Dear David,

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

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

- **Procedural changes from the Negative to Affirmative legislative procedure relating to the following sections:**
  
  3(6) – Meaning of ‘disabled’
  7(3) – Definitions of ‘social enterprises, co-operatives and third sector organisations’
  9(3) – Definitions of ‘blind, deaf, and both blind and deaf’
  23 – Duty to meet care and support needs of a child
  26 – Duty to meet care and support needs of an adult carer
  27 – Duty to meet care and support needs of a child carer
  105(9) – Adult Protection and Support Orders
  112(4) – Functions and procedures of Safeguarding Boards

- **A change in procedure from Affirmative to Super-Affirmative for Section 117, which relates to the power to merge Adults and Children’s Safeguarding Boards.**

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

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

25 September 2013
### Proposed Stage 2 Government Amendments

<table>
<thead>
<tr>
<th>Topic</th>
<th>Amendments relate to...</th>
<th>Proposed Change / Purpose</th>
<th>Effect</th>
<th>Reason</th>
<th>Estimated number of drafting amendments</th>
<th>Tabling Tranche</th>
<th>Bill Part</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>ASSESSMENT &amp; ELIGIBILITY</td>
<td>LF/GT/0442/13</td>
<td>Amend Sections 10, 12 and 15 in order to require that an assessment includes an assessment of whether, and if so, to what extent other factors could contribute to meeting any needs identified.</td>
<td>The intended effect of these amendments is to strengthen the connections between assessment; eligibility; preventative services; and information, advice or assistance. The changes will require Local Authorities to take into account a wider range of factors when considering whether a person has eligible needs, and will ensure that the person being assessed has other options, even if the Local Authority has determined that they do not meet the eligibility criteria for care and support. The amendments will also ensure consistency with section 15, which already makes provision for the persons who are required to be involved in relation to the assessment of the needs of a carer.</td>
<td>39</td>
<td>3 and 4</td>
<td></td>
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<td></td>
<td>LF/GT/0476/13</td>
<td></td>
<td>To amend Section 37 to remove subsection (5).</td>
<td>The effect of this amendment is the removal of a regulation making power in relation to the interface between direct payments under the Bill and after-care services provided under Section 117 of the Mental Health Act 1983.</td>
<td>4</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>SECTION 117 OF MHA 1983</td>
<td>LF/MD/0476/13</td>
<td>To amend Section 65 in a way that would enable looked after children to be placed with ‘matched’ prospective adopters at an earlier stage in the adoption process.</td>
<td>It is intended that these amendments would remove the necessity for prospective adopters to undergo the lengthy assessment processes that Local Authorities undergo when assessing whether a child is eligible for adoption. This would reduce the delay in the placement of children in such cases, thereby ensuring earlier placement with their adoptive parents. This in turn would avoid the need for changes of placement for the child. Those relevant prospective adopters would also receive the same entitlements as regular approved foster carers, including support and any appropriate fees.</td>
<td>39</td>
<td>6</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>FOSTER TO ADOPT</td>
<td>LF/GT/0485/13</td>
<td>Amend Sections 65 in a way that would enable looked after children to be placed with ‘matched’ prospective adopters at an earlier stage in the adoption process.</td>
<td>We have proposed these amendments in an attempt to tackle the issue of delay without the potential risk of adverse effects on the child or prospective adopters. This is also something that was raised by Stakeholders and the Children and Young People’s Committee during Scrutiny as something they wished to see within the Bill.</td>
<td>19</td>
<td>3 and 6</td>
<td></td>
</tr>
</tbody>
</table>
Section 89 - Housing in youth

amends duties to “keep in touch” to reflect the revised Categories of children from 5 to 6;

amends the duty in “keep in touch” with Category 3 young people to the provisions of NIC and HCC.

Section 89 - Housing in youth

See Part 1 above

Section 89 - Housing in youth

See Part 1 above

Section 89 - Housing in youth

See Part 1 above
<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>6</td>
<td>Amend the Bill in order to make provisions in the devolution arrangements for local adult social care and housing.</td>
</tr>
<tr>
<td>7</td>
<td>Amend Section 9 of the Children Act 2004 to include, as a relevant partner, any other Local Authority with which the authority agrees it would be appropriate to co-operate under this Section.</td>
</tr>
<tr>
<td>8</td>
<td>Amend Section 25 of the Bill in order to make provisions about the availability of care and support and preventative services by relevant partners and to change the definition of “relevant partner”.</td>
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<tr>
<td>9</td>
<td>Amend the Bill in order to make provisions in the devolution arrangements for local adult social care and housing.</td>
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<tr>
<td>10</td>
<td>Amend the Bill in order to make provisions about the availability of care and support and preventative services by relevant partners and to change the definition of “relevant partner”.</td>
</tr>
<tr>
<td>11</td>
<td>Amend Section 144 of the Bill to remove subsections (6) and (8).</td>
</tr>
</tbody>
</table>

**Changes to procedures for regulations making powers:**

- Amend subsections (6) and (8) of the Children Act 2004 to include, as a relevant partner, any other Local Authority with which the authority agrees it would be appropriate to co-operate under this Section.
- Amend Section 144 of the Bill to remove subsections (6) and (8).
12 Provider Failure (Market Management) – Legislative Repeals/Legislative Amendments

To include provisions to place temporary charges on Local Authorities in Wales to meet the needs of an adult under the duty to provide care due to business failure. The decision for the dis-application in relation to Wales, in this instance, has been taken to improve the coherence of the legal framework in relation to social services in Wales – one of the key objectives of the Bill. The legal provision by which Local Authorities have assisted adults in these circumstances previously, was contained in a power under Section 47(5) of the NHS and Community Care Act 1990. The legal provision by which Local Authorities have assisted adults in these circumstances previously, was contained in a power under Section 47(5) of the NHS and Community Care Act 1990. The legal provision by which Local Authorities have assisted adults in these circumstances previously, was contained in a power under Section 47(5) of the NHS and Community Care Act 1990. The legal provision by which Local Authorities have assisted adults in these circumstances previously, was contained in a power under Section 47(5) of the NHS and Community Care Act 1990.

