



Cynulliad Cenedlaethol Cymru **The National Assembly for Wales**

Y Pwyllgor Amgylchedd a Chynaliadwyedd **The Environment and Sustainability Committee**

Dydd Mercher, 28 Tachwedd 2012
Wednesday, 28 November 2012

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Motion under Standing Order No. 17.42(vi) to Exclude the Public from this Meeting for Item 6 and from the Meeting on 6 December

Yn y golofn chwith, cofnodwyd y trafodion yn yr iaith y llefarwyd hwy ynddi. Yn y golofn dde, cynhwysir trawsgrifiad o'r cyfieithu ar y pryd.

In the left-hand column, the proceedings are recorded in the language in which they were spoken. The right-hand column contains a transcription of the simultaneous interpretation.

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

| | |
|------------------------------|--|
| Mick Antoniw | Llafur Labour |
| Kenneth Skates | Llafur Labour |
| Yr Arglwydd/Lord Elis-Thomas | Plaid Cymru (Cadeirydd y Pwyllgor) The Party of Wales (Committee Chair) |
| Russell George | Ceidwadwyr Cymreig Welsh Conservatives |
| Vaughan Gething | Llafur Labour |
| Llyr Huws Gruffydd | Plaid Cymru The Party of Wales |
| William Powell | Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats |
| David Rees | Llafur Labour |
| Antoinette Sandbach | Ceidwadwyr Cymreig Welsh Conservatives |

Eraill yn bresennol
Others in attendance

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|----------------|---|
| John Griffiths | Gweinidog yr Amgylchedd a Datblygu Cynaliadwy Minister for Environment and Sustainable Development |
| Matthew Quinn | Cyfarwyddwr, yr Amgylchedd a Datblygu Cynaliadwy Director, Environment & Sustainable Development |
| Dr Dave Clarke | Rhaglen Cymru Fyw Living Wales Programme |
| Julia Williams | Pennaeth y Gangen Forol Head of Marine Branch |

Swyddogion Cynulliad Cenedlaethol Cymru yn bresennol
National Assembly for Wales officials in attendance

| | |
|---------------|--|
| Alun Davidson | Clerc Clerk |
| Michael Lewis | Dirprwy Glerc Deputy Clerk |
| Lisa Salkeld | Cynghorydd Cyfreithiol Legal Advisor |
| Nia Seaton | Y Gwasanaeth Ymchwil Research Service |

Dechreuodd y cyfarfod am 9.32 a.m.
The meeting began at 9.32 a.m.

Cyflwyniad, Ymddiheuriadau a Dirprwyon Introduction, Apologies and Substitutions

[1] **Yr Arglwydd Elis-Thomas:** Bore da, a chroeso cynnes i'r pwyllgor. Nid oes angen dy groesawu di, Weinidog, oherwydd rwyd ti yma o hyd. Rydym yn ddiolchgar am dy barodrwydd i ddod i'r sesiynau hyn.

Lord Elis-Thomas: Good morning, and a warm welcome to the meeting. There is no need to welcome you, Minister, because you are always here. We are grateful to you for your willingness to join us in these sessions.

[2] Mae'r un trefniadau ar gyfer cyfieithu ac yn y blaen yn berthnasol. Rydym wedi derbyn ymddiheuriadau oddi wrth Keith Davies a Julie James, ac mae Ken Skates gyda ni eto. Diolch yn fawr, Ken, am dy bresenoldeb.

The same arrangements apply in relation to translation and so on. We have received apologies from Keith Davies and Julie James, and Ken Skates is with us again. Thank you very much, Ken, for attending.

9.33 a.m.

Gorchymyn Corff Adnoddau Naturiol Cymru (Swyddogaethau): Tystiolaeth gan Weinidog yr Amgylchedd a Datblygu Cynaliadwy The Natural Resources Body for Wales (Functions) Order: Evidence from the Minister for Environment and Sustainable Development

[3] **Yr Arglwydd Elis-Thomas:** Dyma drydedd sesiwn y pwyllgor hwn i gymryd tystiolaeth ar Orchymyn Corff Adnoddau Naturiol Cymru (Swyddogaethau), neu 'cyfoeth naturiol Cymru', fel y dylem arfer alw'r corff. Weinidog, a hoffech chi ddweud rhywbeth pellach am broses y Gorchymyn, neu a ydych chi'n hapus inni fynd yn syth at y cwestiynau?

Lord Elis-Thomas: This is the committee's third session to take evidence on the Natural Resources Body for Wales (Functions) Order, or 'natural resources Wales', as we should now get used to referring to the body. Minister, do you want to say something further on the process in relation to the Order, or are you happy for us to turn straight to the questions?

[4] **Gweinidog yr Amgylchedd a Datblygu Cynaliadwy (John Griffiths):** Diolch yn fawr, Gadeirydd.

The Minister for Environment and Sustainable Development (John Griffiths): Thank you very much, Chair.

[5] I might say a few words. First, we set out our ecosystems approach in terms of taking the policy forward, and natural resources Wales will work within that framework. Legislative tools are available to us, through the Public Bodies Act 2011, to make this transition to the new body and that governs the process that is currently under way. We want to get the legislation right, and that is why we made the draft available to the committee. The committee's comments have been useful, as has the wider consultation. So, we have had an effective process to date, and we will continue with that engagement and responsiveness as we move to the final laying of the Order and towards taking it forward.

[6] **Yr Arglwydd Elis-Thomas:** Rydym ni fel pwyllgor wedi gwerthfawrogi'r cydweithredu ynglŷn â'r drafftiau, ac rydym wedi sylwi'n fanwl ar y newid geiriau sydd wedi digwydd wrth i'r drafftiau ddatblygu. A ydych yn fodlon â'r fersiwn derfynol hyd yn hyn, neu a ydych yn agored i newid yn y geiriau eto? Fel y gwyddoch, Weinidog, mae

Lord Elis-Thomas: We as a committee have appreciated the collaboration in relation to the drafts, and we have looked in detail at the changes to the wording made as the drafts have progressed. Are you satisfied with the final version thus far, or are you open to the idea of further changes to the wording? As you will be aware, Minister, there is an

barn ymhlith y rhanddeiliaid yn y mudiadau cadwraethol ac eraill nad yw'r geiriad yn ddigon cryf o ran fframwaith y corff. Nid wyf yn dweud mai hwnnw yw fy safbwynt i neu safbwynt y pwyllgor eto, oherwydd nid ydynt wedi dod i benderfyniad terfynol ar hyn, ond byddwn yn trafod hyn ymhellach ar ôl y sesiwn y bore yma.

opinion among stakeholders in the conservation bodies and others that the wording is not robust enough with regard to the framework of the body. I am not saying that that is my view or the committee's at this time, as we have not reached a final decision on the matter, but we will have a further discussion after this morning's session.

[7] **John Griffiths:** We are always open to views, Cadeirydd; of course we are. As I said in my initial remarks, we will continue to go forward in that spirit of listening to the views of the committee and wider stakeholders, and we will give them careful consideration and make changes if it is appropriate to do so. Obviously, we have made some changes already in line with comments and views, and we feel that, within the constraints of the Public Bodies Act 2011, in terms of not removing protections, which is very important, and not adding new, we have made some adjustments and some improvements, and I think that they have been well received, although, as ever, there are various views among particular stakeholders.

[8] **Lord Elis-Thomas:** You mentioned the constraints of the Public Bodies Act 2011; you will have the opportunity, perhaps—well, hopefully—in this Assembly to produce less constrained legislation, because it will be your own. It would be your intention, when that happens—I see that Dr Clarke is nodding, which is a good sign—to use your legislation, possibly, to develop or refine your thinking on the role of this body.

[9] **John Griffiths:** Absolutely, Cadeirydd. In terms of general environment policy and how we go forward with 'Sustaining a Living Wales' and that new ecosystems approach—that new way of working and new way of thinking around natural resources management and planning—we will have a major opportunity through the environment Bill, and I think that there is a lot of engagement and consultation that can take place in the run-up to that legislation that will be very useful for us. We have already had the very important consultation on 'Sustaining a Living Wales', so we have a good starting point, but there is a lot more that we can do, and the early experience of natural resources Wales and the views of the board, the chief executive and the chair, as they decide their own priorities and vision, will also be significant, and I think that the environment Bill will benefit from that wide feeding-in of views and experience. It is an important opportunity for us to take forward this emerging thinking, which is very new in many respects.

[10] **Lord Elis-Thomas:** We certainly enjoyed our time with the chair and chief executive last week.

[11] **Antoinette Sandbach:** Minister, if I can summarise correctly, it appears that this is a sort of platform for the initial start-up of natural resources Wales, and the functions and purposes might in fact be looked at again in 'Sustaining a Living Wales' and the environment Bill that you are bringing forward.

[12] **John Griffiths:** What we are doing is transferring the existing duties of the three bodies as currently constituted to the new body, and there are constraints, as we touched upon, where the Public Bodies Act 2011 is concerned, and that is entirely right and proper. There has nonetheless been some improvement and adjustment within those constraints, which I think is important and significant, but the environment Bill will give us the opportunity to look at the new ecosystems approach, 'Sustaining a Living Wales', and natural resource management and planning in the round, to take forward that policy through that legislation.

[13] **Antoinette Sandbach:** May I therefore ask about the duties relating to wellbeing?

