

Standing Order 31 : Child Trust Funds Feasibility Report

Motion tabled by Christine Chapman –

To propose that the National Assembly for Wales, acting under Standing order 31.2, supports in principle legislation to:

Require local authorities, as part of their corporate parenting responsibilities. To provide an annual contribution to the Child Trust Funds of children looked after by them. [NDM2553]

Statement of legal powers:

Section 22 of the Children Act 1989 places a duty on local authorities to promote the interests of children in their care. The functions under that Act are transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999.

Resource implications:

The number of children currently of qualifying age, being looked after by local authorities has been estimated at a maximum of 250. That figure would rise, annually until all children aged under 18 have been included in the Trust Fund scheme. If each looked after child's Fund were to be provided with an annual £50 addition, the total resource implication for local authorities in Wales would be £12,500

Summary

To report to National Assembly Members on the feasibility of requiring local authorities to provide annual contributions to the Child Trust Funds (CTF) of children they look after. The report responds to a section 31 order debated by Assembly Members on 14 June 2005 where there was a vote in favour of an agreement in principle to the aims of the motion.

This feasibility paper recommends a way forward to put the principle behind the motion into practice through a phased approach. This will start with the setting up of a scheme from 2006 to enable local authorities to make payments into CTF for children they look after and to be reimbursed for doing so. The Assembly Government would then work towards securing new regulatory powers to allow the Assembly to place a statutory duty on local authorities to make annual contributions to CTF.

1. Background

1.1 In June Members debated and voted in favour of the principle of a motion tabled by Christine Chapman under Standing Order 31 to require local authorities to make annual contributions to CTF of children they look after. On behalf of the Assembly Government I supported the principle of the motion but highlighted the legislative constraints in achieving its aims. I also undertook to consider ways in which the principle behind the proposal could be put into practice and to lay a feasibility report on ways in which the Government could put in place arrangements to meet the proposed objective.

2. Objective

2.1 The objective is to require local authorities to make an annual contributions to the CTF of children they look after. This report sets the legal obstacles in changing legislation under the terms of the motion and sets out ways in which the objective can be achieved by alternative means. The report recommends the implementation of an administrative arrangements to give effect to the intent of the motion until new regulatory making powers can be secured to place a statutory duty on local authorities to make annual contributions to CTFs of children they look after.

3. Legislation

3.1 Section 22 of the Children Act 1989, which is an enabling power, places a general duty on local authorities in relation to children looked after by them. It does not include a power for the Assembly to make regulations to require local authorities to exercise their duties in any particular way and therefore cannot be used to prescribe the scheme nor compel local authorities to make annual contributions to CTF of children they look after. However the Assembly does have the powers to operate a grant scheme to reimburse local authorities (see below).

3.2 There are **no current legal powers** that the Assembly can use to place a statutory duty on local authorities to contribute to CTF of children they look after. There is also no legislative vehicle that we can utilise within Parliament's current legislative timetable to secure new primary powers for the Assembly to effect the motion.

3.3 The Welsh Assembly Government will consider the proposal to create a statutory duty to require local authorities to make annual contributions to CTF for children they look after, in the light of developments in the White Paper, "Better Governance for Wales" (Wales Office, June 2005). This sets out proposals for enhancing the legislative competence of the National Assembly for Wales.

4. Options to meet the aims of the motion

4.1 As I pledged in plenary, the Assembly Government has looked at a range of ways in which we can put into practice the principle of the motion to require local authorities to make annual contributions to CTF

4.2 A number of options have been considered :

(i) To seek new primary powers to allow the Assembly to make regulations to prescribe details of the scheme and require local authorities to make annual contributions. However, as outlined above in the short term it is doubtful that the Assembly can secure new powers in Parliament's current legislative timetable. Therefore, the Welsh Assembly Government will consider the proposal to create a statutory duty to require local authorities to make annual contributions to CTF for children they look after, in the light of developments in the White Paper, as outlined above. Any new powers to introduce specific powers to require local authorities to make contribution to the CTF for children they look after would then also be subject to the Assembly's approval.

(ii) The setting up of a scheme with local authorities to enable them to make contributions under a criteria set by the Assembly in a form of a grant or similar administrative arrangement. Utilising powers under section 28B of the National Health Service Act 1971 or section 31 of the Local Government Act 2003, the Assembly could introduce a grant scheme to enable local authorities to make contributions and reimburse them for doing so. This has the advantage of audit scrutiny so as to ensure that money is paid to the CTF of children they look after.

(iii) An alternative would be to fund local authorities through local government revenue support. It would be necessary to identify resources in advance and unless audit certification was required there would be no assurance that contributions were made to CTF accounts. HM Revenue and Customs guidance on CTF already provides for local authorities to make voluntary contributions.

4.3 We have consulted the Welsh Local Government Association and local authorities on the proposals. Responses are being considered but the early view is one of general support of the principle to provide extra support for looked after children using CTF.

5. Financial Implications

5.1 Information from Local Government Data Unit suggests that some 700 children of qualifying age would be eligible from March 2006. The anticipated maximum of cost would be £35,000 for local authorities to make an annual contribution of £50 to CTF for children they look after.

5.2 In estimating costs some broad assumptions have been made;

- The numbers of looked after children remains at the 2003/4 level i.e. **4315**, and the age distribution is similar

- A Looked After child benefiting includes – those looked after with a care order or interim care order continuing to reside with parents or extended family. It will exclude children classified as looked after under short term respite for example, a disabled child in residential school or residing with parents, but in short term respite for more than three months
- Payments would be made on a fixed date of 31 March each year and to any eligible child with a CTF (born after September 2002) and in care on that day
- Payments include an annual inflationary increase based on HMT deflator currently set at 2.70%.

6. Recommendation

6.1 Members are invited to consider the proposals outlined in the feasibility report and will have the opportunity to discuss the proposals at plenary debate on CTF on **20 September 2005**. In line with the terms of Standing Order 31 procedure I have consulted Christine Chapman (sponsor of the motion) on the proposals set out in this report.

6.2 I therefore put forward a second motion :

To propose that the National Assembly for Wales, acting under Standing Order 31

- ***welcomes the principle behind the motion tabled by Christine Chapman [NDM2553] and debated in plenary on 14 June, and***
- ***supports the approach recommended in the feasibility report tabled on 6 September to take forward a scheme from April 2006 to encourage local authorities, as part of their corporate parenting responsibilities to provide an annual contribution of £50 to the Child Trust Funds of children looked after by them.***

Jane Hutt AM

Business Minister and Minister for Children