Cynulliad Cenedlaethol Cymru
The National Assembly for Wales

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol
The Constitutional and Legislative Affairs Committee

Dydd Llun, 22 Hydref 2012
Monday, 22 October 2012

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Cofnodir y trafodion yn yr iaith y llefarwyd hwy ynddi yn y pwyllgor. Yn ogystal, cynhwysir trawsgrifiad o'r cyfieithu ar y pryd.

The proceedings are reported in the language in which they were spoken in the committee. In addition, a transcription of the simultaneous interpretation is included.

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

Suzy Davies	Ceidwadwyr Cymreig Welsh Conservatives
Mark Drakeford	Llafur (yn dirprwyo ar ran Julie James) Labour (substitute for Julie James)
Eluned Parrott	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Simon Thomas	Plaid Cymru The Party of Wales

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

Stephen George	Clerc Clerk
Gwyn Griffiths	Uwch-gynghorydd Cyfreithiol Senior Legal Adviser
Olga Lewis	Dirprwy Glerc Deputy Clerk
Owain Roberts	Y Gwasanaeth Ymchwil Research Service

Dechreuodd y cyfarfod am 2.30 p.m.
The meeting began at 2.30 p.m.

Ethol Cadeirydd Dros Dro
Election of a Temporary Chair

[1] **Mr George:** Good afternoon. I declare this meeting of the Constitutional and Legislative Affairs Committee open. The Chair, David Melding AM, has submitted his apologies for today's meeting, and the first item of business is, therefore, the election of a temporary Chair. I invite nominations from committee members for a temporary Chair to be elected under Standing Order No. 17.22.

[2] **Eluned Parrott:** I nominate Simon Thomas.

[3] **Mr George:** I see that there are no other nominations and I declare Simon Thomas elected and invite him to take the chair.

Penodwyd Simon Thomas yn Gadeirydd dros dro.
Simon Thomas was appointed temporary Chair.

Cyflwyniad, Ymddiheuriadau, Dirprwyon a Datganiadau o Fuddiant
Introduction, Apologies, Substitutions and Declarations of Interest

[4] **Simon Thomas:** Diolch yn fawr, a chroeso felly i'r cyfarfod hwn o'r Pwyllgor

Simon Thomas: Thank you very much, and welcome therefore to this meeting of the

Materion Cyfansoddiadol a Deddfwriaethol ar ddydd Llun 22 Hydref. Rwy'n atgoffa pawb, os bydd argyfwng, bod tywyswyr i'n harwain allan a thrwy'r allanfa agosaf. Mae offer cyfieithu a chlustffonau ar gael ar gyfer clywed cyfieithu neu i godi'r sŵn. Mae cyfieithu ar y pryd o'r Gymraeg i Saesneg ar gael ar sianel 1 a chyfraniadau yn yr iaith wreiddiol ar sianel 0. Gofynnaf i chi hefyd ddiffodd eich ffonau symudol gan eu bod yn gallu amharu ar y systemau technegol. Rydym wedi derbyn ymddiheuriadau gan Julie James, ond croeso i Mark yn ei lle, a dymunwn yn dda i Julie hefyd. Mae David Melding, fel rydym newydd glywed, yn ymddiheuro ar gyfer y cyfarfod heddiw.

Constitutional and Legislative Affairs Committee on Monday 22 October. I remind everyone that, if there is an emergency, ushers will lead us out the room and through the nearest safe exit. Interpretation equipment and headsets are available for interpretation or to amplify the sound. Interpretation from Welsh into English is available on channel 1 and verbatim contributions on channel 0. I also ask you to switch off your mobile phones because they can affect the technical systems. We have received apologies from Julie James, but we welcome Mark, who is substituting, and also we wish Julie well. David Melding, as we have already heard, also send his apologies for the meeting today.

2.31 p.m.

Offerynnau nad ydynt yn Cynnwys Unrhyw Faterion i'w Codi o dan Reolau Sefydlog Rhif 21.2 neu 21.3
Instruments that Raise No Reporting Issues under Standing Order Nos. 21.2 or 21.2

[5] **Simon Thomas:** Dyma offerynnau'r weithdrefn penderfyniad negyddol. Eitem 2.1 yw'r Gorchymyn Llywodraeth Leol, (Dangosyddion Perfformiad) (Cymru) 2012. A oes unrhyw sylwadau gan Aelodau ar hyn? Gwelaf nad oes. Eitem 2.2 yw Rheoliadau'r Gwasanaeth Iechyd Gwladol (Gwasanaethau Deintyddol Sylfaenol) (Diwygiadau sy'n Ymwneud ag Unedau o Weithgaredd Deintyddol) (Cymru) sy'n gwneud newid bach yn yr uned sy'n cael ei chodi ar gyfer triniaeth ddeintyddol. Eto, nid oes unrhyw beth i'w adrodd. A oes gan Aelodau unrhyw sylw? Gwelaf nad oes. Eitem 2.3 yw Gorchymyn Pysgod Môr (Ardaloedd Môr Penodedig) (Gwahardd Dull Pysgota) (Cymru) 2012, sy'n rhywbeth penodol ar gyfer y gogledd. A oes gan Aelodau unrhyw sylw? Gwelaf nad oes.