Your definition of sustainability balances the environment with economic and social wellbeing. I am on page 12, if that helps. I see that you have added paragraph 5(e), which says that the body must have regard to health and social wellbeing and economic wellbeing. Is that the balancing duty? No; I can see that Matthew Quinn is shaking his head. Do you see that function relating only to wellbeing, or do you see it applying to all the powers being exercised by the body, in that it needs to balance those three things?

[14] **John Griffiths:** That is an example of where we have been able to improve and adjust the transference of duties. The Countryside Council for Wales is currently required to have regard to the social and economic interests of rural areas, and the Environment Agency has a similar duty to consider the wellbeing of local communities in rural areas. We have expanded that so that it is not only rural communities, but communities throughout Wales. That is an important improvement. The body has a Wales-wide remit, whether that is urban or rural, and it is in line with a new focus that we are trying to build on inner-urban environmental areas. The new board's chief executive and chair understand that agenda and are keen to engage with it. It is an important improvement.

[15] **Antoinette Sandbach:** What I was trying to get at was, in looking at the concept of sustainability, will the environment become a block on development? An example that you have seen yourself is the affordable housing development in Dolwyddelan, where a requirement to use slate added £20,000 or £30,000 onto the cost of an affordable house. Would the balancing duty look at that and say that the economic and social wellbeing of the community requires affordable housing without that addition? That balancing duty to have regard to these factors is the same obligation that applies to national parks. How would you see that working?

[16] **John Griffiths:** I do not think that there is a change that would impact upon development, using the example that you cite, or, indeed, any other examples that come to mind. It does not change decision making, strategy or policy. If there was any anxiety around that from any stakeholders or interested parties outside this room, we would be keen to dispel that. What we saw was an important and promising development for Wales, in many respects. That would not be undermined or hampered in any way.

[17] **Mick Antoniw:** I want to ask about the powers of direction and cross-border elements of this, which I think appear in articles 11 and 12. How do the arrangements work? This is an area that has been raised fairly consistently in the evidence sessions that we have held, as regards how they are going to work, because they involve the Westminster Government as well as yourselves. How do you envisage this area proceeding, particularly with a view to ensuring co-operation and avoiding conflict?

9.45 a.m.

[18] **John Griffiths:** We have a good working relationship with the UK Government around the creation of the new body and there has been a lot of contact at ministerial and official levels that has been very constructive and positive. We very much want to continue that understanding and co-operation. There have not been problems or issues, and we do not anticipate that there will be any. However, we are very keen to continue to draw on expertise from outside Wales. So, where it makes sense to do so, that will continue. For example, there is UK-wide expertise and a UK service in flood-warning systems and flood alerts, and we will continue with that. With regard to the regulation of radioactivity, which is obviously quite specialised, we will again continue to draw on that expertise and resource at a UK level, as far as the Environment Agency is concerned. So, there will be some areas where we will continue beyond the short term to draw on expertise from outside Wales. There will be some areas where we will continue to draw upon it just in the short term, while we develop more resources in Wales, and there are some areas where, from day one, we will be able to deal

with matters within natural resources Wales without drawing on that wider expertise. So, it is very much horses for courses, as it were. However, everything has been conducted in a very good spirit in terms of the Forestry Commission GB, the Environment Agency UK and the UK Government. We very much expect that to continue.

[19] **Mick Antoniw:** It is very early days. You have quite extensive powers in terms of the power of direction, but what is not clear from the drafting is precisely how you envisage those powers of direction operating, particularly when similar powers will exist on the Westminster side. How will those two powers work alongside one another in terms of practical operation?

[20] **John Griffiths:** It is largely reciprocal in terms of the cross-border issues. So, our consent would be required when the UK Government exercises powers of direction and the same is true in the opposite direction. So, again, we do not envisage many difficulties or problems with that. Obviously, there is that cross-border co-operation and joint working now when it comes to the Dee and the Wye, for example; it has not been problematic and it is fairly well established. So, as I have said, I do not envisage difficulties there. These are quite well-established modes of operation anyway.

[21] **Mick Antoniw:** I know that there are many areas where we do not envisage difficulties, but do you envisage a need for a formal, joint government protocol, and would this be a matter that would come to the Assembly in any way?

[22] **John Griffiths:** I think that there will be memoranda of understanding that will deal with the services to be provided to natural resources Wales from that wider resource and expertise from outside Wales, but, as far as the powers of direction are concerned, that is all dealt with in the legislation.

[23] **Llyr Huws Gruffydd:** Hoffwn dreulio munud yn edrych yn fwy penodol ar y dyletswyddau cadwraeth natur fel y maent yn cael eu cyflwyno yn y fersiwn ddiwygiedig, yn baragraff 5A. Yn amlwg, mae barn bod y geiriad braidd yn wan. Rydych yn dweud:

Llyr Huws Gruffydd: I would like to spend a moment looking more specifically at the nature conservation duties as they are presented in the amended version, in paragraph 5A. It is obvious that there is a view that the wording is rather weak. You say:

[24] ‘The Body must exercise its functions so as to promote nature conservation and the conservation and enhancement of natural beauty and amenity.’

[25] Yn y fersiwn bresennol o ddyletswyddau Asiantaeth Amgylchedd Cymru, nid ‘to promote’ sy’n ymddangos, ond ‘to further’. Tybiaf fod gwahaniaeth cyfreithiol oherwydd mae ‘to promote’ yn golygu bod angen gweithred, tra bod ‘to further’ yn awgrymu bod angen rhyw fath o allbwn, a bod y geiriau ‘to further’ yn gryfach, o bosibl. Hoffwn wybod beth yw eich barn ynglŷn â hynny.

In the current version of the duties of Environment Agency Wales, it is not ‘to promote’ that appears, but ‘to further’. I suspect that there is a legal distinction, because ‘to promote’ means that action needs to be taken, whereas ‘to further’ means that you need some kind of an outcome, and that the wording ‘to further’ is perhaps stronger. I would like to hear your views on that.

[26] **John Griffiths:** Diolch yn fawr, Llyr. As I said earlier, we are very keen to make improvement and adjustment within the confines of the restrictions of the Public Bodies Act 2011 and that is what we have sought to do here, really. At the moment, as you say, it is a matter of furthering nature conservation when formulating or considering proposals with regard to the Environment Agency and certain of its functions.

[27] Under our previous proposal, this duty would have applied to both Ministers and the body itself. The responses that we received said, basically, that this wording was a little confusing and suggested that the references to proposals were unnecessarily restrictive, particularly when compared to the existing duty of the Countryside Council for Wales. We agreed with that view, and this is an example of us listening and responding to stakeholders' opinions. So, we have changed that wording to be clear and to avoid any of that confusion, and a duty will apply in respect of the exercise of these functions, rather than there being proposals about them, so the wording is stronger and more meaningful.

[28] However, we have retained the wording in respect of the Minister's duties. That reflects the fact that the Environment Agency duty applies to Ministers, and Ministers consider proposals about the exercise of the body's functions. So, it is making it clear what the Government's role is with regard to that overall policy responsibility, and what the more functional and operational role of natural resources Wales will be.

[29] **Llyr Huws Gruffydd:** Felly, i fod yn glir, rydych yn teimlo bod 'i hyrwyddo' yn ddigon cryf ac nad ydych yn teimlo bod angen ystyried efelychu'r hyn sydd yn nyletswyddau Asiantaeth yr Amgylchedd Cymru, sef 'to further', er mwyn ei wneud yn glir?
Llyr Huws Gruffydd: So, to be clear, you feel that the words 'to promote' are strong enough and you do not feel the need to consider emulating the wording in the duties of Environment Agency Wales, namely 'to further', to make it clear?

[30] **John Griffiths:** To be clear, we feel that it is strong enough.

[31] **Llyr Huws Gruffydd:** Ar yr un pwynt, ac yn yr un frawddeg mae'r gair 'amenity' yn ymddangos o safbwynt yr elfennau sydd angen eu hyrwyddo. Rydym wedi clywed eisoes am y posibilrwydd y gallai fod gwrthdaro rhwng gwahanol flaenoriaethau o safbwynt cadwraeth natur ac yn y blaen a ffactorau eraill pan ddaw i ddatblygu cynaliadwy. Eto, yn dod yn ôl at yr hyn a ddywedir yng nghyd-destun Asiantaeth yr Amgylchedd Cymru ar hyn o bryd, mae'n ddyletswydd ar y corff hwnnw i gymryd *amenity* i mewn i ystyriaeth yn hytrach nag i'w hyrwyddo. Mae hynny yn golygu wedyn bod pwysau cryfach y tu ôl i gadwraeth natur o ran taro'r balans hwnnw. A yw hynny'n rhywbeth y byddech yn barod i edrych arno eto hefyd?
Llyr Huws Gruffydd: On the same point, and in the same sentence, the word 'amenity' appears in relation to the aspects that need to be promoted. We have already heard about potential conflicts between various aspects of nature conservation and so on and other factors when it comes to sustainable development. Again, coming back to what is said in the context of Environment Agency Wales at present, that body has a duty to take amenity into consideration rather than to promote it. That then means that there is a stronger emphasis on nature conservation in terms of striking that balance. Is that something that you would also be prepared to look at again?

[32] **John Griffiths:** As I said earlier, Llyr, we are always willing to reconsider. There will inevitably be many views about the balance of the wording and its effect. Obviously, we have to come to a final view in order to take the Order forward, and we are not persuaded that that is a real difficulty. However, as part of the ongoing engagement, we are willing to listen to further views, of course.

