of charge for prescribed parents of children in its area;

(b) require a local authority to secure the provision of health support services of a prescribed description free of charge for prescribed children or prescribed parents of children in its area;

(c) provide that the duty in section 6(1) is to apply only in one or more parts of a local authority area;

(d) provide that a requirement in regulations under paragraph (a) or (b) is to apply only in one or more parts of a local authority area.

(2) Regulations under paragraph (c) or (d) of subsection (1) may (among other things)—

(e) specify one or more areas within a local authority area;

(f) provide for the specification of one or more areas by a local authority.

The person upon whom the power is conferred is the Welsh Ministers. The powers are to be exercised by the Welsh Ministers. It is considered appropriate to delegate the power because it will confer flexibility; provide the ability to adapt to changing circumstances and afford the opportunity to consult from time to time with stakeholders and members of the public.

Section 12: The Welsh authorities

(2) The Welsh Ministers may by order—

(a) amend or omit any paragraph of subsection (1), except paragraph (a) and (b);

(b) add additional paragraphs to that subsection;

(c) amend or omit such additional paragraphs;

(d) make any amendments to section 5 or 6 that are necessary or expedient in consequence of any provision made under paragraphs (a) to (c).

The person upon whom the power is conferred is the Welsh Ministers. The powers are to be exercised by the Welsh Ministers. It is considered appropriate to delegate the power because it will confer flexibility; provide the ability to adapt to changing circumstances and afford the opportunity to consult from time to time with stakeholders and members of the public. The Assembly procedure in relation to the power under section 12(2) will be subject to the affirmative resolution procedure. It is considered appropriate to make it subject to this procedure because the power permits ministers to amend primary legislation, in the form of certain provisions of the measure itself.

Section 13: Meaning of “child minding” and “day care for children”

(4) The Welsh Ministers may by order—

(a) amend subsection (2) or (3) to substitute a different age;

(b) provide that, in the circumstances specified in the order, a person is not acting as a child minder for the purposes of this Part.

(c) provide that, in the circumstances specified in the order, a person is not providing day care for the purposes of this Part.

The person upon whom the power is conferred is the Welsh Ministers. The powers are to be exercised by the Welsh Ministers. It is considered appropriate to delegate the power because it will confer flexibility; provide the ability to adapt to changing circumstances and afford the opportunity to consult from time to time with stakeholders and members of the public. The Assembly procedure in relation to the power under section 13(4) will be subject to the affirmative resolution procedure. It is considered appropriate to

make it subject to this procedure because the power permits ministers to amend primary legislation, in the form of certain provisions of the measure itself.

Section 18: Applications for registration: child minding

(2) An application must—

- (a) give any prescribed information about prescribed matters,
- (c) be accompanied by any prescribed fee.

The person upon whom the power is conferred is the Welsh Ministers. The powers are to be exercised by the Welsh Ministers. It is considered appropriate to delegate the power because it will confer flexibility; provide the ability to adapt to changing circumstances and afford the opportunity to consult from time to time with stakeholders and members of the public.

Section 19: Prescribed requirements for registration as a child minder

The prescribed requirements for registration as a child minder may include requirements relating to—

- (a) the applicant;
- (b) the premises on which the child minding is to be provided;
- (c) the arrangements for child minding on those premises;
- (d) any person who may be caring for children on those premises;
- (e) any person who may be on those premises.

The person upon whom the power is conferred is the Welsh Ministers. The powers are to be exercised by the Welsh Ministers. It is considered appropriate to delegate the power because it will confer flexibility; provide the ability to adapt to changing circumstances and afford the opportunity to consult from time to time with stakeholders and members of the public.

Section 20: Applications for registration: day care for children

(2) An application must—

- (a) give any prescribed information about prescribed matters,
- (c) be accompanied by any prescribed fee.

The person upon whom the power is conferred is the Welsh Ministers. The powers are to be exercised by the Welsh Ministers. It is considered appropriate to delegate the power because it will confer flexibility; provide the

ability to adapt to changing circumstances and afford the opportunity to consult from time to time with stakeholders and members of the public.

Section 21: Prescribed requirements for registration of providers of day care for children

The prescribed requirements for registration of providers of day care for children may include requirements relating to—

- (a) the applicant;
- (b) the premises on which the day care is to be provided;
- (c) the arrangements for day care on those premises;
- (d) any person who may be caring for children on those premises;
- (e) any other person who may be on those premises.

The person upon whom the power is conferred is the Welsh Ministers. The powers are to be exercised by the Welsh Ministers. It is considered appropriate to delegate the power because it will confer flexibility; provide the ability to adapt to changing circumstances and afford the opportunity to consult from time to time with stakeholders and members of the public.

Section 22: Entry on the register and certificates

(3) A certificate of registration given to the applicant under subsection (1) or (2) must contain prescribed information about prescribed matters.

(5) If the Welsh Ministers are satisfied that a certificate of registration has been lost or destroyed, the Welsh Ministers must give the registered person a copy, on payment by the registered person of any prescribed fee.

The person upon whom the power is conferred is the Welsh Ministers. The powers are to be exercised by the Welsh Ministers. It is considered appropriate to delegate the power because it will confer flexibility; provide the ability to adapt to changing circumstances and afford the opportunity to consult from time to time with stakeholders and members of the public.

Section 24: Regulations governing activities

(1) The Welsh Ministers may make regulations governing the activities of registered persons who act as child minders, or provide day care, on premises in Wales.

(2) The regulations under this section may deal with the following matters (among others)—

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- (a) the welfare and development of the children concerned;
- (b) suitability to look after, or be in regular contact with, children under the age of eight;
- (c) qualifications and training;
- (d) the maximum number of children who may be looked after and the number of persons required to assist in looking after them;
- (e) the maintenance, safety and suitability of premises and equipment;
- (f) the procedures for dealing with complaints;
- (g) the supervision of staff;
- (h) the keeping of records;
- (i) the provision of information.

(3) If the regulations require any person (other than the Welsh Ministers) to have regard to or meet factors, standards or other matters prescribed by or referred to in the regulations, they may also provide for any allegation that the person has failed to do so to be taken into account—

- (a) by the Welsh Ministers in the exercise of their functions under this Part, or
- (b) in any proceedings under this Part.

(4) Regulations may provide—

(a) that a registered person who without reasonable excuse contravenes, or otherwise fails to comply with, any requirement of the regulations is guilty of an offence; and

(b) that a person guilty of the offence is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

The person upon whom the power is conferred is the Welsh Ministers. The powers are to be exercised by the Welsh Ministers. It is considered appropriate to delegate the power because it will confer flexibility; provide the ability to adapt to changing circumstances and afford the opportunity to consult from time to time with stakeholders and members of the public.

Section 25: Cancellation of registration

(5) The Welsh Ministers may prescribe other circumstances in which the registration of a person registered under this Part may be cancelled.

The person upon whom the power is conferred is the Welsh Ministers. The powers are to be exercised by the Welsh Ministers. It is considered appropriate to delegate the power because it will confer flexibility; provide the ability to adapt to changing circumstances and afford the opportunity to consult from time to time with stakeholders and members of the public.

Section 26: Suspension of registration

(1) Regulations may provide for the registration of any person under this Part to be suspended.

(2) Regulations under subsection (1) may include (among other things) provision about—

(a) the period of suspension;

(b) the circumstances in which registration may be suspended;

(c) suspension of registration at the request of the registered person.

(3) Regulations under subsection (1) must include provision conferring on the registered person a right of appeal to the First-tier Tribunal against suspension.

The person upon whom the power is conferred is the Welsh Ministers. The powers are to be exercised by the Welsh Ministers. It is considered appropriate to delegate the power because it will confer flexibility; provide the ability to adapt to changing circumstances and afford the opportunity to consult from time to time with stakeholders and members of the public.

Section 32: Disqualification from registration

(2) Regulations may provide for a person to be disqualified from registration.

(3) The regulations may, in particular, provide for a person to be disqualified from registration if—

(a) the person is barred from regulated activity relating to children (within the meaning of section 3(2) of the Safeguarding Vulnerable Groups Act 2006 (c 47));

(b) an order of a prescribed kind has been made with respect to the person;

(c) an order of a prescribed kind has been made at any time with respect to a child who has been in the person's care;

(d) a requirement of a prescribed kind has been imposed at any time with respect to such a child, under or by virtue of any enactment;

(e) the person has at any time been refused registration under this Part of this

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Measure, Part 3 of the Childcare Act 2006 (c 21) or under Part 10 or Part 10A of the Children Act 1989(c 41) or any prescribed enactment, or had any such registration cancelled;

(f) the person has been convicted of an offence of a prescribed kind or has been discharged absolutely or conditionally for such an offence;

(g) the person has been given a caution in respect of an offence of a prescribed kind;

(h) the person has at any time been disqualified from fostering a child privately (within the meaning of the Children Act 1989 (c 41));

(i) a prohibition has been imposed on the person at any time under section 69 of the Children Act 1989, section 10 of the Foster Children (Scotland) Act 1984 (c 56) or any prescribed enactment;

(j) the person's rights and powers with respect to a child have at any time been vested in a prescribed authority under a prescribed enactment.

(4) Regulations may provide for a person to be disqualified from registration if—

(a) the person lives in the same household as another person who is disqualified from registration, or

(b) the person lives in a household in which another person who is disqualified is employed.

(5) Regulations under subsection (2) or (4) may provide for a person not to be disqualified from registration (and in particular may provide for a person not to be disqualified from registration for the purposes of section 33) by reason of any fact which would otherwise cause the person to be disqualified if—

(a) the person has disclosed the fact to the Welsh Ministers, and

(b) the Welsh Ministers have consented in writing to the person not being disqualified from registration and have not withdrawn their consent.

The person upon whom the power is conferred is the Welsh Ministers. The powers are to be exercised by the Welsh Ministers. It is considered appropriate to delegate the power because it will confer flexibility; provide the ability to adapt to changing circumstances and afford the opportunity to consult from time to time with stakeholders and members of the public.

Section 34: Inspection

(1) The Welsh Ministers may by regulations make provision—

(a) for the inspection of child minding provided in Wales by registered persons

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and of day care provided by registered persons on premises in Wales;

(b) for the publication of reports of the inspections in such manner as the Welsh Ministers consider appropriate.

(2) The regulations may provide for the inspections to be organised by—

(a) the Welsh Ministers, or

(b) Her Majesty's Chief Inspector of Education and Training in Wales, or any other person, under arrangements made with the Welsh Ministers.

(3) The regulations may provide for subsections (2) to (4) of section 29 of the Education Act 2005 (c 18) to apply with modifications in relation to the publication of reports under the regulations.

The person upon whom the power is conferred is the Welsh Ministers. The powers are to be exercised by the Welsh Ministers. It is considered appropriate to delegate the power because it will confer flexibility; provide the ability to adapt to changing circumstances and afford the opportunity to consult from time to time with stakeholders and members of the public.

Section 37: Supply of information to local authorities

(1) The Welsh Ministers must provide prescribed information to the relevant local authority, if they take any of the following steps under this Part—

(a) grant a person's application for registration;

(b) give notice of his intention to cancel a person's registration;

(c) cancel a person's registration;

(d) suspend a person's registration;

(e) remove a person from the register at that person's request.

(2) The Welsh Ministers must also provide prescribed information to the relevant local authority if an order is made under section 28(2) .

(3) The information which may be prescribed for the purposes of this section is information which would assist the local authority in the discharge of their functions under section 27 of the Childcare Act 2006 (c 21).

The person upon whom the power is conferred is the Welsh Ministers. The powers are to be exercised by the Welsh Ministers. It is considered appropriate to delegate the power because it will confer flexibility; provide the ability to adapt to changing circumstances and afford the opportunity to consult from time to time with stakeholders and members of the public.

Section 39: Penalty notices

(2) A fixed penalty offence is any relevant offence which is prescribed for the purposes of this section.

(5) Where a person is given a penalty notice, proceedings for the offence to which the notice relates may not be instituted before the end of such period as may be prescribed.

The person upon whom the power is conferred is the Welsh Ministers. The powers are to be exercised by the Welsh Ministers. It is considered appropriate to delegate the power because it will confer flexibility; provide the ability to adapt to changing circumstances and afford the opportunity to consult from time to time with stakeholders and members of the public.

Section 40: Penalty notices: supplementary provision

(1) The Welsh Ministers may by regulations make provision about any of the following—

- (a) the form and content of penalty notices;
- (b) the monetary amount of the penalty and the time by which it is to be paid;
- (c) determination of the methods by which penalties may be paid;
- (d) the records to be kept in relation to penalty notices;
- (e) the withdrawal, in prescribed circumstances, of a penalty notice, including—
 - (i) repayment of any amount paid by way of penalty under a penalty notice which is withdrawn, and
 - (ii) prohibition of the institution or continuation of proceedings for the offence to which the withdrawn notice relates;
- (f) certificates to be received in evidence—
 - (i) purporting to be signed by or on behalf of a prescribed person, and
 - (ii) stating that payment of any amount paid by way of penalty was or, as the case may be, was not received on or before a date specified in the certificate;
- (g) action to be taken if a penalty is not paid in accordance with a penalty notice;

(h) anything else in relation to penalties or penalty notices as the Welsh Ministers think necessary or expedient.

(2) Regulations under subsection (1)(b)—

(a) may make provision for penalties of different amounts to be payable in different cases, including provision for the penalty payable under a penalty notice to differ according to the time by which it is paid, but

(b) must secure that the amount of any penalty payable in respect of any offence does not exceed one half of the maximum amount of the fine to which a person committing the offence would be liable on summary conviction.

The person upon whom the power is conferred is the Welsh Ministers. The powers are to be exercised by the Welsh Ministers. It is considered appropriate to delegate the power because it will confer flexibility; provide the ability to adapt to changing circumstances and afford the opportunity to consult from time to time with stakeholders and members of the public.