Simon Thomas: These are the negative resolution instruments. Item 2.1 is the Local Government (Performance Indicators) (Wales) Order 2012. Do Members have any comments on this? I see that they do not. Item 2.2 is the National Health Service (Primary Dental Services) (Amendments Related to Units of Dental Activity) (Wales) Regulations, which is a small change in the unit that is charged for dental treatment. Again, there is nothing to report. Do Members have any comments? I see that they do not. Item 2.3 is the Sea Fish (Specified Sea Areas) (Prohibition of Fishing Method) (Wales) Order 2012, which is something specific for north Wales. Do Members have any comments? I see that they do not.

Offerynnau sy'n Cynnwys Materion i'w Codi gyda'r Cynulliad o dan Reolau Sefydlog Rhif 21.2 neu 21.3
Instruments that Raise Issues to be Reported to the Assembly under Standing Order Nos. 21.2 or 21.3

[6] **Simon Thomas:** Dechreuwn gyda eitem 3.1, Rheoliadau Asesu Digonolrwydd Cyfleoedd Chwarae (Cymru) 2012. Gwelwch yn yr agenda bod adroddiad pwynt rhinweddau wedi codi fan hyn. Y pwynt ar y

Simon Thomas: We will start with item 3.1, the Play Sufficiency Assessment (Wales) Regulations 2012. You will see in the agenda that a merits report has been raised here. The point at the time was that there was a

pryd oedd bod cyfeiriad yn y nodyn esboniadol at adroddiad ar y wefan, a phan edrychodd y swyddogion, nid oedd adroddiad ar y wefan. Mae'r adroddiad wedi cael ei gyflwyno i chi heddiw ac wedi'i osod ar y bwrdd. Stephen, a allwch amlinellu ychydig ar sut allwn fynd â hyn ymlaen gan fod yr adroddiad bellach wedi'i dderbyn?

reference in the explanatory memorandum to a report on the website, and when officials looked, there was no report on the website. The report has been presented to you today and has been placed on the table. Stephen, can you outline a little more on how we can take this forward as the report has now been received?

[7] **Mr George:** Siaradaf yn Saesneg, os yw hynny'n iawn.

Mr George: I will speak in English, if that is okay.

[8] There are no technical or legislative points arising from this. The main reason that we have suggested a merits report is because the regulations, in effect, address one of the main issues that was covered in a report by the Children and Young People's Committee, which followed a fairly extensive inquiry in the previous Assembly. From the explanatory memorandum, there seemed to be some doubt as to whether the particular recommendations covered in the report had been addressed as fully by the Government as perhaps some would argue it could have. One of the problems we had in assessing that was that we did not have access to the Government's consultation summary report, which we now have. Our view is that that should now be reflected in the report and amended accordingly. However, we think that because this is reporting, essentially, on the outcome of a committee inquiry, that it would be useful to Members to have a factual report setting out the issues.

[9] **Simon Thomas:** A yw hynny'n glir i Aelodau? A oes gennych gwestiynau?

Simon Thomas: Is that clear for Members? Do you have any questions?

[10] **Suzy Davies:** Ym mharagraff 2 y memorandwm esboniadol mae'n dweud y canlynol:

Suzy Davies: Paragraph 2 of the explanatory memorandum states the following:

[11] 'There are no matters of special interest to the Constitutional and Legislative Affairs Committee.'

[12] Pwy sy'n penderfynu hynny?

Whose decision is that?

[13] **Mr George:** Cyfreithwyr neu swyddogion y Llywodraeth.

Mr George: Government lawyers or officials.

[14] However, there is a special meaning to that, because what that normally means is that there are no issues that have been addressed previously by the committee or issues surrounding the types of subordinate legislation that we are dealing with so that, from previous practice, it is known those should be drawn to our attention. So, that is what it is getting at, rather than saying that you should not pay any attention to this. I do not think that it is arguing that at all.

[15] **Suzy Davies:** That is helpful, to explain on record what that means.

