



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

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

**Dydd Iau, 22 Tachwedd 2012**  
**Thursday, 22 November 2012**

### **Cynnwys** **Contents**

Cyflwyniad, Ymddiheuriadau a Dirprwyon  
Introduction, Apologies and Substitutions

Ymchwiliad i Ddiddymiad Arfaethedig y Bwrdd Cyflogau Amaethyddol  
Inquiry into the Proposed Abolition of the Agricultural Wages Board

Cynnig o dan Reol Sefydlog 17.42(vi) i Wahardd y Cyhoedd o'r Cyfarfod ar gyfer Eitemau 4, 6 ac 7  
Motion under Standing Order 17.42(vi) to Exclude the Public from the Meeting for Items 4, 6 and 7

Cyfoeth Naturiol Cymru  
Natural Resources Wales

Yn y golofn chwith, cofnodwyd y trafodion yn yr iaith y llefarwyd hwy ynndi. 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

Yr Arglwydd/Lord Elis-Thomas

Plaid Cymru (Cadeirydd y Pwyllgor)

The Party of Wales (Committee Chair)

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
Kenneth Skates	Llafur Labour

**Eraill yn bresennol  
Others in attendance**

Kevin Austin	Pennaeth, y Gangen Rheoli Tir yn Gynaliadwy, Llywodraeth Cymru Head of Sustainable Land Management Branch, Welsh Government
Alun Davies	Aelod Cynulliad, Llafur (y Dirprwy Weinidog Amaethyddiaeth, Bwyd, Pysgodfeydd a Rhaglenni Ewropeaidd) Assembly Member, Labour (the Deputy Minister for Agriculture, Food, Fisheries and European Programmes)
Victoria Davies	Uwch Gyfreithiwr, Llywodraeth Cymru Senior Lawyer, Welsh Government
Gary Haggaty	Dirprwy Gyfarwyddwr, Materion Gwledig, Llywodraeth Cymru Deputy Director, Rural Affairs, Welsh Government
Yr Athro/Professor Peter Matthews	Cadeirydd, Cyfoeth Naturiol Cymru Chairman, Natural Resources Wales
Dr Emyr Roberts	Prif Weithredwr, Cyfoeth Naturiol Cymru Chief Executive, Natural Resources Wales

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

Alun Davidson	Clerc Clerk
Mike Lewis	Dirprwy Glerc Deputy Clerk
Nia Seaton	Ymchwilydd Researcher

*Dechreuodd y cyfarfod am 10.03 a.m.  
The meeting began at 10.03 a.m.*

**Cyflwyniad, Ymddiheuriadau a Dirprwyon  
Introduction, Apologies and Substitutions**

[1] **Yr Arglwydd Elis-Thomas:** Bore da, a chroeso unwaith eto i ran gyhoeddus y Pwyllgor Amgylchedd a Chynaliadwyedd, lle y byddwn yn edrych ar fater y Bwrdd Cyflogau Amaethyddol. Rydym yn

**Lord Elis-Thomas:** Good morning, and welcome once again to the public session of the Environment and Sustainability Committee, where we will look at the issue of the Agricultural Wages Board. We are

ddiolchgar am y wybodaeth rydym wedi'i derbyn yn barod oddi wrth y Dirprwy Weinidog. Rydym wedi derbyn ymddiheuriadau oddi wrth Keith Davies, Julie James a Russell George. Mae Ken Skates yma fel dirprwy, ac rydym yn ei groesawu.

grateful for the information that we have received from the Deputy Minister. We have received apologies from Keith Davies, Julie James and Russell George. Ken Skates is substituting, and we welcome him.

10.04 a.m.

### **Ymchwiliad i Ddiddymiad Arfaethedig y Bwrdd Cyflogau Amaethyddol** **Inquiry into the Proposed Abolition of the Agricultural Wages Board**

[2] **Yr Arglwydd Elis-Thomas:** Rwyf am gychwyn, Ddirprwy Weinidog, drwy ofyn cwestiwn cyffredinol ynglŷn â'ch dealltwriaeth o gymwyseddau deddfwriaethol y Cynulliad Cenedlaethol, Llywodraeth Cymru, ac, wrth gwrs, Llywodraeth y Deyrnas Unedig yn y mater hwn. Ble rydych yn meddwl ein bod yn debyg o allu mynd—chi fel Llywodraeth a ninnau fel Cynulliad—yn wyneb y datblygiadau dros yr wythnosau diwethaf?

**Lord Elis-Thomas:** I will start, Deputy Minister, by asking a general question on your understanding of the legislative competence of the National Assembly, the Welsh Assembly, and, of course, the UK Government in relation to this issue. Where do you believe that we are able to go—you as a Government and us as an Assembly—in the face of the developments that have taken place over the past few weeks?

[3] **The Deputy Minister for Agriculture, Food, Fisheries and European Programmes (Alun Davies):** Thank you for the invitation to join you this morning and to assist your investigation in this matter. In terms of legislative competence, the advice that we have as a Government is very clear. The advice that we have had as a Government is consistent and, as such, we are confident that the matters under question today fall within the legislative competence of the National Assembly for Wales. I will ask our senior lawyer Victoria Davies to outline from her perspective from where that competence is derived. As a Government, we are very clear that the matters here fall within the competence of the National Assembly and are the responsibilities of Welsh Ministers.

[4] **Ms Davies:** Section 108 of and Schedule 7 to the Government of Wales Act 2006 describe the scope of the National Assembly for Wales's legislative competence. A provision is within competence if it relates to one or more of the subjects that are listed in Part 1 of Schedule 7 and does not fall within any of the exceptions that are listed in that part. Schedule 7 sets out the subjects in relation to which the National Assembly may legislate, and these include agriculture in paragraph 1. There is no express exception to competence specified in that part that would constrain the National Assembly for Wales's legislative competence in relation to this matter.

[5] To determine whether a provision relates to one or more of those subjects that are listed in Part 1 of Schedule 7, what is called the 'purpose test' falls to be applied, and that is found in section 108(7) of the Government of Wales Act 2006. That states that the question whether a provision relates to a subject or falls within an exception is to be determined by reference to the purpose of the provision, having regard to its effect in all the circumstances. Our position is that the conditions of agricultural workers are integral to the successful operation of agriculture. This is supported by the fact that, until now, it has been considered that there was merit in treating agricultural wages and terms as a matter of special importance to agriculture, entirely separately from the national minimum wage regime. That is the legal position of the Welsh Government.

[6] **Lord Elis-Thomas:** That is very helpful, and I am very grateful to you. This is also very current. I am not going to use the expression ‘See you in court’, because the Supreme Court is not, I believe, involved with us. However, I find the recent discussions of Welsh law in the Supreme Court of great interest, and they have an impact upon the way in which we interpret the Government of Wales Act 2006 and may seek to amend it in future, but I do not think that it is for me to do that this morning.

[7] **Alun Davies:** Thank you very much for that. I hope that that explanation was clear about where the basis of competence lies. There are additional legal issues of course with reference to this. The UK Government has stated clearly that it wishes to use the Public Bodies Act 2011 to provide the legal vehicle for the abolition of the AWB, and that requires the consent of Welsh Ministers. We also contend that it requires a legislative competence motion from the National Assembly for Wales. Where there is a point of agreement, shall we say, rather than a point of disagreement, between the Welsh and UK Governments is that the UK Government concedes that it does need at least ministerial consent for the abolition of the AWB.

[8] **Lord Elis-Thomas:** It would not surprise you that I concur.

[9] **Mick Antoniw:** Thank you for the information that you have provided, and I would like some more clarity about that. Going back to the early stage of this in 2010, it seemed that there was quite a degree of agreement—I know that this was before you took your ministerial position—about the way forward with regard to the role of Wales. Can you outline what the position is and any discussions that have indicated why that position may have changed?

[10] **Alun Davies:** Clearly, any negotiations or conversations that took place between the Welsh Government and the UK Government prior to my appointment are not matters for me. However, I will ask Gary Haggaty, a senior official, to outline some of the background issues.

[11] **Mr Haggaty:** It is right to say, as the Minister has already said, that a lot of what went on was with the previous administration and we need to be cautious about what we say. What is already in the public domain is that the previous Minister had put on the record that the Department for Environment, Food and Rural Affairs had been in touch and given us very little warning about its plans to abolish the Agricultural Wages Board. At that point, the Minister concluded that that should go forward. We are now in a position where we have a new administration that takes a very different view of the matter.

[12] **Mick Antoniw:** On the UK Government side, it seemed that the Ministers at the time—who I think were Caroline Spelman and Jim Paice—appeared to be engaging in consultation with regard to what was intended for England, but were more than prepared to consider the best way to proceed in Wales. There seemed to be hegemony of intent with regard to the role in Wales at that stage. The UK Government has not changed, but it appears to have changed its position. Is that a fair assessment? Are there any reasons or has anything emerged in discussions since the change in Government here that might clarify why that change has occurred?

[13] **Mr Haggaty:** To my knowledge, nothing has changed in terms of the UK Government’s approach to this. Right from the start, its intention was to do away with the Agricultural Wages Board. I am not aware of anything from the conversations that I have had, the meetings that I have been at or the e-mail exchanges that I have taken part in that suggests that DEFRA’s position has changed. That is to my knowledge, I should make clear.

[14] **Mick Antoniw:** I ask the Deputy Minister for clarification on the current position with regard to negotiations. What is the current status of negotiations with regard to Wales’s

competence? You have indicated an intention that there would have to be consultation, under the Public Bodies Act, with the Welsh Government. However, it appears to be moving away from using that as a vehicle for making the change. What has been the nature of the discussions over the process?

[15] **Alun Davies:** They would need consent, not consultation, under that Act. I must choose my words carefully: I found the last year or so quite frustrating in terms of trying to resolve this matter. I have made clear, both publicly and in my private conversations with UK Ministers, that I am determined to find an agreed way forward on this matter, based on the settlement and our different mandates. I have found myself, over the last year, dealing with eight different UK Ministers on this matter. Some of those Ministers have been very candid in saying that the settlement is not a matter for them and that they are simply carrying out the programme of their Government, and that is what they need to do, clearly.

[16] It has been a matter of considerable frustration that we have not had a negotiating partner, if you like, in the UK Government. The matter seems to have been passed between DEFRA and the Wales Office and from Minister to Minister within those departments. I have found it difficult to create and sustain coherent negotiations with the UK Government. I noticed in some correspondence or in a public statement that the UK Government has said that there have been detailed negotiations with the Welsh Government—that is not true. I do not believe that there have been detailed negotiations. I have had to start afresh eight times with eight different Ministers, so we have not been able to have the coherent conversation with the UK Government that I would have sought.

10.15 a.m.

[17] My most recent meeting on this matter was with Baroness Jenny Randerson from the Wales Office. I think that that was about two weeks ago. I hope that we will be able to pursue that further. However, I remain committed to working with the UK Government on the basis of the respect agenda that both our administrations have agreed in order to resolve this matter without reference either to the courts or any other formal structures.

[18] **Mick Antoniw:** That being the case, did the Welsh Government itself make any representations in response to the consultation that recently concluded? Secondly, does the Welsh Government have any particular concerns about the consultation process? If I may, I will just provide the example of a discussion that my office has had about conversations with DEFRA. I will read from the note:

[19] ‘They told me that the consultation was merely a formality. It wouldn’t affect the decision of abolition. The woman at DEFRA sounded shocked that someone rang asking about the consultation results.’

[20] I understand that there may be concerns about the status of the consultation. Does the Welsh Government have any concerns about that process?

