



Cynulliad  
Cenedlaethol  
Cymru

National  
Assembly for  
Wales

# Cofnod y Trafodion The Record of Proceedings

## Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

## The Constitutional and Legislative Affairs Committee

07/03/2016

Agenda'r Cyfarfod  
Meeting Agenda

Trawsgrifiadau'r Pwyllgor  
Committee Transcripts

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

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

**Aelodau'r pwyllgor yn bresennol**  
**Committee members in attendance**

Alun Davies <a href="#">Bywgraffiad</a>   <a href="#">Biography</a>	Llafur Labour
Suzy Davies <a href="#">Bywgraffiad</a>   <a href="#">Biography</a>	Ceidwadwyr Cymreig Welsh Conservatives
David Melding <a href="#">Bywgraffiad</a>   <a href="#">Biography</a>	Y Dirprwy Lywydd a Chadeirydd y Pwyllgor The Deputy Presiding Officer and Committee Chair
William Powell <a href="#">Bywgraffiad</a>   <a href="#">Biography</a>	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats

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

Ruth Hatton	Dirprwy Glerc Deputy Clerk
Joanest Varney-Jackson	Uwch-gynghorydd Cyfreithiol Senior Legal Adviser
Naomi Stocks	Ail Glerc Second Clerk
Dr Alys Thomas	Y Gwasanaeth Ymchwil Research Service
Gareth Williams	Clerc Clerk

*Dechreuodd y cyfarfod am 14:31.*  
*The meeting began at 14:31.*

**Cyflwyniad, Ymddiheuriadau, Dirprwyon a Datgan Buddiannau**  
**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. We have

apologies from Dafydd Elis-Thomas. We do not expect a routine fire drill. So, if we hear the alarm, please follow the instructions of the ushers. Please switch electronic devices either off or to silent. These proceedings will be conducted in Welsh and English and, when Welsh spoken, there is a translation on channel 1. Channel 0 will amplify our proceedings, should you need that service.

14:32

**Offerynnau nad ydynt yn Cynnwys Materion i Gyflwyno Adroddiad  
arnynt o dan Reol Sefydlog 21.2 neu 21.3  
Instruments that Raise no Reporting Issues under Standing Order 21.2  
or 21.3**

[2] **David Melding:** Item 2 is instruments that raise no reporting issues.

[3] **Suzy Davies:** Can I just raise one question here? I appreciate that this committee doesn't deal with policy at all, but we have been contacted by individuals from the outside world with their views that the regulations as they stand perhaps roll back on existing—

[4] **David Melding:** Where are you referring to?

[5] **Suzy Davies:** Sorry?

[6] **David Melding:** What are you referring to?

[7] **Suzy Davies:** Oh, sorry, to the Welsh language regulations, CLA687. Obviously, the systems of standards and schemes are different from each other, but I thought it might be worth raising—I probably won't have a chance to raise it in any other committee—that there were concerns being expressed. I'm just raising it under merits as a possible thing that we should note, as to whether these regulations fully fulfil the legislative intention of the original Measure or whatever the wording for 'merits' is—something like that.

[8] **David Melding:** I think we've all been written to—

[9] **Suzy Davies:** It doesn't need a discussion; it was just to raise it.

[10] **David Melding:** And they are affirmative, I believe, aren't they?

[11] **Mr Williams:** Yes.

[12] **David Melding:** So, they will be debated in the Assembly, but we can shift them into the category of a merits report, saying that we've received these representations, if you want. That is possible, Joaneest, isn't it?

[13] **Suzy Davies:** I don't expect us to discuss the actual content because we're not a policy committee, but the point's been raised.

[14] **David Melding:** But we can label our report as a merits one because of these representations, if—

[15] **Alun Davies:** It may be useful to actually promote that to the First Minister and ask him for his comments ahead of the debate.

[16] **David Melding:** We could do that as well. Okay, so we'll shift that into being a statutory instrument—is it a statutory instrument?—that requires a merits report.

[17] **Ms Jackson:** I think there are a couple of Standing Orders you could rely on. You could use 21.32 or 21.35 on political or legal importance, raising matters of public policy or that sort of thing. So, yes we can—

[18] **Suzy Davies:** Yes, as vague and general as possible.

[19] **Ms Jackson:** We can adopt a merits point.

