



Cynulliad Cenedlaethol Cymru

The National Assembly for Wales

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

The Constitutional and Legislative Affairs Committee

Dydd Llun, 7 Hydref 2013
Monday, 7 October 2013

Cynnwys

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

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

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

Suzy Davies	Ceidwadwyr Cymreig Welsh Conservatives
David Melding	Y Dirprwy Lywydd a Chadeirydd y Pwyllgor The Deputy Presiding Officer and Committee Chair
Eluned Parrott	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Simon Thomas	Plaid Cymru The Party of Wales
Joyce Watson	Llafur Labour

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

Steve Davies	Cynghorydd Cyfreithiol Legal Adviser
Gwyn Griffiths	Uwch-gynghorydd Cyfreithiol Senior Legal Adviser
Ruth Hatton	Dirprwy Glerc Deputy Clerk
Siân Richards	Y Gwasanaeth Ymchwil Research Service
Dr Alys Thomas	Y Gwasanaeth Ymchwil Research Service
Gareth Williams	Clerc Clerk

Dechreuodd y cyfarfod am 14:30.
The meeting began at 14:30.

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

[1] **David Melding:** Good afternoon, everyone, and welcome to this meeting of the Constitutional and Legislative Affairs Committee. I will start with the usual housekeeping announcements. We do not expect a fire drill, so if you hear the fire alarm, please follow the instructions of the ushers, who will help us to leave the building safely. Please switch off all electronic equipment completely; even if left on silent mode, it will interfere with our broadcasting equipment. These proceedings will be conducted in Welsh and English; when Welsh is spoken, there is a translation on channel 1 of the headphones, and channel 0 will amplify our proceedings. We have received apologies from Julie James and we expect Joyce Watson to substitute for her.

14:31

Offerynnau Nad Ydynt yn Cynnwys Materion i Gyflwyno Adroddiad Arnynt o
dan Reolau Sefydlog 21.2 na 21.3
Instruments that Raise no Reporting Issues under Standing Orders 21.2 or 21.3

[2] **David Melding:** These items are listed if any Members have queries. Are you content with those? I see that you are.

Trafod y Bil Dadreoleiddio Drafft (Bil Drafft y DU)
Consideration of the Draft Deregulation Bill (UK Draft Bill)

[3] **David Melding:** There are two briefing notes before you. One is from the legal team and one is from the researchers. There are obviously issues to consider, and if we want to make a formal response, we will need to do that today, because the deadline is 11 October. I suggest that we discuss the sort of response that we want to make in private session, but if we have any issues that we want to put to Gwyn, who, I think, has been leading on this, now is the time. I do not propose asking Gwyn to outline the issues; I know that you have read the materials and they were very succinct anyway. So, in advance of the private session, is there anything that you want to raise on the public record?

[4] **Simon Thomas:** Un peth y byddwn yn hoffi ei ddweud yn gyhoeddus yw pa mor bwysig ydyw ein bod yn edrych ar hyn o safbwynt bod gennym broses seneddol yn y fan hon sy'n caniatáu i rywun arall ddeddfu drosom. Felly, rwy'n meddwl ei bod yn bwysig bod proses yn y dyfodol sy'n tynnu i ffwrdd unrhyw ddeddfwriaeth—serch bod honno'n ddeddfwriaeth sydd wedi mynd heibio ei *sell-by date*, fel petai—â rhyw fath o orolwg seneddol. Dyna'r hyn roeddwn i am ei bwysleisio yn y cyd-destun hwn, er ei fod yn rhywbeth sy'n ymwneud â San Steffan.

Simon Thomas: One thing that I would like to say publicly is how important it is that we look at this from the point of view that we have a parliamentary process here that allows another body to legislate on our part. So, I think that it is important that any future process that takes away any legislation—albeit that that legislation might have passed its sell-by date, as it were—should have some sort of parliamentary overview. That is what I would like to emphasise in this context, although this is something that relates to Westminster.

[5] **David Melding:** Are there any other views? As there are not, we will return to it in private session. I am sure that we will want to make a response and we will agree the nature of that response then.

14:33

Papurau i'w Nodi
Papers to Note

[6] **David Melding:** There is an exchange of correspondence with the European Commission. Perhaps we should deal with that first and then there is a letter from Gwenda Thomas.

