

LEGISLATIVE CONSENT MEMORANDUM

CHILDREN AND SOCIAL WORK BILL

1. This Legislative Consent Memorandum is laid under Standing Order (“SO”) 29.2. SO29 prescribes that a Legislative Consent Memorandum must be laid, and a Legislative Consent Motion may be tabled, before the National Assembly for Wales if a UK Parliamentary Bill makes provision in relation to Wales for any purpose within, or which modifies the legislative competence of the National Assembly.
2. The Children and Social Work Bill (the “Bill”) was introduced in the House of Lords on 19 May 2016. The Bill can be found at:
<http://services.parliament.uk/bills/2016-17/childrenandsocialwork.html>

Policy Objective(s)

3. The UK Government’s stated policy objectives are to improve decision making and support for looked after and previously looked after children in England and Wales; enable better learning about effective approaches to child protection and the wider provision of children’s social care in England and enable the establishment of a new regulatory regime specifically for the social work profession in England.

Summary of the Bill

4. The Bill is sponsored by the Department for Education.
5. The Bill has a number of measures which only apply to England, these include:
 - provisions aimed at improving decision-making and support for looked after and previously looked after children;
 - clarifying the Secretary of State’s powers to intervene in a local authority to secure proper performance to a group of authorities which have combined their services under City Deals or similar arrangements;
 - enabling the Secretary of State to establish a Child Safeguarding Practice Review Panel for reviewing serious child safeguarding cases in England and publishing outcomes;
 - provisions about the regulation of social workers.

6. The Bill also includes provisions which apply to England and Wales relating to care and adoption proceedings which broaden the range of factors courts and adoption agencies must consider when making decisions about a child's adoption.

Provisions in the Bill for which consent is required

7. Consent is sought for aspects of the amendment to clause 9 of the Children and Social Work Bill tabled by Lord Nash published in the Running list of amendments on 11 October.
8. Section 1 of the Adoption and Children Act 2002 sets out matters which must be considered by courts and adoption agencies in coming to a decision concerning the adoption of a child. The amendment to clause 9 of the Bill will have the effect of requiring adoption agencies in Wales to have regard to the same factors as those applying to adoption agencies in England and the courts. This is by amending the existing amendment being made to section 1 of the Adoption and Children Act 2002. The amendment to the Bill will mean that for adoption agencies in Wales prospective adopters are now included in the list of relationships which they must have regard to when making a decision about a child's adoption.
9. Consent is required for the adoption agency element of the provision because it falls within the legislative competence of the National Assembly for Wales insofar as it relates to the protection and well-being of children (including adoption and fostering) under paragraph 15 of Part 1, Schedule 7 to the Government of Wales Act 2006.

Reasons for making these provisions for Wales in the Children and Social Work Bill

10. Making this provision for Wales in the Bill will support our commitment to ensuring that adoption is an important option for permanence to be considered when children are not able to be brought up in their own birth families. The amended provision will ensure consistency in the adoption decision making process by making sure Wales-based adoption agencies consider the quality of the relationship the child has with their prospective adopters.
11. The amendment to the Bill will also provide clarity in cases with a cross-border element by enabling the same provisions to apply to adoption agencies in Wales and England at the same time. Furthermore the Bill will bring changes into force for Welsh adoption agencies at the same time as the courts. This will provide a coherent approach to any adoption-related questions and mean there is no time lag between the application of the new requirements on the courts and the application to adoption agencies in Wales.

Financial implications

12. There are no financial implications for the Welsh Government if the National Assembly for Wales consents to the provisions applying to Wales.

Conclusion

13. It is the view of the Welsh Government that it is appropriate to deal with these provisions in this UK Bill as it represents the most practicable and proportionate legislative vehicle to enable these provisions to apply in relation to Wales. It is important that the provisions cover Wales-based adoption agencies as it will enable a coherent approach to be taken to adoption for both courts and adoption agencies in Wales and between adoption agencies in England and in Wales.

Carl Sargeant AM
Cabinet Secretary for Communities and Children
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