

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

Lleoliad:
Ystafell Bwyllgora 2 – y Senedd

Dyddiad:
Dydd Llun, 13 Gorffennaf 2015

Amser:
14.30

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales



I gael rhagor o wybodaeth, cysylltwch a:

Gareth Williams

Clerc y Pwyllgor

0300 200 6565

SeneddMCD@Cynulliad.Cymru

Agenda

1 Cyflwyniad, ymddiheuriadau, dirprwyon a datgan buddiannau

2 Offerynnau nad ydynt yn cynnwys materion i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.2 neu 21.3 (Tudalen 1)

CLA(4)-20-15 – Papur 1 – Offerynnau statudol sydd ag adroddiadau clir

Offerynnau'r Penderfyniad Negyddol

CLA557 – Gorchymyn Merthyr Tydfil College Limited (Sefydliad Dynodedig mewn Addysg Bellach) 2015

Y weithdrefn negyddol; Fe'i gwnaed ar: 1 Gorffennaf 2015; Fe'i gosodwyd ar: 6 Gorffennaf 2015; Yn dod i rym ar: 31 Gorffennaf 2015

3 Papurau i'w nodi (Tudalennau 2 – 57)

CLA(4)-20-15 – Papur 2 –Llythyr gan Gadeirydd y Pwyllgor Iechyd a Gofal Cymdeithasol at y Gweinidog Iechyd a Gwasanaethau Cymdeithasol ynghylch Rheoliadau Gofal a Chymorth (Cymhwystra) (Cymru) 2015

CLA(4)–20–15 – Papur 3 – Cynigion Llywodraeth y DU ynghylch pleidleisio yn Lloegr ar gyfer cyfreithiau Lloegr

CLA(4)–20–15 – Papur 3 – Gwybodaeth Gefndirol

CLA(4)–20–15 – Papur 4 – Llythyr oddi wrth y Llywydd mewn perthynas â'r Bil Rhentu Cartrefi (Cymru)

4 Cynnig o dan Reol Sefydlog 17.42 i benderfynu gwahardd y cyhoedd o'r cyfarfod ar gyfer y busnes canlynol:

(vi) lle mae'r pwyllgor yn cyd-drafod cynnwys, casgliadau neu argymhellion adroddiad y mae'n bwriadu ei gyhoeddi; neu'n ymbaratoi i gael tystiolaeth gan unrhyw berson;

Adroddiad drafft ar gynigion Llywodraeth y DU ar gyfer datganoli pellach i Gymru (Tudalennau 58 – 69)

CLA(4)–20–15 – Papur 5 – Adroddiad Terfynol

Ymchwiliad i Ddeddfu yn y Pedwerydd Cynulliad: Adroddiad drafft (Tudalennau 70 – 226)

CLA(4)–20–15 – Papur 6 – Papur esboniadol

CLA(4)–20–15 – Papur 6 Atodiad 1 – Ymatebion y Panel o Arbenigwyr

CLA(4)–20–15 – Papur 6 Atodiad 2 – Canlyniadau'r Arolwg

CLA(4)–20–15 – Papur 6 Atodiad 3 – Adroddiad drafft

CLA(4)–20–15 – Papur 6 Atodiad 4 – Adroddiad gan Charles Mynors

5 Blaenraglen Waith (Tudalennau 227 – 236)

CLA(4)–20–15 – Papur 7 – Papur esboniadol

CLA(4)–20–15 – Papur 7 Atodiad 1 – Blaenraglen waith

CLA(4)–20–15 – Papur 7 Atodiad 2 – Gwaith ar gyfer y dyfodol

CLA(4)–20–15 – Papur 7 Atodiad 3 – Papur cwmpasu ar Faterion Ewropeaidd

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol Offerynnau statudol gydag adroddiadau clir

1 Mehefin 2015

**CLA534 – Gorchymyn y Cwricwlwm Cenedlaethol (Cymedroli Trefniadau
Asesu ar gyfer yr Ail Gyfnod Allweddol a'r Trydydd Cyfnod Allweddol)
(Cymru) 2015**

Gweithdrefn Negyddol

Mae'r Gorchymyn hwn yn ei gwneud yn ofynnol i bob ysgol gymryd rhan mewn cymedroli grŵp clwstwr ar ddiwedd yr ail gyfnod allweddol a'r trydydd cyfnod allweddol. Mae dyletswydd ar benaethiaid i gymryd rhan mewn cyfarfodydd cymedroli grŵp clwstwr er mwyn sicrhau bod pob ysgol yn cymedroli athrawon yn gywir ac yn gyson ar ôl i athrawon asesu gwaith ysgol disgyblion ar ddiwedd yr ail gyfnod allweddol a'r trydydd cyfnod allweddol.

Mark Drakeford AC,
Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol
Llywodraeth Cymru

7 Gorffennaf 2015

Annwyl Mark,

Rheoliadau Gofal a Chymorth (Cymhwysra) (Cymru) 2015

Mae'r Pwyllgor Iechyd a Gofal Cymdeithasol wedi bod yn craffu ar [Reoliadau Gofal a Chymorth \(Cymhwysra\) \(Cymru\) 2015](#) a'r [cod ymarfer](#) [Saesneg yn unig] cysylltiedig i ystyried a fydd yn cyflawni nod [Deddf Gwasanaethau Cymdeithasol a Llesiant \(Cymru\) 2014](#). I'n helpu i ffurfio ein barn, cyhoeddom alwad am [dystiolaeth ysgrifenedig](#) a chlywsom [dystiolaeth lafar](#) gan nifer o randdeiliaid yn ein cyfarfod ar 11 Mehefin.

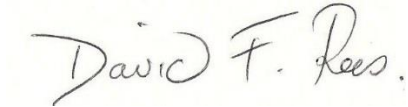
Pwrpas y gwaith hwn oedd cyfrannu gwybodaeth at baratodau Aelodau'r Cynulliad ar gyfer ystyried y rheoliadau yn y [Cyfarfod Llawn ar 14 Gorffennaf](#). Er nad oedd y dystiolaeth a gyflwynwyd i ni yn awgrymu y dylai'r Cynulliad wrthod y rheoliadau, codwyd pryderon ynglŷn â nifer o faterion. Rydym yn credu y dylai'r pryderon hyn gael sylw drwy wneud newidiadau i'r cod ymarfer ar gymhwysra. Ceir rhagor o wybodaeth am y materion hyn yn yr atodiad i'r llythyr hwn.

Croesewir gohebiaeth yn Gymraeg neu Saesneg | We welcome correspondence in Welsh or English



Rhennir copi o'r llythyr hwn â'r Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol.

Yn gywir,

A handwritten signature in black ink that reads "David F. Rees." The signature is written in a cursive style and is placed on a light yellow rectangular background.

David Rees AC

Cadeirydd, y Pwyllgor Iechyd a Gofal Cymdeithasol

cc: David Melding AC, Cadeirydd y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol



Atodiad A – Materion a godwyd mewn tystiolaeth ar Reoliadau Gofal a Chymorth (Cymhwysra) (Cymru) 2015

Adnoddau cymunedol

Nodir yn y [Memorandwm Esboniadol](#) [Saesneg yn unig] sy'n cyd-fynd â'r rheoliadau y bydd y dull newydd hwn o gymhwysra yn lleihau nifer y bobl sydd angen gwasanaethau gofal a chymorth ffurfiol (a chynllun gofal a chymorth) drwy gyflwyno mynediad at wasanaethau ataliol heb yr angen am gynllun ffurfiol. Cododd rhanddeiliaid bryderon ynghylch y bwriad hwn, gan gwestiynu pa mor ddigonol oedd gwasanaethau o'r fath a chwestiynu eu hargaeledd.

Dywedodd rhanddeiliaid hefyd y gallai diffyg diffiniad o wasanaethau ataliol arwain at anghysondebau mewn gwahanol rannau o Gymru os cânt eu gadael i ddehongliad awdurdodau lleol eu hunain o wasanaethau.¹ Crynhodd Keith Bowen, a oedd yn cynrychioli Cynghrair Gofalwyr Cymru, y pryderon hyn drwy ddweud:

“We don't particularly feel that, at the moment, there is that framework or network of infrastructure of community services out there to really fulfil the aims of the Act [...] Will there actually be the community preventative services across the whole of Wales for local authorities to be able to refer on to?”

Cododd Cynghrair Henoed Cymru bryderon hefyd ynghylch argaeledd gwasanaethau cymunedol yn y tymor hir, yn enwedig yn ystod cyfnodau o galedi. Clywodd y Pwyllgor y gall pobl ddibynnu ar y gwasanaethau presennol i'w helpu nhw i fyw'n annibynnol, ac nad oes sicrwydd y bydd gwasanaethau o'r fath yn parhau i fod ar gael yn ystod y blynyddoedd a ddaw os bydd y cyllid cyhoeddus y maent yn dibynnu arno'n cael ei dorri.

Nododd Cynghrair Gofalwyr Cymru mai dim ond dyletswydd gyffredinol sydd ar awdurdodau lleol i gynllunio a darparu gwasanaethau ataliol yn y gymuned tra bod y rheoliadau hyn yn delio â phenderfyniadau sy'n ymwneud â hawliau a

¹ Er bod gwasanaethau ataliol wedi eu diffinio yn adran 15 y Ddeddf Gwasanaethau Cymdeithasol a Llesiant, mae'r diffiniad yn cael ei lunio o ran pwrpas bwriadedig gwasanaeth, nid o ran rhestr o wasanaethau.



hawliadau cyfreithiol unigol. Mae'n credu mai un maes posibl ar gyfer anghydfod mawr yw lle gall awdurdodau lleol fod o'r farn bod gwasanaeth neu weithgarwch cymunedol penodol yn ddigonol i ddiwallu anghenion unigolyn (ac felly yn ystyried yr unigolyn yn "anghymwys") ond bod yr unigolyn yn anghytuno.

Dywedodd Keith Bowen wrthym hefyd pan fydd awdurdodau lleol yn penderfynu y gellir cwrdd ag anghenion a chanlyniadau llesiant unigolyn drwy wasanaeth cymunedol, dylai cyfrifoldeb clir fod ar yr awdurdod i gofnodi'r rhesymeg dros y penderfyniad a sut bydd y gwasanaeth hwnnw'n cwrdd â chanlyniadau ac anghenion llesiant yr unigolyn. Dywedwyd wrthym fod Rheoliadau Gofal a Chymorth (Asesu) (Cymru) 2015 a'r cod ymarfer ar asesiadau yn datgan yn glir bod yn rhaid i'r awdurdod lleol gofnodi'n union pa adnodd cymunedol sy'n cwrdd ag angen penodol a aseswyd (a sut mae'n cwrdd â'r angen hwnnw), ac y byddai grwpiau rhanddeiliaid yn fwy cyfforddus pe bai Rheoliadau Gofal a Chymorth (Cymhwystra) (Cymru) 2015 a'r cod ymarfer cysylltiedig hefyd yn cynnwys yr un gofyniad.

Nodwn y pryderon a godwyd gan randdeiliaid ynghylch cysondeb ac argaeledd gwasanaethau ataliol cymunedol ledled Cymru, yn enwedig o ystyried bwriad Llywodraeth Cymru y gellid cyfeirio rhagor o bobl at y gwasanaethau hyn, ac y bydd llai o bobl angen gwasanaethau gofal a chymorth ffurfiol. Rydym yn credu y dylai'r fframwaith cymhwystra nodi'n benodol os nad yw gwasanaeth ataliol addas (neu ddewis amgen) ar gael i gwrdd ag anghenion a chanlyniadau llesiant yr unigolyn, rhaid i'r unigolyn hwnnw ddod yn gymwys yn awtomatig. Rydym yn argymhell bod y cod ymarfer a ddaw gyda'r rheoliadau hyn yn cael ei ddiwygio i:

- gynnwys gofyniad i gofnodi angen a chanlyniad llesiant unigolyn; a
- nodi'n union sut byddai gwasanaeth cymunedol penodol yn cwrdd â'r angen a'r canlyniad llesiant hwnnw.