[21] **Alun Davies:** As a Minister, I clearly would not respond to a public consultation. We have our own intergovernmental relationships for communication between our two administrations. However, I have written to Owen Paterson to express my and the Welsh Government’s view on the consultation process. I have made it clear that the consultation process was launched without prior agreement with the Welsh Government regarding either the content of the consultation papers and documents or the timing of the exercise. We discovered that the consultation was being launched through a letter that was sent to the First Minister late on a Friday evening. I think that the consultation itself was then launched on the following Tuesday. You will be aware that, normally, these things are handled bilingually and that we have the opportunity to comment on and contribute to the content of consultations that

are held in England and Wales. On this occasion, none of that happened.

[22] I met with David Heath on the Monday of that week and he provided us with a copy of his written statement later that day. Therefore, there were no conversations or discussions with the Welsh Government before the consultation was launched. We had no opportunity to comment on the nature of the consultation and we had no opportunity to contribute to the documentation or the background information that were published as part of the consultation. I have made it clear to the Secretary of State for Environment, Food and Rural Affairs that I regard that as a very poor way of working. In my mind, it does not sit easily with the respect agenda. It does not sit easily with the way in which the two administrations need to work together. I am very disappointed that the consultation exercise was handled in that way. I have also reiterated my point to him that the Agricultural Wages Board remains an important issue for us and our stakeholders in Wales.

[23] **Lord Elis-Thomas:** Antoinette Sandbach is next, followed by Vaughan Gething and William Powell.

[24] **Antoinette Sandbach:** Victoria, I would like you to comment on section 154 of the Government of Wales Act 2006, which deals with the interpretation of legislation. Sub-section 2 states:

[25] ‘The provision is to be read as narrowly as is required for it to be within competence or within the powers, if such a reading is possible, and is to have effect accordingly.’

[26] I have looked at the *Oxford English Dictionary* definition of ‘agriculture’; I am aware that people are likely to take the approach of looking at the ordinary meaning. I cannot see anything in any definitions that leads to ‘agriculture’ being defined as including agricultural wages. What is your view on that?

[27] **Ms Davies:** My view is that the proper test is whether a provision relates to one of the subjects. We say that provisions to abolish the Agricultural Wages Board relate to the subject matter of agriculture. That is the test and that is our position.

[28] **Antoinette Sandbach:** However, it is specified in law that it is to be read as narrowly—

[29] **Ms Davies:** Yes, the term ‘agriculture’; I entirely agree. ‘Agriculture’ must be construed narrowly within its proper dictionary definition and meaning. I agree with that. However, the test is whether something relates to agriculture.

[30] **Antoinette Sandbach:** In terms of the effect, are you suggesting that the effect of abolishing it in England is that agriculture would not be able to function effectively there?

[31] **Ms Davies:** I am not suggesting anything in relation to England; we must look exclusively at Wales, and that is what we have done.

[32] **Antoinette Sandbach:** So, your suggestion is that, without an Agricultural Wages Board, there could be no effective functioning of agriculture.

[33] **Ms Davies:** That is not my suggestion. My interpretation of the provision in the Government of Wales Act 2006 is that the test that must be applied is whether a provision abolishing the AWB insofar as it relates to Wales must relate to the subject matter of agriculture to be within the legislative competence of the National Assembly for Wales, and we believe that there are reasonable arguments to suggest that it does relate to agriculture. That is the purpose test that we have applied.

[34] **Antoinette Sandbach:** Obviously, I understand that is your side, but do you accept that there may be reasonable arguments as to why it does not?

[35] **Alun Davies:** That goes beyond the remit of the legal advice that we have here. Antoinette, on several occasions, you have referred to dictionary definitions. The way in which ‘agriculture’ is interpreted in Government is different to a simple dictionary definition, because we carry out a number of functions with reference to agriculture in Government. In a down period, I checked dictionary definitions. We can possibly go to different dictionaries, although I looked only at two. The *Collins English Dictionary* defines agriculture as

[36] ‘The science or occupation of cultivating land and rearing crops and livestock’,

[37] whereas the *Oxford Dictionary of English* says that it is

[38] ‘The science or practice of farming, including cultivation of the soil for the growing of crops and the rearing of animals to provide food, wool, and other products.’

[39] It further defines the term ‘practice’ as

[40] ‘The carrying out or exercise of a profession’.

[41] **Yr Arglwydd Elis-Thomas:** Pe byddwn am ddiffinio ‘amaethyddiaeth’, fel ysgolhaig Cymraeg, byddai’r diffiniad yn wahanol eto. Fodd bynnag, nid wyf am eich traferthu â hynny. **Lord Elis-Thomas:** If I wanted to define ‘amaethyddiaeth’, as a Welsh scholar, the definition would be different again. However, I will not trouble you with that.

[42] **Alun Davies:** Mae sawl diffiniad o ‘amaethyddiaeth’; rwy’n ymwybodol iawn o hynny. Cawsom rywfaint o sgwrs am hynny ddoe. **Alun Davies:** There are several definitions of ‘amaethyddiaeth’; I am very aware of that. We had a certain amount of discussion about this yesterday.

[43] **Antoinette Sandbach:** There is one more question that I would like to ask.

[44] **Lord Elis-Thomas:** I hope that it is not—

[45] **Antoinette Sandbach:** No, it is not.

[46] In relation to the consultation issue, as was pointed out earlier, there was consultation in 2010 and it was quite clearly indicated at that point by the Welsh Government that it was not interested, or it consented to the proposed course of action. So, in those circumstances, are you satisfied that there was, in fact, consultation with Welsh Ministers and that a definitive answer had been given to the UK Government?

[47] **Alun Davies:** No, not at all. Consultation does not refer to the conversations and discussions that take place on an intergovernmental basis. Consultation, very clearly, refers to a public exercise, inviting stakeholders outside Government to provide their views and experience to Government prior to the taking of any decision. Different Governments will take different views. The Agricultural Wages Board was not abolished at the same time that other wage councils were abolished by the last Conservative Government in the mid-1990s, and it was seen by subsequent Governments to be a valuable organisation and body playing a valuable role, until the 2010 UK Government was elected. That Government has taken a very different view to that taken by previous administrations. I am not accountable—nor are any of us—for the decisions of previous administrations. When I took office in May 2011, I made it

very clear what the policy approach of this Government would be on these matters. The different decisions of previous Welsh Governments and UK Governments are not relevant to the debate that we have today.

[48] **Antoinette Sandbach:** Given that—

[49] **Lord Elis-Thomas:** No, Antoinette, I am sorry, but we have to move on.

[50] Un o'r pethau sydd yn berthnasol i'n trafodaeth ni yw'r cwestiwn o statws gwahanol yn nhermau datganoli rhwng y pwyllgor cyflogau amaethyddol a'r bwrdd, a pham yr ydym mewn sefyllfa wahanol rhwng dwy ddeddfwrfa wahanol gyda dau gorff? One of the things that is relevant to our discussion is the question of the different status in devolution terms between the agricultural wages committee and the board and why we have a different situation between two different legislatures with two bodies?

[51] **Alun Davies:** I will ask Victoria to provide advice on the detail of that, but I find the current conversation about competence to be quite curious. The UK Government accepts that a number of the sub-bodies within the Agricultural Wages Board structure are within the competence of the National Assembly for Wales and the responsibility of Welsh Ministers. It is quite curious to argue that the Agricultural Wages Board in Wales is a reserved function to Westminster. It is not so in Scotland or Northern Ireland, and the UK Government recognises that, although employment law is not devolved in either of those territories. There is a fundamental contradiction running through the heart of the UK Government's approach.

[52] We have been very clear about our consistent and coherent interpretation of the Government of Wales Act 2006 and the competences that it gives to Welsh Ministers and to the National Assembly for Wales. Would you like to add to that, Victoria?

[53] **Ms Davies:** There are Welsh ministerial functions in relation to committees and other sub-groups under the Act. I do not know the history of the Agricultural Wages Act 1948 as to why it was structured in that way, so I am afraid that I cannot elucidate on that.

[54] **Lord Elis-Thomas:** More downtime reading is clearly required for the Deputy Minister. [*Laughter.*]

[55] **Alun Davies:** Some more train journeys, possibly.

[56] **Vaughan Gething:** I do not want to go back to the discussion about whether it is employment law or a devolvement of agriculture. I want to go back to a point that Mick Antoni raised about the Public Bodies Act 2011. I know that the Agricultural Wages Board is listed in a Schedule to that Act as a body covered by the Act, and that you believe that the consent of the National Assembly for Wales is required before the board is abolished in relation to Wales. Could you set out specifically where that power or responsibility comes from in terms of consent? Part of the test is whether or not abolition would reduce the levels of protection currently available. As a lawyer, I am troubled in trying to understand how abolition could do anything else other than reduce the current levels of protection available, but I would be interested to hear a view from the Government on that. In particular, what are the alternative arrangements by which the UK Government says that it is entitled to circumnavigate the Public Bodies Act 2011 and abolish the board for England and Wales by a different route, because, at present, I do not understand that?

[57] **Alun Davies:** I am extremely troubled by the approach that the UK Government seeks to take in some of these matters, and I would appeal to the UK Government to respect the settlement and not try to circumvent it. At the moment, the Public Bodies Act 2011



requires the consent of the National Assembly for Wales for the abolition of any body whose functions relate to the legislative competence of this place. That is clearly written on the face of that Act. The Act further requires the consent of Welsh Ministers prior to the abolition of any body whose functions—Victoria will correct me if I get the words wrong—are exercised by Welsh Ministers.

[58] The point of disagreement between the UK and Welsh Governments is over the legislative competence of this place, but the point of agreement between the UK Government and Welsh Ministers is that the consent of Welsh Ministers is required prior to any abolition motion being proposed under the Public Bodies Act 2011. I have made it clear to the United Kingdom Government that I am willing to give that consent for the abolition of the AWB as a whole over Wales and England, because it is not my purpose to seek to prevent or inhibit the UK Government in delivering on its mandate in England. It is not the purpose of the Welsh Government to try to stop the UK Government from exercising its mandate in England.

[59] So, I would provide that consent and I would also ask the National Assembly for Wales to provide a legislative consent motion to the UK Government, were it to agree with us that legislative competence lies here.

10.30 a.m.

[60] The proviso that I have made for those offers is that the relevant motions and Orders are then made, which would transfer those functions to Welsh Ministers to enable us to continue to exercise the functions of the AWB in Wales. I feel that this provides a very clear opportunity for both Governments to exercise their mandates and their functions in both of our territories. I believe that this would be a preferable way forward.

[61] You asked about the impact of abolition. Clearly, around 13,000 people would be affected by it in Wales. I know, as a former employer and someone who has run a small business, that having an organisation like the AWB, which provides a structure for wages—it does not simply provide the lowest wage; it provides an opportunity to create a structured scale of wages and an opportunity for upskilling and other things—is enormously useful for an employer or a manager. It means that, within a very small working environment—most farmers in Wales have a relatively small number of employees—you have a third party, if you like, acting as a referee or almost as an arbitrator for the provision of a fair and accepted structure of agricultural wages. Within the context of a small business, that is enormously valuable. Certainly, no-one has raised as an issue with me that it needs to be abolished. Absolutely no-one has said this to me in the last 18 months. There is consensus across Wales that the Agricultural Wages Board provides a useful function in the protection of wages for, sometimes, very poorly paid individuals plus as a means of enabling the agriculture industry and farmers to work in a more coherent way, with any potential conflict taken out of wage negotiations.

[62] **Vaughan Gething:** Is it the view of the Welsh Government that abolition of the Agricultural Wages Board without the consent of Welsh Ministers would be unlawful? Or, is there an alternative legal provision that the UK Government has identified—or that you can identify—that may make that abolition lawful outside the Public Bodies Act 2011?

