

## Pre Legislative Scrutiny Report Of Session 2012 13 Vol 1 Report Together With Formal Minutes Oral And Written Evidence

This report calls on the Government to widen the scope of a proposed new adoption measure. The Government's proposed 'fostering for adoption' duty is designed to encourage councils to place looked after children with foster carers who can then go on to adopt them, providing continuity and stability. The scope should be extended by creating a duty to consider a fostering for adoption placement for all children for whom adoption is the plan. The Committee does not find it necessary to remove any requirement to give consideration to ethnicity but recommends an alternative amendment to the legislation which accords ethnicity an equal place within the list of the child's needs and characteristics. Other recommendations from the Committee include: a wider application of the principles behind concurrent planning, which places children with prospective adopters while at the same time actively exploring rehabilitation to the birth family; earlier and more robust decision-making by social workers in establishing when rehabilitation with the birth family is no longer an option; a review of the Statutory Guidance on Adoption to ensure permanency planning is given serious consideration one month after a child enters care

Additional written evidence is contained in Volume 3, available on the Committee website at [www.parliament.uk/educom](http://www.parliament.uk/educom)

The draft Wales Bill was published following the recommendations of the Silk Commission in November 2012. It sets out to devolve tax and borrowing powers to the Welsh Government and National Assembly for Wales, make changes to the electoral arrangements of the National Assembly for Wales, and clarify and update the devolution settlement. The Government hopes that the provisions in the draft Wales Bill will enable devolved governance in Wales to become more accountable. The cross-party Committee believes partial devolution of income tax to the Welsh Government should be put to the people of Wales in a referendum. The cross-party Committee also has sympathy with the argument that the issue of "fair funding" must be resolved before any income tax powers are devolved so that Wales is not unfairly disadvantaged. The issue of fair funding - how the size of the block grant from the UK Government is determined, currently by the Barnett formula which has long been criticised as providing an unfairly low allocation to Wales - needs to be examined and should not wait until after the 2015 General Election. The National Assembly for Wales should have power to decide its own Assembly term length, rather than this being decided at Westminster. The Committee recommends the clause in the draft Bill which permanently extends the length of the Assembly from four to five years should be scrapped and replaced with provisions that give the National Assembly the powers to determine the length of its own electoral term.

Additional written evidence is contained in Volume 3, available on the Committee website at [www.parliament.uk/ecc](http://www.parliament.uk/ecc)  
Government response to HC 1694, session 2010-12 (ISBN 9780215040640)

Response to HL 66, session 2008-09 (ISBN 9780104424995)

[Pre-legislative Scrutiny, Twelfth Report of Session 2012-13, Vol. 2: Oral and Written Evidence Report](#)

[Government Response to the Pre-Legislative Scrutiny Report by the Draft Local Audit Bill Committee](#)

[Government Response to the Northern Ireland Affairs Committee Pre-Legislative Scrutiny Report on the Draft Northern Ireland \(Miscellaneous Provisions\) Bill](#)

[Draft Local Audit Bill](#)

[HC 449 – Pre-Legislative Scrutiny of the Draft Wales Bill](#)

[Consumer Rights Bill](#)

[Fourth Report of Session 2012-13, Vol. 1: Report, Together with Formal Minutes, Oral and Written Evidence](#)

[Pre-Legislative Scrutiny, Government Response to the Committee's Thirteenth Report of Session 2010-12, First Special Report of Session 2012-13](#)

[Pre-legislative scrutiny of the draft Gambling \(Licensing and Advertising\) Bill](#)

[The Government Response to the Twelfth Report from the Home Affairs Committee Session 2012-13 HC 836](#)

[Special Educational Needs, Sixth Report of Session 2012-13, Vol. 2: Oral and Written Evidence](#)

[Government Response to a Report on Pre-Legislative Scrutiny in the 2007-08 Session: 21st Report of Session 2008-09 Report](#)

*A follow-up to the Committee's 4th report, HL 43, session 2007-08 (ISBN 9780104012178) containing the Government's response to that report*

*The Committee report examines parliamentary scrutiny of legislation, focusing on the process for dealing with primary legislation (i.e. the scrutiny of parliamentary bills). This examination is carried out in the light of the Rippon Commission report on the topic (Making the Law produced by the Hansard Society Commission on the Legislative Process) which was published in 1992. Topics discussed include the mechanisms for pre-legislative and post-legislative scrutiny, the growth of legislation, the dissemination of information and ways of gauging public opinion through consultation. Conclusions drawn by the Committee include concern over the growth in the number and complexity of bills being presented to Parliament without adequate expansion in the capacity to deliver effective scrutiny. The report contains a number of proposals designed to help engender a culture shift away from this unsustainable volume of legislation, towards a culture of justification which encourages government to adopt a more disciplined approach to the introduction of bills based on the objective of effectiveness rather than quantity.*