Prawf 'Gallu a'r unig ffordd y gall'

Tynnodd nifer o sefydliadau sylw at y risg y gallai'r prawf 'gallu a'r unig ffordd y gall' arwain at oedi yng ngallu unigolion i gael mynediad at y gofal a'r cymorth sydd ei angen arnynt, a phenderfyniadau yn cael eu gwneud nad ydynt fwyaf er budd yr unigolion.



Dyweddod elusen Age Cymru wrthym ei bod yn pryderu bod natur gyfyngol y prawf yn creu potensial i'w gymhwyso fod yn rhwystr rhag mynediad at wasanaethau personol. Mae hyn oherwydd y gellid ei ddehongli yn y fath fodd bod yn rhaid i unigolyn ddangos nad yw eu hanghenion yn cael eu diwallu gan y gwasanaethau ataliol sydd ar gael yn y gymuned. Mae'n dweud bod rhaid cymryd camau i sicrhau nad yw hyn yn dal pobl yn ôl rhag cael mynediad at wasanaethau personol i gefnogi cyflawni eu canlyniadau llesiant.

Dyweddod Rick Wilson o Gynghrair Cymru ar gyfer Cymorth a Gyfarwyddir gan Ddinasyddion (WACDS) wrthym fod amwysedd yn y fframwaith 'gallu a'r unig ffordd y gall'. Nododd:

“[my] anxiety about ‘can and can only’ is that local authorities could potentially use that to highlight people having to exhaust their own social networks before the local authorities have a duty to provide a care plan and an assessed service.”

Dyweddod y Gynghrair hon fod y farn gyfreithiol wedi awgrymu y gallai rhai awdurdodau lleol ddehongli'r prawf 'gallu a'r unig ffordd y gall' i olygu y byddai disgwyl i bobl a fyddai'n mynd atynt am gymorth 'brofi' eu bod wedi gwneud pob ymdrech i oresgyn y rhwystrau sy'n eu hatal rhag cyflawni eu canlyniadau llesiant o fewn adnoddau'r teulu a'r gymuned cyn cael gwrandawriad. Mae'n nodi y byddai hyn yn creu oedi diangen a niweidiol i unigolion, ac felly roedd eisiau gweld canllawiau sy'n sicrhau nad yw'r dull hwn yn cael ei ganiatáu:

“We are concerned that the requirement for individuals to exhaust all possible family- and community-based options for support before becoming eligible for statutory services could widen the gaps that people can fall through. We do not wish to see people being expected to ‘prove’ that they have made every attempt to overcome the barriers to them achieving their wellbeing outcomes within family and community resources before being listened to. We would therefore like to see guidance that discourages this.”

Dyweddod y Gymdeithas Clefyd Niwronau Motor y galli'r prawf 'gallu a'r unig ffordd y gall' adael pobl mewn perygl o gael cefnogaeth o ansawdd isel neu gefnogaeth annigonol am gyfnod sylweddol cyn bod yr awdurdod lleol yn fodlon



camu i mewn, neu cyn iddo allu gwneud hynny. Os yw pobl, cyn y gallant gael mynediad at y gwasanaethau priodol, yn gorfod dangos eu bod wedi disbyddu gallu gwasanaethau lleol, mwy cyffredinol i ddiwallu eu hanghenion, noda'r Gymdeithas y byddai hyn yn creu risg ddifrifol y gallai pobl sydd â chyflwr sy'n datblygu'n gyflym wynebu oedi diangen wrth geisio mynediad at wasanaethau."

Nodwn y pryderon a godwyd ynghylch oedi posibl wrth gael mynediad at wasanaethau pe bai'n ofynnol i unigolyn ddangos ei fod wedi rhoi cynnig ar bob dewis arall (fel gwasanaeth cymunedol cyffredinol) cyn y gall ddod yn gymwys i gael gofal a chymorth wedi ei drefnu gan awdurdod lleol. Rydym yn cytuno â'r farn a fynegwyd gan randdeiliaid na ddylai unigolion wynebu oedi wrth geisio mynediad at wasanaethau na theimlo dan bwysau diangen i ddangos nad ydynt yn gallu cyflawni eu canlyniadau llesiant heb y gofal a'r gefnogaeth a drefnir gan yr awdurdod lleol. Rydym yn argymhell bod camau'n cael eu cymryd drwy ganllawiau i awdurdodau lleol er mwyn egluro eu cyfrifoldebau'n gadarn cyn cychwyn y rheoliadau.

Mynegodd nifer o sefydliadau, gan gynnwys Cynghrair Gofalwyr Cymru, bryderon nad oedd yn glir pwy fydd yn gyfrifol am dangos y gellir neu na ellir diwallu anghenion a aseswyd unigolyn gyda chymorth gwasanaethau yn y gymuned, gan ddweud wrthym fod angen diwygiadau i gywiro hyn. Mewn briff a gyhoeddwyd, dywedodd Gofalwyr Cymru:

"The draft Code of Practice needs to be more prescriptive about how the process is managed. Will the onus be on the local authority to show that needs can be met elsewhere (by community based or preventative services)? We feel very strongly that this responsibility should lie with local authorities and if the need cannot be met then a person meets the eligibility criteria for a care and support plan."

Credwn yn gryf y dylai'r cod ymarfer nodi'n glir y dylai'r cyfrifoldeb am ddangos y gellir diwallu anghenion a chanlyniadau llesiant unigolyn drwy wasanaethau cymunedol fod ar yr awdurdod lleol yn hytrach nag ar yr unigolyn. Rydym yn argymhell y dylid diwygio'r cod ymarfer i adlewyrchu hyn.



Effaith ar ofalwyr

Dyweddodd rhanddeiliaid wrthym y gallai'r angen i gael mynediad at wasanaethau y tu allan i'r meini prawf cymhwystra arwain at bwysau ychwanegol ar ofalwyr di-dâl a theuluoedd. Dywedodd Cynghrair Gofal Cymdeithasol a Llesiant Cymru wrthym mai ei hargraff gyffredinol yw bod y meini prawf cymhwystra fel y'i hysgrifennwyd yn dibynnu'n ormodol ar gymorth anffurfiol gan deulu a ffrindiau ar hyn o bryd.

Rhannodd Age Cymru a Chynghrair Cynhalwyr Cymru bryderon hefyd y gallai'r newid pwyslais hwn arwain yn hawdd at alw ychwanegol a disgwyliadau yn cael eu rhoi ar ofalwyr di-dâl i gwrdd ag anghenion gofal a chymorth eu hanwyliaid ac ymgymryd â rhagor o dasgau gofal eu hunain.

Galwodd tystion am ddiwygio'r cod ymarfer i ddatgan yn glir bod yn rhaid cofnodi parodrwydd a gallu gofalwr i allu darparu gofal, ar hyn o bryd ac yn y dyfodol, yn ogystal â sut gwelir bod unrhyw wasanaeth ataliol yn cwrdd â'r anghenion a'r canlyniadau a aseswyd.

Byddem yn bryderus iawn pe bai cyflwyno'r rheoliadau hyn yn arwain at ragor o bwysau ar ofalwyr di-dâl i gyflawni anghenion gofal eu teulu a'u ffrindiau yn lle gofal a darparwyd gan awdurdod lleol. Rydym yn argymhell bod y cod ymarfer yn cael ei ddiwygio i:

- **nodi'n glir na ddylid cael gorddibyniaeth ar drefniadau gofal gwirfoddol; a**
- **chynnwys gofyniad i gofnodi parodrwydd a gallu gofalwr i ddarparu gofal, ar hyn o bryd ac yn y dyfodol, fel rhan o'r broses meini prawf cymhwystra.**

Y budd mwyaf i'r unigolyn

Pan fydd awdurdod lleol yn gwneud penderfyniad ar gymhwystra unigolyn am wasanaethau, clywsom dystiolaeth hefyd y dylai'r awdurdod ystyried beth fyddai er pennaf les yr unigolyn hwnnw. Cyfeiriodd Jim Crowe, a oedd yn cynrychioli'r Grŵp Cyfeirio ar Anabledd, at enghraifft o oedolyn ifanc ag anableddau dysgu a allai elwa ar fyw'n annibynnol ar y teulu. Gallai awdurdod lleol ddefnyddio'r prawf 'gallu a'r unig ffordd y gall' i benderfynu y dylai'r unigolyn ifanc barhau i fyw gartref. Siaradodd Dr Samantha Clutton hefyd am y budd mwyaf i blant yn ei thystiolaeth. Dywedodd wrthym:



“In considering ‘can and can only’, what we would like to continue is what has been the bedrock of children’s social care in terms of making a decision on whether social care intervention is in the best interests of a child. We believe that that should still be at the heart of decisions about social care intervention in children’s lives. [...]

A child may, in theory, have access to a community service, but they are not going to be able to achieve that access without the intervention of adults... When we’re making best-interest decisions in relation to a child, we need to ensure that, in deciding there is a service in the community that can meet those needs, we put in place support to make sure that they can access that.”

Wrth wneud penderfyniadau am anghenion unigolyn, rydym yn credu ei bod yn hanfodol bod yr awdurdod lleol yn dehongli'r meini prawf 'gallu a'r unig ffordd y gall' mewn ffordd sy'n bodloni lles pennaf yr unigolyn hwnnw ac yn galluogi'r unigolyn i gyflawni ei ganlyniadau llesiant. Rydym yn argymhell y dylid amlygu hyn i awdurdodau lleol drwy'r canllawiau ar weithredu'r rheoliadau.

Eiriolaeth

Dywedodd nifer o sefydliadau wrthym y dylid cryfhau'r cod ymarfer mewn perthynas â'r darpariaethau ynghylch mynediad at eiriolaeth. Dywedodd Dr Clutton y byddai Barnardo's Cymru yn hoffi gweld rhagdybiaeth yn y cod ymarfer y bydd plant a phobl ifanc angen eiriolwr:

“We do believe that there should be a presumption that every child and young person needs an advocate to act for them and help them have a voice within the care and support planning process and the assessment process.”

Mae Age Cymru yn pryderu nad yw rhywfaint o'r iaith a'r brawddegau a ddefnyddir yn y cod ymarfer yn adlewyrchu bwriad gwaith y Grŵp Technegol ar Eiriolaeth a fu'n rhan o'r gwaith o ddatblygu'r cod ymarfer drafft ar eiriolaeth:

“In particular, it fails to recognise that support by family and friends may be inappropriate, as opposed to unavailable. Where there are conflicts of interest between an individual and members of their family, or potential



safeguarding concerns, advocacy by those family members is entirely inappropriate. The paragraph also fails to reflect those situations where independent advocacy is appropriate.

In line with the comments above, we are concerned about the phrasing that has been added around inclusion of an advocate 'where one has been identified' as this does not reflect the importance of providing advocacy where an individual can, and can only, participate effectively in assessment, eligibility and other processes with the assistance of an independent advocate."

Rydym yn rhannu barn rhanddeiliaid y dylai mynediad at eiriolaeth annibynnol fod ar gael fel mater o drefn i bob plentyn, ac i oedolion sydd angen y cymorth hwn. Rydym yn argymhell y dylid diwygio'r cod ymarfer i gryfhau'r darpariaethau hyn. Mae hyn yn arbennig o bwysig i sicrhau bod cymorth yn cael ei ddarparu i unrhyw un sy'n ymwneud â'r broses cymhwystra sydd angen mynediad at eiriolwr annibynnol i'w galluogi i ddeall eu hawliau a sut gwneir penderfyniadau.

Adolygu penderfyniadau

Codwyd pryderon gan rhanddeiliaid mewn perthynas â threfniadau ar gyfer adolygu penderfyniadau gan awdurdodau lleol ar gymhwystra ar gyfer pecynnau gofal. Dywedwyd wrthym nad oedd gwneud cwyn ffurfiol yn fecanwaith priodol pe bai unigolyn yn teimlo nad yw eu hamgylchiadau wedi cael eu hystyried yn foddhaol, ac nad oedd yn glir sut byddai unigolyn yn cael ei ystyried yn gymwys i gael ei ailasesu. Yn ei thystiolaeth ysgrifenedig dywedodd Age Cymru bod y cod ymarfer drafft yn rhoi mesur helaeth o ddisgresiwn i awdurdodau lleol wrth benderfynu a yw unigolyn angen ailasesiad ynghylch a yw ei anghenion yn cael eu diwallu. Dywedodd ei bod yn ymddangos mai'r goblygiad yw os yw'r awdurdod lleol yn fodlon nad yw'r anghenion wedi newid neu fod anghenion yn cael eu diwallu, yna ni fyddai unrhyw ailasesiad yn cael ei gynnal. Datganodd hefyd ei bod yn parhau'n aneglur pa ddewis, os o gwbl, sydd ar gael i'r unigolyn.

