



# National Assembly for Wales Cynulliad Cenedlaethol Cymru

## **The National Assembly for Wales: Legislation and legislative competence since May 2007**

The purpose of this paper is to provide Assembly Members with an overview of the Welsh Assembly Government's legislative programme for the 2007/08 Assembly session and to update Members on progress. In addition, this paper provides information on Member proposed Assembly legislation and on framework powers conferred by Westminster.

This paper will be updated and reissued each term.

February 2008





## **The National Assembly for Wales: Legislation and legislative competence since May 2007: February 2008 update**

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## **Executive Summary**

In plenary on 6 June 2007, the First Minister, The Rt. Hon. Rhodri Morgan AM, announced the Welsh Assembly Government's ('the Government') intention to bring forward **six legislative competence orders** (LCOs) and **three Assembly Measures** during the 2007/08 Assembly session.

The Counsel General and Leader of the House, Carwyn Jones AM, followed this announcement with a written statement on the progress of the Government's legislative programme on 25 September 2007.

To date, the Government has laid five proposed LCOs before the Assembly for pre-legislative scrutiny. These are in relation to Additional Learning Needs, Environmental Protection and Waste Management, Vulnerable Children, Domiciliary Care and Affordable Housing. The sixth LCO, in relation to the Welsh Language, is expected to be drafted in the spring term 2008.

Pre-legislative scrutiny of the Additional Learning Needs LCO was also conducted by the Welsh Affairs Select Committee of the House of Commons, and the Constitution Committee of the House of Lords.

The Welsh Affairs Committee is also conducting pre-legislative scrutiny of the proposed Domiciliary Care LCO.

The first proposed Assembly Measure, the proposed *NHS Redress (Wales) Measure 2007*, has been introduced to the Assembly and 'stage one' scrutiny by an Assembly Committee has been completed. On 29 January 2008, the Assembly agreed to the general principles of the proposed Measure, and detailed 'stage two' scrutiny began on the 31 January 2008. A second (draft) proposed Assembly Measure concerned with Learner Travel has undergone a consultation and is expected to be introduced shortly. The third (draft) proposed Assembly Measure announced is in relation to Learning and Skills. Subject to consultation, this proposed Measure is also expected to be introduced shortly.

In addition to the Welsh Assembly Government's proposed legislative programme, a number of Assembly Members have been granted leave by the Assembly to bring forward their own LCOs and Assembly Measures following success in the legislative ballot. LCOs in relation to Domestic Fire Safety and Mental Health Reform and Assembly Measures in relation to Healthier School Meals are in the process of being drafted. Debates seeking the Assembly's leave to introduce a proposed LCO in relation to Carers and a proposed Measure in relation to Impact Assessments for the Selling off of Playing Fields are scheduled to take place in February 2008.

During the current Assembly, two Acts of Parliament have been passed that will devolve Assembly Measure-making powers to the National Assembly for Wales in December 2007. Six new Matters in relation to Education and Training, and five new Matters in relation to Local Government will be inserted into Fields 5 and 12, respectively, of Schedule 5 to the *Government of Wales Act 2006*.

The UK Government announced its 2007/08 legislative programme on 6 November 2007. It includes three Bills that contain framework powers for Wales.

## 1. Legislative Competence Orders – Summary of Progress

The table below provides a brief summary of the progress of the six Legislative Competence Orders (LCOs) that the Welsh Assembly Government will bring forward during the current Assembly year.

Welsh Assembly Government Proposed LCOs				
LCO	Stage	Institution considering	Date laid	To report by
<a href="#">Proposed Additional Learning Needs LCO</a>	Pre legislative scrutiny completed. Debate in Plenary on 05/02/08	NAfW, HC, HL*	11 June 2007	Report published 28 November 2007
<a href="#">Proposed Environmental Protection and Waste Management LCO</a>	Pre legislative scrutiny	NAfW	11 June 2007	Report published 29 November 2007
<a href="#">Proposed Vulnerable Children LCO</a>	Pre legislative scrutiny	NAfW	9 July 2007	25 January 2008
<a href="#">Proposed Domiciliary Care LCO</a>	Pre legislative scrutiny	NAfW, HC, HL	26 November 2007	14 March 2008
<a href="#">Proposed Affordable Housing LCO</a>	Pre legislative scrutiny	NAfW	3 December 2007	11 April 2008
<a href="#">Welsh Language LCO</a>	Not yet introduced	NAfW	Spring 2008 (provisional)	-

The table below provides a brief summary of the progress of the three Member proposed LCOs that are to be brought forward during the current Assembly.