[33] **Llyr Huws Gruffydd:** Rwyf yn gwerthfawrogi hynny. Mae fy mhwynt olaf yn ymwneud â mater creiddiol. Mater sy'n gynsail i hyn i gyd mewn gwirionedd yw taro'r cydbwysedd rhwng y gwahanol
Llyr Huws Gruffydd: I appreciate that. My final point is to do with a core matter. The matter that is the basis of all of this is striking the balance between the different factors when it comes to sustainable development.

ffactorau pan rydym yn sôn am ddatblygu cynaliadwy. Yn amlwg, bydd y corff hwn yn chwarae rôl i gyflawni a chyfrannu tuag at yr agenda honno, ond ni fydd yn delifro'r agenda honno ar ei phen ei hun; bod yn bencampwr dros gadwraeth natur yw rôl y corff hwn o fewn y cyd-destun ehangach. Pan rydym yn edrych ar daro'r cydbwysedd sydd ei angen, mae'n bwysig bod hynny yn ran ganolog o'ch ystyriaethau.

Obviously, this body will play a role in delivering and contributing towards that agenda, but it will not deliver on that agenda by itself; its role is to be a champion for nature conservation in the wider context. When we look at striking the necessary balance, it is important for that to be central in your considerations.

[34] **David Rees:** Moving on to a somewhat different issue, there are two points that I would like to raise with you. In your draft and in the revised draft, paragraph 18 is about notification of Welsh Ministers on issues of self-permitting. One of the issues raised with us was about the clarity and transparency of the separation—in effect, putting up Chinese walls between different sections of the new body to ensure clear lines of responsibility. While you cannot put any statutory obligations on Chinese walls, clearly you have made an effort here. My concern is the wording with regard to the body being the applicant and the permitting body. There are going to be occasions when the body may have indirect relationships with the applicant; it may have sold land to a developer, for example. Should we expand this section so that any previous involvement of the body in any development should be notified to the Minister, and not only when it is the applicant and the permitting body?

[35] **John Griffiths:** That is an interesting point, David. In terms of legality, you would not expect the requirements of separation to apply in those circumstances. It is, I guess, a matter for natural resources Wales, as it goes forward from April of next year, as to whether it might decide that there needs to be that sort of expansion of requirements around due separation. These are not difficulties that we have identified at this stage, but we are always willing to give further thought to such circumstances, and if such circumstances arose and there were examples along those lines—I am speculating a little now and it is a matter for the body itself in terms of its working arrangements—then you would think that the body itself might decide that its separation arrangements should apply in those circumstances, so that there is no means of getting around, for want of a better description, due process and proper separation requirements. However, they are not matters that we would consider—unless officials can correct me.

[36] **David Rees:** I will give you a possible example. Obviously, Forestry Commission Wales owns a lot of land and may therefore sell or lease land to windfarm developers. The developer may be the applicant, but there is actually a connection to the body. The current wording is 'the body is the applicant', and it does not refer to the body being associated with the applicant. That is why I wanted to cover that avenue. Have a think about it.

[37] **Mr Quinn:** There are a number of existing procedural agreements with the existing bodies around where something is potentially novel or contentious, where they would be expected to refer to us. It is difficult to capture the full set of circumstances in the legislative framework. It is a very clear-cut case when you are the applicant, and that is covered very clearly. I am not sure whether it would be appropriate, in the particular case that you highlighted, but we could look at that as an issue—it is where, effectively, you are saying that the body has an interest.

[38] **Dr Clarke:** I will just add a couple of points. In the specific case that you are talking about, the land is not owned by Forestry Commission Wales; it is owned by Welsh Ministers. Strictly, that was—

[39] **Lord Elis-Thomas:** Is that not worse? [*Laughter.*]

[40] **David Rees:** It would be, yes. [*Laughter.*]

[41] **Dr Clarke:** So, strictly speaking, the conflict does not arise, but, in practice, these sorts of conflicts arise in all three of the existing bodies now. Those bodies put in place special arrangements when such situations arise to ensure separation, and I am certain that the new body, natural resources Wales, would seek to do exactly the same in those circumstances. So, I am not sure whether it is appropriate to legislate for that slightly unusual circumstance.

[42] **David Rees:** I would not say that those are unusual at the moment, particularly when you see the large number of windfarms being applied for. On a similar issue, in one sense, paragraph 17 and Article 13A highlights the income and I am very pleased to see the recognition that income is being returned to the industry, in a sense, and to the sector. It only talks about the sale or disposal of timber and other forest products, but does not talk about land again or any interests in the land. You quite rightly pointed out just now that the Welsh Government owns the land, but, clearly, there is a management operation and an involvement of the body in that, and, therefore, technically, you could argue that timber products are owned by the Welsh Government as well. Is there a consideration of income generated from that activity as well?

10.00 a.m.

[43] **John Griffiths:** Article 13A is useful in terms of making it clear that we have been thinking about commercial aspects of forestry and how we support those commercial activities. Having the income recycled, as it were, in this way has been well received. In fact, we have had representations from interested parties in forestry that this should be the case. I think that that is very useful. When it comes to land, we are in a different position, as we just mentioned. The land is, in fact, owned by the Welsh Government, not by the Forestry Commission. So, it is a matter for our general forestry policies such as 'Woodlands for Wales', where we are looking to increase woodland cover, rather than sell it off. We are very committed to that policy, because we have so many important uses for forestry. There are the commercial aspects, but there is also recreation, leisure, tourism, health, community development and many others.

[44] **Lord Elis-Thomas:** While we are on permissions and permitting, this committee has taken more than a passing interest in Pembroke power station. If Pembroke power station were to happen after 1 April next year, how would it be different to what happened when it happened?

[45] **John Griffiths:** The first thing I need to say, Dafydd, is that we have to be very careful of what we say about Pembroke power station, because there are many ongoing matters that will need consideration.

[46] **Lord Elis-Thomas:** Yes, we know that.

[47] **John Griffiths:** On the general principle, I think that we see advantages in natural resources Wales bringing together those different aspects of regulation and statutory advice. One thing is that these matters can be dealt with at a much earlier stage. Very often, the timing is crucial and there are many important issues that need to be considered. The other really important aspect is the one-stop-shop aspect of natural resources Wales. I think that that will be widely welcomed, not just by developers, but by environmental groups, as making it much more user-friendly and joined-up, which must be to the benefit of everyone. It will be for natural resources Wales to look at its arrangements and its methods of working to ensure that the best balance is achieved. We know that there are issues and we know that improvement is possible and necessary, so I hope very much that natural resources Wales will

be a step forward.

[48] **William Powell:** Good morning, Minister. I would like to go back to the issue of plant health and forestry matters that David Rees mentioned in a different context. Could you clarify why the draft functions Order initially transfers the current Forestry Commission's functions in matters of plant health legislation to Welsh Ministers and then delegates them back to the Forestry Commission? Why was that route taken?

[49] **John Griffiths:** I may call on Dave here, but in general terms, it is because we will continue to rely on the expertise of Forestry Commission GB with regard to plant health. We know that there are very serious issues that we are facing at the moment, and will continue to face. Plant health matters do not recognise borders, so it is very sensible to remain joined-up on that GB-wide basis. However, we also need flexibility so that if, going forward, we came to a view that resource had developed in Wales so that balance needed to be adjusted, as natural resources Wales was doing more of the work and activity involved in dealing with plant health issues, it would be good if we had the ability to transfer that activity into Wales. So, using that mechanism gives us that futureproofing—the ability to make change in the future. It deals with that sort of short to medium-term development of functions and activity in Wales.

[50] **William Powell:** If, for example, there is a body of work—which I know must be going on at the moment—to identify a particular strain of ash that is resistant to dieback, we are contributing as part of the greater whole within the Forestry Commission as it existed previously.

[51] **John Griffiths:** Yes, absolutely. At the moment, we are obviously doing our own surveys in Wales, but we are very much part of that wider GB and UK effort. It does make perfect sense to draw on the expertise that exists outside Wales. We have been very mindful throughout this whole process, and we will continue to be so, of the need to do what is best and in the interests of Wales, rather than perhaps being seduced by arguments that we should have a Wales-only approach to these matters. We have to develop expertise, capacity and resource and have a gradual shift as we move forward.

[52] **William Powell:** On issues of stakeholder engagement, it is fair to say that the forestry sector has been, at least in part, rather more sceptical than many other areas in terms of the process of moving towards the single body. Why, in that context, did you choose not to include prescriptive provisions for stakeholder consultation going forward in the new natural resources body in the draft functions Order?

[53] **John Griffiths:** Mainly, I guess, because we have listened to stakeholders, considered their views, and responded accordingly. We had initial discussions with stakeholders and they identified a good deal of support for the view that a flexible approach, with the body making its own arrangements for stakeholder engagement, was the best way of having really effective engagement. That proposal was included in our consultation and, in fact, had widespread support. We have provided the board of natural resources Wales with the ability to create sub-groups, which obviously would include stakeholders, as well as the flexibility to employ a wide range of other options for stakeholder engagement as it considers best. It is actually quite a good example of the Welsh Government listening and responding.

[54] **William Powell:** Would you give an undertaking to keep a close eye on how this develops in the coming period? It is certainly a strong message that we have had from not only forestry stakeholders, but wider countryside bodies, particularly the farming unions, which we saw recently. They felt that a standing stakeholder group would give them an input that they feel is denied to them, to an extent, at the moment, given the way that the board has taken shape in its initial form.

[55] **John Griffiths:** The first thing that I would say is that we have always said that the board would operate in an integrated way and not be about the representation of sectoral interests. It is really important that we state that because the whole rationale of ‘Sustaining a Living Wales’ and the creation of the single body has been about integration and joining up, and that is the key case for the change, in very many ways.