Er bod y Pwyllgor wedi ei galonogi gan [lythyr y Gweinidog ar 10 Mehefin](#) [Saesneg yn unig], pan ddywedodd "*should someone feel that the care service they are receiving is not meeting their needs they, or their representative, can request a review of that service and/or a re-assessment of their needs at any time*", nid



ydym yn credu bod hyn yn cael ei adlewyrchu yn y cod ymarfer fel y mae wedi ei ddrafftio ar hyn o bryd (sy'n canolbwyntio ar yr hawl i gael ailasesiad pan fydd amgylchiadau neu anghenion wedi newid).

Yn ein [hadroddiad ar y Bil Rheoleiddio ac Arolygu Gofal Cymdeithasol \(Cymru\)](#), dywedom y dylid cael darpariaeth ddigonol ar gyfer pobl y canfuwyd eu bod yn anghymwys am wasanaethau fel eu bod yn cael mynediad at ffyrdd o wneud iawn am hynny. Yn yr adroddiad hwnnw argymhellom fod y trefniadau a nodir yn adrannau 19, 21 a 24 Ddeddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014 yn cael eu hadolygu'n gyson er mwyn sicrhau bod y mecanweithiau ar gyfer ailasesu ac adolygu penderfyniadau mewn perthynas â chymhwystra unigolion yn gadarn ac yn darparu ffyrdd priodol o wneud iawn.

Rydym yn croesawu'r eglurhad a ddarperir yn llythyr y Gweinidog ar 10 Mehefin y gall rhywun wneud cais am adolygiad neu ailasesiad ar unrhyw adeg os ydyw'n teimlo nad yw'r gwasanaeth gofal y mae'n ei dderbyn yn diwallu ei anghenion. Fodd bynnag, rydym yn credu y dylai'r cod ymarfer nodi mecanwaith rhagnodedig sy'n:

- galluogi unigolyn i herio penderfyniadau ffurfiol ar gymhwystra; a
- nodi'n glir yr amserlen ar gyfer ailasesu unigolion.

Credwn yn gryf y dylai defnyddwyr gwasanaethau deimlo'n hyderus yn eu gallu i geisio iawn os ydynt yn credu nad yw'r ateb a ddarperir gan yr awdurdod lleol yn diwallu eu hanghenion a'u canlyniadau lles, neu os na fydd yn debygol o wneud hynny. Rydym hefyd yn credu na ddylai defnyddwyr gwasanaeth orfod dangos bod eu hamgylchiadau wedi newid yn sylweddol wrth ofyn am ailasesiad. Er mwyn rhoi eglurder i awdurdodau lleol a defnyddwyr gwasanaethau, rydym yn argymhell bod y cod ymarfer yn cael ei ddiwygio i:

- adlewyrchu'r wybodaeth am ailasesu a amlinellir yn llythyr y Gweinidog ar 10 Mehefin; a
- nodi'r trefniadau ffurfiol i ddefnyddwyr geisio iawn, fel yr amlinellir uchod.

Confensiwn y Cenhedloedd Unedig ar Hawliau Pobl ag Anableddau

Yn ein hadroddiad ar y Bil Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymru), argymhellom fod y Gweinidog Iechyd a Gwasanaethau Cymdeithasol yn cyflwyno gwelliannau i'w gwneud yn ofynnol i bawb sy'n arfer swyddogaethau dan y Bil roi



sylw dyledus i Gonfensiwn y Cenhedloedd Unedig ar Hawliau'r Plentyn, Confensiwn y Cenhedloedd Unedig ar Hawliau Pobl ag Anableddau, ac Egwyddorion y Cenhedloedd Unedig ar gyfer Pobl Hŷn.

Mae'r cod ymarfer ar asesiadau yn cynnwys cyfeiriad at roi sylw dyledus i Gonfensiwn y Cenhedloedd Unedig ar Hawliau Pobl ag Anableddau. Fodd bynnag, nid yw'r un cyfeiriad yn cael ei gynnwys yn y cod ymarfer ar gymhwystra, er bod cyfeiriad at Gonfensiwn y Cenhedloedd Unedig ar Hawliau'r Plentyn, ac Egwyddorion y Cenhedloedd Unedig ar gyfer Pobl Hŷn

Amlygwyd yr anghysondeb hwn i ni mewn tystiolaeth ysgrifenedig a thystiolaeth lafar. Dywedodd Jim Crowe, a oedd yn cynrychioli'r Grŵp Cyfeirio ar Anabledd:

“I think it’s going to look increasingly odd that the Act and parts of the Act, regulations and guidance, don’t refer to the United Nations Convention on the Rights of Persons with Disabilities. That is the fundamental statement of global legislation as it applies to disabled people. It seems extraordinary that it’s missing from the face of the Act. It is now in one or two of the codes of practice, but it’s not consistent.

I think the fundamentals, like referencing Acts that the UK Government has ratified and that the Welsh Government has supported, really should be flagged up within this guidance, because disabled people are a significant sector of the population who will be affected by this legislation and guidance.”

Rydym yn credu bod cysondeb ar draws y darnau perthnasol o ddeddfwriaeth sylfaenol ac eilaidd yn bwysig er mwyn sicrhau bod y darpariaethau'n cael eu gweithredu'n deg ac y gall defnyddwyr gwasanaethau gael mynediad at y gofal sydd ei angen arnynt i fodloni eu hanghenion. Gan hynny, rydym yn argymhell bod y cod ymarfer ar gymhwystra'n cyfeirio at Gonfensiwn y Cenhedloedd Unedig ar Hawliau Pobl ag Anableddau, yn ogystal â Chonfensiwn y Cenhedloedd Unedig ar Hawliau'r Plentyn ac Egwyddorion y Cenhedloedd Unedig ar gyfer Pobl Hŷn.



Adolygu gweithredu'r Rheoliadau

Mae'r rheoliadau hyn yn elfen bwysig o weithredu Deddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014 a bydd yn arwain at newid mawr yn y ffordd y mae gwasanaethau gofal cymdeithasol yn cael eu darparu. Rydym yn credu ei bod yn hanfodol sicrhau bod y fframwaith cymhwysra newydd yn darparu'r lefel briodol o fynediad at ofal a chymorth i'r bobl sydd ei angen ledled Cymru. Mewn tystiolaeth lafar, nododd Mr Burch o ADSS Cymru *"we will have to make sure that we monitor it in ways that help us ascertain that people aren't, for example, being denied services they do need."*

Rydym yn credu bod cyfrifoldeb ar ddarparwyr gwasanaethau i sicrhau bod anghenion pobl yn cael eu diwallu er mwyn eu galluogi i gyflawni eu canlyniadau llesiant. Rydym yn argymhell bod Llywodraeth Cymru ac awdurdodau lleol yn monitro gweithredu'r rheoliadau hyn yn agos, a hynny ar gyfnod cynnar, er mwyn sicrhau bod anghenion unigolion yn cael eu diwallu. Yn ogystal, yn yr adroddiad etifeddiaeth y byddwn yn ei gyhoeddi ar ddiwedd y Cynulliad hwn, byddwn yn argymhell bod ein pwyllgor olynol yn adolygu gweithredu'r rheoliadau hyn ar adeg briodol.





Cabinet Office

English Votes for English Laws: An Explanatory Guide to Proposals

July 2015

Introduction

The Government has announced plans to change the way legislation is considered in the House of Commons to give English and Welsh MPs a fairer say over laws that only affect their constituencies and are on matters which have been devolved. This note sets out how the new legislative process will work if it is agreed by the House of Commons. It is published alongside the proposed new Standing Orders and an Explanatory Memorandum.

What is it trying to address?

English Votes for English Laws addresses the so-called ‘West Lothian Question’ - the position where English MPs cannot vote on matters which have been devolved to other parts of the UK, but Scottish, Welsh and Northern Ireland MPs can vote on those same matters when the UK Parliament is legislating solely for England.

As devolution to Scotland, Wales and Northern Ireland is strengthened, the question of fairness for England becomes more acute. These proposals change the process by which legislation is considered by the House of Commons so that MPs with constituencies in England (and where relevant England and Wales) are asked to give their consent to legislation that only affects England (or England and Wales), and is on matters that are devolved elsewhere in the UK. Those MPs will therefore have the opportunity to veto such legislation. The change will strengthen England’s voice, just as devolution has strengthened the voices of Scotland, Wales and Northern Ireland within the Union, so that the legislative process is fair for everyone. All MPs will continue to be able to amend and vote on all legislation, as they can now.

What legislation is affected?

The new process will apply to Government bills introduced in this Parliamentary Session that have a Second Reading in the Commons after the new rules are agreed. It will then apply to all parts of Government bills which are certified by the Speaker as containing English, or English and Welsh, provisions. It will not apply to routine bills that implement the House’s spending decisions contained in the Estimates. It will also apply to secondary legislation.

How does it work for bills?

- When a bill has been introduced in the Commons, the Speaker will **certify** whether the bill, or parts of it, should be subject to the new process. When making this decision the Speaker will decide whether the legislation relates exclusively to England, or England and Wales, and concerns matters which are devolved to Scotland, Wales or Northern Ireland.
- Once the Speaker has certified a bill it continues to **Second Reading and Committee Stage** as normal.
- Any bills that the Speaker has certified as England-only in their entirety will be

considered by only English MPs at **Committee Stage**. The membership of this Committee will reflect the numbers of MPs that parties have in England. This will not apply to any other bills, such as those which contain a mixture of England-only and England and Wales provisions or bills which contain provisions which are UK-wide.

- After this the bill continues to **Report Stage** as normal.
- For bills containing English or English and Welsh provisions, there is then a process for gaining the consent of English or English and Welsh MPs. A Legislative Grand Committee considers a **Consent Motion** for any clauses that the Speaker has certified as English or English and Welsh only. This is a new stage which will allow all English or English & Welsh MPs either to consent to or to veto those clauses. At this stage no amendments to the text of the bill can be made but specified clauses can be vetoed by amendments to the Consent Motion. In the case of a bill which is England-only, or England and Wales only, this stage allows those MPs to consent to or veto the whole bill.
- If clauses of the bill are vetoed by the Legislative Grand Committee there is a **Reconsideration Stage** when further amendments can be made, to enable compromises to be reached. The whole House can participate in this stage, which is, in effect, a second Report Stage for disputed parts of the bill. This is followed by a **second Legislative Grand Committee** at which all English or English & Welsh MPs are asked to consent to the amendments made by the whole House. If no agreement is reached at this point, the disputed parts of the bill fall.
- Following Report stage and any Consent Motions the bill continues to **Third Reading**, in which as now all MPs can participate. It then progresses to the House of Lords. If there are any consequential amendments to the rest of the bill required as a result of disputed parts of the bill falling, there will be an additional stage before Third Reading to allow this.

The legislative process in the House of Lords is unchanged.

If the bill is amended by the House of Lords, then when it returns to the Commons the Speaker is required to certify any motions relating to Lords amendments to the bill, on the same basis as before. Any votes on amendments that have been certified as England or England and Wales only will be subject to a double majority vote. That is to say that such amendments will have to be supported by a majority of English or English and Welsh MPs as well as a majority of all MPs before they can become law.

In a double majority vote MPs will go through the division lobbies as now, but their votes will be recorded electronically as well as counted by the Tellers. This will allow two results to be announced at the end: one for English, or English and Welsh MPs, and one for the whole House.

The process for bills that start in the House of Lords is similar, with bills being certified when they first arrive in the House of Commons.

The new process is summarised in a diagram attached to this note.

What about Finance bills?

Finance bills, and bills that could usually be referred to as finance bills, are included in the new procedures. They will be subject to the same process as other bills, but with one change. The Legislative Grand Committee for these bills may consist not only of English or English and Welsh MPs, but also English, Welsh and Northern Ireland MPs where relevant. This reflects the devolution of income tax rates and thresholds on earnings to Scotland. Relevant Budget Resolutions, on which Finance Bills are founded, will also be subject to the consent of these MPs, in a double majority vote. Any taxes which apply to Great Britain will continue to be considered on a UK-wide basis

How does it work for secondary legislation?

