

Agenda – Y Pwyllgor Cydraddoldeb a Chyfiawnder Cymdeithasol

Lleoliad:	I gael rhagor o wybodaeth cysylltwch a:
Committee Room 3 (Senedd)	Rhys Morgan
Dyddiad: Dydd Llun, 29 Ebrill 2024	Clerc y Pwyllgor
Amser: 14.00	0300 200 6565
	SeneddCydraddoldeb@senedd.cymru

Cofrestru cyn y cyfarfod: 13:30 – 14:00

- 1 Cyflwyniad, ymddiheuriadau, dirprwyon a datgan buddiannau**
(14:00)
- 2 Ymchwiliad dilynol ar ofal plant: Sesiwn dystiolaeth tri**
(14:00–15:15) (Tudalennau 1 – 34)

Jane Malcolm, Rheolwr Gweithrediadau Cenedlaethol, Cymdeithas
Genedlaethol Meithrinfeydd Dydd yr Alban

Martha Friendly, Cyfarwyddwr Gweithredol, Uned Ymchwil ac Adnoddau Gofal
Plant, Toronto, Canada

Maria Jürimäe, Prifysgol Tartu, Estonia

Egwyl 15:15 – 15:30

- 3 Ymchwiliad dilynol ar ofal plant: Sesiwn dystiolaeth pedwar**
(15:30–16:30)

Naomi Eisenstadt, Cadeirydd Bwrdd Gofal Integredig GIG Swydd Northampton



Yr Athro Chris Pascal, Cyfarwyddwr y Ganolfan Ymchwil Plentyndod Cynnar,
Birmingham

Natalie MacDonald, Cyfarwyddwr Academaidd Cynorthwyol ar gyfer
Plentyndod, Ieuenctid ac Addysg, Prifysgol Cymru y Drindod Dewi Sant

- 4 Cynnig o dan Reol Sefydlog 17.42 (vi) i wahardd y cyhoedd o weddill cyfarfod heddiw**
(16:30)
- 5 Ymchwiliad dilynol i ofal plant: Ystyried y dystiolaeth**
(16:30–16:50)
- 6 Trafod cydsyniad deddfwriaethol o Femorandwm Cydsyniad Cyfreithiol Atodol: Y Bil Dioddefwyr a Charcharorion**
(16:50–17:00) (Tudalennau 35 – 50)

Mae cyfyngiadau ar y ddogfen hon



Scotland
National Day Nurseries Association

*Brighter thinking
for early years

Briefing Paper – Welsh Parliament Equality and Social Justice Committee 4 March 2024

Inquiry into childcare and parental employment in February/March 2024

About NDNA

National Day Nurseries Association (NDNA) is the national charity representing private, voluntary and independent (PVI) children's nurseries across the UK. We are the voice of the 21,000-strong nursery sector, an integral part of the lives of more than a million young children and their families. NDNA Scotland is the national representative body for PVI nurseries in Scotland with six networks covering 17 local authority areas.

NDNA provides information, training and advice that support nurseries and their 250,000 employees to deliver world-class early learning and childcare. Working closely with local and national government, we advise and campaign on the cost, choice and quality of childcare to benefit children, nurseries, families and the economy. NDNA Scotland support 324 PVI nurseries from our Edinburgh Office.

It is our understanding that the Equality and Social Justice Committee are undertaking inquiry into childcare and parental employment: the pandemic and beyond. The COVID-19 pandemic brought issues around gender equality, childcare and employment to the fore. This inquiry seeks to address these issues by focussing on the barriers that childcare provision can present for parents, particularly women, entering and progressing in the labour market.

Funded Early Learning and Childcare (ELC) in Scotland

In 2016 the Scottish Government committed to a vision for a universal offer, regardless of financial circumstances, of funded childcare that would almost double the entitlement to funded ELC to 1140 hours per year (30 hours if taken term time, 22 hours if take over a full year) by 2020 for all three and four year olds and eligible two year olds. The criteria for funded early learning and childcare for 2 year olds is based on receipt of one of these benefits: Income support. Income-based Job Seeker's Allowance. Income-related Employment and Support Allowance. That vision continues to be underpinned by the principles of Quality, Flexibility, Accessibility and Affordability. The expansion of funded ELC, was originally intended for August 2020, was paused in April 2020 to give local authorities the flexibility to focus on responding to the COVID-19 pandemic. It was rescheduled for August 2021 and has now been in place for just over 2 years. The Scottish Government also published a joint

implementation plan for funded early learning and childcare places for all children who defer their primary one start in December 2020.

The main aims of the expansion in ELC are to:

- improve children's outcomes and help close the poverty-related attainment gap
- increase family resilience through improved health and wellbeing of children and parents
- support parents into work, study or training

The Committee may be aware that there are ongoing plans to expand funded childcare to 1 and 2 year olds to a wider criteria than is currently offered starting in this Parliament with children from low-income households. This plan was set out in the Program for Government in 2021/22. NDNA Scotland agree with the premise of the current 1140 hours funded childcare policy (high quality, flexible, accessible and affordable). However, NDNA Scotland have warned of the dangers of rushing into expanding the provision as there remain significant challenges with the current offer of universal childcare for 3 and 4 year olds.

Approach Scotland takes to childcare provision in relation to child development

Those who wish to work in childcare in Scotland must register with the [Scottish Social Services Council](#) as a support worker (equivalent qualification in Wales Level 2), practitioner (equivalent level 3 – 5) or lead practitioner (equivalent level graduate – level 6). This ensures that the workforce is qualified to the required standard for the role that they are in. At each level of registration child development is part of the qualification.

New staff into the sector must (if they work in a funded partner provider nursery) complete the [National Induction Resource](#) which encourages self-reflection and draws upon the national practice non-statutory guidance [Realising the Ambition: Being Me](#). (for children Pre-Birth – 8 years) which has a focus on early child development and learning and also the [Curriculum for Excellence](#) which provides a broad general education from the age of 3 to 18. The CfE builds upon the child's development from the early stages to the senior phase of education.

The extent to which the approach taken to pay of childcare workers has helped/not helped with recruitment issues within the sector

In our sustainability survey we asked what the expected increase in staffing budgets would be between last year and this once statutory minimum wages increases, the Real Living Wage and other staffing considerations had been put in place. The average reported increase was 10%.

Also, 55% of providers cited that the funding rates they received was a challenge to meeting the Real Living Wage (RLW) Requirement with 10% reporting that maintaining pay differentials for more experienced staff was a problem. This need to reward staff at levels above the RLW may add to the 10.4% increase reported in staffing budgets.

The Scottish Government recently committed to fully funding support for partner providers to pay at least £12 per hour (the Scottish Real Living Wage) to those staff who are delivering funded childcare.

However, the UK Government at the same time increased the national living wage to £11.44 from April 2024 meaning all staff in the setting will earn almost the same. This causes significant issues for funded providers as £12 per hour often takes practitioners up to the same level of wage as more senior practitioners. The extra funding from the Scottish Government will not be enough to make up the shortfalls.

[NDNA reported](#) that in its [Financial Sustainability Health Check of the Childcare Sector in Scotland](#) published last year, the Scottish Government found that providers costs were going up by 14% this year. However, in an Freedom of Information investigation, [NDNA Scotland found](#) that only three local authorities reported that their 'sustainable rates' will increase by a similar amount, Clackmannanshire (14.9%), Fife (14.38%) and Shetland Islands (15.48%).