Section 44: Functions of local authorities

(1) Regulations may require a local authority, in accordance with provision in the regulations, to secure the provision—

(a) of information or advice about child minding and day care;

(b) of training about the provision of child minding and day care.

The person upon whom the power is conferred is the Welsh Ministers. The powers are to be exercised by the Welsh Ministers. It is considered appropriate to delegate the power because it will confer flexibility; provide the ability to adapt to changing circumstances and afford the opportunity to consult from time to time with stakeholders and members of the public.

Section 45: Fees

(1) Regulations may require persons registered under this Part to pay to the Welsh Ministers at or by prescribed times fees of the prescribed amounts in respect of the discharge by the Welsh Ministers of their functions under this Part.

(2) Regulations under subsection (1) may prescribe circumstances in which—

(a) the amount of a fee payable under the regulations may be varied in accordance with the regulations;

(b) a fee payable under the regulations may be waived.

The person upon whom the power is conferred is the Welsh Ministers. The powers are to be exercised by the Welsh Ministers. It is considered

appropriate to delegate the power because it will confer flexibility; provide the ability to adapt to changing circumstances and afford the opportunity to consult from time to time with stakeholders and members of the public.

Section 48: Death of registered person

(1) Regulations may—

(a) provide for the provisions of this Part to apply with prescribed modifications in cases where a person who was the only person registered in respect of a day care business has died;

(b) require the personal representatives of a deceased person who was registered in respect of child minding or day care to notify the Welsh Ministers of the death.

(2) Regulations under subsection (1)(a) may in particular—

(a) provide for the day care business to be carried on for a prescribed period by a person who is not registered in respect of it; and

(b) include provision for the prescribed period to be extended by such further period as the Welsh Ministers may allow.

The person upon whom the power is conferred is the Welsh Ministers. The powers are to be exercised by the Welsh Ministers. It is considered appropriate to delegate the power because it will confer flexibility; provide the ability to adapt to changing circumstances and afford the opportunity to consult from time to time with stakeholders and members of the public.

Section 50: Functions of integrated family support teams

(2) Family support functions are—

(a) prescribed social services functions (within the meaning of the Local Authority Social Services Act 1970 (c 42)), or

(b) prescribed functions of—

(i) a Local Health Board, or

(ii) an NHS trust established under section 18 of the National Health Service (Wales) Act 2006 (c 42).

(9) Regulations may—

(a) assign family support functions to an integrated family support team;

(b) allow local authorities to make referrals to the integrated family support team in circumstances not mentioned in this section.

Section 51: Resources for integrated family support teams

(2) Regulations may make further provision for and in connection with the funding of integrated family support teams, including in particular provision about expenditure—

- (a) for posts or categories of post in integrated family support teams;
- (b) for particular family support services or such services generally;
- (c) for the administration of integrated family support teams;
- d) for any other purpose connected to integrated family support teams.

The person upon whom the power is conferred is the Welsh Ministers. The powers are to be exercised by the Welsh Ministers. It is considered appropriate to delegate the power because it will confer flexibility; provide the ability to adapt to changing circumstances and afford the opportunity to consult from time to time with stakeholders and members of the public.

Section 52: Composition of integrated family support teams

(1) A local authority must ensure that an integrated family support team includes prescribed persons.

The person upon whom the power is conferred is the Welsh Ministers. The powers are to be exercised by the Welsh Ministers. It is considered appropriate to delegate the power because it will confer flexibility; provide the ability to adapt to changing circumstances and afford the opportunity to consult from time to time with stakeholders and members of the public.

Section 54: Functions of integrated family support boards

(2) An integrated family support board is to have such functions in relation to its objectives as the Welsh Ministers may by regulations prescribe.

The person upon whom the power is conferred is the Welsh Ministers. The powers are to be exercised by the Welsh Ministers. It is considered appropriate to delegate the power because it will confer flexibility; provide the ability to adapt to changing circumstances and afford the opportunity to consult from time to time with stakeholders and members of the public.

Section 55: Regulations about integrated family support teams and boards

(1) Regulations may provide for—

- (a) review of cases referred to integrated family support teams;

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- (b) complaints and disputes about the exercise of functions by integrated family support teams;
- (c) the provision of information about integrated family support teams;
- (d) the sharing of information between local authorities, Local Health Boards, integrated family support teams and boards;
- (e) accounts and audit in respect of functions assigned to integrated family support teams;
- (f) the procedures to be followed by an integrated family support board.

The person upon whom the power is conferred is the Welsh Ministers. The powers are to be exercised by the Welsh Ministers. It is considered appropriate to delegate the power because it will confer flexibility; provide the ability to adapt to changing circumstances and afford the opportunity to consult from time to time with stakeholders and members of the public.

Section 60: Local authority duties in respect of play opportunities for children

- (1) A local authority must assess the sufficiency of play opportunities in its area for children in accordance with regulations.
- (2) Regulations may include provision about—
 - (a) the matters to be taken into account in assessing sufficiency;
 - (b) the date by which a first assessment is to be carried out;
 - (c) frequency of assessments;
 - (d) review of assessments;
 - (e) publication of assessments.

The person upon whom the power is conferred is the Welsh Ministers. The powers are to be exercised by the Welsh Ministers. It is considered appropriate to delegate the power because it will confer flexibility; provide the ability to adapt to changing circumstances and afford the opportunity to consult from time to time with stakeholders and members of the public.

Section 66: Orders and Regulations

- (1) Any power of the Welsh Ministers to make an order or regulations under this Measure is exercisable by statutory instrument.
- (2) Any power of the Welsh Ministers to make an order or regulations under this Measure includes power—
 - (a) to make different provision for different cases or areas;

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(b) to make provision generally or in relation to specific cases;

(c) to make such incidental, supplementary, transitory, transitional or saving provision as the Welsh Ministers think fit.

(3) Any statutory instrument containing regulations made under this Measure is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

(4) Subsection (3) does not apply to orders to which subsection (5) applies.

(5) A statutory instrument containing an order under section 1(7), 2(5), 12(2), or 13(4) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.

Section 2: Regulatory Impact Assessment

This section is in accordance with Standing Orders 23.18(vi)

6. Part 1: Eradicating Child Poverty (Section 1 – 5, 10 -11 and 12)

6.1 Options

The following three options are considered in relation to the proposed new duties:

- Option 1: Do nothing - with no Measure requiring Welsh Ministers, local authorities or other Welsh authorities to prepare and publish a strategy for contributing to the eradication of child poverty in Wales;
- Option 2: Introduce legislation which only requires Welsh Ministers and local authorities to prepare and publish a strategy for contributing to the eradication of child poverty in Wales;
- Option 3: Introduce legislation which requires 'Welsh authorities' including Welsh Ministers, local authorities and other public bodies with relevant functions to prepare and publish a strategy for contributing to the eradication of child poverty in Wales.

Option 1: Do nothing - with no Measure requiring Welsh Ministers, local authorities or other Welsh authorities to prepare and publish a strategy for contributing to the eradication of child poverty in Wales.

Under Option 1, the Measure would not be progressed and the Welsh Ministers would not be required to prepare and publish a strategy for contributing to the eradication of child poverty. They would not be required to produce their first strategy by 2010 or to keep their strategy under review or to remake or revise it. They would not be required to publish the strategy when they make, remake or revise it and they would not be required to lay a copy before the National Assembly for Wales. Welsh Ministers would not be required to publish a report containing an assessment of the extent to which they have met, or made progress towards meeting their objectives, every three years commencing 2013. They would not be required to lay a copy of this report before the National Assembly for Wales.

Local authorities and their partners would continue to work in partnership with the Children and Young People's Plans under Section 26 of the Children Act 2004.

For those Welsh authorities who have not entered into an arrangement under section 25 of the Children Act 2004, there would be no requirement to prepare and publish a strategy for contributing to the eradication of child poverty.

Option 2: Introduce legislation which only requires Welsh Ministers and local authorities to prepare and publish a strategy for contributing to the eradication of child poverty in Wales.

Under Option 2, legislation would require Welsh Ministers to prepare and publish a strategy for contributing to the eradication of child poverty. The strategy would include objectives chosen by the Welsh Ministers in relation to each of the broad aims set out in Section 1.

They would be required to produce their first strategy by 2010 and to keep their strategy under review and to remake or revise it. They would be required to publish the strategy when they make, remake or revise it and they would be required to lay a copy before the National Assembly for Wales. Welsh Ministers would be required to publish a report containing an assessment of the extent to which they have achieved or made progress towards achieving, their objectives every three years commencing 2013. They would be required to lay a copy of this report before the National Assembly for Wales.

Local authorities would be required to prepare and publish a strategy for contributing to the eradication of child poverty and this duty would be discharged on publication by the authority of a plan under section 26 of the Children Act 2004. The strategy would include objectives chosen by the local authority in relation to each of the broad aims set out in Section 1.

It is the intention that the objectives which a local authority sets in relation to parenting support (Section 1 (2) (f)) and the reduction of inequalities in health (Section 1 (2) (g)) and participation in education, training and the community as well as helping young persons take advantage of opportunities for employment (Section 1(2)(k-m)) should include activity currently funded by Cymorth specific grant and guidance will be issued to this effect. This provision is one of the mechanisms to maintain the current level of provision in respect of Cymorth activity. Others are discussed in relation to Part 1, Section 7-9 of this Explanatory Memorandum

For 'Welsh authorities' other than Welsh Ministers and local authorities, there would be no requirement to prepare and publish a strategy for contributing to the eradication of child poverty.

Option 3: Introduce legislation which requires 'Welsh authorities' including Welsh Ministers and local authorities to prepare and publish a strategy for contributing to the eradication of child poverty in Wales.

Under Option 3, legislation would require Welsh Ministers to prepare and publish a strategy for contributing to the eradication of child poverty. The strategy would include objectives chosen by the Welsh Ministers in relation to each of the broad aims set out in Section 1 and include objectives relating to their powers to provide funding to any person which promote the broad aims.

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They would be required to produce their first strategy by 2010 and to keep their strategy under review and to remake or revise it. They would be required to publish the strategy when they make, remake or revise it and they would be required to lay a copy before the National Assembly for Wales. Welsh Ministers would be required to publish a report containing an assessment of the extent to which they have achieved, or made progress towards achieving, their objectives every three years commencing 2013. They would be required to lay a copy of this report before the National Assembly for Wales.

Local authorities would be required to prepare and publish a strategy for contributing to the eradication of child poverty and this duty would be discharged on publication by the authority of a plan under section 26 of the Children Act 2004. The strategy would include objectives chosen by the local authority in relation to each of the broad aims set out in Section 1.

It is the intention the objectives which a local authority sets in relation to parenting support (Section 1 (2) (f)) and the reduction of inequalities in health (Section 1 (2) (g)) and participation in education, training and the community as well as helping young persons take advantage of opportunities for employment (Section 1(2)(k-m)) should include activity currently funded by Cymorth specific grant and guidance will be issued to this effect. This provision is one of a number of mechanisms in respect of Cymorth activity. Others are discussed in relation to Part 1, Section 7-9 of this Explanatory Memorandum.

For those 'Welsh authorities' who have entered into an arrangement under section 25 of the Children Act 2004, the duty to prepare and publish a strategy for contributing to the eradication of child poverty would be discharged if the strategy is an integral part of a plan published under section 26 of the Children Act 2004 by each local authority with which it has entered into an arrangement under section 25 of the Children Act 2004.

For those Welsh authorities who have not entered into an arrangement under section 25 of the Children Act 2004, there would be a requirement to prepare and publish a strategy for contributing to the eradication of child poverty.

6.2 Costs and benefits

Option 1: Option 1: Do nothing - with no Measure requiring Welsh Ministers, local authorities or other Welsh authorities to prepare and publish a strategy for contributing to the eradication of child poverty in Wales.

Costs

Local authorities are already required to produce Children and Young People's Plans under the Children Act 2004.

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Section 25 of the Children Act 2004 places a duty on local authorities to take the lead in promoting co-operation with 'relevant' partners and such other bodies as the local authority considers appropriate, with the aim of improving the well being of children in each local authority's area.

Section 26 of the Children Act 2004 and regulations under this section require local authorities and their partners to work together to write a Children and Young People's Plan that sets out their strategic vision for children and young people's services, priorities and targets.

From 2008, each local authority area is required to have a Children and Young People's Plan covering all services for those aged 0-25 and maternity services.

There are no additional costs associated with this option because there are no new demands on local authorities that already have a duty under the Children Act 2004 to take action on child poverty and have already received funding to carry out this work.

Benefits

Local authorities and their partners would continue to work in partnership with the Children and Young People's Plans under Section 26 of the Children Act 2004.

For those Welsh authorities who have not entered into an arrangement under section 25 of the Children Act 2004, there would be no requirement to prepare and publish a strategy for contributing to the eradication of child poverty. There would be no benefit from this option.

Option2: Introduce legislation which only requires Welsh Ministers and local authorities to prepare and publish a strategy for contributing to the eradication of child poverty in Wales

Costs

The new duty to prepare and publish strategies for contributing to the eradication of child poverty will place additional burdens on Welsh Ministers. There are compliance costs that relate to the new requirement that strategies for contributing to the eradication of child poverty be prepared and published by Welsh Ministers, and the requirement to publish a report containing an assessment of the extent to which the objectives contained within the strategy have been achieved.

Within the Welsh Assembly Government, this will have resource implications for the Child Poverty Unit, which will have to be significantly strengthened to deliver a statutory strategy, keep it under review and report against it. In addition, the Unit would have an important role in issuing Guidance to local

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authorities, and would need to introduce more robust systems for considering the Children and Young People's Plans.

This work will require additional resource to strengthen the Child Poverty Unit to undertake the strategy work in future years and manage new operational responsibilities in relation to this duty. Costs are estimated as £55,000 for additional staffing resource, based on 2009/2010 projected staff costs.