[16] **Simon Thomas:** Rwy'n meddwl mai'r pwynt fan hyn, os deallaf yn iawn, yw mai rhan o'n rôl gyfansoddiadol ni yw gwneud ychydig i ddiogelu rôl y pwyllgorau eraill sydd wedi adrodd i'r Llywodraeth. Felly, rydym ond yn gwneud yn siŵr bod y broses o adrodd yn ôl at y pwyllgorau yn

Simon Thomas: I think that the point here is, if I understand it correctly, that part of our constitutional role is to do a little to safeguard the role of the other committees that have reported to Government. So, we are just making sure that the process of reporting back to the committees happens. The fact that

digwydd. Mae'r ffaith bod adroddiad yn gwneud hynny yn iawn.

there is a report makes that right.

[17] Felly, os ydym yn newid yr adroddiad, fel yr awgrymwyd gan Stephen George, i adlewyrchu'r ffaith ein bod wedi derbyn yr adroddiad ar yr ymgynghoriad, a fyddwch chi'n hapus, Aelodau, i hynny gael ei nodi? Rwy'n gweld eich bod.

So, if we change the report, as has been suggested by Stephen George, to reflect the fact that we have received the consultation report, are Members content for that to be noted? I see that you are.

[18] **Mr George:** Anfonwn lythyr ar hynny.

Mr George: We will send a letter to that effect.

2.36 p.m.

Bil Pensiynau'r Gwasanaeth Cyhoeddus: Memorandwm Cydsyniad Deddfwriaethol
Public Service Pensions Bill: Legislative Consent Memorandum

[19] **Simon Thomas:** Fel rydych yn gwybod, rydym yn edrych ar femoranda cydsyniad deddfwriaethol yn y pwyllgor hwn hefyd.

Simon Thomas: As you know, we also look at legislative consent memoranda in this committee.

[20] Mae tipyn mwy o wybodaeth wedi ei datgelu ers i'r adroddiad sydd ger eich bron gael ei osod. Hynny yw, mae'r adroddiad gerbron y pwyllgor yn amlinellu sut mae'r memorandwm hwn yn ymdrin â rhywbeth sydd wedi ei eithrio, ac wedyn heb ei eithrio, o gylch gorchwyl y Cynulliad, ond mae rhagor o wybodaeth wedi dod i'r fei, rwy'n deall. Felly, gofynnaf i Gwyn amlinellu'r sefyllfa fel rydym yn ei deall ar hyn o bryd.

A little more detail has been revealed since the report that is before you was laid. The report before the committee outlines how this memorandum deals with something that has been exempted, and then was not exempted, from the remit of the Assembly, but more information has emerged, so I will ask Gwyn to outline the situation as we currently understand it.

[21] **Mr Griffiths:** Os oeddech chi'n meddwl bod y nodyn cyfreithiol blaenorol yn gymhleth, mae'n ddrwg gennyf, oherwydd mae'r sefyllfa gyda hwn dipyn fwy cymhleth na hynny. Mae'r peth yn ymwneud yn bennaf â chyfyngu ar natur cynlluniau pensiwn y sector cyhoeddus ac yn dilyn ymgynghoriadau Llywodraeth San Steffan. Mae'r rhan fwyaf ohono yn eithaf eglur o'n safbwynt ni.

Mr Griffiths: If you thought that the previous legal note was complex, then I do apologise, because the situation with this is quite a bit more complex than that. This mainly relates to restrictions on the nature of the public sector pension schemes and follows consultations carried out by the Westminster Government. Most of it is relatively clear from our point of view.

[22] Fel sydd yn cael ei esbonio, mae gan y Cynulliad gymhwysedd deddfwriaethol yn ymwneud ag Aelodau'r Cynulliad, Gweinidogion, y Cwnsler Cyffredinol ac aelodau o awdurdodau lleol yng Nghymru. Mae hynny yn gwbl glir. Fodd bynnag, mae dwy agwedd ar y pwnc hwn ac ar y Bil hwn nad ydynt wedi eu hamlinellu yn y memorandwm cydsyniad deddfwriaethol, a

As is explained, the Assembly has legislative competence in relation to Assembly Members, Ministers, the Counsel General and members of local authorities in Wales. That is entirely clear. However, there are two aspects to this issue and to this particular Bill that are not outlined in the legislative consent memorandum, and that is where the problem lies, I think.

dyna'r broblem, rwy'n meddwl.

[23] Y cyntaf yw'r hyn rwy'n cyfeirio ato ym mharagraff 11 o'r nodyn, sef pensiwn ar gyfer aelodau o dribiwnlys yr iaith Gymraeg. Nid yw'r tribiwnlys wedi ei sefydlu eto, ac felly nid oes pensiwn wedi ei dalu. Yr hyn y mae'r Bil hwn yn ei wneud yn adran 16(1) yw dweud na chaiff unrhyw daliadau eu gwneud o dan y cynlluniau pensiwn a nodir yn Atodlen 5, ac mae hynny'n cynnwys y pensiwn a fyddai'n daladwy i aelodau o dribiwnlys yr iaith Gymraeg.

