



Ein cyf/Our ref LF/HL/847/14

David Melding  
Chair  
Constitutional and Legislative  
Affairs Committee  
National Assembly for Wales  
Cardiff Bay  
Cardiff

3 September 2014

Dear David,

**Legislative Consent Memorandum Report: Deregulation Bill: Amendments in relation to Farriers and Home School Agreements**

I would like to thank the Constitutional and Legislative Affairs Committee for their scrutiny of the Legislative Consent Memorandum on amendments to the UK Deregulation Bill relating to Farriers and Home School Agreements and its report of July 2014.

I note from the report that the Committee considered that the approach taken in respect of provision regarding the Farriers Registration Council is reasonable, but were of the view that there was ample opportunity for the removal of home-school agreements to be delivered by means of an Assembly Bill, rather than dealt with by legislation taken through Parliament.

Whilst in general the Welsh Government follows the principle that primary legislation in devolved areas should be enacted by the Welsh Ministers, it is the case that there are circumstances in which it is sensible and advantageous if provision which otherwise would be within the Assembly's competence is sought for Wales in Parliamentary Bills, with the consent of course of the National Assembly (signified by approval of a Legislative Consent Motion). The First Minister confirmed this as the Welsh Government's position in his letter to you dated 15 November 2011, and also provided examples of situations where it might be appropriate to ask for or agree to provisions in a UK Bill.

In relation to the UK Government's legislative proposal to repeal the requirement for home school agreements, I considered firstly whether it would be right to repeal the requirement for Wales, and secondly whether it would be appropriate to do so through the UK Government's Bill.

On the first point, I am satisfied the proposal to repeal the requirement for home-school agreements is also appropriate for Welsh circumstances.

Currently, all maintained schools have a duty to adopt a home-school agreement and a parental declaration. The governing body must also take reasonable steps to secure that the parental declaration is signed by parents and must from time to time review the HSA. Before adopting the HSA and the parental declaration, or revising that agreement, the governing body must consult parents.

Home-school agreements have been difficult to enforce in practice. The current process of consulting parents, drawing up and monitoring HSAs and obtaining parental signatures is burdensome for schools. They are not enforceable, parents are not legally required to sign them, and there are no sanctions for failing to comply with them. As such the legislation has no practical purpose.

The Welsh Government recognises the positive and significant effect parental involvement has on children's educational attainment, which is why parental engagement is a key theme of our strategy to tackle the link between poverty and educational underachievement. To be effective schools need to identify innovative and creative ways to involve parents and carers in their child's education and to motivate them to support learning at home and to support the school. To assist them we will be issuing guidance and resources to support schools in developing their own strategies. Removing the legislative requirement for home-school agreements would allow schools to work with parents in a way that suits the circumstances of the school, its pupils and their parents rather than through a prescribed mechanism.

On the second point, of whether it would be appropriate to repeal the requirement in the UK Government's Bill, again I came to the conclusion that it would be. While it is difficult to be definitive about the situations in which it is appropriate to use a UK Bill to make provision in a devolved area, the First Minister's letter of November 2011 provided illustrative examples of such situations, such as where the devolved provision in question is minor or technical or non-contentious; or where the provision would also be appropriate for Wales but there is no time to bring forward a similar provision in the Assembly.

In my view, the provision in question is non-contentious, given that this is a repeal of legislation that no longer has practical purpose. There is no substantive new provision about home-school agreements, but simply the removal of the requirement to have them. This will relieve an unnecessary burden on schools, many of which consider that their use is a paper exercise alongside other initiatives to support parental engagement. However, should a school consider the home-school agreement to be a useful tool there is nothing to preclude a school from continuing with it, and the repeal of the requirement to have such an agreement will not disadvantage them, as the requirement was not enforceable in any case.

Bearing this in mind, taking provision in the UK Bill Deregulation Bill enables a pragmatic solution to be reached in a timely fashion, whilst simultaneously respecting the competence of the Assembly through the LCM process. As such I consider it a matter of practical good government for this provision to be included in this UK Bill.

I have specifically considered the Committee's view that there has been ample opportunity to make provision for this repeal in Assembly legislation. In July 2013, when the UK Government was seeking to finalise the content of the Deregulation Bill, the Education (Wales) Bill had just been introduced into the Assembly. As this matter had not been included in the Education Bill on introduction, it was not deemed appropriate to seek to amend that Bill in Stages 2 or 3 to include provision relating to HSA. Even if such amendments have been admissible, which is certainly open to question, to have sought to

amend the Bill in such a way would have meant the responsible Committee had not been able to consider this during their Stage 1 consideration.

Subsequent to July 2013 the Higher Education (Wales) Bill has been introduced, and the First Minister has announced a bill relating to the establishment of Qualifications Wales will be brought forward. Neither were considered appropriate for inclusion of the HSA provisions given the (proposed) content of those Bills.

Whilst we are very keen to ensure that legislation relating to Wales, which is within the legislative competence of the Assembly, is made in Wales using Assembly Bills, we need to balance this with the opportunities presented to us to ensure legislation affecting Wales is made in a timely manner. Therefore it was considered appropriate, on this occasion, to use the Deregulation Bill.

I hope this explanation is helpful to the committee, and I welcome the opportunity to debate the Legislative Consent Motion on this in Plenary on 16 September.

*Best Regards*  
*Huw*

**Huw Lewis AC / AM**

Y Gweinidog Addysg a Sgiliau  
Minister for Education and Skills