Examples of good practice in addressing issues in access to childcare for particular demographic groups

Rural and Island communities

A new partnership project was launched in April 2022 to support the recruitment and training of more than 100 professional childminders across Scotland. The Scottish Rural Childminding Partnership pilot focused on ten areas across Scotland which were identified as in urgent need of high quality, flexible childcare.

Led by the Scottish Childminding Association (SCMA) aimed to support economic and community development through the creation of more than 100 new professional childminding jobs and up to 900 much-needed childcare spaces for families in remote and rural areas.

This project was so successful that the Scottish Government committed further funding to roll out the project to wider local authority areas.

<https://www.childminding.org/childminder-recruitment>

Access to Childcare Fund

The purpose of this fund was to support childcare solutions that enable more accessible and affordable childcare for families and to help to reduce the barriers parents and carers experience in accessing childcare. These barriers include the cost of childcare, the hours available and accessibility for children with additional support needs.

Grants were awarded to fifteen services and projects in 2020 to seek to address the challenges and barriers encountered and allow parents and carers to have time around the school day and in holidays safe in the knowledge that their child(ren) is being looked after and given opportunities to take part in activities, play or youth work experiences.

They aimed to make services more accessible and affordable for low-income families, particularly the six identified priority family groups most at risk from living in poverty and set out in the [Tackling Child Poverty Delivery Plan](#)

NDNA Childcare Works – East Ayrshire

Following the huge success of Childcare Works in Wales (since 2014) we have recently secured funding to begin a Childcare Works project in East Ayrshire Scotland.

Childcare Works is a supported employment programme for individuals wanting to pursue a career working in childcare. The project supports the development of knowledge, skills and confidence to work in the early years and childcare sector with the aim of participants entering employment following completion of the programme. The project also supports childcare settings with recruitment and retention by providing them with a Trainee Support Worker for 12 weeks, at no cost to the setting, with the opportunity to employ the trainee as a member of staff by the end of the programme.

We hope that this programme will go some way to reducing the workforce issues and support PVI nurseries to be able to provide high quality care and learning to children and families.

Examples of good practice in relation to integrated childcare provision.

Throughout Scotland those working with children and young people work with an approach which is set out in [Getting it Right for Every Child](#). GIRFEC, is a strengths-based approach, that seeks to realise children's rights on a day to day basis and is therefore underpinned by key values and principles. The following values and principles (refreshed in 2021) were developed together with stakeholders including children and young people from across Scotland:

- placing the child or young person and their family at the heart, and promoting choice, with full participation in decisions that affect them
- working together with families to enable a rights respecting, strengths based, inclusive approach
- understanding wellbeing as being about all areas of life including family, community and society
- valuing difference and ensuring everyone is treated fairly
- considering and addressing inequalities
- providing support for children, young people and families when they need it, until things get better, to help them to reach their full potential
- everyone working together in local areas and across Scotland to improve outcomes for children, young people and their families

ELC Professionals work with the [National Practice Model](#) which sets out a shared framework and approach to identification, assessment and analysis of a child or young person's wellbeing needs. The model provides a consistent way for practitioners to work with children, young people and their families to understand the child or young person's individual growth and development in the context of their rights, unique family circumstances and wider world, exploring strengths, resilience, adversities and vulnerabilities.

It is intended to provide a structure to support practitioners, working together with children, young people and families, to make effective use of assessment information. This information will likely have been gathered from multiple sources including regular information gathering processes on the progress of a child or young person with full participation from the child or young person.

(information from [Scottish Government GIRFEC webpage](#))

Scottish local authorities – early adopters

Since October 2022 the Scottish Government have been funding four local authorities to deliver Early Adopter Community (EAC) projects on school age childcare in Port Glasgow (Inverclyde), Drumchapel and Carntyne (Glasgow), South and East Alloa (Clackmannanshire) and Linlathen (Dundee).

There are 2 key drivers of this work – tackling poverty, by helping parents to access and sustain employment, and improving children’s outcomes, by reducing barriers to a range of activities round about the school day and in the holidays, contributing to reducing the poverty related outcomes gap.

The Scottish Government’s new Programme for Government commitment builds on the existing school age childcare work to design all-age childcare offers for families in six early adopter communities. The PfG announced two additional EACs – Fife and Shetland

Scottish Government know that funding childcare alone won’t lead to improved outcomes for low income families or contribute effectively to tackling poverty so the childcare projects are aligned with wider tackling poverty initiatives to combine funded childcare with employability and family wellbeing support

Scottish Childminding Association Early Adopter School Age Childcare Project.

The Scottish Childminding Association (SCMA) Early Adopter School Age Childcare (SACC) project includes a focus on child poverty via funded, accessible, quality SACC placements in childminding settings. It also addresses the challenge of the declining childminding workforce, and how it impacts on the availability of childminders for SACC, by incorporating the recruitment of childminders linked to our wider dedicated childminding recruitment programme. SCMA are actively working with 4 Early Adopter local authorities, supporting them to ensure that childminders are included in the delivery of SACC and guiding them to develop processes and procedures to take into account childminder requirements, as part of the ongoing Scottish Government’s SACC framework and delivery plans.

SCMA - Family Childminding Partnership

This SCMA service is designed to test the impact and outcomes of a model which supports whole family wellbeing, is targeted at families in need and supports the key commitments of The Promise, through the provision of preventative family support within enhanced, nurturing childminding placements targeted towards 1 year-olds and their siblings. It will also provide key learning for the future Scottish Government Programme for Government ambition to expand ELC funded hours to 2 and 1 year-olds.

What parents say about 1140 hours of funded childcare

According to a Scottish Government survey (Scot Govt, 2022) 98% of Parents were accessing some form of funded childcare, and 73% of parents with a 3 to 5 year old and 52% of those with a 2 year old using funded childcare. This survey does appear to show that parents find the 1140 hours policy useful to them which shows that it has been a success in terms of meeting the needs of parents returning to work, going into training and having financial support. However, this report also shows that 23% of parents were not taking up the full 1140 hours funded childcare as they could not get the sessions that they wanted at their preferred settings.

Parents also reported being dissatisfied with flexibility to match funded hours to their own working patterns to minimise the cost of top-up childcare. The Scottish Government report highlights that the majority of parents are happy with ELC however, there are still issues around flexibility, affordability, and access to places that Scottish Government need to address (Scot Govt, 2022).

The parents' campaign group, Pregnant then Screwed, Scotland say that *"the major issue for many families in Scotland, and across the UK, is the accessibility and affordability of childcare. The increase in funded hours has been hugely beneficial to many parents but there still remains huge issues over costs, particularly for under 3s, and there is a growing problem with accessibility"* (Pregnant then Screwed, Scotland, 2024).

The Scottish Women's Budget Group (SWBG) reported in 2023 that 22% found it difficult to access childcare in their area, with the situation being more acute in rural areas. One respondent said *"So many rural schools in Aberdeenshire miles away from nursery provision so I have to drive to two disparate places and no after school provision"*. Their survey also revealed that 16% were unable to access funded hours due to a lack of flexibility in provision with one respondent saying *"The 30 hours does not fully cover the cost of year-round (private) nursery, and council nurseries offer term time only"*. When it comes to affordability the SWBG survey showed that 30% of women did not find childcare costs manageable, this increased to 47% for single parents, 38% for women from ethnic minorities and 36% for disabled women. 74 % of women said that increase in household costs were making childcare costs more difficult. The report concludes stating that there is a long-standing problem of lack of flexibility and affordability of childcare which has been exacerbated by the cost of living crisis and is putting family finances under pressure.

NDNA Scotland are aware that throughout the UK nursery settings are closing down due to sustainability issues. Scotland is no different, as nurseries close, parental access to funded places becomes more difficult. Parents are beginning to find it difficult to find suitable places to match their childcare needs.

