
Bethan Jenkins

Aelod Cynulliad dros
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Assembly Member for
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Cynulliad National
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David Melding AM
Chair
Constitutional & Legislative Affairs Committee
National Assembly for Wales
Ty Hywel
Cardiff
CF10 3NP

Thursday, September 25, 2014

REF: BJDH-DM-CLAC-25-09-14

Dear David,

Financial Education and Inclusion (Wales) Bill – evidence to the Constitutional and Legislative Affairs Committee

Thank you for your letter and for calling me to give evidence before your committee on Monday, September 22, 2014. If I may take your points as you list them:

Section 12 (Information about sources of advice)

Section 12(2) is a power for local authorities to provide advice to individuals about financial management.

I recognise that the Assembly has no legislative competence in the area of “financial services” as this is specifically excluded under Heading 4 in Schedule 7 to the Government of Wales Act 2006 (“GOWA”).

However, I am advised and satisfied that the power set out in Section 12(2) relates to the powers and duties of local authorities and their members and officers and is therefore within competence in accordance with Heading 12 in Schedule 7 to GOWA.

I emphasise that this is a power. No local authority will be compelled to exercise this power.

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Section 14 (Commencement)

This is provided for in Section 14.

Section 14(1) provides that an order is necessary to commence the Bill. Section 14(3) provides that, where an order includes incidental, consequential or transitional provisions, it will be subject to Assembly scrutiny.

It is my intention that only those commencement orders which include incidental, consequential or transitional provisions will be subject to scrutiny. In all other cases, there will be no Assembly scrutiny of commencement orders.

I am advised that the wording of section 14(1) is sufficient to meet this objective. However, in an effort to ensure that all doubt is removed, I am willing to bring forward an amendment, at Stage Two, so that section 14(3) will read as follows (or words to the following effect):

*“A statutory instrument **under section 14(1)** containing an order under section 14(2)(b) is subject to annulment in pursuance of a resolution of the National Assembly for Wales.”*

On further reflection, I have also come to the view that the proper form of scrutiny of an order including incidental (etc) provisions, would be by affirmative procedure. I am, therefore, willing to bring forward an amendment to the Bill, to this effect, at Stage Two.

It may assist the Committee if I make a few additional points which were discussed during our meeting.

Section 9(1)

The Minister has made the point that local authorities have “well-being” powers under Section 2 of the Local Government Act 2000 (“the 2000 Act”). The Minister asserts that local authorities could use those powers to promote financial inclusion.

While this may be true, provision across Wales is patchy. My intention is to make it a requirement for local authorities to promote financial inclusion. For this reason, the Bill imposes a duty on local authorities. I do not propose to take away the existing powers of local authorities. I welcome the steps taken by those councils which have

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already “signed up” to the principles of the Bill. But I want to ensure that all communities in Wales benefit from the same pro-active approach.

The Committee may be interested in the circumstances in which the ministerial power in section 9(2) might be used at some future point. This is the power to add to or remove from the list of areas (set out in section 9(1)) which local authorities must include in a financial inclusion strategy.

I want local authorities to tackle the issues which I believe most acutely affect our communities in 2014. For instance, cold-calling, especially when practised against vulnerable groups, is a major concern. Equally, I believe that credit unions are of significant benefit, especially to those in deprived communities. In future, we may see (and I hope we will) a greater take-up of membership of credit unions. We may also see the UK Parliament tackling cold-calling (which the Assembly cannot do because it falls into the non-devolved area of “consumer protection”).

So, in future, the financial pressures faced by our communities may be different than they are now. In that case, the content of Section 9(1) may need to be updated to list new areas of concern and perhaps even to delete those where the harm has been significantly alleviated.

I want this Bill to become law and to endure long into the future. So, it is not realistic for me to predict in 2014 what financial pressures our communities may face (or what other legal or technological changes there may be) in 10, 20 or 30 years. That is why I propose to give Ministers the flexibility to update section 9(1), but with full Assembly scrutiny.

Section 10

The Committee may also be interested in hearing my further thoughts on Section 10, which is the power to issue ministerial guidance about financial inclusion strategies.

Ministers have existing powers to issue guidance to local authorities under Section 3(5) of the Local Government Act 2000 in respect of the exercise of their well-being powers. But I would make the point that the 2000 Act does not specifically refer to financial inclusion. So, I want to make it crystal clear, in legislation, that Ministers may issue guidance in this area.

I look forward to hearing back from you.

Kind Regards,

A handwritten signature in black ink, appearing to be 'Bethan Jenkins', written in a cursive style.

PP Bethan Jenkins AM