[56] However, we do understand that, obviously, there are concerns around forestry, to use one example, and anxiety that there might be some diminution or lessening in resource, expertise or consideration of forestry issues. We have been very mindful of that throughout. I know that the new board, chair and chief executive are very mindful of those issues as well, and they fully understand the need to have very strong stakeholder engagement so that they can be seen to properly involve experience and knowledge within Wales. In my own terms as Minister, I have made it clear that that is very much the approach that I expect, but the Welsh Government and the body are very much on the same page as far as that is concerned. However, I obviously have powers available to me to ensure that we get that stakeholder engagement throughout the work of natural resources Wales.

[57] **William Powell:** I am grateful for that, thank you.

[58] **Russell George:** I want to ask a question about permitting against the body’s own operations. This is similar to the point David Rees raised. Some groups and organisations are concerned that there remains an issue as to how the new body will enforce regulations against itself should it breach its own permit or, through its actions, damage a protected area for which it is the enforcement body. The Royal Society for the Protection of Birds has this view and sees a clear conflict of interest here. Do you accept that this is an issue?

[59] **John Griffiths:** Of course there are issues. There are issues within the current three bodies and there will be issues for natural resources Wales. There must be proper separation where such issues arise. It will be for natural resources Wales to make its own working arrangements and to decide how those issues are best dealt with. That could be done through separate directorates, for example. However, it will be a matter for natural resources Wales to address. Ultimately, as I said earlier in responding to William Powell, there are powers available to me as the Minister. However, I do not envisage difficulties because I know from my initial meetings with the board, the chair and chief executive that they are very mindful of these issues and want to put in place robust systems and ensure proper transparency.

[60] **Russell George:** I accept that those are the issues that have arisen with the three bodies as they are separately, but they are separate bodies at the moment; that is the point. I want to know your views on how the single body will address those issues. You must have some views on that.

[61] **John Griffiths:** As I said, as they currently exist, the bodies have had to deal with these issues. They are the same issues, although, obviously, they are going to be on a larger scale with natural resources Wales. Nonetheless, these are issues that have been with us for some time. They are not new or novel. As I said, one possibility is to have separate directorates—so-called Chinese walls, as currently exist. However, it will be a matter for natural resources Wales to decide its own working arrangements and how these matters are best dealt with. Transparency is an important issue. When it comes to the publication of decisions and decision-making processes in a timely way, transparency will be very important in addressing concerns.

[62] **Dr Clarke:** To add to the Minister’s point, as he said, this is an issue with the existing bodies. It is rare in that you expect a body with this remit to be an exemplar in environmental management. However, although it is a matter for the body to put in place its

own arrangements, to give an example of the sort of arrangement the bodies currently have in place, with serious incidents where there is potential environmental damage, they get another body to come in to do the investigation and, if necessary, a prosecution. For example, the Scottish Environment Protection Agency might look at an Environment Agency incident. We would expect the body to put arrangements of that type in place in the event of a major accident occurring as part of its own operations.

[63] **Russell George:** Do you anticipate that those issues will be resolved before the new body becomes operational?

[64] **John Griffiths:** As I have said, it is a matter for natural resources Wales to decide its own working arrangements, and that must be right. However, ultimately, I have powers available to me if I feel that those arrangements are not adequate or satisfactory. However, it must be for natural resources Wales to set its own working arrangements. As I said, I have met the new board, the chair and the chief executive and they are very mindful of these issues and realise that they will be accountable.

[65] **Lord Elis-Thomas:** Antoinette Sandbach has a question on this and then Ken Skates is next.

10.15 a.m.

[66] **Antoinette Sandbach:** Minister, you are obviously aware of the Seaport Investments judgment and its implications. We are in an even worse position here, because of the inclusion of the Forestry Commission. Are you anticipating that, where there are conflicts of this type, there will be an appeals process, to avoid a lengthy and very costly route through the courts, which would be likely to substantially hold up the functions of the body for a long time?

[67] **John Griffiths:** In terms of strategic environmental appraisals, which Seaport was concerned with, there are not very many of those matters in Wales on an annual basis—you would be talking about a handful, really. However, it is important that they are properly dealt with. That is where we would anticipate those proper separation arrangements being put in place, as we just discussed, whether it is a matter of separate directorates or not. We can never get away from the due legal protections and legal process around European directives and the law generally, of course, Antoinette. If any organisation or person wanted to invoke the law, that option is open to them. If there is anything that we could do in terms of good working arrangements, dispute resolution or the ability to discuss between parties with differing views to head off recourse to the courts, the new body and Welsh Government would be very keen on that approach.

[68] **Antoinette Sandbach:** Are you looking at an appeals process, then?

[69] **John Griffiths:** We are always willing to consider views, as I mentioned earlier, as to how we can improve on what we have set out to date. That is very much our approach and the spirit within which we will move forward. Ultimately, we know that, unfortunately, legal proceedings on these matters can be very expensive and protracted. We cannot prevent that, because it is a matter of the law of the land and European directives.

[70] **Antoinette Sandbach:** Minister, I think that you misunderstand me. I am not suggesting that we get around provisions in existing law. Where there are potential conflicts of interest within the body, will you set up—you talked, for example, about Environment Agency incidents—an external body with a role to play? What I am suggesting is that, where parties to a particular conflict feel that the decision is not right, you seem to be saying that that should go to the courts for review, rather than set up an independent appeals process.

[71] **John Griffiths:** Dave wants to come in on this. I am not saying, Antoinette, that we would encourage recourse to the courts; far from it, whatever mechanisms—

[72] **Lord Elis-Thomas:** I think that it is a very good idea to go to the Supreme Court. We would do very well there. [*Laughter.*]

[73] **John Griffiths:** Yes indeed, Dafydd; long may it remain so. It is never wise to go to law—I say that as a former lawyer; there are other former lawyers here, too—when other means of settling disputes can be found, because of the cost and the time involved.

[74] **Dr Clarke:** Just to answer the point directly, nearly all the permitting processes that the body undertakes already have appeals processes written into the legislation. Effectively, those appeals processes already exist and they will be generally to the Welsh Government, although it depends on the specific legislation.

[75] **John Griffiths:** So, were you suggesting something different, in addition, Antoinette?

[76] **Antoinette Sandbach:** No, I was suggesting that, where there is a problem—

[77] **John Griffiths:** So you are happy with the continuation of existing arrangements.

[78] **Antoinette Sandbach:** It depends, in a way, on how the functions of the Order are amended by later legislation, such as ‘Sustaining a Living Wales’ or the environment Bill. Clearly, a well-thought-through appeals process could benefit both sides without recourse—

[79] **Dr Clarke:** We would agree with that. What we have done with the functions Order is move the existing appeals processes across in their present form, partly because of the restrictions of the Public Bodies Act 2011. We think that there are one or two situations where we might be able to improve on existing appeal arrangements in the subsequent environment Bill. Those are issues that we could look further into at that point. There is an important principle that is generally written into our legislation, which is that people need a right of appeal in these circumstances, and we have provided for that in our arrangements.

[80] **Antoinette Sandbach:** I am grateful for that; thank you.

[81] **Vaughan Gething:** That was helpful clarification. We had evidence from the chief executive and the chair of the new body in our last session, who indicated that they expect to set up a number of protocols internally on how to deal, generally, with potential conflicts. I think that we would all expect that. Certainly, my understanding is that there would be some aspects where they would need to construct Chinese walls—a separation—depending on each application. You cannot anticipate every application at the beginning. It is helpful to have clarification about the independent processes and appeals to Welsh Government. Correct me if I am wrong, but that still does not prevent somebody from having recourse to the courts if they are still not satisfied. It is essentially an alternative review—outside the body—to Welsh Ministers, and there is the potential to have a judicial review in any event. None of this would prevent the body, through its own processes, from having an internal review—for example, to a senior manager. I would not expect any of that to appear in the legislation. Correct me if I am wrong, but I do not think that legislation could or should be that prescriptive.

[82] **John Griffiths:** That is absolutely right, Vaughan.

[83] **Kenneth Skates:** There are major opportunities in the field of research for the existing bodies and similar bodies with qualified people. To what extent do you think that the

provision for research in the draft functions Order addresses the fears of the FUW that expertise could be lost?

[84] **John Griffiths:** I am aware of the FUW's concerns on this and its suggestions that there should be a robust memorandum of understanding to deal with these arrangements. We expect very good cross-border working under memoranda of understanding, Ken, because that is key. It is good to have things set out clearly, and when it is in documentary form, any interested party is able to have sight of that and understand what should happen. So, there is a range of services that would best be provided on a GB or UK basis after April next year, on a short-term basis or for longer. We have had good discussions with Environment Agency UK and Forestry Commission GB around that. We expect the body to put in place service level agreements and have local management agreements to ensure that key skills are properly used in research. I very much hope that those arrangements and documentation would deal with the concerns of FUW and others.

[85] **Yr Arglwydd Elis-Thomas:** **Lord Elis-Thomas:** Minister, as you know, I have an interest in the relationship between Welsh Ministers and UK Ministers. The consent of UK Ministers is essential for this Order to be made—indeed, it says that. Do you predict any difficulties in obtaining the agreement of UK Ministers in relation to any part of this Order? How are the discussions going?