NDNA Scotland – Challenges remaining with 1140 hours policy

It is generally accepted that the aims of the policy are good and will benefit children and families. However, there is also concern that the delivery of the policy is leading to closures due to unsustainable funding and workforce pressures.

For many years now we have heard from members that:

1. Funding does not cover costs
2. Local Authorities have recruited their experienced staff leaving them with either no or inexperienced staff – [NDNA reported](#) that a [SSSC report in 2023](#) found that the staff turnover rate is 29% in private nurseries, 21% in voluntary settings and 11% in public sector nurseries with 26% of managers leaving private sector settings go on to work at a practitioner level in public settings
3. Recruitment and retention is extremely difficult because PVI settings cannot compete with local authority pay and conditions of service due to unsustainable funding rates
4. Many local authorities make it challenging for settings to have cross border or blended places
5. Parents can't always get the nursery of their choice – despite the policy being provider neutral
6. Provision of Additional Support Needs and support for nurseries is sporadic across Scotland

NDNA Scotland continue to urge the Scottish Government to address these issues (and many others), particularly before any further expansion to one and two year olds takes place. The current model of funding is unsustainable and must be addressed going forward as this is often at the heart of many of the challenges the sector are facing.



Written submission to the follow-up inquiry into
child care and parental employment
by the Equality and Social Justice Committee,
Government of Wales
April 21, 2024

Martha Friendly
Executive Director
Childcare Resource and Research Unit
Toronto, Ontario, Canada

<https://childcarecanada.org/>

Thank you for inviting me to contribute to the work the Equality and Social Justice Committee of the Senedd Cymru is undertaking. I congratulate you for following up the 2022 child care inquiry “to see what progress has been made and what work there is still to do to improve child care provision in Wales”. This important step of assessing progress and making adjustments for improvement is too frequently left out of policy-making.

My written comments include:

- For context, an introduction to myself and my organization, the Childcare Resource and Research Unit;
- For context and understanding, a bit about Canada and its approach to social programs, especially early childhood education and care (ECEC);
- Five key points relevant to Canada and its newest social program, early learning and child care, that may be of interest for Wales.

The Childcare Resource and Research Unit

To situate myself in the child care (early childhood education and care or “early learning and child care” (which is the current Canadian term): I’m a social policy researcher, leading a small NGO ECEC policy institute, which I founded in the early 1980s. The Childcare Resource and Research Unit (CRRU) was originally part of the University of Toronto and is now an independent non-partisan ECEC policy research institute with a mandate to work towards an equitable, high quality, publicly funded, inclusive early learning and child care system for all.

CRRU has long been engaged in policy research and in raising awareness that well-designed high quality ELCC can serve multiple groups simultaneously – women, children, families, the broader society and the economy. Our perspective is that solid data, research, information, policy analysis and specialized knowledge are important tools for policy-making, advocacy and

public education. I work across disciplines and across Canada, and have been involved in international ECEC work over the years. As one of the feminist activists at the core of the diverse social movement that has been advocating for a Canada-wide universal, public, equitable child care system for almost 50 years, I'm also engaged with social justice, feminist, anti-poverty groups, unions and child care sector organizations, with other researchers, with advocates and with policy makers at all levels of government.

The context for Canadian social programs

Canada, with a population of 40 million occupies a land mass of almost 10 million square kilometers. Canada is a country of immigrants; the latest Census (2021) shows that 23% of the population was born outside Canada (now mostly from Asia, the Middle East and Africa), with the Indigenous population making up 5%. Canada, like the UK, is considered to be a liberal-democratic state ideologically. This, and that Canada is a decentralized federation of ten provinces and three territories, which are primarily the responsibility of provinces/territories, is especially significant for its social programs, with the federal government's role often contested politically. There is no federal role in education, not even a national department of education.

Early childhood education and care across Canada and a new approach

Before 2021, several successive federal governments had attempted to initiate a national, or Canada-wide child care plan but none was successful. As there was no earmarked Canada-wide child care funding or program, the market-driven patchwork of mostly parent fee-funded child care services were too costly for most parents. Child care programs were in short supply and inequitably distributed, and too often did not provide programs of high enough quality to be reliably developmentally beneficial to children. Kindergarten, under education ministries, was introduced in a few parts of Canada before 1900 but although kindergarten grew to become widespread before the 1960s, it remained part-time (2.5 hrs a day), with provision only for five - year-olds (the year before compulsory school begins) until about 15 years ago. In 1997, Quebec began to shift its child care approach to a more universal, publicly funded model but persistent

shortages of places and concerns about poor quality mean that today Quebec child care [illustrates](#) “what not to do” as much as modelling “what to do”.

As early as the 1970s, universal provision of publicly funded child care became a key issue for feminists and their allies such as labour unions and social justice organizations. Over the years, this loose coalition developed a consolidated policy position that child care services should be publicly funded, accessible to all children, developed as not-for-profit and public services and that decent jobs and working conditions for the mostly all-female child care workforce were a priority. When the federal government – motivated by the pandemic-created child care crisis and parallel drop in women’s labour force participation – decided to fund and shape a Canada-wide approach to building a child care system, a number of the key elements of the child care movement’s position became part of the public policy agenda.

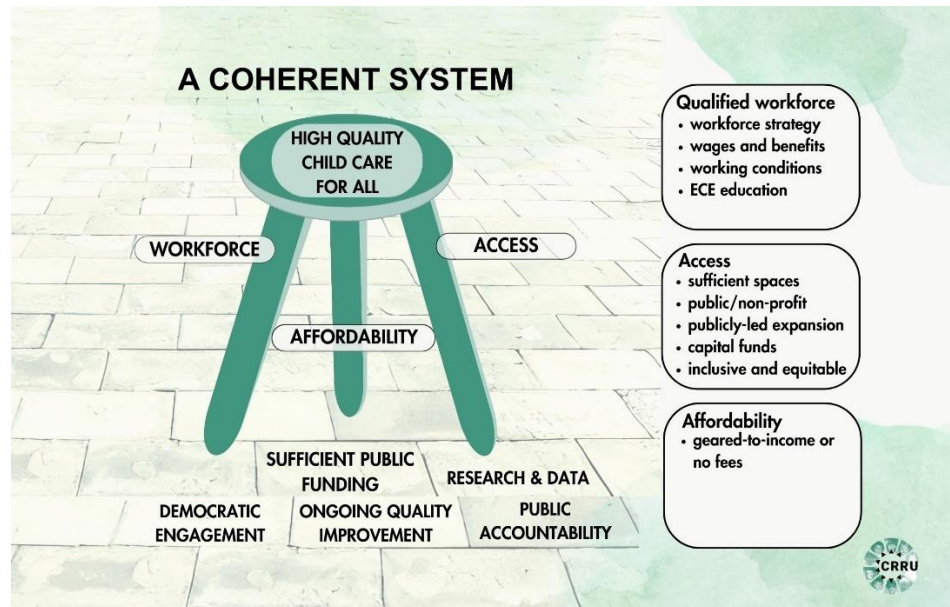
It is three years since the April 2021 federal commitment of substantial public money was made available to each province and territory with some conditions for implementation. Thus far, there have been significant advances as well as substantial bottle necks. Of these, the biggest success has been that [all parent fees](#) were (approximately) cut in half in the first year, and then further reduced to an average of \$10 a day (per child). This was accomplished by the federal government requirement that provinces/territories each set up a mechanism for using federal funds to cover services’ operations that had been funded with parent fees. While this is been uneven in execution (especially as there are two levels of government involved and some provinces/territories are more enthusiastic than others), overall, parents are paying very significantly reduced fees for regulated child care. Eight provinces/territories have already moved to a maximum fee of \$10 a day, with fees further subsidized for lower income families. Some provinces/territories stipulate that parents must be employed or studying but the federal government does not require this despite its primary focus on mothers’ employment.