[63] **Alun Davies:** Within our system, the UK Parliament is supreme, and the UK Parliament could pass primary legislation—

[64] **Vaughan Gething:** I am thinking of the Government. Without amending the Public Bodies Act, is there an alternative legal route for the UK Government to abolish the Agricultural Wages Board?

[65] **Alun Davies:** I know that the UK Government is considering using a different legislative vehicle to provide for the abolition of the Agricultural Wages Board. As I said earlier, it would be a matter of very deep regret if the UK Government was to deliberately seek to circumvent the devolution settlement in this matter. The Public Bodies Act is an Act of Parliament, many provisions of which I would disagree with, but it does reflect and respect the devolution settlement between the Welsh and UK Governments. If the UK Government was to go down any route other than the Public Bodies Act, it would be deliberately seeking to undermine the devolution settlement. I would regard that as a significant departure from the respect agenda that we have agreed between our two administrations. I believe that it would be a matter of very deep concern and regret, and I think that it would be a matter for the National Assembly, as a whole, and not simply the Welsh Government.

[66] **David Rees:** Thank you, Deputy Minister, for your evidence. Clearly, there is a lack of documentation from the UK Government to the Welsh Government. I understand that that is because the ownership is with DEFRA and we do not have permission to publish that at this point in time. Are you aware of any correspondence that supports your position and views on that? It is clearly an important aspect, but we have not received any correspondence from DEFRA.

[67] **Alun Davies:** On what aspect of this?

[68] **David Rees:** Is it looking at alternative routes for the abolition of the Agricultural Wages Board?

[69] **Alun Davies:** I am aware that conversations are taking place within the United Kingdom Government to secure a different legislative vehicle for the abolition of the AWB; it has referred to that within its consultation documents. The United Kingdom Government has not sought to involve the Welsh Government in those conversations. We all understand that the constitutional position of the United Kingdom allows the UK Parliament to pass new primary legislation that would change the law and the settlement, but to do that, unilaterally, without the agreement of either the Welsh Government or the National Assembly for Wales, would be a departure from all our agreed ways of working. I would urge the United Kingdom Government to act in a way that is consistent with the letter and the spirit of the devolved settlement, that respects the devolved settlement and that respects our different mandates in the United Kingdom.

[70] I have made it clear this morning and at other times that, although I think that the abolition of the AWB is a bad policy and a bad thing, I would give the United Kingdom Government all the necessary consents from this place, with the agreement of the National Assembly, to carry out that bad policy in England. It is not, for one moment, my intention to seek to prevent or inhibit the United Kingdom Government from carrying out its policies in England—not for one moment. I simply ask it to respect my mandate and our competence to carry out our policies and mandate in Wales.

[71] **William Powell:** I should declare a general interest in that I am a partner in a family farm. We do not have a retained worker at present—we employ on a contract basis—but I thought that it would be sensible to declare that for the record.

[72] Deputy Minister, do you have an explanation from the UK Government as to why the consultation planned for the autumn of 2011 was delayed until this year? You referred earlier to having had no opportunity to feed into the consultation, and you expressed disappointment with regard to that. What different approach would you have taken to frame that consultation, had you been given the opportunity to contribute in the way that you sought?

[73] **Alun Davies:** I presume that the reason is that I have not given my consent for the

abolition of the AWB. So, the UK Government has not been able to proceed, without the consent of Welsh Ministers as required under the Public Bodies Act. For that reason, there has been this period of negotiation, which, as I said, has been a very disappointing process of negotiation.

[74] In terms of the difference that an opportunity to provide input into the consultation would have made, it would have been a very different consultation, on a very different policy, in a very different way. It would have been fundamentally different. We would have said clearly that our interpretation of competence is that the National Assembly for Wales has legislative competence in these fields. It would be a matter for the National Assembly for Wales, therefore, to make or amend legislation in this way, and it would be a matter then for the National Assembly for Wales to take decisions on these matters.

[75] The matters that are the functions of Welsh Ministers will be exercised by Welsh Ministers in a way that reflects the needs of Wales, not the ideological imperatives of the UK Government. So, it would have been a fundamentally different consultation process had we been given the opportunity to contribute to it. We certainly would have made the case very clearly to the UK Government that the assumptions and assertions made within the consultation documents are contested.

[76] **William Powell:** You referred earlier to the fact that you have had no lobbying from the industry in the last 18 months to abolish the board, but what engagement have you had with stakeholders now that we are in this situation in terms of the future of the board and its functions?

[77] **Alun Davies:** You raise an important subject, Bill. I meet farming unions regularly—probably on a monthly basis, on average—and we have very wide-ranging and free-ranging conversations, both formally and informally. Nobody has raised this issue with me—nobody at all. I am told that the NFU in the UK supports the abolition; nobody from NFU Cymru has raised this matter with me and nobody has suggested that it should be abolished. The only representations that I have had are from the FUW, Unite and the Wales Young Farmers' Clubs, who take the strong view that it should be retained. Also, during Gareth Williams's 'Working Smarter' inquiry last year, it was not raised by a single stakeholder that this was, in any way, an impediment to the proper functioning of agriculture in Wales. We have been through a number of red-tape reviews and a number of reviews of regulation and absolutely nobody has said that the AWB is an unnecessary tier of regulation and provides difficulties with the functioning of any farm business. So, there is not a shred of evidence from anyone anywhere in Wales to support the contention that the abolition of the AWB is necessary to ensure the proper functioning of agriculture. I saw in the UK Government's consultation documents that any number of jobs will be created as a consequence of this; I have seen no evidence to sustain that assertion. The Government itself did not provide any evidence in its consultation documents for that assertion.

[78] We have known from previous debates about minimum wage legislation that that legislation protects individuals and improves the running and function of small businesses. The abolition of it does not create or cost jobs. In fact, it is a means of making the functioning of a small business easier and more efficient. It means that wage negotiations are conducted in a far better context. I know from personal experience of running my own business that wage negotiations can sometimes be quite difficult in a small business environment. When I was running a business, I would have much preferred to have an AWB in existence then, which would have set rates and a wage structure, and which would have enabled all of us to simply deliver that without any rancour. I have to say that there is no evidence to sustain the UK Government's approach on this matter in Wales.

[79] **William Powell:** You refer to your experience in business. What about a scenario

where the situation goes forward in England but that the Welsh Government puts in place a form of the Agricultural Wages Board to carry out that function? Do you consider that there would be a need for special arrangements for those farmers who straddle the border, in terms of their holdings and employment arrangements? Would there be a need for provision to be made there?

[80] **Alun Davies:** The border between England and Wales is probably the oldest national border anywhere in the world. We do not quite stick to Offa's Dyke, but we are very familiar with working in a cross-border way. We already operate a number of cross-border schemes, as you know; Glastir is the obvious example, but single farm payment regimes are cross-border as well. It is not an issue that troubles me greatly. We are very familiar with ensuring that cross-border issues are dealt with in a very easy and straightforward fashion. As I have said before, it has always been my concern in Government to ensure that we operate side by side in a way that enhances agriculture on both sides of the border, quite honestly. I want to see agriculture succeed in England. I want agriculture to be a successful, profitable and prosperous industry in England and I want to work with the UK Government to do whatever I can to make it so. Very few problems are caused by cross-border issues in general—very few indeed.

10.45 a.m.

[81] **Lord Elis-Thomas:** The Deputy Minister will be aware that some of us prefer to describe them as the 'Marches of Wales' rather than 'the border'. Llyr Huws Gruffydd is next, then Mick and Antoinette.

[82] **Llyr Huws Gruffydd:** Roeddech yn sôn yn gynharach nad oedd unrhyw fath o gynrychiolaeth wedi'i wneud i chi ynghylch yr angen i newid y drefn bresennol. A yw hynny'n awgrymu, felly, pe byddem yn cyrraedd y pwynt lle'r oedd bwrdd ar gyfer Cymru, byddai mwy neu lai yn efelychu'r hyn sydd gennym yn awr, ond mewn cyddestun Cymreig, neu a fydddech yn teimlo y byddai angen i chi fynd trwy broses ymgynghori er mwyn manteisio ar y cyfle i wneud newidiadau?

**Llyr Huws Gruffydd:** You mentioned earlier that no representation had been made to you about the need to change the current system. Does that suggest, therefore, that if we were to reach the point where there was a board for Wales, it would more or less duplicate what we have now, but in a Welsh context, or would you feel that you would need to go through a consultation process in order to take advantage of the situation and make changes?

[83] **Alun Davies:** Nid wyf eisiau dweud unrhyw beth heddiw a fydd yn fy nghlymu i o ran penderfyniad efallai bydd yn rhaid i mi ei wneud yn nes ymlaen. Er ein bod yn trafod hyn fel problem y bore yma, ac rydym wedi bod yn gwneud hynny am sawl fis erbyn hyn, byddwn hefyd yn hoffi gweld hyn fel cyfle i weithio mewn ffordd wahanol. Er enghraifft, ac rwyf yn cynnig hwn fel enghraifft—nid yw'n hysbysiad o fwriad mewn unrhyw fodd—gwelaf potensial ar gyfer y AWB i chwarae rôl bwysig mewn hyfforddiant a chynyddu sgiliau'r sawl sy'n gweithio ar ffermydd. Mae rhai rhanddeiliaid wedi gwneud pwyntiau tebyg.

**Alun Davies:** I do not want to say anything today that will tie me in terms of a decision that I may have to make later on. Although we are discussing this as a problem this morning, and we have been doing so for a number of months now, I would also like to see this as an opportunity to work differently. For example, and I offer this as an example—it is not a notice of intent in any way—I see potential for the AWB to play an important role in training and raising the skills of those working on farms. Some stakeholders have made similar points.

[84] Tua 18 mis yn ôl, rwyf yn cofio Some 18 months ago, I recall discussing with

trafod gyda Lantra sut y gallwn wella sgiliau'r rhai sy'n gweithio ar y tir. Rwy'n gweld potensial i'r AWB chwarae rôl yno. Pe bai'r dyletswyddau yn cael eu trosglwyddo yn y ffordd rwyf yn gobeithio y byddant o Adran yr Amgylchedd, Bwyd a Materion Gwledig i'r lle hwn, yna byddwn yn hoffi bachu ar y cyfle i edrych o'r newydd at sut y byddem yn newid y drefn bresennol, pe byddem eisiau gwneud hynny, neu wneud rhywbeth hollol wahanol. Felly, rwyf yn gweld hyn fel cyfle i edrych ar yr hyn y gallwn ei wneud i wella amaethyddiaeth yng Nghymru. Peidiwch â meddwl y byddem yn mynd ati'n syth i greu AWB Cymru mewn ffordd oedd yn adlewyrchu'r strwythur sydd gennym ar hyn o bryd. Hoffwn edrych o'r newydd ar hyn a gweld sut y gallem greu rhywbeth sy'n benodol i Gymru ac yn adlewyrchu'r sefyllfa yng Nghymru.

[85] **Llyr Huws Gruffydd:** Credaf y byddem yn croesawu'r rhywbeth yn debyg i hynny, pe baem yn y sefyllfa i ystyried y posibiladau hynny. Fodd bynnag, i fynd yn ôl at y berthynas rhwng Llywodraeth Cymru a Llywodraeth y Deyrnas Unedig, mae'n amlwg fod pethau'n suro ac mae'n bosibl y bydd chwerwi pellach—

[86] **Alun Davies:** Ni fyddwn yn derbyn hynny. Mae gennym broblemau yn y berthynas o ran y mater hwn, Llyr, ond peidiwch â meddwl bod *dispute* yn digwydd fan hyn.

[87] **Yr Arglwydd Elis-Thomas:** Mae gan y Dirprwy Weinidog ddigon o eiriau—nid oes angen rhoi geiriau yn ei geg.