The first is what I refer to in paragraph 11 of the note, namely a pension for members of the Welsh language tribunal. The tribunal has not yet been established, and therefore no pension has been paid. What this Bill does in section 16(1) is to state that no payments may be made under the pension schemes noted in Schedule 5, and that includes the pension that would be payable to members of the Welsh language tribunal.

[24] Y cwestiwn sy'n codi felly, yn ôl yr hyn rwyf wedi ei nodi yn y papur, yw bod cymhwysedd deddfwriaethol gan y trydydd Cynulliad i wneud hyn. Sut, felly, nad yw hwn wedi ei gynnwys yn y memorandwm esboniadol? Y rheswm yw bod hwn yn un o'r materion anghyffredin lle mae'r Cynulliad wedi colli cymhwysedd deddfwriaethol yn sgîl y symudiad o Atodlen 5 i Atodlen 7 o Ddeddf Llywodraeth Cymru 2006. Yn Atodlen 7, fel rwyf wedi crybwyll yn y papur, mae gennym gymhwysedd ar gyfer y pensiynau hynny yn sgîl yr eithriad o dan ddatblygu economaidd sydd yn dweud:

The question that arises as a result of that, according to what I have noted in the paper, is that that the third Assembly had legislative competence to do this. Why, therefore, has this not been included in the explanatory memorandum? The reason is that this is one of those exceptional matters where the Assembly has lost legislative competence following the move from Schedule 5 to Schedule 7 of the Government of Wales Act 2006. In Schedule 7, as I have mentioned in the paper, we have competence for those pensions as a result of the exception under economic development, which states:

[25] 'Occupational and personal pension schemes (including schemes which make provision for compensation for loss of office or employment, compensation for loss or diminution of emoluments, or benefits in respect of death or incapacity resulting from injury or disease), apart from schemes for or in respect of Assembly members, the First Minister, Welsh Ministers appointed under section 48, the Counsel General or Deputy Welsh Ministers'

[26] ac wedyn, wedi ei ychwanegu:

and then, added to that:

[27] 'and schemes for or in respect of members of local authorities.'

[28] Wedyn, aethom yn ôl i edrych yn fanylach ar Atodlen 5. Mae'r eithriad rwyf newydd ei ddyfynnu yn dod o bwnc 4, sef datblygu economaidd. O dan Atodlen 5, nid oedd gan y Cynulliad gymhwysedd deddfwriaethol mewn datblygu economaidd, felly nid oedd unrhyw eithriad. Yn sgîl hynny, roedd yn bosibl i'r Cynulliad, o dan faes yr iaith Gymraeg, nid yn unig ddarparu ar gyfer tribiwnlys ond hefyd, fel mater atodol, ddarparu ar gyfer pensiwn aelodau'r tribiwnlys hwnnw. Bellach, mae gennym eithriad penodol ar gyfer cynlluniau pensiwn ac felly ni fydd y Cynulliad bellach yn gallu darparu ar gyfer pensiwn aelodau'r tribiwnlys mewn Bil o flaen y Cynulliad. Os yw rhywun

We then went back and looked in greater detail at Schedule 5. The exception that I have just quoted comes from subject 4, namely economic development. Under Schedule 5, the Assembly had no legislative competence for economic development, therefore there was no exception. As a result, it was possible for the Assembly, under the field of the Welsh language, not only to make provisions for a tribunal but also, as a supplementary issue, to make provisions for a pension for the members of that tribunal. However, we now have a specific exception for pension schemes and, therefore, the Assembly will no longer be able to make provision for a pension for the members of

yn darllen hynny gydag adran 16, sy'n dweud bod y cynllun y darparwyd eisoes ar ei gyfer yn cael ei gau a bod dim taliadau i gael eu gwneud, gwelir na fydd y Cynulliad yn gallu creu system bensiwn newydd ar gyfer aelodau'r tribiwnlys, felly mae'r Cynulliad wedi colli cymhwysedd deddfwriaethol ar y pwnc hwnnw. Nid oes sôn am hynny yn y memorandwm cydsyniad deddfwriaethol sydd gerbron y Cynulliad.

that tribunal in a Bill before the Assembly. If one reads that along with section 16, which states that the scheme that is already provided for is to be closed and that no payments are to be made, one can see that the Assembly will not be able to create a new pension system for members of the tribunal, so the Assembly has lost legislative competence on that subject. No mention is made of that in the LCM before the Assembly.