Local authorities are already required to produce Children and Young People's Plans under the Children Act 2004 and under section 4(1) of the Measure the duty of a local authority to publish a strategy under section 2(1) is discharged on publication of a plan under section 26 of the Children Act 2004.

There are no additional costs associated with the proposals relating to Cymorth activity. The cost benefit analysis associated with section 6-11 discusses this in more detail.

Section 25 of the Children Act 2004 places a duty on local authorities to take the lead in promoting co-operation with 'relevant' partners and such other bodies as the local authority considers appropriate, with the aim of improving the well being of children in each local authority's area.

Section 26 of the Children Act 2004 and regulations under this section require local authorities and their partners to work together to write a Children and Young People's Plan that sets out their strategic vision for children and young people's services, priorities and targets.

From 2008, each local authority area is required to have a Children and Young People's Plan covering all services for those aged 0-25 and maternity services.

There are no additional costs for local authorities under this option; there are no new demands on local authorities that already have a duty under the Children Act 2004 to take action on child poverty and they have already received funding to carry out this work.

Benefits

Under Option 2, legislation would require Welsh Ministers to prepare and publish a strategy for contributing to the eradication of child poverty. The strategy would include objectives chosen by the Welsh Ministers in relation to each of the broad aims set out in Section 1 and include objectives relating to their powers to provide funding to any person which promote the broad aims. Welsh Ministers would be required to produce their first strategy by 2010 and to keep their strategy under review and to remake or revise it. They would be required to publish the strategy when they make, remake or revise it and they would be required to lay a copy before the National Assembly for Wales. Welsh Ministers would be required to publish a report containing an

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assessment of the extent to which they have achieved or made progress towards achieving, their objectives every three years commencing 2013. They would be required to lay a copy of this report before the National Assembly for Wales.

Local authorities would be required to prepare and publish a strategy for contributing to the eradication of child poverty and this duty would be discharged on publication by the authority of a plan under section 26 of the Children Act 2004.

For 'Welsh authorities' other than Welsh Ministers and local authorities, there would be no requirement to prepare and publish a strategy for contributing to the eradication of child poverty. This option is more beneficial than Option 1 but not as beneficial as Option 3.

Option 3: Introduce legislation which requires 'Welsh authorities' including Welsh Ministers and local authorities to prepare and publish a strategy for contributing to the eradication of child poverty in Wales.

Costs

The new duty to prepare and publish strategies for contributing to the eradication of child poverty will place additional burdens on Welsh Ministers. There are compliance costs that relate to the new requirement that strategies for contributing to the eradication of child poverty be prepared and published by Welsh Ministers, and the requirement to publish a report containing an assessment of the extent to which the objectives contained within the strategy have been achieved.

Within the Welsh Assembly Government, this will have resource implications for the Child Poverty Unit, which will have to be significantly strengthened to deliver a statutory strategy, keep it under review and report against it. In addition, the Unit would have an important role in issuing Guidance to local authorities, and would need to introduce more robust systems for considering the Children and Young People's Plans.

This work will require additional resource to strengthen the Child Poverty Unit to undertake the strategy work in future years and manage new operational responsibilities in relation to this duty. Costs are estimated as £55,000 for additional staffing resource, based on 2009/2010 projected staff costs.

Local authorities are already required to produce Children and Young People's Plans under the Children Act 2004 and under section 4(1) of the Measure the duty of a local authority to publish a strategy under section 2(1) would be discharged on publication of a plan under section 26 of the Children Act 2004.

Section 25 of the Children Act 2004 places a duty on local authorities to take the lead in promoting co-operation with 'relevant' partners and such other

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bodies as the local authority considers appropriate, with the aim of improving the well being of children in each local authority's area.

Section 26 of the Children Act 2004 and regulations under this section require local authorities and their partners to work together to write a Children and Young People's Plan that sets out their strategic vision for children and young people's services, priorities and targets.

From 2008, each local authority area is required to have a Children and Young People's Plan covering all services for those aged 0-25 and maternity services.

There are no additional costs for local authorities under this option; there are no new demands on local authorities that already have a duty under the Children Act 2004 to take action on child poverty and they have already received funding to carry out this work.

For those 'Welsh authorities' who have entered into an arrangement under section 25 of the Children Act 2004, the duty to prepare and publish a strategy for contributing to the eradication of child poverty would be discharged if the strategy is an integral part of a plan published under section 26 of the Children Act 2004 by each local authority with which it has entered into an arrangement under section 25 of the Children Act 2004. This duty is cost neutral for local authorities and their partners and there are no additional burdens.

For other Welsh authorities set out in Section 12, who have not entered into an arrangement under section 25 of the Children Act 2004, there would be a requirement to prepare and publish a strategy for contributing to the eradication of child poverty and therefore there is likely to be some compliance costs with imposing a duty to prepare and publish a strategy. It is anticipated that these additional demands will be minimal and can be accommodated within their existing allocations. It is also anticipated that these additional demands will be proportionate to the size of the organisation and reflect the likely contribution the Welsh authority could make.

AGSBs are funded through grant in aid, and are currently required in their corporate plans to include a statement explaining how the AGSB will mainstream a range of statutory functions, including equality of opportunity for all, and the Welsh Assembly Government's strategic aims, including social inclusion, although there is no specific mention of child poverty.

Where AGBSs are included in Section 12, the duty may have limited resource implications for those parts of the Assembly Government who work with or support AGBSs either in terms of funding or the implementation of policy. It is anticipated that these additional demands will be minimal and can be accommodated within their existing allocations.

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Where AGSBs can not be included in Section 12, Welsh Ministers may consider incorporating these bodies within their strategies and addressing any proposed actions through the remit letters.

Benefits

Under Option 3, legislation would require Welsh Ministers to prepare and publish a strategy for contributing to the eradication of child poverty. The strategy would include objectives chosen by the Welsh Ministers in relation to each of the broad aims set out in Section 1 and include objectives relating to their powers to provide funding to any person which promote the broad aims. They would be required to produce their first strategy by 2010 and to keep their strategy under review and to remake or revise it. They would be required to publish the strategy when they make, remake or revise it and they would be required to lay a copy before the National Assembly for Wales. Welsh Ministers would be required to publish a report containing an assessment of the extent to which they have achieved, or made progress towards achieving, their objectives every three years commencing 2013. They would be required to lay a copy of this report before the National Assembly for Wales.

Local authorities would be required to prepare and publish a strategy for contributing to the eradication of child poverty but this duty would be discharged on publication by the authority of a plan under section 26 of the Children Act 2004.

Under Option 3, the duty to prepare and publish a strategy would also require other Welsh authorities to prepare and publish a strategy for contributing to the eradication of child poverty. For those 'Welsh authorities' who have entered into an arrangement under section 25 of the Children Act 2004, the duty to prepare and publish a strategy for contributing to the eradication of child poverty would be discharged if the strategy is an integral part of a plan published under section 26 of the Children Act 2004 by each local authority with which it has entered into an arrangement under section 25 of the Children Act 2004.

For those Welsh authorities who have not entered into an arrangement under section 25 of the Children Act 2004, there would be a requirement to prepare and publish a strategy for contributing to the eradication of child poverty.

Welsh Ministers may consider incorporating AGSBs that can not be included in Section 12 into their strategies and addressing any proposed actions through their remit letters.

Option 3 is the most beneficial option in terms of contributing to the eradication of child poverty in Wales and the intention is that in addition to short term effects, the strategies will help deliver a number of significant medium to longer term interventions.

6.3 Competition Assessment

The competition filter test has been applied and has shown that there are no competition concerns and, therefore, a low risk of detrimental effect on competition. There are no market implications associated with these provisions at this stage, and introducing an Assembly Measure will not result in any changes to current competition. This will be reviewed and reconsidered as more specific information becomes available.

7. Part 1: Eradicating Child Poverty (Section 6-11) and Part 4 : Miscellaneous and General (Section 60 and 61)

The proposed Measure will place additional duties on Local Authorities to:

1. provide prescribed free childcare in accordance with regulations and guidance ;
2. have regard to regulations and/or guidance requiring the provision of parental support services;
3. have regard to regulations and/or guidance requiring the provision of health support services;
4. assess and secure sufficient play opportunities;
5. make arrangements to promote and facilitate participation of children in decisions of the local authority which affect their lives.

The purpose of the legislation is primarily to allow Welsh Ministers to make regulations which require local authorities to provide free childcare for two year olds, and other services including enhanced levels of health visiting and parenting classes in specific areas if the decision is taken to move funding in respect of Flying Start into the Revenue Support Grant (RSG) in the future.

It is also one of the mechanisms in this measure which local authorities and Welsh Ministers may utilise in the context of activity currently funded through the Cymorth specific grant, specifically local authority powers to secure provision of services and Welsh Ministers' powers to make regulations requiring local authorities to secure those services.

Throughout the body of this document, the financial sums quoted will be those amounts allocated to programme costs unless otherwise stated. Figures will normally be represented in £k (thousands) and £m (millions), and rounded up or down to 1 decimal place, as necessary.

Background - Flying Start

The first of the Assembly Government's seven Core Aims for children and young people, based on the UN Convention on the Rights of the Child, is a commitment to ensure that all children have a flying start in life. This is reflected in the Assembly Government's Child Poverty Strategy – '*A Fair Future for our Children*' which provided that funding would be deployed in disadvantaged areas based on international evidence of the effectiveness of

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high quality early years services, and in *One Wales* which is committed to progressing “provision of universal affordable childcare and in particular free high quality childcare for two year olds in the areas of greatest need.” Flying Start is the delivery vehicle for these commitments.

The Flying Start programme was launched in 2006-07. It is currently being evaluated and policy in respect of this programme will be further developed in the light thereof and in consultation with partners. The programme is based on research evidence that intensive and high quality services lead to improved long-term outcomes. The programme provides targeted investment for children up to the age of three in the most deprived communities in Wales, and aims to improve life chances for these children. Guidance defines the entitlement that families in target areas should be able to access. Local discretion determines the balance between the different elements which include:-

- quality part-time childcare for 2 year olds (from the first term following their second birthday to the first term following their third birthday);
- enhanced levels of health visiting (with a maximum ratio of 1 health visitor to 110 children);
- parenting programmes.

Flying Start programmes across Wales attracted £27m in 2008-09, which is supporting over 16,000 children. This increases to £28.1m in 2009-10, and £31m in 2010-11. In addition, capital funding of £3.9m per annum for the years 2008-2011 is available in respect of Flying Start programmes. In 2010-11 an additional £7m will be transferred from Cymorth, taking the Flying Start revenue allocation to £38m for that year.

There are currently no plans to move Flying Start funding into the Revenue Support Grant (RSG).

The Flying Start Guidance for 2009-10 provides that funding is to be targeted at the most deprived local catchment areas, usually school catchment areas. Funding must target those suffering from multiple deprivation. However, school catchments do not always fit with local geographies of multiple deprivation. In this case, partnerships may put forward adjustments to target school catchment areas for the agreement of the Assembly Government. Such areas are defined in terms of postcodes and/or Lower Super Output Areas. Arrangements for targeting were subject to significant debate in the context of the *Talking Action on Child Poverty* consultation and remain subject to review.

Background: Cymorth

The aim of Cymorth is to use partnership working and targeted investment in disadvantaged communities to promote the 7 Core Aims for children and young people in order to break the cycle of deprivation that affects children and young people’s life chances.

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The Cymorth grant consists of the following five themes for activity:

A - Family support (“to ensure families have access to support that will foster positive relationships between parents and children”)

B - Health improvement (“to promote the healthy development of children (including before birth) and young people by providing more intensive community health support or to break down barriers to mainstream health services”)

C - Play, leisure and enrichment (“to develop play opportunities appropriate to age, and thus to assist with their emotional, physical, social, intellectual and creative development”)

D - Empowerment, participation and active citizenship (“to develop and sustain forms of support to children and young people that empowers them to participate fully in their local and wider community”)

E - Training, mentoring and information (“to ensure that all children and young people have access to a comprehensive range of education, training and learning opportunities, including acquisition of essential personal and social skills”)

A sixth theme – Building childcare provision (“to build the quality, affordability, diversity and accessibility of childcare provision, especially but not exclusively within the Cymorth target areas”) – was moved into the Revenue Support Grant (RSG) in 2008/09.

In assessing whether proposed services are appropriate for Cymorth funding, the widely recognised ‘tiers of need’ model is used. Cymorth services are generally delivered at Tier 2, although Themes C and D with their origins in the UNCRC are at Tier 1. The following represents a version of the model adapted for Cymorth:

- Tier 1 - universal services such as – general information and advice, housing, welfare rights, learning, employment, public health, self-care, health promotion which all of us use at some time.
- Tier 2 - early intervention or preventative services (supported self interventions); 20% of the population might need such services at some point in their lives. This group is characterised by additional needs, and low to moderate risks of exclusion and dependence. These interventions may include those that are offered universally to a disadvantaged community or within a school serving such a community, as the best way to reach those in need of the services.
- Tier 3 - are more intense services which aim to avoid escalation to the highest level of need or restore people to the level of independence that

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they can achieve. These might include services for people with long term conditions or needs where safety, independence and inclusion will be at risk. This will involve short-term planned help to recover independence. They include children in need and children needing protection, and youth justice services. Such services might be required by 15% of the population. They involve specialist or multi-disciplinary needs assessment and case management.

- Tier 4 - services which involve specialist, acute and complex needs including short term intensive crisis intervention and statutory intervention.

The proposed new duty on local authorities to set objectives in relation to parental and health support services and participation as well as the proposed new powers and potential duties linked to regulation making powers which would require local authorities to secure provision of parental support services; health support services for parents and children; sufficient play opportunities; and participation of children in local authority decision making embrace activity currently carried out under Cymorth Theme A (Family Support), B (Health Improvement), C (Play, leisure and enrichment) and D (Empowerment, participation and active citizenship).