Member Proposed LCOs				
LCO	Stage	Institution considering	Date laid	To report by
<a href="#">Proposed Domestic Fire Safety LCO</a> (Ann Jones AM)	Drafted, with WAG and Wales Office officials for comment	NAfW	-	-
<a href="#">Proposed Mental Health Reform LCO</a> (Jonathan Morgan AM)	Drafted, with WAG and Wales Office officials for comment	NAfW	-	-
<a href="#">Proposed Carers LCO</a> (Helen Mary Jones AM)	Leave not yet granted to introduce	NAfW	-	-

\*NAfW = National Assembly for Wales



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Cenedlaethol Assembly for  
Cymru Wales

HC = House of Commons  
HL = House of Lords

## 2. Welsh Assembly Government Proposed LCOs

### 2.1 Proposed Additional Learning Needs LCO

<b>Quick links:</b>	<ul style="list-style-type: none"><li>• <a href="#">Proposed National Assembly for Wales (Legislative Competence) Order 2007</a></li><li>• <a href="#">Proposed Additional Learning Needs LCO web page</a></li><li>• <a href="#">Welsh Affairs Committee inquiry web page: Proposed Legislative Competence Orders in Council: Additional Learning Needs</a></li><li>• <a href="#">Constitution Committee report on Scrutiny of Welsh Legislative Competence Orders</a></li></ul>
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The proposed *National Assembly for Wales (Legislative Competence) Order 2007* relating to additional learning needs ('the proposed LCO') has undergone **pre-legislative scrutiny**. This was conducted by a legislation committee of the National Assembly for Wales, the Welsh Affairs Committee in the House of Commons and the Constitution Committee in the House of Lords.

- The Assembly's Proposed Additional Learning Needs LCO Committee reported to the Assembly on 28 November 2007.
- The House of Commons Welsh Affairs Committee took evidence on 7 and 21 November 2007, and published its report on the proposed LCO on 21 December 2007.
- The House of Lords Constitution Committee conducted a detailed legal examination of the proposed LCO and, with the exception of a few technical drafting points, cleared the proposed LCO.

### Progress at the Assembly

The proposed LCO was considered by a legislation committee: [The Proposed Additional Learning Needs LCO Committee](#). The Committee launched a consultation exercise and took oral evidence from a range of key stakeholders during the course of its meetings. The Committee took oral evidence from:

- The Welsh Local Government Association
- The Association of Education Directors in Wales
- The Disability Rights Commission
- The Children's Commissioner for Wales
- The All Wales Speech and Language Therapy Managers Committee
- Estyn

The Committee took evidence from the Minister for Children, Education, Lifelong Learning and Skills at the beginning of its scrutiny. After gathering evidence from stakeholders, the Committee scrutinised the Minister for a second time at its meeting on 18 October 2007.

The Committee reported to the Assembly on 28 November 2007<sup>1</sup>.

Some of the key issues raised during the course of the Committee's evidence gathering sessions have been:

- The term 'greater difficulty in learning'
- The definition of 'disability'
- The exclusion of travel arrangements

The Plenary debate to approve the draft LCO is took place on 5 February 2008.

### **Progress in Westminster**

#### *The Welsh Affairs Committee (House of Commons)*

The Welsh Affairs Committee (WAC) scrutinised this proposed LCO. It launched a call for evidence that closed on 1 October 2007<sup>2</sup>. The questions contained within this call for evidence demonstrated that the Welsh Affairs Committee was looking at the proposed LCO in a different way to the Assembly's Committee.

The WAC took evidence from the Parliamentary Under-Secretary of State for Wales, Huw Irranca-Davies MP, and officials, on 7 November 2007<sup>3</sup>. The questioning concentrated on similar issues to those raised by the Assembly's Committee. Jane Hutt AM, the Minister for Children, Education, Lifelong Learning and Skills gave evidence to the WAC on 21 November 2007<sup>4</sup>.

The Welsh Affairs Committee published its report on the proposed LCO on 21 December 2007<sup>5</sup>.

#### *The Select Committee on the Constitution (House of Lords)*

The Constitution Committee has scrutinised the proposed LCO. It has reached the conclusion that no matters of constitutional principle arise from this proposed LCO, though the Committee did highlight a few technical drafting points. The Constitution Committee made a recommendation to the Welsh Assembly Government in relation to the explanatory memorandum that accompanied the proposed LCO:

'The Memoranda from the Welsh Assembly Government that accompany the proposed LCOs are important in enabling everyone who is required to consider the LCO to understand fully its scope and context. We consider that it would aid clarity if in future a copy of Schedule 5 to the 2006 Act – showing

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<sup>1</sup> [National Assembly for Wales, Proposed Additional Learning Needs LCO Committee, Report on the National Assembly for Wales \(Legislative Competence\) Order 2007, LD6887, 28 November 2007](#)

<sup>2</sup> [House of Commons, Welsh Affairs Committee, Press Notice No.11 2006-7, Proposed Legislative Competence Order in Council: Additional Learning Needs, 31 July 2007](#)

<sup>3</sup> [House of Commons, Welsh Affairs Committee, Uncorrected transcript of oral evidence, HC 44-i, 7 November 2007](#)

<sup>4</sup> [House of Commons, Welsh Affairs Committee, Uncorrected transcript of oral evidence, HC 44-ii, 21 November 2007](#)

<sup>5</sup> [House of Commons, Welsh Affairs Committee, Second Report, Proposed Legislative Competence Orders in Council: Additional Learning Needs, HC 44, 21 December 2007](#)

paragraphs that are in force and those proposed by the LCO – were to be annexed to each memorandum, with footnotes indicating the source of each amendment.<sup>6</sup>

The Constitution Committee did not report on this specific LCO. However, on 4 December 2007, it did publish a short report on the scrutiny of LCOs for all Members of the House of Lords<sup>7</sup>.

