

## **LEGISLATIVE CONSENT MEMORANDUM EDUCATION AND SKILLS BILL**

### **Legislative Consent Motion**

1. "To propose that the National Assembly for Wales, in accordance with Standing Order 26.4, agrees that the provisions of the Education and Skills Bill, relating to school admissions, in so far as these provisions fall within the legislative competence of the National Assembly for Wales, should be considered by the UK Parliament."

### **Background**

2. The above Motion has been tabled by Jane Hutt, Welsh Minister for Children, Education, Lifelong Learning and Skills under Standing Order 26.4 of the Standing Orders ("SO") of the National Assembly for Wales ("NAW"). This memorandum is laid under SO 26.2. SO 26 prescribes that a Legislative Consent Motion needs to be tabled, and Legislative Consent Memorandum to be laid, with the NAW if a UK Parliamentary Bill makes provision in relation to Wales that falls within the legislative competency of the NAW.

The UK Education and Skills Bill was introduced on 28 November 2007. The Bill can be found at:

<http://www.publications.parliament.uk/pa/cm200708/cmbills/012/08012.i-v.html>

### **Summary of the Bill and its Policy Objectives**

3. The Education and Skills Bill ("the Bill") is sponsored jointly by the Department for Children, Schools and Families (DCSF) and the Department for Innovation, Universities and Skills (DIUS), with DCSF as the lead Department. The main purpose of the Bill is to raise to 18 in England only, the age at which a young person can leave education or training. The Bill will include some provisions implementing the Leitch Review of Skills in England. Other provisions in the Bill include the transfer of powers and duties in respect of the registration of independent schools from the DCSF to Ofsted. The Bill includes a number of small provisions for Wales in relation to data sharing and qualifications and curriculum.

4. The Bill also proposes provisions to grant the Assembly law-making powers in relation to the regulation of independent schools and the inspection of education and training for those aged 16, by adding matters to the field of Education and Training, of Schedule 5, of Government of Wales Act 2006 ("GOWA 2006").

### **Provisions in the Bill for which consent is sought**

5. As outlined above, the Bill deals primarily with matters which only apply in England. However, through Government amendments introduced into the Bill on

the 29 February and the 13 May 2008, part of the Bill now makes provision for a relatively minor change to the admissions arrangements to sixth forms in England and Wales. The Bill also re-states the law for school admissions in relation to Wales by amending the relevant sections of the School Standards and Framework Act 1998 (“SSFA 98”) so that they will be Wales only provisions.

6. In respect of sixth form admissions, currently parents may express a preference for a particular school for their child (including the school the pupil already attends). The Bill will allow the young person, as well as the parent, to have the right to express a preference and to have the consequent right of appeal if refused a sixth form place. The Welsh Assembly Government believes it is worth using the opportunity of this legislation so that this provision also applies in relation to Wales. .

7. The NAW already has legislative competence under matter 5.3 in Part 1 of Schedule 5 to GOWA 2006 to make “provision about the admission of pupils to schools maintained by local education authorities” and therefore, the agreement of the NAW is required under SO 26. SO 26 prescribes that a Legislative Competence Motion and Memorandum(LCM) need to be tabled and laid, respectively, before the NAW if a UK Parliamentary Bill makes provision in relation to Wales that falls within the legislative competence of the NAW. The Welsh Assembly Government does not consider these provisions in relation to school admissions to fall within the exceptions provided in SO 26 and so therefore an LCM is required.

8. Ensuring that the sixth form provisions also apply in relation to Wales is consistent with the Welsh Assembly’s Governments strategy in relation to rights of the child. It is also consistent with the ambition, which the Welsh Government shares with the UK Government, of encouraging participation in education. The amendments to the SSFA 98 merely re-state the law for school admissions in relation to Wales by making them Wales only provisions.

### **Advantages of utilising this Bill**

9. The provisions in the Bill relating to sixth form admissions and school admissions could be dealt with in a NAW Measure made under matter 5.3. of Schedule 5 to GOWA 2006. However, in this instance, the Welsh Assembly Government believe that the UK Bill is the most appropriate and proportionate legislative vehicle to deal with these provisions. Utilising the opportunity provided by the Bill will enable these provisions to apply in Wales at the earliest opportunity and will not lead to sixth formers in Wales from being at a disadvantage in comparison with their counterparts in England. Waiting for similar provisions to be included in a Measure could lead to a delay and, considering the relative minor nature of the provisions, we do not believe that

incorporating these provisions within a Measure would be a proportionate approach or an efficient use of the NAWs time and resources.

**Financial Implications**

10. There are limited administrative costs associated with the introduction of this provision and if any additional costs were identified they would be met within existing budgets.

Jane Hutt

Welsh Minister for Children, Education, Lifelong Learning and Skills

10<sup>th</sup> June 2008