



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

**Y Pwyllgor ar y Gorchymyn Arfaethedig ynghylch
Tai Fforddiadwy
The Proposed Affordable Housing LCO Committee**

**Dydd Mawrth, 8 Gorffennaf 2008
Tuesday, 8 July 2008**

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Cofnodir y trafodion hyn yn yr iaith y llefarwyd hwy ynndi yn y pwyllgor. Yn ogystal,
cynhwysir cyfieithiad Saesneg o gyfraniadau yn y Gymraeg.

These proceedings are reported in the language in which they were spoken in the committee.
In addition, an English translation of Welsh speeches is included.

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

Peter Black	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Alun Davies	Llafur Labour
Lesley Griffiths	Llafur Labour
Mark Isherwood	Ceidwadwyr Cymreig Welsh Conservatives
Leanne Wood	Plaid Cymru (Cadeirydd y Pwyllgor) The Party of Wales (Committee Chair)

Eraill yn bresennol
Others in attendance

Jocelyn Davies	Aelod Cynulliad, Plaid Cymru (Y Dirprwy Weinidog dros Dai, Plaid Cymru) Assembly Member, The Party of Wales (The Deputy Minister for Housing)
Helen Kellaway	Cyfreithiwr, Adran Gwasanaethau Cyfreithiol y Llywodraeth Lawyer, Government Legal Services Department
John Rees	Y Gyfarwyddiaeth Dai, Llywodraeth Cynulliad Cymru Housing Directorate, Welsh Assembly Government

Swyddogion Gwasanaeth Seneddol y Cynulliad yn bresennol
Assembly Parliamentary Service officials in attendance

Gwyn Griffiths	Ymgynghorydd Cyfreithiol Legal Adviser
Lewis McNaughton	Dirprwy Glerc Deputy Clerk
Gareth Williams	Clerc Clerk

Dechreuodd y cyfarfod am 9.45 a.m.
The meeting began at 9.45 a.m.

Cyflwyniad, Ymddiheuriadau a Dirprwyon
Introduction, Apologies and Substitutions

[1] **Leanne Wood:** I welcome everyone to this meeting of the Proposed Affordable Housing LCO Committee. I have received one apology to date, from Lesley Griffiths, who I understand is on her way. I will not go through the usual housekeeping rules, but, as Members know, they do apply.

9.46 a.m.

Gorchymyn Cynulliad Cenedlaethol Cymru (Cymhwysedd Deddfwriaethol)
(Tai) 2008
The National Assembly for Wales (Legislative Competence) (Housing) Order
2008

[2] **Leanne Wood:** The purpose of today's meeting is to take further oral evidence from the Deputy Minister for Housing in connection with the Government's proposed legislative competence Order in relation to affordable housing. I therefore welcome back to the committee Jocelyn Davies AM, the Deputy Minister for Housing, and her officials. I would be grateful, Deputy Minister, if you and your officials could introduce yourselves for the record.

[3] **The Deputy Minister for Housing (Jocelyn Davies):** I am Jocelyn Davies, the Deputy Minister for Housing.

[4] **Mr Rees:** I am John Rees, from the Welsh Assembly Government's housing directorate. I have responsibility for the right-to-buy scheme and the affordable housing LCO, at official level.

[5] **Ms Kellaway:** I am Helen Kellaway, from the legal services department of the Welsh Assembly Government.

[6] **Leanne Wood:** Thank you. We will start today's evidence session by questioning the Deputy Minister. Perhaps I could start by asking the Deputy Minister to outline how the proposed Order laid in the Assembly has changed from the proposed Order laid in Parliament in May, and the reasons for those changes.

[7] **Jocelyn Davies:** There are several differences. You will remember, Chair, that, when I appeared before the committee previously, points were made about the definition of 'social landlord', and we are grateful for that. What we wanted to do was ensure that we had legislative competence over all the social landlords that exist now, or might exist; so changes were made to the definitions of 'social landlord'.

[8] Instead of the reference to 'dwelling' and 'dwelling-house', a change has been made to:

[9] 'land held or used for housing purposes'.

[10] This means that it is not just land within the curtilage of a dwelling, but land held by social landlords that might not currently be used for housing purposes. If you remember, we had a discussion about the difference between voluntary and statutory disposals; this encompasses all of those, so there is no difference there.

