



**WALES OFFICE**

**PRE-LEGISLATIVE SCRUTINY  
OF THE  
PROPOSED DRAFT  
NATIONAL ASSEMBLY FOR WALES  
(LEGISLATIVE COMPETENCE)  
(SOCIAL WELFARE  
AND  
OTHER FIELDS)  
ORDER  
2008**





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*Presented to Parliament by the Secretary of State for Wales  
By Command of Her Majesty  
March 2008*

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## **MINISTERIAL FOREWORD**

**By the Secretary of State for Wales**

**The Rt Hon Paul Murphy MP**

### **Vulnerable Children proposed Order in Council**

This is the third proposed Order in Council under Section 95 of the Government of Wales Act 2006 that has been presented to House of Commons Welsh Affairs Select Committee and the House of Lords Constitutional Affairs Select Committee for Pre-Legislative Scrutiny. This proposed Vulnerable Children Order is part of the Welsh Assembly Government's legislative programme as set out by the First Minister, the Rt Hon Rhodri Morgan AM, in his speech to the National Assembly for Wales on Wednesday 6 June 2007.

I have consulted UK Cabinet colleagues on this proposed draft Order and have their support.

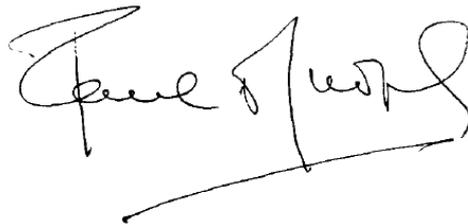
Part 3 of the Government of Wales Act 2006 gave the National Assembly for Wales the power to pass legislation, known as Assembly Measures, which can do anything that an Act of Parliament can do, within the constraints set out in the Act. The scope of the Assembly's powers to pass Measures is set out in Part 3 and Schedule 5 of the Act. The scope of the powers can be extended by adding "matters" to Schedule 5, either through a Parliamentary Bill or, as in this case, by an Order in Council under Section 95 of the Act. The Order in Council route enables the Welsh Assembly Government – or Assembly Committees or backbenchers – to initiate a request for legislative competence.

Each "matter" simply defines legislative competence. Although the accompanying Explanatory Memorandum will set out the scope and background relating to the request, the details of the legislation to be passed will be contained in Assembly Measures and any subordinate legislation made under them. The National Assembly for Wales will deliberate fully on proposed Measures and any subordinate legislation made under Measures will be subject to scrutiny by the Assembly.

As the Government's White Paper, "Better Governance for Wales", explained: consideration of these Orders in Council could be informed by understanding the use the Assembly might propose to make of these powers in the immediate future. However, as the power would be a general and continuing one for that particular policy area, this would serve only as an example of what could be done; the issue for the Parliamentary Committees and for each House would be the appropriateness in general of delegating legislative authority to the Assembly on the particular policy area specified in the draft Order in Council".

A final draft Order will be prepared in light of the Pre-legislative Scrutiny. The Welsh Assembly Government will lay that draft Order before the National Assembly for Wales for its approval. If approved, the unamendable draft Order will be laid before both Houses of Parliament and be subject to the Affirmative Resolution procedure. If both Houses also approve it, the draft Order will then go to the Privy Council to be made.

I welcome the work of the Welsh Affairs Select Committee and the Constitutional Affairs Select Committee and look forward to the outcome of the Pre-Legislative Scrutiny on this proposed order.

A handwritten signature in black ink, appearing to read "Paul Davies". The signature is written in a cursive style with a long horizontal line extending from the bottom of the name.



### **Amendments relating to the field of education and training**

2. In field 5 (education and training) of Part 1 of Schedule 5 to the 2006 Act, after matter 5.17 insert—

*“Matter 5.18*

The provision of any of the following for children or 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.”

### **Amendments relating to the field of social welfare**

3. In field 15 (social welfare) of Part 1 of Schedule 5 to the 2006 Act insert—

*“Matter 15.1*

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*

Adoption services and special guardianship support services.

*Matter 15.3*

Fostering.

*Matter 15.4*

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.

*Matter 15.5*

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

This matter applies to—

- (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.

*Matter 15.6*

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

*Matter 15.7*

Continuing, dissolving or creating an office or body concerned with safeguarding and promoting the well-being of children or young persons; the functions of such an office or body, including in particular—

- (a) reviewing the effect on children or young persons of the exercise by any person of functions related to their well-being;
- (b) reviewing and monitoring—
  - (i) advocacy services;
  - (ii) arrangements for dealing with complaints and representations made by, or on behalf of, children or young persons in respect of persons with functions related to their well-being or persons providing them with social care services;
- (c) examining cases of particular children or young persons;
- (d) considering, and making representations about, any matter affecting the well-being of children or young persons.

*Interpretation of this field*

In this field—

“children” means persons who have not attained the age of 18;

“development” means physical, intellectual, emotional, social or behavioural development;

“health” means physical or mental health;

“local authorities” means the councils of counties or county boroughs in Wales;

“persons formerly looked after” means persons who, at any time before attaining the age of 18—

- (a) have been in the care of a public authority, or
- (b) have been provided with accommodation by a public authority in order to secure their well-being;

“social care services” means any of the following provided in connection with the well-being of any person: residential or non-residential care services; advice, counselling or advocacy services; financial or any other assistance;

“vulnerable children” means children—

- (a) who are unlikely to achieve or maintain, or have the opportunity of achieving or maintaining, a reasonable standard of health or development without the provision for them of social care services,

- (b) whose health or development is likely to be significantly impaired, or further impaired, without the provision for them of social care services,
- (c) who have a physical or mental impairment,
- (d) who are in the care of a public authority, or
- (e) who are provided with accommodation by a public authority in order to secure their well-being;

“well-being”, in relation to individuals, means well-being so far as relating to any of the following—

- (a) health and emotional well-being;
- (b) protection from harm and neglect;
- (c) education, training and recreation;
- (d) the contribution made by them to society;
- (e) social and economic well-being;
- (f) securing their rights;

“young persons” means persons who have attained the age of 18 but not the age of 25.”

**Amendments relating to the field of sport and recreation**

4. In field 16 (sport and recreation) of Part 1 of Schedule 5 to the 2006 Act, insert—

*“Matter 16.1*

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

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

**Exceptions to matters in Part 1 of Schedule 5 to the 2006 Act**

5. In Part 1 of Schedule 5 to the 2006 Act, after field 20 insert—

**“EXCEPTIONS TO MATTERS**

The exceptions specified in the first column of each table below are not included within the matters specified in the corresponding entry in the second column.