While this to a large extent (not entirely) addressed what had been one of the key barriers to child care access – unaffordable fees— there are still only enough regulated child care centre¹ spaces to cover 28% of 0 - 5 year olds. As well, the lack of sufficient numbers of qualified early childhood educators is not only holding back expansion of services but is impeding full operation of already-existing spaces and is a barrier to improving child care quality.

Observations

Based on my observations, work that I’ve done and learning from experience and research inside and outside Canada’s borders, there are at least five points that emerge as of possible interest for the Senedd Cymru inquiry:

1. Moving what has always been a child care market to a mature child care system is a multi-year and multi-faceted process, with most parts best developed through coherent public policy for success. Though building the system will be – by its nature –incremental, key parts (such as incrementally but urgently beginning to grow the supply of services, as well as addressing critical child care workforce issues) must all be attended to simultaneously. As the below diagram shows, for ECEC, the whole is demonstrably greater than the sum of the parts.



¹ Note that all provinces/territories also provide regulated family (home) child care but these play a relatively minor role. Data breaking enrolment in these is usually not available by age group.

Thus, primarily addressing parent fees, or costs (usually through demand-side mechanisms such as vouchers or parent benefits) while assuming that the supply of services will emerge in response to market forces with little public management beyond regulation, has generally been the pattern in the UK, the USA, Australia, New Zealand, the Netherlands and – until now, Canada. Based on what we have seen – and in contrast to more mature well-developed ECEC systems such as, for example, [Denmark](#) – we are convinced that development of a sufficient supply of public and non-profit services must be publicly led and managed if child care provision is to be inclusive, equitable and responsive to parents’ and children’s needs. Together with this, a qualified workforce must be supported and nurtured through such strategic policy tools as wage grids, unionization, public management of working conditions and ECE pre-service and in-service education.

2. Your question: “does child care provision in Canada support child development, tackle child poverty, and parental employment”? is a good one. The *intention* in Canada is that child care provision can and should do all these (and in Canada, enhancing women’s equality would be added to the list of goals), as the principles for the program and the new [federal legislation](#) suggest. But – as building the system is still in the early stages – the intention is still too often not met. Indeed, this is one of the key arguments for moving from the market to a universal system, as these kinds of goals are less likely to be accomplished without specifically designed public policy. An important lesson we have learned is that well-designed public policy in multiple areas is fundamental to building a quality child care system.

For example, we know from research that child care programs that are high quality can benefit children’s development and well-being, and that poor quality programs may even be harmful, especially for lower income children. Although we lack sufficient research on quality in Canada, we believe that our child care provision is generally not of consistently high quality, in part from such research as is available and in part because our requirements for educator training are too low. A wealth of best practice considerations that contribute to quality have emerged, much of it coming from [work](#) in the [European Union](#). Although the Canadian child care plan is to build a

system that “gives children the best start in life”, we are not yet meeting or heeding many of the best practice concepts identified. Thus, before we can say that child care provision is supporting children’s development, we would need to know where that quality of our child care programs falls. What is clear, however, many of the elements of quality are known and well researched and amenable to public policy.

Similarly, the idea that high quality child care is part of a package of policies to ameliorate child poverty has long been a Canadian consideration, both for governments and advocates. Our main anti-child poverty organization, [Campaign 2000](#), has long advocated for universal child care along with affordable housing, better employment standards, child benefits and other policies. While Canada lacks the data to understand in a granular way how and why racialized/lower income/newcomer/more marginalized families are less likely to use regulated child care, [research](#) CRRU carried out last year shows that the supposition that these families are under-represented appears to be correct. As the research report discusses, there are likely multiple reasons for this, ranging from poor information or knowledge, not speaking the language, to the inequitable distribution of services through market means that fails to locate them in lower income marginalized neighbourhoods. Again, public planning and policy is shown to be the best practice for solving these issues of exclusion.

Finally, with regard to parents’ employment: if child care is to permit or encourage parents to be employed it has to be set up to support their employment schedules. This is why part-day early childhood education programs – while nice for the children who attend – are unlikely to support mothers’ employment. Similarly, [non-standard hours child care](#) – whether it is child care that is open only a few hours longer than normal or child care until midnight – is sometimes needed to support parents’ employment schedules. But again, understanding the specifics so as to provide responsive program development requires [public processes](#) including research and program development, rather than waiting for individuals or voluntary organizations to decide to set up services.

3. An issue that has always been prominent in Canadian considerations of child care is ownership of the services. Based on research and experience in [Canada](#), especially in [Quebec](#), and in other countries such as the [UK](#), the [US](#), [New Zealand](#), Australia and others, the new Canada-wide child care program is predicated on the federal condition that expansion of services will be “primarily public and non-profit” and clear “accountability frameworks” would be applied to the public spending so it is not syphoned off by owners or stakeholders. The “primarily public and non-profit” condition is included in the new federal legislation and in all the agreements for use of the federal funds by provinces and territories but the language is not very specific. As a result, and given the concern that private equity firms are likely to try to exploit Canada’s new public funding as they have in child care and other care sectors in many countries, discussion and debate about the role of for-profit child care in the new system are active and ongoing.

4. Another key Canadian issue that may be of interest for the inquiry is that of the child care workforce. We know from research that – to a large extent – the quality of early childhood education and care rests on the training and education of the child care workforce as well as on their wages and working conditions. Additionally, it is not possible to expand child care supply without qualified workers to staff quality programs, so the current child care workforce crisis that Canada is experiencing is significant.

Difficulty recruiting and retaining qualified childcare staff has long been a feature of Canadian child care but these issues were exacerbated by the pandemic. All regions of Canada are now struggling with staff shortages as we attempt to transform child care, and have introduced a diversity of remedies. However, the issues such as low wages, benefits, poor working conditions and weak support not yet been addressed with sufficient breadth and depth to yield results. As virtually all the key goals for ECEC – high quality, greater coverage, inclusion – hinge on the presumption that a sufficient number of qualified staff will be available to provide quality child care for a diversity of families and children, solutions – including adequate publicly funded wages and benefits – merit serious attention.

5. A final point of which we are well aware in Canada is that good data and research are integral to good policy making, understanding what (or if) progress is being made, or what the scope and details of problems are. This is not new: this point has long been made about ECEC policy (for example, by the [OECD](#), in particular Chapter 4, pgs. 133 - 135) but Canada has not yet come close to addressing this issue. From my perspective, the lack of good data and research is a barrier to building and improving an effective early learning and child care system.