The draft LCO was approved by the Assembly on 5 February 2008, and will be sent to the Secretary of State to be laid before both Houses of the UK Parliament.

## 2.2 Proposed Environmental Protection and Waste Management LCO

Quick links:	<a href="#">Proposed National Assembly for Wales (Legislative Competence) (No.2) Order 2007</a>
	<a href="#">Proposed Environmental Protection and Waste Management LCO web page</a>

The proposed *National Assembly for Wales (Legislative Competence) (No.2) Order 2007* in relation to environmental protection and waste management ('the proposed LCO') has undergone **pre-legislative scrutiny** by a legislation committee of the National Assembly for Wales: The [Proposed Environmental Protection and Waste Management LCO Committee](#).

The Committee launched a consultation exercise and took oral evidence from a range of key stakeholders during the course of its meetings. The Committee took oral evidence from:

- The Welsh Local Government Association
- Wales Environment Link
- Environment Agency Wales
- Countryside Council for Wales
- CBI Wales
- Welsh Association of Chief Police Officers

The Minister for Environment, Sustainability and Housing gave evidence at the Committee's meeting on 25 September 2007 and, following this, wrote to the Committee on three occasions to clarify several issues that had arisen. This correspondence is included in Annex 4 to the Committee's [report on the proposed LCO](#).

At a private meeting on 16 October 2007, the Committee considered a summary of the evidence it had received and the key issues that were raised. The Minister gave further evidence to the Committee on 6 November 2007.

The Committee reported to the Assembly on 29 November 2007<sup>8</sup>.

<sup>6</sup> Chairman of the House of Lords Select Committee on the Constitution. Letter to the Secretary of State for Wales. 23 October 2007

<sup>7</sup> [House of Lords, Constitution Committee, Second Report, Scrutiny of Welsh Legislative Competence Orders, HL 17, 4 December 2007](#)

Some of the key issues raised during the course of the Committee's evidence gathering sessions have been:

- Clarity of terms used in Matters 6.1 and 6.2
- The scope of the LCO
- The excepted matters that relate to this LCO

The Secretary of State for Wales has yet to refer the draft LCO to Parliament for scrutiny.

### 2.3 Proposed Vulnerable Children LCO

Quick links:	<a href="#">Proposed National Assembly for Wales (Legislative Competence) (No.3) Order 2007</a>
	<a href="#">Proposed Vulnerable Children LCO web page</a>

The proposed *National Assembly for Wales (Legislative Competence) (No.3) Order 2007* in relation to vulnerable children ('the proposed LCO') is currently undergoing **pre-legislative scrutiny**. This is being conducted by a legislation committee of the National Assembly for Wales: [The Proposed Vulnerable Children LCO Committee](#).

The Committee launched a consultation exercise which closed on 2 November 2007. The Committee took evidence from the Deputy Minister for Health and Social Services on 25 October 2007 and on 29 November 2007. The Deputy Minister wrote to the Committee on four occasions to clarify several issues, including whether the proposed LCO would enable the Assembly to legislate on the physical punishment of children. The UK Government has requested that the relevant Matter be redrafted to make it clear that it does not cover this issue. The Assembly Government has agreed to this because the whole purpose of the proposed LCO would be endangered otherwise.

The Committee also took evidence from:

- The British Association of Social Workers
- Children's Commissioner for Wales
- Children in Wales
- MIND Cymru
- Barnardo's
- Equality and Human Rights Commission

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<sup>8</sup> [National Assembly for Wales, Proposed Environmental Protection and Waste Management LCO Committee, Report on the National Assembly for Wales \(Legislative Competence\) \(No.2\) Order 2007, LD6893, 29 November 2007](#)

- British Association of Adoption and Fostering (BAAF)
- Save the Children
- Welsh Local Government Association (WLGA)
- Association of Directors of Social Services (ADSS)

The Committee laid its report on the proposed LCO on 25 January 2008<sup>9</sup>.

The Secretary of State for Wales has yet to refer the draft LCO to Parliament for scrutiny.

## 2.4 Proposed Domiciliary Care LCO

Quick links:	<a href="#">Proposed National Assembly for Wales (Legislative Competence) (No.4) Order 2008</a>
	<a href="#">Proposed Domiciliary Care LCO web page</a>

The proposed *National Assembly for Wales (Legislative Competence) (No.4) Order 2007* in relation to domiciliary care ('the proposed LCO') is currently undergoing **pre-legislative scrutiny**. This is being conducted by a legislation committee of the National Assembly for Wales: The Proposed Domiciliary Care LCO Committee, and the House of Commons Welsh Affairs Committee.

