

Regulation and Inspection of Social Care (Wales) Bill –Stage 3 Government Amendments

This table provides information about the amendments tabled in the name of Mark Drakeford, AM on 6 November 2015

No.	GOVERNMENT AMENDMENT	GWELLIANT Y LLYWODRAETH	PURPOSE AND EFFECT
1	<p>Section 8, page 6, after line 22, insert—</p> <p>() Evidence is within this subsection if it shows that the person has been responsible for, contributed to or facilitated misconduct or mismanagement in the provision—</p> <p>(a) of a regulated service, or a service provided outside Wales which, if provided in Wales, would be a regulated service;</p> <p>(b) of a service which would have fallen within paragraph (a) had the regulatory system established by this Part been operating at the time the service was being provided.</p> <p>() When having regard to evidence</p>	<p>Adran 8, tudalen 6, ar ôl llinell 23, mewnosoder—</p> <p>() Mae tystiolaeth o fewn yr is-adran hon os yw'n dangos bod y person wedi bod yn gyfrifol am gamymddwyn neu gamreoli, neu wedi cyfrannu ato neu wedi ei hwyluso, wrth ddarparu—</p> <p>(a) gwasanaeth rheoleiddiedig neu wasanaeth a ddarperir y tu allan i Gymru a fyddai'n wasanaeth rheoleiddiedig pe bai'n cael ei ddarparu yng Nghymru;</p> <p>(b) gwasanaeth a fyddai wedi dod o fewn paragraff (a) pe bai'r system reoleiddiol sydd wedi ei sefydlu gan y Rhan hon wedi bod yn weithredol ar yr adeg pan oedd y gwasanaeth yn cael ei ddarparu.</p> <p>() Wrth roi sylw i dystiolaeth o fewn is-</p>	<p>The purpose of this amendment is to add a further two sub sections after subsection (5).</p> <p>The effect of this amendment is to add to the list of evidence that the Welsh Ministers must have regard to when deciding whether a person is a fit and proper person. The first sub-section requires the Welsh Ministers to have regard to evidence of misconduct or mismanagement in the provision of a regulated service. This subsection includes those services provided outside Wales that would be regulated services if they were provided in Wales and those services that would have been regulated services had Part 1 been commenced at the time that those services were being provided. The second sub section identifies a list of things that the Welsh Ministers must take account of when they have regard to evidence of misconduct or mismanagement in the provision of a regulated service.</p>

	<p>within subsection ((<i>first subsection to be inserted by amendment 1</i>)), the Welsh Ministers must, among other things, take account of—</p> <ul style="list-style-type: none"> (a) the seriousness and duration of the misconduct or mismanagement; (b) harm caused to any person, or any evidence of an intent to cause harm; (c) any financial gain made by the person; (d) any action taken by the person to remedy the misconduct or mismanagement.’. 	<p>adran ((<i>yr is-adran sy'n cael ei mewnosod gan welliant 1</i>)), rhaid i Weinidogion Cymru, ymhlith pethau eraill, ystyried—</p> <ul style="list-style-type: none"> (a) pa mor ddifrifol yw'r camymddwyn neu'r camreoli ac am ba hyd y bu'n digwydd; Bil Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymru) (b) niwed a achoswyd i unrhyw berson, neu unrhyw dystiolaeth o fwriad i achosi niwed; (c) unrhyw fantais ariannol a enillwyd gan y person; (d) unrhyw gamau a gymerwyd gan y person i unioni'r camymddwyn neu'r camreoli.’. 	
2	Section 14, page 10, line 15, leave out subsection (3).	Adran 14, tudalen 10, llinell 15, hepgorer is-adran (3).	<p>The purpose of this amendment is to remove subsection (3) of section 14.</p> <p>The effect of this amendment is to remove the definition of what is meant by a 'caution'. This is consequential on amendment 36 which inserts a</p>