*The Government's focus on driving up the number of adoptions should not be delivered at the expense of other routes to permanence, such as special guardianship or kinship care, for children for whom adoption may not be suitable. The Committee is also concerned that there is a significant lack of information about rates of adoption breakdown. The most pressing issue is that of post-adoption support. Children adopted from care have a range of needs due to their early life experiences, often of abuse or neglect, which are not resolved simply by being adopted. There should be a statutory duty on local authorities and other service commissioning bodies to ensure the provision of post-adoption support. Cost concerns need to take into account the significant amount of money which local authorities save when a child is adopted from care. The drive to increase adoptions must also not undermine preventative programmes and efforts to keep birth families together. The Committee also recommends a pilot scheme offering support to families who have had children removed from their care. Other recommendations from the Committee include: encouraging more local authorities to move towards joint adoption services with neighbouring authorities and adoption agencies; ending the current practice of employing Independent Reviewing Officers (IROs) within local authorities and, instead, employing them externally, giving them the independence needed to promote the best interests of children; providing a designated teacher with responsibility for the wellbeing for adopted children within every school; and improving the training and supervision of social workers.*

*The draft Civil Aviation Bill proposes to transfer some 90 security regulation posts currently within the Department for Transport to the Civil Aviation Authority. The £5 million annual cost would also transfer - from the taxpayer to airports and, ultimately, to air passengers. In this report the Transport Committee warns the Government to ensure that the viability of smaller airports is not put at risk by the costs of new public information requirements and security changes proposed in the Bill. The Committee also calls for Ministers to take a more comprehensive approach to improving the air passenger experience, including services provided by the UK Borders Agency. Recommendations include: that public information requirements imposed on airports by the CAA do not generate unnecessary bureaucracy or cost and be clearly related to matters of importance to airline passengers; the special position of airlines, as the direct customers of airports, be recognised in the Bill; the Civil Aviation Authority (CAA) be given a secondary duty toward airlines, in recognition of their special position as primary customers of airports; measures are put in place to ensure the Competition Commission (or other relevant bodies) can strike out 'vexatious or frivolous appeals' mounted by airline or airports against licensing conditions.*

Dated April 2013. Government response to HC 696, session 2012-13 (ISBN 9780215052300)

Response to HC 1003 2nd report, session 2012-13 (ISBN 9780215055460). Dated May 2013

[4th Report of Session 2007-08: House of Lords Paper 43 Session 2007-08](#)

[Pre-legislative Scrutiny, Report, 1st Report of Session 2012-13](#)

[Report, 8th Report of Session 2009-10](#)

[The Draft Anti-social Behaviour Bill](#)

[House of Lords Papers 2003-04 133-1\\_Vol. 1 Report](#)

[Pre-legislative Scrutiny in the 2006-07 Session](#)

[Parliament and the Legislative Process 14th Report of Session 2003-04](#)

[The Draft Anti-social Behaviour Bill: Pre-legislative Scrutiny](#)

[Government Response to the Committee's Sixth Report of Session 2015-16](#)

[5th report of session 2012-13, Vol. 1, Report, together with formal minutes, oral and written evidence](#)

[Pre-legislative Scrutiny, Sixth Report of Session 2009-10, Vol. 1: Report, Together with Formal Minutes](#)

[Third Report of Session 2017-19, Report](#)

[Draft Energy Bill](#)

Additional written evidence is contained in Volume 2, available on the Committee website at [www.parliament.uk/justicecttc](http://www.parliament.uk/justicecttc)

Due to the compressed nature of pre-legislative scrutiny, the Committee was not able to cover all provisions in the draft Bill in detail. Evidence covered a number of areas, but the three main aspects of the draft Bill that were raised, and on which this Report focuses, are: the transition to a reserved powers model; the reservation of criminal and private law and the necessity tests; and the consenting arrangements. The majority of witnesses have suggested improvements to the draft Bill. Some of these, such as replacing the "necessity" test with a test that is clearer and has a lower threshold, and that in relation to Ministerial consent, that the UK Government transfers to the Welsh Ministers all Ministerial functions in areas of devolved legislative competence, the Committee have been able to agree upon. Some of the evidence received raised other important and relevant issues; in particular many witnesses proposed a form of distinct legal jurisdiction. This issue may not have been apparent to all potential witnesses at the outset of the inquiry, so the Committee cannot be confident they received all relevant evidence on this important subject. They now ask the Secretary of State to reflect on the recommendations. There is a growing body of Welsh law that differs from that which applies in England, but the implications of this requires careful scrutiny. The Committee shares the view of the Silk Commission, that the UK and Welsh governments will need to continue to review the issue of a separate or distinct Welsh jurisdiction