[11] Therefore, if there was, say, a large-scale voluntary transfer, it is all the land that goes along with that, so it is the land held by the social landlord. It could perhaps cover caretakers' houses in schools, cemeteries, or parks, and so on. On the definition of 'land', it could be land covered with water in any estate, interest, easement, servitude, or right in an overland, so it is a broader definition than 'dwelling' and 'dwelling-house' and the land that would come within that curtilage. If it does not have planning consent—I think that you can clarify that—it could be land that is held by a registered social landlord, but if it does not have planning consent, it is not held for housing purposes. Is that correct?

[12] **Mr Rees:** Yes. To be held for planning purposes, you need to have planning permission for housing.

[13] **Jocelyn Davies:** So, it is broader. This came out of the ongoing discussions that we have been having with the UK Government on improving the LCO. As I say, it took on board points that were made in this committee, and the discussions that have evolved between officials. We could go into greater detail about the changes if you wanted a more legal definition of those changes.

9.50 a.m.

[14] **Leanne Wood:** I believe that Members have some questions first; the legal definitions may come up as part of that.

[15] **Peter Black:** You effectively told the committee, the last time that you gave evidence, that you felt that the LCO was broad enough, yet you have now broadened the LCO in the middle of the scrutiny process. In evidence to the Welsh Affairs Committee, you said that having something broad was all very well, but that you needed to know where the edges were. Where are the edges on this LCO?

[16] **Jocelyn Davies:** It has often been said that legislative competence Orders may have fuzzy edges, but, as I explained to the committee on both occasions that I have been before you, we felt that we wanted certainty over what powers we hold and what powers are left at Westminster. We feel that this covers that issue, even though the previous wording, which was considered by this committee, more than adequately covered our policy aim. The LCO is now broader and there is no need now to try to distinguish between voluntary and statutory disposals, because they are all firmly covered and there is a general power in relation to both.

[17] **Peter Black:** What additional measures would you be able to take as a result to the changes to this LCO, which you could not before?

[18] **Jocelyn Davies:** We do not have any intentions in that regard—the policy aim is still the same. We will bring forward a Measure that will enable us to suspend the right to buy on an application from local authorities in areas of high housing pressure. There is no change in relation to the policy aim, which is to give the Assembly broader and enduring power.

[19] **Peter Black:** I will rephrase my question: what additional scope does this new LCO give you?

[20] **Jocelyn Davies:** You may remember that one of the things that we touched on when I previously gave evidence was that we have substantial powers already in relation to, for example, stock transfer; the powers, as they were previously worded, gave additional powers in relation to stock transfer. I believe that it was Alun Davies who made that point. This would give a general power in relation to stock transfer, so that the whole of stock transfer would be covered by this. In some respects, this duplicates powers that we already hold, but it gives a general power in relation to stock transfer.

[21] **Peter Black:** So you could do additional things in terms of stock transfer.

[22] **Jocelyn Davies:** As I said, we had substantial powers before, but this would cover the whole of stock transfer. I think that I am right in saying that.

[23] **Ms Kellaway:** In the way that it is drafted, it now includes stock transfer. That is correct.

[24] **Peter Black:** Whereas it was not clear before whether it did or not.

[25] **Ms Kellaway:** The previous Order referred to dwellings and dwelling-houses, and land with those dwellings, but the LCO now, because of the way in which it is drafted, includes all of stock transfer.

[26] **Jocelyn Davies:** When stock transfers occur, there is land outside the curtilages of dwellings that is also transferred. So this LCO would also cover that land.

[27] **Peter Black:** Another thing that you said to the Welsh Affairs Committee was that you were not going to respond to the various matters that were raised in the scrutiny until this committee and the Welsh Affairs Committee had reported, yet you changed the LCO halfway through our scrutiny, and before its scrutiny had started. What was the reason for that change?

[28] **Jocelyn Davies:** Ideally, both processes would start at the same time and would work in parallel, and you would probably have joint scrutiny. At the beginning of this process, you will recall that the First Minister, when he headed a minority administration, announced on 6 June that this LCO would begin in September. We then had the change of Minister here and there was no firm agreement from Westminster to start in September, as discussions were still ongoing. There was then a change of Minister of Housing at Westminster and also a change of Ministers at the Wales Office. Of course, the Communities and Local Government Department also had a substantial Bill at committee stage, which was the Housing and Regeneration Bill. All of those things combined resulted in the delay of getting agreement and that we were in danger, if we did not at least start the process here—which is the only thing that is within our control—of missing the legislative slot that we had here. So, it was exceptional. I do not think that those circumstances would combine and recur to delay us.