[20] **Suzy Davies:** That will be able to reflect that.

[21] **Ms Jackson:** Yes.

[22] **David Melding:** Okay. So, we'll do that then. Are there any other matters under item 2?

14:34

**Offerynnau sy'n Cynnwys Materion i Gyflwyno Adroddiad arnynt i'r  
Cynulliad o dan Reol Sefydlog 21.2 neu 21.3  
Instruments that Raise Issues to be Reported to the Assembly under  
Standing Order 21.2 or 21.3**

[23] **David Melding:** Item 3 then does take us to those that are listed for merits reports. Do we have any issues with those reports? Obviously, we will now shift the Welsh language one into that category as well.

[24] Is it just the one of those that we wanted to—

[25] **Suzy Davies:** That's a very good question. I seem to remember it's the one that ends '87', but I'm not 100 per cent sure.

[26] **David Melding:** It's '88', I believe.

[27] **Alun Davies:** Standards (No. 3).

[28] **Suzy Davies:** Standards (No. 3). Thank you for that one.

[29] **David Melding:** Okay. So, under item 3, are we okay?

[30] **Alun Davies:** Yes.

14:35

**Adroddiad Monitro Sybsidiaredd rhwng Mis Medi 2015 a Mis Chwefror  
2016**

**Subsidiarity Monitoring Report September 2015 to February 2016**

[31] **David Melding:** Item 4, then, is the subsidiarity monitoring report. Are we happy with that?

14:35

**Papurau i'w Nodi  
Papers to Note**

[32] **David Melding:** Item 5, then, is papers to note. The first one is a letter, or a copy of a letter, from Michael Gove to the Chair of the Joint Committee

on Human Rights, following this matter of how devolved legislatures may be involved in the consultation process. That's paper 13. Papers 14 and 15 can be taken together—that's the Wales Office press release on the Wales Bill on 29 February, and then the statement from the First Minister on the Wales Bill that was made last week, on 1 March. I think Members will be aware that the First Minister has actually published a draft consolidated Bill as part of the ongoing debate about constitutional reform.

[33] **Alun Davies:** Can I just say a word?

[34] **David Melding:** Alun.

[35] **Alun Davies:** The first paper on this subject is, of course, a press release rather than a paper. It's a bit disappointing that the Secretary of State made this via a press conference rather than via a statement to the House of Commons or in correspondence to either the Welsh Government or the National Assembly. I think that's something that we should probably note. But in terms of the substance of both his announcement last week and the First Minister's this morning—I think we're all just considering what the First Minister said this morning—clearly, the draft Bill published by the Welsh Government draws on a number of recommendations that we've made as a committee, both in terms of the report on the draft Bill and also looking back to the 'Making Laws in Wales' report. I think that's something we should welcome. I think we should welcome that very clearly because it does move the debate forward far more than perhaps we would have anticipated or expected had we been meeting last week.

[36] But in terms of wider issues, I saw it reported that the Secretary of State had said during the press conference that he didn't anticipate any new powers accruing to this place prior to 2021. Now, the fact that it was said in a press conference rather than on the record does cause us problems because we're not sure what he said. We can only rely on reports. But were powers not to be delivered to this place for another five years, then I would regard that as entirely and absolutely unacceptable, particularly in terms of a situation—if you look at the electoral arrangements where there is no disagreement, as far as I can see, across the political parties or elsewhere in Wales—where they would not be used until an election taking place in a decade's time. Now, to have powers sitting on the statute book, unable to be used, and not going to be put into practical use for a decade, I find entirely and completely unacceptable. I think we do need to say something very clearly on this prior to dissolution. Clearly, we're going to go through a

period of time now, over the next couple of months, where others will be taking this debate forward whilst the Assembly is dissolved, but I think, prior to dissolution, it would be good if this committee could make some of those points to the Secretary of State, and also to inform or perhaps advise or provide some element of advice to any successor committee in the next Assembly.

[37] **David Melding:** Any other views?

[38] **Suzy Davies:** Just to alert everyone that I think we've all had letters from the Secretary of State today.

[39] **Alun Davies:** I haven't.

[40] **David Melding:** We've had a letter from the First Minister. I'm not sure we had anything from the Secretary of State.

[41] **Suzy Davies:** Oh, check pigeonholes, I think.

[42] **David Melding:** Okay.