Currently, Cymorth supports around 1,100 separate projects across Wales in accordance with priorities identified in guidance is as follows:-

- Taking forward priorities set out in the Children and Young People's Plans by investing Cymorth grant as set out in the guidance.
- Focussing on the risks that give rise to inequality of outcome (Cymorth Themes A, and B)
- Ensuring adequate access for children and young people to play opportunities through local assessments of provision and need.
- Ensuring that a local infrastructure is in place to support participation of children and young people aged 0-25 in decisions that affect their lives. This will include, as a minimum, working with children and young people to develop and put in place a Local Participation Strategy as set out in the recently issued Guidance including working to ensure the National Participation Standards are met locally.

In 2007-8 £51.7m was allocated to local authority partnerships, comprising a lump sum of £335k for each authority, the calculation of the remainder being based on the formula for the notional element for children's social services within the Standard Spending Assessment. In 2008-09, £51.7m will be provided with an additional transitional supplement increasing this to £52.3m, which reflects the need to recommission the portfolio of Cymorth services within the budget available for the next 2 years. The grant for 2009-10 is worth £51.7m and, in 2010-11, the grant will reduce to £46.2m, reflecting the transfer of £7m to Flying Start. Flying Start was funded initially on an assumption that half the existing investments in Cymorth for the 0-3 age group would be adapted to support the delivery of Flying Start. In order to ensure that Flying Start is adequately funded to deliver its objectives the

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Assembly Government is therefore transferring £7m (around 13.5% of Cymorth allocations) from Cymorth to Flying Start for the 2010-11 financial year. This will ensure that Flying Start remains a highly targeted programme, and will allow a slightly increased investment of £2,100 per child to be made, reflecting the fact that costs have increased over time, and will guarantee the resources in Flying Start areas.

In terms of targeting this support, partnerships are required to focus on wards identified as Cymorth target areas (which should usually include Communities First/Next areas), they also have discretion to offer certain services more widely – for example to reflect non-geographical communities of need, such as disabled children; or where a service provided outside the immediate family's community to young people is the best means of tackling disaffection and exclusion.

At present Cymorth is paid to local authorities as specific grant using the grant giving power in the Education Act 2002. However, there is a general pressure for the Welsh Assembly Government to transfer specific grant schemes into the general settlement (ie the Revenue Support Grant or RSG) and to merge and simplify any that remain. Following consultation with the WLGA, the move to RSG began with the transfer of resources attached to the Cymorth theme 'Building childcare provision' in 2008. The agreement with the WLGA is that, over the three financial years beginning 2011-12, the remainder of Cymorth will move progressively to RSG, provided appropriate legislative provision has been put in place to secure ongoing provision of these services. In this context it should be noted that legislative provision is already in place in respect of Cymorth Theme E (Training, mentoring and information) in S123 of the Learning and Skills Act 2000. The intention is that the provision in respect of local authorities setting objectives as Section 2 (3) will complement this.

Potential duty on local authorities to secure the availability of free childcare

This potential duty reflects activity currently funded by the Flying Start programme.

This section gives Welsh Ministers powers through regulations to place local authorities under a duty to provide free childcare in specific areas. It is the intention that Welsh Ministers would be able to use powers conferred on them in this section to make regulations which would require local authorities to provide free childcare for children aged between two and three years in disadvantaged target areas specified in regulations and guidance. Such regulations would only be made if a decision were taken to move funding currently associated with Flying Start into RSG. Regulations and guidance would also inform the nature of the provision. All secondary legislation will be subject to full public consultation.

It is not the intention that the potential duty on local authorities to provide prescribed free childcare in specific areas would place any new burdens on

local authorities beyond those associated with delivery of the Flying Start programme at current levels.

Parental support services

This section gives local authorities powers to secure the provision of parental support services in respect of which Welsh Ministers may issue guidance. It also gives Welsh Ministers powers to require local authorities by regulations (and guidance) to make such services available to parents free of charge in areas specified either by Welsh Ministers or by local authorities in accordance with guidance. Welsh Ministers will be able to use powers under this Section to make regulations and issue guidance which will reflect activity currently carried out in this context using the Flying Start specific grant. They may also use them to prescribe services to be secured by local authorities in the context of Cymorth related activity.

Flying Start parenting activity recognises that parents are in most cases the first and most important external influence on the way their infants and young children develop. Research shows that children who enjoy warm, secure, affectionate relationships with at least one primary caregiver are more likely to thrive and prove resilient in face of later difficulties, than those who do not. The way that parents and other caregivers treat children, interact with them and respond to their physical and emotional needs can exert an influence on their wellbeing and behaviour that endures through childhood, adolescence and on into adult lifeⁱ.

Cymorth Theme A – Family support – aims to ensure that families have access to support that will foster positive relationships between parents and children. This relates to the Core Aims to; “Ensure that all children have a flying start in life and the best possible basis for their future growth and development”, and; “Ensure that all children and young people enjoy the best possible physical and mental, social and emotional health, including freedom from abuse, victimisation and exploitation”.

The proposed duty on local authorities to secure the provision of parental support services is not intended to place any new burdens on local authorities beyond those associated with delivery of related elements of the Flying Start and Cymorth programmes.

Health support services

This section gives local authorities powers to secure the provision of health support services in respect of which Welsh Ministers may issue guidance. It also gives Welsh Ministers powers to require local authorities by regulations (and guidance) to make such services available to parents and children free of charge in areas specified either by Welsh Ministers or by local authorities in accordance with guidance. Welsh Ministers will be able to use powers under this Section to make regulations and issue guidance which will reflect activity

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currently carried out in this context using the Flying Start specific grants. They may also use them to prescribe services to be secured by local authorities in the context of Cymorth related activity.

The Flying Start programme recognises the benefits of increased health visitor support for families that need it. A greater concentration of resources targeted at vulnerable children and families assists in combating the effects of social and economic disadvantage.

Cymorth Theme B – Health promotion – aims to promote the healthy development of children (including before birth) and young people by providing more intensive community health support or to break down barriers to mainstream health services. This also relates to the Core Aim to “ensure that all children and young people enjoy the best possible physical and mental, social and emotional health, including freedom from abuse, victimisation and exploitation.”

The proposed duty on local authorities to provide [prescribed] health support and preventative services is not intended to place any new burdens on local authorities beyond those associated with delivery of related elements of the Cymorth and Flying Start programmes.

Local authority duties in respect of play opportunities for children

This duty reflects the Assembly Government’s commitment to the UN Convention on the Rights of the Child and in particular to Article 31.1 which states that “State Parties recognise the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.” and to Article 31.2 which states that “State Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity”. This commitment is currently reflected in activity carried out in the context of the Cymorth Play, Leisure and Enrichment Theme and is reflected in the Assembly Government’s *Play Policy Implementation Plan*.

The duty places a general duty on local authorities to ensure that children have sufficient opportunities to play and requires them to inform this process and to evidence its effect by carrying out assessments of the sufficiency of play opportunities in their area in accordance with regulations and guidance made by Welsh Ministers.

This is in line with the priority identified in the Cymorth guidance that local authorities should ensure adequate access for children and young people to play opportunities through local assessments of provision and need. The guidance also provides that Cymorth funding should be used by local authorities to develop play opportunities appropriate to age, and thus assist with their emotional, physical, social, intellectual and creative development. In line with this, the new duty will require local authorities to develop and publish

a Play Sufficiency Assessment in accordance with regulations setting-out arrangements for its publication and frequency of its development and with guidance on the content of the Assessment. Guidance will set 'play' (including recreation) in the context of the Play Policy Implementation Plan. It is the intention that guidance may also include National Minimum Standards for play provision as well as Cymorth Guidance. This element of the Measure includes a particular requirement to consider the needs of children and young people with disabilities to have access to play, and the needs of children of different ages.

The proposed duty on local authorities in respect of play would not place any new burdens on local authorities beyond those associated with delivery of related elements of the Cymorth and Flying Start programmes.

Participation of children in local authority decision making

This duty has its origins in and reflects the Assembly Government's commitment to the UN Convention on the Rights of the Child as the basis for its policy-making for children (and young people), and in particular to Article 12.1 which states that "State Parties shall assure to the child which is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child".

Provision in the Measure is restricted to children (0-18) because section 123 of the Learning and Skills Act 2000 makes provision in respect of participation of young people.

The Cymorth guidance currently identifies that as a priority local authorities should ensure that local infrastructure is in place to support participation of children and young people aged 0-25 in decisions that affect their lives. This will include, as a minimum, working with children and young people to develop and put in place a Local Participation Strategy as set out in the recently issued Guidance including working to ensure the National Participation Standards are met locally.

The aim of Theme D - Empowerment, Participation and Active Citizenship is described in guidance as being to develop and sustain forms of support to children and young people that empowers them to participate fully in their local and wider community. The duty will require local authorities to make arrangements to promote and facilitate participation by children in decisions of the authority which affect their lives and, in particular, will require them to publish information about these arrangements.

The Measure also gives Welsh Ministers power to issue guidance which may include guidance on the development of Local Participation Strategies and incorporate the National Participation Standards. This is again in line with the provisions of the Cymorth guidance which provides that it should be read in conjunction with the advisory Guidance on Local Participation Strategies

(LPS) which is currently published alongside *Shared Planning for Better Outcomes*. The LPS Guidance gives specific details as to the Assembly Government's expectations in relation to the infrastructure Partnerships need to put in place locally to ensure effective participation of children and young people in decisions which affect their lives.

7.1 Options

The following three options are considered in relation to the proposed new duties:

- Option 1: Do nothing (Cymorth to move into RSG from 2011, Flying Start to continue to be funded through specific grant for the time being)
- Option 2: Do minimum (Continue to implement the Cymorth and Flying Start specific grant schemes without recourse to legislation)
- Option 3: Introduce an Assembly Measure which will place duties on local authorities to:
 - provide prescribed free childcare in accordance with regulations and guidance ;
 - have regard to regulations and guidance requiring the provision of parental support services;
 - have regard to regulations and guidance requiring the provision of health support services;
 - Secure sufficient play opportunities;
 - Make arrangements to promote and facilitate participation.

it will also give a local authority power to secure parental support services and health support services.

Option 1: Do nothing (Cymorth to move into RSG from 2011)

Under this option, no legislation would be developed to put the activity currently funded by the Cymorth and Flying Start specific grant programmes onto a statutory basis. Whilst the Children Act 2004, the Children and Young People's Plan (Wales) Regulations 2007, and Stronger Partnerships for Better Outcomes circular 35/2006, all promote comprehensive planning and co-operation in the interests of children and young people, no specific legislation currently exists to underpin the particular services and programmes supported by Cymorth for the most disadvantaged children.

Under this option, plans to transfer Cymorth funding into the Revenue Support Grant (RSG) over 3 years from 2011-12 would be implemented and the amount of activity currently supported directly by Cymorth would be progressively reduced over the three years from 2011. Given that there are other pressures on RSG, it is possible that local authorities would not continue to spend at current levels on Cymorth services. Instead, Cymorth funding might be used to fund other Local Authority priorities within tiers 1 (universal provision) and/or tiers 3 and 4 (crisis funding) in accordance with existing

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statutory duties, leaving insufficient funding to continue investment in (non-statutory under this option) tier 2 Cymorth-related services.

The One Wales commitment to “support the aim to halve child poverty by 2010 and eradicate child poverty by 2020” could be compromised by a lack of investment in services for children & young people who require additional support, and it would prove more difficult to meet the One Wales commitment to build on existing anti-poverty programme achievements.

Loss of these services could have significant implications for need for Tiers 3 and 4 services since the activity currently funded by Cymorth is intended to contribute to the prevention of need for crisis intervention later on.

Similarly, in the absence of legislation, activity in respect of the proposed duties on local authorities with regard to play and participation could be threatened. This could compromise the Welsh Assembly Government’s commitment to articles 12.1, 31.1 and 31.2 of the UNCRC.

Option 1 is therefore least likely to achieve published aims in the context of Cymorth and Flying Start, should the decision be taken to move funding associated with the latter into RSG at some stage in the future. The One Wales commitment to “support the aim to halve child poverty by 2010 and eradicate child poverty by 2020” could be compromised by a reduction of investment in Tier 2 services for children & young people who require additional support, and it would prove more difficult to meet the One Wales commitment to build on existing anti-poverty programme achievements. In the context of Flying Start, although timing is not as critical since there are no current plans to move from a grant-led to an RSG funding base, delivery of the One Wales commitment to progressing “provision of universal affordable childcare and in particular free high quality childcare for two year olds in the areas of greatest need” would not be supported by this option.

Option 2: Do minimum (Continue to implement the Cymorth and Flying Start specific grant schemes without recourse to legislation)

Under this option, the Cymorth and Flying Start specific grant schemes would continue to fund this activity. However, there is a risk attached to overturning prior agreement to move Cymorth into RSG over the three years from 2011. This agreement was made in consultation with key stakeholders and in particular the WLGA, and an outline plan for the move agreed.

The Welsh Assembly Government and Ministers have already committed to the transfer of Cymorth to RSG from 2011-2012. This decision was motivated by the requirement to keep all specific grants under review through the protocol agreed with the WLGA and, in this case, the agreement already made with the WLGA that Cymorth as a whole would start to be transferred to RSG in 2011. This agreement was based on the understanding that new legislation would place the work of Cymorth on a statutory basis.

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Whilst this option would have no negative implications for meeting the policy objectives associated with the Child Poverty agenda, the effect of overturning such an agreement would nonetheless risk the loss of good will with key stakeholders. Option 2 is therefore a politically sensitive option, and could undermine the relationship with partners including the WLGA, local authorities and Children and Young People's Partnerships.

This option has no implications for Flying Start. There are no plans at present to move Flying Start into RSG, and this is likely to remain a specific grant (until at least 2011-2012). Continuation of this programme after 2012 would depend on Ministerial direction and availability of funds.