[29] Ideally, we would start the processes together and in parallel, but it was not possible on this occasion. I explained that at the time, and I think that I told the committee that discussions were continuing with Westminster when we started the process here. When I came to give evidence to the committee, I told you that I felt that the points being made to me on the day about social landlords were valid. I said that we would like to take them on board, and they were taken on board at that time when I appeared before the committee. We did not wait until the committee's report was laid to look at that point, because it was already well made to me here. When such points are raised during discussions, it is a more useful use of time to make those improving revisions along the journey.

[30] **Peter Black:** So you made the changes in response to the evidence and views of this committee.

[31] **Jocelyn Davies:** The points were raised with me here and we accepted those. I told you, as you will see if you look at the transcript, that we definitely wanted the definition of social landlord to include all the social landlords that we wanted to cover, so that point was taken on board.

[32] **Peter Black:** So, it was in response to this committee.

[33] **Jocelyn Davies:** In response to points that were raised with me when I gave evidence.

[34] **Peter Black:** What influence did Westminster have in terms of the changes?

[35] **Jocelyn Davies:** There has been an ongoing dialogue between officials since last June. I do not think that I am in a position to tell you who suggested what. Those discussions are between Governments. We would not want to have an impact on the freedom of how information passes between officials. However, the wording before you now is the result of constant and ongoing discussions and dialogue, including suggestions from us and from the Wales Office and Westminster in order to reach an agreement on that.

[36] **Peter Black:** I have one more question on the details of the LCO. You have changed the definition of 'disposal', but you are still defining it in terms of the various Acts of Parliament, for example the Housing Act 1985 and the Housing Act 1996. Do you think that there is a danger that, if further Acts of Parliament are passed, which would amend your change of that definition of 'disposal', we would need a further legislative competence Order

to accommodate that? Would it not be better to leave definitions to the Measure itself?

[37] **Ms Kellaway:** We think that any future changes to Acts of Parliament that affect competence here would be covered by the consent under the memorandum of understanding and the concordats with the Department for Communities and Local Government. It would have to request consent to modify that.

[38] **Peter Black:** So, we would have to agree to that change.

[39] **Ms Kellaway:** I believe so, yes.

[40] **Peter Black:** Would you incorporate that in the Act rather than have another LCO?

[41] **Ms Kellaway:** That would need to be considered at the appropriate time, depending on the nature of the changes and how it would affect the competence.

[42] **Jocelyn Davies:** We covered the point of the memorandum of understanding when I gave evidence before. We provided you with a written note, and that has not changed. The definitions as they are outlined here make up the competence that we will take. We will redefine those if we want to narrow them in relation to the Measure, but this is about the competence that will then come to the Assembly. So, the definition of ‘disposal’ in the Measure may be narrower than this.

[43] **Peter Black:** I understand that and that is the point that I was making—that you should take the widest possible definition in the LCO and then define it as you wish in the Measure. My point was that, by defining it in that way, you are limiting yourself in many ways in terms of what you can do in the Measure. However, we have made this point before.

[44] **Leanne Wood:** If that is the case, then I will move on to Alun Davies.

10.00 a.m.

[45] **Alun Davies:** The committee was somewhat concerned about this LCO, Deputy Minister, because when the Order was laid in Parliament by the Secretary of State for Wales, it was an Order that was somewhat different from the Order that we had debated and discussed in the Assembly. Do you think that it is good practice for that to happen, Deputy Minister?

[46] **Jocelyn Davies:** As I said, ideally these things would run in parallel and you could have joint scrutiny, and so on. It is just that that would have meant that we would have not been able to start scrutiny until quite recently. It was in the legislative programme of the Assembly for scrutiny to begin on this LCO last autumn. It did not start until January, and we felt that we could not wait any longer, because that could have had a significant knock-on effect on our legislative programme. It is exceptional, and I cannot imagine that once the new system beds in that that will happen again. It is regrettable, but there is nothing sinister in it whatsoever—it is just that circumstances were such that they did not allow us to start this in parallel.

[47] **Alun Davies:** I would not suggest that there is anything particularly sinister in this, Deputy Minister. However, in terms of the process, you said in answer to a question from Peter Black that the changes made were largely the result of this committee’s work—not necessarily its report—but the work, the evidence and the debates that took place during the process of this committee taking evidence.

[48] **Jocelyn Davies:** In relation to the definition of ‘social landlord’, I told the committee

that I would be very happy to take the point made on board.

[49] **Alun Davies:** So, the changes were not made as a result of the debates and discussions that you said have been ongoing almost daily?