[88] **Llyr Huws Gruffydd:** Iawn. I rywun sy'n edrych ar hyn o'r tu fas, mae'n ymddangos bod pethau'n anodd ar hyn o bryd. Felly, i ble rydym ni'n mynd o hyn ymlaen? Rwyf yn tybio bod trafodaethau eraill ar ddigwydd, ond pa mor fuan y gallwn ragweld y bydd rhyw fath o drefniant neu a ydym bellach mewn sefyllfa lle mae ychydig iawn o opsiynau ar ôl?

Lantra how we can enhance the skills of those working on the land. I see potential for the AWB to play a role there. If the functions were transferred in the way that I hope they would be from the Department for Food, Environment and Rural Affairs to this place, then I would like to take the opportunity to look afresh at how we would want to change the current system, if we wanted to do that, or do something entirely different. So, I see this as opportunity to look at what we can do to improve how agriculture works in Wales. Do not think for one moment that we would straight away go about creating an AWB Cymru in a way that reflects the structure that we have at the moment. I would like to look afresh at this and see how we could create something that is specific to Wales and reflects the situation in Wales.

**Llyr Huws Gruffydd:** I think that we would welcome something like that, we were in a position to consider those possibilities. However, to go back to the relationship between the Welsh Government and the UK Government, it is evident that things have turned sour and it is possible that things will become more embittered—

**Alun Davies:** I would not accept that. We have problems in the relationship on this issue, Llyr, but do not think for a moment that there is a dispute here.

**Lord Elis-Thomas:** The Deputy Minister has plenty of words—there is no need to put words in his mouth.

**Llyr Huws Gruffydd:** Okay. For someone looking at this from the outside, it appears that things are difficult at the moment. Therefore, where do we go from here? I suspect that other discussions are about to happen, but how soon can we expect some kind of arrangement or are we now in a situation where there are very few options left?

[89] **Alun Davies:** I dy gywiro, mae'r berthynas rhwng Llywodraeth Cymru a Llywodraeth y DU ar faterion amaethyddol yn gweithio'n dda iawn. Cawsom gyfarfod ffurfiol ddydd Llun i drafod ein hymateb i ddiwygio'r PAC. Rydym yn anghytuno ar sawl fater, fel y byddech yn ei ddisgwyl gan Lywodraethau gwahanol. Er enghraifft, mae Llywodraeth y DU yn awyddus i dorri cyllideb y PAC ac rwyf yn anghytuno â hynny, fel y gwyddoch, ond mae'n bosibl cael yr anghytundebau hyn mewn perthynas aeddfed lle rydym i gyd yn cydnabod mandadau ein gilydd a'n hawl i fynegi a gweithredu polisiau gwahanol. Rydym wedi dod i arfer â datganoli bellach, Llyr, felly nid wyf am i'r pwyllgor feddwl nad yw'r berthynas yn gweithio. Mae'r berthynas yn gweithio, ond mae anghytundeb ar y mater hwn.

**Alun Davies:** To correct you, the relationship between the Welsh Government and the UK Government on agricultural issues works very well. We had a formal meeting on Monday to discuss our response to CAP reform. We disagree on several issues, as you would expect from different Governments. For example, the UK Government is eager to cut the CAP budget and I disagree with that, as you know, but it is possible to have these disagreements in a mature relationship in which we all recognise and accept each other's mandates and our right to express and implement differing policies. We have got used to devolution now, Llyr, so I do not want the committee to think that the relationship is dysfunctional. It works well, but there is disagreement on this particular issue.

[90] O ran i ble rydym yn mynd o'r fan hon, mae'n amlwg bod yn rhaid i DEFRA wneud penderfyniadau yn seiliedig ar yr ymgynghoriad. Credaf fod y broses ymgynghori wedi bod yn wan, fel yr awgrymais, a bod y cyfnod ymgynghori wedi bod yn llawer rhy fyr. Felly, nid wyf yn gwybod sut y bydd yn arwain at benderfyniad a chasglu tystiolaeth ar gyfer unrhyw fath o benderfyniad, ond mater i DEFRA yw hwnnw.

With regard to where do we go from here, clearly, DEFRA will have to make decisions based on the consultation. I think that the consultation process has been weak, as I suggested, and that the consultation period was far too brief. So, I do not know how that can assist it in making a decision and in collecting evidence for any kind of decision, but that is a matter for DEFRA.

[91] Rwyf wedi ysgrifennu at David Heath, a byddaf yn ysgrifennu ato eto yr wythnos hon neu'r wythnos nesaf, ac at Jenny Randerson, gan ddweud fy mod am gynnal trafodaethau pellach. Rwy'n awyddus iawn, fel y dywedais ar ddechrau'r sesiwn hon, i sicrhau ein bod yn creu cytundeb y mae'r ddwy Lywodraeth yn teimlo ei fod yn deg ac yn adlewyrchu barn a blaenoriaethau'r ddwy Lywodraeth. Felly, rwyf yn mynd i gynnig ein bod ni yn cyfarfod eto â DEFRA a Swyddfa Cymru unwaith eto i geisio dod i gytundeb.

I have written to David Heath, and I will write to him again this week or next week, and to Jenny Randerson, saying that I want further negotiations. I am eager, as I said at the beginning of this session, to ensure that we reach an agreement that both Governments feel is fair and reflects the opinions and priorities of both Governments. Therefore, I am going to propose that we should meet once again with DEFRA and the Wales Office in order to reach an agreement on this.

[92] **Mick Antoniw:** I have a relatively short point. What appears to be happening is not so much an abolition of the AWB per se, but rather the English withdrawal from that area of management. However, obviously, certain decisions have already been taken in Scotland and, I think, in Northern Ireland. Have there been any discussions with those bodies as to whether there are any common interests in terms of the way forward or common lessons to be learned for the benefit of Welsh agricultural workers?

[93] **Alun Davies:** There have been informal conversations between our Celtic administrations, if you like. I find it curious that we have an asymmetrical devolution settlement in the United Kingdom—I am content with that, but, with regard to employment law, it is a reserved function in all different territories and I find it very curious that the UK Government believes that, somehow, the argument that it is trying to run in Wales does not run in Scotland or Northern Ireland. I find that a very curious approach, and it is one which has not been properly explained to me. I am always looking to use different structures to deliver good governance across UK at different times. I would be more than happy to work with our colleagues in Scotland and Northern Ireland to do that in this instance if England wishes to withdraw from the support of agricultural workers. Clearly, it is a decision that I would regret and not support or agree with, but it is a decision for its Government at the end of the day. Although I would appeal to DEFRA not to go ahead with this, it is a matter for it and not a matter for me, and I would respect its decision on this matter, while taking a different view myself. Clearly, where there are issues in common between us and Scotland and Northern Ireland, I would be more than happy to work in different structures within the United Kingdom in order to deliver good governance in all our different territories.

[94] **Antoinette Sandbach:** Deputy Minister, I was glad to hear your acknowledgment that employment law is a reserved function. If the employment law matters or those matters linked to employment law were stripped out of the Agricultural Wages Board and you dealt with the training and education matters that you referred to, do you see that as an acceptable compromise, given that education and training is already available through the Welsh Government? It is a devolved function in itself. So, there are steps that you could be taking to promote that activity and not get into what I would call the employment law issues.

[95] **Alun Davies:** I was stating a truism and drawing attention to a contradiction in the UK Government's approach to these matters in the different territories of the United Kingdom. The argument that the UK Government is trying to run in Wales is equally applicable in Scotland and Northern Ireland. I am looking at you, Victoria. Is that the case?

[96] **Ms Davies:** Employment is not an excepted subject in the Government of Wales Act 2006. The Government of Wales Act is constructed differently from the Scotland Act 1998, for example. It can be quite difficult to compare the Scotland Act with the Government of Wales Act because they were not constructed in the same way. The test that we must apply is the purpose test in section 108(7) of the Government of Wales Act, which is whether it relates to agriculture. Employment law is not referred to in the Government of Wales Act so the test we have to apply legally is that set out in the Act.

[97] **Antoinette Sandbach:** However, you are saying that, potentially, you could regulate employment law in education or any of the other devolved areas—

[98] **Ms Davies:** Yes, if it truly relates to those subjects.

[99] **Antoinette Sandbach:** So your argument is that employment law has been devolved in the devolved areas—

[100] **Ms Davies:** No.

[101] **Vaughan Gething:** She did not say that at all.

[102] **Lord Elis-Thomas:** Please, I have already had one Member trying to put words into the mouth of the Deputy Minister. Certainly, I will not have a Member putting words into the mouth of a lawyer.

[103] **Antoinette Sandbach:** In that case, may I go back to the Deputy Minister—

[104] **Alun Davies:** —and put words in my mouth. [*Laughter.*]

[105] **Antoinette Sandbach:** Yes, indeed. [*Laughter.*] On the cross-border area, at the moment, the Agricultural Wages Board does not permit annual contracts with an annual salary. I was interested to hear that you do not anticipate any cross-border issues. What happens if you have an English company renting land in Wales employing an English agricultural worker? When that worker crosses the border, will a different regime apply?

[106] **Alun Davies:** We are very familiar with the operation of Welsh law and Welsh regulations. I think that it is very clear that any laws passed in this place are applicable to the territory of Wales. The argument that anything we do here that is different from what is done in England creates problems undermines the very basis of devolution and the relationships we have. I am very confident and, looking to you, Gary, I cannot think of any significant difficulties the border has created for us. Clearly, we are two administrations, one on each side of the border; sometimes we have different policies, sometimes we have different priorities, and sometimes we have different ambitions. We will do things differently either side of the border. However, the purpose I have pursued since my appointment has been to ensure that, for people operating businesses on both sides of the border, we as a Government seek to minimise any difficulties.

[107] To return to your previous point, it is crucial that the matrix that exists within the Agricultural Wages Board continues to exist because it is one of the main drivers of the upskilling of the industry, and, in turn, I believe that that is one of the main drivers for its future success. Abolition of the Agricultural Wages Board will make agriculture less efficient and will not help us to drive forward profitability in the industry. It is a significant step backwards for the workers and the industry as a whole. We see the purpose of the Agricultural Wages Board as, yes, to protect the interests and pay of employees, but also to drive forward skills and training in the industry and to provide the incentive for that to happen.

[108] **Lord Elis-Thomas:** Ken Skates is next.

[109] **Kenneth Skates:** The Deputy Minister has largely answered my question, but to put this in a wider context, what would the implications be for workers in agriculture if the AWB were to be abolished?

[110] **Alun Davies:** We are doing some work on this that I hope we will be able to publish in due course. I would like to emphasise that there is a considerable number of people employed in agriculture in Wales. We are looking at around 13,000 people. That is 13,000 families who would be affected by this.

11.00 a.m.

[111] The UK Government has been clear that its purpose is to remove protections and to lower wages. I just think that that is an appalling way to work. Clearly, it is really very poor for those 13,000 families, but it is also short-sighted because it takes away an incentive to drive forward upskilling within the industry, to make farming more efficient and more profitable. As I have said at different times over the last 18 months, my ambition is to make farming a profitable industry: one that not only produces the great produce that it does now, but that does so in a way that reduces its reliance on taxpayer subsidies. If we are to do that, we have to have the structures within the industry that facilitate the running of a farm business—and the Agricultural Wages Board does that; there has been no evidence that it does not. We have to have the structures within the industry to drive forward an agenda of



training and skills. The AWB provides that, as well. I have seen no evidence anywhere in Wales to suggest that the abolition of the AWB will, in any way, help us to create that profitable and efficient industry in the future.