Option 3: Introduce an Assembly Measure which will place duties on Welsh authorities to:

- Set objectives in relation to the broad aims;
- provide prescribed free childcare in accordance with Regulations and guidance ;
- have regard to regulations and/or guidance requiring the provision of parental support services;
- have regard to regulations and/or guidance requiring the provision of health support services.
- Secure sufficient play opportunities
- Make arrangements to promote and facilitate participation

It will also give a local authority power to secure parental support services and health support services.

This option requires local authorities to set objectives in relation to the broad aims (including parenting support and reduction of health inequalities, participation in education, training and the community as well as helping young people take advantage of opportunities for employment) and gives local authorities powers to secure parental support and health support services in accordance with guidance issued by Welsh Ministers. It would also give Welsh Ministers powers to make regulations and issue guidance requiring local authorities to provide services associated with Flying Start when and if resources were transferred into the Revenue Support Grant (RSG), but also with regard to Cymorth related activity (in the context of parental and health support services. This activity underpins the One Wales Commitment to "support the aim to halve child poverty by 2010 and eradicate child poverty by 2020."

Whilst the Children Act 2004 promotes comprehensive planning and co-operation in the interests of children and young people, more specific legislation is needed to underpin these particular services for the most disadvantaged children.

Delivery of Flying Start would not initially be affected as this will continue to be funded as a specific grant. However, having new legislative powers

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already in place in respect of free childcare and other services associated with Flying Start would ensure the smooth transition of services associated with Flying Start should the decision be made at some time in the future to move the grant into RSG.

Option 3 is therefore most likely to deliver published aims in the context of the Cymorth and potentially the Flying Start grants if, in the case of the latter, a decision is made to move the funding into RSG.

7.2 Costs and Benefits

There are no additional costs to the programme irrespective of which option is chosen as the proposed legislation seeks to mirror activity currently being undertaken in the context of specific grants if that funding is moved into RSG.

Financial Background

Cymorth

The funding allocated to Cymorth in 2007-08 was £51.7m. This increased to £52.3m in 2008-09, and will reduce to £51.7m in 2009-10.

The total investment in 2007-08 for the Cymorth themes of Family Support, Health Improvement, Play, Leisure and Enrichment, and Empowerment, Participation and Active Citizenship was £44.2m. This breaks down across the individual themes as follows:-

- Family Support - £17.3m
- Health Improvement - £7.1m
- Play, Leisure and Enrichment - £6.3m
- Empowerment, Participation and Active Citizenship - £3.9m
- Training, Mentoring and Information - £9.6m

The balance consists of evaluation and central costs, which amounted to £6.4m, and to investment in Theme F (Building Childcare Provision), which amounted to £1.1m.

Because of the diverse nature of activity associated with this programme, arising because each local authority uses Cymorth funding for programmes developed in accordance with local needs and circumstances, it is not possible to provide an overview of costs and outputs at an All Wales level. Instead, the following provides a snap-shot of activity within one local authority. All data has been provided by the local authority:

Newport City Council

Newport Cymorth allocation 2007-08: £3,455,946

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Main theme code	Main theme description	Amount
A	Family Support	£1,381,946
B	Health Promotion	£415,000
C	Play, Leisure & Enrichment	£424,000
D	Empowerment, Participation & Active Citizenship	£115,000
E	Training, Mentoring & Information	£488,000
F	Building Childcare Provision	£319,000
CC	Central costs	£223,000
EV	Evaluation	£90,000
	TOTAL	£3,455,946

From this investment, the following sample details some of the outcomes reported:-

Service	Theme code	Investment	Outcome
WPPA Special Needs Referral Scheme	A	£45,000	Enabled over 15 children with disabilities to attend and benefit from the activities of their local playgroup for 2 sessions a week during term time.
Duffryn Integrated Centre	A	£145,000	Nursery class for 80 children, Play group places for 48 children, increased take up of breast feeding.
Integrated Family Learning Programme	A	£41,000	1000 Baban books delivered, 200 families attending LAP courses, 2600 book bags supplied for distribution to families.
Community Cultural Sports Development	C	£114,000	1239 children & young people accessing the service including 255 new users.
Cultural Community Arts Programme	D	£40,000	3x2hr workshops per week, 10-15 young disabled people per session. 1x2hr workshops per week, 10/15 young people from Refugee and Asylum Seekers.
Disabled Children Inclusion	C	£61,000	68 children accessed holiday schemes for 3 weeks during the summer, 35 children accessing provision regularly providing respite for 36 families

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Consideration is being given to the distributional implications resulting from the transfer of Cymorth funding into the revenue settlement. As with any distributional change to the funding provided to local government through the non-hypothecated revenue settlement, this will be considered in consultation with local government through the established partnership arrangements. Consideration will include ensuring that all local authorities continue to have the necessary resources to deliver their responsibilities.

Flying Start

Indicative allocations for Flying Start for 2008/09, and over the following 2 years are £27m; £28.1m; and £31m respectively. In 2010-11, an additional £7m will be transferred into the Flying Start budget from the Cymorth budget, increasing the grant amount to £38m. In 2008-09 the funding was allocated as follows:

- £12.3m free childcare places;
- £7.4m enhanced Health Visitor support
- £1.6m parenting classes
- £1.1m learning and play
- £1.7m workforce
- £3.5m central/evaluation costs

This investment bought 8,268 childcare places, and provided in excess of 100 additional health visitors.

There are no plans at present to move funding for Flying Start into the Revenue Support Grant (RSG)

Option 1: Do nothing (Cymorth to move into RSG from 2011, with no immediate decision on Flying Start)

No legislation would be developed to put the Cymorth and Flying Start programmes onto a statutory basis. Funding in respect of the Cymorth scheme would be progressively transferred to RSG over the three years from 2011. No plans have yet been made to transfer Flying Start funding into RSG.

Benefits

This option would generate resource savings within the Welsh Assembly.

Current staffing arrangements in respect of the administration of Cymorth grant and policy are estimated to be G7 (0.3 FTE), HEO (0.2 FTE), and EO (0.5 FTE). This would represent an approximate actual cost saving of £30k.

However, a transfer of funds into RSG would allow local authorities the ability to manage resources more directly and might reduce the level of administration associated with grant schemes generating administrative savings at local authority level.

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A saving will be made in terms of resources needed to develop the Measure. Resources currently dedicated to the DCELLS element of the Measure are 1 HEO FTE and 0.6 G7. Based on the three point salary scale, this means indicative DRC savings would be approximately £56k. Approximately half of this cost - £28k - can be considered to be sunk in reaching the stage of producing the Explanatory Memorandum and introducing the draft Measure.

Key benefits for service users would include the continuance of the Flying Start specific grant programme. Targeted and intensive investment would be expected to continue to bring about long-term benefits for children. Ultimately, we would expect to see such outcomes as better educational attainment, health and well being, and avoidance of offending or antisocial behaviour.

Stemming the numbers of children and young people entering care and the youth justice system and accessing expensive targeted services requires robust strategies for early interventions to provide greater support to vulnerable children and families. Tackling this requires a whole system approach across local authorities and their partner to provide services across the four tiers of need is essential.

Research shows that providing a range of universal and targeted interventions can have a positive impact on both child welfare and significant cost savings and early preventative schemes such as Flying Start and Cymorth have a key social and economic contribution to make in assisting social services in supporting children and families who are disadvantaged.

These early interventions also provide the important links between community and more specialist services to reduce the need for more expensive social service interventions. Any reduction in level of preventative service would lead to increase demand for more intense specialist services that are high cost. For example overall spending on social services in Wales by client group over the period 2001-2007 has risen from £745m to £1.25 billion, with the highest increase in respect of learning disability (+67%) and children service (+96%).

Flying Start and Cymorth have a key social and economic contribution to make in assisting social services in supporting children and families who are disadvantaged and will make a significant contribution to the proposals for stronger families through Integrated Family Support Teams.

Costs

The direct WAG staff resource costs devoted to the administration of the Flying Start grant are approximately 0.3 G7, 0.3 HEO, and 1 EO. Based on the three point salary scale, this represents an actual cost of £42.7.

Costs allocated to local authorities to enable them to maintain the basic infrastructure to deliver the scheme are £3.5m across Wales.

The long-term costs of this option are more difficult to quantify but should not be ignored. In the case of participation, for example, not investing in provision

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of related Cymorth services could lead to children and young people feeling and being generally disempowered in many situations in their lives at home, at school/college and in the community. This can lead to disengagement, disaffection, disruptive behaviour, a culture of bullying, possibly in some cases violence/vandalism. Working to develop their participative skills and creating situations where those skills can be put to good effect leads to improved self esteem and self confidence, an ability to negotiate, to listen, to respect other people's views even if different to your own, to policies which are better, to children and young people being part of the solution rather than the problem.

The wider social and financial costs in terms of welfare outcomes, social capita and economic activity that may result for any dilution of a preventative action offered by Flying Start and Cymorth for children and young people could be major and result in disproportionate increases in numbers of children becoming looked after by a local authority and children and young people entering the youth justice system.

Option 2: Do minimum (Continue to implement the Cymorth and Flying Start specific grant schemes without recourse to legislation)

Benefits

The infrastructure is already in place to deliver these programmes and if they were to continue to be funded by specific grant then the activity generated by them would continue to be protected.

As with Option 1, the Flying Start programme would continue to invest intensively in target areas with the aim of improving long-term outcomes for children. In addition, under this option, Cymorth activity would also continue. The long-term outcomes from Cymorth investment would also be expected to be improved life chances for children as well as young people.

Under this option, the resource costs associated with developing legislation would not be triggered and would therefore generate a cost saving. Resources currently dedicated to the DCELLS element of the Measure are 1 HEO FTE and 0.6 G7. Based on the three point salary scale, this means indicative DRC savings would be approximately £56k. As with Option 1, approximately half of this cost - £28k - can be considered to be sunk in reaching the stage of producing the Explanatory Memorandum and introducing the draft Measure.

Costs

The programme costs of delivering Cymorth and Flying Start would remain as set out in Option 1, above, without any transfer to RSG.

A decision not to move programme funding into RSG could undermine prior agreements with key stakeholders, and loss of good will – although the cost of this would be impossible to quantify. Discussions are soon to commence between Welsh Assembly Government and local government on moving more

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grants into RSG. To have such a significant grant not now going into RSG would make these discussions more difficult.

Reduced administration costs associated with moves away from specific grant based funding would not be made by local authorities nor indeed by WAG.

Option 3: Introduce an Assembly Measure

Benefits

This option would help to ensure that activity currently funded by Cymorth and Flying Start would continue, when and if there were a transfer from specific grant funding to RSG. Local authorities might make savings from a transfer of funds into RSG as they would be able to manage resources more directly.

Key activity currently funded through the Cymorth and Flying Start specific grant programmes would continue. Consequently, we would expect this to lead to an improvement in the long-term outcomes of children and young people.

As with Option 1, there would be DRC savings within the Welsh Assembly if Cymorth were to move into RSG. Current staffing arrangements in respect of Cymorth policy are estimated to be G7 (0.3 FTE), HEO (0.2 FTE), and EO (0.5 FTE). This would represent an approximate actual cost saving of £30k.

As with Option 2, the infrastructure is already in place to deliver these programmes and children, young people and their families would continue to benefit from them. In the medium/long term this would reduce pressure on Tier 3 and 4 services

Costs

Full resource costs for the DCELLS element of the Measure would be incurred. Based on the three point salary scale, this means indicative DRC costs would be approximately £56k, being 1 HEO FTE and 0.6 G7.

No additional costs for the provision of services under the new duties would fall to local authorities as they are already providing related services under the Cymorth and Flying Start programmes.

Current programme costs in 2008-09 for the Flying Start and Cymorth programmes are £79.3m, being £27m for Flying Start and £52.3m for Cymorth. The actual programme investment, in terms of activity that would be covered by the new duties, is costed at £55.6m:-

Duty/potential duty	Current Cymorth investment	Current Flying Start investment	Total
To secure (prescribed) childcare free of charge	£0	£12.3m	£12.3m

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To secure (prescribed) support services for parents	£17.2m	£1.6m	£18.8m
To secure (prescribed) health support services	£7.1m	£7.4m	£14.5m
To secure sufficient play opportunities	£6.2m	£0	£6.2m
Participation of children and young persons in local authority decision making	£3.8m	£0	£3.8m
TOTAL			£55.6m

7.3 Competition Assessment

The competition filter test has been applied and has shown that there are no competition concerns and, therefore, a low risk of detrimental effect on competition.

The Measure proposes only to put on a legislative basis those specific services already provided by local authorities through the specific Cymorth and Flying Start grant schemes. Therefore, as these schemes are already established, introducing an Assembly Measure will not result in any changes to current competition.

The competition filter test	
Question	Answer yes or no
Q1: In the market(s) affected by the new regulation, does any firm have more than 10% market share?	No
Q2: In the market(s) affected by the new regulation, does any firm have more than 20% market share?	No
Q3: In the market(s) affected by the new regulation, do the largest three firms together have at least 50% market share?	No
Q4: Would the costs of the regulation affect some firms substantially more than others?	No
Q5: Is the regulation likely to affect the market structure, changing the number or size of firms?	No
Q6: Would the regulation lead to higher set-up costs for new or potential suppliers that existing suppliers do not have to meet?	No
Q7: Would the regulation lead to higher ongoing costs for new or potential suppliers that existing suppliers do not have to meet?	No
Q8: Is the sector characterised by rapid technological change?	No

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The competition filter test	
Question	Answer yes or no
Q9: Would the regulation restrict the ability of suppliers to choose the price, quality, range or location of their products?	No

8. Part 2: Child Minding and Day Care (sections 13 – 48)

These proposals will not impact the ability of persons to register with Welsh Ministers under Part 10A of the Children Act 1989 and will also not impose any additional regulatory costs or compliance costs. The proposals will enable Welsh Ministers to take a quick, decisive, and proportionate response to a regulatory breach in relation to childminders and day care providers.

It is considered that a regulatory impact assessment for Part 2 of the Measure is not required.