[50] **Jocelyn Davies:** The point in relation to the definition of 'social landlord' was well made in committee. I would not say that it was a point of which officials were unaware, but the committee added to the discussion. As I explained, the discussions are frequent and many people contribute to them, and the committee's point on the definition of 'social landlord' added to that.

[51] **Alun Davies:** So, that particular change was as a result of this committee's work, and other changes were the result of this dialogue that has been taking place?

[52] **Jocelyn Davies:** There has been constant and ongoing dialogue between officials.

[53] **Alun Davies:** As a part of that constant and ongoing dialogue, did you raise any of the other issues that the committee raised with you?

[54] **Jocelyn Davies:** Personally, I have not raised the issues of definitions, and so on, with my counterparts. The transcript of the evidence that you have taken over the months has been available, and officials have monitored and looked at the evidence that you have received. So, I could not give you a definite 'yes' or 'no', but as officials have been watching what has been going on and checking the transcript, and so on, I am sure that points have been picked up.

[55] **Alun Davies:** But you did not make representations yourself?

[56] **Jocelyn Davies:** No.

[57] **Alun Davies:** Okay. In terms of taking this forward, what timescale do you envisage for this LCO?

[58] **Jocelyn Davies:** I do not know when Westminster intends to report.

[59] **Mr Rees:** It will possibly be before recess. It will be tight, but it could possibly be done.

[60] **Alun Davies:** Do you mean the Select Committee report?

[61] **Mr Rees:** Yes.

[62] **Jocelyn Davies:** We have started consultation on the principles of the Measure, so we are holding workshops and consulting on the principles of the Measure. John, do you know when we would be in a position to have a draft Measure? Is that what you are interested in, Alun?

[63] **Alun Davies:** I am interested in how you see this process moving forward.

[64] **Mr Rees:** We will possibly get the report from the Welsh Affairs Select Committee before Parliament's recess. If it does not complete it by then, the committee will not be able to report until about October, when Parliament returns. Assuming that we get the report from the Welsh Affairs Select Committee by recess, it would be considered, along with this committee's report, over the summer. Any subsequent amendments would be discussed with the UK Government before a final draft would be put to the National Assembly for Wales in

Plenary to debate, and to both Houses of Parliament. That would be in the autumn, obviously, and then if the LCO was passed by that process and agreed by Her Majesty The Queen, the Assembly Government could then put forward a draft Measure. The Measure would obviously be next year, in 2009.

[65] **Alun Davies:** You do not anticipate being in a position to bring forward a Measure in 2008.

[66] **Jocelyn Davies:** The Westminster timetable is not within our control. As the official has explained, it is possible that we could receive the report from Westminster this side of the recess, but, if not, it will be the other side of its recess. We will then have to consider the reports and that will obviously have a knock-on effect. From what the official has just said, it is very unlikely that we would see a draft Measure this side of Christmas.

[67] **Alun Davies:** I am sorry, Deputy Minister, but previously you said that one reason why we had to rush the process here was because you did not want to lose your slot in the legislative calendar here, so I assumed that you had a defined time slot.

[68] **Jocelyn Davies:** What I meant was that if the Assembly had not been able to put this committee together then your deliberations would have started much later and, in fact, would have only just started, which would have had a knock-on effect.

[69] **Alun Davies:** In terms of the debates and discussions that are ongoing with the Westminster Government, have you considered our view that one way to improve this Order would be to take away a lot of these very precise definitions and simply to insert 'affordable housing' in Schedule 5 of the Government of Wales Act 2006? That would give you far wider scope to legislate, both in terms of the Measure that we are debating at the moment and in taking forward the rest of your work in relation to your policy on affordable housing.

[70] **Jocelyn Davies:** When I came to committee and that was put to me, I asked the committee what that meant and there seemed to be some disagreement among you as to what that meant. I have read your committee report. I will not respond to the recommendations in the report until I have also received the Westminster report. I think that that is only right and proper.

[71] **Leanne Wood:** Mark, do you have any questions?

[72] **Mark Isherwood:** I will be brief, because you have addressed most of the points that I would have made. My understanding is that the 2006 Act would permit the Secretary of State to amend or even reject an Order. I think that this is more of an issue of process and precedent. It would have been very interesting to have learned what the initial impetus for the changes was, but you have already said that you are not able to share that with us.

[73] In terms of content, you stated in your introduction that the original intention remains, which is to allow social landlords to apply to the Assembly Government to suspend the right to buy, if they so choose. However, it is now expanded to:

[74] 'land held or used for housing purposes'.