**TABLE – Highways and transport**

| <b>Column 1<br/>Exceptions</b>   | <b>Column 2<br/>Matters to which the exceptions relate</b> |
|--|--|
| <b>1.</b> The regulation of the use of motor vehicles on roads, their construction and equipment and conditions under which they may be so used.   | Matters 5.10, 5.17   |
| <b>2.</b> Road traffic offences.   | Matters 5.10, 5.17   |
| <b>3.</b> Driver licensing.  | Matters 5.10, 5.17   |
| <b>4.</b> Driving instruction.   | Matters 5.10, 5.17   |
| <b>5.</b> Insurance of motor vehicles.   | Matters 5.10, 5.17   |
| <b>6.</b> Drivers’ hours.  | Matters 5.10, 5.17   |
| <b>7.</b> Traffic regulation on special roads, pedestrian crossings, traffic signs (apart from the placing and maintenance of traffic signs within the meaning of section 177 of the Transport Act 2000) and speed limits. | Matters 5.10, 5.17, 10.1                                   |

|   |                    |
|---|--------------------|
| <b>8.</b> Public service vehicle operator licensing.  | Matters 5.10, 5.17 |
| <b>9.</b> The provision and regulation of railway services, apart from financial assistance which—<br>(a) does not relate to the carriage of goods,<br>(b) is not made in connection with a railway administration order, and<br>(c) is not made in connection with Council Regulation (EEC) 1191/69 as amended by Council Regulation (EEC) No. 1893/91 on public service obligations in transport. | Matters 5.10, 5.17 |
| <b>10.</b> Transport security.  | Matters 5.10, 5.17 |
| <b>11.</b> Shipping, apart from financial assistance for shipping services to, from or within Wales.  | Matters 5.10, 5.17 |
| <b>12.</b> Navigational rights and freedoms, apart from regulation of works which may obstruct or endanger navigation.  | Matters 5.10, 5.17 |
| <b>13.</b> Technical and safety standards of vessels.   | Matters 5.10, 5.17 |
| <b>14.</b> Harbours, docks, piers and boatslips apart from those used or required wholly or mainly for communication between places in Wales.   | Matters 5.10, 5.17 |
| <b>15.</b> Registration of local bus services, and the application and enforcement of traffic regulation conditions in relation to those services.  | Matters 5.10, 5.17 |

**TABLE – Social welfare**

| <b>Column 1<br/>Exceptions</b>   | <b>Column 2<br/>Matters to which the exceptions relate</b> |
|--|--|
| <b>1.</b> Child support.   | Matters 15.1, 15.2, 15.3, 15.4, 15.5, 15.7                 |
| <b>2.</b> Child trust funds, apart from subscriptions to such funds by—<br>(a) the council of a county or county borough council in Wales, or<br>(b) the Welsh Ministers.  | Matters 15.1, 15.3, 15.4                                   |
| <b>3.</b> Tax credits.   | Matters 15.1, 15.3, 15.4                                   |
| <b>4.</b> Child benefit and guardian’s allowance.  | Matter 15.1, 15.3, 15.4                                    |
| <b>5.</b> Social security.   | Matters 15.1, 15.2, 15.3, 15.4, 15.5, 15.6, 15.7           |
| <b>6.</b> Independent living funds.  | Matters 15.1, 15.4, 15.5, 15.6, 15.7                       |
| <b>7.</b> Motability.  | Matters 15.1, 15.4, 15.5, 15.6, 15.7                       |
| <b>8.</b> Vaccine Damage Payments  | Matters 15.1, 15.4, 15.5, 15.6, 15.7                       |
| <b>9.</b> Intercountry adoption, apart from adoption agencies and their functions, and functions of the “Central Authority” under the Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption. | Matters 15.1, 15.2   |

|   |                                      |
|---|--------------------------------------|
| <b>10.</b> The Children’s Commissioner established under the Children Act 2004.   | Matters 15.1, 15.2, 15.3, 15.4, 15.7 |
| <b>11.</b> Family law and proceedings apart from—<br>(a) welfare advice to courts, representation and provision of information, advice and other support to children ordinarily resident in Wales and their families, and<br>(b) Welsh family proceedings officers. | Matters 15.1, 15.2, 15.3, 15.4       |
| <b>12.</b> Welfare foods  | Matters 15.1, 15.4, 15.5, 15.7<br>”. |

**Consequential amendments**

**6.** Part 1 of Schedule 5 to the 2006 Act is amended as follows—

- (a) in matter 5.10 omit the words from “This does not include” to the end of that matter;
- (b) in matter 5.17 omit the words from “This matter does not include” to the end of that matter;
- (c) in matter 10.1 omit the words from “This does not include” to the end of that matter.

*Name*

Clerk of the Privy Council

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order amends the Government of Wales Act 2006 (“the 2006 Act”). The Order extends the legislative competence of the National Assembly of Wales to make laws known as Measures of the National Assembly for Wales (referred to in the 2006 Act as “Assembly Measures”). The legislative competence conferred by this Order is subject to general limitations on the exercise of that legislative competence, which apply by virtue of section 94 of, and Schedule 5 to, the 2006 Act.

Article 2 inserts matter 5.18 into field 5 (education and training) of Part 1 of Schedule 5 to the 2006 Act. The matter is about the provision of facilities for social or physical training and educational activities for children and young people.

Article 3 inserts matters 15.1 to 15.7 and interpretation provisions into field 15 (social welfare) of Part 1 of Schedule 5 to the 2006 Act.

Matter 15.1 is about the 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.

Matter 15.2 is about adoption services and special guardianship support services.

Matter 15.3 is about fostering.

Matter 15.4 is about social care services for—

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

Matter 15.5 is about co-operation and arrangements to safeguard and promote the well-being of children or young persons.

Matter 15.6 is about local authority planning for the discharge of their functions relating to the well-being of children or young persons.

Matter 15.7 is about the continuance, dissolution, creation and functions of an office or body concerned with safeguarding and promoting the well-being of children or young persons. This matter includes the role and functions of the Children’s Commissioner for Wales.

Article 4 inserts matter 16.1 into field 16 (sport and recreation) of Part 1 of Schedule 5 to the 2006 Act. The matter is about recreational facilities and activities for children or young persons.

