

Paratowyd y ddogfen hon gan gyfreithwyr Cynulliad Cenedlaethol Cymru er mwyn rhoi gwybodaeth a chynghor i Aelodau'r Cynulliad a'u cynorthwyr ynghylch materion dan ystyriaeth gan y Cynulliad a'i bwyllgorau ac nid at unrhyw ddiben arall. Gwnaed pob ymdrech i sicrhau bod y wybodaeth a'r cynghor a gynhwysir ynddi yn gywir, ond ni dderbynnir cyfrifoldeb am unrhyw ddibyniaeth a roddir arnynt gan drydydd partion.

This document has been prepared by National Assembly for Wales lawyers in order to provide information and advice to Assembly Members and their staff in relation to matters under consideration by the Assembly and its committees and for no other purpose. Every effort has been made to ensure that the information and advice contained in it are accurate, but no responsibility is accepted for any reliance placed on them by third parties.

## **The Children and Young People Committee**

### **The Welfare Reform Bill**

### **Legislative Consent Memorandum**

### **Legal Advice Note**

1. This is a review of the latest Legislative Consent Motion ("LCM") and the memorandum in relation to the Welfare Reform Bill ("the Bill") that was laid at the National Assembly for Wales ("the Assembly") on 3rd January 2012.

#### The LCM

2. As you will be aware, when the UK Parliament wishes to legislate on a subject matter which has already been devolved to the Assembly, since 2007 it has been a requirement for the relevant Whitehall department to consult the Assembly, to obtain the agreement of the Welsh Ministers and to only proceed with certain provisions in Parliamentary Bills if the Assembly agrees to their inclusion. Such consent is given by the Assembly through an LCM.
3. There is very little time in which to consider this LCM due to the tight Parliamentary timetable, however there are a number of points that the Children and Young People's Committee ("the Committee") should be

aware of when considering this LCM. This LCM is due to be debated in Plenary on 24<sup>th</sup> January 2012.

### The Bill

4. The Bill has been considered previously when other provisions were considered by motion NDM 4713. This supplementary LCM has been brought forward for consideration due to further amendments and proposed changes to the Bill that would come under the legislative competency of the Assembly.
5. By way of background, the Bill provides for the introduction of a 'Universal Credit' to replace a range of existing means-tested benefits and tax credits for people of working age, starting from 2013. The Bill follows the November 2010 White Paper, 'Universal Credit: welfare that works', which set out the Coalition Government's proposals for reforming welfare to improve work incentives, simplify the benefits system and tackle administrative complexity. Besides introducing Universal Credit and related measures, the Bill makes other significant changes to the benefits system. During the Committee Stage, the Government amended the Bill to provide for the establishment of a Social Mobility and Child Poverty Commission. It is these amendments made at the Committee stage, which are now subject to this LCM.
6. There are a couple of points to make in relation to the memorandum that require further clarification and also a general point in relation to timing.
  - i. Paragraph 8 of the Legislative Consent Memorandum lists the provisions contained in the Bill that require consent. Schedule 13, paragraph 3 (the proposed new Schedule 1) will remove the duty of consulting the Welsh Ministers when a Minister of the Crown appoints any other members of the Social Mobility and Child Poverty Commission (formerly known as the Child Poverty Commission) ("the Commission"). However, paragraph 11 of the memorandum (advantages of utilising the Bill) states that if consent was withheld for the LCM, "the logical consequence would be that reference to the Welsh strategy and consultation of the Welsh Ministers would be removed." This statement seems to contradict the LCM because if the LCM is agreed then consultation in relation to appointments to the Commission board with the Welsh Ministers will be removed in any event. Clarification is needed as to whether the Minister is referring to consultation in relation to appointments

- to the Commission board or consultation in relation to the Welsh Child Poverty Strategy. In any event, what is the reasoning for removing the duty of consultation with the Welsh Ministers in relation to appointments?
- ii. Paragraph 7 of the memorandum states that the UK Government is considering further amendments to the Bill to be tabled at the Lords Report stage (11th January 2012). It states that these amendments, which we have yet to see, will remove the requirement for the Commission's annual statement to present views on the progress made towards implementing devolved strategies. If the Commission will no longer report on the performance of the Welsh child poverty strategy, will the relevant Welsh Minister undertake to report annually on progress made/targets met?
  - iii. The Scottish Parliament has already considered this Bill at length last year and it has been subject to no fewer than 4 committee reports between October and December including consideration of the amendments that were only laid before the Assembly for consideration on 3rd January 2012. It is not clear why the LCM considering these amendments has been laid much later in Wales than in Scotland.
7. Members of the Committee might like to consider writing to the Minister pointing out any concerns they might have in relation to the LCM and requesting a response before the Plenary debate on 24<sup>th</sup> January 2012. At the very least, if a response from the Minister cannot be made before the debate then perhaps the Minister could respond orally to the Committee's concerns at the outset of the Plenary debate.