Pre-legislative scrutiny in the 2007-08 Session : 8th report of session 2007-08, Report

Dated April 2013. Government response to HC 836, session 2012-13 (ISBN 9780215054234)

Pre-legislative scrutiny in the 2006-07 Session : Report, 4th report of Session 2007-08

Around 80% of online gambling in the UK is conducted with operators which are not licensed here. In December 2012 the Government published a very short draft Gambling (Licensing and Advertising) Bill to require overseas gambling operators to obtain a Gambling Commission licence. The overseas-based remote gambling operators generally opposed the Bill, on the grounds it was unnecessary for consumer protection, might drive consumers to cheaper unlicensed operators and was principally intended to bring overseas operators within the UK's tax regime. Much of the UK-based gambling industry, sports bodies and organisations working to combat problem gambling supported the principle of the Bill. Almost all those who gave oral or written evidence to the Committee raised the issue that the enforcement regime would have to be rigorous in order to provide any of the benefits to consumers. The Committee supports the principle that gambling should be regulated on a "point of consumption" basis. The Committee also notes the concerns raised about taxation of the online industry. The Government stated that the ability to bring all operators serving UK consumers within the tax net is a consequence, but not the prime motivation, of the draft legislation. The Committee notes in this regard that, in setting a tax rate for remote gambling, the Treasury should bear in mind that too high a rate would be liable to drive customers and companies into the unregulated, black market.

[Pre-legislative Scrutiny, Oral and written evidence](#)

[Adoption](#)

[Pre-legislative Scrutiny, Twelfth Report of Session 2012-13, Vol. 1: Report, Together with Formal Minutes](#)

[pre-legislative scrutiny, first report of session 2012-13, Vol. 2: Oral and written evidence](#)

[Pre-legislative Scrutiny in the 2007-08 Session](#)

[House of Lords Paper 166 Session 2008-09](#)

[8th Report of Session 2007-08, Report](#)

[Pre-legislative Scrutiny, Report of Session 2012-13, Vol. 1: Report, Together with Formal Minutes, Oral and Written Evidence](#)

[Post-legislative Scrutiny](#)

[Deregulation Select Committee: Deregulation Select Committee Second Special Report on the Pre-Legislative Scrutiny of the Draft Regulatory Reform Bill, with Minutes of Proceedings.\(Vote\)](#)

[A Consultation Paper](#)

[Pre-legislative Scrutiny](#)

[Pre-legislative Scrutiny, Sixth Report of Session 2009-10, Vol. 2: Oral and Written Evidence](#)

In the biggest shake-up of the electricity market since privatisation, the Energy Bill will introduce a new system of long-term contracts to give power companies a guaranteed price for the low-carbon electricity they produce. This is intended to reduce the risk of investment in projects with high up-front capital costs, such as nuclear reactors and offshore wind farms. Initial consultation last year led investors to believe that the "Contracts for Difference" (CFD) would be guaranteed by the State - therefore lowering the cost of capital. But the Treasury has apparently intervened to ensure that the contracts are not government guaranteed. The new model for contracts will spread the liability across various energy companies instead; raising concerns that the plans are now too complex and possibly not legally enforceable. The MPs are calling on the Government to use its AAA-credit rating to underwrite the new contracts in order to keep the costs of energy investment down for consumers. The Committee heard that the spending cap set by the Treasury - which limits the green levies that can be passed on to consumers in energy bills - could introduce an "unacceptable" level of risk to companies who are looking to build new wind, solar, wave or tidal power plants, creating uncertainty amongst investors about which projects will receive support. This is already having an impact of investment decisions and could paradoxically push-up energy costs for consumers. The Committee says that the Government must come up with a stronger contract design before the Bill is expected to be introduced to Parliament in the autumn