Weinidog, fel y gwyddoch, rwy'n cymryd diddordeb yn y berthynas rhwng Gweinidogion Cymru a Gweinidogion y Deyrnas Unedig. Mae caniatâd Gweinidogion y Deyrnas Unedig yn hanfodol i'r Gorchymyn hwn—yn wir, mae'n dweud hynny. A ydych yn rhagweld unrhyw anawsterau o ran cytuniad Gweinidogion y Deyrnas Unedig mewn perthynas ag unrhyw ran o'r Gorchymyn hwn? Sut mae'r trafodaethau'n mynd?

[86] **John Griffiths:** The discussions are going very well and we anticipate that they will continue to be fruitful and positive. We do not expect any issues to arise. The current UK Government's suggestions have been incorporated at this stage. We are willing to listen to any further representations that are made and, as I said earlier, that is our general approach. Communication and working arrangements have been very good and we anticipate that that will continue.

[87] **Antoinette Sandbach:** Minister, in your second consultation, you referred to decisions by various Secretaries of State being transferred to Welsh Ministers. Have you been through the powers that you would like to be transferred with the Secretary of State? Have they all been agreed, have none of them been agreed, or have some of them been agreed?

[88] **John Griffiths:** We have had good discussions and there have been no areas of contention or dispute. That is a good model for the maturity of devolution—we are able to deal with these matters in a grown-up way. There is understanding at both ends of the M4 of our respective roles and responsibilities. It has been very positive up to now. I had a meeting the other week with Owen Paterson, Richard Benyon and Rupert de Mauley, which was very constructive. It was on wider issues, not the natural resources body for Wales. We have a good understanding of what we are about. The UK Government is looking at its own arrangements with regard to its own bodies. It is keen to look at what we are doing in Wales and to learn from our experiences. That is also the case in Scotland. This may be an area where Wales is leading the way.

[89] **Lord Elis-Thomas:** Yet again, Minister. Devolution is long-established in nature conservation, and I have always looked to the Joint Nature Conservation Committee as a model of what a federal United Kingdom might look like. We will leave it there for today. [*Laughter.*] We will take a short break, of no more than five minutes, while we have a change

of dramatis personae—although you will still be here.

*Gohiriwyd y cyfarfod rhwng 10.28 a.m. a 10.36 a.m.
The meeting was adjourned between 10.28 a.m. and 10.36 a.m.*

**Ymchwiliad i Bolisi Morol yng Nghymru—Tystiolaeth gan Weinidog yr
Amgylchedd a Datblygu Cynaliadwy
Inquiry into Marine Policy in Wales—Evidence from the Minister for
Environment and Sustainable Development**

[90] **Yr Arglwydd Elis-Thomas:** Dyma drydedd sesiwn y pwyllgor hwn wrth gymryd tystiolaeth am yr ymchwiliad i bolisi morol yng Nghymru. Rydym yn ddiolchgar iawn i chi, Weinidog, a'ch swyddogion am ymuno â ni. Rwyf am ofyn cwestiwn penagored i ddechrau. A ydych chi'n teimlo bod polisi morol yn cael digon o flaenoriaeth yng ngwneuthuriad polisi'r Llywodraeth, o ystyried bod gennym gymaint o fôr?

Lord Elis-Thomas: This is the third session in this committee's evidence taking on the inquiry into marine policy in Wales. We are very grateful to you, as Minister, and to your officials for joining us. I will ask an open-ended question to begin with. Do you feel that marine policy is given enough of a priority in the Government's policy-making, given that we have so much sea?

[91] **John Griffiths:** We will be moving increasingly towards a stronger focus on our seas and water resource in Wales. There is a very well-developed system for the use of land, with planning and development, but we are not in that position as far as our marine areas are concerned. However, that is the picture across the UK as well, I think, so there is a lot of work to be done at a UK level. As you say, Wales is very fortunate and is blessed with its coast and marine resources, and they offer a lot of potential to us for marine energy, recreation, leisure and tourism, sustainable fisheries and ports. So, a lot of importance is attached to getting marine policy right, and I would not shy away from the fact that a lot of work has yet to be done.

[92] **Yr Arglwydd Elis-Thomas:** Nid wyf yn bwriadu rhoi unrhyw feirniadaeth ar y swyddogion presennol nac ar ansawdd eu gwaith, oherwydd rwy'n gwybod eu bod wedi cael amser caled iawn yn ddiweddar o gyfeiriad fy etholaeth i, er nad wyf yn ymddiheuro am hynny. A ydych yn meddwl bod gennych ddigon o swyddogion yn y maes polisi hwn i fod yn llwyddiannus wrth ddatblygu'r hyn yr hoffech ei ddatblygu?

Lord Elis-Thomas: I do not intend to convey any criticism of your current officials or of the quality of their work, because I am aware that they have had a very hard time of late from the direction of my constituency, although I make no apologies for that. Do you think that you have enough officials in this policy area to be successful in developing what you wish to develop?

[93] **John Griffiths:** We have a particular resource within the Welsh Government with our staffing arrangements, but there is resource outwith Welsh Government as well. In looking forward to natural resources Wales, there will be significant resource there. Nonetheless, as we go forward, focusing more strongly on our marine environment and taking forward a lot of necessary work, we have to look closely at the resource that we have available within Welsh Government.

[94] **Antoinette Sandbach:** Minister, a particular concern arises around marine spatial planning. In north Wales, for example, there are your marine conservation zone proposals. There is Centrica's consultation on the Rhiannon offshore windfarm, and the huge Irish windfarms developments, for example. There is no marine spatial plan and nothing that will tell us about the impact of those developments on land, namely how those marine

developments might impact terrestrially. So, on marine spatial planning, what particular proposals do you have to take that forward, because the evidence that we have had is that that is quite urgent?

[95] **John Griffiths:** We are working towards having a marine plan in place, and we hope to have that by around 2015. As I said, other parts of the UK are also working towards that sort of time frame. However, there are existing systems in place to deal with the terrestrial aspects of windfarms at sea, and there are consents and licences that have to be dealt with and granted. Again, I would be cautious about addressing any particular development, given my responsibilities as Minister, so I speak generally, of course. However, we need to take forward marine spatial planning and, as I said initially, there is considerable work yet to be done. When it comes to the marine conservation zones, we have had the first-stage consultation and, as the Chair alluded to, we have had a very interested and engaged—

[96] **Lord Elis-Thomas:** ‘Active’ is the word you are looking for.

[97] **John Griffiths:** Yes, an active response, for which we are really very grateful. We will go forward with the further stages after we have closely considered the initial responses. So, a lot of work is going on and there is a lot of work to be done around our marine areas in Wales, and the next few years will be interesting.

[98] **Antoinette Sandbach:** In your response to our energy inquiry, you indicated that marine spatial plans would be developed in 2013-14, so you have pushed it back by a year, even though, as I said, we have had considerable evidence from a wide range of organisations that that is key, and that there are a lot of data out there already that the Welsh Government could potentially access, both from the private sector and from other organisations that may be able to help you to develop those plans more quickly. So, what steps have you taken to access those data, to try to talk to the organisations that hold them, and why have you pushed it back by a year rather than bringing it forward?

[99] **John Griffiths:** We will be developing the marine plans through 2013-14. It is a question of when they will be finalised and in place. We are lucky because we have considerable resource in our universities, as the Chair will be very aware, and we will seek to draw on that resource for the available information and data. However, there is a lot of work yet to be done, not just in Wales but around the UK, on getting information and data and research. When it comes to marine energy, we have done some important work on mapping and setting out where we consider important marine energy conducive conditions exist in Wales, and, hopefully, we will have a tidal stream device deployed in fairly short order in our seas. A lot of work and developments are taking place, but perhaps I could bring Julia in on that issue about the available information and data, drawing on resources from other partners, and where there are gaps and how we will address them.

[100] **Ms Williams:** We have a wealth of data, and we have already been talking to both the private and public sectors, including the aggregates industry and the ports. However, I do not think that it is just about the data. We have loads of data, but it is the analysis of those data that is really the issue in marine spatial planning, or any spatial planning for that matter—especially on co-location.

10.45 a.m.

[101] Major work is going on at a UK level on co-location, not just specifically for marine planning, but with regard to licensing major infrastructure projects, and also for the marine strategy framework directive, which we will be able to use. However, we will need to put that in the terms of ambitions and aspirations for the Welsh seas, including the conservation and environmental elements, as well.

[102] **Antoinette Sandbach:** Obviously, the Crown Estate has quite a lot of information. Have you considered co-opting or asking it whether it would be prepared to give the Welsh Government resource?

[103] **Ms Williams:** Yes, because it has MaRS, the marine resource system—

[104] **Antoinette Sandbach:** Sorry to interrupt you, but have you actually spoken to anybody there about co-opting resource?

[105] **Ms Williams:** Yes.

[106] **Antoinette Sandbach:** What was the answer?

[107] **Ms Williams:** I think that it would be happy to co-opt resource, but I think that the issue is first one of being sure about the approach to marine spatial planning, because you divide your resources for what you are going to do according to the approach.

[108] **John Griffiths:** I would just add that I have met with representatives of the Crown Estate, and they are keen to work with the Welsh Government, to understand our ambitions for our marine resource, and to do what they can to facilitate that and work with us. I think that there is a good relationship there.

[109] **Antoinette Sandbach:** So, at the moment, the uncertainty is around the policy priorities of the Welsh Government, and once you have set those, you can get on and do the planning.

[110] **John Griffiths:** That is absolutely right. We have to do the thinking and be clear about what our strategy and plan is for our marine environment and how we would like to use that resource. There is a considerable amount of work to be done there, although we have the overarching UK policy statement in place.