			definition of 'caution' into the general interpretation section at section 188.
3	Section 21, page 15, line 3, leave out "caution" and "relevant offence" have' and insert "relevant offence has'.	Adran 21, tudalen 15, llinell 3, hepgorer "rhybuddiad" a'.	<p>The purpose of this amendment is to remove the reference to "caution" in section 21(2). It is consequential on amendments 2 and 36.</p> <p>Subsection (2) provides that "caution" has the same meaning as in section 14. Amendment 2 removes the definition of "caution" from section 14 and amendment 36 inserts a definition of "caution" into section 188, the general interpretation section. The effect of the amendments therefore is that the reference to "caution" in section 21 has the meaning set out in section 188.</p>
4	Section 54, page 32, after line 10, insert— ' () Proceedings in respect of an offence under this Part or regulations made under it may not, without the written consent of the Counsel General to the Welsh Government, be brought by any person other than the Counsel General or the Welsh Ministers.'	Adran 54, tudalen 32, ar ôl llinell 10, mewnosoder— ' () Ni chaniateir i achos mewn cysylltiad â throsedd o dan y Rhan hon neu reoliadau a wneir odani, heb gydsyniad ysgrifenedig Cwnsler Cyffredinol Llywodraeth Cymru, gael ei ddwyn gan unrhyw berson ac eithrio'r Cwnsler Cyffredinol neu Weinidogion Cymru.'	<p>The purpose of this amendment is to insert a new subsection.</p> <p>The effect of this amendment is to clarify that proceedings may not be brought by anyone other than the Counsel General or Welsh Ministers without the written consent of the Counsel General.</p>
5	Section 54, page 32, line 11, leave out 'under' at the second place where it appears.	Adran 54, tudalen 32, llinell 11, hepgorer 'o dan' yn yr ail le y mae'n ymddangos.	<p>The purpose of this amendment is to remove the second use of the word 'under' in this subsection.</p> <p>The effect of this amendment is to remove</p>

			superfluous wording from the provision.
6	Section 57, page 43, line 13, leave out 'maintained' and insert 'kept'.	Adran 57, tudalen 43, llinell 13, hepgorer 'gynhelir' a mewnosoder 'gedwir'.	<p>The purpose of this amendment is to change the reference to the register being maintained under section 79 of the Bill to it being kept. This is consequential on amendment 20 which provides that the register is kept by SCW rather than maintained by SCW.</p> <p>The effect of the amendment is to refer to the register that is kept by SCW rather than maintained by SCW.</p>
7	Section 64, page 47, line 32, leave out 'maintain' and insert 'keep'.	Adran 64, tudalen 47, llinell 33, hepgorer 'gynnal' a mewnosoder 'gadw'.	<p>The purpose of the amendment is to change the reference in the overview section from 'maintain' to 'keep'. This is consequential on amendment 20 which provides that the register is kept by SCW rather than maintained by SCW.</p> <p>The effect of the amendment is that the overview section reflects the fact that SCW must keep rather than maintain a register under section 79.</p>
8	Section 64, page 48, line 3, leave out 'registration and'.	Adran 64, tudalen 48, llinell 3, hepgorer 'â chofrestru a'r' a mewnosoder 'â'r'.	<p>The purpose of the amendment is to remove the words 'registration and' in sub-section (3) of the overview section.</p> <p>The effect is to remove superfluous wording to improve the drafting.</p>
9	Section 64, page 48, line 6, leave out 'in the	Adran 64, tudalen 48, llinell 6, hepgorer 'yn y gofrestr, a pharhau'n gofrestredig ynddi' a	The purpose of the amendment is to remove the