The draft Anti-Social Behaviour Bill was published on 13 December 2012 (Cm.8495, ISBN 9780101849524). It is the Government's intention to tidy up the tool-kit for dealing with anti-social behaviour (ASB) and to involve victims and communities more directly in dealing with the problems. The Committee found the following: (i) Rationalising the number of anti-social behaviour (ASB) powers is welcome; (ii) Key elements necessary to tackle ASB are missing: good inter-agency working, intelligent information sharing and a network of services; (iii) The move away from automatic criminalisation for breach of an Injunction is positive, but the powers are far too wide; (iv) The "Community Remedy" must not "become the modern pillory or stocks": officers must have the discretion to choose alternative disposals; (v) The "Community Trigger" will not be effective against persistent ASB unless there is a national limit on the number of complaints that can be made before action is taken. The Committee recommended the following: (i) Strengthen the Community Trigger so that authorities that do not deal with ASB are identified and held to account; (ii) Set up a new National Anti-social Behaviour Forum headed by a chief constable, a housing association chief executive, and a local council leader, for a term of two years; (iii) End the arms race against Anti-social Behaviour by setting reasonable limits on the behaviour covered by the new powers.

Although the Committee's 2004 report, 'Parliament and the legislative process', (HL 173, session 2003-04, (ISBN 9780104005415)) welcomed the use of pre-legislative scrutiny and expressed a desire to see it improved and extended, such scrutiny in fact declined. In response the Committee resolved to produce and publish statistics on the volume of draft bills and the end of each session along with any appropriate comment. This is the third such report and covers the 2008-09, 2009-10 sessions

This is the Committee's scrutiny of the draft Apprenticeships Bill which was published on 16 July 2008. While putting much of the current arrangements for apprenticeships onto a statutory basis, the draft Bill provides greater flexibility to allow employers to design and bring forward for approval their own apprenticeship frameworks. The extent of this flexibility was not clear as a key document, the specification of apprenticeship standards, which will determine the core components of frameworks was not published with the draft Bill. Nor did the Government set out in detail how the National Apprenticeship Service would be resourced or organised, or how the legislation would apply in Wales. These as key omissions impeded the scrutiny process. With this in mind it was concluded that in general the legislation is justified because it has the potential to strengthen the structure for apprenticeships in England. However there was a major concern of volume at the expense of quality. The Government must ensure that the draft Bill is re-written to promote, monitor and report on the quality of apprenticeships. Without provisions underpinning quality, the legislation risks the devaluation of apprenticeships, and employers, parents and young people as well as adults will cease to see apprenticeships as a progressive route through to a future career.

Draft legislation intended to deliver a more efficient and transparent local audit system may not save money, potentially undermines the integrity of the audit system and may fail to deliver accountability. The principle of independent audit - which has guided public sector audit for the last 150 years - could be undermined if the bill is not amended. Most witnesses criticised the proposed independent auditor panels and felt that they imposed an unnecessary additional bureaucratic burden. They expressed strong support for the retention of a central procurement capacity for appointing auditors to local bodies in order to deliver best value on audit fees. The legislation also has some gaping holes that pose significant risks. Unless stronger safeguards are put into the legislation, whistleblowers might not be able to draw attention to serious failures in local governance. The Comptroller & Auditor General of the National Audit Office should be named in the Bill alongside the appointed auditor, as another prescribed person who may be contacted by any whistleblower. It should also have a duty to publish detailed mandatory guidance to accompany the code and to report annually to Parliament on the Code's effectiveness. Lastly, there is great concern that the draft Bill makes no provision for comprehensive like for like value for money comparisons which would enable informed judgements about the way local bodies spend taxpayer's money. It is essential that the Bill is re-drafted to include a systematic process for benchmarking and like-for-like comparisons between public bodies in the new regime.

Additional written evidence is contained in Volume 3, available on the Committee website at [www.parliament.uk/homeaffairscom](http://www.parliament.uk/homeaffairscom)

[Draft Civil Law Reform Bill](#)

[Government Response to the Housing, Communities and Local Government Select Committee Report Pre-legislative Scrutiny of the Draft Tenant Fees Bill](#)

[Pre-Legislative Scrutiny in the 2006-07 Session: Follow-Up Report 8th Report of Session 2007-08: House of Lords Papers 129 2007-08](#)

[Pre-legislative Scrutiny of the Draft Environment \(Principles and Governance\) Bill](#)

[Report, Together with Formal Minutes](#)

[Fourteenth Report of Session 2017-19, Oral and written evidence](#)

[Fourteenth Report of Session 2017-19, Report](#)

[Pre-legislative Scrutiny, Report, 2nd Report of Session 2012-13](#)

[Pre-legislative Scrutiny of the Draft Tenant Fees Bill](#)

[Pre-legislative Scrutiny of the Draft Apprenticeships Bill](#)