Secondary legislation that is subject to the affirmative procedure, or that is subject to the negative procedure and has been prayed against and scheduled for debate, will be certified by the Speaker using the same criteria as for bills. Unlike bills, he will consider statutory instruments in their entirety. If a whole statutory instrument is England or England and Wales only and meets the “devolution test” it will be subject to the new process. If any part of it applies to Scotland, Northern Ireland or the whole UK, it will not be subject to it.

When considered in committee, all statutory instruments will be considered as they are now. If a statutory instrument that is certified as English (or English & Welsh) is pressed to a vote on the floor of the House the support of both the whole House and of English (or English and Welsh) MPs will need to be secured in order for it to be approved. These decisions, where contested, will usually be taken by deferred division, as now. Votes on the distribution of spending in England, or England and Wales, such as on the Revenue Support Grant and Police Grant, will also be subject to the new procedures (with a double-majority vote in which both the UK and English, or English and Welsh, majorities would need to agree to the proposals).

How will the changes be made?

The proposed changes to the legislative process would be implemented by amendments to the Standing Orders that govern the procedure of the House of Commons. The whole House of Commons will vote on these proposed changes.

This decision is for the House of Commons only as the legislative process in the House of Lords is unchanged. The new process is planned to take effect on the day after approval by the House of Commons. It would then apply to bills that have a Second Reading in the Commons, and all new statutory instruments laid, from that date.

Review

The Government is proposing that the House of Commons Procedure Committee will be invited to assess the new procedure after the first bills have been passed under the new rules.



English Votes for English Laws: Proposed Changes to the Standing Orders of the House of Commons and Explanatory Memorandum

English Votes for English Laws – Proposed Changes to the Standing Orders of the House of Commons and Explanatory Memorandum

The Government has announced plans to change the way legislation is considered in the House of Commons to give English and Welsh MPs a fairer say over laws that only affect their constituencies and are on matters which have been devolved. This note contains:

- I. The text of the changes the Government proposes are made to the Standing Orders (page 3)
- II. An explanatory memorandum explaining the changes, which should be read alongside the proposed changes to the Standing Orders (page 23)

A separate explanatory guide has also been published which provides a summary of the proposals.

I. Proposed Changes to the Standing Orders of the House of Commons

(1) New Standing Orders as follows:

“CERTIFICATION OF BILLS, CLAUSES AND SCHEDULES ETC: GENERAL

83J. Certification of bills etc. as relating exclusively to England or England and Wales and being within devolved legislative competence

- (1) The Speaker shall, before second reading-
 - (a) consider every public bill presented by a Minister of the Crown or brought from the Lords and taken up by a Minister of the Crown, and
 - (b) certify any such bill, or any clause or schedule of any such bill, which, in the Speaker’s opinion-
 - (i) relates exclusively to England or to England and Wales, and
 - (ii) is within devolved legislative competence.
- (2) A clause or schedule relates exclusively to England or to England and Wales if (disregarding any minor or consequential effects outside the area in question) it applies only to England or (as the case may be) to England and Wales.
- (3) A clause or schedule which relates exclusively to England is within devolved legislative competence if-
 - (a) it would be within the legislative competence of the Scottish Parliament to make any corresponding provision for Scotland in an Act of that Parliament,
 - (b) it would be within the legislative competence of the National Assembly for Wales to make any corresponding provision for Wales in an Act of that Assembly, or
 - (c) it would be within the legislative competence of the Northern Ireland Assembly to make any corresponding provision for Northern Ireland in an Act of that Assembly and the corresponding provision would deal with a transferred matter.
- (4) A clause or schedule which relates exclusively to England and Wales is within devolved legislative competence if-
 - (a) it would be within the legislative competence of the Scottish Parliament to make any corresponding provision for Scotland in an Act of that Parliament, or
 - (b) it would be within the legislative competence of the Northern Ireland Assembly to make any corresponding provision for Northern Ireland in an Act of that Assembly and the corresponding provision would deal with a transferred matter.
- (5) A bill-
 - (a) relates exclusively to England and is within devolved legislative competence if every clause and every schedule of it relates exclusively to England and is within devolved legislative competence;

- (b) relates exclusively to England and Wales and is within devolved legislative competence if every clause and every schedule of it relates exclusively to England and Wales and is within devolved legislative competence.
- (6) In deciding whether a bill relates exclusively to England or to England and Wales, the Speaker shall treat any clause or schedule whose only effects are minor or consequential effects outside the area in question as relating exclusively to that area.
- (7) In deciding whether a bill, clause or schedule is within devolved legislative competence, the Speaker may take account of any amendments to the legislative competence of the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly which-
 - (a) are not in force at the time of certification, but
 - (b) are to come into force on a day already fixed by law,if the Speaker considers that the bill, clause or schedule is itself only likely to come into force on or after that day; and, for this purpose, an amendment which is in force but applies only in relation to a future period of time (or a bill, clause or schedule which is likely to come into force but so apply) is to be treated as not being in force (or as not likely to come into force) until the start of that period (being a day already fixed by law).
- (8) In deciding whether to certify a bill, clause or schedule under this order the Speaker shall disregard any provision inserted by the House of Lords which, in his opinion, has the sole objective of ensuring that Standing Order No. 80(a) (Privilege (bills brought from the Lords)) will apply to the bill.
- (9) The Speaker shall announce any decision under this order without giving the reasons for the decision to the House.
- (10) This order shall not apply to the following bills-
 - (a) a bill which is certified under Standing Order No. 97(1) (Scottish Grand Committee (bills in relation to their principle)),
 - (b) a bill referred to the Welsh Grand Committee under Standing Order No. 106(1) (Welsh Grand Committee (bills)),
 - (c) a bill referred to the Northern Ireland Grand Committee under Standing Order No. 113(1) (Northern Ireland Grand Committee (bills in relation to their principle)),
 - (d) a bill which falls to be considered by the select committee appointed under Standing Order No. 140 (Joint Committee on Consolidation, &c., Bills),
 - (e) a bill whose main purpose is to give effect to proposals contained in a report by a Law Commission,
 - (f) a tax law rewrite bill,
 - (g) a Consolidated Fund or an Appropriation Bill,
 - (h) a bill introduced under the Statutory Orders (Special Procedure) Act 1945 or for confirming a provisional order.

83K. Committal and recommitment of certified England only bills.

- (1) A bill certified by the Speaker under Standing Order No. 83J as relating exclusively to England and being within devolved legislative competence may only be committed to-
 - (a) a public bill committee (to which Standing Order No. 86(2)(iv) (Nomination of general committees) applies), or
 - (b) the Legislative Grand Committee (England).
- (2) A bill whose current certification by the Speaker (whether under Standing Order No. 83J or 83L) is that it relates exclusively to England and is within devolved legislative competence may only be recommitted to-
 - (a) a public bill committee (to which Standing Order No. 86(2)(iv) (Nomination of general committees) applies), or
 - (b) the Legislative Grand Committee (England).

83L. Reconsideration of certification before third reading

- (1) Paragraph (2) applies in relation to every bill which-
 - (a) was eligible for certification under Standing Order No. 83J (whether or not the bill, or any clause or schedule of it, was so certified),
 - (b) has been amended since its second reading, and
 - (c) has completed the stages before its third reading.
- (2) The Speaker shall, before a motion may be made for the third reading of the bill-
 - (a) reconsider the bill, and
 - (b) certify the bill, or any clause or schedule of it, if the bill or clause or schedule, in the Speaker's opinion-
 - (i) relates exclusively to England or to England and Wales, and
 - (ii) is within devolved legislative competence.
- (3) Paragraph (4) applies in relation to every bill which-
 - (a) was certified (whether in whole or in part) by the Speaker under Standing Order No. 83J,
 - (b) has been amended since its second reading, and
 - (c) has completed the stages before its third reading.
- (4) The Speaker shall, before a motion may be made for the third reading of the bill, certify any amendment made to the bill since second reading which, in the opinion of the Speaker-
 - (a) related to the bill so far as certified under Standing Order No. 83J,
 - (b) was not made by the Legislative Grand Committee (England) or a public bill committee to which Standing Order No. 86(2)(iv) (Nomination of general committees) applies, and

(c) either-

(i) resulted in there being no certification under paragraph (2) when there would otherwise have been such a certification, or

(ii) changed the area to which a certification under paragraph (2) would otherwise have related.

- (5) Any amendment certified under paragraph (4) shall be certified as relating exclusively to the area to which the certification under paragraph (2) would have related had that amendment not been made (and there shall be no certification as to devolved legislative competence).
- (6) The Speaker shall announce any decision under paragraph (2) or (4) without giving the reasons for the decision to the House.
- (7) The Speaker shall, wherever possible, announce the Speaker's decisions under paragraph (2) or (4) immediately after the conclusion of proceedings on the previous stage of the bill.
- (8) Paragraphs (2) to (8) of Standing Order No. 83J apply for the purposes of certification of bills, clauses, schedules and amendments under this order as they apply for the purposes of certification of bills, clauses and schedules under that order.

83M. Consent Motions for certified England only or England and Wales only provisions

(1) Paragraphs (2) and (3) apply where-

(a) a bill, or clauses or schedules of a bill, have been certified under Standing Order No. 83J as relating exclusively to England or to England and Wales and being within devolved legislative competence, and the bill has completed the stages before its third reading without having been amended,

(b) a bill or clauses or schedules of a bill have been certified under Standing Order No. 83L(2) as relating exclusively to England or to England and Wales and being within devolved legislative competence, or

(c) amendments have been certified under Standing Order No. 83L(4) as relating exclusively to England or to England and Wales.

- (2) A Consent Motion which gives consent to the bill, clauses or schedules or amendments must be passed by the legislative grand committee for the area to which the certification relates before a motion may be made for the third reading of the bill.
- (3) If a Minister of the Crown indicates his or her intention to move a Consent Motion, the House shall forthwith resolve itself into the legislative grand committee which is to consider the motion.
- (4) If a Minister of the Crown indicates his or her intention to move both a Consent Motion which is to be passed by the Legislative Grand Committee (England and Wales) and a Consent Motion which is to be passed by the Legislative Grand Committee (England)-
 - (a) the House shall forthwith resolve itself into the Legislative Grand Committee (England and Wales) to consider the motion for that committee,

- (b) on moving that motion, the Minister shall also inform the committee of the terms of the motion to be moved in the Legislative Grand Committee (England),
 - (c) any debate in the Legislative Grand Committee (England and Wales) may also relate to the motion for the Legislative Grand Committee (England), and
 - (d) on conclusion of proceedings in the Legislative Grand Committee (England and Wales)-
 - (i) the House shall forthwith resolve itself into the Legislative Grand Committee (England),
 - (ii) a Minister of the Crown shall forthwith move the motion for that committee, and
 - (iii) proceedings in the Legislative Grand Committee (England) shall be brought to a conclusion forthwith.
- (5) Standing Order Nos. 83E (Programme orders: conclusion of proceedings on consideration and up to and including third reading) and 83I (Programme orders: supplementary provisions) shall apply for the purpose of bringing proceedings to a conclusion in accordance with paragraph (4)(d)(iii) above (whether or not those proceedings are subject to a programme order) as they apply for the purpose of bringing proceedings to a conclusion in accordance with a programme order.
- (6) On the conclusion of proceedings on a Consent Motion (or, in a case falling within paragraph (4), the conclusion of proceedings on the second Consent Motion), the chair shall report the decision of the committee (or, as the case may be, the decisions of the committees) to the House.
- (7) Subject to paragraph (8), a Consent Motion shall be in the form either “That the Committee consents to the XXX Bill” or “That the Committee consents to [the following certified clauses [and schedules] of the XXX Bill] [and certified amendments made by the House to the XXX Bill]...”; and in the latter case the motion shall identify the clauses or schedules or amendments in question.
- (8) If a Minister of the Crown wishes to propose that a committee should not consent to certain clauses or schedules or amendments, the Consent Motion shall be in the form “That the Committee consents to [the following certified clauses [and schedules] of the XXX Bill] [and certified amendments made by the House to the XXX Bill]... and does not consent to [the following certified clauses [and schedules] of the XXX Bill] [and certified amendments made by the House to the XXX Bill]...”; and in any such case the motion shall identify the clauses or schedules or amendments in question.
- (9) A Consent Motion may only be moved by a Minister of the Crown and may be moved without notice.
- (10) Proceedings under this order may be proceeded with, though opposed, after the moment of interruption.