MEMORANDWM CYDSYNIAD DEDDFWRIAETHOL ATODOL (RHIF 2)

Y BIL DIODDEFWYR A CHARCHARORION

1. Gosodir y Memorandwm Cydsyniad Deddfwriaethol o dan Reol Sefydlog ("RhS") 29.2. Mae RhS 29.2 yn ei gwneud yn ofynnol gosod Memorandwm Cydsyniad Deddfwriaethol gerbron Senedd Cymru os yw Bil gan Senedd y DU yn gwneud darpariaeth mewn perthynas â Chymru at unrhyw ddiben sy'n dod o fewn cymhwysedd deddfwriaethol y Senedd, neu sy'n addasu'r cymhwysedd hwnnw.
2. Cyflwynwyd y Bil Dioddefwyr a Charcharorion ("y Bil") yn Nhŷ'r Cyffredin ar 29 Mawrth 2023. Gosodwyd Memorandwm Cydsyniad Deddfwriaethol ar 19 Mai 2023 a gellir dod o hyd iddo yn [MEMORANDWM CYDSYNIAD DEDDFWRIAETHOL \(senedd.cymru\)](#)
3. Ar 4 Rhagfyr 2023, yn ystod Cyfnod Adrodd Tŷ'r Cyffredin, cytunwyd ar 119 o welliannau gan y llywodraeth ac 1 gwelliant anllywodraethol. Cynigiodd Llywodraeth y DU gylch arall o welliannau ar 15 Ionawr 2024 i'w hystyried yn ystod Cyfnod Pwyllgor Tŷ'r Arglwyddi, ac mae angen cydsyniad y Senedd ar gyfer un o'r gwelliannau hyn. Mae'r Memorandwm Cydsyniad Deddfwriaethol Atodol (Rhif 2) yn nodi safbwynt Llywodraeth Cymru ar y cymalau diwygiedig hyn, gan gwmpasu'r gwelliannau perthnasol a wnaed yng Nghyfnod Adrodd Tŷ'r Cyffredin ac yng Nghyfnod Pwyllgor Tŷ'r Arglwyddi.
4. Ar 22 Rhagfyr 2023, ysgrifennodd y Gweinidog Cyfiawnder Cymdeithasol a'r Prif Chwip ar y pryd at y Llywydd yn egluro na fu'n bosibl gosod Memorandwm Cydsyniad Deddfwriaethol Atodol o fewn y terfyn amser arferol o bythefnos, yn unol â RhS29, yng Nghyfnod Adrodd Tŷ'r Cyffredin. Dim ond ar ôl iddynt gael eu cyflwyno y cafodd swyddogion Llywodraeth Cymru weld yn derfynol y 119 o welliannau gan y llywodraeth a'r 1 gwelliant anllywodraethol, ac nid oedd yn bosibl iddynt eu dadansoddi o fewn y cyfnod o bythefnos.
5. Mae'r cymalau y cyfeirir atynt yn y Memorandwm Cydsyniad Deddfwriaethol Atodol yn cyfeirio at y Bil fel y'i cyhoeddwyd ar 6 Rhagfyr 2023 sydd i'w weld yn: [Victims and Prisoners Bill \(parliament.uk\)](#)

Yr amcan(ion) polisi

6. Amcanion polisi datganedig Llywodraeth y DU yw cyflawni tri ymrwymiad maniffesto allweddol; pasio a gweithredu Cod Dioddefwyr yn gyfraith, diwygio'r system barôl, a sefydlu Eiriolwr Cyhoeddus Annibynnol i gefnogi dioddefwyr digwyddiad mawr. Yn ogystal, mae'r Bil yn ceisio cyflwyno newidiadau sy'n ceisio cryfhau gweithrediad y Bwrdd Parôl a sicrhau hyder y cyhoedd yn y system. Bydd y Bil yn gwahardd carcharorion sy'n gwasanaethu gorchymyn oes gyfan rhag priodi neu ymgymryd â

phartneriaeth sifil tra byddant yn y carchar; mae'n ceisio codeiddio canllawiau ar gyfer rolau sy'n cefnogi dioddefwyr, a sefydlu corff i weinyddu'r cynllun iawndal ar gyfer dioddefwyr y sgandal gwaed heintiedig.

Crynodeb o'r Bil

7. Noddir y Bil gan y Weinyddiaeth Gyfiawnder.
8. Mae'r Bil yn gwneud darpariaeth ynghylch dioddefwyr ymddygiad troseddol ac eraill y mae ymddygiad troseddol yn effeithio arnynt; penodi a swyddogaethau unigolion i weithredu fel eiriolwyr cyhoeddus annibynnol dros ddioddefwyr digwyddiadau mawr; diwygiadau i'r system barôl; aelodaeth a swyddogaethau'r Bwrdd Parôl; gwahardd rhai carcharorion rhag ffurfio priodas neu bartneriaeth sifil; ac at ddibenion cysylltiedig.

Crynodeb o'r prif welliannau a wnaed yng Nghyfnodau Adrodd Tŷ'r Cyffredin a Thŷ'r Arglwyddi

9. Pleidleisiodd Tŷ'r Cyffredin ar gyfres o welliannau yn ei Gyfnod Adrodd ar 4 Rhagfyr 2023, ac roedd rhai ohonynt yn ymwneud â materion sydd o fewn cymhwysedd y Senedd. Roedd y gwelliannau a gynigiwyd gan Lywodraeth y DU ar 15 Ionawr 2024 yn diwygio un o'r cymalau hyn ymhellach.
10. Mae'r Memorandwm Cydsyniad Deddfwriaethol Atodol hwn yn nodi safbwynt Llywodraeth Cymru ar y Bil, yn unol â'r gwelliannau arfaethedig sy'n dod o fewn ein cymhwysedd, a gyflwynwyd gan Lywodraeth y DU ar 4 Rhagfyr 2023 ac 15 Ionawr 2024. Defnyddir rhifau'r cymalau pan fo'r rhain ar gael.

Newidiadau i'r Bil ers gosod y Memorandwm Cydsyniad Deddfwriaethol (Memorandwm Rhif 1) – gwelliannau i gymalau presennol sy'n sbarduno'r broses Memorandwm Cydsyniad Deddfwriaethol

Cymalau 1 i 4, 11, 22 a 23 - Victims of Criminal conduct – Victims' code

11. Gwnaeth Llywodraeth y DU sawl gwelliant i Ran 1 o'r Bil - *Victims of Criminal conduct – Victims' code* yn ystod Cyfnod Adrodd Tŷ'r Cyffredin. Mae'r rhai sy'n berthnasol i'r cymalau yn cael eu cwmpasu gan y Memorandwm Cydsyniad Deddfwriaethol Atodol hwn a'u hamlinellu isod.
12. Gwnaed gwelliant i gymal 1 i egluro y bydd ymddygiad sy'n gyfystyr â throsedd yn "ymddygiad troseddol" ("*criminal conduct*") at ddibenion Rhan 1 o'r Bil, pa un a yw'r drosedd wedi'i riportio ai peidio. Mae'r gwelliant hefyd yn diwygio adran 52(3)(a) o Ddeddf Trais Domestig, Troseddu a Dioddefwyr 2004 er cysondeb.

13. Gwnaed gwelliant i gymal 11 sy'n egluro ystyr "nodweddion gwarchoddedig" ("*protected characteristics*") at ddibenion canllawiau ynghylch adolygu cydymffurfiaeth â'r cod dioddefwyr.
14. Fel y nodwyd yn y Memorandwm Cydsyniad Deddfwriaethol (Memorandwm Rhif 1) mae angen cydsyniad ar gyfer y cymalau hyn ar y sail bod gwasanaethau diogelu, cymorth a gwybodaeth i ddioddefwyr yn feysydd sydd o fewn cymhwysedd deddfwriaethol y Senedd. Hefyd, mae dyroddi canllawiau ar gyflawni dyletswyddau i awdurdodau datganoledig mewn perthynas â'r cod dioddefwyr yn dod o fewn cymhwysedd.