[29] Mae'r pwynt arall, sydd dipyn bach yn llai, yn ymwneud â gwasanaethau tân ac achub, oherwydd os yw rhywun yn edrych yn ôl ar fater 12.16 yn Atodlen 5, mae'n darllen fel hyn:

The other point, which is a more minor one, relates to the fire and rescue services, because if one looks back at Schedule 5 and matter 12.16, it reads:

[30] 'Salaries, allowances, pensions and other payments for members of the following—

[31] '(a) local government institutions for communities;'

[32] sef cynghorau cymuned,

that is, community councils,

[33] '(b) county councils and county borough councils;'

[34] mae hynny'n cyd-fynd â'r sefyllfa bresennol, ac wedyn:

that is in accordance with the current situation, and then:

[35] '(c) National Park authorities;

[36] '(d) fire and rescue authorities constituted by schemes under section 2 of the Fire and Rescue Services Act 2004 or schemes to which section 4 of that Act apply.'

[37] Felly, mae gennym eithriad ar hyn o bryd ar gyfer aelodau awdurdodau lleol, ond roedd gennym gymhwysedd o dan Atodlen 5 nid yn unig ar gyfer hynny, ond ar gyfer aelodau cynghorau cymuned, parciau cenedlaethol ac awdurdodau tân ac achub. Felly, mae'n ymddangos eto fod y Cynulliad wedi colli cymhwysedd drwy symud o Atodlen 5 i Atodlen 7. Efallai fod rheswm da dros hynny, ond nid oes cyfeiriad at hynny yn y memorandwm cydsyniad deddfwriaethol. Mater felly i'r pwyllgor yw ystyried a ddylid gofyn i'r Gweinidog esbonio hyn neu a yw Aelodau yn fodlon gyda'r sefyllfa. Y Gweinidog Cyllid ac Arweinydd y Tŷ sydd wedi cyflwyno'r memorandwm hwn. Efallai nad yw ei swyddogion hi'n ymwybodol o'r materion a'r manylion hyn sydd yn ymwneud â llywodraeth leol a thribiwnlys yr iaith Gymraeg, ond, eto, mae'n wagle amlwg yn y memorandwm.

Therefore, we have an exception at present for local authority members, but we had competence under Schedule 5 not only for that, but for members of community councils, national parks and fire and rescue authorities. So, it appears once again that the Assembly has lost competence in that move from Schedule 5 to Schedule 7. There may be a good reason for that, but there is no reference to it in the LCM. So, it is a matter for the committee to consider whether the Minister should be asked to explain this or whether Members are content with the situation as it currently stands. It is the Minister for Finance and Leader of the House who has tabled this memorandum. Perhaps her officials are not aware of these details relating to local government and the Welsh language tribunal, but, once again, it is an obvious oversight in the memorandum.

[38] **Simon Thomas:** Diolch, Gwyn. Rwy’n gobeithio yr oedd hynny o gymorth i Aelodau. Yn gyntaf, cyn i ni drafod sut allwn ni ddelio gyda hyn, a oes gennych unrhyw gwestiynau i Gwyn ar hynny? Gwelaf nad oes. Mae’n ymddangos i mi felly mai’r hyn rydym yn ei drafod yw memorandwm cydsyniad deddfwriaethol lle gofynnir i’r Cynulliad ganiatáu i San Steffan ddeddfu mewn maes y mae gennym gymhwysedd.

Simon Thomas: Thank you, Gwyn. I hope that that was of assistance to Members. First, may I ask whether you have any questions for Gwyn on that before we discuss how we can deal with it? I see that you do not. It appears to me that what we are discussing, therefore, is a legislative consent memorandum where the Assembly will be asked to allow Westminster to legislate in a field for which we have competence.

2.45 p.m.

[39] Ond mae Gwyn wedi codi’r ffaith bod y cymhwysedd wedi newid yn ddiweddar, sy’n codi’r cwestiwn a oes modd defnyddio’r memorandwm hwn i adfer y cymhwysedd a gollwyd gennym y tro diwethaf, gan fod modd tacluso’r gwahaniaeth rhwng y ddwy Atodlen yn sgîl yr un a ddaeth i rym gyda’r refferendwm. Nid wyf yn cofio rhif yr Atodlen a ddaeth i rym gyda’r refferendwm.

However, Gwyn has raised the fact that the competence changed recently, which raises the question of whether it is possible to use this memorandum to restore the competence that we lost last time, as it is possible to tidy up the difference between the two Schedules as a result of the one that came into force with the referendum. I do not recall the number of the Schedule that came in with the referendum.

[40] **Mr Griffiths:** Atodlen 7.

Mr Griffiths: Schedule 7.