[43] **Suzy Davies:** Unless it's just me being very special. [*Laughter.*]

[44] **Alun Davies:** Perhaps you are special.

[45] **Suzy Davies:** It's slightly unlikely, I think. [*Laughter.*]

[46] **David Melding:** Well, I think the legacy report can note the concerns, and I think it's best then left for that committee, early on in the fifth Assembly, to engage afresh, really. That committee will need to examine our work and then the status of the Bill that's then introduced at some point, presumably in the summer, by the UK Government, and that can be compared to our report and also to the draft consolidated Bill that the First Minister has now published as part of the general constitutional debate. I don't see any problems with inserting a reference into the legacy report about the importance of these issues, and anyone can then refer to that. Would that satisfy your—

[47] **Alun Davies:** I think my main concern is the timeliness of delivering coherent powers, if you like. We're going to see significant changes to parliamentary representation over the next few years, and it appears to me



that it would be best if any potential changes to the Assembly's methods of representation took place at a similar time, otherwise we would have two parliamentary terms where there would be two significant changes to the way that people are represented. I think that's just a very, very bad way of operating.

[48] **David Melding:** I think it's fair that, as you said, everyone seemed—. All political parties represented here welcomed the fact that we would gain near total control over the electoral arrangements in Wales in terms of this place. I think most people assume that those powers would then be used to have some form of electoral reform Bill in the next Assembly that would then determine the type of institution and the elections to that institution for 2021. If that's not the case, it would then be 2026, which, as you say, is a decade hence, so I'm sure most people would've expected these powers. If they are appropriate, then they're likely to be used before then. Indeed, there may be very pressing reasons to use them if the parliamentary representation changes, and that, unless you do something about it, has a knock-on effect immediately on the number of constituencies in this Assembly. So, there clearly are issues. Suzy.

[49] **Suzy Davies:** I just have a comment and an observation as much as anything. I've just seen the Government and Laws in Wales Bill that's come as an attachment to the First Minister's e-mail. I've got to say that I find it extraordinary that they found time to put together a consolidated Wales Bill, when the reason that was given to this committee for not preparing a consolidated historic environment Bill is that they didn't have anywhere near enough time, and that's something for which they do have responsibility.

[50] **David Melding:** Well, it's certainly our view that law should be consolidated, unless there's a very good reason—

[51] **Suzy Davies:** Yes, and we welcome this, I'm just wondering—

[52] **Alun Davies:** I think we should welcome the new historic environment Bill, which, no doubt, will be published later this afternoon [*Laughter.*] I don't disagree with Suzy, by the way, I think the point she makes is very, very fair and entirely rational. I think it's something on which we should, perhaps, base our questioning of any future Welsh Government.

[53] **Suzy Davies:** Well, I do believe that the First Minister is making a statement tomorrow about it, so I'm sure we'll have a chance.

[54] **Alun Davies:** I'm sure you will.

[55] **David Melding:** It's a perfectly fair point. If you can consolidate constitutional law, which is often scattered all over the place in terms of the statutes that are relevant, then it's not mission impossible for other legislation, particularly legislation that had fairly specific policy intentions. Okay.

[56] **William Powell:** Having that arriving in consolidated form in such a short time and then having a 10-year wait for the one area of the draft Bill that found favour in virtually every quarter is equally remarkable.

[57] **David Melding:** Okay. So, we note those, and then there's a copy of the letter from the Presiding Officer to the Chair of the Enterprise and Business Committee for us to note.

14:44

**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**

*Cynnig:*

*Motion:*

*bod y pwyllgor yn penderfynu that the committee resolves to gwahardd y cyhoedd o weddill y exclude the public from the cyfarfod yn unol â Rheol Sefydlog remainder of the meeting in 17.42(vi).*

*accordance with Standing Order 17.42(vi).*

*Cynigiwyd y cynnig.*

*Motion moved.*

[58] **David Melding:** I now move that we conduct the rest of our proceedings in private, unless any Member objects. I don't see any Member objecting, so please switch off the broadcasting equipment and, should there be anyone in the gallery, please ask them to leave.

*Derbyniwyd y cynnig.*

*Motion agreed.*

*Daeth rhan gyhoeddus y cyfarfod i ben am 14:44.*

*The public part of the meeting ended at 14:44.*