	register’.	mewnosoder ‘, a parhau’n gofrestredig’.	words ‘in the register’ in sub-section (4). The effect is to remove superfluous wording to improve the drafting.
10	Section 64, page 49, line 1, after ‘the’, insert ‘First-tier’.	Adran 64, tudalen 49, llinell 1, ar ôl ‘tribiwnlys’, mewnosoder ‘Haen Gyntaf’.	The purpose of the amendment is to include the words First-tier in section 64. The effect of the amendment is that the reference in the overview section to the tribunal is to the First-tier tribunal.
11	Section 64, page 49, line 2, leave out ‘in, and remaining on, the register’.	Adran 64, tudalen 49, llinell 2, hepgorer ‘yn y gofrestr, ac aros arni’.	The purpose of the amendment is to remove the words ‘in and remaining on, the register; in section 64(9). The effect of the amendment is to remove superfluous words to improve the drafting.
12	Section 64, page 49, line 10, leave out ‘maintained’ and insert ‘kept’.	Adran 64, tudalen 49, llinell 11, hepgorer ‘chynnal’ a mewnosoder ‘chadw’.	The purpose of the amendment is to change the reference in the overview section from ‘maintained’ to ‘kept’. This is consequential on amendment 20 which provides that the register is kept by SCW rather maintained by SCW. The effect of the amendment is that the overview section reflects the fact that SCW must keep rather than maintain a register under section 79.
13	Section 65, page 49, line 28, leave out ‘maintained’ and insert ‘kept’.	Adran 65, tudalen 49, llinell 22, hepgorer ‘gynhelir’ a mewnosoder ‘gedwir’.	The purpose of the amendment is to change the definition of the register in section 65. The effect of the amendment is that the definition

			of the register is the register that is kept by SCW under section 79. This is consequential on amendment 20.
14	Section 65, page 50, line 9, leave out 'which makes provision for' and insert 'for provision about'.	Adran 65, tudalen 50, llinell 9, hepgorer 'sy'n gwneud darpariaeth ar gyfer' a mewnosoder 'am ddarpariaeth ynghylch'.	The purpose of the amendment is to replace the words 'which makes provision for' in section 65(2) with the words 'for provision about'. The effect of the amendment is change the wording in section 65(2) to improve the drafting.
15	Section 72, page 52, line 12, after 'SCW', insert 'by or'.	Adran 72, tudalen 52, llinell 12, ar ôl 'GCC', mewnosoder 'gan neu'.	The purpose of the amendment is to insert the words 'by or' into section 72(1). The effect of the amendment is to make it clear that the requirement to exercise rules in writing applies to rules made under any power conferred on SCW under <u>or by</u> this Act.
16	Section 72, page 52, line 18, after 'rules', insert 'conferred by or'.	Adran 72, tudalen 52, llinell 17, ar ôl 'rheolau', mewnosoder 'a roddir gan neu'.	The purpose of the amendment is to insert the words 'conferred by or' into section 72(4). The effect of the amendment is to achieve consistency with the wording used in section 72(1).
17	Section 74, page 53, line 14, leave out 'issuing' and insert 'publishing'.	Adran 74, tudalen 53, llinell 15, hepgorer 'dyroddi' a mewnosoder 'cyhoeddi'.	The purpose of the amendment is to change the reference to SCW issuing guidance in section 74(1) to it publishing guidance. The effect of the amendment is that there is consistency with the wording of section 161 which requires SCW to publish guidance for panels. .