[112] **Yr Arglwydd Elis-Thomas:** Gyda hynny, Ddirprwy Weinidog, rhaid inni ddod â'r drafodaeth hon i ben. Rwy'n ddiolchgar iawn i chi a'ch swyddogion polisi a chyfraith am eich atebion clir i'n cwestiynau, a hefyd i'r Aelodau am eu holi clir a phendant. Byddwn yn ystyried y sesiwn hon a sut i weithredu ymhellach. Parhawn i ddisgwyl gohebiaeth oddi wrth y Gweinidog Gwladol yn Llywodraeth y Deyrnas Unedig, Mr David Heath. Rhag ofn fod rhywun o DEFRA yn gwylio'r cyfarfod hwn, dywedaf ein bod yn dal i ddisgwyl ei gohebiaeth ac yn edrych ymlaen at ei darllen pan ddaw. Diolch.

**Lord Elis-Thomas:** On that note, Deputy Minister, we will have to conclude this discussion. I am very grateful to you and your policy and legal officials for your clear answers to our questions, and to Members for their clear and decisive questioning. We will consider this session and how to proceed. We are still awaiting correspondence from the Minister of State in the UK Government, Mr David Heath. In case there is anybody from DEFRA watching this meeting, I will say that we are still waiting for its correspondence, and we look forward to reading it when it arrives. Thank you.

11.02 a.m.

**Cynnig o dan Reol Sefydlog 17.42(vi) i Wahardd y Cyhoedd o'r Cyfarfod ar gyfer Eitemau 4, 6 ac 7**  
**Motion under Standing Order 17.42(vi) to Exclude the Public from the Meeting for Items 4, 6 and 7**

[113] **Yr Arglwydd Elis-Thomas:** Gofynnaf am gynnig i fynd i sesiwn breifat ar gyfer rhan nesaf y cyfarfod.

**Lord Elis-Thomas:** I ask for a motion to go into private session for the next part of the meeting.

[114] **Llyr Huws Gruffydd:** Cynigiaf

**Llyr Huws Gruffydd:** I move that

*yn unol â Rheol Sefydlog Rhif 17.42(vi) fod y pwyllgor yn penderfynu cwrdd yn breifat ar gyfer eitemau 4, 6 a 7 y cyfarfod.*

*the committee resolves to meet in private for items 4, 6 and 7 of the meeting in accordance with Standing Order No. 17.42(vi).*

[115] **Yr Arglwydd Elis-Thomas:** Gwelaf fod pawb yn gytún.

**Lord Elis-Thomas:** I see that everyone is in agreement.

*Derbyniwyd y cynnig.  
Motion agreed.*

*Daeth rhan gyhoeddus y cyfarfod i ben am 11.02 a.m.  
The public part of the meeting ended at 11.02 a.m.*

*Ailymgynullodd y pwyllgor yn gyhoeddus am 1.04 p.m.  
The committee reconvened in public at 1.04 p.m.*

**Cyfoeth Naturiol Cymru  
Natural Resources Wales**

[116] **Lord Elis-Thomas:** Good afternoon, Professor Matthews—or prynhawn da, as I should say in this building. Would you like to test your headset? That will keep the

interpreters happy.

[117] **Yr Athro Matthews:** Prynhawn da. **Professor Matthews:** Good afternoon.

[118] **Yr Arglwydd Elis-Thomas:** Prynhawn da i'r Athro Peter Matthews a Dr Emyr Roberts, cadeirydd a phrif weithredwr cyfoeth naturiol Cymru. Mae hon yn foment arbennig i ni fel pwyllgor, oherwydd rydym wedi dilyn y broses o sefydlu'r corff ac, yn wir, wedi dweud pethau beirniadol ac adeiladol, gobeithio, yn ystod y broses honno. Fodd bynnag, rydym yn awyddus i sefydlu ein perthynas â chi fel hyn yn gyhoeddus, gan eich cydnabod fel y prif gorff cyhoeddus—y tu allan i Lywodraeth Cymru ei hun, wrth gwrs, ond rydych yn atebol iddi—yr ydym yn gyfrifol amdano. Felly, mae'n arbennig o amserol eich bod chi'n dod atom mor gynnar yn eich cyfnod.

**Lord Elis-Thomas:** Good afternoon to Professor Peter Matthews and Dr Emyr Roberts, the chair and chief executive of natural resources Wales. This is a special moment for us as a committee, because we have followed the process of establishing this body and, indeed, have made some critical and, hopefully, constructive remarks during that process. However, we are keen to establish our relationship with you publicly, and to recognise you as the main public body—excepting the Welsh Government itself, of course, though you are accountable to it—that we are responsible for. So, it is particularly timely that you have come to us at such an early stage in your development.

[119] So, I would invite you, chair, to open this session by perhaps setting out where you are now with your vision.

[120] **Professor Matthews:** Thank you, Chairman. Both Emyr and I are very pleased to be here today, and we, too, look forward to working with you in partnership in developing what I think is a fantastic opportunity. I must say first how pleased I was to be appointed to this position. For me, being very selfish, it is a wonderful opportunity, and it gives me the opportunity of doing all those things that need to be done for our natural resources. It is a fantastic opportunity for Wales. It is an opportunity for us to take international leadership. So, very simply, thank you very much for having us today, and we look forward to working with you.

[121] We have been thinking and working very hard on how we can infuse the principles and concepts of sustainable development into the way in which we operate, rather than just using the criteria for sustainable development to judge what we do, as happens in many organisations. We have concluded that the three principles of sustainable development, to serve the purposes of the sustainable use, maintenance and enhancement of natural resources, are to focus on environment, communities and economy. A key focus is the environment, but in executing our role, we will take account of the needs of the economy and communities, and also the impact of what we do in the environment on the economy and on communities.

[122] I would like to share with you some of our advanced thinking about where we want to go. Our extra insight is that the fourth pillar is knowledge, and we will be developing our natural resources management with those four pillars, building on the knowledge of our staff and on the wisdom of Wales itself. So, I want to reiterate very clearly at this stage that the four pillars are: economy, community, environment and knowledge. We will be a learning organisation, with all the consequences that that brings.

[123] The delivery of natural resources management will use the principles of ecosystem management, with which you are very familiar. However, we are developing a model in our minds as to how we can understand what all the relationships are. If you imagine a square with the four points that I have made, with us on one side and the Welsh Government and our partners on the other side, this gives us an intellectual framework to analyse what all the relationships are and to identify new opportunities for developing Wales.

[124] We have been asked many questions, and we keep all these matters in balance. For example, regulation and enterprise are natural bedfellows in our kitbag of tools. We are focused on developing a greener, wiser, healthier, wealthier Wales. We will continue to develop our vision and values over the coming months and beyond 1 April. Being a learning organisation, we will continue to evolve. We are also working with the ‘A Living Wales’ programme to ensure operational resilience as well as to give some flair and vision to where we will be after 1 April. As you are aware, the Minister has appointed a board comprising individuals who can combine these twin objectives of operational resilience and flair for the future. We are very happy to be working with Emyr and we look forward to establishing our operational executive. We also look forward to working with you and the Welsh Government to take our ideas forward.

[125] **Lord Elis-Thomas:** Thank you, chair.

[126] Emyr, a oes gen ti unrhyw sylwadau penodol ynglŷn â datblygiadau ymarferol a strwythurol o dy safbwynt di ers i ti ddod yn brif weithredwr? Faint sydd ers hynny; rhyw dair wythnos neu fis?

Emyr, do you have any specific comments that you would like to make regarding practical and structural developments from your point of view since you were appointed chief executive? How long has it been; some three weeks or a month?

[127] **Dr Roberts:** Tair wythnos, rwy'n credu.

**Dr Roberts:** It has been three weeks, I think.

[128] Diolch yn fawr, Gadeirydd. Hoffwn ddweud o'r cychwyn ei fod yn ffrind fawr i mi yn bersonol i gael fy newis fel prif weithredwr i gyfoeth naturiol Cymru. Rwy'n falch iawn gyda'r enw, yn enwedig yn y Gymraeg.

Thank you very much, Chair. I would like to say from the outset that it is a great privilege for me personally to have been selected as the chief executive of natural resources Wales. I am particularly pleased with the name, particularly in Welsh.

[129] Ei hadnoddau naturiol a'r amgylchedd yw rhai o'r asedau mwyaf pwysig sydd gan Gymru—maent o'r safon uchaf yn Ewrop a'r byd. Fodd bynnag, maent yn adnoddau sydd angen cael eu cynnal, eu gwella a'u defnyddio'n gynaliadwy, fel y mae'r Gorchymyn cyntaf yn ei ddweud. Felly, swyddogaeth y bwrdd—a minnau fel pennaeth y staff—yw gwneud yn siŵr bod hynny'n digwydd a dod o hyd i ffordd ymlaen drwy'r gwahanol alwadau ar ein hadnoddau.

Its natural resources and the environment are some of the most important assets that Wales has—and they are of the highest quality on a European level and globally. However, they are resources that need to be sustained, improved and used sustainably, as the first Order states. Therefore, it is the function of the board—and mine as the head of staff—to ensure that happens and find our way through the various demands placed on our resources.

[130] Bu ichi ofyn, Gadeirydd, am y sefyllfa o ran strwythurau ac yn y blaen; rydym yn cynnal sgwrs yn barod yn y bwrdd ynglŷn â strwythurau a swyddogaethau'r uwch-swyddogion. Yn wir, bydd cyfarfod am hynny'r wythnos nesaf ac rwyf wedi cyflwyno syniadau i'r bwrdd. Rydym yn bwrw ymlaen gyda'r strwythuro a gyda'r gwaith o reoli'r rhaglen a'r prosiect yn eu cyfanwydd. Rwy'n hapus iawn i ateb

You asked, Chair, about the situation with regard to our structures, and so on; we are already holding a conversation within the board about the structures and functions of the senior officials. Indeed, there will be a meeting to discuss that next week and I have put some ideas before the board. We are developing our structure and managing the programme and project in their entirety. I am happy to take any specific questions on that,

unrhyw gwestiynau am hynny, ond mae'n but it looks very promising at present.  
edrych yn addawol iawn ar hyn o bryd.

[131] **David Rees:** Good afternoon to you both. One of the issues that we have talked about with stakeholders, and something that we felt very strongly, was the fact that the new body should be more than the sum of its parts. Having said that, there are various parts within it. One of the concerns raised was the linkage between those parts and, perhaps, the need for separation sometimes between those parts. The term that was often used was 'Chinese walls'. Where are you in the process? You have talked about structures, staffing and so on, but we have to look at how those departments and the different sections will be segregated, in one sense, to ensure that the permitting, the commercial operation and the management operation are clearly distinct and that there is transparency. How far down the road are you in developing that?

[132] **Dr Roberts:** That is very much part of our considerations in developing the structures, so we are well aware of the need to have that degree of separation in terms of some of the permitting functions, regulation, and so on. So, that is being built into our structures as we move forward at the moment. Obviously, the main aim behind the organisation is to have an integrated service, but we accept that, on things like permitting, where part of the organisation will bring forward its own proposals, we need that degree of separation. So, I can assure you that is being worked into the structures as we speak.

[133] The other aspect is the governance of that. Once again, the chair and I, and the board, are talking about how we govern that aspect in practice. So, there is a great deal of work being done on that at the moment.

[134] **David Rees:** So, it has not yet been finalised.

[135] **Dr Roberts:** No, it is ongoing. We understand the need to have clear protocols as well as structures and governance. That is in the process of being worked up. However, this is not anything new to the organisations concerned, so there is a wealth of experience there already, although we accept that in bringing the three together, there is even more of a need to be transparent in this regard.

[136] **David Rees:** I would say that there is something new, because the Forestry Commission was not permitting, in one sense. So, there will be a difference and that side of things has to be clear and transparent.