83N Reconsideration of bills so far as there is absence of consent

- (1) Where a legislative grand committee decides on a Consent Motion under Standing Order No. 83M to withhold consent to a bill or any clause or schedule of a bill or any amendment, the bill shall be set down for reconsideration; and any order for the third reading of the bill shall be discharged.
- (2) Reconsideration of the bill shall be for the sole purpose of considering changes to the bill to resolve matters in dispute as a result of the withholding of consent.
- (3) Paragraphs (2) and (4) to (8) of Standing Order No. 83L, and Standing Order No. 83M, shall apply following reconsideration of a bill in relation to the bill so far as reconsidered as they apply in relation to a bill; but as if-
 - (a) in Standing Order No. 83L(4)-
 - (i) the reference to any amendment since second reading were a reference to any amendment made on reconsideration, and
 - (ii) sub-paragraphs (a) and (b) were omitted, and
 - (b) in the case of any matter, there shall be deemed to be a certification in relation to the area or areas to which any relevant previous certification under Standing Order No. 83L(2) or (4) related if there would not otherwise be a certification in relation to that area or areas.
- (4) If, following reconsideration of a bill and the steps taken by virtue of paragraph (3), a legislative grand committee withholds consent to the whole bill (whether or not amended on reconsideration), the bill may not be given a third reading and shall not pass.
- (5) Paragraph (6) applies if, following reconsideration of a bill and the steps taken by virtue of paragraph (3), a legislative grand committee withholds consent to-
 - (a) any clause or schedule of the bill (whether or not amended on reconsideration), or
 - (b) any amendment to the bill,but does not withhold consent to the whole bill.
- (6) The bill shall be amended so as to remove any provisions of the bill which are not agreed by the House and any relevant legislative grand committee; and it is the bill as so amended which proceeds to its next stage.
- (7) A Minister of the Crown may move a motion for the bill as so amended to be considered again (“consequential consideration”); and such a motion may be made without notice and the question on any such motion shall be put forthwith.
- (8) If the motion is passed, the House shall proceed forthwith to consequential consideration of the bill as so amended; and any order for the third reading of the bill shall be discharged.
- (9) Consequential consideration of the bill as so amended shall be for the sole purpose of considering minor or technical changes in consequence of the removal of provisions under paragraph (6).

- (10) Proceedings on reconsideration or consequential consideration, or a motion for consequential consideration, may be proceeded with, though opposed, after the moment of interruption.
- (11) References in the standing orders of this House to consideration of a bill on report shall, so far as relevant and subject to paragraph (12), include reconsideration or consequential consideration of a bill under this order.
- (12) In its application by virtue of paragraph (11), Standing Order No. 72 (Consideration of bill as amended in committee of whole House) has effect as if the words “, as amended in a committee of the whole House,” were omitted.

830. Consideration of certified motions or amendments relating to Lords Amendments or other messages

- (1) The Speaker shall consider any motion relating to a Lords amendment to a bill or to any other message from the Lords in respect of a bill.
- (2) The Speaker shall certify the motion if, in the Speaker’s opinion, it-
 - (a) relates exclusively to England and is within devolved legislative competence, or
 - (b) relates exclusively to England and Wales and is within devolved legislative competence.
- (3) For the purposes of paragraph (2) a motion relates exclusively to England or to England and Wales and is within devolved legislative competence if it or any provision of it-
 - (a) relates to a Lords amendment, or an item in another message, which would, if agreed, result in-
 - (i) a clause or schedule as amended which relates exclusively to England or to England and Wales and is within devolved legislative competence,
 - (ii) a new or unamended clause or schedule which so relates and is within devolved legislative competence, or
 - (iii) the omission of a clause or schedule which so relates and is within devolved legislative competence, or
 - (b) contains proposals which would, if agreed, so result.
- (4) The Speaker shall also certify the motion if, in the Speaker’s opinion, it or any provision of it-
 - (a) relates to a Lords amendment, or an item in another message, which would, if agreed, result in a clause or schedule, which relates exclusively to England or to England and Wales and is within devolved legislative competence, ceasing to so relate or to be within devolved legislative competence, or
 - (b) contains proposals which, if agreed, would so result.
- (5) Any motion certified under paragraph (4) shall be certified as relating exclusively to the area to which the clause or schedule relates (and there shall be no certification as to devolved legislative competence).

- (6) The same motion may be certified in relation to different areas under paragraphs (2) and (4) or either of them.
- (7) If a division is held on a motion certified under this order, the motion shall be agreed to only if, of those voting in the division-
- (a) in the case of a motion certified in relation to England, a majority of Members and a majority of Members representing constituencies in England,
 - (b) in the case of a motion certified in relation to England and Wales, a majority of Members and a majority of Members representing constituencies in England and Wales, and
 - (c) in the case of a motion certified both in relation to England and in relation to England and Wales, a majority of Members, a majority of Members representing constituencies in England and a majority of Members representing constituencies in England and Wales,
- vote in support of the motion.
- (8) The Speaker shall, in selecting motions relating to Lords amendments or other messages, have regard to the extent to which such motions are drafted so that they can be certified under this order by virtue of every provision of them meeting the test in paragraph (3)(a) or (b) or (4)(a) or (b).
- (9) If a motion relating to a Lords amendment or other message is disagreed to under this order because one of the groups voting in the division has not voted in support of it while another has, the decision of the House shall be-
- (a) in the case of a motion to disagree (or agree) to a Lords amendment or an item in another message, to disagree with it, and
 - (b) in any other case, such decision as would have the effect of leaving the bill so far as it relates to that matter in the same position as it was before the Lords amendment or other message was received from the Lords.
- (10) The Speaker shall announce any decision under paragraph (2) or (4) without giving the reasons for the decision to the House.
- (11) This order does not apply in relation to-
- (a) any motion relating to a bill which was not eligible for certification under Standing Order No. 83J, and
 - (b) any of the following motions-
 - (i) any ways and means motion or motion authorising expenditure,
 - (ii) any programming motion,
 - (iii) any order of consideration motion,
 - (iv) any motion of, or relating to, the Reasons Committee, and
 - (v) any other motion of a similar kind to a motion falling within any of paragraphs (i) to (iv).

- (12) In this order-
- (a) references to motions are to be read as including, so far as relevant, references to amendments to Lords amendments and references to amendments to the bill, and
 - (b) the reference in paragraph (3)(a)(i) to clauses or schedules as amended includes, in particular, a reference to clauses or schedules which would be amended by virtue of their territorial application being modified otherwise than in the clauses or schedules themselves.
- (13) Paragraphs (2) to (4), (7) and (10) of Standing Order No. 83J apply for the purposes of deciding under this order whether clauses or schedules relate exclusively to England or to England and Wales and are within devolved legislative competence as they apply for the purposes of the certification of clauses or schedules under that order; and, in the case of a bill which relates exclusively to England or to England and Wales, paragraph (6) of that order also applies for the purpose of deciding under this order whether clauses or schedules so relate.

CERTIFICATION OF INSTRUMENTS AND MOTIONS: GENERAL

83P. Certification of instruments

- (1) The Speaker shall-
- (a) consider every instrument to which this order applies, and
 - (b) certify any such instrument which, in the Speaker's opinion-
 - (i) relates exclusively to England or to England and Wales, and
 - (ii) is within devolved legislative competence.
- (2) An instrument-
- (a) relates exclusively to England and is within devolved legislative competence if every provision of it relates exclusively to England and is within devolved legislative competence;
 - (b) relates exclusively to England and Wales and is within devolved legislative competence if every provision of it relates exclusively to England and Wales and is within devolved legislative competence.
- (3) Paragraphs (2) to (4) and (6) and (7) of Standing Order No. 83J apply for the purposes of this order; and as so applied those paragraphs have effect as if-
- (a) references to a bill were to an instrument, and
 - (b) references to a clause or schedule were to a provision of an instrument.
- (4) The Speaker shall announce any decision under this order without giving the reasons for the decision to the House.
- (5) This order applies to any instrument (whether or not in draft) upon which proceedings may be taken in pursuance of an Act of Parliament where the instrument-
- (a) meets any of conditions A to C, and

- (b) is not a report within paragraph (1)(a) to (c) of Standing Order No. 83R.
- (6) Condition A is that the instrument-
 - (a) stands referred to a Delegated Legislation Committee pursuant to paragraph (3) of Standing Order No. 118 (Delegated Legislation Committees), or
 - (b) does not stand so referred because sub-paragraph (a) of that paragraph applies to it.
- (7) Condition B is that a member has given notice of a motion of the kind mentioned in sub-paragraph (a) of paragraph (4) of Standing Order No. 118 in relation to the instrument and the instrument-
 - (a) stands referred to a Delegated Legislation Committee, or
 - (b) has been set down for consideration in the Chamber on a particular day.
- (8) Condition C is that the Regulatory Reform Committee has made a recommendation of the kind mentioned in paragraph (1) or (2) of Standing Order No. 18 (Consideration of draft legislative reform orders etc.) in relation to the instrument.

83Q. Deciding the question on motions relating to certified instruments

- (1) This order applies to the following motions-
 - (a) a motion to approve a certified instrument;
 - (b) a motion of the kind mentioned in paragraph (4)(a) of Standing Order No. 118 in relation to a certified instrument;
 - (c) a motion to disagree with a report of the Regulatory Reform Committee that contains a recommendation of the kind mentioned in paragraph (2) of Standing Order No. 18 in relation to a certified instrument;
 - (d) an amendment of a motion within any of sub-paragraphs (a) to (c).
- (2) If a division is held on a motion to which this order applies, the motion shall be agreed to only if, of those voting in the division-
 - (a) a majority of Members, and
 - (b) a majority of Members representing qualifying constituencies,vote in support of the motion.
- (3) In this order-
 - (a) “a certified instrument” means an instrument which has been certified under Standing Order No. 83P as relating exclusively to England or to England and Wales;
 - (b) “qualifying constituencies” means constituencies in the part of the United Kingdom to which the instrument has been certified as relating exclusively.

83R. Deciding the question on certain other motions

- (1) This order applies to the following motions-
 - (a) a motion to approve a report which has been laid before the House pursuant to Chapter 2 of Part 5 of the Local Government Finance Act 1988 (revenue support grant: England);
 - (b) a motion to approve a report which has been laid before the House under section 52ZD of the Local Government Finance Act 1992 (referendums relating to council tax increases: principles);
 - (c) a motion to approve a report which has been laid before the House pursuant to section 46 of the Police Act 1996 (police grant);
 - (d) a motion for a resolution under section 26(2)(b)(ii) of the Higher Education Act 2004 (student fees);
 - (e) an amendment of a motion within any of sub-paragraphs (a) to (d).
- (2) If a division is held on a motion to which this order applies, the motion shall be agreed to only if, of those voting in the division-
 - (a) a majority of Members, and
 - (b) a majority of Members representing qualifying constituencies,
 vote in support of the motion.
- (3) In this order “qualifying constituencies” means-
 - (a) in the case of a motion within paragraph (1)(a), (b) or (d) or an amendment of such a motion, constituencies in England;
 - (b) in the case of a motion within paragraph (1)(c) or an amendment of such a motion, constituencies in England or Wales.