The Committee has launched a consultation exercise which closes on 25 January 2008.

The Assembly's Proposed Domiciliary Care LCO Committee and the Welsh Affairs Committee held a joint meeting on 17 January 2008 to consider the proposed LCO.

The Committee will report to the Assembly by 14 March 2008.

### Progress in Westminster

Following its joint meeting with the Assembly's LCO Committee, the Welsh Affairs Committee held a second session on 31 January 2008 to take evidence from the Parliamentary Under-Secretary of State.

The House of Lords Constitution Committee met on 16 January 2008 and concluded that the proposed LCO raised no matters of constitutional principle.

## 2.5 Proposed Affordable Housing LCO

Quick links:	<a href="#">Proposed National Assembly for Wales (Legislative Competence) (No.5) Order 2008</a>
	<a href="#">Proposed Affordable Housing LCO web page</a>

The proposed *National Assembly for Wales (Legislative Competence) (No.5) Order 2007* in relation to affordable housing ('the proposed LCO') is currently undergoing **pre-legislative scrutiny**. This is

<sup>9</sup> [National Assembly for Wales, Proposed Vulnerable Children LCO Committee, Report on the National Assembly for Wales \(Legislative Competence\) \(No-3\) Order 2007, LD6939, 25 January 2008](#)

being conducted by a legislation committee of the National Assembly for Wales: [The Proposed Affordable Housing LCO Committee](#).

The Committee has launched a consultation exercise which closes on 28 January 2008.

The Committee will report to the Assembly by 11 April 2008.

The Secretary of State for Wales has yet to refer the draft LCO to Parliament for scrutiny.

## **2.6 Welsh Language LCO**

The Welsh Language LCO has not been laid before the Assembly. It is expected to be laid in the spring of 2008.

In a [written cabinet statement from the 25 September 2007](#), the Leader of the House announced a 'slightly longer timeframe' for the introduction of the Welsh Language LCO:

'This LCO is following a slightly longer timeframe and as you will appreciate this is an important issue that we need to get right. Nonetheless, we are in the process of developing this commitment and we should be in a position to bring forward a draft LCO in the spring of 2008.'

## **3. Member proposed LCOs**

### **3.1 Proposed Domestic Fire Safety LCO**

Ann Jones AM has been granted leave by the National Assembly for Wales to bring forward a legislative competence order in relation to domestic fire safety<sup>10</sup>. The [outline proposed LCO](#) that was submitted to the ballot seeks:

'Provision to ensure that all new build housing in Wales is fitted with automatic fire sprinklers systems.'

This proposed LCO has been drafted and circulated to officials in the Welsh Assembly Government and Wales Office for comment. This is the first step in seeking Welsh Assembly Government agreement to, and Whitehall's clearance of, the proposed LCO prior to its being laid.

### **3.2 Proposed Mental Health Reform LCO**

Jonathan Morgan AM has been granted leave by the National Assembly for Wales to bring forward a legislative competence order in relation to mental health reform. The [outline proposed LCO](#) that was submitted to the ballot states:

'The proposed Order would add a Matter under Field 9 of Schedule 5 of the Government of Wales Act 2006 about and in connection with mental health.'

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<sup>10</sup> [RoP p79-100, 10 October 2007](#)

Jonathan Morgan AM, during the plenary debate on this proposal, outlined his desired timetable for the introduction of the proposed LCO:

'If the Assembly approves this motion today, I propose to attempt to produce a proposed Order, along with all of the relevant documentation, before the end of the year. I was hoping to do it before the end of November. I would then ensure a three-month consultation period with all the relevant stakeholders from outside the Assembly who would wish to examine the detail. No doubt, an Assembly committee would also wish to be involved. Subject to any amendments, I would then produce a draft Order'<sup>11</sup>

The Minister for Health and Social Services, Edwina Hart AM, in responding to Jonathan Morgan's proposal, offered Government support in the development of this proposed LCO:

'I am happy to support the motion and to offer Government support to Jonathan's development of the LCO.'<sup>12</sup>

This proposed LCO has now been drafted and circulated to officials in the Welsh Assembly Government and Wales Office for comment. This is the first step in seeking Welsh Assembly Government agreement to, and Whitehall's clearance of, the proposed LCO prior to its being laid.

### **3.3 Proposed Carers LCO**

On 12 December 2007, the third ballot for Assembly Members to submit proposals for legislation took place. Helen Mary Jones AM was selected and will seek to bring forward a legislative competence order in relation to carers. The [outline proposed LCO](#) that was submitted to the ballot seeks to:

'Amend the relevant fields in Schedule 5 of the Government of Wales Act 2006 to make provision for the establishment of a statutory requirement for health bodies and providers of social services to identify carers, and to inform carers of their rights; and to make further provision in relation to referral pathways for carers.'

A Plenary debate seeking leave to introduce this proposed LCO has been scheduled for 20 February 2008.