[137] **Llyr Huws Gruffydd:** Hoffwn bigo lan y pwynt hwnnw. Mae barn gyfreithiol wedi ei mynegi ynglŷn â'r angen i sicrhau gwahanu gweinyddol rhwng y gwahanol elfennau yr ydym yn sôn amdanynt. Rwy'n tybio eich bod yn ymwybodol o'r farn gyfreithiol a bod hynny yn rhan o'ch ystyriaethau chi.

**Llyr Huws Gruffydd:** I would like to pick up on that point. A legal opinion has been expressed about the need to ensure the administrative separation between the different elements that we have been talking about. I suspect that you are aware of that legal opinion and that is part of your consideration.

[138] **Dr Roberts:** Ydym; rydym wedi darllen y farn ac rydym yn ystyried hynny o ran y strwythur a'r rheolaeth.

**Dr Roberts:** Indeed; we have read the opinion and we are taking it into account in terms of our structure and the governance

[139] **Professor Matthews:** We accept the legal opinion, but beyond that, because we have a very experienced board, we are very aware of the importance of doing exactly that with regard to the governance. So, in a sense—and this is slightly tongue in cheek—we did not need a legal opinion as this is just something that we have to do.

[140] **Lord Elis-Thomas:** Antoinette Sandbach—who is big on Seaport.

1.15 p.m.

[141] **Antoinette Sandbach:** I noticed that you referred to the experience on the board, and I was interested to hear your opening remarks about the Minister appointing the board. However, substantial concerns have been expressed that although a number of representatives from the Environment Agency and the Countryside Council for Wales are on the board, as well as from non-governmental organisations, there is limited experience on the board in relation to forestry matters. Could you comment on that, particularly given that some of these conflicts of interest will arise from potential energy projects on Forestry Commission land, for example? How do you anticipate dealing with those matters?

[142] **Professor Matthews:** I made recommendations to the Minister and he chose to make the appointments. We went through an independent interview process with full applications, and so on. It was made absolutely crystal clear from the start that we were not appointing people because of their background; we were appointing people for their ability to deliver this great project. These are people with significant experience in terms of corporate change, or have a very broad view of the environment.

[143] We will take account of the needs of forestry. At one level, we have a board that is very experienced in terms of large-scale projects and of operating large organisations and so on. Underneath that, we have a huge cadre of expertise that we can draw on in the organisation. That is where our expertise truly lies. We do not have sectoral interests on the board. It could be argued that there are many other aspects of managing natural resources that are not necessarily represented.

[144] Emyr will confirm this, but right from the start I have realised the opportunity that having forestry in this organisation presents to us. It will bring with it an enterprising attitude to the way that things are done, which we would wish to see infused throughout the organisation. We want to build on that part of our organisation in terms of delivering the aspirations of natural resources management. I have been out on the stump talking to various people, and I have given them some examples about how we might elaborate and build on the types of things that are going on at the moment.

[145] So, far from being lost, you have people who are used to big organisations and big pictures; for example, I have levered out entrepreneurial activities from what you would call a public service, so we have people there who know how to do it. We see the enterprise opportunities that forests bring to us. We did not necessarily need forestry expertise to have that insight, so what you have are people who will be able to deliver your project, which includes enterprise being a really important tool in our toolbag for moving forward.

[146] **Antoinette Sandbach:** In terms of potential conflicts between regulating and permitting functions, a large number of conflicts could arise in relation to the forestry estate and the TAN 8 designation. Which particular members of the board are you saying have experience in dealing with that internal conflict between regulation and permitting?

[147] **Professor Matthews:** Emyr has explained to you how we will have executive processes in place to deal with these matters. The board will be setting the culture in terms of its transparency and auditability, and so on. It is not for the board to sort out those types of conflicts. If you believe that those types of conflicts should come to the board, it is better that you do not have sectoral interests arguing their case at the board. It is much better that you have people with very senior corporate experience making balanced judgments. You have a board that is used to dealing with big-picture stuff and demonstrating that it can drill down

into detail if required. I would not want to have fine-grain squabbles on the board over particular issues. We have to resolve the processes within the executive, and the board provides the framework for dealing with all these matters.

[148] **William Powell:** What discussions have you had, or do you plan to have, with local authorities and the Welsh national parks, particularly given their importance as a delivery partner for the purposes of the new body?

[149] **Professor Matthews:** We have a long list of invitations and I am employed for eight days a month. I am putting in a damn sight more than eight days a month and Emyr is putting in seven days a week, too. We are up to here with invitations.

[150] **Lord Elis-Thomas:** Not on Sundays, surely?

[151] **Professor Matthews:** No, I mean six days a week. We are working logically through a series of stakeholders. We have planned meetings with the local authorities. I have met with representatives of the national parks and I would like to think, for any of you that had feedback, that I had a successful meeting with them and reassured them about our vision and our entrepreneurial and partnering attitude to the future. Half of your question is done and we will continue to do so, and, as regards the other half, it is in the plan.

[152] **William Powell:** How do you propose to achieve a situation where in the role of statutory consultee—which is so important in relation to the experience of local government and national parks of the predecessor bodies, and will be for the new body—the body draws on the best, rather than the worst, examples of the previous bodies, which have fallen some way short of good practice?

[153] **Dr Roberts:** The strength of the new body is that we have a lot of experience of pre-application of working with local authorities, planning authorities and so on. I want to plan all this around best practice as regards process, systems and the way in which we engage our stakeholders. I am looking for service improvements so that we deliver best practice on this, which will be built into our processes as we go along. The aim is to have the best possible practice coming out of the three organisations, which we can then deliver in a consistent way throughout natural resources Wales.

[154] **Professor Matthews:** As I said in my introduction, we have already committed to being a learning organisation, which brings a whole set of governance demands. That is a reflection of what I said about our model for delivering natural resources Wales: it is quite innovative. Like you, I want to put Wales in an international leadership position. We are creating a way of thinking that brings together sustainable development and a learning organisation. Sustainable development in itself must be one of the best ways towards a learning organisation. As Emyr said, we are going to be capturing, storing and making available the best practice of the organisations that we inherit and as we move forward. However, as regards our ability to learn, we have to take account of what is going on in the outside world. All of that will come in and inform us of the best way forward. Finally, I will share with you a catchphrase that I got from going out on the stump: ‘we combine innovation with tradition’; that means taking the best of the past and building the best for the future.

[155] **William Powell:** That sounds promising. In our most recent meeting with stakeholders from the Welsh farming unions and the Country Land and Business Association, some concerns were expressed regarding the level of stakeholder engagement that they had recently had. How will you ensure that the views of stakeholders, some of whom are not represented directly on the board for reasons that you have already outlined in relation to forestry, will be heard? How will you ensure that stakeholder engagement is real and influential in terms of your thinking?

[156] **Professor Matthews:** I have already met the Country Land and Business Association and the National Farmers Union Wales and had extensive discussions with them about their aspirations. I would like to think that I left them satisfied. Judging by a press release from one of the organisations, they were. I would not like to give you a definitive answer on stakeholder engagement. Suffice to say, we are very aware of the importance of engaging with stakeholders in a variety of ways. We are looking at the moment at papers coming to our next board meeting, at which we will be debating, again from best practice, the most effective ways of engaging with stakeholders.

[157] I am sure that you are aware that I was the utility regulator for Northern Ireland. I learnt, with the Northern Ireland Government, all sorts of ways of engaging with a variety of networks, the likes of which had not been seen before. We could engage with faith groups, young people, organisations for poor people, or networks of particular interests. So, we are looking at a variety of ways in which we can engage with different sections of the community.

[158] **Dr Roberts:** We recently totted up the amount of stakeholder engagement that we have already had. The programme or the chairman or I have done over 70 engagements to date and we have a further 30 engagements in the diary over the next couple of months. We are spending a lot of time on that. It is an important part of our jobs.

[159] **Llyr Huws Gruffydd:** I barhau ar yr un thema, rwy'n deall efallai na fydddech am ddweud gormod ynglŷn â'r hyn yr ydych yn rhagweld y bydd y trefniadau ffurfiol yn y tymor hirach, ond mae cwestiwn ynglŷn â'r tymor byr hefyd. Mae'r sefyllfa ar hyn o bryd, gyda'r diffyg gwybodaeth, yn arwain at ansicrwydd. A oes gennych drefniant dros dro mewn golwg ar gyfer y cyfnod byr, neu a ydych yn teimlo bod y cyfarfodydd unigol yn ddigonol ar y pwynt hwn?

**Llyr Huws Gruffydd:** To continue on the same theme, I understand that you might not want to say too much about what you foresee that the formal arrangements will be in the longer term, but there is also a question about the short term. The situation at the moment, with the lack of information, leads to uncertainty. Do you have a temporary arrangement in mind for the short term, or do you feel that the individual meetings are sufficient at this point?

[160] Byddwn hefyd yn awyddus i chi ddweud a yw'r posibilrwydd o greu rhyw fath o bwyllgor ymgynghorol o randdeiliaid ar lefel reit uchel a fyddai'n gallu cynghori'r bwrdd a'r prif weithredwr yn rhan o'ch ystyriaethau neu beidio. Hefyd, a fydddech yn barod i ystyried rôl i grŵp tebyg ar gyfer sicrhau tryloywder ac atebolrwydd, i ddod nôl at rai o'r pwyntiau y cyfeiriais atynt yn gynharach ynglŷn â'r corff yn cydsynio i benderfyniadau ac yn rheoleiddio ar yr un pryd? Sori, roedd tri chwestiwn yna, rwy'n meddwl.

I would also like you to elaborate on whether the possibility of creating some sort of consultative committee of stakeholders at quite a high level that would be able to advise the board and the chief executive is part of your considerations. Also, would you be willing to consider a role for a similar group in ensuring transparency and accountability, to come back to some of the points that I mentioned earlier about the body consenting to decisions and regulating at the same time? Sorry, there were three questions there, I think.

[161] **Yr Arglwydd Elis-Thomas:** Oedd, braidd.

**Lord Elis-Thomas:** Indeed, there were.

[162] **Professor Matthews:** We will consider those points. We are aware of the issues around how we engage with people. We will take your views into account when we determine the best way forward. As you can imagine, Emyr and I are not short of advice on the best way forward, as to whether we should have formal committees or a network and so on. We are

trying to get our heads around the best way of doing it. I can say no more than that we will listen to what you have had to say.

[163] **Lord Elis-Thomas:** If ever you think you are short of advice, you know where to come. [*Laughter.*]

[164] **Vaughan Gething:** I recognise the need to engage with stakeholders, although I am not sure that I would agree with having another committee. That would seem to be a very Welsh way of doing things—‘Let’s set up a committee to deal with it’.

[165] I want to come back to what you said at the start. You talked about your four pillars of environment, community, economy and knowledge and I know that there is a balance in each of those. On some occasions, perfect decisions cannot be taken. However, I am interested in how you would see the balance of those operating in terms of the culture of the organisation. It was something that we spoke about at length during the consultation process. I am interested in picking up on a phrase that you mentioned in your introduction, Professor Matthews. You talked about ‘doing all those things that need to be done’. I am interested in what you would see as ‘those things’ in terms of your initial priorities and things that you would like to see the new body make progress on.

1.30 p.m.

[166] **Professor Matthews:** The first thing, of course, is operational resilience. I would suggest that we should look for some early wins to demonstrate the value of the concept that is being established by the Assembly, so that people can see for themselves the value of the work that we have been doing. I will probably be told off for jumping the gun when I go back to the office and they will say, ‘You should not have said this’, but I will just share with you some of the thoughts that I have had after talking to people. One of the ideas that we have—and it is just an idea; it needs to be proved—is that we bring together all of the outdoor recreational and leisure pursuits into one integrated service and one integrated concept, not an organisational silo. Let us think about coming at it with a common approach, so that people can see for themselves that, whether they want to go angling, to motocross, rambling or whatever, there is one concept.