18	Section 74, page 53, line 17, leave out ‘, publishing the code or issuing’ and insert ‘or publishing the code or’.	Adran 74, tudalen 53, llinell 19, hepgorer ‘, cyhoeddi’r cod neu ddyroddi canllawiau’ a mewnosoder ‘neu gyhoeddi’r cod neu ganllawiau’.	The purpose of this amendment is remove the word ‘issuing’ from section 74(2). The effect of this amendment is to make it clear that SCW are required to publish and not issue guidance to panels under section 161. This amendment is linked to amendment 17.
19	Section 78, page 55, after line 28, insert— ‘() a person registered under Part 2 of the Children and Families (Wales) Measure 2010 (nawm 1) as— (i) a child minder, or (ii) a provider of day care for children;’.	Adran 78, tudalen 55, ar ôl llinell 31, mewnosoder— ‘() person sydd wedi ei gofrestru o dan Ran 2 o Fesur Plant a Theuluoedd (Cymru) 2010 (mccc 1) fel— (i) gwarchodwr plant, neu (ii) darparwr gofal dydd i blant;’.	The purpose of the amendment is to add child minders and providers of day care for children to list of social care workers in section 78(3). The effect of the amendment is that child minders and providers of day care are a description of persons who the Welsh Minister can by regulations provide that they are to be treated as social care workers.
20	Section 79, page 56, line 23, leave out ‘maintain’ and insert ‘keep’.	Adran 79, tudalen 56, llinell 25, hepgorer ‘gynnal’ a mewnosoder ‘gadw’.	The purpose of the amendment is to change the reference to SCW maintaining a register to it keeping a register. The effect of the amendment is that SCW must keep rather than maintain a register under section 79.
21	Section 85, page 59, line 7, after ‘must’, insert ‘, on the application of the person to whom the entry relates,’.	Adran 85, tudalen 59, llinell 7, ar ôl ‘cofrestrydd’, mewnosoder ‘, ar gais y person y mae’r cofnod yn ymwneud ag ef,’.	The purpose of the amendment is to insert the words ‘on the application of the person to whom the entry relates’ into section 85(2).

			The effect of the amendment is to make it clear that the registrar must only grant an application for renewal where an application has been made by a registered person and the conditions in section 85(2) are met. .
22	Section 87, page 60, line 32, after 'entry', insert 'in the register'.	Adran 87, tudalen 60, llinell 35, ar ôl 'cofnod', mewnosoder 'yn y gofrestr'.	The purpose of the amendment is to add the words 'into the register' into section 87(3). The effect of the amendment is to make it clear that the reference in subsection (3) to 'entry' is to an entry in the register.
23	Section 96, page 65, line 6, leave out 'the application' and insert 'an application made under subsection (2)'.	Adran 96, tudalen 65, llinell 5, hepgorer 'atgyfeirio'r cais' a mewnosoder 'atgyfeirio cais a wneir o dan is-adran (2)'.	The purpose of the amendment is to substitute the words 'the application' in section 98(4) with 'an application made under subsection (2)'. The effect of the amendment is to make it clear that the application which must be referred to a registration appeals panel for determination is an application made under subsection (2); an application to the registrar for the entry in respect of the person to be restored to the register.
24	Section 110, page 71, line 13, leave out 'maintained' and insert 'kept'.	Adran 110, tudalen 71, llinell 15, hepgorer 'gynhelir' a mewnosoder 'gedwir'.	The purpose of the amendment is to remove the word 'maintained' in section 110(4) and replace it with 'kept'. The effect of the amendment is to reflect that the SCW must keep rather than maintain a register under section 79. This is consequential on

			amendment 20.
25	Section 116, page 75, line 5, after 'conviction', insert 'or caution',	Adran 116, tudalen 75, llinell 4, ar ôl 'gollfarn', mewnosoder 'neu rybuddiad'.	<p>The purpose of the amendment is to include the word 'caution' in section 116(1)(f).</p> <p>The effect of the amendment is to make it clear that a caution for an offence which, if committed in England and Wales would constitute a criminal offence is a ground of impairment for the purpose of the fitness to practise provisions of the Bill.</p>
26	Section 145, page 90, line 21, leave out 'replacement order was' and insert 'review which led to the replacement order being'.	Adran 145, tudalen 90, llinell 22, hepgorer 'i'r gorchymyn amnewidiol gael ei wneud' a mewnosoder 'yr adolygiad a arweiniodd at wneud y gorchymyn amnewidiol'.	<p>The purpose of the amendment is to replace the words 'replacement order was' in section 145(6)(a) with 'review which led to the replacement order being'.</p> <p>The effect of the amendment is to make it clear that a prior review must have occurred prior to a replacement order being made.</p>
27	Section 145, page 90, line 24, leave out 'replacement order was' and insert 'review which led to the replacement order being'.	Adran 145, tudalen 90, llinell 24, hepgorer 'i'r gorchymyn amnewidiol gael ei wneud' a mewnosoder 'yr adolygiad a arweiniodd at wneud y gorchymyn amnewidiol'.	<p>The purpose of the amendment is to replace the words 'replacement order was' in section 145(6)(b) with 'review which led to the replacement order being'.</p> <p>This amendment is consequential on amendment 26. The effect of the amendment is to make it clear that a prior review must have occurred prior to a replacement order being made.</p>
28	Section 155, page 98, line 4, leave out '(1)	Adran 155, tudalen 98, llinell 6, hepgorer '(1)	The purpose of the amendment is to change the references in section the reference in section