[41] **Simon Thomas:** Diolch. Felly, sut mae Aelodau’n teimlo ynghylch sut i ddelio â hyn? Mae’n rhaid i ni adrodd ar y mater erbyn 15 Tachwedd. Mae’n ymddangos bod dwy ffordd o’i wneud. Gallwn ohebu gyda’r Gweinidog, ond gyda’r hanner tymor yn dod, efallai byddai hynny’n arwain at oedi yn y broses. Ynteu, gallwn ofyn i’r Gweinidog ddod i’r cyfarfod nesaf, ar 5 Tachwedd, i gael sesiwn byr o ryw chwarter awr i ofyn y cwestiynau hyn a chael y mater ar y record. Dyna’r ddwy ffordd o’i wneud. Beth ydych chi’n ei deimlo fel aelodau’r pwyllgor? Beth yw’r ffordd fwyaf effeithlon o’i wneud?

Simon Thomas: Thank you. So, how do Members feel about dealing with this? We have to report on the matter by 15 November. It appears to me that there are two ways of doing this. We can correspond with the Minister, but with half term approaching, the process will perhaps be delayed. Alternatively, we can ask the Minister to come to the next meeting, on 5 November, for a brief session of around 15 minutes to ask these questions and get this issue on the record. Those are the two ways of doing this. What are your thoughts as committee members? What is the most effective way of doing it?

[42] **Suzy Davies:** Pe bai’r Gweinidog yn dod yma’r wythnos nesaf, a fyddai’n bosibl iddi wneud rhywbeth ar y pryd ynglŷn â’r mater?

Suzy Davies: If the Minister were to come here next week, would it be possible for her to do something about this matter at the time?

[43] **Simon Thomas:** Rwy’n meddwl bod hynny wedi cael ei drafod.

Simon Thomas: I believe that that has been discussed.

[44] **Mr George:** Rydym wedi ei drafod â swyddfa’r Gweinidog, ac mae’n barod i ddod atom ar 5 Tachwedd, sef y cyfarfod nesaf.

Mr George: We have discussed it with the Minister’s office, and she is willing to appear on 5 November, which is the next meeting.

[45] **Suzy Davies:** A fydd hi’n gallu

Suzy Davies: Will she be able to do

gwneud rhywbeth ar y diwrnod os oes problem, os nad yw'n cytuno â ni, er enghraifft?

something on the day if there is a problem, if she disagrees with us, for example?

[46] **Mr George:** Bydd amser ar ôl hynny, achos mae'n rhaid i ni adrodd erbyn y pymthegfed, ac wedyn, mae'r ddadl yn y Cyfarfod Llawn ar 20 Tachwedd. Felly, mae amser iddi ymateb i chi a chael y ddadl wedyn.

Mr George: There will be time afterwards, because we have to report by the fifteenth, and then, there is the debate in Plenary on 20 November. So, there is a window for her to respond to you and then to have the debate.

[47] **Mr Griffiths:** Mae pwynt ychwanegol, Gadeirydd, sef i'r Bil gael ei gyflwyno yn San Steffan ar 13 Medi. Felly, mae tipyn o amser tra bod hwn yn mynd drwy'r broses seneddol. Petai'r Gweinidog yn dod yma a dweud wrth y pwyllgor y byddai angen iddi drafod y mater â Llywodraeth San Steffan, byddai digon o amser i'r cynnig gael ei ohirio tra bod y trafodaethau hynny'n digwydd.

Mr Griffiths: There is an additional point, Chair, in that this Bill was introduced at Westminster on 13 September. So, there is quite some time until this has completed its passage through Parliament. If the Minister were to come here and tell the committee that she would need to discuss the matter with the Westminster Government, there would be plenty of time for the motion to be deferred while those negotiations take place.

[48] **Simon Thomas:** Rwy'n derbyn y pwynt hwnnw ond, ar hyn o bryd, mae'n rhaid i ni weithio o fewn yr hyn y mae'r Pwyllgor Busnes wedi gofyn amdano.

Simon Thomas: I accept that point but, at present, we have to work within what the Business Committee has asked us to do.

[49] **Mark Drakeford:** Y pwynt pwysicaf yw a yw'r Llywodraeth yn ymwybodol o'r pwyntiau y mae Gwyn wedi eu gwneud. Nid oes pwynt cael y Gweinidog yma i drafod y pwyntiau hynny os nad yw wedi cael cyfle i'w hystyried yn fanwl gyda'i swyddogion hi. Felly, os gallwn fod yn siŵr bod y Gweinidog yn gwybod beth yw'r broblem y clywsom ni amdani ac yn gallu dod ar 5 Tachwedd i'w thrafod, grêt, ond nid oes pwynt iddi ddod yma er mwyn i ni godi pethau ac i hithau ddweud mai dyna'r tro cyntaf iddi glywed amdanynt.

Mark Drakeford: The most important point is whether the Government is aware of the points that Gwyn has raised. There is no sense in getting the Minister here on those issues if she has not had an opportunity to think them through with her officials. So, if we can be sure that the Minister is aware of the problem, as set out to us, and can come in on 5 November to discuss them, then fine, but there is no point in her coming here for us to raise issues only for her to say that this is the first that she has heard of them.