Cymal 15 – Victims of criminal conduct: Guidance about independent domestic violence and sexual violence advisors:

15. Gosododd Llywodraeth y DU welliant i gymal 15 yng Nghyfnod Adrodd Tŷ'r Cyffredin i egluro ystyr "nodweddion gwarchoddedig" ("*protected characteristics*") at ddiben y canllawiau am y cynghorwyr annibynnol ar drais domestig a'r cynghorwyr annibynnol ar drais rhywiol.
16. Gosodwyd gwelliant pellach gan y llywodraeth i gymal 15 yn ystod Cyfnod Pwyllgor Tŷ'r Arglwyddi a chytunwyd arno. Mae'r gwelliant yn newid y gofyniad i'r Ysgrifennydd Gwladol ddyroddi canllawiau i gynghorwyr annibynnol ar drais domestig a chynghorwyr annibynnol ar drais rhywiol, i fod yn ofyniad i ddyroddi canllawiau i "rolau cymorth i ddioddefwyr" ("*victim support roles*") o fathau a bennir mewn rheoliadau.
17. Fel y nodwyd yn y Memorandwm Cydsyniad Deddfwriaethol (Memorandwm Rhif 1) mae cydsyniad yn ofynnol ar gyfer y cymal hwn ar y sail ei fod yn gwneud darpariaeth o ran lles a diogelu, sy'n faterion datganoledig. Mae'n ei gwneud yn ofynnol hefyd i awdurdodau Cymreig datganoledig sydd â swyddogaethau perthnasol roi sylw i ganllawiau'r Ysgrifennydd Gwladol. O'r herwydd mae'r darpariaethau hyn yn "ddarpariaethau perthnasol" at ddibenion RhS29.

Rhan 2 - Cymalau 24-27 a 29-31 (fel y'u cyflwynwyd) - Victims of major incidents:

18. Gosododd y DU nifer o welliannau gan y llywodraeth i Ran 2 o'r Bil yng Nghyfnod Adrodd Tŷ'r Cyffredin sy'n gwneud Memorandwm Cydsyniad Deddfwriaethol Atodol yn ofynnol. Amlinellir y rhain isod.
- Cymal newydd i'w fewnosod ar ôl cymal 25 sy'n diwygio ystyr "digwyddiad mawr" ("*major incident*").
 - Cymal newydd, i'w fewnosod cyn cymal 25 sy'n ei gwneud yn ofynnol i'r Ysgrifennydd Gwladol benodi eiriolwr sefydlog i ymgymryd â swyddogaethau cyffredinol mewn perthynas â dioddefwyr digwyddiadau mawr ac eiriolwyr eraill a benodir mewn perthynas â digwyddiadau mawr.

- Gwelliant i gymal 25 i alluogi'r Ysgrifennydd Gwladol i benodi'r eiriolwr sefydlog yn eiriolwr mewn perthynas â digwyddiad mawr penodol.
- Gwelliant i gymal 27 i'w gwneud yn ofynnol i'r Ysgrifennydd Gwladol benodi eiriolwr arweiniol pan fo mwy nag un eiriolwr yn cael ei benodi mewn perthynas â digwyddiad mawr.
- Gwelliant i gymal 30 i'w gwneud yn ofynnol i'r eiriolwr sefydlog a benodir wneud adroddiadau blynyddol a gwelliant pellach i alluogi eiriolwr (neu'r eiriolwr arweiniol pan fo mwy nag un eiriolwr wedi ei benodi mewn perthynas â'r un digwyddiad) i adrodd yn ôl ei ddisgresiwn.
- Cymal newydd i'w fewnosod ar ôl cymal 30 yn gwneud darpariaeth ynghylch cyhoeddi gan yr Ysgrifennydd Gwladol adroddiadau a wnaed gan eiriolwr.
- Nifer o welliannau i gymal 31 sy'n ymwneud â chaniatadau a gofynion rhannu gwybodaeth ar gyfer eiriolwyr.
- Gwelliannau eraill canlyniadol i'r uchod.

19. Fel y nodwyd yn y Memorandwm Cydsyniad Deddfwriaethol (Memorandwm Rhif 1) mae angen cydsyniad ar gyfer y cymalau hyn ar y sail eu bod yn ymwneud â maes datganoledig darparu gwasanaethau cymorth, cyfeirio, eirioli a lledaenu gwybodaeth. Hefyd, maent yn gosod gofynion adrodd ar yr Eiriolwr Cyhoeddus Annibynnol a'r Ysgrifennydd Gwladol y gallai Gweinidogion Cymru eu hefelychu mewn perthynas â Chymru.

Newidiadau i'r Bil ers gosod y Memorandwm Cydsyniad Deddfwriaethol (Memorandwm Rhif 1) - cymalau newydd sy'n sbarduno'r broses Memorandwm Cydsyniad Deddfwriaethol

20. Yn ogystal â gwneud gwelliannau i'r Bil, cyflwynodd Llywodraeth y DU gymalau newydd. Mae'r canlynol yn ddarostyngedig i'r broses Memorandwm Cydsyniad Deddfwriaethol.

Cymal 20 newydd - Domestic Homicide Reviews

21. Mewnosodwyd Cymal 20 newydd ar ôl cymal 15 (fel y'i cyflwynwyd) ac mae'n ymwneud ag adolygiadau o farwolaethau yng Nghymru a Lloegr a allai fod yn gysylltiedig â cham-drin domestig. Mae'n diwygio Deddf Trais Domestig, Troseddu a Dioddefwyr 2004 gan ganiatáu i'r Ysgrifennydd Gwladol gyfarwyddo person neu gorff penodedig i sefydlu adolygiad o farwolaeth sy'n gysylltiedig â cham-drin domestig a chymryd rhan mewn adolygiad o'r fath. Mae'r ddarpariaeth hefyd yn diwygio adran 26 o Ddeddf yr Heddlu, Troseddu, Dedfrydu a'r Llysoedd 2022 (perthynas adolygiadau lladdiadau ag arf ymosodol â gofynion adolygu eraill).

22. Mae paragraff 34 o'r Nodyn Cyfarwyddyd Datganoli '*Parliamentary and Assembly Primary Legislation affecting Wales*' yn awgrymu bod Llywodraeth y DU o'r farn bod cydsyniad y Senedd yn ofynnol ar gyfer gosod "swyddogaeth a gedwir yn ôl" ("*reserved function*") ar Awdurdodau Cymreig Datganoledig. Felly, caiff y ddarpariaeth hon ei dwyn i sylw'r Senedd gan fod y cymal yn gosod cyfrifoldebau ar Awdurdodau Cymreig Datganoledig i gynnal adolygiadau at ddiben dysgu gwersi am y gwasanaethau y maent yn eu darparu ar gyfer yr ymadawedig. Y farn yw y gallai'r Senedd ddeddfu mewn amgylchiadau tebyg gan mai'r diben yw dysgu gwersi am y gwasanaethau y maent yn eu darparu ar gyfer yr ymadawedig, yn hytrach na bod ynglŷn â'r ymddygiad troseddol ei hun (sy'n ymwneud â materion a gedwir yn ôl). Fodd bynnag, ni allai'r Senedd osod y swyddogaethau hyn ar awdurdodau a gedwir yn ôl ac felly byddai cwmpas unrhyw ddarpariaeth gyfatebol yn gyfyngedig.
23. Mae'r ddarpariaeth yn caniatáu i'r Ysgrifennydd Gwladol osod swyddogaethau/gofynion ar Awdurdodau Cymreig Datganoledig megis awdurdodau lleol, byrddau iechyd lleol a sefydlir o dan adran 11 o Ddeddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006 ac ymddiriedolaethau'r GIG a sefydlir o dan adran 18 o Ddeddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006. Mae'r cymal yn cynnwys pŵer i ychwanegu at y rhestr o gyrff sy'n ddarostyngedig i'r ddarpariaeth, sy'n golygu y gallai'r Ysgrifennydd Gwladol ychwanegu Awdurdodau Cymreig Datganoledig pellach.