Assembly officials will evaluate the effectiveness of any new or amended regulations made under this Measure within the first 24 months of operation. Following this evaluation we will consider further revision of the regulations if the need for change is identified.

9. Part 3 : Integrated Family Support Team – IFST (Sections 49 – 58 and Section 59)

9.1 Options

Option 1: Do nothing: This is not sustainable and will inevitably result in increased numbers of children being referred to local authority care. This will lead to further increased costs to the public purse and greater of number of children and their families would be disproportionately disadvantaged in both social and economic terms. Local authorities have responsibility for some 4,686 children in care and leaving care¹. Although relatively small numbers, expenditure of children in care present significant pressures on local authorities expenditure with average cost of £32,000² per annum. Local authorities report an 89% increase in the cost of care since 2001. In 2008/9 local authorities reported £375 million spend on child poverty and family social services against £180m spend in 2001/2002.

¹ Local authority spend in leaving care services for 2007/8 - £8.3m - Local Government Finance Statistics, Welsh Assembly Government

²Unit costs of Health and Social Care 2007, PSSRU
These weekly costs are based on DCSF Children in Need Census 2005 updated to 2006/07 costs.

Option 2: Legislation to require local authorities and Local Health Boards to establish IFST to work in a different way to provide holistic support to the whole family as opposed to individual clients groups will deliver on the policy aims and create the environment and culture shift for a change in the way service to vulnerable children and families are organised, resourced and delivered to the benefit of child, family, professionals working in the service and the contribution it makes to the social cohesion and economic mobility of communities. Over time earlier intervention should improve outcomes for children and families and reduce the need for more intensive expensive services. It should also make a positive contribution to the workforce in terms of recruitment, retention and motivation of social workers and other professionals working with complex families

9.2 Cost and Benefits of IFST

There are a number of tangible and intangible benefits to options above. IFST will stimulate action by local authorities and local health boards to reconfigure service towards prevention and earlier intervention to improve outcomes for children and families.

Stemming the numbers of children and young people entering care and the youth justice system and accessing expensive targeted services requires robust strategies for early interventions to provide greater support to vulnerable children and families. Tackling this requires a whole system approach across local authorities and their partners to provide services across the four tiers of need. IFST will plug the gap for more targeted services at tier 3 and 4 where families have intractable problems that require specialised intervention by a range of highly skilled professionals.

Research shows that providing a range of universal and targeted interventions can have a positive impact on both child welfare and significant cost savings and early preventative schemes such as Flying Start and Cymorth have a key social and economic contribution to make in assisting social services in supporting children and families who are disadvantaged.

These early interventions also provide the important links between community and more specialist services to reduce the need for more expensive social service interventions. Any reduction in level of preventative service would lead to increase demand for more intense specialist services that are high cost. For example overall spending on social services in Wales by client group over the period 2001-2007 has risen from £745m to £1.25 billion, with the highest increase in respect of learning disability (+67%) and children service (+96%).

The wider social and financial costs in terms of welfare outcomes, social capita and economic activity that may result for any dilution of a preventative action offered by targeted Integrated Family Support Services and broader prevention services available at tiers 1 and 2 through programmes such as Flying Start and Cymorth (See Part 1 of Measure) will result in disproportionate increases in numbers of children becoming looked after by a

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local authority and children and young people entering the youth justice system.

Research shows that providing a range of universal and targeted interventions can have a positive impact on both child welfare and significant cost savings. The application of evidenced based interventions within social service systems for family support is shown to have positive benefits in terms of cost for children's care and early return home of children to live safely with parents. In an environment of scarce resources it is essential that public service resources are spent in the most efficient way to ensure Wales can get the best return for "the Welsh pound". It is therefore imperative that local authorities and their partners focus investment to develop and deploy effective interventions that have been rigorously evaluated and proven to be effective in improving outcomes. IFST will provide systems to effect the change and to place greater emphasis on local authorities and the local health boards of their joint responsibility for safeguarding and wellbeing of children and to provide integrated seamless services to families as a whole.

A comprehensive evaluation of Option 2 (a focussed intervention to families where parents have a drug or alcohol problem and there are children at risk of harm and operating in Cardiff and Vale of Glamorgan) reported that it significantly reduced the time spent in care by 766 days to 958 days of the comparison group (who were in receipt of some other type of service). It also reports a minimal average cost saving of £1,178 per child and will be particularly effective with lone parent families where the parent misused alcohol. This is of significance as Wales has a higher proportion of lone parents than England (25% compared to 23%) and high incidence of alcohol misuse (across the adult and teenage population³). Most notably a success of option 2 is the relationship between families and skilled professionals who had managed to engage with families where other professionals had failed. A lack of listening, and other skills needed to interact with children and families may have been a major obstacle to families agreeing to earlier support.

The report suggests that this is the first British evaluation with a robust methodology to show a reduction in the need for care from a support service for families. It acclaims its status and proven impact to the long follow-up period (averaging 3.5 years) against a valid comparison group and concludes that Option 2 in Wales is a ground-breaking asset of national and potentially international significance.

It is not possible at this stage to quantify or estimate the total cost for implementing the full range of provisions in the Measure for IFST. The commencement of section 66 of the Measure will initially be limited to referrals to IFST for substance misuse. The main cost will be the establishment of IFST where regulations require core staff. It is anticipated that the team will require at least 5 professionals. Annual salary cost for operating similar teams are in the order of £400- 500k per annum. A grant of £0.6m will be made

³ Wales has the highest rate of drunkenness compared with other European states, North American countries (Figure 3.12, 2002 HBSC international report)

available to each of the three pioneers each year of three years to establish IFST. The pioneer is designed to inform the full business case and realised benefits that IFST will bring in economic and social terms. The three pioneer areas, and their evaluation, will need to take into account the full cost in terms of the potential reduced number of children becoming looked after, and/or earlier return home. In addition the wider benefits in terms of workforce and improved public service delivery will place the citizen at the centre and will respond to meeting local circumstances and priorities.

9.3 Competition Assessment

IFST - There are no market implications associated with these provisions. IFST will place duties on statutory bodies to delivery services in a different way to support families as opposed to individual clients where the safeguards and wellbeing of the child and the parents' ability to care for the child may be overlooked. The main burden will fall to local authorities and local health boards. As is the case now they will continue to procure where appropriate services from the third sector (voluntary and independent organisations) sector to support the delivery of services to vulnerable children and families with complex needs. It is optional also for local authorities to use the new power to co-opt third sector practitioners to be part of the IFS team.

9.4 Post Implementation Review

The implementation of IFST will be closely monitored in a number of ways. Initially the pioneer areas will test the new arrangements in the area of substance misuse before commencing the provisions across Wales or to include wider groups for example mental health . The aim is that the IFST will become a core service of local government and health and measured through; the local government Performance Management Framework; the Annual Operating Framework in Health and the developing outcomes framework for the Children and Young People Partnerships linked to the planning requirements under section 26 of the Children Act 2004. The IFST will also be inspected by the relevant Inspectorates with the Care and Social Service Inspectorate Wales (CSSIW) taking the lead.

Section 3: Explanatory Notes

These Explanatory Notes relate to the proposed Children and Families (Wales) Measure as introduced to the National Assembly for Wales on 23 February 2009.

The Welsh Assembly Government's Department of Social Justice and Local Government, Department of Children, Education and Lifelong Learning and Skills and Department of Health and Social Services have prepared these notes in order to assist the reader of the proposed Measure and to help inform debate on it. They do not form part of the draft Measure and have not been endorsed by the National Assembly for Wales.

There are four parts to the explanatory notes:

- Part 1: Eradicating Child Poverty
- Part 2: Child Minding and Day Care
- Part 3: Integrated Family Support Teams
- Part 4: Miscellaneous and General

The Explanatory Notes should be read in conjunction with the proposed Measure. They are not intended to be a comprehensive description of the Measure. Therefore, where a section does not appear to require any explanation, none is given.

The powers to make such a Measure are contained within Matters 5.8, 5.18, 15.2, 15.5, 15.6 and 15.7 and 16.1 of Schedule 5 to the Government of Wales Act 2006, as inserted by the National Assembly for Wales (Legislative Competence)(Social Welfare and Other Fields) Order 2008.

Part 1: Eradicating Child Poverty

Part 1 of the Measure makes provision about contributing to the eradication of child poverty.

Section 1: Broad aims for contributing to the eradication of child poverty

This section sets a range of broad aims which contribute to the eradication of child poverty. Subsection (2)(a) and (2)(b) includes matters which relate to household income and material deprivation and also matters which reflect both causes and effects of poverty on children. It sets the field within which the objectives chosen as part of the child poverty strategies required under section 2 must lie.

Subsection (8) makes provision for the broad aims to be amended. Orders under this subsection must be made by affirmative procedure (see section 66 (5)).

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Subsections (3) and (4) specify that the references to median income in subsections (2)(a) and (b) are references to proportions of the UK median income.

Both median income and the material deprivation indicators will be set out in regulations.

Subsection (6) makes provision in the event that the duty on Welsh authorities to prepare a strategy comes into force before the regulations required by subsections (5). In that event Welsh authorities must take their own view on what the material deprivation and median-related indicators mean.

Section 2: Strategies for contributing to the eradication of child poverty

Section 2 imposes a duty on “Welsh authorities” to prepare and publish a strategy for contributing to the eradication of child poverty in Wales. The strategy should set out objectives chosen by the authority which relate to the broad aims which are relevant to, and which can be pursued in, the exercise of its functions. The strategy must also contain the actions to be performed and functions to be exercised by the authority for the purpose of achieving its objectives.

Subsection 4 makes provision that Welsh Ministers must choose objectives under subsection (1)(a) which relate to their powers to provide funding to public bodies, and which promote the broad aims for the eradication of child poverty. Examples of such bodies which are funded are the Sports Council for Wales, the Arts Councils for Wales, the National Library of Wales and the National Museum of Wales.

Subsection 5 provides a reserve power, by regulations, for Welsh Ministers to specify objectives for a Welsh authority in the event that this was considered necessary.

The list of Welsh authorities who are subject to the duty to prepare and publish a strategy is set out in section 12.

Provision about the preparation and publication of strategies are set out in sections 3 to 5 of the Measure, and section 26 of the Children Act 2004.

Section 3: Strategies prepared by the Welsh Ministers

Section 3 sets out details which apply to the Welsh Ministers in respect of their strategy. This section provides that the Welsh Ministers must publish their first strategy under the Measure in 2010 and must keep their strategy under review and remake or revise it from time to time following consultation.

Subsection (3) makes provision for the strategy (new or revised) to be published and subsection (4) makes provision for the new or revised strategy to be laid before the Assembly. Following revision, the Welsh Ministers may

either publish a document setting out the revisions or publish the strategy with the revisions incorporated.

Subsection (5) makes provision for Welsh Ministers to publish a report containing an assessment of the extent to which objectives have been met and if objectives have not been met, progress that has been made towards meeting the objective. Reports must be laid before the Assembly.

Section 4: Strategies prepared by local authorities (children's service authorities)

Section 4 makes amendments to section 26 of the Children Act 2004 to tie the local authority's duty to have a strategy in to the duty under that section to prepare a plan. Subsection (1) provides that a local authority's duty to publish a strategy can be discharged by the publication of a plan under section 26. The amendment in subsection (3) builds the requirement for local authorities to prepare and publish a strategy for contributing to the eradication of child poverty in Wales under section 2(1) into the existing Children and Young People Partnership arrangements under Section 26 of the Children Act 2004.

As well as their own strategy, a local authority may include the strategies of other Welsh authorities with whom it has made an arrangement under section 25 of the Children Act 2004.

Section 5: Strategies prepared by other Welsh Authorities

Section 5 makes provision about the strategies to be prepared by Welsh authorities other than the Welsh Ministers and local authorities. Subsection (3) provides for the Welsh Ministers to make regulations about specific issues in relation to those strategies.

Subsection (5) provides that where a Welsh authority's functions relate to one or more local authorities then if they have entered into partnership arrangements under section 25 of the Children Act 2004, then their duty under section 2 of the Measure is discharged if the strategy is included as an integral part of the local authority's plan prepared under section 26 of that Act.

Section 6: Local authority duty to secure the availability of childcare

Subsection (1) places a duty on local authorities to secure free childcare places for certain pre-school children. The duty will not be commenced until such a time as the associated regulations prescribing the periods to which this care would apply, the children who would benefit, and the type of care they should receive are made. Taken with the provisions of section 9, regulations could also give discretion to do this in relation to specified areas of a local authority.

Subsection (2) links the provisions with regard to specification of area in section 9 to the duty requiring local authorities to prescribed forms of free childcare.

In subsection (3) 'Childcare' is defined as being child minding or day care, where the provision is required to be registered with Care and Social Services Inspectorate Wales, or care provided by a person approved in accordance with a scheme made by Welsh Ministers.

Section 7: Parental support services: powers of a local authority

Subsection (1) gives local authorities powers to secure the provision of parental support services as defined in subsection (4). These powers are set within the context of Part 1 in order to reinforce that local authority performance of these functions should be undertaken in the context of their duty to account for achievement of their child poverty objectives. This section relates to section 10 which gives Welsh Ministers powers to issue guidance in relation to these functions and provides that a local authority must have regard to that guidance in performing these functions.

Subsection (2) requires that such parental support services as are provided by local authorities using their powers under subsection (1) must be provided free of charge.

Subsection (3) provides a definition of Parental support services for the purposes of this section and of section 9.

Subsection (4) provides a definition of Parental support services for the purposes of this section.

Section 8: Health support services: powers of a local authority

Subsection (1) gives local authorities powers to secure the provision of health support. These powers are set within the context of Part 1 in order to reinforce that local authority performance of these functions should be undertaken in the context of their duty to account for achievement of their child poverty objectives. Section 10 gives Welsh Ministers powers to issue guidance in relation to these functions and provides that a local authority must have regard to that guidance in performing these functions.