[75] In your introduction, you also said that that might extend to include land held by social landlords that might not be held specifically for housing purposes. Could you clarify that? You said that it would also include stock transfer. To assist my understanding, are you stating that, in those circumstances, the broader definition would only apply to a social landlord applying to the Assembly Government for the right to suspend those land or stock transfer aspects? It is my understanding that social landlords would not need such permission even

under current legislation, as the right only applies to the current council house stock. What is the relevance, therefore, of that broadening, unless the intent of the Order, once we move from approval to a Measure, is to extend this well beyond what was initially stated as the intention?

[76] **Jocelyn Davies:** Mark, you seem to be giving the impression that I am pretending that the policy aim is the temporary suspension of the right to buy, but that I intend to do something else. That is not the case. The policy aim has not changed. The words that you see in front of you are the competence that will lie with the Assembly. There is absolutely no policy aim or intention to make Measures in the way that you have described. The policy aim is the same, but the LCO will draw down broader powers. The original wording would have allowed us to achieve that policy aim.

10.10 a.m.

[77] I agree with you that the revised LCO means broader powers, but there is no intention to do other than has been stated at this point. It could be that policy will develop in this area in future. I have no idea whether it will or not. However, this will be an enduring power for the Assembly to hold in relation to disposals by social landlords. I know that we focus a great deal on what the Government intends to do with the Measure-making powers, but I suppose that, at this point, the question is: is it appropriate for the Assembly to request these powers? Is it appropriate for these powers to rest with the Assembly? When you look at the other powers that we hold in relation to social landlords, I would ask whether it is appropriate for Westminster to continue to hold these powers when we have a whole range of powers in relation to this policy area.

[78] There is also a constitutional point that is worth making. If you draw down very narrow powers in relation to just the suspension of the right to buy, for example, what discretion does the legislature—not the Government—then have in suggesting alternatives? You as the legislature could then only say ‘yes’ or ‘no’ to any proposition. You would not be able to make other suggestions, because that would be ultra vires. So, there is a constitutional point in relation to the legislature being able to make other suggestions, rather than just responding ‘yes’ or ‘no’ to the action proposed by the Government.

[79] I hope that you would accept, Mark, that if you look at the ambit of powers currently held by the Assembly in relation to social landlords, it is much more appropriate for these powers to be held by the Assembly than by Westminster, regardless of the policy aims. I give you an assurance that we intend to bring forward a Measure on the temporary suspension of the right to buy. These powers could, I suppose, be used for other purposes in the future. However, we do not have secret plans that we will reveal once we have duped Westminster into passing these powers over to us, I can assure you.

[80] **Alun Davies:** Shame. [*Laughter.*]

[81] **Jocelyn Davies:** It could well be that ideas will come up, and that is only right, and you would not want to have to go back to Westminster every single time—this LCO would give a broad and enduring power to be held in perpetuity by the Assembly and the Assembly Government for future policy development.

[82] **Mark Isherwood:** I was not suggesting otherwise, and did not expect you to say anything different from what you just said. I was just seeking to clarify that the wider definition described here is not intended just to relate to social landlords applying to the Assembly Government not to do things, but to empower the Assembly Government to possibly do things, or to have the power to do things in the future that it is not be able to do now.

[83] **Jocelyn Davies:** Yes. As I said, in relation to stock transfer, we already hold considerable powers, but this is a general power in relation to that. I will just make a slight correction—our intention at this point, although it would be subject to consultation, is that it would be the local authority and not the social landlord that would make the application. As we envisage it, the local authority would have to prove that there was consultation with any social landlord that would be affected in its area.

[84] **Mark Isherwood:** Presumably, the definition of ‘social landlord’ in the amended Order includes local authorities.

[85] **Jocelyn Davies:** Yes.

[86] **Mark Isherwood:** Unfortunately, I have to leave now, but thank you.

[87] **Jocelyn Davies:** It would be for the local authority to make the application.

[88] **Mark Isherwood:** Okay.

[89] **Leanne Wood:** Thank you, Mark. Do any other Members have a question?

[90] **Lesley Griffiths:** I apologise for being late. I do not know whether you have covered this point, but do you feel that you will have enough powers to address the difficulties with the provision of more affordable housing in Wales with this LCO?

[91] **Jocelyn Davies:** This legislative competence Order, as it was worded before and as it is worded now, would certainly give us the powers to pursue the stated policy aim of suspending the right to buy. In relation to the broader point of affordable housing, I have assured the committee previously that if we find that we need more powers in the future, we are happy to work up policies and make the case for more powers.