[Pre-legislative Scrutiny of the Draft Non-Domestic Rating \(property in Common Occupation\) Bill](#)

[Draft Civil Aviation Bill](#)

[pre-legislative scrutiny, first report of session 2012-13, Vol. 1: Report, together with formal minutes](#)

[Draft Civil Law Reform Bill : Pre-legislative scrutiny, sixth report of session 2009-10, Vol. 2: Oral and written Evidence](#)

*The Commission's report examines the options for ensuring adequate post-legislative scrutiny of Acts of Parliament, in the light of the recommendation of the House of Lords Select Committee on the Constitution (in their 14th report, HCP 173-I, session 2003-04; ISBN 0104005416). The main focus of the report is on primary legislation, but it also considers delegated legislation and European legislation. Issues discussed include: existing forms and benefits of post-legislative scrutiny in the UK Parliament and in other jurisdictions (including Canada, Australia, Germany, France and the EU); the experience of pre-legislative scrutiny; and options for post-legislative scrutiny mechanisms. A number of consultation questions are given, and responses should be received by 28th April 2006.*

*Consumer law sets out what consumers should expect from what they buy, and what rights and responsibilities consumers and traders have if things do not go to plan. The UK's consumer law has developed over many years: currently eight separate pieces of legislation cover key consumer rights whilst some 60 pieces of legislation cover the investigatory powers of consumer law enforcers. Confusion is exacerbated by unnecessary complexity and ambiguity in parts of the law. The draft Consumer Rights Bill to reform this situation was published in June 2013 (Cm. 8657, ISBN 9780101865722) following extensive consultation with consumers, businesses and enforcers, the Law Commission and the Scottish Law Commission. Views on the Bill were invited and the Business, Innovation and Skills Committee also carried out a pre-legislative scrutiny (sixth report of session 2013-14, HC 697-I, ISBN 9780215065933). The Bill now presented to Parliament (Bill 161, session 2013-14, ISBN 9780215067210) is the result of the consultation process. This document explains how consumer rights are being reform by the Bill, in particular how it will: streamline key consumer rights covering contracts for good, services, digital content and the law relating to unfair terms in consumer contracts into one place; clarify the law where it is confusing or written in legal jargon; modernise the framework for the digital age; deregulate to reduce business burdens and costs; and enhance measures to protect consumers. The problems with the current law and how the Bill will address them are outlined.*

*Draft Civil Law Reform Bill : Pre-legislative scrutiny, sixth report of session 2009-10, Vol. 1: Report, together with formal Minutes*

*This report welcomes the overall direction of the Government's proposed legislation to reform provision for children with special educational needs (SEN), but warns that the NHS Constitution cannot be allowed to prevent the imposition of much stronger duties on commissioning boards to ensure that adequate, joined-up services are put in place. Draft legislation relies too heavily in its current form on the duty of joint commissioning between Health and local authorities to ensure co-operation throughout the system. It will be essential that the forthcoming regulations commit Health providers to specific timetables when conducting SEN assessments and that responsibilities for Health and local authorities in providing certain therapy services are substantially clarified. The Committee also calls for all current protections afforded by a Statement of SEN to be maintained and recommends that the Code of Practice should also remain a statutory document. The Committee notes how the 'pathfinder projects' set up to test the approaches described in the 2011 Green Paper on SEN have not had time to report back in order to advise on the development of the legislation. MPs welcome the Minister's decision to extend the Pathfinders for a further 18 months, but point to several aspects of the new legislation where the learning from the Pathfinders will be particularly important, not least how to ensure the 'Local Offer' put in place is sufficient to ensure the needs of young people with SEN, as identified in an Education Health and Care Plan, can be met.*

[Pre-legislative Scrutiny of the Government's Draft Legislation on Energy](#)

[Pre-Legislative Scrutiny in the 2008-09 and 2009-10 Sessions](#)

[Government Response to a Report on Pre-legislative Scrutiny in the 2007-08 Session](#)

[Third Report of Session 2017-19, Oral and written evidence](#)

[statement on policy reform and responses to pre-legislative scrutiny](#)

[Pre-legislative Scrutiny of the Children and Families Bill](#)

[pre-legislative scrutiny, thirteenth report of session 2010-12, Vol. 1: Report, together with formal minutes, oral and written evidence](#)

[House of Commons - Welsh Affairs Committee: Pre-Legislative Scrutiny of the Draft Wales Bill - HC 962](#)

[Special Educational Needs, Sixth Report of Session 2012-13, Vol. 1: Report, Together with Formal Minutes](#)