	and (2)' and insert '(2) and (3)'. 	a (2)' a mewnosoder '(2) a (3)'. 	155(1) to (1) and (2) to (2) and (3). The effect of the amendment is to correct an error to ensure that subsections (2) and (3) apply to conditional registration orders made under section 151(8)(c), 153(8)(c) and 154(10)(c) and not and not subsection (1).
29	Section 161, page 102, line 29, leave out 'issued' and insert 'published'. 	Adran 161, tudalen 102, llinell 31, hepgorer 'ddyroddir' a mewnosoder 'gyhoeddir'. 	The purpose of the amendment is to change the reference in section 161(2) from 'issuing' guidance to 'publishing' guidance. The effect of the amendment is to achieve consistency of drafting in the section so that all references are to SCW publishing guidance.
30	Section 161, page 103, line 16, leave out 'issued' and insert 'published'. 	Adran 161, tudalen 103, llinell 18, hepgorer 'ddyroddir' a mewnosoder 'gyhoeddir'. 	The purpose of the amendment is to change the reference in section 161(6) from 'issuing' guidance to 'publishing' guidance. The effect of the amendment is to achieve consistency of drafting in the section so that all references are to SCW publishing guidance.
31	Section 164, page 104, line 27, leave out 'maintains' and insert 'keeps'. 	Adran 164, tudalen 104, llinell 30, hepgorer 'cynnal' a mewnosoder 'cadw'. 	The purpose of the amendment is to remove the word 'maintains' in section 164(3) and replace it with 'keeps'. The effect of the amendment is to reflect that the SCW must keep rather than maintain a register under section 79. This is consequential on amendment 20.

32	<p>Section 178, page 111, line 12, leave out subsection (1) and insert—</p> <p>() One regulatory body (“A”) may arrange with the other regulatory body (“B”) for A and B to act together in exercising jointly one or more relevant functions of A with one or more relevant functions of B.’.</p>	<p>Adran 178, tudalen 111, llinell 13, hepgorer ‘y cyrff rheoleiddiol drefnu arfer unrhyw un neu ragor o’u swyddogaethau perthnasol ar y cyd’ a mewnosoder ‘un corff rheoleiddiol (“A”) drefnu gyda’r corff rheoleiddiol arall (“B”) i A a B weithredu gyda’i gilydd wrth arfer ar y cyd un neu ragor o swyddogaethau perthnasol A gydag un neu ragor o swyddogaethau perthnasol B’.</p>	<p>The purpose of this amendment is to remove subsection (1) and to replace it with an alternative form of wording.</p> <p>The effect of this amendment is to clarify the purpose of this provision.</p>
33	<p>Section 178, page 111, line 19, leave out ‘enable the regulatory bodies to jointly exercise a relevant function’ and insert ‘exercise the relevant joint functions on behalf of the regulatory bodies’.</p>	<p>Adran 178, tudalen 111, llinell 20, hepgorer ‘galluogi’r cyrff rheoleiddiol i arfer swyddogaeth perthnasol ar y cyd’ a mewnosoder ‘arfer y cyd-swyddogaethau perthnasol ar ran y cyrff rheoleiddiol’.</p>	<p>The purpose of this amendment is to remove wording in subsection (3)(a) and to replace it with alternative wording.</p> <p>This is a technical amendment that is consequential on amendment 32.</p>
34	<p>Section 186, page 115, leave out lines 28 to 29.</p>	<p>Adran 186, tudalen 115, hepgorer llinellau 31 hyd at 32.</p>	<p>The purpose of this amendment is to remove subsection 2(f).</p> <p>The effect of this amendment is to remove the subsection providing that regulations made under section 20() must follow the affirmative procedure. This is no longer required following the removal of this regulatory power from section 20 following the insertion of section 8 at Stage 2.</p>
35	<p>Section 186, page 116, line 6, leave out ‘maintain’ and insert ‘keep’.</p>	<p>Adran 186, tudalen 116, llinell 6, hepgorer ‘gynnal’ a mewnosoder ‘gadw’.</p>	<p>The purpose of the amendment is to remove the word ‘maintain’ in section 186(2)(o) and replace it with ‘keep’.</p>