Article 5 inserts provision about exceptions to matters at the end of Part 1 of Schedule 5 to the 2006 Act. The exceptions are set out in two tables: one table sets out exceptions relating to highways and transport and the other sets out exceptions relating to social welfare. The exceptions specified in the first column of each table specify the things that are not included within the matters specified in the corresponding entry in the second column.

Article 6 makes amendments to the 2006 Act that are consequential to the amendments made by article 5.

A full regulatory impact assessment has not been prepared for this Order as no impact on the private or voluntary sectors is foreseen.

**MEMORANDUM  
DRAFTED BY  
THE WELSH ASSEMBLY GOVERNMENT**

# MEMORANDUM FROM THE WELSH ASSEMBLY GOVERNMENT

## CONSTITUTIONAL LAW: DEVOLUTION, WALES

### Proposal for a Legislative Competence Order Relating to Vulnerable Children and Child Poverty

#### Introduction

1. The Government of Wales Act 2006 (“the 2006 Act”) empowers Her Majesty, by Order in Council, to confer continuing legislative competence on the National Assembly for Wales (“the Assembly”) to legislate by Assembly Measure on specified matters. Assembly measures may make any provision which could be made by Act of Parliament (and therefore can modify existing legislation and make new provision), in accordance with the competence conferred on the Assembly and subject to the provisions of the 2006 Act.
2. The attached document is a proposed Order in Council. It sets out matters which it is proposed to add to the legislative competence of the Assembly. In order to do so, an Order in Council will need to be made by Her Majesty following approval of a draft of the Order by the Assembly and by both Houses of Parliament.
3. This memorandum has been prepared by the Welsh Assembly Government. It explains the background to and context of the proposed Order in Council.

#### Background

4. New legislative powers related to the specified “matters” will enable the Assembly to pass measures, which are based on Welsh priorities and timescales. These measures will be subject to thorough scrutiny and approval by the Assembly.
5. The Welsh Ministers have wide-ranging responsibilities relating to the field of social welfare. Local authorities and their statutory partners in Wales have a responsibility to safeguard, promote and secure the wellbeing of all children and young people, including those who may be vulnerable – particularly those in need; looked after children and care leavers. The Welsh Assembly Government has sought, through specific provision for Wales in Parliamentary bills and by using its subordinate legislation powers, to develop a distinct approach which responds to Welsh circumstances and the needs of children in Wales.
6. The Welsh Assembly Government policy for all children and young people, including those who are vulnerable, and for tackling child poverty is underpinned by four key publications outlined below. The Welsh Assembly Government’s programme of government includes a commitment to

developing Wales-specific solutions to child poverty (and the poverty experienced by those families and communities within which poor children live); and to integrating strategies through reform and consolidation of the law in relation to the welfare of all children and young people, including vulnerable children. The Welsh Assembly Government sees the Legislative Competence Order as a necessary vehicle to deliver these commitments.

7. *Rights to Action 2* is the Welsh Assembly Government overarching policy for all Children and Young People. It is underpinned by seven core aims, that children and young people:

- have a flying start in life
- have a comprehensive range of education and learning opportunities
- enjoy the best possible health and are free from abuse, victimisation and exploitation
- have access to play, leisure, sporting and cultural activities
- are listened to, treated with respect, and have their race and cultural identity recognised
- have a safe home and a community which supports physical and emotional wellbeing
- are not disadvantaged by poverty.

*These are based on a number of core themes:*

- foundation of principle in the UN Convention on the Rights of the Child;
- entitlements to services based on the needs of the child or young person;
- listening to and acting on the views of children, young people and families;
- giving the highest priority to those most in need, recognising children in care as being a particularly disadvantaged group ; and
- a commitment to partnership working between different local organisations as the only way in which these aspirations can be achieved.

8. *Fulfilled Lives, Supportive Communities*<sup>3</sup>, a ten year strategy for social services in Wales and *Towards A Stable Life and A Brighter Future*<sup>4</sup>, set out the Welsh Assembly Government's policy intentions and early actions towards progressive reforms to modernise service delivery for vulnerable children and to accelerate improvements in policies and outcomes for looked after children.

9. The *Child Poverty Implementation Plan* and associated milestones and targets paper – *Eradicating Child Poverty in Wales – Measuring Success* – set out specific solutions and actions to integrate policies and programmes to eradicate child poverty in Wales by 2020, building on existing anti-poverty programmes such as Flying Start, Cymorth and Communities First. Tackling poverty and social exclusion among children and young people is central to the Welsh Assembly Government's broader strategy to improve quality of life, promote social inclusion and equality of opportunity for every community in Wales.

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<sup>2</sup> Rights to Action, Welsh Assembly Government 2005

<sup>3</sup> Fulfilled Lives , Supportive Communities – A Strategy for Social Services in Wales Over the Next decade, WAG (2007)

<sup>4</sup> Towards A Stable Life And a Brighter Future, Welsh Assembly Government (2007)

10. There is an increasing difference in approach between England and Wales in the policy, planning and delivery of services for children and young people. The Children Act 2004 marked a step change to a tailored approach in Wales to meet our distinct agenda for children and young people. There are no Children's Trusts in Wales, and Welsh local authorities have not been required to create a single director for children's services. Instead, lead directors and members in local government and the NHS have responsibility for partnership working through the Children and Young People's Partnerships. The welfare and provision of services to vulnerable children in Wales is the responsibility of 22 local authorities that work coterminously with 22 local health boards and 14 National Health Service (NHS) Trusts in the assessment and planning of local needs across their respective areas. The Directors of Social Services and Chief Education Officers are responsible for provision of service delivery in their areas. Children and Young People's Partnerships (22) are the main bodies responsible for coordinating and overseeing the development of a strategic; single plan on how the wellbeing of children in their area will be improved to inform the delivery, commissioning, pooling of resources and services across the partnership. The Children & Young People's Partnerships have no responsibility for the direct provision of services.

11. The Welsh Assembly Government policy "Towards A Stable Life", implemented from this July, is a unique policy for children in care in Wales tailored to reflect local circumstances and solutions. It further demonstrates the need for Wales to acquire the powers to tackle Welsh priorities and issues. Limitations on the current settlement restrict our ability to bring forward the range of coherent provisions that we would like to see and that would make a difference for vulnerable children in Wales, based on a stronger focus on preventative action and on support for parents as well as children.