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<sup>11</sup> [RoP p71-88, 17 October 2007](#)

<sup>12</sup> [Ibid p.85](#)



#### 4. Proposed Assembly Measures – Summary of Progress

The table below provides a brief summary of the progress of the three Assembly Measures that the Welsh Assembly Government has brought forward during the current Assembly session.

<b>Welsh Assembly Government Proposed Assembly Measures</b>			
<b>Assembly Measure</b>	<b>Stage</b>	<b>Date introduced</b>	<b>To report by</b>
<a href="#"><u>The Proposed NHS Redress (Wales) Measure 2007</u></a>	Stage two consideration began on 30/01/08	02 July 2007	25 January 2008
<a href="#"><u>The draft Proposed Learner Travel (Wales) Measure</u></a>	Consultation ended, Committee reported on the draft 21/11/07	Not yet introduced	-
<a href="#"><u>The draft Proposed Learning and Skills (Wales) Measure</u></a>	Consultation launched 16/01/08	Not yet introduced	-

The table below provides a brief summary of the progress of the two Assembly Measures that Members have proposed to bring forward during the current Assembly session.

<b>Member Proposed Measures</b>			
<b>Assembly Measure</b>	<b>Stage</b>	<b>Date introduced</b>	<b>To report by</b>
<a href="#"><u>The Proposed Healthier School Meals Measure (Jenny Randerson AM)</u></a>	Currently being drafted	-	-
<a href="#"><u>The Proposed School Closures (Consultation and Categories) Measure (Mike German AM)</u></a>	Refused leave to introduce	-	-
<a href="#"><u>The Proposed Impact Assessments for the Selling off of Playing Fields Measure (Dai Lloyd AM)</u></a>	Debate seeking leave to introduce scheduled for 06/02/08	-	-

## 5. Welsh Assembly Government Proposed Measures

### 5.1 *The Proposed NHS Redress (Wales) Measure 2007*

The [Proposed NHS Redress \(Wales\) Measure 2007](#) ('the proposed Measure') has undergone stage one consideration. Stage two scrutiny began on 30 January, following agreement in Plenary on 29 January 2008. Stage one scrutiny was conducted by a committee of the National Assembly for Wales: [The Proposed NHS Redress \(Wales\) Measure Committee](#).

The Committee laid its report on 24 January 2008<sup>13</sup>.

The Committee conducted a consultation exercise and received [34 written submissions](#). The Committee has also taken oral evidence from a range of key stakeholders during the course of its meetings, including evidence from:

- Welsh Board of Community Health Councils
- Citizens Advice Cymru
- Bro Morgannwg NHS Trust
- Medical Protection Society
- British Medical Association
- Royal College of Nursing Wales
- The Law Society
- Medical Defence Union
- Action Against Medical Accidents
- Welsh Health Legal Services
- Welsh Risk Pool
- Welsh NHS Confederation

Further information on the progress of this proposed Measure is available from [the Proposed NHS Redress \(Wales\) Measure 2007 web page](#).

### 5.2 *The draft Proposed Learner Travel (Wales) Measure*

The [draft Proposed Learner Travel \(Wales\) Measure](#) ('the Draft Measure') has been published by the Welsh Assembly Government as a consultation draft<sup>14</sup>. The [Enterprise and Learning Committee](#) of

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<sup>13</sup> [National Assembly for Wales. Proposed NHS Redress \(Wales\) Measure Committee. Stage 1 report on the proposed NHS Redress \(Wales\) Measure 2007, LD6935, 24 January 2008](#)

the National Assembly for Wales has taken evidence on specific elements of the Measure with a view to contributing to the Government's consultation on the draft.

The Committee held three scrutiny sessions where it took oral evidence from key stakeholders:

- Fforwm
- Association of School and College Leaders (ASCL) Cymru
- National Association of Headteachers (NAHT) Cymru
- Governors Wales
- Welsh Secondary Schools Association (WSSA)
- Children's Commissioner
- Belt up School Kids (BUSK)
- Stuart's Campaign
- Rhieni dros Addysg Gymraeg (RhAG)
- Association of Transport Co-ordinators (ACTO)
- Confederation of Passenger Transport (CPT)
- Welsh Local Government Association (WLGA)

The Committee also noted papers submitted by SUSTRANS, the National Autistic Society, Funky Dragon and CYDAG.

The Deputy First Minister, who holds responsibility for this Measure within his portfolio, gave evidence to the Committee on 10 October 2007.

On 21 November 2007, the Committee laid before the Assembly a report on its consideration of the draft proposed Measure. A copy of the report is available from the [Committee's web pages](#).

It is expected that the proposed Measure will be introduced shortly but no definite date has been announced.

### **5.3 The Proposed Learning and Skills (Wales) Measure**

The Welsh Assembly Government has announced that it intends to introduce an Assembly Measure in relation to the 14-19 Learning Pathways policy initiative.

The Welsh Assembly Government aims for 95 per cent of young people by the age of 25 to be ready for high skilled employment or higher education by 2015.