[167] A second concept is that we build on the enterprise, which I spoke about earlier. Again, I floated some ideas. This is just me, Peter, talking. It all has to go through my colleagues. Another idea, for example, might be extending our forest enterprise into growing willow for biomass for renewable energy. Yet, another idea—and I really am going to get into terrible trouble for this—is that my three-dimensional model gives us an opportunity of looking at things completely differently. This is where we want our people to think about knowledge, communities and what we do. Put that on the side of our three-dimensional model: there are three things together; what could that mean? Perhaps we could work with the Department for Education and Skills on developing a core GCSE on resources management that produces young people who are fit for purpose for a wiser, greener, healthier, wealthier Wales.

[168] Another idea, if you think about us, the environment and the economy, is an idea that I floated with the farmers’ union. I thought that it was a bit of an outrageous idea, but they thought, ‘My goodness me, that’s interesting’. I said, ‘If you think about it, why don’t we set up a little economics unit, not necessarily with people full-time, but a thinking space? Why don’t we say, “Let’s analyse the microclimates and the microhabitats of Wales, and then look at what kinds of new plants we could grow in those habitats?”’. Just to choose a crop as an example that I thought was way off the scale so that I did not get involved in a specific debate, I said, ‘How about thinking of growing tea in Wales?’. I thought that that was pretty much off the scale when someone said subsequently, ‘That is a damn good idea’, because



there was an analogy between the Welsh climate and perhaps that in the Himalayas. I am not suggesting that we grow tea in Wales; I am saying that I want us—and I know that Emyr feels the same—to get into a mindset of thinking about things completely differently and looking at the opportunities that this kind of framework will produce for us. So, there you are. As I say, I will go back to the office and they will say, ‘You should not have mentioned growing tea, Peter’, and all the rest of it. Anyway, that is just showing what is going on in our minds in terms of the way that we go forward. To answer your question, it is about creating a mindset of opportunity.

[169] **Vaughan Gething:** No other man that I know has the same can-do attitude in terms of being open-minded. During the consultation, we had a number of people who were concerned about what would happen, that there would be a retrenchment with people being inwardly focused, particularly during the early days of the new body. There were concerns that those stakeholder groups would not find a welcoming partner that they could actually talk to, especially a partner with whom they could have more difficult discussions if they wanted to undertake forms of business that you were not keen on or if they wanted to discuss the permitting regime, for example. I have an example of high-carbon energy here, just around the corner, in Celsa, which is in my constituency, and there are other such examples. How would that relationship work, as well as the very land-based ones? I am interested in how you see the attitude that you have set out permeating through the whole culture of the organisation. If you like, it is a matter of what the customer sees when they have their direct experience because they will not all come to speak to the board.

[170] **Dr Roberts:** I am feeling a bit left out in terms of this torrent of ideas that is coming forward here.

[171] **Lord Elis-Thomas:** When you were discussing tea in Wales, I thought about the Presbyterian Church, quite naturally, Dr Roberts. [*Laughter.*]

[172] **Dr Roberts:** Thank you. Obviously, cultural change will take time to work through the organisation, but that is part of the task ahead of us, and we all know, in terms of change, that there is a massive opportunity to do that. What has struck me, three weeks or so into the job, is the number of ideas that are coming forward from the front-line staff in terms of how they can work better together and the kinds of things that they could offer. These ideas have not been solicited by me at all; they are just coming in a ‘Yes, we can do that’ kind of way. So, there are plenty of ideas there.

[173] The other thing that I would want to add, which is my idea, but a fairly obvious one, is that, certainly for the main sectors and the main stakeholders, there should be a single account manager, so that there is a single face for people to deal with who will be able to sort out the various aspects of any application or whatever comes forward. That would be a real step forward because we can then brigade teams behind that particular sector, that particular issue, that particular stakeholder and so on. That is one way in which we can achieve this cultural change, by saying, ‘Well, we have to produce one face and one voice on this particular issue and the teams needs to get behind that’. Things like that will help to move the culture forward and have the convergence between the three organisations.

[174] **Professor Matthews:** Another thing that we have done is that we have already added an item to the agenda for our board meetings called ‘Bright Ideas’. In due course, it will be there to encourage anyone in the organisation to put forward ideas for the board to consider, just as part of the opportunity. We will continue to encourage our people to think out of the box. As Emyr has said, it will be a big challenge for us, but I think that you can sense my enthusiasm, and the board has that enthusiasm, and along with Emyr and his management team, we will be radiating enthusiasm and drive. If you do not mind me saying so, that is the way an organisation makes the change: it is driven from the top by the passion from the top,

and that is what we are going to do.

[175] **Vaughan Gething:** I have one final thing. I think I should put something to you that the FUW put to us in its written and oral evidence last week. This comes back to relationships and credibility with the private sector. It said that it felt that the new body had already lost credibility with the private sector. It referred to not only its members, but claimed that there was a similar view from Tata Steel in south Wales. Given that that was something that it said directly to us, I am interested in understanding your view. It was put pretty clearly to us by the FUW.

[176] **Professor Matthews:** I will leave Emyr to comment, but I have met a variety of bodies: read the press release about the meeting I had with the CLA; talk to NFU Wales and ask what it thinks; ask the Confederation of British Industry and other people what they think, and I think you might get a more balanced view as to whether or not we have lost an opportunity. I have only been in post since 1 August; I was the single body until 1 November. Emyr has been in post for three weeks and we have been out there, enthusing and radiating energy; it will take a long time to take everyone with us, but ask the people who we have had an opportunity to talk to and you are going to get a different picture.

[177] **Dr Roberts:** I do not recognise that viewpoint either, but, specifically, I will add Tata to the list of companies to meet to see if it has any issues with the new body.

[178] **Antoinette Sandbach:** One of the very real concerns regarding the business case concerned effective delivery, and linked to that is your ability to get your three computer networks, as it were, talking to each other. Something in the region of £700,000 has been spent already on computer consultants. Can you tell us, in terms of delivery, what you are planning? If the three networks cannot talk to each other, then inevitably, there will be some kind of sectoral approach. How will you ensure that there are Chinese walls within the IT provision? If you do not get your Chinese walls right, there is a risk of legal challenge, which could tie the new body down quite substantially.

[179] **Dr Roberts:** The delivery of IT is a key aspect of this and we have a specific work stream that is engaged with that and has been running for several months. It is a big task. The three systems are quite different at the moment. However, that work stream is on target and we are seeking to deliver a single network. It will not all be in place from day one, but we will have a functional and operational system in place from day one. There is also a longer timescale for full detachment for the legacy body's ICT systems. That has also been factored into this. I am confident that the capability exists to have these Chinese walls if those are required. We are building up a flexible system. As I say, we are managing this carefully; it will inevitably be a costly system, because of its complexity, but we are currently on track on that.

[180] **Antoinette Sandbach:** If I could return to the Chinese walls, I know that you said that you are putting them in place, but when will we be given more detail on how they will operate and when they will be in place?

[181] **Dr Roberts:** We will need to have systems in place, which will go through the board. There is no reason why that should not be publicly available so that people can see how we are operating.

[182] **Antoinette Sandbach:** When will that go to the board?

[183] **Dr Roberts:** On the wider separation of duties, before 1 April next year.

[184] **Mick Antoniw:** I appreciate that it is early days. You mentioned the four pillars of

economy, community, environment and knowledge, and your advisory role with Welsh Government. Could you clarify how you see that relationship developing, particularly the campaigning and advisory sides as well as the independent advisory function? What are your early thoughts about how that relationship will develop and what would you like it to become?

[185] **Professor Matthews:** In the three-dimensional model that I tried to describe to you, I said that we have the four pillars and, on either side, we have ourselves and the Government and other partners keeping those pillars in balance. At the next board meeting, we will discuss the concept of responsibility. It is important that we have absolute clarity on what we are responsible for and what the sponsor department of the Welsh Government is responsible for, and then, within our responsibilities, what the board is responsible for, what its committees are responsible for, and what Emyr and his people are responsible for. This is one concept that embraces a lot of old-fashioned terminologies, like terms of reference and so on. Right at the head of that is a shared vision for, as I said earlier—to keep on trotting it out—a greener, wiser, wealthier and healthier Wales. That is the shared vision that we will have with the Welsh Government.

[186] Unlike our counterparts in England, we will have a close relationship, in terms of developing policy. Knowledge is important and we will contribute to that but, at the same time, clearly defined in the statutory responsibilities will be the point that we are an arm's-length body. So, we will have our distinct responsibilities. I do not recognise the word 'campaigning'. I believe that we will have to develop a view about particular matters and I do not know how all of this will work out, but if you look at the big picture of the Wales that I have described, many things will be beyond that are beyond our control, but which we will need to work in partnership with in other Government departments. When asking people what affects the environment, the answer could be litter, dogs' mess, graffiti, the price of milk, the price of fuel, all of which contribute to the bigger picture of a better Wales. We need to understand what role—not campaigning—we can use to influence matters that are not directly our responsibility, but that contribute to the bigger picture.

1.45 p.m.

[187] **Mick Antoniw:** The early months are crucial, and you will learn as you go along, but what sorts of mechanisms do you have in mind? How do you intend to evaluate the progress that you are making, particularly in the early periods? Do you have any formula or mechanism in mind that will enable you to identify potential flaws or problems as you go along?

[188] **Dr Roberts:** With regard to the setting up of natural resources Wales—I have said this before—we have a programme running, which has specific timescales; there are many interdependencies between the various programmes. We are able to measure progress with that. One work stream is to do with the performance framework and the performance indicators for the new organisation. Clearly, it is a matter for the Welsh Government to give natural resources Wales its remit letter, but we would expect to have performance indicators and a performance framework as part of that. Work is ongoing, and there will be a presentation to the board before long. We will have to work within those. I am sure that there will be milestones and targets to meet.

[189] **David Rees:** You mentioned that you wanted clarity of responsibilities. How do you see that working? Will it be muddied by the transfer of additional functions, such as the internal drainage boards?

[190] **Lord Elis-Thomas:** What an unfortunate metaphor—'muddied', in relation to the internal drainage boards. [*Laughter.*]

[191] **David Rees:** I had thought about it. [*Laughter.*] Have you had discussions with the Welsh Government as to additional functions and the transfer of these types of facilities?

[192] **Dr Roberts:** We are aware of the consultation. We have the functions in the second Order, and the chairman and I are of the view that they are probably sufficient for the vesting date. Clearly, there is a range of other functions—internal drainage is one of them, and I have heard a few others mentioned as well—that the Welsh Government may want to discuss with us. Our view at the moment is that those functions are sufficient to be getting on with, and if there are other functions that come along at a later date, that is the time to discuss them.

[193] **David Rees:** Are you, therefore, setting up structures and operations so that additional functions and transfers will be easy?

[194] **Dr Roberts:** I would hope so. There are many considerations with structures, but adaptability and flexibility are some of those.

[195] **Professor Matthews:** I think that what Emyr and I have done today is to give you, probably almost as much as anything, an insight into our inner thinking. There are things that we are saying to you today that may not actually come out in that way, but we want to get over to you the way that we are thinking. One of the most important things that we have said is that we will be a learning organisation. A learning organisation moves continually. It is able to adapt to circumstances as they change. If we have a clearly articulated set of responsibilities and then we need to review them and move them on, for whatever reason, we would do so. However, at any moment in time, it is extremely important to have clarity about who is doing what and who is responsible for what.