[111] **Antoinette Sandbach:** When do you anticipate that that policy work will be finished? It may be interesting for us to look at that. Have you set a deadline for that, so that you can then move on to delivery, rather than consideration?

[112] **John Griffiths:** There are various aspects to it, really. We have the UK policy statement in place at the moment, and that sets out the strategy at a UK level. We contributed to that and are a part of it. There is work to be done around marine conservation zones, obviously, and the marine plans, and we really need to take that work forward as quickly and as effectively as we can. However, we are always mindful of the need to get it right, as well as to do it in a timely fashion, and that is why there is sometimes some frustration about the pace of policy development. Nonetheless, it is absolutely crucial that we get it right, because, as the Chair said, that marine resource is so important for Wales.

[113] **Mick Antoniw:** Following on from that, there are two particular points that I would like to ask about. First, just to go back to your answer to the very first question, you said that there will be a stronger focus on marine. I understand that there is a lot of work to do, but I wonder if I might, in the first instance, tease out of you precisely what, in practical terms, you mean by 'a stronger focus'. What is going to change, and what will be different?

[114] **John Griffiths:** We have a clear idea now of the potential that we have in our marine environment in 'Sustaining a Living in Wales' terms, really, that is, in respect of sustainable development and the rounded benefits that it can bring. Obviously, the marine energy aspect of that is very important to us, and we are lucky that we have energetic seas, but not so

energetic that we cannot deploy devices to harness the energy of our waters. In addition, there are various proposals to use that marine energy, and we know that they will bring very important benefits to us: in helping us to meet our renewable energy targets, in boosting our economy and creating jobs, and in meeting the challenges of climate change. So, that is one very important aspect that I think will have a stronger focus, because the First Minister made it clear in our energy strategy that, whereas wind is quite developed technologically and commercially, we are at a much earlier stage with marine. So, the opportunity to get in there at the beginning and reap the economic benefits from marine development is marked and strong. So, that is an important aspect of our focus.

[115] Marine conservation zones are another good example of how we are seeking to balance the various interests in our marine environment, whether it is fishing, recreation and leisure, energy, the interests of our ports—and we have some very important ports in Wales—and protecting the quality of our marine environment. So, there is a developing and a strengthening focus, for some good and evident reasons.

[116] **Mick Antoniw:** Some of our previous evidence gets to the nub of the issue, which is whether there are adequate resources in terms of all the things that we want to do. For example, what was put to us in previous evidence sessions is that there is, for example, a great difference in relation to the Scottish approach and its recognition of the marine environment. There was reference to it having 80 staff and consents and licensing taking half the time, and the point was put to us that there were only three marine consents staff in Wales and that resource is a real problem. Do you see the resource as a problem and is it something that you need to address in order to achieve the Welsh Government's aspirations?

[117] **John Griffiths:** We need to look closely at resource, whether it is sufficient and whether it needs to be supplemented, and, as I said earlier, we are doing that and we will do that. We know that Scotland, through the vagaries of the Barnett formula, is better resourced than we are—

[118] **Lord Elis-Thomas:** One might say that it is awash with resources. [*Laughter.*]

[119] **John Griffiths:** Indeed. Comparisons with us are constantly thrown up in terms of the resource that Scotland is able to commit to some aspect of policy. We have to live with those comparisons. In addition, Scotland has extensive coastal waters and islands, which means major resource implications for the Scottish Executive. We propose to transfer marine licensing to natural resources Wales, given the overall resource that it will have as a result of combining the existing three organisations. It will have the opportunity to place a greater focus on marine and allocate its own resource accordingly.

[120] There are questions for us and, as I said earlier, I do not shy away from them. We need to address those resource issues.

[121] **Russell George:** I have a supplementary question to Antoinette's question. Will your approach include a review of technical advice note 14? What are your thoughts on that?

[122] **John Griffiths:** We do not anticipate a review of TAN 14 at the current time.

[123] **Russell George:** Okay, thanks. I like reviews of technical advice notes. [*Laughter.*]

[124] **Llyr Huws Gruffydd:** Hoffwn droi at yr ardaloedd morol gwarchoddedig—yr MPAs. Daeth adolygiad diweddar gan Gyngor Cefn Gwlad Cymru o'r ardaloedd morol gwarchoddedig yma yng Nghymru i'r **Llyr Huws Gruffydd:** I will turn to the marine protected areas. A recent review by the Countryside Council for Wales on marine protected areas in Wales came to the conclusion that there is a lack of strategic

casgliad bod diffyg cyfeiriad strategol. direction. It stated that
Dywedodd,

[125] ‘there remains inconsistency in approach, resource allocation and involvement of management authorities as well as a lack of strategic steer across the suite of Welsh MPAs.’

[126] Mae hefyd yn galw am arweiniad It also calls for a stronger leadership in
cryfach wrth edrych ar reolaeth yr ardaloedd looking at the management of the MPAs.
morol gwarchoddedig hyn. Sut ydych chi’n How do you respond to the conclusions of
ymateb i gasgliad yr adolygiad hwnnw? that review?

[127] **John Griffiths:** As I said earlier, Llyr, I accept that there is a considerable amount of work to be done in terms of our marine areas, setting out policy and strategy and evidencing the focus that I mentioned earlier in answering Mick Antoniw’s question. So, hopefully around the spring of next year, we will have a statement of principles, which will be useful in setting out that thinking and that strategy. We will also look at the UK’s network of marine protected areas because there are questions about how all of it fits together and links. Our overall marine policy statement, as part of the UK strategy, is very much about recognising the interconnectedness of our seas.

[128] **Llyr Huws Gruffydd:** Edrychwn **Llyr Huws Gruffydd:** We will look forward
ymlaen at y gwanwyn, felly. I ddod yn ôl at y to spring, therefore. To return to the point on
pwynt ar yr adnoddau y byddai rhai yn teimlo the resources that some might feel are not
nad ydynt ar gael—a bu i chi gyfeirio at available—and you referred to Barnett
Barnett yn gynharach—o fewn cyfyngiadau’r earlier—within the resource constraints that
adnoddau sydd gennym yng Nghymru, onid we have in Wales, do you not think that it
ydych yn meddwl y byddai’n well would be better to focus on ensuring that the
canolbwyntio ar sicrhau bod yr ardaloedd current marine protected areas reach an
morol gwarchoddedig presennol yn cyrraedd acceptable level of control before proceeding
lefel dderbyniol o reolaeth cyn mynd ati i to designate new areas?
benodi ardaloedd newydd?

[129] **John Griffiths:** The marine conservation zones will be important and that is why we had such a strong engagement and strong expression of views around the first-stage consultation. The challenge for us again is to get it right so that when we do have our designations, they add something to our sustainable development policies for our seas and they properly balance up the competing interests. It is perfectly possible to do that, Llyr. We have had some good engagement with, for example, the Welsh Fisherman’s Association in the document that it produced. There is recognition that having a sustainable marine environment is in the interest of all stakeholders. So, when we get to the stage of designating marine conservation zones, we can do so with that appropriate balance.

[130] **Llyr Huws Gruffydd:** Fe fyddwch **Llyr Huws Gruffydd:** You will be aware
chi’n ymwybodol nad yw rhai o’r that some stakeholders do not agree about the
rhanddeiliaid yn cytuno am y lefel o level of engagement you mention and that
engagement yr ydych yn sôn amdani a bod yr engagement with some of the stakeholders in
engagement gyda rhai o’r budd-ddeiliaid some of the sectors has been too late in the
mewn rhai o’r sectorau wedi bod yn rhy hwyr day. Do you recognise that the level of
yn y dydd. A ydych yn cydnabod y dylai lefel engagement that we are seeing now, in the
yr *engagement* yr ydym yn ei gweld yn awr, task and finish group that has been
yn y grŵp gorchwyl a gorffen a sefydlwyd, established, should have occurred earlier in
fod wedi digwydd yn gynharach yn y broses? the process?

[131] **John Griffiths:** We always made it clear that it was going to be an extensive, extended period of consultation in three stages. So, we always anticipated that the first round

of engagement would produce many issues and strong views that would then need further work and consideration. So, that was always part of the approach. At many of the meetings that took place, and in terms of the written responses, there have been very clear and strong views. However, I do not think that those are irreconcilable. I hear from everyone that we need a sustainable approach to our marine environment and that will benefit our fisheries, our recreational and leisure interests and will protect that precious marine environment.

[132] **William Powell:** Earlier, Mick Antoniw referred to the Scottish experience and contrasted the resource available. I would like to broaden out that international reference. What consideration has been given to wider lessons that Wales could learn from the marine planning process in Scotland and in England?

[133] **John Griffiths:** Thankfully, we have a good working relationship with planning colleagues in Marine Scotland and in the Marine Management Organisation—the MMO—and we are keen to learn any lessons that emerge from their work, and that also applies in reverse. So, we do have good working relationships, which are important. We need to secure cross-cutting policy buy-in to our approach to marine planning and to make the most of existing evidence. So, it is vital that we make these linkages; otherwise, it would not be of any benefit to Wales, Scotland or England. So, we are keen to learn those lessons and officials will say that, as well as good ministerial contact, there is also good contact at official level.

11.00 a.m.

[134] **William Powell:** When do you anticipate that we will be able to move to the signing of a formal concordat on the marine planning policy between the MMO and the UK Government?