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<sup>14</sup> [Welsh Assembly Government, Consultation on the Learner Travel \(Wales\) Measure, June 2007](#)

The proposals in the Learning and Skills (Wales) Measure 2008 underpin the six key elements of 14-19 Learning Pathways and will:

- Secure learners' entitlement to a wide range of choices of general and applied course options;
- Allow for an extension of the range of advice and support available for learners;
- Place a duty on LEAs, maintained school governing bodies, Head teachers and Principals and the governing bodies of Further Education Institutions, to consider whether to collaborate to maximise the availability of curriculum choice;
- Provide a regulation making power to define the range and number of options available to meet learners' entitlements;
- Allow directions to be issued and guidance to be developed to enhance learning coach and personal support;
- Ensure learners receive wider experiences and opportunities including the development of Key Skills.

On 15 January 2008, the Deputy Minister for Skills made a legislative statement<sup>15</sup> on proposals for a Learning and Skills (Wales) Measure in plenary, and a consultation document<sup>16</sup> on the proposals has been launched. The consultation ends on 29 April 2008.

It is expected that the proposed Measure will be introduced shortly but no definite date has been announced.

## **6. Member Proposed Measures**

### **6.1 *The Proposed Healthier School Meals Measure***

Jenny Randerson AM has been granted leave by the National Assembly for Wales to bring forward a proposed Assembly Measure in relation to healthier school meals.

The [pre-ballot information](#) outlines the policy objectives of this proposed Measure:

'1. The nutritional content of school meals has been a source of concern for some time. Feeding our children shouldn't be about putting the easiest and quickest food on their plates, it should be a vital part of feeding their appetite for learning and feeding their ability to learn.

This measure would introduce new nutritional standards for school meals, based on best practice and research, which would provide children with at least a third of their nutritional needs.

It would place a duty on education authorities to ensure that meals provided at schools complies with nutritional regulations that ensure the provision of a meal that provides largely a third of a child's daily nutritional needs.

Allow education authorities to specify particular foods or drinks which fail to satisfy the nutritional regulations so that they can be banned from school premises.

This measure falls within matter 5.9 so is already within the legislative competence of the Assembly.'

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<sup>15</sup> [RoP p54-75, 15 January 2007](#)

<sup>16</sup> [Welsh Assembly Government, \*Consultation on Proposals for a Learning and Skills \(Wales\) Measure 2008\*, January 2008](#)

This proposed Measure is in the process of being drafted and has to be laid before the Assembly by 19 March 2008.

## **6.2 *The Proposed School Closures (Consultation and Categories) Measure***

Mike German AM won the legislative ballot held on 3 October 2007 and had proposed to bring forward an Assembly Measure in relation to school closures. The National Assembly for Wales voted against the introduction of this proposed Measure on 7 November 2007, therefore it will not be brought forward<sup>17</sup>.

## **6.3 *The Proposed Impact Assessments for the Selling off of Playing Fields Measure***

On 12 December 2007, the third ballot for Assembly Members to submit proposals for legislation took place. Dai Lloyd AM was selected and will seek to bring forward a proposed Measure in relation to impact assessments for the selling off of playing fields.

A plenary debate seeking the Assembly's leave to introduce the proposed Measure is scheduled for 6 February 2008.

The [pre-ballot information](#) outlines the policy objectives of this proposed Measure:

'The selling off of playing fields is said to have a negative impact on the communities around them, both in terms of health and well being and in terms of social inclusion. This measure would place a duty on local authorities to consider this impact before selling any playing fields'.

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<sup>17</sup> [RoP p79-101, 07 November 2007](#)

## 7. Westminster Legislation

During the course of the current Assembly session two Acts of Parliament have been passed that have transferred Measure making powers to the National Assembly for Wales by inserting additional Matters into Fields in Schedule 5 to the *Government of Wales Act 2006* (the '2006 Act').

### 7.1 *The Further Education and Training Act 2007 (ch.25)*

Clause 27 of the [Further Education and Training Act 2007](#)<sup>18</sup> (the 'FET Act') inserts six new Matters into Field 5 of Schedule 5 to the 2006 Act. The FET Act received Royal Assent on 23 October 2007. Clause 27 came into force two months after this date, on 23 December 2007.

The new Matters devolve Assembly Measure making power, in relation to further education and training, in the following areas:

- Provision of facilities for post-16 education and training
- Establishment and dissolution of institutions
- Collaboration between bodies that conduct Further Education institutions
- Financial resources
- Inspection
- Provision of advice and information

### 7.2 *The Local Government and Public Involvement in Health Act 2007 (ch.28)*

The [Local Government and Public Involvement in Health Act 2007](#)<sup>19</sup> (the '2007 Act') inserts five new matters into Field 12 of Schedule 5 to the 2006 Act. The 2007 Act received Royal Assent on 30 October 2007. The clause that devolves these powers to the National Assembly for Wales came into force two months after this date, on 30 December 2007.