CERTIFICATION OF FINANCE BILLS, INSTRUMENTS AND MOTIONS**83S Modification of Standing Orders Nos. 83J to 83N: Finance Bills which relate exclusively to England, Wales and Northern Ireland**

- (1) In their application in relation to a bill within paragraph (2), Standing Orders Nos. 83J to 83N shall have effect with the modifications in paragraphs (3) to (5).
- (2) A bill is within this paragraph if-
 - (a) it is a Finance Bill, or
 - (b) it is a bill which, before second reading, only contained provision which would be within the ordinary scope of a Finance Bill (or would be if the provision was to take effect in the current financial year).
- (3) In Standing Order No. 83J-
 - (a) in paragraph (1)(b)(i) after “Wales” insert “or to England, Wales and Northern Ireland”;

- (b) in paragraph (2) after “Wales” (in both places) insert “or to England, Wales and Northern Ireland”;
 - (c) after paragraph (4) insert-
 - “(4A) A clause or schedule which relates exclusively to England, Wales and Northern Ireland is within devolved legislative competence if it would be within the legislative competence of the Scottish Parliament to make any corresponding provision for Scotland in an Act of that Parliament.”;
 - (d) in paragraph (5) after sub-paragraph (b) insert “;
 - (c) relates exclusively to England, Wales and Northern Ireland and is within devolved legislative competence if every clause and every schedule of it relates exclusively to England, Wales and Northern Ireland and is within devolved legislative competence”; and
 - (e) in paragraph (6) after “Wales” insert “or to England, Wales and Northern Ireland”.
- (4) In Standing Order No. 83L, in paragraph (2)(b)(i) after “Wales” insert “or to England, Wales and Northern Ireland”.
- (5) In Standing Order No. 83M-
- (a) in paragraph (1) after “Wales” (in each place) insert “or to England, Wales and Northern Ireland”;
 - (b) for paragraph (4) substitute-
 - “(4) If a Minister of the Crown indicates his or her intention to move Consent Motions which are to be passed by more than one legislative grand committee-
 - (a) the order in which the Consent Motions are to be considered is:
 - (i) any motion to be considered by the Legislative Grand Committee (England, Wales and Northern Ireland),
 - (ii) any motion to be considered by the Legislative Grand Committee (England and Wales), and
 - (iii) any motion to be considered by the Legislative Grand Committee (England),
 - (b) the House shall forthwith resolve itself into the legislative grand committee which is to consider the first Consent Motion,
 - (c) on moving that motion, the Minister shall also inform the committee of the terms of any other Consent Motion to be moved in any other legislative grand committee,
 - (d) any debate in the first legislative grand committee may also relate to any other Consent Motion to be moved in any other legislative grand committee,
 - (e) on conclusion of proceedings in the first legislative grand committee-

- (i) the House shall forthwith resolve itself into the legislative grand committee which is to consider the next Consent Motion,
- (ii) a Minister of the Crown shall forthwith move that motion, and
- (iii) proceedings in the second legislative grand committee shall be brought to a conclusion forthwith, and

(f) on conclusion of proceedings in the second legislative grand committee, sub-paragraphs (e)(i) to (iii) shall apply in relation to any third Consent Motion and a third legislative grand committee as they apply in relation to the second Consent Motion and the second legislative grand committee.”;

(c) in paragraph (5) for “(4)(d)(iii)” substitute “(4)(e)(iii) and (f)”;

(d) in paragraph (6) for “second Consent Motion” substitute “Consent Motions”.

83T. Modification of Standing Orders Nos. 83P and 83Q: financial instruments which relate exclusively to England, Wales and Northern Ireland

- (1) In their application in relation to a financial instrument, Standing Orders Nos. 83P and 83Q shall have effect with the following modifications.
- (2) In Standing Order No. 83P-
 - (a) in paragraph (1)(b)(i) after “Wales” insert “or to England, Wales and Northern Ireland”;
 - (b) in paragraph (2) after paragraph (b) insert “;
 - (c) relates exclusively to England, Wales and Northern Ireland and is within devolved legislative competence if every provision of it relates exclusively to England, Wales and Northern Ireland and is within devolved legislative competence”;
 - (c) in paragraph (3) for the words from the beginning to “apply” substitute “Paragraphs (2) to (4A) and (6) and (7) of Standing Order No.83J (as modified by Standing Order No. 83S(3))”.
- (3) In Standing Order 83Q(3)(a) after “Wales” insert “or to England, Wales and Northern Ireland”.
- (4) For the purposes of this order an instrument is a “financial instrument” if it is made or proposed to be made in exercise of powers conferred by (and only by)-
 - (a) an Act which resulted from a Finance Bill;
 - (b) a provision of an Act which would have been within the ordinary scope of a Finance Bill.

83U. Certification of PCTA motions which would give statutory effect to other motions which affect certain taxes and relate exclusively to England, to England and Wales or to England, Wales and Northern Ireland

- (1) In this order—
 - (a) “PCTA motion” means a motion that, pursuant to section 5 of the Provisional Collection of Taxes Act 1968, provisional statutory effect shall be given to one or more other motions; and
 - (b) “affected motion”, in relation to a PCTA motion, means a motion that would be given provisional statutory effect if the PCTA motion was passed.
- (2) The Speaker shall—
 - (a) consider every PCTA motion, and
 - (b) certify any such motion which, in the Speaker’s opinion, falls within paragraph (3), (4) or (5).
- (3) A PCTA motion falls within this paragraph if every provision of the affected motion or of each of the affected motions—
 - (a) relates exclusively to England, and
 - (b) is within devolved legislative competence.
- (4) A PCTA motion falls within this paragraph if every provision of the affected motion or each of the affected motions—
 - (a) relates exclusively to England and Wales, and
 - (b) is within devolved legislative competence.
- (5) A PCTA motion falls within this paragraph if every provision of the affected motion or each of the affected motions—
 - (a) relates exclusively to England, Wales and Northern Ireland, and
 - (b) is within devolved legislative competence.
- (6) The Speaker shall announce any decision under this order without giving the reasons for the decision to the House.
- (7) Paragraphs (2) to (4A) of Standing Order No. 83J (as modified by Standing Order No. 83S(3)) apply for the purposes of this order; and as so applied those paragraphs have effect as if references to a clause or schedule were to a provision of an affected motion.

83V Certification of motions upon which a Finance Bill is to be brought in which would authorise provision relating exclusively to England, to England and Wales or to England, Wales and Northern Ireland

- (1) This order applies to any founding motion which, if passed, would-
 - (a) authorise a bill to include provision which would be within the ordinary scope of a Finance Bill, or
 - (b) authorise a Finance Bill to include provision which would not be within the ordinary scope of a Finance Bill.
- (2) The Speaker shall-
 - (a) consider every motion to which this order applies, and
 - (b) certify any such motion which, in the Speaker's opinion, falls within paragraph (3), (4) or (5).
- (3) A motion falls within this paragraph if it would, if passed, only authorise a bill to include provision which-
 - (a) relates exclusively to England, and
 - (b) is within devolved legislative competence.
- (4) A motion falls within this paragraph if it would, if passed, only authorise a bill to include provision which--
 - (a) relates exclusively to England and Wales, and
 - (b) is within devolved legislative competence.
- (5) A motion falls within this paragraph if it would, if passed, only authorise a bill to include provision which-
 - (a) relates exclusively to England, Wales and Northern Ireland, and
 - (b) is within devolved legislative competence.
- (6) The Speaker shall announce any decision under this order without giving the reasons for the decision to the House.
- (7) Paragraphs (2) to (4A) and (7) of Standing Order No. 83J (as modified by Standing Order No. 83S(3)) apply for the purposes of this order; and as so applied those paragraphs have effect as if references to a clause or schedule were to a provision.
- (8) In paragraph (1) "founding motion" means a motion upon which a bill is to be brought in.

83W. Deciding the question on motions certified under Standing Order No. 83U or 83V

- (1) If a division is held on a motion which has been certified under Standing Order No. 83U or 83V, the motion shall be agreed to only if, of those voting in the division-
 - (a) a majority of Members, and
 - (b) a majority of Members representing qualifying constituencies,

vote in support of the motion.

- (2) In this order “qualifying constituencies” means-
- (a) in a case where the motion concerned was certified as falling within paragraph (3) of Standing Order No. 83U or 83V, constituencies in England;
 - (b) in a case where the motion concerned was certified as falling within paragraph (4) of either of those standing orders, constituencies in England or Wales;
 - (c) in a case where the motion concerned was certified as falling within paragraph (5) of either of those standing orders, constituencies in England, Wales or Northern Ireland.

LEGISLATIVE GRAND COMMITTEES

83X. Legislative Grand Committees

- (1) There shall be-
- (a) a Legislative Grand Committee (England),
 - (b) a Legislative Grand Committee (England and Wales), and
 - (c) a Legislative Grand Committee (England, Wales and Northern Ireland).
- (2) The Legislative Grand Committee (England) shall consist of all Members representing constituencies in England.
- (3) The Legislative Grand Committee (England and Wales) shall consist of all Members representing constituencies in England and all Members representing constituencies in Wales.
- (4) The Legislative Grand Committee (England, Wales and Northern Ireland) shall consist of-
- (a) all Members representing constituencies in England,
 - (b) all Members representing constituencies in Wales, and
 - (c) all Members representing constituencies in Northern Ireland.
- (5) A Deputy Speaker or a Member of the Panel of Chairs may chair a legislative grand committee.
- (6) The functions of the Legislative Grand Committee (England) shall be-
- (a) to consider any bills committed or recommitted to the committee in accordance with Standing Order No. 83K, and
 - (b) to consider any Consent Motions under Standing Order No. 83M which relate to the committee.
- (7) The functions of the Legislative Grand Committee (England and Wales) and the Legislative Grand Committee (England, Wales and Northern Ireland) are to consider any Consent Motions under Standing Order No. 83M which relate to them.

83Y. Legislative Grand Committees: supplementary

- (1) The standing orders of this House applicable to a committee of the whole House shall, so far as relevant, be applicable to a legislative grand committee.
- (2) Accordingly, references in the standing orders to a committee of the whole House or to the House in committee, or similar references, shall be read as references to the relevant legislative grand committee.
- (3) Paragraphs (1) and (2) do not apply to Standing Order No. 82 (Business Committee)."

Amendments to existing Standing Orders

(2) In Standing Order No. 12 (House not to sit on certain Fridays), in line 20, after "notices of" insert "Consent Motions under Standing Order No. 83M (Consent Motions for certified England only or England and Wales only provisions) and of".

(3) In Standing Order No. 51 (Ways and means motions)—

- (a) in line 8, after "forthwith" insert "upon the announcement of the Speaker's decision with respect to the motion under Standing Order No. 83U", and
- (b) in line 12, after "forthwith" insert "upon the announcement of the Speaker's decision with respect to the motion under Standing Order No. 83V".

(4) After Standing Order No. 63(4) (Committal of bills not subject to a programme order) insert-

"(5) In the case of a bill certified by the Speaker under Standing Order No. 83J as relating exclusively to England and being within devolved legislative competence (Certification of bills etc. as relating exclusively to England or England and Wales and being within devolved legislative competence)-

- (a) committal under this order is subject to Standing Order No. 83K (Committal and recommittal of certified England only bills), and
- (b) committal under this order to a public bill committee is accordingly to a public bill committee to which Standing Order No. 86(2)(iv) (Nomination of general committees) applies.

(6) Nothing in this order enables a bill to be committed to any legislative grand committee other than the Legislative Grand Committee (England)."

(5) In Standing Order No. 64 (Notices of amendments, &c., to bills), in line 2, after "schedules" insert ", of Consent Motions under Standing Order No. 83M (Consent Motions for certified England only or England and Wales only provisions)".

(6) In Standing Order No. 73 (Report of bills committed to public bill committees), in line 4, after "bill committee" insert "or the Legislative Grand Committee (England)".

(7) In Standing Order No. 83A (Programme motions), in line 30, after "and" insert "up to and including".

(8) In Standing Order No. 83B (Programming committees)-

- (a) in line 2, after "reading" insert "or in legislative grand committee or on reconsideration or consequential consideration", and

(b) in line 14, after “reading” insert “or in legislative grand committee or on reconsideration or consequential consideration”.

(9) In Standing Order No. 83C (Programming sub-committees)-

(a) in line 22, after “and” insert “up to and including”,

(b) in line 62, after “and” insert “up to and including”, and

(c) in line 75, after “and” insert “up to and including”.

(10) In Standing Order No. 83D (Programme orders: conclusion of proceedings in public bill committee or in committee of the whole House)-

(a) in the title, after “House” insert “etc.”, and

(b) in line 2, after “bill committee” insert “, in the Legislative Grand Committee (England) when exercising functions under Standing Order No. 83X(6)(a) (Legislative Grand Committees)”.