[196] **Llyr Huws Gruffydd:** Rwy'n gwerthfawrogi'r sylwadau rydych yn eu gwneud ynglŷn â'r corff yn dysgu fel y mae'n mynd yn ei flaen, ac yn dod yn ôl at eich ateb cynharach ynglŷn â darganfod eich rôl o safbwynt cynghori a dylanwadu ac ati. Ond, beth fydd hynny'n ei olygu i chi o ran unrhyw rôl y rhagwelwch y byddwch yn ei chwarae wrth lunio deddfwriaeth dros y misoedd nesaf? Rydym yn sôn am y Bil datblygu cynaliadwy, y Bil amgylchedd, y Bil cynllunio arfaethedig ac yn y blaen. Pa rôl sydd i chi yn y broses o lunio'r Biliau hynny?

**Llyr Huws Gruffydd:** I appreciate your comments about the body learning as it goes along, and come back to your earlier answer about finding your role with regard to advising and influencing and so on. However, where does that leave you regarding any role that you envisage yourself playing in terms of drawing up legislation over the coming months? We are talking about the sustainable development Bill, the environment Bill, the proposed planning Bill and so on. What role do you see for yourselves in the process of drawing up those Bills?

[197] **Dr Roberts:** Fel y cyfeiriodd y cadeirydd, mae gennym rôl a bydd perthynas agos ar faterion felly gyda'r Llywodraeth. Byddwn yn trafod yr ail Orchymyn a'r Papur Gwyn yn y cyfarfod nesaf. Yr hyn sydd gan y corff, ac yn arbennig y staff, i'w gynnig yw'r arbenigedd o wybod sut mae pethau'n gweithio ar y llawr. Felly, rydym yn hapus iawn i fwydo'r arbenigedd hwnnw i mewn, fel bod y polisi yn cael ei ddatblygu. Rydym yn edrych ymlaen at y trafodaethau gyda'r Llywodraeth ar hynny. Mae gennym lawer i'w gynnig i'r strategaeth ac i'r polisi wrth i

**Dr Roberts:** As the chairman mentioned, we have a role and there will be a close relationship with Government on such matters. We will be discussing the second Order and the White Paper in the next meeting. What the new body, and particularly its staff, has to offer is the expertise in knowing how things work on the ground. So, we are more than happy to feed that expertise in, so that the policy is developed. We look forward to discussions with the Government on that. We have a lot to offer to the strategy and to the policy as things develop.

bethau fynd yn eu blaen.

[198] **William Powell:** Professor Matthews, you mentioned earlier the exciting opportunity that we now have with the new single body. However, it is fair to say that it has been a time of some anxiety, particularly for the current staff members of the three predecessor bodies. In the situation in which we find ourselves, given the wider economic climate, it is quite natural that people should have concerns. When do you expect to be in a position to give current staff members of the predecessor bodies clarity as to whether their future role exists or not?

[199] **Dr Roberts:** This has been explained to staff, but, under the Transfer of Undertakings (Protection of Employment) Regulations 1981, all the staff in the existing bodies transfer into natural resources Wales on the same terms and conditions, so there is no change from that point of view. In addition, moving forward, we are close to agreeing the terms of pension arrangements, which will give reassurance to staff.

[200] The reality is that, on day one, for some 70% of the staff, there will be very little change in what they do. For 25% of the staff, we have estimated that there will be some change, perhaps in terms of the unit that they work within or their line management arrangements, and the remaining 5% of staff will experience more change, particularly in relation to those areas across the organisations that we are looking to seek to bring together. I hope that that reassures people about the scale of change. Obviously, over time, we will want to review those things, but there is that certainty to staff as we start off.

[201] As I said, we are very much looking at the senior structures at the moment, and I hope that we can come to a determination on that before Christmas or around the new year—that is the timescale that we have—and then we will roll out the process. However, that will take time.

[202] **William Powell:** Indeed. What is the current status of those staff members from CCW, Environment Agency and Forestry Commission who initially moved across to Welsh Government in this transitional phase? Are they now on the books of the new organisation?

[203] **Dr Roberts:** No; I think that you are referring to the Living Wales programme, which is managing all of this. That programme is comprised of Welsh Government staff and staff from the three organisations seconded to the programme. So, that does not change. I am the only employee of natural resources Wales until the end of March. TUPE and the Order then kick in and the rest of the staff will move in. So, no, they retain their status as seconded staff members into the programme.

[204] **William Powell:** Finally, the chairman referred to the new body very much as a learning organisation and he also talked about the possibility of bringing together into one unit people associated with outward-bound activities. The educational function of CCW and Forestry Commission, in particular, has been important over time, for example the Forestry Commission's forestry education programmes and CCW's education and social inclusion roles in terms of grant-giving to national parks and local authorities. Is there merit in creating one single educational unit to take that work forward?

[205] **Dr Roberts:** The chairman spoke about passion and this is one of my passions, because there is a fantastic opportunity to have that single educational resource, given the economy of scale that we have through bringing people in. I have already seen some wonderful things. I know that links are made with schools, universities, colleges and so on, and I would really be seeking to build on that. We have a fantastic resource here from an educational point of view, so it is very much a high priority—certainly for me personally—in all of this.

[206] **William Powell:** Thank you. That is helpful.

[207] **Lord Elis-Thomas:** Antoinette is next.

[208] **Antoinette Sandbach:** During the scrutiny of the business case, concerns were raised about forest research, disease outbreaks and so on. What arrangements are you looking at for cross-border working with the different organisations in England, and perhaps Scotland, and Northern Ireland if necessary? As a learning organisation, what lessons have you learned already from the outbreak of ash dieback, which is obviously an indication of the sort of disease that can come very quickly into Wales? What have you learned from that process?

[209] **Dr Roberts:** With regard to agreements and understandings with the other organisations, memoranda of understanding and more detailed service agreements are in the process of being developed, particularly with the Environment Agency but also with the Forestry Commission. I think that an indication has already been given on forestry research. That will be done on a UK basis. My understanding on plant health is that, again, it will be dealt with on a UK basis. There are arrangements in place for such activities.

[210] **Antoinette Sandbach:** So you are actually going to be buying in those services together with your cross-border colleagues, as it were?

[211] **Dr Roberts:** There is a variety of services. Yes, we will be buying in some services, particularly from the Environment Agency in the short term at least. In other cases, it is more of a club fee in the sense that each of the bodies will provide a club fee to research, for example. That is something I would encourage happening, not just in terms of links with the other organisations in the field, but with universities and so on. We have a fantastic knowledge pool here that we can draw on.

[212] **Professor Matthews:** I just want to add that my attitude to research and development is that it is about knowledge creation and innovation. One of the lessons I learned many years ago is that it is really about research and marketing. In this case, it is marketing in the broadest sense of the word, where the research programme understands the need of the customer and is then able to give the results of the research back to the customer. One of the lessons I learned is that all research must add value and knowledge. For example, I see research and development sitting quite naturally alongside the operation and management of a suggestions scheme because it is all about getting ideas out, testing them and then getting them into operation. It is really important that, by whatever mechanism, we continue to create knowledge of the value of the organisation.

[213] **Lord Elis-Thomas:** Mick is next and then Ken.

[214] **Mick Antoniw:** I want to raise a point that has not been covered yet. It is a point that has been raised with us previously. What is your thinking on the role of the new body with regard to maritime issues? This issue was specifically raised with us but it has not really been covered yet.

[215] **Dr Roberts:** My understanding is that the marine consent functions that are currently with the Welsh Government will transfer to the new organisation. Clearly, we will need to ensure that we have expertise in the organisation to go along with that. In designing the organisation, we will ensure that that happens.

[216] **Mick Antoniw:** Do you have a specific view on how the marine environment is going to remain a clear issue in the overall work of the new body, or is it early days yet?

[217] **Dr Roberts:** It is quite a specific issue. We are aware of it and we will work through

the detail of how to best represent that.

2.00 p.m.

[218] **Professor Matthews:** There is a great deal of information coming in about the projects that are going on. The advantage I have is that I can take an overview and you can see some really interesting common threads. I am sure that you are aware of the project up in Anglesey, FishMap Môn, for developing a sustainable sea fishing and shellfish industry. When you look at all the things that are going on, over here we have the development of sustainable woodlands, and here there is sustainable fishing, so the question that I have in my mind and that I will certainly be posing with Emyr is, ‘What next?’ What are the other sustainable, enterprising things that we can do? I was really impressed with that CCW project, because it really focused not just on the environment, but on local communities and the economy. That kind of ticks all the boxes that we are looking for.

[219] **Lord Elis-Thomas:** Ably assisted by Bangor University—I do not need to remind you of that. Ken Skates is next.

[220] **Kenneth Skates:** With regard to your presence across Wales, a number of stakeholders would obviously like to see you maintain your regional offices, but can you give us some details about shared facilities, possible closures, headquarter locations, and so forth?

[221] **Dr Roberts:** It is a real asset for the organisation that we are dispersed across Wales. Having that local contact is really essential going forward, so there is no proposal whatsoever to change that. I have put a statement out to staff already that we will adopt a location-neutral policy in terms of staffing, so the starting point and assumption is that people can do any job from any office. That, I hope, will maintain the dispersed nature of the organisation. Clearly, over time, we will be looking at accommodation to see whether we can rationalise that and get any quick wins. I know that there are some offices, for instance, that are very close to each other, and that seems to me to be an obvious thing to look at, but we will discuss that fully with the staff and the trade unions and so on.

[222] I do not want to use the word ‘headquarters’, because, as I say, this will be a dispersed organisation, but, in terms of the representational role that the chairman and I have, I think our desks need to be based here in Cardiff, but I envisage working from any and all of the offices across Wales. I fully intend to be out and about a lot. We will also create an organisation where people can work from any office that they choose. It is a very important part of this going forward.

[223] **Lord Elis-Thomas:** David, you may have the last word.

[224] **David Rees:** Professor Matthews, you have talked often this afternoon about enterprise. You started one of your earlier points by saying that regulation and enterprise were natural bedfellows. I do not know whether they are natural bedfellows; they exist together, because sometimes you need to regulate enterprise. There are regulation, enterprise, management, advice, and permitting and licensing aspects. I want confirmation and clarification that enterprise is not the dominant feature in the thinking and vision.

[225] **Professor Matthews:** I am sorry if I was too simple in what I said. I did not mean to suggest that enterprise was dominant. What I was seeking to do was to counter the opposite point, which was that enterprise would get lost. Once you can get your mind around this being a completely different thing that we are doing now—looking after the natural resources of Wales—you see that this is about learning and sustainable development, and this idea of a greener, wiser, wealthier, healthier Wales. In that context, I wanted to make the point that people have been asking, ‘How can you, as a chairman, reconcile in your mind being

responsible for enterprise and for regulation and these other things as well?’ and the answer is ‘perfectly easily’, because in my mind I am focused on natural resources, I am focused on people, I am focused on the environment of Wales, and therefore I have a number of tools—we have a number of tools—to deliver that job. All I wanted to do was to pick out perhaps two extreme ends of that and say, ‘We have got a big tool bag, and lots of tools to deliver the big projects’. That is all. All the other things that you have said are in there—nice, bright, sparkly tools, all ready to be used.

[226] **Lord Elis-Thomas:** Chair, you have had the last word. [*Laughter.*]

<p>[227] Diolch yn fawr iawn i chi am eich presenoldeb yma heddiw. Byddem fel pwyllgor yn cwrdd nesaf ar 28 Tachwedd, pan fyddem yn trafod Gorchymyn Corff Adnoddau Naturiol Cymru (Swyddogaethau) 2012, i roi tipyn bach o sail cyfreithiol i'r hyn yr ydych yn ei gwneud. Diolch yn fawr iawn.</p>	<p>Thank you very much for your attendance today. We as a committee will next meet on 28 November, when we will discuss the Natural Resources Body for Wales (Functions) Order 2012, to give some legal foundation to your work. Thank you very much.</p>
--	---

*Daeth rhan gyhoeddus y cyfarfod i ben am 2.05 p.m.  
The public part of the meeting ended at 2.05 p.m.*