Cymal 37 newydd – Prohibited steps order

24. Cymal 37 newydd i'w fewnosod ar ôl cymal 15 yn diwygio Deddf Plant 1989 (i fewnosod adrannau 10A a 10B newydd), ac yn ei gwneud yn ofynnol i Lys y Goron wneud "gorchymyn camau gwaharddedig" ("*prohibited steps order*") sy'n atal rhiant rhag gwneud penderfyniad am fagwraeth plentyn heb gymeradwyaeth neu ganiatâd penodol y llys, pan fo rhiant yn euog o lofruddiaeth neu ddynladdiad gwirfoddol y rhiant arall. Mae hefyd yn darparu i'r gorchymyn gael ei adolygu gan y llysoedd teulu.
25. Mae llysoedd yn parhau i fod yn gyfrifoldeb a gedwir yn ôl, ond mae adran 10B newydd o'r ddarpariaeth yn ymwneud ag adolygiadau o orchmynion a wneir o dan adran 10A, ac yn gosod dyletswyddau ar awdurdodau lleol, gan gynnwys awdurdodau lleol Cymru (hy Awdurdodau Cymreig Datganoledig) i adolygu'r gorchmynion ar ôl iddynt gael eu gwneud.
26. Fel y nodir uchod, mae paragraff 34 o'r Nodyn Cyfarwyddyd Datganoli '*Parliamentary and Assembly Primary Legislation affecting Wales*' yn awgrymu ei bod yn ymddangos bod Llywodraeth y DU yn ystyried bod angen cydsyniad y Senedd i osod "swyddogaeth a gedwir yn ôl" ("*reserved function*") ar Awdurdod Cymreig Datganoledig.
27. Mae'r dyletswyddau ar awdurdodau lleol Cymru yn ymwneud ag adolygiadau o'r gorchmynion a wneir, yn hytrach na natur cyfrifoldeb rhiant a sut y caiff ei gaffael ac y gellir ei golli, gan fod y materion hyn yn faterion a gedwir yn ôl. Serch hynny, mae'r broses Memorandwm Cydsyniad

Deddfwriaethol wedi'i sbarduno ar gyfer y ddarpariaeth hon fel y nodir uchod, oherwydd yr effaith ar Awdurdodau Cymreig Datganoledig.

Gwelliannau anllywodraethol

28. Cafodd un gwelliant anllywodraethol ei osod a'i dderbyn yn ymwneud ag iawndal i ddioddefwyr gwaed heintiedig.

Cymal 40 newydd – Compensation for Infected Blood victims

29. Cyflwynwyd Cymal 40 fel gwelliant anllywodraethol a osodwyd ac a dderbyniwyd yng Nghyfnod Adrodd Tŷ'r Cyffredin. Mae'r gwelliant yn gosod dyletswydd ar yr Ysgrifennydd Gwladol i sefydlu corff i weinyddu'r cynllun iawndal ar gyfer dioddefwyr y sgandal gwaed heintiedig o fewn 3 mis i basio'r Ddeddf. Mae'r cymal yn dweud bod rhaid i'r corff gael ei gadeirio gan un o farnwyr yr Uchel Lys neu Lys y Sesiwn fel yr unig un a fydd yn gwneud penderfyniadau. Mae'r cymal yn amlinellu swyddogaethau'r corff ymhellach, yn darparu pŵer gwneud rheoliadau i'r Ysgrifennydd Gwladol i wneud darpariaeth bellach am y corff ac yn diffinio dioddefwr y sgandal gwaed heintiedig drwy gyfeirio at Ail Adroddiad Interim yr Ymchwiliad Gwaed Heintiedig.

30. Mae'r dadansoddiad cymhwysedd deddfwriaethol wedi ystyried i ba raddau y gellid sefydlu corff iawndal Cymreig mewn perthynas â Chymru. Felly, nid yw'n ystyried yn uniongyrchol gymal 40 o'r Bil sy'n sefydlu corff ar sail pedair gwlad gan y byddai hyn y tu hwnt i gymhwysedd; fel arall, mae'n ystyried darpariaeth a allai gael yr un effaith i raddau helaeth yng Nghymru, hy un sy'n sefydlu corff iawndal Cymreig. Ystyrir bod cymal 40 o fewn cymhwysedd y Senedd ar y sail nad yw'n sbarduno unrhyw un o'r materion a gedwir yn ôl yn Atodlen 7A i Ddeddf Llywodraeth Cymru 2006. Hefyd, ystyrir bod y ddarpariaeth yn ymwneud â mater datganoledig iechyd; cefnogir hyn ymhellach gan y ffaith bod y cynllun cymorth *ex-gratia* yng Nghymru yn cael ei redeg gan Gynllun Cymorth Gwaed Heintiedig Cymru (WIBSS) a'i fod wedi ei sefydlu gan ddefnyddio pwerau iechyd Gweinidogion Cymru a geir yn Neddf y GIG (Cymru) 2006. Felly, mae'r broses Memorandwm Cydsyniad Deddfwriaethol wedi ei sbarduno.

Safbwynt Llywodraeth Cymru ar y Bil yn dilyn y gwelliannau a gyflwynwyd ar 4 Rhagfyr 2023 ac 15 Ionawr 2024 - gwelliannau yr wyf yn argymhell bod y Senedd yn rhoi cydsyniad iddynt

Cymal 20 newydd - Domestic Homicide Reviews

31. Mae Llywodraeth Cymru o'r farn bod diwygio'r diffiniad o adolygiadau dynladdiad domestig, i gyd-fynd â diffiniad Deddf Cam-drin Domestig 2021, yn gam cadarnhaol. Mae'r diffiniad yn ehangach, yn fwy cynhwysfawr, a bydd yn gwella dealltwriaeth drwy gysondeb. Drwy ddiwygio'r diffiniad, mae'n siŵr y bydd nifer yr adolygiadau yn cynyddu. Credwn fod hynny'n cyd-fynd yn well â'n proses Adolygiad Diogelu Unedig Sengl sydd ar waith yng Nghymru ar hyn o bryd.

32. Er ein bod yn argymhell y dylai'r Senedd roi cydsyniad i'r cymal ar y sail a nodir uchod, byddem wedi hoffi gweld Llywodraeth y DU yn mynd ymhellach a chynnal adolygiad cynhwysfawr o'r Canllawiau Dynladdiad Domestig.

Cymal 37 newydd – Prohibited Steps Review

33. Mae polisi craidd Adolygiad Camau Gwaharddedig yn gysylltiedig â llysoedd, sy'n faes a gedwir yn ôl, ac mae'r Memorandwm Cydsyniad Deddfwriaethol yn cael ei osod dim ond mewn perthynas â'r effaith y mae'n ei chael ar awdurdodau lleol.

34. Er bod y ddarpariaeth yn gosod dyletswyddau ar Awdurdodau Cymreig Datganoledig i gynnal adolygiadau o orchmynion camau gwaharddedig, ni fyddai'r Senedd yn gallu deddfu i efelychu darpariaeth gwneud y gorchmynion yn y lle cyntaf, gan fod llysoedd yn fater a gedwir yn ôl. Mae'r ddarpariaeth yn cyfyngu ar ba bryd y caiff gorchmynion Camau Gwaharddedig eu gwneud yn awtomatig mewn perthynas â llofruddiaeth neu ddynladdiad anwirfoddol y rhiant arall. Mae Llywodraeth Cymru yn credu bod y ddarpariaeth yn cefnogi'r dull Glasbrint Trais yn erbyn Menywod a Merched sydd gennym yng Nghymru yn ogystal â darparu amddiffyniad i blant cyflawnwyr troseddau difrifol.

