

Scottish Conservative and Unionist Party

21 September 2023

I am writing to you to pass on the Scottish Conservative party's view on the Standards, Procedures and Public Appointments Committee Consultation on the Standing Order rule changes relating to the refusal of legislative consent.

Overall, we support the procedural changes proposed to Standing Orders. As your consultation states, it will ensure there will be a mechanism to create a process for refusing consent, but more importantly, will address a number of issues surrounding LCMs that have been raised by the Constitution Committee previously, and utilise the Scottish Parliament's powers between committee and chamber more effectively.

However, it is important to note that one issue that these changes do not fully cover is the scenario where there is a dispute between the UK Government and Scottish Governments over whether consent is actually required. There have been several instances recently where the governments have taken differing views on consent. Thus, the situation arises that the Scottish Government may come to the Scottish Parliament arguing that the Parliament should not consent (either under the current process or under the more formalised proposed process) when the UK Government is not actually seeking consent. I wonder what your views are on this? It strikes me as an anomaly that there can be a formal mechanism to refuse consent when consent is not actually sought? The definition of "relevant bill" in the Standing Orders seems central to this issue. In essence, the Scottish Government can prepare a Legislative Consent Memorandum which on one view may not be needed or necessary and my view is that this will continue to be an issue moving forward.

With regards to making lodging a motion mandatory, Option C seems best placed, in our opinion, to ensure that the Scottish Government are able to present their position, and Parliament is able to decide on consent, in a correct and swift manner.

We therefore do give our support to these proposed changes, while highlighting the issues that still can arise from LCMs beyond these proposals. Please feel free to write back if you require or seek any further clarifications on our views regarding any of the above.