The new Matters devolve Assembly Measure making power, in relation to Local Government, in the following areas:

- The constitution, abolition or alteration of areas and the establishment and abolition of councils
- Byelaws
- Conduct of members
- Sustainable development and economic, social or environmental wellbeing

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<sup>18</sup> [The Further Education and Training Act 2007 \(chapter.25\)](#)

<sup>19</sup> [The Local Government and Public Involvement in Health Act 2007 \(chapter.28\)](#)

- Improvement, involvement, assessment and inspection

## 8. The UK Government's 2007/08 Legislative Programme

The UK Government has announced three Bills in the Queen's Speech on 6 November 2007 that are expected to contain framework powers for Wales. These powers may be inserted at committee stage, rather than appearing on the face of the Bills. The three Bills are:

### 8.1 *The Education and Skills Bill*<sup>20</sup>

This Bill will contain framework provisions in relation to:

- The inspection of schools for the pre-16 age group (to compliment the existing powers for inspection of post-16 education and training)
- Registration and regulation of independent schools in Wales

### 8.2 *The Planning Bill*<sup>21</sup>

This Bill will contain framework provisions in relation to:

- The preparation, content, examination and review of local development plans (LDPs), and the powers of the Welsh Ministers to intervene in relation to LDPs and the preparation, content and status of the Wales Spatial Plan.

### 8.3 *The Local Transport Bill*<sup>22</sup>

This Bill will contain framework provisions in relation to:

- The making, operation and enforcement of schemes for imposing charges in respect of the use or keeping of motor vehicles on Welsh trunk roads, and the application of the proceeds of charges imposed under such schemes towards purposes relating to transport.

These Bills, and a wide range of other UK Bills, contain further provisions for Wales. However, with the exception of the above, these do not confer further powers on the National Assembly for Wales, and are therefore beyond the scope of this paper.

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<sup>20</sup> [The Education and Skills Bill, Bill 12 2007-08](#)

<sup>21</sup> [The Planning Bill, Bill 11 2007-08](#)

<sup>22</sup> [The Local Transport Bill \[HL\], Bill 1 2007-08](#)

## Glossary

### **Acts of Parliament**

Acts of Parliament are laws made by the UK Parliament. Proposals for new laws (Bills) are debated by both the House of Commons and the House of Lords. If both Houses of Parliament vote for the proposals then the Bill is ready to become an Act. It can only be described as an Act when it has received Royal Assent from the Monarch. They are sometimes also referred to as Statutes.

### **Assembly**

See National Assembly for Wales

### **Assembly Members (AMs)**

The 60 elected representatives forming the National Assembly for Wales.

### **Assembly Powers Tracking Notes**

Produced by the Members' Research Service, these notes track the powers being conferred on the National Assembly for Wales and are unique in giving a consolidated picture of the powers of the Assembly and from where they arise.

### **Assembly Proceedings**

Any proceedings of the National Assembly for Wales (i.e. plenary), committees or sub-committees of the National Assembly for Wales.

### **Audit Committee**

The Audit Committee is the only committee that is required by the *Government of Wales Act 2006*. It must be chaired by an opposition AM.

### **Committees**

There are three kinds of committee in the Assembly: committees that scrutinise LCOs and Measures; Scrutiny Committees and Standing Committees such as the Audit Committee.

### **Constitution**

A constitution is the set of laws, rules, principles and procedures that specify how a state is to be governed, and define the relationships between the branches of government, and between the government and the individual. Most countries have a constitution written down in a single document but the UK is said to have an "unwritten constitution". In fact, its constitution is found in a range of sources including Acts of Parliament, case law and custom and precedent.

### **Counsel General**

The Chief Legal Adviser to the Welsh Assembly Government. The Counsel General is not a Welsh Minister but is a member of the Welsh Assembly Government.

### **Draft Legislative Competence Order (LCO) (Draft Order)**

This refers to an LCO that has undergone pre-legislative scrutiny as a Proposed order and is under consideration by the Assembly and Parliament who will vote on whether to approve it or not. It cannot be amended.

### **Deputy Welsh Ministers**



Appointed by the First Minister from among the Assembly Members. They form part of the Welsh Assembly Government, but are not included in the definition of Welsh Ministers. There are to be no more than 12 Welsh Ministers (which here does not include the First Minister) and Deputy Welsh Ministers in total at any one time.

### **Executive**

A term used to describe Government and distinguish it from the legislature. It formulates policy and introduces and implements legislation. The Welsh Assembly Government is the executive.

### **Fields**

Devolved policy areas within which the National Assembly for Wales are able to seek legislative competence to enact Measures. The Fields are specified in Schedule 5 to the *Government of Wales Act 2006*.

### **First Minister**

An Assembly Member appointed by the Monarch to be First Minister, following nomination by the National Assembly for Wales. Head of the Welsh Assembly Government, who then appoints the other Welsh Ministers with the approval of the Monarch.

### **Government of Wales Act 2006**

This Act, passed by the UK Parliament in 2006, supercedes the *Government of Wales Act 1998* which created the Assembly. It separates the Executive and Legislative branches of the former corporate body; it gives the Assembly enhanced legislative powers and made changes to the electoral system for Assembly elections.