[135] **Ms Williams:** With the MMO, it would be when we start the statutory planning process, which is going to be next year. In terms of the UK Government, we need to review whether one is needed. When one looks at the 2009 Act, the processes are very detailed in terms of the relationship. Therefore, I think that we would be open to it, although we need to reconsider what the gain will be.

[136] **William Powell:** Okay, that is good. Casting the net a little wider again, what is the state of our relations with the Republic of Ireland in terms of this same topic, and would it be appropriate in the future for this to be built into discussions at British-Irish Council level?

[137] **Ms Williams:** Yes, and I think it is scheduled for the council either next year or in 2014. However, there is also a recently constituted Irish sea stakeholder forum, which the Republic is a member of; the Isle of Man is also part of that forum.

[138] **John Griffiths:** There have been discussions about the coming together of the countries around the British isles because there is a common understanding of the importance of the marine environment, and we are all in the same water, as it were. There are many common issues and I know it has been addressed by various ministerial gatherings and, indeed, at official level. So, I am sure that that is going to be an important part of the way forward. The Republic of Ireland is very much knitted into intergovernmental relationships through various structures that we are very familiar with.

[139] **William Powell:** Ken Skates and I, and other colleagues, currently serve on the British Irish Parliamentary Association, and I would hope, in due time, that that would be another forum in which we could help to take forward some of these issues.

[140] **John Griffiths:** That would make very good sense, would it not? That is an important forum for politicians around the British isles and it is an obvious area of focus.

[141] **Yr Arglwydd Elis-Thomas:** Mae cyfeiriad wedi'i wneud at Ddeddf y Môr a Mynediad i'r Arfordir 2009, ac at gymhlethdod y Ddeddf. Un o'r cymhlethdodau yw union statws Rhan 5 o'r Ddeddf o ran y Cynulliad Cenedlaethol, Llywodraeth Cymru a Gweinidogion Cymru. Ble mae'r Gorchymyn cychwyn i basio Rhan 5 o'r Ddeddf, a phryd fydd hwnnw'n cael ei osod gerbron y Cynulliad?

Lord Elis-Thomas: Reference has been made to the Marine and Coastal Access Act 2009, and to the complexities of the Act. One of the complexities is the exact status of Part 5 of the Act as far as the National Assembly, the Welsh Government and Welsh Ministers are concerned. Where is the commencement Order to pass Part 5 of the Act, and when will it be laid before the Assembly?

[142] **John Griffiths:** We would hope to move forward with this next year. What we are mindful of is that once we do commence that part of the legislation, there is then an obligation on the Welsh Government to act. So, although there would be no time frame for that, it would nonetheless be an important obligation for us to fulfil. Obviously, we have to be mindful of our readiness to fulfil that obligation before commencement takes place. You will be aware of the work that has been going on and the engagement that has taken place, and hopefully, once we get to the spring of next year, we will have the report from the task and finish group, which will put us in a much better position to move forward.

[143] **Yr Arglwydd Elis-Thomas:** Ond mae goblygiadau ynglŷn â chraffu i'r pwyllgor hwn sy'n deillio o'r ffaith nad yw Rhan 5 wedi dod yn weithredol eto, sef ei bod yn ofynnol, o dan adran 124 y Ddeddf, i Lywodraeth Cymru osod adroddiad gerbron y Cynulliad yn amlinellu'r cynnydd mewn datblygu rhwydwaith ecolegol cydlynol o safleoedd morol, a hynny erbyn 31 Rhagfyr 2012. O ystyried nad yw'r adran hon o'r Ddeddf, fel rydych wedi ei gydnabod, wedi ei chychwyn, pryd y bydd modd i ni fel pwyllgor graffu ar adroddiad o'r natur hwn sy'n ofynnol o dan y Ddeddf?

Lord Elis-Thomas: However, there are implications in terms of scrutiny for this committee arising from the fact that Part 5 has not yet been implemented, namely that section 124 of the Act places a requirement on the Welsh Government to lay a report before the Assembly outlining progress in relation to the development of a coherent ecological network of marine sites by 31 December 2012. Given that this section of the Act, as you have acknowledged, is yet to be commenced, when will it be possible for us as a committee to scrutinise this type of report, which is a requirement under the Act?

[144] **John Griffiths:** It does get quite technical in terms of this legislation, Dafydd, and I will ask Julia to enlighten us.

[145] **Lord Elis-Thomas:** I think Julia has the answer; I want to hear it. *[Laughter.]*

[146] **Ms Williams:** Legally, we do not have to lay that report because we have not commenced, but we will. We will be laying it before the end of the calendar year. So, it will be laid in December.

[147] **Russell George:** A few weeks back, on 5 November, you announced the new stakeholder group that will be set up. What resemblance will the new stakeholder group bear to the previous stakeholder and citizen engagement group?

[148] **John Griffiths:** Obviously, it is very important to have continuity, and the new group is very keen to ensure that that does feature. As the Minister, I am also very keen on that. There is no sense at all in losing the progress that has been made and the knowledge that has been built up.

[149] **Russell George:** Why was the decision to set up this group not taken earlier?

[150] **John Griffiths:** We have responded to issues and concerns that have been expressed and I know that the committee is always keen that the Welsh Government should listen and be responsive, and this is an example of that.

[151] **Russell George:** My question was why it was not set up earlier, really. However, what lessons have you learned from the first consultation exercise?

[152] **John Griffiths:** Some very strong and interesting views have been expressed, Russell, which we are all familiar with. That is important in terms of balancing up the various interests. However, as I said earlier, very often there is more agreement and common ground than is apparent at first glance. There is a commonality of interest here, which is why I am quite positive about us being able to reconcile the different views and different interests and to come to solutions that will, hopefully, have buy-in across the board.

[153] **Llyr Huws Gruffydd:** Mae'n ddrwg gennyf ddod yn ôl at y cwestiwn o ymwneud â rhanddeiliaid eto, ond, yn ei dystiolaeth i'r pwyllgor, dywedodd y Gymdeithas Cadwraeth Forol ei fod yn siomedig iawn nad oedd Llywodraeth Cymru wedi mabwysiadu rhai o'r argymhellion a wnaethpwyd gan Gyngor Cefn Gwlad Cymru ar ymgysylltu â rhanddeiliaid. Beth oedd eich rhesymau dros beidio â dilyn y cyngor hwn?

Llyr Huws Gruffydd: I am sorry to return to the question of engagement with stakeholders again, but, in its evidence to the committee, the Marine Conservation Society said that it was very disappointed that the Welsh Government had not adopted some of the recommendations made by the Countryside Council for Wales in relation to stakeholder engagement. What were your reasons for not following this advice?

[154] **John Griffiths:** We are always very mindful of the advice of the Countryside Council for Wales, and it was an integral part of the exercise. So, I would not accept that CCW was in any way marginalised or not central to the exercise. However, the Welsh Government has to shape the stakeholder engagement in the way we think will be most effective and we learned, through the process, how that is best done. Julia, you were present at a number of events; could you give us a flavour of your view on the success of the engagement exercise?

[155] **Ms Williams:** The advice that CCW gave initially was about making sure that there was a chance for public stakeholders to input and that we were not just going out and saying, 'These are the ones that we want to designate; let us have your views.' That is why we designed it as a three-stage iterative process—a genuinely iterative process—and this is why the Minister announced the additional work. From the meetings that the team and I went to, I feel that it did not come across as successfully or as effectively as it should have done that it was very much a first-stage consultation and about kicking it off in terms of informing and refining the next stages. In terms of lessons learned, it is about looking at how we should have better communicated the fact that this was a first-stage consultation.

[156] **Lord Elis-Thomas:** [*Inaudible.*]—what you have just said is to me—you know what I am talking about—that night in Pwllheli. [*Laughter.*] I was not going to mention it.

[157] **Antoinette Sandbach:** I will very quickly pick up on that, and then I would like to move on to the marine consents unit. Given the importance of communication, why has the Welsh Government not published its response to the 2011 consultation on marine planning, and when is that response going to be published?

[158] **John Griffiths:** I can answer that, I think, Antoinette. We will be publishing that very shortly, but we felt it really important to have the Government response out there published at the same time as the responses to the consultation, because it is important for people to know

what the Government's reaction is, and we have not yet worked that up.

[159] **Antoinette Sandbach:** This is for 2011.

[160] **John Griffiths:** Indeed, so there are questions about timing, and, as I said earlier, there is work yet to be done, but we will be publishing shortly.

[161] **Antoinette Sandbach:** If I could move on to the marine consents unit, we have had a lot of very valuable evidence from a wide range of different organisations about the marine consents unit, praising its work but also concerned about the potential move into natural resources Wales. Would you consider keeping that unit out of natural resources Wales?

[162] **John Griffiths:** No, I do not think that that would be appropriate. We have spoken so much about the importance of having a one-stop-shop approach as far as natural resources Wales is concerned, and having proper integration—organisational integration going alongside the policy integration around 'Sustaining a Living Wales'. We think it makes sense in those terms, and a lot of organisations appreciate the ease of a one-stop-shop approach and the advantages that brings.

[163] **Antoinette Sandbach:** I have to say that the evidence that we have had has not supported that, and there has been a great deal of concern that that move may lead to a loss of expertise—I think there are only three people in your marine consents unit—and that there is a risk that you might lose those staff quite quickly if that change does not happen appropriately. I wonder whether you can comment on that.

[164] **John Griffiths:** Obviously there are issues in terms of the management of change for the Welsh Government and, indeed, natural resources Wales, when it is up and running in April, and during the transitional process at the current time. However, those are management issues that have to be dealt with by natural resources Wales, obviously, and ourselves.