12. The Order covers the welfare of all children and young people in Wales up to the age of 25 years old, with minor exceptions in relation to certain care leavers. Vulnerable children are defined within the Order which has broad scope to relate to the needs of a diverse range of children: any child in need (including disabled or very sick children), children on the periphery of care, in care, or who have left care. It is drafted so as to include support to parents who may need help for their mental health, substance misuse, learning disability, poverty or other problems that may affect a child's opportunities and wellbeing. Local authorities currently provide direct services for around 24,000 children in need and other children and families are supported through area-based programmes such as Flying Start and Cymorth. "Looked after children" includes children in local authority care in Wales (4,800) and care leavers (1,600) where the Assembly Government and local authorities have unique responsibilities as corporate parents of this particularly vulnerable group. Some 28% (170,000) of children in Wales live in poverty, in households with incomes below the 60% median.

13. There now exists a large volume of legislation relating to the welfare of children and young people that is fragmented and has been amended by many Acts of Parliament and various Orders and Regulations, made on an

England and Wales or Wales only basis. There are also inconsistencies between areas of legislation, meaning that different groups of young people receive different levels of service based on their status rather than need. The Order will allow the reform and consolidation of existing legislation in relation to vulnerable children, bringing together and rationalising provisions made over the years. It will enable the Welsh Assembly Government to bring about greater clarity for local government and its partners as to their duties to promote social welfare for all children and young people, in particular the most vulnerable, including children in poverty.

14. Building on the Welsh Assembly Government's 10 year strategy for social services, the intention is to consult (in 2008) on proposals for legislation to implement a strategy for vulnerable children operating in the context of the new statutory Children and Young People's Partnerships<sup>5</sup>. The Order will enable the Welsh Assembly Government to bring forward coherent proposals for legislation in the knowledge that the Assembly will have the necessary powers to implement changes in the law relating to the welfare of children and young people, in particular so as to achieve the stronger focus on supporting families and on preventative action which has already been identified as a key theme.

15. Enhanced powers in this area are needed in order to overcome the current legislative restrictions and to enable Welsh solutions to be brought forward to deliver on the commitments set out above. Current legislative constraints have limited the development and improvement of looked after children policies to meet Welsh needs, which has resulted in objectives not always being fully achieved. The Order will confer enhanced legislative competence on the Assembly to reform the law in relation to vulnerable children and child poverty to:

*(i) rationalise and consolidate existing provisions for vulnerable children;*

*(i) reform the law to provide the legal framework for the implementation of key components of the Welsh Assembly Government's policies for vulnerable children in Wales;*

*iii) take action to place duties on public bodies to demonstrate their contribution to ending child poverty; and*

*(iv) create a statutory right for free child care for two year olds in greatest need*

16. The Order will also provide a legal framework for the Welsh Assembly Government to take forward its proposals to tackle child poverty, in particular to underpin arrangements to provide a top-up payment to the Child Trust Fund accounts for certain categories of children and specific arrangements for Welsh local authorities to boost the savings of children in Wales.

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<sup>5</sup> Section 25 CA 2004 – Partnership responsibilities to co-operate on the wellbeing of children and young people

## Scope

17. The Order seeks to confer powers on the National Assembly for Wales (NAFW) to make Assembly Measures in relation to the welfare of all children and young people including vulnerable children and to tackle child poverty in Wales, by adding matters to Schedule 5 of the 2006 Act. The scope of the Order is drawn so as to enable the Assembly to reform and consolidate existing legislation for children in need, including looked after children and care leavers. It would enable changes to support the welfare of broader groups of children (up to 25 years of age), not just those who are categorised as “looked after” or “children in need”. It will, for example, cover any child and their carer (parent) who is in receipt of social care services and may range from childminding to parenting classes and all services provided under Flying Start and Cymorth. It is also drawn so as to encompass support to families of children who would be at risk of becoming in need had they not had a service. It includes local authorities’ and their partners’ general duties for safeguarding and promoting the wellbeing of all children in their area including specific provisions and actions in relation to tackling child poverty.

18. The matters set out in the Order would in the main cover services currently provided under Parts 2 and 3 and Schedule 2 of the Children Act 1989. They would also extend to local authorities’ responsibilities for pre-school and other child minding and childcare services currently provided under the Flying Start and Cymorth programmes. Other legislation relating to vulnerable children which is within the scope of these matters are the powers to make grants for welfare purposes under the Education Act 2002, the Adoption and Children Act 2002, Care Standards Act 2000, the Children Act 2004 and community care legislation in so far as these relate to the functions of local authorities in relation to disabled children and those caring for them and also to children who are themselves carers of disabled adults.

19. As outlined above, the principal enhancement is in the field of social welfare, although there are related matters in the fields of education and training, and sport and recreation which evidence shows are key components to a child and young person’s development and social wellbeing. Cross border duties in relation to England and Wales are preserved. When considering matters, it is important to recognise that these matters are linked and must be considered in the round as services and functions relating to vulnerable children and young people which may be covered by one or more of the matters across the following three fields.

### Field 5 – Education and Training

20. Matter 5.18 – This would enable the Assembly to legislate with regard to those aspects of the Flying Start and Cymorth schemes which involve the provision of facilities and activities which are educational in nature. It would also cover other linked schemes provided by local authorities and their partners to enhance the development and welfare of children and young people.

## Field 15 – Social Welfare

21. Matters 15.1 and 15.5 relate to the general duties of safeguarding and promoting the well-being of all children and young persons and support to their families. This will cover local authorities' and statutory partners' (and individuals') broad and specific responsibilities and duties of co-operation (on individuals and bodies) for safeguarding, and promoting the welfare of all children in Wales and reducing inequality to ensure they are safe and have optimum life chances. 15.1 covers the functions of public authorities: this would include organisations or persons carrying out those functions directly or on behalf of a public authority (for example voluntary and independent sector) in discharging their functions to safeguard and promote the wellbeing of children and young people in their area.

22. 15.1(c) relates specifically to the wellbeing of any child or young person who may require support necessary to ensure they are not disadvantaged by aspects of child poverty or inequality of different groups; for example, services to a disabled child, support for 'independent living' for younger disabled persons.

23. The line after 15.1(c) makes clear that matter 15.1 does not extend to the functions of public bodies that are non-devolved for example; Youth Justice Board, Police and the Courts. It does however recognise that matter 15.5 achieves the co-operation of those non-devolved bodies listed to ensure their co-operation in safeguarding and promoting the wellbeing of children and young people. The listed partners in matter 15.5 (b) to (d) restate the current provision in sections 25 and 28 of the Children Act 2004 (co-operation arrangements) and extends only to duties of co-operation. 15.5(a) relates to devolved bodies such as NHS, Local Health Boards etc. Matter 15.5 does not give scope to impose any new functions on those bodies; it does however provide scope to modify the arrangements for co-operation in consultation with the listed bodies.