Subsection (2) requires that when exercising their powers under subsection (1) to secure nursing services, local authorities must have the agreement of the relevant local health board.

Subsection (3) requires that health support and preventative services provided by local authorities using their powers under subsection (1) must be provided free of charge.

Subsection (4) provides a definition of health support services for the purposes of this section and of section 9, covering assistance, whether of a preventative or other nature in relation to the health of children or parents.

Section 9: Regulations about services to tackle child poverty

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Subsection (1)(a) gives Welsh Ministers powers to require local authorities by regulations to secure the provision of parental support services free of charge. Regulations may prescribe the sorts of parental support services to be provided, and the parents who should benefit from those services. Taken with the provisions of subsection (2), regulations could also require those services to be provided in relation to specified areas of a local authority.

Subsection (1)(b) gives Welsh Ministers powers to require local authorities by regulations to secure the provision of health support services free of charge. Regulations may prescribe the types of health support services to be provided, and the children or parents who should benefit from those services. Taken with the provisions of subsection (2), regulations could also require these services to be provided in relation to specified areas of a local authority.

Subsection (1)(c) gives Welsh Ministers powers to include in regulations relating to the provision of free childcare provision that this service should be secured in specified areas of a local authority.

Subsection (1)(d) gives Welsh Ministers powers to include in regulations relating to the provision of parental support and health support services that these services should be secured in specified areas of a local authority.

Subsection 2 relates to the specification in regulations of those areas in which free childcare, parental and health support services may be secured.

Subsection 2(a) provides that regulations may specify that these services should be made available in one or more areas of a local authority.

Subsection 2(b) provides that regulations may specify that these services should be made available in areas specified by the local authority.

Section 10: Guidance

Section 10 gives power for Welsh Ministers to issue statutory guidance about action to promote the broad aims for contributing to the eradication of child poverty and the exercise of functions under section 1 to 9.

Section 11: Directions

Section 11 gives a power to Welsh Ministers to direct the Welsh authority to take any action to secure compliance with the duty under relevant sections where it is felt that the Welsh authority is failing or is likely to fail to comply with any duty under section 2, 6, 7 or 8.

Section 12: The Welsh Authorities

Section 12 sets out who are the Welsh authorities subject to the duty under section 2 of the Measure. Subsection (2) makes provision for the list to be amended and subsection (3) makes provision for consultation to take place

with an affected public body before the list is amended. Subsection (4) makes clear that the only bodies who can be included on the list are public bodies whose functions are within the competence of National Assembly for Wales.

Part 2: Childminding and Day Care for Children

Section 13 Meaning of “child minding” and “day care for children”

Provides a definition of “childminding” and “day care” for children under the age of eight. Subsection (4) makes provision for the Welsh Ministers to make an order to (a) amend the age of the children whose care may be regulated, (b) specify the circumstances in which a person is not acting as a childminder and (c) specify the circumstances in which a person is not providing day care. Subsection (5) makes provision for such an order to specify the circumstances in relation to, amongst others, (a) the person providing the childminding or day care; (b) the child or children for who it is provided; (c) the nature of the childminding or day care; (d) the premises on which it is provided; (e) the times during which is provided and (f) the arrangements under which it is provided. Subsection (6) provides a definition of “domestic premises”.

Section 14 Register of child minders

Requirement for the Welsh Ministers to maintain a register of all persons registered as childminders under this part of the Measure.

Section 15 Duty of child minders to register

Subsection (1) provides that a person may not act as a childminder in Wales unless they are registered as a childminder. Subsection (2) provides for the Welsh Ministers to serve an enforcement notice on any person they consider is acting as a childminder without being registered. Subsection (3) sets out how that enforcement notice will be served and subsection (4) states that the enforcement notice has effect for one year from the date of service. Subsection (5) sets out that an unregistered childminder commits an offence if they have been served with an enforcement notice (as set out in subsection 3) and acts as a childminder without reasonable excuse. Subsection (6) provides that a person convicted of an offence under subsection (5) is liable to a fine not exceeding level 5 on the standard scale.

Section 16 Register of providers of day care for children

Provision for the Welsh Ministers to maintain a register of all persons registered to provide day care for children under this Part of the Measure.

Section 17 Duty of day care providers to register

Subsection (1) orders that a person may not provide day care for children on any premises in Wales unless they are registered to provide day care for

children on those premises. Subsection (2) sets out that a person who contravenes subsection (1) without reason excuse commits an offence. Subsection (3) provides that a person convicted of an offence under subsection (2) is liable to a fine not exceeding level 5 on the standard scale.

Section 18 Applications for registration: child minding

Subsection (1) provides that a person who proposes to act a childminder may make an application to the Welsh Ministers for registration as a childminder. Subsection (2) sets out that an application must give prescribed information about prescribed matters (as set out in regulations); any other reasonable information required by the Welsh Ministers and be accompanied by any prescribed fee. Subsection (3) requires the Welsh Ministers to grant an application if the applicant is not disqualified under section 32 and if it appears that all the prescribed requirements for registration as a childminder are satisfied and are likely to continue to be satisfied. Subsection (4) provides that the Welsh Ministers must refuse any application made under subsection (1) which they are not required to register under subsection (3).

Section 19 Prescribed requirements for registration as a child minder

Regulations can prescribe the requirements for registration as a childminder and may include requirements relating to the applicant; the premises on which the childminding is to be provided; the arrangements for childminding on those premises; any person who may be caring for children on those premises, and any person who may be on those premises.

Section 20 Applications for registration: day care for children

Subsection (1) provides that a person who proposes to provide day care for children on particular premises may make an application to the Welsh Ministers for registration as a provider of day care on those premises. Subsection (2) set out that an application must give prescribed information about prescribed matters (as set out in regulations); any other reasonable information required by the Welsh Ministers and be accompanied by any prescribed fee. Subsection (3) requires the Welsh Ministers to grant an application if the applicant is not disqualified under section 32 and if it appears that all the prescribed requirements for registration as a day care provider are satisfied and are likely to continue to be satisfied. Subsection (4) provides that the Welsh Ministers must refuse any application made under subsection (1) which they are not required to register under subsection (3).

Section 21 Prescribed requirements for registration of providers of day care for children

Regulations can prescribe the requirements for registration of providers of day care for children and may include requirements relating to the applicant; the premises on which the day care is to be provided; the arrangements for day care on those premises; any person who may be caring for children on those premises; and any person who may be on those premises.

Section 22 Entry on the register and certificates

Subsection (1) provides that if an application under section 18(1) is granted, the Welsh Ministers must register the applicant on the childminders register as a childminder and issue the applicant with a certificate of registration stating that the applicant is registered.

Subsection (2) provides that if an application under section 20(1) is granted, the Welsh Ministers must register the applicant as a day care provider in respect of the premises in question and issue the applicant with a certificate of registration stating that the applicant is registered.

Subsection (3) states that a certificate of registration must contain prescribed information about prescribed matters.

Subsection (4) requires the Welsh Ministers to give the registered person an amended certificate if there has been a change of circumstances which requires an amendment to be made to the certificate.

Subsection (5) requires the Welsh Ministers to provide a copy of the certificate on payment by the registered person of any prescribed fee, if they are satisfied that the original certificate has been lost or destroyed.

Section 23 Conditions on registration

Provision for the Welsh Ministers to impose conditions on the registration of a person who acts as a childminder or a person who provide day care for children. Conditions may be imposed on registration under section 18 or section 20 or at any subsequent time, and the Welsh Ministers may under sub-section (3) vary or remove any condition. Subsection (4) provides that a registered person commits an offence, if without reasonable excuse, that person fails to comply with any condition. Subsection (5) provides that a person guilty of an offence under subsection (4) is liable on summary conviction of a fine not exceeding level 5 on the standard scale.

Section 24 Regulations governing activities

Regulations governing the activities of registered persons who act as childminders, or provide day care for children, on premises in Wales, may deal with matters including (amongst others) the welfare and development of the children concerned; suitability to look after, or be in regular contact with, children under the age of eight; qualifications and training; the maximum number of children who may be looked after and the number of persons required to assist in looking after them; the maintenance, safety and suitability of the premises and equipment; the procedures for dealing with complaints; the supervision of staff; the keeping of records; and the provision of information.

The regulations may also require any person to meet factors, standards or other matters which may be prescribed by or referred to in the regulations and the Welsh Ministers make take any failing by any person into account when exercising their functions under this Part of the Measure and in any proceedings. Subsection (4) provides that a registered person who without reasonable cause contravenes or fails to comply with any requirement of the

regulations is guilty of an offence and will be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Section 25 Cancellation of registration

Section 25 sets out the circumstances in which Welsh Ministers may cancel the registration of a person registered as a childminder or a person registered to provide day care for children.

In particular, subsection (1) provides that Welsh Ministers must cancel the registration of a registered childminder or day care provider if that person has become disqualified from registration under section 32. Sub-section (2) provides that a person's registration may be cancelled if the requirements under section 19 or section 21 have ceased to or will cease to be satisfied, if the person has failed to comply with a condition of their registration or they have failed to pay a prescribed fee. Sub-section (3) prevents cancellation if there has been a requirement imposed on the registered person to make any changes or additions to any services, equipment or premises and the time set for complying with the requirement has not expired and the only defect or insufficiency is due to the changes or additions not having yet been made. A cancellation under this section must be in writing.

In addition, subsection (5) provides that Welsh Ministers may prescribe in regulations other circumstances in which the registration of a person may be cancelled.

Section 26 Suspension of registration

Regulations may set out the provisions under which the registration of a childminder or a person registered to provide day care for children may be suspended, including amongst other things, the period of suspension; the circumstances in which registration may be suspended; and the suspension of registration at the request of the registered person.

Subsection (3) allows for a right of appeal to the First-tier Tribunal against suspension except in relation to subsection (4), suspension at the request of the registered person. A registered person must not act as a child minder or provide day care on the premises for which they are registered whilst suspended. Subsection (7) provides that a person is guilty of an offence if they act as a childminder or provide day care on premises without reasonable cause whilst their registration is suspended and is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Section 27 Voluntary removal from the register

Section 27 sets out the circumstances in which a person registered as a childminder or provider of day care for children may remove their registration voluntarily from the childminding register or (as the case may be) the day care for children register.

Subsection (3) and subsection (4) set out the circumstances in which the Welsh Ministers must not grant a request by a registered person under section 27 which include when the Welsh Ministers have sent a person a notice under section 30 of their decision to cancel the person's registration and they still intend to take that step, and if they have sent a person a notice under section 30 of their decision to cancel the person's registration and the time within which an appeal under section 31 may be brought has not expired or, if such an appeal has been brought, it has not been determined.

Section 28 Protection of children in an emergency: cancellation of registration

Section 28 provides for the Welsh Ministers to apply to a justice of the peace for an order cancelling a person's registration if it appears that a child for whom child minding or day care is being or may be provided by that person, is suffering or is likely to suffer significant harm. Such an application may be made without notice and the order made must be in writing and has immediate effect. The Welsh Ministers must serve a copy of the order on the registered person as soon as possible, together with any written statement made in support of the application and notice of the right of appeal. Subsection (7) requires the Welsh Ministers to notify the relevant local authority of the order.

Subsection (8) defines "harm" as having the same meaning as in the Children Act 1989 (c 41) and the question of whether harm is significant is to be determined in accordance with section 31(10) of that Act.

Section 29 Protection of children in an emergency: changes to conditions

Section 29 will allow Welsh Ministers to vary or remove existing conditions, or add new conditions as a matter of urgency to a person's registration where the Welsh Ministers have reasonable cause to believe that there is a risk of harm to a child. The Welsh Ministers may give notice to a registered person that their decision to vary, remove or impose conditions has immediate effect. Such notice must include their reasons for believing that a child is at risk of harm. There is provision for an appeal by the registered person against such a step to the First-tier Tribunal.

Section 30 Procedure for taking certain steps

Section 30 sets out the procedures to be followed if the Welsh Ministers propose to take steps to: refuse an application for registration; impose a new condition on a person's registration; vary or remove any condition imposed on a person's registration; refuse to grant an application for the variation or removal of any such condition; cancel a person's registration.

Subsection (2) confirms that section 30 does not apply to action taken under section 29 (changes to conditions in an emergency).

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The Welsh Ministers must serve notice of their proposal and subsection (5) provides that the Welsh Ministers must not take the proposed steps until 28 days have passed from the date of service of the notice. The recipient of a notice is provided with an opportunity to make an objection to the proposal either orally or in writing and the Welsh Ministers must give the recipient notice of their decision.

Subsection (12) defines “a new condition” as meaning a condition imposed other than at the time of the person’s registration.

Section 31 Appeals

Subsection (1) allows an applicant for registration or (as the case may be) a registered person to appeal to the First-tier Tribunal against the taking of steps by the Welsh Ministers to refuse or cancel an application for registration, to impose, vary or remove conditions imposed on registration or to refuse an application to vary or remove a condition.

Subsection (2) also allows an appeal to the First-tier Tribunal by an applicant for registration or (as the case may be) a registered person in respect of a determination of a prescribed description made by Welsh Ministers; a registered person against whom an order is made under section 28 (Protection of children in an emergency: cancellation of registration); and a registered person who is given notice under section 29 (Protection of children in an emergency: changes to conditions).

Subsection (3) and subsection (4) sets out the actions that may be taken by the First-tier Tribunal on appeal.