[50] **Eluned Parrott:** I have to agree with Mark's point that this is not a political issue, but a very technical one. We are under a deadline, and what matters here is that we are able to get a sensible and legally sound resolution in the shortest time possible. From my point of view, that is probably better achieved in writing, so that her officials have adequate time to respond carefully. There is not really much point in bringing the Minister here to wrongfoot her on technical details of legislation, I do not think.

[51] **Simon Thomas:** I would not be looking to do that. [*Laughter.*]

[52] **Mr Griffiths:** Gallwn ysgrifennu at y Gweinidog neu gysylltu â'i swyddogion hi ymlaen llaw i esbonio'r sefyllfa. Fel hynny rwy'n ei gweld hi, fel eu bod yn barod i ateb y cwestiynau.

Mr Griffiths: We could write to the Minister or contact her officials beforehand to explain the situation. That is how I see it, so that they would be prepared to answer the questions.

[53] **Simon Thomas:** A fyddai'n bosibl, ar ôl cyfarfod heddiw, i ni fel pwyllgor ysgrifennu at y Gweinidog er mwyn cyfleu'r hyn yr ydym newydd ei glywed gan Gwyn? Byddai hynny hefyd yn ein helpu i ddeall, ar bapur, yr hyn y mae Gwyn newydd ei amlinellu ar lafar, gan gadw yn agored y posibiliad y byddwn eisiau gofyn i'r Gweinidog ddod i mewn ar 5 Tachwedd i ofyn dau, tri neu bedwar cwestiwn penodol iddi. Wrth gwrs, byddai gwneud hynny yn ffordd glouach na'i chael hi'n ateb a ninnau'n ysgrifennu eto ac ati. Gallai fod yn glouach i bawb. A yw hynny'n ymarferol?

Simon Thomas: Would it be possible, after today's meeting, for us as a committee to write to the Minister with what we have just heard from Gwyn? That would also help us to understand, on paper, what Gwyn has outlined for us orally, while keeping open the possibility that we will want to ask the Minister to come in on 5 November to ask her two, three or four specific questions. Of course, that would be a quicker way of doing it than having her providing an answer and us writing to her again and so on. It could be quicker for everybody. Is that practical?

[54] **Mr George:** Wrth gwrs, ond mae pwynt arall, sef os nad yw'n dod yma ar 5 Tachwedd, nid wyf yn siwr y bydd ganddi gyfle i ddod i mewn yr wythnos ganlynol, achos rydym wedi trefnu gyda'i swyddfa ei bod hi ar gael ar y diwrnod hwnnw.

Mr George: Of course, but there is another point, namely that if she does not come in on 5 November, then I am not sure that she will have an opportunity to appear the following week, because we have arranged with her office that she is available on that day.

[55] **Simon Thomas:** A yw hynny'n iawn? Gwelaf ei fod. Byddai modd inni felly ofyn i'r Gweinidog i ddod i'r cyfarfod. Nid ydym wedi datrys hyn yn gwmws, ond rydym ychydig yn fwy goleuedig ar y pwnc hwnnw yn awr. Diolch yn fawr, Gwyn.

Simon Thomas: Is that okay? I see that it is. There would therefore be an opportunity for us to ask the Minister to come to the meeting. We have not quite solved the issue, but we are a little more enlightened on it. Thank you very much, Gwyn.

2.50 p.m.

Gohebiaeth y Pwyllgor
Committee Correspondence

[56] **Simon Thomas:** Rydym wedi cael ymateb gan y Gweinidog Iechyd a Gwasanaethau Cymdeithasol ynghylch CLA169, Rheoliadau'r Gwasanaeth Iechyd Gwladol (Ffioedd Deintyddol) (Cymru) (Diwygio) 2012. Mae'r Gweinidog wedi cydnabod yn ei hymateb fod diffyg, efallai, yn y ffordd y cyflwynwyd y symiau yn y nodyn esboniadol. A oes unrhyw Aelod eisiau gwneud sylw neu gynnig barn bellach ar hyn? Gwelaf nad oes sylwadau pellach. Credaf fod y llythyr yn esbonio'r diffyg hwnnw ac mae addewid i wella'r broses o hyn ymlaen.

Simon Thomas: We have received a response to the Minister for Health and Social Services in relation to CLA169, the National Health Service (Dental Charges) (Wales) (Amendment) Regulations 2012. The Minister has acknowledged in her response that there is perhaps a deficiency in the way that the sums were set out in the explanatory memorandum. Does any Member want to make any comment or offer a further opinion on this? I see that there are no further comments. I think that the letter explains the deficiency and there is a promise to improve the process from now on.