24. In addition to the above matter, 15.6 in particular, covers the duties on the statutory Children and Young People's Partnerships to ensure that strategic plans take into account their duties to promote wellbeing and include any new arrangements for child poverty proofing. This includes provision of services such as child minding and day care and specific duties in relation to vulnerable children in care including education and health but provides sufficient flexibility for different support and other arrangements that the Welsh Assembly Government may want to bring forward in Wales.

25. Matter 15. 3 Fostering – covers all functions in respect of public and private arrangements for fostering including regulation and inspection of services and individuals working in the service including changing the way that foster carers are regulated and supported.

26. Matter 15.2 Adoption Services and Special Guardianship Support Services – includes all devolved functions in relation to adoption: public and

private arrangements including regulation and inspection of services and individuals working in the service, post adoption support. It does not cover any change to court processes for adoption or the law in relation to placement for adoption. This is to ensure we preserve the unified concept and system for adoptions across England and Wales. It covers the full scope of the duties of local authorities in relation to support services to which those involved in the new special guardianship arrangements are entitled.

27. Matter 15.4 – Social Care Services – sets out the range of people to whom the public authority agencies may provide services to safeguard and promote wellbeing. This includes all children and young people up to 25 years old (in need and others) who are currently provided for under the statutory children and young people single plans (section 26, Children Act 2004). It is not limited to traditional functions performed by the local authority social services departments and provides for broad social care provision across a range of public bodies which carry out functions on their behalf. More broadly matter 15.4 relates to local authorities' duties to those who are in care or who have been cared for (including children temporarily accommodated under youth justice arrangements) and/or who are provided with accommodation (not necessarily by local authorities: this extends to private arrangements), in foster care, residential care (children homes, schools etc), secure care and other settings, including those in care under a court order and/or voluntary arrangements. Matter 15.4 (d) extends support beyond 25 years to care leavers in circumstances where they are undertaking a course of education or training. It also covers local authorities' duties to provide a range of support and services (including accommodation) to care leavers including financial assistance and living costs for care leavers seeking employment or engaged in education and training. Services for care leavers include access to a personal advisor to maintain a pathway plan and wider support in relation to contributions towards expenses and accommodation for those who are undertaking education or training.

28. Matter 15.4 taken with 15.1 and 15.5 also covers the duties of local authorities and their partners under section 24 of the Children Act 1989 to provide advice and assistance to a category of children and young people, which overlaps with those who have been looked after but which is broader, including those who have been in local authority accommodation but for an insufficiently long period, those who have been looked after by or on behalf of voluntary organisations, those who have been cared for by one of a number of different health bodies for a period of more than three months, those who have been subject to a special guardianship order and those who have been privately fostered.

29. The matters also extend to the regulation and inspection of services (existing or new) and the workforce in children's homes, foster services and other services whether provided by individuals and organisations. Coverage is given for the functions of ensuring safeguards and quality of care, i.e. functions of the Local Safeguarding Vulnerable Children's Board and those currently undertaken by the Care and Social Service Inspectorate Wales and the Care Council for Wales. Matter 15.4 (b) can include support to the wider

family and friends who are carers (commonly known as kinship care) and foster carers. It also covers direct support to parents where the child may be at risk had the service not been provided; for example, reunification of a child in care with their birth family.

30. These matters also cover broad welfare support to children and families under the preventative and poverty reduction agenda, where the child would potentially be deemed to be in need had the service not been provided to the family or sibling/s. They embrace local authorities' support for pre-school child minding, childcare and services currently provided under Flying Start and Cymorth. They also provide scope for local authorities to make financial assistance including contributions to Child Trust Fund accounts and free childcare places for all, or for prescribed categories of children in Wales.

31. Matter 15.6 covers any planning by local authorities for all children and young people in relation to discharging their wellbeing functions; in particular the 'single plan for children and young people' in relation to their wellbeing under the Children Act 2004. Matter 15.5 will draw heavily on 15.4 duties of statutory partners to co-operate and to contribute to the plan to ensure the wellbeing of children and young people; it also provides for child poverty proofing plans.

32. Matter 15.7 covers the functions of the Children's Commissioner for Wales including the office's specific role in relation to reviewing and monitoring of complaints, advocacy and whistleblowing arrangements of public bodies in Wales, largely local authorities but also the NHS and Local Health Boards. It covers the Commissioner's broad responsibility to all children and young people's welfare and individual cases that may be considered by the Commissioner.

### Interpretation

33. These are self-explanatory. The definition of "well-being" is taken from the Children Act 2004 as stated law that is well understood by public authorities, practitioners and the courts. It has however been extended at (f) to include securing the rights, this is to place greater emphasis on the voice on the child as paramount to his/ her wellbeing and recognises the important concept of rights in the United Nations Convention of the Rights of a Child on which all the Assembly Government's policies and programmes for children and young people are based. The term "vulnerable children" has broad scope to cover those children who may require additional support to ensure their welfare needs are met. It draws a clear distinction between public authorities' responsibility to the wider population of children and young people and the added role they will have in supporting the welfare needs of vulnerable groups such as those in need, in care, leaving care and disabled children.

### Exceptions Tables – Highway and Transport / Social Welfare

34. Where a matter could otherwise be construed as covering a topic in relation to which it is not intended that the Assembly should have legislative

competence, it is necessary to define the matter so as to exclude that topic. One way to do this is by listing those topics as exceptions. The first column of the tables at paragraph 5 sets out exceptions from the matters listed in the second column. The table on Highways and Transport restates exceptions that currently exist in Schedule 5 to the 2006 Act as amended.

35. The table of exceptions for **Social Welfare** clarifies what is not included in the matters listed in this Order. These exceptions include; child support (i.e. arrangements for the provision of maintenance by both parents of a child), tax credits, child benefit, guardian's allowance, social security, Motability, Vaccine Damage Payments, Independent Living Funds and Welfare Foods. Matters 15.1, 15.3 and 15.4 do not include the general scheme of Child Trust Funds but they do include the making of payments into Child Trust Fund accounts by Welsh Ministers or local authorities in Wales. This will enable the Welsh Assembly Government to deliver a pre-election commitment to make the payment of contributions by Welsh local authorities into the Child Trust Fund accounts of looked-after children a statutory duty (it is currently in operation as a voluntary scheme, funded by the Welsh Assembly Government); and will also cover the arrangements necessary to deliver a manifesto commitment relating to contributions to long-term savings for children in relation to child poverty.

