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Deputy Minister for Children and Social Services



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref : LF/GT/20/12

Christine Chapman
Chair
Children and Young People Committee
National Assembly for Wales
Cardiff Bay
Cardiff
CF99 1NA

16th January 2012

Dear Christine,

Supplementary Legislative Consent Memorandum (LCM) relating to the Welfare Reform Bill

I am responding to your letter dated 12 January 2012 concerning the LCM on the provisions in the Welfare Reform Bill relating to the Social Mobility and Child Poverty Commission.

I appreciate that the Committee was able to discuss the LCM at short notice and have provided responses to each of the points raised in your letter below.

Timing

1. The first LCM on the Welfare Reform Bill, concerning information sharing provisions, was considered by the previous Assembly in March 2011. The provisions on the Social Mobility and Child Poverty Commission were inserted into the Bill in May 2011. This supplementary LCM was laid at the earliest opportunity following the conclusion of negotiations with the UK Government to secure further amendments to these provisions. It was not until mid November 2011 that the UK Government offered further legislative concessions and not until late in December that it confirmed it would start the process to table those further amendments in the House of Lords.

It was in Welsh interests to hold off agreement to table a Legislative Consent Motion, signifying agreement to what the Bill would contain relating to the Commission, until we were satisfied as to what that content would finally be. Standing Order 29.6 requires that "When a legislative consent memorandum is laid, the government must table a motion ("a legislative consent motion") which must seek the Assembly's agreement to the inclusion of a relevant provision in a relevant Bill."

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Wedi'i argraffu ar bapur wedi'i ailgylchu (100%)

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The Standing Orders of the Scottish Parliament differ from those of the National Assembly. The Scottish Government need only table a Legislative Consent Motion after the committee which has considered a Legislative Consent Memorandum has reported. Therefore it was able to state in the memorandum laid in October that it was not yet content with what the Bill contained regarding the Commission; but when it came to table the Legislative Consent Motion which was debated on 22 December, it was able to propose that the Parliament should give its consent on that point.

Points of Clarification

2. The Secretary of State's duty to consult with Welsh Ministers and other Devolved Administrations on appointments to the Commission was initially set out in the Child Poverty Act 2010. The UK Government has decided that there should no longer be a duty to consult with Devolved Administrations on appointing new members to the Social Mobility and Child Poverty Commission.

The reason that the UK Government made this decision was that it concluded there was an asymmetry between the Secretary of State having to consult the Devolved Administrations, and not having to be consulted in turn on appointments made by the Devolved Administrations.

There is now agreement at Ministerial level that the UK Government and Welsh Government will consult each other on any new appointments being made to the Commission.

The Legislative Consent Motion relates to all the provisions in the Bill relating to the Social Mobility and Child Poverty Commission which are within the legislative competence of the Assembly. The logical consequence of rejecting the motion would be that references to Wales regarding the Commission would be removed namely, reference to the Welsh strategy and to the Welsh Ministers, including the requirement for the Secretary of State to consult the Welsh Ministers before preparing a statement on child poverty in 2020.

3. The amendments proposed in terms of the reporting arrangements would remove the requirement for the Commission's annual report to present views on progress in implementing the devolved strategies. The report will instead describe the measures taken by Welsh Ministers in accordance with the Welsh Strategy. This will preserve the direct accountability of the Welsh Ministers to the National Assembly for Wales for reporting on progress, which is why the Welsh Government sought this legislative change to the Bill. It will also re-instate what was previously provided for and agreed to by the Assembly in the Child Poverty Act 2010 as originally enacted.

In terms of reporting arrangements within Wales, the Welsh Government will follow those arrangements set out in the Children and Families (Wales) Measure 2010, which are:-

Section 3(6) provides that the Welsh Ministers must in 2013 and in every third year after 2013:

(a) publish a report containing an assessment of the extent to which;

(i) the objectives contained in their strategy for contributing to the eradication of child poverty have been achieved, and

(ii) if an objective has not been achieved, progress that has been made towards achieving the objective;

(b) lay a copy of the report before the National Assembly for Wales.

The Welsh Ministers will also provide the Commission with an annual update on the measures taken by the Welsh Ministers, in accordance with a Welsh Strategy. This is an administrative agreement rather than being provided for by way of legislative amendment in the Bill.

I hope the information provided in this letter has helped to clarify the position. If any further detail is required my officials will be available to answer any additional questions.

A copy of this letter has been sent to the Chair of the Constitutional Affairs Committee.

*Yours sincerely,
Gwenda.*

Gwenda Thomas AC / AM

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