[165] **Antoinette Sandbach:** One of the other concerns is that the marine Act requires a public register containing information on marine licence applications, licences granted, compliance and enforcement, but at the moment it is a pdf document that is not updated regularly. What consideration have you given to improving that?

[166] **John Griffiths:** Could you answer that, Julia?

[167] **Ms Williams:** Yes. Given that the function is going to be delegated to NRW, then part of the project management arrangements in terms of the delegation will be considerations for improvement, so that it is something that is more up to date, but also not just a pdf file.

[168] **William Powell:** Looking across at the European directives in this area, in evidence to this committee CCW commented on what it perceives as a lack of ambition in terms of the good environmental status indicators, both by the UK Government and by the devolved administrations. I wonder whether you would share your comments and your response to CCW's findings.

[169] **John Griffiths:** These will be important matters for us to address as we move forward with marine policy, obviously. We are ambitious to have sustainable seas in Wales; that is in absolutely everybody's interests, as I mentioned earlier. So, as we develop policy under various strategies and documents that we have mentioned today, I can clearly state that that will be uppermost in our minds as a Welsh Government, and, with regard to natural resources Wales, I am sure, from my initial discussions with the board, the chair and the chief executive, that would be the case as far as it is concerned as well.

11.15 a.m.

[170] **William Powell:** At this point, what assessment has been made of the level of work and the commensurate resources that will be needed at the appropriate level to deliver the marine strategy to meet the needs of the directive?

[171] **John Griffiths:** We have work to do on that, William, as I mentioned earlier. I would not shy away from that. I think that Julia would like to come in here.

[172] **Ms Williams:** With regard to the marine strategy, going back to your initial question on the ambition, it has been a balancing act in terms of the UK target and indicators that all four administrations have signed up to. Industry would say that they are overambitious, so it has been a balancing act in terms of achieving sustainable use and good environmental status. With regard to assessing what it means for Wales specifically, we are not at that stage. That would be premature, because we need first to work out the spatial scale at which it will be assessed. That is not clear yet, but it is likely to be OSPAR in terms of the biogeographic scale; therefore, the Celtic sea and the Irish sea would be the relevant assessment, monitoring and reporting scale for Wales. That has not been worked out in detail yet. Also, good environmental status is not self-contained to each administration in that way. Each of our territorial seas does not have to hit all the targets. We might want them to, but they do not have to. That is the other issue about working out how much monitoring and how much that is additional we have to do in relation to good environmental status, as well as the other directives that will feed in to achieving it.

[173] **William Powell:** Bearing in mind some of the comments that we heard earlier about stakeholder engagement and feedback, what particular communication lessons do you feel that we need to learn from other experiences that we can bring to this particular issue, which is pretty complex, as you have explained?

[174] **Ms Williams:** With the marine strategy framework directive, in the consultations that led up to the proposals for the target and indicators, we facilitated Welsh stakeholders to go to UK-wide consultation, engagement and stakeholder events. The Wales coastal and maritime partnership also hosted events specifically for Welsh stakeholders and they fed into that consultation. Moving forward, we would be using the partnership as well as wider stakeholders. However, we are not yet at that stage in terms of giving them something meaty to look at.

[175] **Yr Arglwydd Elis-Thomas:** Rwyf am fynd â hynny ychydig yn bellach. Yn y cyfamser, fel petai, rydym wedi cael tystiolaeth glir iawn gan Gymdeithas Pysgotwyr Cymru bod dryswch ymarferol i bwysgotwyr yn eu gwaith ynglŷn â'r holl ddeddfwriaeth y maent yn gorfod ymdopi â hi. Yn amlwg, mae'r cyfarwydddebau cynefinoedd ac adar—dof at hynny mewn dau funud—y gyfarwydddeb fframwaith dŵr, y newidiadau yn y polisi pysgodfeydd cyffredin yr ydym wedi bod yn eu dilyn fel pwyllgor, a'r Ddeddf morol yr ydym newydd gyfeirio ati. Roedd hi'n anodd iawn iddynt fel pysgotwyr wybod beth yw'r blaenoriaethau a beth yw'r targedau y maent yn ceisio eu dilyn. Yn dilyn cwestiwn William, sut y gallwch wneud mwy i gyfathrebu'r **Lord Elis-Thomas:** I want to take that a little further. In the meantime, as it were, we have had very clear evidence from the Welsh Fisherman's Association that there is practical confusion for farmers in their work in relation to all the legislation that they have to cope with. Clearly, there are the habitats and birds directives—I will come to that in a few minutes—the water framework directive, the changes to the common fisheries policy that we have been following as a committee, and the marine Act that we have just referred to. It was very difficult for them as fishermen to know what are the priorities and the targets that they are trying to follow. Following on from William's question, how can you do more to communicate the requirements to them directly?

anghenion iddynt yn uniongyrchol?

[176] **John Griffiths:** I am very sympathetic to those points, Cadeirydd. Clearly, this is a very complex area when it comes to the panoply of protections, directives and legislation. So, anything we can do to make it clearer what is required and what must be met would be very useful for all of us. A lot of the work that we will be doing in moving forward will be very important in arriving at that clarity and a clear statement of what is expected. With all the matters that we have dealt with today in terms of taking policy and strategy forward, it will be important, as ever, to have really good stakeholder engagement and consultation. Then, when we arrive at policy, it will be important that we have proper communication and engagement at that stage as well. So, there is a general picture here of many with obvious interest in the marine environment looking for that sort of clarity and engagement. Lessons have been learned from the marine conservation zones process. Also, we need to join up with fisheries within the Welsh Government in terms of the work that Alun Davies, as Deputy Minister, is doing. So, I can sympathise with the fishermen, and we need to give more thought to how we have that clarity and how we communicate effectively.

[177] **Yr Arglwydd Elis-Thomas:** Holaf gwestiwn arall am y dystiolaeth a gawsom gan y gymdeithas gwarchod adar—cymdeithas yr wyf yn aelod ohoni—ynglŷn â'r oedi wrth weithredu rhwydwaith o ardaloedd gwarchodedig arbennig yng Nghymru. Yn benodol, tra bod ymagwedd y Deyrnas Unedig i ymestyn ardaloedd gwarchodedig arbennig wedi ei chytuno er 2008, ni chafwyd cynnydd cyfatebol i estyn y safleoedd hyn o fewn moroedd Cymru. Byddai'n dda gennyf wybod beth yw'r bwriad ynglŷn â hyn—gallwch wneud hynny heddiw, neu mae croeso i chi ysgrifennu atom ag ateb llawnach. Rwy'n cyfeirio at dudalen 6 tystiolaeth y gymdeithas adar i ni fel pwyllgor.

Lord Elis-Thomas: I will ask another question on the evidence that we received from the RSPB—of which I am a member—in terms of the delay in the implementation of the network of special protection areas in Wales. Specifically, while the approach of the UK on expanding the special protection areas has been agreed since 2008, there has been no similar progress to extend those areas within the Welsh seas. I would like to know what your intention is in that regard—you can do that today, or you are welcome to write to us on that subject. I refer to page 6 of the evidence presented by the RSPB to us as a committee.

[178] **John Griffiths:** We very much hope to take forward the three colony extensions in Wales next year, as far as special protection areas and the network is concerned, Dafydd, and I think that that will be very welcome, as far as the RSPB, other organisations and all of us are concerned. Also, I have asked marine officials to meet RSPB Cymru and CCW to discuss the timetable in more detail. That sort of engagement will, hopefully, ensure that all the key stakeholders are properly informed and that we have a common understanding of the timeframe and how we intend to move forward. So, hopefully, that will be very welcome.

[179] **Lord Elis-Thomas:** There will be a lot going on next year.

[180] **John Griffiths:** There will be.

[181] **Yr Arglwydd Elis-Thomas:** Diolch, Weinidog. Rydych wedi rhoi dwy sesiwn i ni heddiw. Mae'n iawn, felly, i chi allu gorffen ar amser. Diolch yn fawr i chi ac i'ch swyddogion, Julia Williams a Matthew Quinn.

Lord Elis-Thomas: Thank you, Minister. You have given us two sessions today, so it is quite appropriate that you should be able to finish on time. Thank you and your officials, Julia Williams and Matthew Quinn.

[182] **John Griffiths:** Diolch yn fawr.

John Griffiths: Thank you.

11.23 a.m

**Cynnig o dan Reol Sefydlog Rhif 17.42(vi) i Benderfynu Gwahardd y Cyhoedd
o'r Cyfarfod ar gyfer Eitem 6 ac ar gyfer y Cyfarfod ar 6 Rhagfyr
Motion under Standing Order No. 17.42(vi) to Exclude the Public from this
Meeting for Item 6 and from the Meeting on 6 December**

[183] Yr Arglwydd Elis-Thomas: Lord Elis-Thomas: I move that
Cynigiaf fod

y pwyllgor yn penderfynu gwahardd y cyhoedd o weddill y cyfarfod ac o'r cyfarfod ar 6 Rhagfyr yn unol â Rheol Sefydlog Rhif 17.42(vi). *the committee resolves to exclude the public from the remainder of the meeting and the meeting on 6 December in accordance with Standing Order No. 17.42(vi).*

[184] Rwy'n gweld nad oes I see that there is no objection.
gwrthwynebiad.

*Derbyniwyd y cynnig.
Motion agreed.*

*Daeth rhan gyhoeddus y cyfarfod i ben am 11.23 a.m.
The public part of the meeting ended at 11.23 a.m.*