#### Effect of other provisions in the 2006 Act

36. The effect of this Order needs to be considered in the context of the overall provisions of the 2006 Act.

#### Geographical Limits of any Assembly Measure

37. Section 93 of the 2006 Act provides that no Assembly measure will be law if it applies otherwise than in relation to Wales or confers, imposes, modifies or removes functions exercisable otherwise than in relation to Wales (or gives power to do so). There are limited exceptions for certain kinds of ancillary provision, for example provision appropriate to make the provisions of the measure effective, provision enabling the provisions of the measure to be enforced and to make consequential amendments to other legislation.

38. The limitation relating to functions other than in relation to Wales means that the Assembly would not be able by measure to confer on the Welsh Ministers, Welsh local authorities or any other public authority functions that do not relate to Wales.

#### Minister of the Crown Functions

39. There are a number of areas of legislation relating to the welfare of vulnerable children that remain the responsibility of UK Ministers, such as the requirements for those deemed unfit to work with children to go on a list maintained by the Secretary of State under the Protection of Children Act 1999. By virtue of part 2 of Schedule 5 to the 2006 Act, the Assembly may not

by measure alter any function of a Minister of the Crown without the consent of the Secretary of State. Therefore even where they do not fall within the specific exceptions listed above, the Assembly will still not be able to legislate so as to alter those functions without the consent of the UK Government.

### Conclusion

40. For the reasons outlined above, the Welsh Assembly Government wishes to propose that legislative competence should be conferred on the National Assembly for Wales in relation to vulnerable children, in the terms of the proposed draft Order attached.

March 2008

## ANNEX A

### SCHEDULE 5

#### ASSEMBLY MEASURES

##### Part 1

##### Matters

**(Text in bold or words struck through are to be added/ deleted as a result of this Order in Council)**

*Field 1: agriculture, fisheries, forestry and rural development*

*Field 2: ancient monuments and historic buildings*

*Field 3: culture*

*Field 4: economic development*

*Field 5: education and training*

##### *Matter 5.1<sup>1</sup>*

Provision about the categories of school that may be maintained by local education authorities.

##### *Matter 5.2*

Provision about the establishment and discontinuance of schools maintained by local education authorities, their change from one category to another and their alteration in other respects.

##### *Matter 5.3*

Provision about the admission of pupils to schools maintained by local education authorities.

##### *Matter 5.4*

Provision about the curriculum in schools maintained by local education authorities.

##### *Matter 5.5*

Provision about school attendance, the behaviour of pupils at school, school discipline and the exclusion of pupils from school (including the duties of parents in connection with those matters).

##### *Matter 5.6*

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<sup>1</sup> Matters 5.1 to 5.10 of this Schedule were inserted by the National Assembly for Wales (Legislative Competence) (Conversion of Framework Powers) Order 2007 SI2007/910

Provision about the making of arrangements for the provision of education for persons of compulsory school age who have been excluded from schools or who for any other reason would not otherwise receive suitable education.

*Matter 5.7*

Provision about entitlement to primary, secondary and further education and to 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 5.9*

Provision about food and drink provided on school premises or provided for children at a place where they receive education or childcare.

*Matter 5.10*

Provision about the travel of persons receiving primary, secondary or further education or training to and from the schools or other places where they receive it.

~~This does not include provision about any of the following—~~

- ~~(a) the regulation of the use of motor vehicles on roads, their construction and equipment and conditions under which they may be so used;~~
- ~~(b) road traffic offences;~~
- ~~(c) driver licensing;~~
- ~~(d) driving instruction;~~
- ~~(e) insurance of motor vehicles;~~
- ~~(f) drivers' hours;~~
- ~~(g) traffic regulation on special roads, pedestrian crossings, traffic signs and speed limits;~~
- ~~(h) public service vehicle operator licensing;~~
- ~~(i) the provision and regulation of railway services, apart from financial assistance which—~~
  - ~~————— (i) does not relate to the carriage of goods,~~
  - ~~————— (ii) is not made in connection with a railway administration order, and~~
  - ~~————— (iii) is not made in connection with Council Regulation (EEC) 1191/69 as amended by Council Regulation (EEC) No. 1893/91 on public service obligations in transport;~~
- ~~(j) transport security;~~
- ~~(k) shipping, apart from financial assistance for shipping services to, from or within Wales;~~

- ~~(l) navigational rights and freedoms, apart from regulation of works which may obstruct or endanger navigation;~~
- ~~(m) technical and safety standards of vessels;~~
- ~~(n) harbours, docks, piers and boatslips, apart from those used or required wholly or mainly for communications between places in Wales;~~
- ~~(o) registration of local bus services, and the application and enforcement of traffic regulation conditions in relation to those services.~~

*Matter 5.11<sup>2</sup>*

Provision for and in connection with securing the provision of facilities for post-16 education or training.

*Matter 5.12*

Provision for and in connection with the establishment and dissolution of—

- (a) institutions concerned with the provision of further education, and
- (b) bodies that conduct such institutions,

including the circumstances in which an educational institution becomes or ceases to be an institution concerned with the provision of further education.

Provision about—

- (a) the conduct and functions of such institutions and bodies that conduct such institutions;
- (b) the property, rights and liabilities of such institutions and bodies that conduct such institutions;
- (c) property held by any person for the purposes of such an institution;
- (d) the governance and staff of such institutions.

*Matter 5.13*

Provision for and in connection with securing collaboration—

- (a) between bodies that conduct institutions concerned with the provision of further education, or
- (b) between one or more such bodies and other persons or bodies that have functions relating to education or training in Wales,

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<sup>2</sup> Matters 5.11 – 5.16 of this Schedule were inserted by the Further Education and Training Act 2007 and came into force on the 23<sup>rd</sup> December 2007.

including, in particular, provision for and in connection with the establishment of bodies for the purpose of discharging functions on behalf of one or more persons or bodies that are party to arrangements for collaboration.

*Matter 5.14*

The provision of financial resources for and in connection with—

- (a) education or training provided by institutions concerned with the provision of further education;
- (b) post-16 education or training provided otherwise than by such institutions;
- (c) the carrying out of research relating to education or training falling within paragraph (a) or (b).

*Matter 5.15*

The inspection of—

- (a) education or training provided by institutions concerned with the provision of further education;
- (b) post-16 education or training provided otherwise than by such institutions;
- (c) the training of teachers and specialist teaching assistants for schools;
- (d) services of the kinds mentioned in matter 5.8.