The main reason for including these provisions is to protect those people that would be affected should another provider fail, such as those affected by the recent issues with Barchester Castle Beck.

The decision for the dis-application in relation to Wales, in this instance, has been taken to improve the coherence of the legal framework in relation to social services in Wales – one of the key objectives of the Bill. The decision for the dis-application in relation to Wales, in this instance, has been taken to improve the coherence of the legal framework in relation to social services in Wales – one of the key objectives of the Bill. The decision for the dis-application in relation to Wales, in this instance, has been taken to improve the coherence of the legal framework in relation to social services in Wales – one of the key objectives of the Bill. The decision for the dis-application in relation to Wales, in this instance, has been taken to improve the coherence of the legal framework in relation to social services in Wales – one of the key objectives of the Bill.

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The Department of Health in England have sought to protect against these issues in Clauses 47-49 of the Care Bill 2016 in addition to some amendments that are currently being debated. These Clauses provide for a duty to provide care under Part 3 of the Care and Support Act 2014 which is to be included within the Welsh Health Service (Wales) Act 2006 and the Health and Social Services (Wales) Act 2007. These Clauses will be covered by the new provisions within the Bill.

The effect of the amendment to section 163(2) is to ensure there is no overlap between the Bill and the Health and Social Care (Wales) Act 2006. The effect is that the scope of a Local Authority’s power to provide care and support, or to provide that care due to business failure.

The proposed section 8A of the Social Services and Well-being Act 2014 will allow for Local Authorities to provide care and support to an adult where that adult has been placed by a Local Authority in Wales.
19. **Part 3 Children Act 1989: Miscellaneous**

- Amend section 67 to provide that a care and support plan prepared under section 67 can be used as the plan for the purposes of section 31A of the 1989 Act.
- Amend sections 68(3), 76(3) and 100(3) to require local authorities to consider whether their continuing duties or functions under the Children Act 1989 (in relation to children’s duties) should be exercised.
- Amend the reference to sections 68(3) and 68(3) to section 66(1).
- The effect of these amendments is that any provision under sections 68(3) and 68(3) must place local authorities in a position to receive relevant information in order to make informed choices about Direct Payments.
- To clarify the intended meaning.
- The reason for this amendment is to ensure clarity in relation to the Welsh Ministers’ powers to make provision in order to facilitate the provision of care and support to a child who is ‘looked after’ by a local authority in any of the countries referenced.

20. **Direct Payments**

To amend Section 31 to include new subsections that state any regulations made under Sections 34, 35 and 36 must require local authorities to ensure that relevant persons are made aware of their rights to the relevant issues.

21. **Safeguarding - Board Partners**

Amend Section 111 to include the Protection Service as a partner in the context of Safeguarding Boards, so as to be included within the regulations for partnerships.

22. **Acts & Adaptations**

To amend Section 26 to include acts and adaptations in the list under subsection (2).

23. **SL12**

To amend Section 64 of the Bill to clarify that the references to ‘child looked after by a local authority within subsections 12(7), 12(8) and 12(9)’ (or any local authority in relation to those children) are to be made at a distance that is looked after by a local authority in either Wales, England, Scotland or Northern Ireland.

24. **SL23**

To amend Section 37 to include new subsections that state any regulations made under Sections 34, 35 or 36 must require local authorities to ensure that relevant persons are made aware of their rights to the relevant issues.

25. **SL24**

To amend Section 37 to include new subsections that state any regulations made under Sections 34, 35 or 36 must require local authorities to ensure that relevant persons are made aware of their rights to the relevant issues.

26. **SL24**

To amend Section 37 to include new subsections that state any regulations made under Sections 34, 35 or 36 must require local authorities to ensure that relevant persons are made aware of their rights to the relevant issues.

27. **Consequential & Transitional provision**

To amend Section 141(1) to provide greater clarity in relation to the powers it provides. It will not be reworded so as to mean ‘If the Minister makes regulations by order in consequence of any provision of this Act or in consequence of any event or circumstances, these regulations may be made by order in consequence of any provision of this Act or in consequence of any event or circumstances.”

28. **1st Welsh change**

To amend Section 142 of the Bill to clarify the differences between ‘support’ and ‘support and assistance’.

29. **Safeguarding - Technical**

Amend Section 116A to remove the wording ‘out of the scope of the legislation from England or Northern Ireland in relation to the Bill”.

30. **Government Amendments**

Amend section 111 to widen the definition of regulations to include regulations from England and Northern Ireland in relation to the Bill.
I am copying this letter and table of my responses to your recommendations to the Chair of the Health and Social Care Committee.

Yours sincerely

Gwenda Thomas AC / AM
Y Dirprwy Weinidog Gwasanaethau Cymdeithasol
Deputy Minister for Social Services