[57] Rydym hefyd wedi derbyn ymateb pellach oddi wrth John Griffiths ynghylch CLA171, Rheoliadau Gwastraff (Cymru a Lloegr) (Diwygio) 2012. Nid yw'r Gweinidog yn ychwanegu at yr hyn a

We have also received a further response from John Griffiths in relation to CLA171, the Waste (England and Wales) (Amendment) Regulations 2012. The Minister does not add to what he said

ddywedodd ynghynt, ond ni chredaf fod pwynt i barhau â'r drafodaeth hon. A oes unrhyw sylwadau gan Aelodau ar hyn? Gwelaf nad oes.

previously, but I do not see any point in continuing with this discussion. Do Members have any comments on this? I see that there are none.

2.51 p.m.

Papurau i'w Nodi
Papers to Note

[58] **Simon Thomas:** Yr adroddiad monitro sybsidiaredd yw'r ail adroddiad inni ei dderbyn a baratowyd gan y Gwasanaeth Ymchwil ar faterion Ewropeaidd. Mae'r adroddiad hwn yn edrych ar effaith bosibl sybsidiaredd ar y Cynulliad. Nid yw'r ymhlygiadau sybsidiaredd wedi'u hamlinellu fan hyn, ond mae'r adroddiad yno er gwybodaeth. Awgrymaf ein bod yn nodi'r adroddiad, os ydych chi'n hapus â hynny? Gwelaf eich bod.

Simon Thomas: The subsidiarity monitoring report is the second report that we have received that has been prepared by the Research Service on European matters. This report looks at the possible subsidiarity effects on the Assembly. The subsidiarity implications have not been outlined here, but the report is there for your information. I suggest that we note the report, if you are content with that? I see that you are.

[59] Yr ail bapur i'w nodi yw hwnnw ar yr is-ddeddfwriaeth a wneir gan Weinidogion Cymru o dan Fesurau'r Cynulliad. Rydych eisoes wedi derbyn copi caled o'r adroddiad hwn. Mae'n adroddiad eithaf diddorol, oherwydd rydych chi'n gallu gweld y grymoedd sydd wedi'u mabwysiadu gan Weinidogion Cymru. Gallwch weld y rhai sy'n cael eu defnyddio a hefyd y rhai nad ydynt eto wedi'u gweithredu eto. Felly, credaf mai yn y cyfarfod hwn y dylwn nodi'n ffurfiol ein bod wedi gweld yr adroddiad. A ydych chi'n hapus â hynny? A oes unrhyw gwestiynau neu bwyntiau i'w codi ar hyn? Gwelaf nad oes cwestiynau na phwyntiau. Mae'n eithaf defnyddiol gweld rhychwant y pwerau sydd gan Weinidogion.

The second paper to note is on subordinate legislation made by Welsh Ministers under Assembly Measures. You have already received a hard copy of this report. It is quite an interesting report, because you can see all the powers that have been adopted by Welsh Ministers. You can see the ones that are used and also the ones that have not yet been used. I think that it is in this meeting that we should note formally that we have seen the report. Are you content with that? Are there any questions or points to raise on this? I see that there are none. It is quite handy to see the range of the powers of Ministers.

[60] **Mr George:** Finally, there is a paper to note, which is the report of the previous meeting. We have been a little bit previous in this paper, because we recorded in it the discussion that we have just had about subordinate legislation. So, I think that that is what the Chair was obliquely referring to to spare my blushes. We will correct that in this meeting's report. My apologies for that.

[61] **Simon Thomas:** Felly, yn y cyfarfod hwn y bu ichi nodi'r adroddiad. Roeddem ni wedi derbyn yr adroddiad cyn y cyfarfod, wrth gwrs. Diolch yn fawr.

Simon Thomas: So, it is in this meeting that you have noted the report. We had received the report before this meeting, of course. Thank you very much.

2.53 p.m.

Dyddiad y Cyfarfod Nesaf
Date of the Next Meeting

[62] **Simon Thomas:** Mae’n hanner tymor yr wythnos nesaf. Bydd cyfarfod ar 5 Tachwedd, fel y saif pethau ar hyn o bryd. Mae’n bosibl y bydd y Gweinidog gyda ni, os byddwn yn teimlo bod angen trafodaeth ar y memorandwm cydsyniad deddfwriaethol. Felly, fe’ch gwelwn ar 5 Tachwedd, yn yr un ystafell ac ar yr un amser. Gyda hynny, rwy’n dod â’r cyfarfod i ben.

Simon Thomas: It is half term next week. There will be a meeting on 5 November, as things currently stand. It is possible that the Minister will be present, if we feel that we need to have a discussion in relation to the legislative consent memorandum. So, we will meet again on 5 November, in the same room and at the same time. With that, I bring the meeting to a close.

Daeth y cyfarfod i ben am 2.53 p.m.
The meeting ended at 2.53 p.m.