[7] The Commission's exchange of correspondence takes our view seriously and it is a response of some detail, but it does not really accept what we said as being—

[8] **Suzy Davies:** It was a long way of saying 'no'. [*Laughter.*]

[9] **David Melding:** It was a very polite, nice—

[10] **Suzy Davies:** Yes, the tone was good.

[11] **David Melding:** It was a warm 'no', as it were, if you can have such a thing. [*Laughter.*] It sends a signal that we are looking anyway, does it not? I think that that is important. Is there anything else that we want to raise? I think that it has run its course, basically.

[12] We also have correspondence from Gwenda Thomas relating to the Social Services

and Well-being (Wales) Bill, the general principles of which will be debated tomorrow, I think. I do not know whether Gareth wants to add anything, but there is a little bit of misunderstanding on a couple of the recommendations. There was confusion between the explanatory memorandum and what the Minister said in evidence. It was a genuine confusion; I do not think that there was any intention to prevent our inquiry taking due note of things. However, there were a couple of issues with things that appeared to have been affirmative, then changed to negative, and now seem to have no procedure.

[13] We will watch all this, but I do not think, in essence, it changes very much of what we want—what our report was about. The Deputy Minister has taken a view, and has responded on a few things, although I think in general that it is fairly limited in terms of what has been responded to. They have kept fairly tightly to what they wanted, and our general view on a framework Bill is that you have to work hard with the regulatory powers to ensure that you get proper scrutiny. I am not quite sure the Deputy Minister has completely answered our concerns on that, but our report is our report; it is part of the debate, and it will go to Plenary now. That is more or less where we stand.

[14] **Eluned Parrott:** Just a question, or a query really, with regards to this idea that the different procedures are passported in from the UK legislation on which they are based. I am wondering how much we know about the difference between the scrutiny procedures for negative and affirmative procedure in Parliament as opposed to here in the Assembly, and whether there is a difference in terms of the appropriateness of the procedures used because of the difference in the way it is done—or is it very similar?

[15] **David Melding:** We sometimes try to find out the method behind how they allocate a particular procedure. The obvious, broad one is its need for scrutiny and the importance of the regulation, or whether it is ‘technical’—not a category we much like, because what is technical to one person is actually quite key to another.

[16] **Mr Griffiths:** In principle, the principle—if you will forgive that—is the same. Welsh Legislative Counsel has adopted those used by Parliamentary Counsel—the guidelines as to what goes in each category. The big difference is that here, if there is a motion to annul, it is automatically debated; in Westminster, motions to annul are not necessarily debated.

[17] **David Melding:** So our systems are a bit—

[18] **Mr Griffiths:** Ours are more robust.

[19] **David Melding:** More robust in that sense. The Deputy Minister can say, ‘Well, this is how it is done in the bit of legislation that we are incorporating’, or whatever the technical term is for building on previous legislation, and that is an argument. There is a precedent, but it is not convincing in our view, if we have come up with areas that should be scrutinised now. We are not tied at all. In the past we have made recommendations to make the system more robust than the law that it is, in part, built upon—if it is drawing on previous England and Wales legislation. So, it is not a trump card for the Deputy Minister to say, ‘This is how it has always been’.

[20] Is there anything else? Suzy, you are going to make the speech on my behalf, as I will be in the chair.

[21] **Suzy Davies:** That will be fine.

[22] **David Melding:** I will be very grateful for your participation tomorrow, because I think that it is quite important that we remind people. It is a very important piece of legislation, and it is just using the framework approach that causes us some anxiety. It was

probably the biggest issue that we had with the whole thing, really.

[23] That concludes the items to be taken in public session. Am I right? We do not have one more piece, do we? No.

14:38

**Cynnig o dan Reol Sefydlog 17.42 i Benderfynu Gwahardd y Cyhoedd o'r
Cyfarfod
Motion under Standing Order 17.42 to Resolve to Exclude the Public from the
Meeting**

[24] **David Melding:** I move that

the committee resolves to exclude the public from the remainder of the meeting in accordance with Standing Order 17.42(vi).

[25] I do not see any objections.

*Derbyniwyd y cynnig.
Motion agreed.*

*Daeth rhan gyhoeddus y cyfarfod i ben am 14:39.
The public part of the meeting ended at 14:39.*