### **Legislative Competence**

The term used to describe the scope of the National Assembly for Wales' power to enact Measures. Schedule 5 and Section 94 of the *Government of Wales Act 2006* define the National Assembly for Wales' legislative competence as far as its power to enact Assembly Measures is concerned. The Assembly obtains legislative competence in relation to a particular policy area once that policy area has been inserted into Schedule 5 of 2006 Act (where the policy area is termed a "Matter"). Legislative Competence may also be extended by Schedule 5 of the 2006 Act being amended by an Act of Parliament.

### **Legislative Competence Order (LCO)**

An Order in Council made by Parliament under Section 95 of the *Government of Wales Act 2006* that amends Schedule 5 to the 2006 Act and changes the Legislative Competence of the Assembly.

### **Legislature**

A law-making body where new laws are debated and agreed. It also scrutinises the Government's decisions and holds the Government to account.

### **Matters**

Matters are specific defined policy areas in which the Assembly has legislative competence, within the broader subject Fields in Schedule 5 to the *Government of Wales Act 2006*. Matters may be inserted into the Schedule 5 Fields by Acts of Parliament or Legislative Competence Orders (LCOs).

### **Measures of the National Assembly for Wales (Measures)**

A new category of legislation, which may be used to amend existing Acts of Parliament and make new provision. Measures can, generally, only relate to Matters listed in the Fields set out in Part 1 of Schedule 5 to the Government of Wales Act 2006.

### **National Assembly for Wales (Assembly)**

The unincorporated association of 60 Assembly Members - a separate legislature established under the *Government of Wales Act 2006*, with a parliamentary/legislative and scrutinising function.

### **National Assembly for Wales Commission**

A corporate body to support the new National Assembly for Wales. This will be responsible for employing staff, holding property, entering into contracts and ensuring that support services are provided for Assembly Members. Members of the Commission will be the Presiding Officer and four other Assembly Members.

### **Parliamentary Supremacy**

Parliamentary supremacy is the doctrine in UK constitutional law that the Parliament of the United Kingdom is the sovereign law making body. This means it is supreme to all other governmental institutions and may amend or repeal any legislation passed by previous parliaments with a majority.

### **Plenary**

This is the term that is used when all 60 AMs of the Assembly meet to conduct business.

### **Pre-legislative scrutiny**

Consideration of draft legislation by a Parliamentary or Assembly committee before the formal process of approval is started. With regard to LCOs, this enables elected AMs to seek information, take evidence and propose improvements to a proposed Order before a draft Order is laid.

**Primary legislation** - for most purposes, an Act of Parliament.

**Privy Council** - a meeting of the Queen and her Privy Counsellors who are members of the government.

### **Proceedings of the Assembly**

This term refers to meetings of the Assembly in Plenary session only.

### **Proposed Legislative Competence Order (LCO) (Proposed Order)**

A preliminary draft Order in Council prepared for pre-legislative scrutiny by an Assembly Member, Assembly Committee or the Welsh Assembly Government that would, if the proposed Order is laid before the Assembly and Parliament and passed, enhance the legislative competence of the Assembly.

### **Referendum**

The procedure by which a question is referred to the electorate, who vote on it in a similar way to a general election.

### **Royal Approval**

Assembly Measures will be approved by the Monarch at the Privy Council.

### **Secretary of State for Wales**

The Secretary of State for Wales is a member of the UK Government and currently has a seat in Cabinet. His or her role is defined as acting to ensure that the interests of Wales are fully taken into account by the UK Government in making decisions that will have effect in Wales; to represent the UK Government in Wales and to be responsible for ensuring the passage of Wales-only legislation through Parliament. The Secretary of State may attend and speak in Proceedings of the Assembly but may not vote and is not a Member of the Assembly.

### **Standing Orders**

The rules which govern regulation of Assembly proceedings.

### **Subordinate Legislation**

Also known as secondary legislation or delegated legislation, subordinate legislation is law made by ministers under powers given to them by Acts of Parliament in order to implement and administer the requirements of Primary Legislation. Under the *Government of Wales 1998* the Assembly was empowered to make subordinate legislation. From May 2007, most subordinate legislation in devolved matters will be made by Welsh Ministers.

### **Welsh Assembly Government**

A new body with governmental/executive responsibilities established under the *Government of Wales Act 2006*, to develop policies and take decisions. The members of the Welsh Assembly Government will be:

- The First Minister
- The Welsh Ministers
- The Counsel General to the Welsh Assembly Government
- The Deputy Welsh Ministers

Welsh Assembly Government staff are members of the Home Civil Service.

### **Welsh Minister**

An Assembly Member appointed as Welsh Minister by the First Minister, with the approval of the Monarch, forming part of the Welsh Assembly Government.

### **Welsh Ministers**

The First Minister and the Welsh Ministers appointed by the First Minister. This does not include Deputy Welsh Ministers or the Counsel General.