*Matter 5.16*

The provision of advice and information in connection with, and the carrying out of studies in relation to, any of the kinds of education, training or services mentioned in matter 5.15.

*Matter 5.17*

***(In the draft National Assembly for Wales (Legislative Competence) (Education and Skills) Order in Council)***

***ì Matter 5.18***

***The provision of any of the following for children or young persons—***

- (a) facilities for social or physical training;***

(b) *educational activities.*

*Field 6: environment*

*Field 7: fire and rescue services and promotion of fire safety*

*Field 8: food*

*Field 9: health and health services*

*Matter 9.1<sup>4</sup>*

Provision for and in connection with the provision of redress without recourse to civil proceedings in circumstances in which, under the law of England and Wales, qualifying liability in tort arises in connection with the provision of services (in Wales or elsewhere) as part of the health service in Wales.

*Interpretation of this field*

In this field-

“the health service in Wales” means the health service continued under section 1(1) of the National Health Service (Wales) Act 2006;

“illness” has the same meaning as in that Act;

“patient” has the same meaning as in that Act;

“personal injury” includes any disease and any impairment of a person’s physical or mental health;

“qualifying liability in tort” means liability in tort owed in respect of or consequent upon personal injury or loss arising out of or in connection with breach of a duty of care owed to any person in connection with the diagnosis or illness or the care or treatment of any patient.

*Field 10: highways and transport*

*Field 11: housing*

*Field 12: local government*

*Matter 12.1<sup>5</sup>*

Provision for and in connection with—

- (a) the constitution of new principal areas and the abolition or alteration of existing principal areas, and

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<sup>4</sup> **Matter 9.1 of this Schedule was inserted by the National Assembly for Wales (Legislative Competence) (Conversion of Framework Powers) Order 2007 SI2007/910**

<sup>5</sup> **Matters 12.1 – 12.5, Paragraph 2A of Part 2 and Paragraph 7A of Part 3 of this Schedule were inserted by the Local Government and Public Involvement in Health Act 2007 and came into force on the 30<sup>th</sup> December 2007.**

(b) the establishment of councils for new principal areas and the abolition of existing principal councils.

“Principal area” means a county borough or a county in Wales, and “principal council” means a council for a principal area.

*Matter 12.2*

Provision for and in connection with—

(a) the procedure for the making and coming into force of bye-laws, and

(b) the enforcement of bye-laws.

“Bye-laws” means those of a class which may be confirmed by the Welsh Ministers (but the provision which may be made includes provision to remove a requirement of confirmation).

*Matter 12.3*

Any of the following—

(a) the principles which are to govern the conduct of members of relevant authorities,

(b) codes of conduct for such members,

(c) the conferral on any person of functions relating to the promotion or maintenance of high standards of conduct of such members (including the establishment of bodies to have such functions),

(d) the making or handling of allegations that members (or former members) of relevant authorities have breached standards of conduct, including in particular—

(i) the investigation and adjudication of such allegations and reports on the outcome of investigations,

(ii) the action that may be taken where breaches are found to have occurred,

(e) codes of conduct for employees of relevant authorities.

For the purposes of this matter—

“relevant authority” has the same meaning as in Part 3 of the Local Government Act 2000, except that other than in paragraph (d) it does not include a police authority,

“member” includes a co-opted member within the meaning of that Part.

*Matter 12.4*

Provision for and in connection with strategies of county councils and county borough councils for promoting or improving the economic, social or environmental wellbeing of their areas or contributing to the achievement of sustainable development in the United Kingdom, including provision imposing requirements in connection with such strategies on other persons with functions of a public nature.

*Matter 12.5*

Provision for and in connection with—

(a) the making of arrangements by relevant Welsh authorities to secure improvement in the way in which their functions are exercised,

(b) the making of arrangements by relevant Welsh authorities for the involvement in the exercise of their functions of people who are likely to be affected by, or interested in, the exercise of the functions, and

(c) the assessment and inspection of the performance of relevant Welsh authorities in exercising their functions.

The following are “relevant Welsh authorities”—

(a) a county council, county borough council or community council in Wales,

(b) a National Park authority for a National Park in Wales,

(c) a fire and rescue authority in Wales constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies,

(d) a levying body within the meaning of section 74(1) of the Local Government Finance Act 1988 in respect of which the county council or charging authority referred to in section 74(1)(b) of that Act was a council or authority for an area in Wales,

(e) a body to which section 75 of that Act applies (special levies) and which as regards the financial year beginning in 1989 had power to levy a rate by reference to property in Wales.

*Field 13: National Assembly for Wales*

*Matter 13.1*

Creation of, and conferral of functions on, an office or body for and in connection with investigating complaints about the conduct of Assembly members and reporting on the outcome of such investigations to the Assembly.

*Matter 13.2*

Conferral of functions on the Assembly Commission for and in connection with facilitating the exercise by the Assembly of its functions (including the provision to the Assembly of the property, staff and services required for the Assembly's purposes).

Matter 13.3

Provision for and in connection with the payment of salaries, allowances, pensions and gratuities to or in respect of Assembly members, the First Minister, any Welsh Minister appointed under section 48, the Counsel General and any Deputy Welsh Minister.

*Matter 13.4*

Provision for and in connection with the creation and maintenance of a register of interests of Assembly members and the Counsel General.

Matter 13.5

Provision about the meaning of Welsh words and phrases in-

- (a) Assembly Measures,
- (b) subordinate legislation made under Assembly Measures, and
- (c) subordinate legislation not so made but made by the Welsh Ministers, the First Minister or the Counsel General.

Matter 13.6

Provision for and in connection with the procedures for dealing with proposed private Assembly Measures, including, in particular-

- (a) procedures for hearing the promoters of, and objectors, to proposed private Assembly Measures,
- (b) the persons who may represent such promoters and objectors, and the qualifications that such persons must possess,
- (c) the imposition of fees for and in connection with the promotion of proposed private Assembly Measures, and
- (d) the assessment of costs incurred in connection with proposed private Assembly Measures.

