

LEGISLATIVE CONSENT MEMORANDUM

WELFARE REFORM BILL

Legislative Consent Motion

“To propose that the National Assembly for Wales, in accordance with Standing Order 26.4, agrees that those provisions concerning **information sharing in relation to welfare and certain care services** contained within the Welfare Reform Bill, as introduced into the House of Commons on the 16th February 2011, so far as they fall within the legislative competence of the National Assembly for Wales, should be considered by the UK Parliament “

Background

1. The above Motion has been tabled by Leighton Andrews, Welsh Minister for Children, Education and Lifelong Learning under Standing Order 26.4 of the Standing Orders (“SO”) of the National Assembly for Wales (“NAW”). This memorandum is laid under SO26.2. SO 26 prescribes that a Legislative Consent Motion must be tabled and a Legislative Consent Memorandum laid before the NAW if a UK Parliamentary Bill makes provision in relation to Wales that falls within the legislative competence of the NAW, or has a negative impact on that competence.
2. The Welfare Reform Bill (“the Bill”) was introduced on the 16th February 2011. The Bill can be found at:

<http://services.parliament.uk/bills/2010-11/welfarereform.html>

Summary of the Bill and its Policy Objectives

3. 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.

Provisions in the Bill for which consent is sought

4. The Bill creates powers for local authorities, including Welsh local authorities, to share information about certain care services for benefit payment purposes. It also allows the Secretary of State to confer further information sharing powers on local authorities and others for purposes relating to welfare services.

5. **Clause 122** applies where a local authority holds certain information in relation to a person who is receiving or is likely to receive a relevant service specifically:
 - overnight care at home provided by/ on behalf of a local authority;
 - residential care provided by/ on behalf of a local authority; or
 - overnight hospital accommodation

6. The local authority may use the information itself, or supply this information to the persons listed below, for purposes relating to the payment of a relevant benefit to the individual. Relevant benefits are Universal Credit, housing and council tax benefits and other benefits which may be prescribed by the Secretary of State :
 - the Secretary of State;
 - a person providing services to the Secretary of State;
 - a local authority;
 - a person authorised to exercise any function of a local authority relating to a relevant benefit;
 - a person providing services relating to a relevant benefit to a local authority.

7. **Clause 123** allows the Secretary of State or a person providing services to the Secretary of State to supply benefit information to qualifying persons for prescribed purposes relating to welfare services. The Secretary of State prescribes the purposes. Qualifying persons include local authorities, persons providing services to a local authority relating to welfare services and other persons prescribed by the Secretary of State. The Secretary of State may prescribe the Welsh Ministers or a third sector organisation as a qualifying person.

8. Information about benefits or welfare services held by a qualifying person for prescribed purposes relating to welfare services may be supplied to the Secretary of State or a person providing services to the Secretary of State for a prescribed purpose relating to a prescribed benefit. The Secretary of State prescribes the purposes and the benefits.

9. The Secretary of State may prescribe purposes relating to welfare services or housing benefit, for which a qualifying person who holds information about benefits or welfare services may use the information. In addition, a qualifying person who holds such information for a prescribed purpose relating to welfare services or housing benefit may supply that information to another qualifying person for use in relation to the same or another prescribed purpose relating to welfare services or housing benefit..

10. Clause 123 (6) and (7) restrict the Secretary of State's powers mentioned in paragraph 11 above so that he cannot prescribe purposes for data sharing between qualifying persons, where:
 - the information is held by certain Welsh bodies (includes Welsh local authorities and other persons prescribed by the Secretary of State)

only for a purpose about which the National Assembly for Wales or the Welsh Ministers could make provision, and

- the purpose of the data sharing would be something about which the National Assembly for Wales or the Welsh Ministers could make provision.

11. However, this restriction will not apply if the information originally derived from the Secretary of State, a person providing services to them or someone engaged in the administration of housing benefit.

12. These provisions around information sharing are mainly intended to assist in the administration of the social security benefit payments system.

13. However, because an Assembly Measure could make provision about information sharing in limited areas under the Matters listed below, there is a degree of overlap between these provisions and the Assembly's legislative competence.:

- Matter 15.1, Charges levied by local authorities for social care services provided or secured by them and payments in respect of individuals with needs relating to their well-being so that they, or any other person, may secure social care services to meet those needs.
- Matter 15.2 (b) safeguarding and promoting the well-being of vulnerable children;

Advantages of utilising this Bill

14. It is the view of the Welsh Assembly Government that it is appropriate to deal with these provisions in this UK Bill as it represents the most appropriate and proportionate legislative vehicle to enable these provisions to apply in Wales at the earliest opportunity.

15. This Legislative Consent Memorandum has therefore been laid, and the Legislative Consent Motion tabled, before the NAW for consideration.

Financial Implications

16. There are no financial implications arising from the provisions in relation to information sharing. Should any subsequent consultation, legislation or guidance arising from these provisions be required they will be subject to full consideration of affordability and to a Regulatory Impact Appraisal, where appropriate, which would include an analysis of costs and benefits.

Leighton Andrews AM.

Welsh Minister for Children, Education and Lifelong Learning