(11) In Standing Order No. 83E (Programme orders: conclusion of proceedings on consideration or third reading)-

(a) in the title for “or” substitute “and up to and including”,

(b) in line 2, after “and” insert “up to and including”, and

(c) in line 22, at end, insert-

“(5) In the application of this order to proceedings on a Consent Motion in legislative grand committee, the references to the Speaker in paragraphs (2) and (4) are to be read as references to the Chairman of Ways and Means or either Deputy Chairman.”

(12) After Standing Order No. 83F(7) (Programme orders: conclusion of proceedings on consideration of Lords amendments), at the end of line 35, insert-

“(8) Where a single question would be put under paragraph (3)(a), (4)(a), (6) or (7) in circumstances where some or all of the amendments or motions concerned are (or would be) certified under Standing Order No. 83O (Consideration of certified motions or amendments relating to Lords Amendments or other messages) in relation to a particular part or parts of the United Kingdom, the Speaker shall put forthwith-

(a) a single question on any amendments or motions for which the certification is in relation to England,

(b) a single question on any amendments or motions for which the certification is in relation to England and Wales,

(c) a single question on any amendments or motions for which the certification is both in relation to England and in relation to England and Wales, and

(d) a single question on any amendments or motions for which there is no certification.

(9) If a division is held on a question put under paragraph (8), the motions or amendments shall be agreed to only if, of those voting in the division-

- (a) in a case falling within sub-paragraph (a) of that paragraph, a majority of Members and a majority of Members representing constituencies in England,
- (b) in a case falling within sub-paragraph (b) of that paragraph, a majority of Members and a majority of Members representing constituencies in England and Wales,
- (c) in a case falling within sub-paragraph (c) of that paragraph, a majority of Members, a majority of Members representing constituencies in England and a majority of Members representing constituencies in England and Wales, and
- (d) in a case falling within sub-paragraph (d) of that paragraph, a majority of Members,

vote in support of them.

(10) Paragraph (9) of Standing Order No. 83O shall apply to a decision made by virtue of paragraph (9) above as it applies in relation to a decision made by virtue of paragraph (7) of that order.”

(13) In Standing Order No. 83G (Programme orders: conclusion of proceedings on further messages from the Lords)-

- (a) in line 12, after “shall” insert “, subject to paragraphs (6) and (7)”, and
- (b) at the end of line 14 insert-

“(6) Paragraph (7) applies where, if there were (or are) separate motions to agree in relation to each of the remaining Lords proposals, some or all of the motions would be (or are) certified under Standing Order No. 83O (Consideration of certified motions or amendments relating to Lords Amendments or other messages).

(7) The Speaker shall put forthwith-

- (a) in the case of any remaining Lords proposals for which there would be (or are) motions certified in relation to England, the question that the House agrees with the Lords in those proposals,
- (b) in the case of any remaining Lords proposals for which there would be (or are) motions certified in relation to England and Wales, the question that the House agrees with the Lords in those proposals,
- (c) in the case of any remaining Lords proposals for which there would be (or are) motions certified both in relation to England and in relation to England and Wales, the question that the House agrees with the Lords in those proposals, and
- (d) in the case of any remaining Lords proposals for which there would be (or are) motions which would not be (or are not) certified, the question that the House agrees with the Lords in those proposals.

(8) If a division is held on a question put under paragraph (7), the proposals shall be agreed to only if, of those voting in the division-

- (a) in a case falling within sub-paragraph (a) of that paragraph, a majority of Members and a majority of Members representing constituencies in England,

(b) in a case falling within sub-paragraph (b) of that paragraph, a majority of Members and a majority of Members representing constituencies in England and Wales,

(c) in a case falling within sub-paragraph (c) of that paragraph, a majority of Members, a majority of Members representing constituencies in England and a majority of Members representing constituencies in England and Wales, and

(d) in a case falling within sub-paragraph (d) of that paragraph, a majority of Members,

vote in support of them.

(9) Paragraph (9) of Standing Order No. 83O shall apply to a decision made by virtue of paragraph (8) above as it applies in relation to a decision made by virtue of paragraph (7) of that order.”

(14) In Standing Order No. 83I (Programme orders: supplementary provisions), in line 2, after second “House” insert “or in legislative grand committee”.

(15) In Standing Order No. 86 (Nomination of general committees), in line 33, at end insert-

“(iv) for the consideration of any bill certified by the Speaker under Standing Order No. 83J (or, in the case of recommittal after recertification, Standing Order No. 83L) as relating exclusively to England and being within devolved legislative competence, the Committee of Selection, in nominating Members to a public bill committee, shall have regard to the composition of that part of the House consisting of Members representing constituencies in England; and no Member who does not represent a constituency in England shall be nominated to such a committee”.

(16) The new Standing Orders, and the changes to Standing Orders, made by this order do not apply in relation to-

(a) any bills which have had a Second Reading in this House on or before the day on which this order is made,

(b) any bills introduced in the previous Parliament which have been carried over into this Parliament,

(c) any instruments or draft instruments laid on or before the day on which this order is made, and

(d) any motions agreed to on or before that day.

II. Explanatory Memorandum

This Memorandum is published alongside the Government's proposed changes to House of Commons Standing Orders to assist understanding of how they affect the legislative process.

Primary Legislation

83J. Certification of bills etc. as relating exclusively to England or England and Wales and being within devolved legislative competence

This Standing Order sets out how English Votes will apply to Government bills once they are introduced in the House of Commons. The process is as follows:

- The Speaker of the House of Commons certifies whole bills (or clauses and schedules within them) using the following test:
 - Does the bill, clause or schedule relate only to England, or England and Wales?
And:
 - Is the subject matter devolved to one or more of Scotland, Wales or Northern Ireland?
- If the test is met, a bill, or clauses or schedules within it, are be subject to the new process. The two elements of the test are both required: in general, a clause that relates only to England will often be on a matter which is devolved, but this will not always be the case.
- For the purposes of certification the Speaker discounts any minor or consequential effects of individual clauses or schedules on other parts of the UK (paragraphs (2) and (6)). So for example, where a bill relates only to England in terms of its impacts, but makes a minor alteration to a piece of legislation which is Scotland- or Northern Ireland-only, the Speaker would be required to disregard this for the purposes of certification; or where a clause would be certified as England-only except for consequential effects, the clause will be certified as England-only. The judgement of what is minor or consequential is for the Speaker.
- Paragraph (7) allows for the planned devolution of a power (to Scotland, Wales or Northern Ireland) to be taken into account by the Speaker in certain circumstances. For example, the planned timing of the devolution of powers to Scotland may inform decisions on certification in relation to measures for England that are set to come into force after the relevant powers have been devolved to Scotland.
- The Speaker must announce to the House decisions on certification without giving reasons (paragraph (9)).
- Private Members' bills are not subject to the new rules; nor will some other bills of specified types. For example, bills relating to the House's approval of Government's spending plans - such as Consolidated Fund and Appropriation bills - are excluded (paragraph (10)).

83K. Committal and recommitment of certified England only bills

This Standing Order provides that entirely England-only bills are considered by English MPs only at Committee stage - whether in public bill committee or on the floor of the House in a Legislative Grand Committee (paragraph (1)).

A public bill committee on an England-only bill consists of MPs for constituencies in England and membership will reflect the party proportions in England (amendment to Standing Order No. 86 in paragraph (15) of the motion).

On the floor of the House, the Legislative Grand Committee (England), comprises all MPs for constituencies in England.

The same rule applies in the event that a bill is recommitted for further consideration in Committee by the House (paragraph (2)).

83L. Reconsideration of certification before third reading

This Standing Order requires the Speaker to re-certify a bill and the clauses and schedules within it after Report stage (if it has been amended at Committee or Report stage). This is to ensure that English or English and Welsh MPs are asked to consent to the bill, or the English and Welsh provisions within it, in the Consent Motion process.

The test applied is the same as when the bill was introduced (set out in new SO No. 83J). Paragraphs (4) and (5) ensure that all amendments to the bill that affect or change the certification are subject to the consent of English or English and Welsh MPs. This is to prevent the whole House amending the bill at Report stage as it relates to England or England and Wales without MPs from England or England and Wales having the opportunity to consent to, or veto, such changes.

83M. Consent Motions for certified England only or England and Wales only provisions

This Standing Order provides for a new legislative process following Report stage, where a bill or provisions of it have been certified by the Speaker. Legislative Grand Committees are formed to consider Consent Motions relating to England- or England and Wales-only bills or provisions of bills.

The process is as follows:

- After Report stage, a 'Legislative Grand Committee' is formed of all English, or English and Welsh, MPs to consider any Consent Motion relating to a bill, or clauses and schedules within a bill, certified as relating to England- or England and Wales-only. The timing of the Legislative Grand Committee is subject to programming: in many cases it is anticipated that it could follow straight after Report stage.
- The Consent Motion may be amended, for instance, if English or English and Welsh MPs wish to veto some or all of the clauses. Amendments to the text of the bill within clauses cannot be made at this stage. A Minister may also propose that the Committee does not consent to specified clauses and schedules (paragraph (8)).
- If there are no amendments to the motion, the decision on the Consent Motion can be taken immediately, or may be debated if Members wish to do so. If there are amendments, they can be debated and voted on.

- At the end of any debate the Legislative Grand Committee decides on the Consent Motion and any proposed amendments to it, with or without a vote. Only English or English and Welsh MPs may vote.
- Where there are both English and English and Welsh provisions requiring consent, there is a single debate but the decisions on consent are taken consecutively, first by English and Welsh MPs for provisions certified as English and Welsh and then by English MPs for provisions certified as English (paragraphs (4)-(6)).

83N Reconsideration of bills so far as there is absence of consent

This Standing Order provides for a new legislative stage following the Consent Motion process only if a bill, or clauses/schedules within it, have been vetoed. This is the Reconsideration stage. In effect, this is a second Report stage which only looks at matters relating to the vetoed provisions.

The process is as follows:

- Any bill which has had some of its clauses provisionally vetoed by a Legislative Grand Committee cannot proceed directly to Third Reading. Instead, the bill goes to a Reconsideration stage (paragraph (1)).
- The sole purpose of the Reconsideration stage is to consider changes to the bill to resolve matters that were vetoed at the Consent Motion process (paragraph (2)).
- Reconsideration stage includes all MPs. The Government and others may make amendments to the bill in response to the veto of clauses by a Legislative Grand Committee. This stage is designed to enable compromises to be reached between the whole House and the Legislative Grand Committee.
- Following the agreement of amendments at Reconsideration stage, a Minister may prompt the formation of the relevant Legislative Grand Committee(s) a second time in order to give consent to the amendments made.
- If the Consent Motion is in relation to the whole bill (because the whole bill is certified and is in dispute) and is not agreed, the whole bill cannot proceed (paragraph (4)).
- If the Legislative Grand Committee does not give consent to the amendments made at Reconsideration stage, those parts of the bill that are not agreed are removed and the rest of the bill proceeds (paragraphs (5) and (6)). For bills starting in the Lords, a message to this effect is returned to that House with the Commons amendments.
- If, as a result of the removal of clauses and schedules from the bill at Reconsideration stage, the rest of the bill requires consequential amendments to make it technically workable, there is a further stage: “consequential consideration” (paragraphs (7)-(10)). This allows the Government to make the necessary technical amendments to the bill immediately before it proceeds to Third Reading. It is governed by a programme motion, like other stages.

830. Consideration of certified motions or amendments relating to Lords amendments and other messages

This Standing Order deals with the process by which the Commons considers Lords amendments or other Lords messages (“ping pong”). The same principles apply to the consideration of Lords amendments that relate to England or England and Wales: namely, that both the whole House and the English or English and Welsh MPs must agree for them to remain in the bill.