			The effect of the amendment is to reflect that the SCW must keep rather than maintain a register under section 79. This is consequential on amendment 20.
36	<p>Section 188, page 116, after line 35, insert—</p> <p>“caution” (“rhybuddiad”), in relation to an offence, means—</p> <p>(a) a conditional caution given under section 22 of the Criminal Justice Act 2003 (c.44) (conditional cautions for adults) or under section 66A of the Crime and Disorder Act 1998 (c.37) (conditional cautions for children and young persons);</p> <p>(b) any other caution given to a person in England and Wales in respect of an offence which, at the time the caution is given, that person has admitted;</p> <p>(c) anything corresponding to a caution falling within paragraph (a) or (b) (however described)</p>	<p>Adran 188, tudalen 117, ar ôl llinell 10, mewnosoder—</p> <p>‘ystyr “rhybuddiad” (“caution”), mewn perthynas â throsedd, yw—</p> <p>(a) rhybuddiad amodol a roddir o dan adran 22 o Ddeddf Cyfiawnder Troseddol 2003 (p.44) (rhybuddiadau amodol ar gyfer oedolion) neu o dan adran 66A o Ddeddf Trosedd ac Anrhefn 1998 (p.37) (rhybuddiadau amodol ar gyfer plant a phobl ifanc);</p> <p>(b) unrhyw rhybuddiad arall a roddir i berson yng Nghymru a Lloegr mewn cysylltiad â throsedd a gyfaddefwyd gan y person hwnnw ar yr adeg y rhoddir y rhybuddiad;</p> <p>(c) unrhyw beth sy’n cyfateb i rhybuddiad sy’n dod o fewn paragraff (a) neu (b) (sut bynnag y’i disgrifir)—</p>	<p>The purpose of this amendment is to add a definition of “caution” to section 188, the general interpretation section.</p> <p>The effect of the amendment is that the definition in section 188 will apply to all references to a “caution” in the Bill.</p>

	<p>which—</p> <p>(i) is given to a person in respect of an offence committed outside England and Wales which, if committed in England and Wales, would constitute a criminal offence, and</p> <p>(ii) is not an alternative to prosecution (within the meaning of section 8AA of the Rehabilitation of Offenders Act 1974 (c.53)).’.</p>	<p>(i) a roddir i berson mewn cysylltiad â thramgwydd a gyflawnwyd y tu allan i Gymru a Lloegr a fyddai'n drosedd pe bai wedi ei chyflawni yng Nghymru a Lloegr, a</p> <p>(ii) nad yw'n fesur y caniateir ei roi yn lle erlyniad (o fewn ystyr "alternative to prosecution" yn adran 8AA o Ddeddf Adsefydlu Troseddwyr 1974 (p.53));’.</p>	
37	Schedule 3, page 132, line 29, leave out 'maintained' and insert 'kept'.	Atodlen 3, tudalen 132, llinell 30, hepgorer 'maintained' a mewnosoder 'kept'.	<p>The purpose of the amendment is to remove the word 'maintained' in Schedule 3 paragraph 39 and replace it with 'kept'.</p> <p>The effect of the amendment is to reflect that the SCW must keep rather than maintain a register under section 79. This is consequential on amendment 20.</p>