



Ein cyf/Our ref LFGT096313

David Rees AM  
Chair,  
Health and Social Care Committee  
National Assembly for Wales  
Cardiff Bay  
Cardiff  
CF99 1NA

10 October 2013

Dear David,

### **Revised Legislative Consent Memorandum: Care Bill**

Thank you for your letter of September 30 requesting clarification on issues on the revised Legislative Consent Memorandum ("the revised LCM"). In particular that the Committee wanted to know why the LCM does not take account of reciprocal arrangements for local authorities in Scotland to ensure continuity of care services following provider failure.

The Care Bill does not provide a specific provision to place temporary duties on local authorities in Scotland because this would cut across the existing duties placed on Scottish local authorities by virtue of section 12 of the Social Work (Scotland) Act 1968 to provide assistance to individuals in their areas who are in need.

The duty under section 12 applies even if the individual is ordinarily resident outside the local authority's area, including individuals placed in a Scottish local authority area by English, Welsh or Northern Irish authorities. So adult placements in regulated settings in Scotland by a local authority across the UK or arranged by the individuals themselves will have a level of protection should they be unfortunate to experience a breakdown in their care arrangements as a result of provider failure.

You may be aware that as a result of further changes to the Care Bill (tabled October 7) it has been necessary for me to table a Supplementary Memorandum and Motion on amendment to clause 39 and 71 of the Care Bill that impact on Wales and require the consent of the Assembly. These changes will enhance the reciprocal arrangements referred

to in revised LCM for continuity of care across our borders, and makes a number of amendments to section 117 of the Mental Health Act 1983 as it extend to Wales, in respect of local authorities duties for mental health after care .

Below is a link to the information that I that I laid on October 9.

<http://www.assemblywales.org/bus-home/bus-business-fourth-assembly-laid-docs.htm?act=dis&id=250840&ds=10/2013>

<http://www.assemblywales.org/bus-home/bus-business-fourth-assembly-laid-docs.htm?act=dis&id=250841&ds=10/2013>

I remain grateful to the Committee for their consideration of the LCMs in particular their overlap with the Social Services and Wellbeing (Wales) Bill. You will appreciate the complexity of the changes across both the Care and SSWB Bill.

We are also keen to ensure that reciprocal arrangements (as far as practical) that comprehensively address the differing scenarios individuals may find themselves in, this has unavoidably required a further Supplementary LCM.

I trust this letter provides the Committee with assurance about the legislative basis for the continuity of care arrangements in its application in Scotland. If the Business Committee decide to remit the Supplementary Legislative Consent Motion and Memorandum to the HSC Committee I will await consideration of the Report from the HSC Committee with interest.

Yours Sincerely

A handwritten signature in cursive script that reads "Gwenda". The signature is written in black ink and is positioned above a vertical line that extends downwards from the end of the signature.

**Gwenda Thomas AC / AM**

Y Dirprwy Weinidog Gwasanaethau Cymdeithasol  
Deputy Minister for Social Services