Section 32 Disqualification from registration

Regulations can set out the circumstances under which a person may be disqualified from registration. Subsection (3) lists all those matters that may be provided for in regulations as being: the person is barred from regulated activity relating to children (within the meaning of section 3(2) of the Safeguarding Vulnerable Groups Act 2006 (c 47)); an order of a prescribed kind has been made with respect to the person; an order of a prescribed kind has been made at any time with respect to a child who has been in the person’s care; a requirement of a prescribed kind has been imposed at any time with respect to such a child, under or by virtue of any enactment; the person has at any time been refused registration under this Part of this Measure, Part 3 of the Childcare Act 2006 (c 21) or under Part 10 or Part 10A of the Children Act 1989 (c 41) or any prescribed enactment, or had any such registration cancelled; the person has been convicted of an offence of a prescribed kind or has been discharged absolutely or conditionally for such an offence; the person has been given a caution in respect of an offence of a prescribed kind; the person has at any time been disqualified from fostering a child privately (within the meaning of the Children Act 1989 (c 41)); a prohibition has been imposed on the person at any time under section 69 of the Children Act 1989, section 10 of the Foster Children (Scotland) Act 1984 (c 56) or any prescribed enactment; the person’s rights and powers with

respect to a child have at any time been vested in a prescribed authority under a prescribed enactment.

Subsection (4) provides that regulations may also disqualify someone from registration if someone they live with or who works in their household is disqualified.

Subsection (5) provides that the Welsh Ministers may grant a waiver from disqualification where the person has disclosed the information to the Welsh Ministers and the Welsh Ministers consent in writing to them not being disqualified,

Section 33 Consequences of disqualification

A person who is disqualified from registration as a childminder or provider of day care under section 32 must not act as childminder in Wales or provide day care in Wales or be directly concerned in the management of any provision in Wales; neither can a registered person employ a disqualified person in connection with the provision of day care.

Subsection (3) confirms that contravention of subsection (1) or (2) is an offence which is punishable on summary conviction to imprisonment for a term not exceeding 51 weeks or to a fine not exceeding level 5 on the standard scale, or both. It will be a defence for a person to prove that he or she didn't know and had no reasonable grounds for believing that he or she lived with or in a household with or had employed a disqualified person.

Section 34 Inspection

Regulations can set out the provision for the inspection of childminding and day care providers in Wales and for the publication of inspection reports. The inspections will be by the Welsh Ministers or Estyn or any other person under arrangements made with the Welsh Ministers. The regulations may provide for provisions of the Education Act 2005 (c.18) (provision as to the publication of reports) to apply.

Section 35 Powers of entry

Provides for powers of entry at any reasonable time to any premises in Wales on which childminding or day care is at any time provided, and sets out the powers of the person entering the premises to inspect premises and records and conduct interviews. Subsection (2) provides that a person authorised by the Welsh Ministers may at any reasonable time enter any premises in Wales if there is reasonable cause to believe that a child is being looked after there in contravention of this Part. Subsection (5) provides that a person entering premises may require any person to offer such facilities and assistance as are necessary to enable the exercise of powers under this section. A person who intentionally obstructs an authorised person exercising any power under this section commits an offence and will be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Section 36 Supply of information to Welsh Ministers

Welsh Ministers may require any registered childminder or day care provider to provide them with any information connected with that person's activities as a childminder or day care provider which the Welsh Ministers consider necessary for the purposes of their functions under this Part.

Section 37 Supply of information to local authorities

Provides for the Welsh Ministers to provide prescribed information to local authorities when they take steps to grant registration; issue notice of intention to cancel registration; cancel registration; suspend registration; remove a person from the register at that person's request; and if a justice of the peace makes an order under section 28(2). Such information is to assist the local authorities in the discharge of their functions under section 27 of the Childcare Act 2006 (duty to provide information, advice and assistance).

Subsection (5) provides for Welsh Ministers to provide information to a person exercising statutory functions (for purposes connected to those functions) about whether a person is registered as a childminder or day care provider.

Section 38 Offence of making false or misleading statement

A person will be guilty of an offence under subsection (1) if they knowingly making a false or misleading statement when applying for registration and will be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Section 39 Penalty notices

Provides for the imposition of fixed penalty notices on registered persons where Welsh Ministers are satisfied that a person has committed a fixed penalty offence. The proposal to impose a penalty notice offers the registered person the opportunity of paying a penalty in respect of an identified breach. Proceedings may not be commenced for the offence to which the notice relates until such time as the period specified in the notice has expired and if the person pays the penalty in accordance with the notice, they cannot be convicted of an offence to which the notice relates. Penalties are payable to the Welsh Ministers.

Section 40 Penalty notices: supplementary provision

Regulations under section 40 can make provision about the form and content of the penalty notices including monetary amounts and time limits for payment, and actions to be taken if penalty is not paid in accordance with penalty notice. Subsection (2) provides that regulations may make provision for different penalties to be payable in different cases and also for the amount to differ if paid at different times. The amount prescribed to be paid under a penalty notice cannot exceed a half of the maximum amount of a fine that would have to be paid on conviction.

Section 41 Time limit for proceedings

Provides for a time limit for proceedings for an offence to be brought within one year from the date on which sufficient evidence to warrant the proceeding comes to the prosecutor's knowledge. Proceedings may not be brought more than three years after the commission of the offence.

Section 42 Offences by bodies corporate

Makes provision where an offence is committed by a body corporate and sets out who will be liable to be proceeded against and punished accordingly, so that if it is proved that an offence is committed with the consent or connivance or due to any neglect on the part of an officer of the body corporate then the officer as well as the body corporate is guilty of the offence.

Section 43 Unincorporated associations

Makes provision where an offence is committed by an unincorporated association proceedings must be brought in the name of the association (and not in the name of any of its members) and sets out who will be liable to be proceeded against and punished accordingly so that if it is proved that an offence is committed with the consent or connivance or due to any neglect on the part of an officer of the association or a member of its governing body then the officer as well as the association is guilty of the offence. Subsection (4) provides that a fine imposed on an unincorporated association is to be paid out of the association's funds.

Section 44 Functions of local authorities

Regulations made under this section can set out and make provision for a local authority to secure provision of information or advice about childminding and day care and to secure the provision of training about the provision of childminding and day care.

Section 45 Fees

Regulations can set out and make provision for registered childminders or day care providers to pay fees to the Welsh Ministers, including the circumstances when such fees may be waived.

Section 46 Co-operation between authorities

Provides for a local authority whose help is requested by the Welsh Ministers in the exercise of their functions under this part, to comply with the request if it is compatible with its own statutory and other duties and does not unduly prejudice the discharge of any of its functions.

Section 47 Notices

Provides for notices to be issued under section 27 (Voluntary removal from the register) and section 30 (Procedure for taking certain steps).

Section 48 Death of a registered person

Provides the power to make regulations to deal with the position where a sole registered person dies, for the carrying on of the provision of a day care service.

Part 3: Integrated Family Support Teams

Section 49 Establishment of integrated family support teams (IFST)

Section 49 places a duty on local authorities to establish one or more integrated family support teams (IFST) in their area. It also places duties on the Local Health Board which covers the area to assist the local authority in establishing an IFST in order for a local authority to discharge its duties. It enables two or more local authorities to act together to establish one or more IFSTs for both (or all) their areas.

Section 50 Functions of integrated family support teams (IFST)

Section 50 sets out what an IFST does. It must carry out those family support functions assigned to it by the local authority. Welsh Ministers have power to make regulations setting out those health and social services functions which can be assigned. The local authority must agree the functions to be assigned with the Local Health Board. Subsection (3) makes provision about which Local Health Board relates to a particular IFST area.

Subsection (6) and (7) set out the types of case which can be referred to an IFST. These are families where a “parent” (as defined) has one of a number of specified difficulties and a child of that parent is either a “child in need” (as defined) or a “looked after child” (as defined). The provisions include a parent of an unborn child and also allow for referral of other individuals connected with the child.

Subsection (8) gives a team a specific duty to evaluate and record the effectiveness of its work. Subsection (10) specifies that any carrying out of local authority or local health board functions remains the liability of the bodies. Subsection (11) makes clear that any functions assigned to the team are not wholly transferred to it but will continue to be exercised by the local authority or local health board in relation to those who are not, or cannot be referred to an IFST.

Section 51 Resources for integrated family support teams

Section 51 enables a local authority and a Local Health Board to make arrangements to pay for expenditure connected to establishing and running an IFST by paying directly or by contributing to a fund, established and maintained by the local authority. Subsection (2) provides for various practical

aspects of funding of IFSTs to be set out in regulations. Subsection (3) covers resources other than cash for example pooling of staff, premises.

Section 52 Composition of integrated family support teams

Section 52 places a duty on a local authority to ensure that IFST includes the relevant professionals who are prescribed in regulations. Subsection (2) gives a local authority power to co-opt other persons (in addition to those prescribed) to the IFST if they have the consent of the Local Health Board.

Section 53 Establishment of integrated family support boards

Section 53 places a duty on each local authority to establish an Integrated Family Support Board for its area. The board must include;

- the director of social services ;
- the statutory lead director of children and young people services (under Children Act 2004) if this is not the director of social services;
- the lead officer for children and young people services from the Local Health Board.

Provisions enable local authorities to co-opt other members to the Board with the consent of the Local Health Board and to pay remuneration and allowances to co-opted members appointed under subsection (5).

Section 54 Functions of integrated family support boards

Section 54 expresses as objectives the functions of an IFS board. Subsection (2) enables the Welsh Ministers through their regulation making powers to specify further functions of the IFS board in relation to the objectives. Within the list of the board's objectives, subsection 1(b) includes objectives for the local authority and Local Health Board to promote good practice within their areas that can go wider than IFST. Within this the intention is to include within the list of functions of IFST, a training function so that team members can provide direct training and support more widely across the respective areas outside IFST. This will ensure cascading of specialist techniques applying direct interventions with children and families with complex needs.

Section 55 Regulations about integrated family support teams and boards

Section 55 gives the Welsh Ministers power to make regulations about various aspects of the IFSTs functioning.

Section 56 Annual reports on integrated family support teams

Section 56 places a duty on IFSTs to provide an annual report on their effectiveness. The report must be made available at local level to the local authority, Local Health Board and to Welsh Ministers.

Section 57 Guidance about Integrated family support teams

Section 57 places a duty on the local authority, Local Health Board, IFST and the IFS Board to have regard to any guidance issued by the Welsh Ministers in respect of exercising their powers / functions under Part 3 of the Measure.

Section 58 Social services functions

Provides for a consequential change to Schedule 1 of the Local Authority Social Services Act 1970 to extend the meaning of “social services functions” to include the functions relating to an IFST and IFS Boards.

Part 4 – Miscellaneous and General

Section 59 Family social work standards officers

Places a duty on each local authority area to appoint a designated officer (family social work standards officer) within the authority who will have specific responsibility in working across the authority in raising standards in social work practice and promoting use of evidence based research (in the area of children and persons who care for them) that leads to improved outcomes for children and their families. These requirements are not limited to IFST functions and provide broader coverage in respect of local authorities' wider responsibilities for child and family services.

Section 60 Local authority duties in respect of play opportunities for children

Subsection (1) provides that a local authority must carry out an assessment of sufficiency of play opportunities in its area in accordance with regulations made by Welsh Ministers. This assessment will be an important element in determining what it must do to fulfil its duty under subsection (3).

Subsection (2) provides that the regulations described in Subsection (1) may specify the matters to be taken into account in assessing sufficiency, the date by which such a sufficiency assessment is to be undertaken, the frequency of assessment, when the assessment is to be published and when and how it should be reviewed.

Subsection (3) places a duty on local authorities to secure sufficient play opportunities in its area for children as far as reasonably practicable having regard to its assessment. In performing its duty under the section a local authority must take account of the needs of children who are disabled, the needs of children of different ages and guidance issued by the Welsh Ministers.

Subsection (4) requires local authorities to publish information about play opportunities in their area and to keep this information up to date.

Subsection (5) provides that in securing sufficiency of play opportunities, a local authority should consider in particular the needs of disabled children, the needs of children of different ages, and any guidance issued by Welsh

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Ministers. It is the intention that guidance will include amongst other things National Minimum Standards for play provision.

Subsection (6) clarifies that play includes recreational activities and that the reference to “sufficiency” in the duty at Subsection (1) relates to the quantity and quality of play opportunities. It is the intention that the guidance issued in respect of this duty will include guidance on quantity and quality of play opportunity.

Section 61 Participation of children in local authority decision making

Subsection (1) requires local authorities to make arrangements to promote and facilitate participation by children (aged 0-18) in decisions of the authority which affect them. Related provision in respect of young people is made in section 123 of the Learning and Skills Act 2001.

Subsection (2) requires local authorities to publish and keep up to date their arrangements for participation.

Subsection (3) requires a local authority to take into account any guidance issued by Welsh Ministers. This will allow for provision of guidance on matters such as the development of Local Participation Strategies, and incorporation the National Participation Standards.

Subsection (4) repeals section 176 of the Education Act 2002 as amended. Section 176 placed a duty on local authorities in Wales to have regard to Welsh Ministers’ guidance about consultation with pupils in connection with the taking of decisions affecting them. The new duty places a duty to make arrangements to promote and facilitate participation by children in decisions of the authority which affect them. The old duty is overtaken by the new duty except with regards to decisions which are the school governors’ decisions and not the LEA’s, which are now the subject of separate provision in section 29A of the Education Act 2002 (inserted by section 157 of the Education and Skills Act 2008).

Section 62 Guidance

Sets out certain provisions in respect of any guidance issued by Welsh Ministers to bodies that must have regard to it.

Section 63 General interpretation

Sets out definitions for terms used within the Measure.

Section 64 Minor and consequential amendments

Minor and consequential amendments are set out in Schedule 1.

Section 65 Repeals

Repeals are set out in Schedule 2.

Section 66 Orders and Regulations

Any power of the Welsh Ministers to make an order or regulations under the Measure is exercisable by statutory instrument. Subsection (2) to (5) set out the arrangements in respect of orders and regulations. The power to make regulations may be exercised so as to make different provision for different cases or areas and to make general provision or provision which is specific to a particular case.

Section 67 Commencement

Sets out the arrangements for commencement of the Measure in respect of Sections 1, 2, 3, 66, 67 and 68. All other remaining provisions come into force when commenced by the Welsh Ministers by order.

Section 68 Short title

The short title for the Measure is ‘the Children and Families (Wales) Measure 2010’.