Field 14: public administration

Field 15: social welfare

*ì Matter 15.1*

*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*

*Adoption services and special guardianship support services.*

*Matter 15.3*

*Fostering.*

*Matter 15.4*

*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.*

*Matter 15.5*

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

*This matter applies to—*

- (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.*

*Matter 15.6*

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

*Matter 15.7*

*Continuing, dissolving or creating an office or body concerned with safeguarding and promoting the well-being of children or young persons; the functions of such an office or body, including in particular—*

- (a) reviewing the effect on children or young persons of the exercise by any person of functions related to their well-being;*
- (b) reviewing and monitoring—*
  - (i) advocacy services;*

- (ii) *arrangements for dealing with complaints and representations made by, or on behalf of, children or young persons in respect of persons with functions related to their well-being or persons providing them with social care services;*
- (c) *examining cases of particular children or young persons;*
- (d) *considering, and making representations about, any matter affecting the well-being of children or young persons.*

*Interpretation of this field*

*In this field—*

*“children” means persons who have not attained the age of 18;*

*“development” means physical, intellectual, emotional, social or behavioural development;*

*“health” means physical or mental health;*

*“local authorities” means the councils of counties or county boroughs in Wales;*

*“persons formerly looked after” means persons who, at any time before attaining the age of 18—*

- (a) *have been in the care of a public authority, or*
- (b) *have been provided with accommodation by a public authority in order to secure their well-being;*

*“social care services” means any of the following provided in connection with the well-being of any person: residential or non-residential care services; advice, counselling or advocacy services; financial or any other assistance;*

*“vulnerable children” means children—*

- (a) *who are unlikely to achieve or maintain, or have the opportunity of achieving or maintaining, a reasonable standard of health or development without the provision for them of social care services,*
- (b) *whose health or development is likely to be significantly impaired, or further impaired, without the provision for them of social care services,*
- (c) *who have a physical or mental impairment,*
- (d) *who are in the care of a public authority, or*
- (e) *who are provided with accommodation by a public authority in order to secure their well-being;*

*“well-being”, in relation to individuals, means well-being so far as relating to any of the following—*

- (a) *health and emotional well-being;*
- (b) *protection from harm and neglect;*
- (c) *education, training and recreation;*
- (d) *the contribution made by them to society;*
- (e) *social and economic well-being;*

*(f) securing their rights;*  
*“young persons” means persons who have attained the age of 18 but not the age of 25.â*

*Field 16: sport and recreation*

*â Matter 16.1*

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

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

*Field 17: tourism*

*Field 18: town and country planning*

*Field 19: water and flood defence*

*Field 20: Welsh language*

**â EXCEPTIONS TO MATTERS**

**The exceptions specified in the first column of each table below are not included within the matters specified in the corresponding entry in the second column.**

**TABLE – Highways and transport**

| <b>Column 1<br/>Exceptions</b>   | <b>Column 2<br/>Matters to which the exceptions relate</b> |
|--|--|
| <b>1. The regulation of the use of motor vehicles on roads, their construction and equipment and conditions under which they may be so used.</b>   | <b>Matters 5.10, 5.17</b>                                  |
| <b>2. Road traffic offences.</b>   | <b>Matters 5.10, 5.17</b>                                  |
| <b>3. Driver licensing.</b>  | <b>Matters 5.10, 5.17</b>                                  |
| <b>4. Driving instruction.</b>   | <b>Matters 5.10, 5.17</b>                                  |
| <b>5. Insurance of motor vehicles.</b>   | <b>Matters 5.10, 5.17</b>                                  |
| <b>6. Drivers’ hours.</b>  | <b>Matters 5.10, 5.17</b>                                  |
| <b>7. Traffic regulation on special roads, pedestrian crossings, traffic signs (apart from the placing and maintenance of traffic signs within the meaning of section 177 of the Transport Act 2000) and speed limits.</b> | <b>Matters 5.10, 5.17, 10.1</b>                            |
| <b>8. Public service vehicle operator licensing.</b>   | <b>Matters 5.10, 5.17</b>                                  |
| <b>9. The provision and regulation of railway services, apart from financial</b>   | <b>Matters 5.10, 5.17</b>                                  |

|  |                    |
|--|--------------------|
| assistance which—<br>(a) does not relate to the carriage of goods,<br>(b) is not made in connection with a railway administration order, and<br>(c) is not made in connection with Council Regulation (EEC) 1191/69 as amended by Council Regulation (EEC) No. 1893/91 on public service obligations in transport. |                    |
| 10. Transport security.  | Matters 5.10, 5.17 |
| 11. Shipping, apart from financial assistance for shipping services to, from or within Wales.  | Matters 5.10, 5.17 |
| 12. Navigational rights and freedoms, apart from regulation of works which may obstruct or endanger navigation.  | Matters 5.10, 5.17 |
| 13. Technical and safety standards of vessels.   | Matters 5.10, 5.17 |
| 14. Harbours, docks, piers and boatslips apart from those used or required wholly or mainly for communication between places in Wales.   | Matters 5.10, 5.17 |
| 15. Registration of local bus services, and the application and enforcement of traffic regulation conditions in relation to those services.  | Matters 5.10, 5.17 |

TABLE – Social welfare

| Column 1<br>Exceptions  | Column 2<br>Matters to which the exceptions relate |
|---|--|
| 1. Child support.   | Matters 15.1, 15.2, 15.3, 15.4, 15.5, 15.7         |
| 2. Child trust funds, apart from subscriptions to such funds by—<br>(a) the council of a county or county borough council in Wales, or<br>(b) the Welsh Ministers.  | Matters 15.1, 15.3, 15.4                           |
| 3. Tax credits.   | Matters 15.1, 15.3, 15.4                           |
| 4. Child benefit and guardian's allowance.  | Matter 15.1, 15.3, 15.4                            |
| 5. Social security.   | Matters 15.1, 15.2, 15.3, 15.4, 15.5, 15.6, 15.7   |
| 6. Independent living funds.  | Matters 15.1, 15.4, 15.5, 15.6, 15.7               |
| 7. Motability.  | Matters 15.1, 15.4, 15.5, 15.6, 15.7               |
| 8. Vaccine Damage Payments  | Matters 15.1, 15.4, 15.5, 15.6, 15.7               |
| 9. Intercountry adoption, apart from adoption agencies and their functions, and functions of the "Central Authority" under the Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption. | Matters 15.1, 15.2                                 |
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|   |                                       |
|---|---------------------------------------|
| <b>11. Family law and proceedings apart from—</b><br><b>(a) welfare advice to courts, representation and provision of information, advice and other support to children ordinarily resident in Wales and their families, and</b><br><b>(b) Welsh family proceedings officers.</b> | <b>Matters 15.1, 15.2, 15.3, 15.4</b> |
| <b>12. Welfare foods</b>  | <b>Matters 15.1, 15.4, 15.5, 15.7</b> |

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