The process is as follows:

- The Speaker is required to certify any motions relating to Lords amendments or Lords messages which relate to England, or England and Wales, only.
- Paragraphs (2) to (6) ensure that English, or English and Welsh, MPs have the opportunity to veto Lords amendments that may make changes to the bill or parts of the bill that relate to England or England and Wales.
- Where there is a vote relating to a certified Lords amendment, there must be a majority of both the whole House and of all English, or English and Welsh, MPs. For example, where a motion that is certified as England-only is proposed in relation to a Lords amendment, a majority of the whole House of Commons and a majority of MPs from English constituencies need to agree the motion before it is accepted (paragraph (7)).
- This double majority is achieved by a single vote, in which the votes of the whole House and of the English, or English and Welsh, MPs are recorded separately, allowing two results to be given.
- Where there is a double majority in favour of a motion to agree the Lords amendments, they are agreed and a message to this effect is sent to the House of Lords.
- Where either the whole House or the English, or English and Welsh, MPs do not agree to a motion relating to the Lords amendments, the amendments are not agreed and a message to this effect is sent to the House of Lords. For example, if the motion before the House of Commons is “That this House disagrees to the Lords amendment”, a disagreement within the House of Commons would result in a message of disagreement being sent to the Lords. This has the effect of ensuring that where there is disagreement in the Commons over Lords amendments, the relevant part of the bill is left as it was when the Commons last agreed it (paragraph (9)).
- Similar rules apply for subsequent messages from the Lords as apply for Lords amendments.
- The Speaker is required to seek to ensure that decisions relating to England-, or England and Wales-only, Lords amendments are put to the House separately wherever possible (paragraph 8).
- In summary, any amendments proposed by the Lords to English or English and Welsh provisions must receive the consent of both the whole House and English or English and Welsh MPs before they can become law.

Secondary Legislation

83P. Certification of instruments

The Speaker is generally required to consider for certification affirmative statutory instruments and negative statutory instruments which have been set down for a decision on the floor of the House on a specified day or have been referred to a delegated legislation committee.

The Speaker is required to apply the same test set out in new SO No. 83J to these statutory instruments but must apply it to the instrument as a whole (paragraphs (1) to (3)). So, for an instrument to be certified as England-only the entirety of it must be England-only. The inclusion of UK-wide provisions would mean that the instrument would be subject to the normal procedures for statutory instruments rather than the new English Votes procedure.

83Q. Deciding the question on motions relating to certified instruments

This Standing Order sets out the process for voting on motions relating to statutory instruments.

It provides for such motions to be subject to a double majority: a majority of both the whole House and of relevant MPs, must vote in favour of the motion for it to be agreed (paragraph (2)).

Motions to approve statutory instruments will continue to be subject to deferred divisions (i.e. a paper-based vote on a separate day) when they are taken at the end of the day (after the “moment of interruption”) and are opposed. Both results of any deferred division will be announced.

Where there is a division in the House on an instrument or motion, there will be a single vote in which the votes of the whole House and of the English, or English and Welsh, MPs are recorded separately, and two results are announced.

83R. Deciding the question on certain other motions

This Standing Order applies the English Votes process to a small number of statutory decisions relating to England, or to England and Wales, that are taken by the House of Commons but do not relate directly to statutory instruments. These include decisions on the distribution of the Revenue Support Grant (England-only) and the Police Grant (England and Wales only). If there is a vote on one of these motions, both a majority of the whole House of Commons and of English or English and Welsh (as the case may be) MPs must vote in favour for the motion to be agreed. This double majority vote is taken in a single division, as described above.

Finance Bills & Related Matters

83S. Modification of Standing Orders Nos. 83J to 83N: Finance Bills which relate exclusively to England, Wales and Northern Ireland

This Standing Order sets out that for Finance Bills the test for certification in SO No. 83J is modified so that the first part of the test is:

- Does the bill, or clause or schedule, relate only to England, or to England and Wales, or to England, Wales and Northern Ireland?

This is to ensure that MPs representing constituencies in England, Wales and Northern Ireland are asked to consent to Finance Bills, or clauses or schedules of Finance Bills, which relate exclusively to England, Wales and Northern Ireland and concern devolved taxes.

Standing Order 83X establishes a Legislative Grand Committee (England, Wales and Northern Ireland) for the purpose of considering Consent Motions which are required in respect of a clause or schedule of a Finance Bill which has been certified as relating exclusively to England, Wales and Northern Ireland.

The modifications made by Standing Order 83S also apply in relation to bills which are not Finance Bills but which, when introduced, only contain provisions which would be within the ordinary scope of a Finance Bill (such as a bill which is concerned solely with stamp duty land tax). This means that bills which are akin to a Finance Bill are also capable of being certified as relating exclusively to England, Wales and Northern Ireland. The modifications made by this Standing Order do not apply to bills where only some of the provisions would be within the ordinary scope of a Finance Bill.

The rest of SO No. 83S makes consequential modifications to SOs Nos. 83J to 83N which reflect the modified test.

83T. Modification of Standing Orders Nos. 83P and 83Q: financial instruments which relate exclusively to England, Wales and Northern Ireland

This Standing Order applies to instruments made under a Finance Act. It also applies to instruments made under a provision of any other kind of Act in a case where the provision concerned would have been within the ordinary scope of a Finance Bill. The effect of the Standing Order is to enable financial instruments of this sort to be certified by the Speaker as relating exclusively to England, Wales and Northern Ireland (and not only as relating exclusively to either England or to England and Wales). Where a financial instrument of this sort is certified as relating exclusively to England, Wales and Northern Ireland any motion relating to the instrument (such as a motion to approve the instrument) requires the support of a majority of those MPs who represent constituencies in England, Wales and Northern Ireland (as well as the support of a majority of all MPs).

The Speaker is required to apply the same test as applies to primary legislation to these statutory instruments but must apply it to the instrument as a whole, as for other instruments. So, for an instrument to be certified as England, Wales and Northern Ireland-only the entirety of it must be England, Wales and Northern Ireland-only. The inclusion of UK-wide provisions would mean that it would be subject to the normal procedures for statutory instruments rather than the new procedure.

83U. Certification of PCTA motions which would give statutory effect to other motions which affect certain taxes and relate exclusively to England, to England and Wales or to England, Wales and Northern Ireland

This Standing Order sets out the certification process for certain motions which are moved immediately after the Chancellor's Budget Speech (but before the start of the Budget Debate).

Tax measures to be included in the Finance Bill are specified in Budget Resolutions, which are put to the House at the end of the Budget Debate. However, immediately after the Chancellor's Budget speech the Chancellor may move a motion under section 5 of the Provisional Collection of Taxes Act 1968 which would, if agreed to, give provisional statutory effect to some of these Budget Resolutions before the House votes on them at the conclusion of the Budget Debate some days later. The effect of doing this is to give provisional statutory effect, immediately after the Budget speech, to certain tax measures announced in the Budget speech.

SO No. 83U sets out the process for the Speaker to determine which of these motions under section 5 of the PCTA 1968 should be certified and therefore subject to the new procedure. It sets out that the Speaker can certify any motion under section 5 of the PCTA 1968 which would give provisional statutory effect to another motion which:

- relates exclusively to England, to England and Wales, or to England, Wales and Northern Ireland; and,
- contains provision which is devolved to one or more of Scotland, Wales or Northern Ireland.

83V. Certification of motions upon which a Finance Bill is to be brought in which would authorise provision relating exclusively to England, to England and Wales or to England, Wales and Northern Ireland

This Standing Order sets out the certification process for motions which are moved at the end of the Budget Debate.

At the end of the Budget Debate the Chancellor moves motions which authorise the upcoming Finance Bill to include provisions which give effect to the proposals outlined in the Budget speech.

The effect of this Standing Order is to require the Speaker to certify any of these motions which would, if passed, only authorise the Finance Bill to include provision which-

- relates exclusively to England, to England and Wales or to England, Wales and Northern Ireland, and
- is on a subject matter devolved to one or more of Scotland, Wales or Northern Ireland.

The Standing Order also applies to motions which would authorise a bill other than a Finance Bill to include provision of a kind that could ordinarily be included in such a Finance Bill. So, for example, a motion which authorised a bill other than a Finance Bill to include provisions about stamp duty land tax would be required to be considered for certification under this Standing Order.

83W. Deciding the question on motions certified under Standing Order 83U or 83V

This Standing Order makes provision about what is to happen when there is a division in the House of Commons on a motion which has been certified by the Speaker and relates to a Finance Bill.

This Standing Order provides that where there is a division on a motion which has been certified, the motion shall be agreed to only if, of those voting in the division-

- a majority of MPs vote in support (as is ordinarily required), and
- a majority of those MPs who represent constituencies in the parts of the United Kingdom that would be affected by the motion vote in support of it.

Legislative Grand Committees

83X. Legislative Grand Committees

This Standing Order establishes three separate Legislative Grand Committees: for England; England and Wales; and England, Wales and Northern Ireland. They consist of all MPs for constituencies in the relevant parts of the UK (paragraphs (1) to (4)). As explained under 83Y, these Legislative Grand Committees take place in the Chamber during the course of a sitting of the House, in the same way as a Committee of the whole House.

The Legislative Grand Committee (England) may be asked to consider at Committee stage a bill that is certified as entirely England-only if it is not referred to a public bill committee of England-only MPs. This is the equivalent of a Committee of the whole House.

Otherwise, the functions of these Legislative Grand Committees are to consider any Consent Motions relating to bills, or clauses and schedules within them, that have been certified and therefore require the separate consent of MPs representing the relevant constituencies. For example, where a bill contains clauses that are certified as England-only and clauses that are certified as relating to England and Wales-only, these two sets of clauses require the consent of the two relevant Legislative Grand Committees, as well as the whole House.

83Y. Legislative Grand Committees: supplementary

This Standing Order provides for the proceedings in the new Legislative Grand Committees to be similar in nature to those in Committee of the whole House.

Other paragraphs of the motion

The other paragraphs of the motion make consequential amendments to other Standing Orders to apply them to the new legislative stages established. In particular, they ensure that the Standing Orders governing programming are applied to the new legislative stages.

Paragraph (16) concerns the commencement of the new Standing Orders. They apply to:

- all bills that have a Second Reading in the House of Commons after the date on which the new Standing Orders are agreed by the House;
- all statutory instruments laid after the day on which the new Standing Orders are agreed by the House; and
- any other motions to which the new rules apply that are decided after the day on which the new Standing Orders are agreed by the House.

Mae cyfyngiadau ar y ddogfen hon

Lesley Griffiths AM
Minister for Communities and Tackling Poverty
Welsh Government
5th Floor, Ty Hywel
Cardiff Bay
CF99 1NA

Your ref:
Our ref: PO/RB/AEJ

9 July 2015

Dear Lesley

During the debate on the General Principles of the Renting Homes (Wales) Bill in Plenary on 7 July, Members raised questions around whether the Bill complies with the European Convention on Human Rights. Such concerns were also raised in the Communities, Equalities and Local Government and Constitutional and Legislative Affairs Committees' reports on the Bill.

On two occasions during the debate you referred to my statement on legislative competence at the time of the Bill's introduction as evidence that the Bill complied with the human rights requirements.

You will be aware that my view on competence at the start of the legislative process is based on the information I have before me, ie the text of the Bill and the Explanatory Memorandum. It is the role of our committees to examine Bills in detail, to consult widely and to improve them through amendment. Given the complexity of the devolution settlement, it is perfectly proper for that detailed examination to raise issues of competence, including of compliance with the European Convention on Human Rights.

I do not expect the view that I give prior to introduction of a Bill to be used by the Government, or any other Member, to constrain that detailed scrutiny or as justification for a particular position.

Croesewir gohebiaeth yn y Gymraeg a'r Saesneg/We welcome correspondence in both English and Welsh



Llywydd
Presiding Officer



I am copying this letter to the Chair of the Communities, Equalities and Local Government Committee, the Chair of the Constitutional and Legislative Affairs Committee, and the First Minister.

A handwritten signature in cursive script that reads "Rosemary".

Dame Rosemary Butler AM
Presiding Officer

Mae cyfyngiadau ar y ddogfen hon

Mae cyfyngiadau ar y ddogfen hon

Mae cyfyngiadau ar y ddogfen hon

Yn rhinwedd paragraff(au) vi o Reol Sefydlog 17.42

Mae cyfyngiadau ar y ddogfen hon

Mae cyfyngiadau ar y ddogfen hon

Yn rhinwedd paragraff(au) vi o Reol Sefydlog 17.42

Mae cyfyngiadau ar y ddogfen hon

Mae cyfyngiadau ar y ddogfen hon

Yn rhinwedd paragraff(au) vi o Reol Sefydlog 17.42

Mae cyfyngiadau ar y ddogfen hon

Mae cyfyngiadau ar y ddogfen hon

Mae cyfyngiadau ar y ddogfen hon