Cymal 40 newydd - Compensation for Infected Blood victims

35. Mae Llywodraeth Cymru yn cydnabod budd cyflwyno'r cymal fel y bydd y darpariaethau'n gymwys ar yr un pryd ledled y DU. Er bod cynllun eisoes wedi'i sefydlu yng Nghymru, ffefir dull pedair gwlad i sicrhau bod y ddarpariaeth yn gyfartal. Rwy'n ystyried defnyddio Bil y DU i ddarparu cyfle pragmatig ac effeithlon i sicrhau darpariaeth gyfartal i bawb sy'n byw gyda chanlyniadau cael eu trin â gwaed heintiedig.

36. Mae Llywodraeth Cymru yn deall bod Llywodraeth y DU wedi ymrwymo i gyflwyno gwelliant gan y llywodraeth yng Nghyfnod Adrodd Tŷ'r Arglwyddi ynghylch sefydlu corff iawndal i ddiodefwyr y sgandal gwaed heintiedig, ac mae Llywodraeth Cymru yn gweithio gyda Swyddfa'r Cabinet ar ddrafftio'r gwelliant hwnnw.

Safbwynt Llywodraeth Cymru ar y Bil yn dilyn gwelliannau a gyflwynwyd ar 4 Rhagfyr 2023 ac 15 Ionawr 2024 - gwelliannau pan na fo'n bosibl eto argymhell y dylai'r Senedd roi cydsyniad

Cymalau 1 i 4, 11, 22 a 23 - Victims of Criminal conduct – Victims' code

37. Yn y Memorandwm Cydsyniad Deddfwriaethol a osodwyd ar 19 Mai 2023, nododd y Gweinidog Cyfiawnder Cymdeithasol a'r Prif Chwip ar y pryd nad oedd Llywodraeth y DU wedi rhoi barn ynghylch a oes angen cydsyniad ar gyfer cymalau 1 i 4, 11, 22 a 23. Ers hynny mae Llywodraeth y DU wedi

egluro ei safbwynt. Mae hi o'r farn nad yw'r cymalau hyn o fewn cymhwysedd y Senedd gan eu bod yn ymwneud â chanfod ac ymchwilio i droseddau, sy'n fater a gedwir yn ôl.

38. Fodd bynnag, mae Llywodraeth Cymru yn parhau i fod o'r farn bod y cymalau o fewn cymhwysedd y Senedd am y rhesymau a nodwyd yn y Memorandwm Cydsyniad Deddfwriaethol cynharach a osodwyd ar gyfer y Bil Dioddefwyr a Charcharorion. Rydym yn parhau i bryderu y gallai'r Cod Dioddefwyr greu problemau cyfansoddiadol. Nid yw'r gwelliannau a wnaed i'r cymalau yn datrys unrhyw un o'r materion a godwyd yn flaenorol a byddwn yn parhau i gadw ein safbwynt yn ôl tra bod trafodaethau â Llywodraeth y DU yn parhau ar ran un o'r Bil.

Cymal 15 – Victims of criminal conduct: Guidance about independent domestic violence and sexual violence advisors

39. Nid yw'r gwelliannau a wnaed i Gymal 15 o'r Bil yn datrys y meysydd pryder a nodwyd yn y Memorandwm Cydsyniad Deddfwriaethol a osodwyd ar 19 Mai 2023.

40. Fel y nodwyd yn y Memorandwm Cydsyniad Deddfwriaethol a osodwyd ar 19 Mai 2023, rydym ni o'r farn y dylai unrhyw ganllawiau yng Nghymru gael eu dyroddi gan Lywodraeth Cymru yn hytrach na Llywodraeth y DU, yn unol â'n cyfrifoldebau datganoledig. Mae partneriaeth Glasbrint Trais yn erbyn Menywod, Cam-drin Domestig a Thrais Rhywiol (VAWDASV) yn rhoi cyfle i ddatblygu ein diffiniadau ein hunain, a gallai bodolaeth canllawiau statudol gan Lywodraeth y DU sy'n gymwys yng Nghymru fod yn ddryslyd a chyfyngol.

41. Mae'r dull yn adlewyrchu ein cymhwysedd datganoledig ar VAWDASV ac yn sicrhau y bydd y sector arbenigol yng Nghymru yn gallu cyfrannu at unrhyw ganllawiau ar y mater.

42. Mae fy swyddogion yn parhau â thrafodaethau â swyddogion Llywodraeth y DU mewn perthynas â Chymal 15. Diben y trafodaethau hyn yw brocera datrysiad pragmatig sy'n parchu'r Bartneriaeth Genedlaethol a'r strwythur Glasbrint ar gyfer cyflawni nodau Deddf Trais yn erbyn Menywod, Cam-drin Domestig a Thrais Rhywiol (VAWDASV) (Cymru) 2015. Rydym yn croesawu'r ymgysylltiad gan Lywodraeth y DU ar Gymal 15 o'r Bil hyd yma, a byddwn yn parhau i gadw ein safbwynt yn ôl ar y cymalau hyn nes bod y trafodaethau wedi dod i ben.

Cymalau 24-27 a 29-31 – Victims of major incidents: Appointment of independent public advocate

43. Nid yw'r gwelliannau diweddaraf gan y Llywodraeth i'r cymalau yn cynnwys darpariaethau sy'n gwneud cydsyniad Gweinidogion Cymru yn ofynnol wrth benodi a defnyddio'r eiriolwr ar gyfer dioddefwyr digwyddiadau mawr. Gan y bydd unrhyw eiriolwr yn gweithio mewn maes sydd wedi ei ddatganoli i raddau helaeth y gall y Senedd ddeddfu arno, mae swyddogion

yn credu bod ei hepgor yn golygu na ddylai'r Senedd roi cydsyniad i ran dau o'r Bil ar hyn o bryd.

44. Mae trafodaethau'n parhau rhwng Llywodraeth Cymru a swyddogion y Weinyddiaeth Gyfiawnder i gryfhau rôl Gweinidogion Cymru tra'n cynnal cymhwysedd deddfwriaethol y Senedd. Rydym yn croesawu'r ymgysylltiad gan Lywodraeth y DU ar ran dau o'r Bil hyd yma, a byddwn yn parhau i gadw ein safbwynt yn ôl ar y cymalau hyn nes bod y trafodaethau wedi dod i ben.

Goblygiadau ariannol

45. Mae'n bosibl y bydd goblygiadau ariannol ond ni fydd hyn yn glir hyd nes y gweithredir y mesurau yn y Bil.

Casgliad

46. Ceir darpariaethau yn y Bil hwn yr ydym yn eu croesawu ac sy'n cyd-fynd â'n polisiau. O ran darpariaethau o'r fath, rwyf yn argymhell bod y Senedd yn rhoi ei chydsyniad i'r cymalau hynny, fel y'u rhestrir ym mharagraffau 31 i 36.
47. Fodd bynnag, mae rhai darpariaethau yn y Bil lle mae Llywodraeth Cymru yn dal ei safbwynt yn ôl tra bod trafodaethau'n parhau â Llywodraeth y DU, fel a restrir ym mharagraffau 37 i 44.

Lesley Griffiths AS

Ysgrifennydd y Cabinet dros Ddiwylliant a Chyfiawnder Cymdeithasol