[92] **Peter Black:** Will the powers that this Order gives you enable you to amend the way in which local authorities treat the capital receipts from the right to buy, or would you need to deal with the Treasury on that matter?

[93] **Jocelyn Davies:** I gave some evidence to the committee on this before, and I can see the point on capital receipts. John, although you do not deal with the housing revenue accounts system, you may know something about this. As I explained before, local authorities could use 100 per cent of capital receipts, and some local authorities have done that, but that has an impact on their subsidy. The Treasury gets you one way or another, regardless of the primary legislative powers that you hold.

[94] **Peter Black:** I was aware of the answer that you gave before, but I was wondering whether this new LCO would give you powers to change the subsidy system.

[95] **Jocelyn Davies:** I understand that we have considerable discretion in relation to that, but, as I said, the Treasury will get you in another way. Some local authorities have used 100 per cent of their capital receipts—and they had the freedom to do so—but the subsidy that they receive is then affected by that. So, it is about money transfer rather than the law, if you like, and we would have to find that money from other sources in the Assembly budget.

[96] **Peter Black:** This goes to the core of the validity of Professor Wilcox’s evidence and whether you can do what he suggested as opposed to what you are proposing.

[97] **Jocelyn Davies:** He suggested a reduction in the discount, which has already been

reduced considerably—

[98] **Peter Black:** As I understood it, he suggested that, for every three houses you sell, you could build two by applying 100 per cent capital receipts.

[99] **Jocelyn Davies:** Local authorities could do that, and some have used 100 per cent of their receipts. Unfortunately, most local authorities are looking at a big bill to meet the Welsh housing quality standard, and so they use the receipts money to pay for improvements rather than to build new houses. In addition, they have a debt to the UK Treasury that they need to service, and so that would also affect their ability to service the debt. Some local authorities have reinvested 100 per cent of their capital receipts but, typically, a local authority would use 25 per cent of them to service the debt and reinvest 75 per cent.

[100] I have looked at Professor Wilcox's arguments and I have met him, but, when he gave evidence to you, he was not aware of the major repairs allowance that authorities receive. His research is based on English circumstances and ours are slightly different, as our local authorities receive a major repairs allowance. It is a balancing act, I suppose. No local authority has approached me with that proposal but, when I meet with the Welsh Local Government Association, I will take that up with it to see how it feels about the proposal, in case an authority does want to do that. However, given the financial situation in which most local authorities holding housing stock in Wales find themselves, I imagine that they would prefer to part-service their debt and use part of the money to improve their properties.

[101] **Peter Black:** I do not disagree with that analysis. I have one final question, which is more general. You have taken these powers to deliver specific policy objectives, namely the suspension of the right to buy where circumstances permit and where it is necessary. Through LCOs, these powers are taken down by the Assembly, and successive Assembly Governments may use them in different ways. Do you believe that the powers that this LCO gives the Assembly Government, together with the powers that it already has to pass Measures, will be sufficient to deal with the housing issues that face you and your successors for the foreseeable future?

10.20 a.m.

[102] **Jocelyn Davies:** It was a distinct commitment in 'One Wales' and in the parties' manifestos that the One Wales Government would draw down powers to suspend the right to buy. I can understand why the First Minister, during the period of a minority Labour Government, gave that commitment, because it is a very distinct and discrete policy area. I was happy, when the coalition Government was formed, to continue with that. If I found that we had policy ideas that could not be accommodated, I would be prepared to put the case. This is broader than we had originally envisaged, so it contains the right to buy and any disposal by a social landlord of land held for housing purposes. I suppose that it gives a broader discretion to suggest alternatives not only to me, but to the Assembly. So, Peter, I cannot give you the same answer that I gave to Lesley, and I cannot say that this will cover everything that I want to do, but I think that it is a good start.

[103] **Peter Black:** Can you foresee Measures that might be needed in future for which you do not have the powers?

[104] **Jocelyn Davies:** In discussions with policy officials, I have not come up with any policy ideas that cannot be accommodated. However, as I told the committee previously, I would like to see the development of a single social housing tenancy. We want to pursue policies of tenure neutrality. There are often opportunities with Westminster Bills, as housing seems to be an area on which a stream of legislation passes through Westminster. We will not be missing any opportunities in the future to get the maximum amount of power via

Westminster Bills. If I need more powers, I certainly would not hesitate to seek them. I am not coming up against problems right at this minute with regard to anything that I would pursue with urgency if we had the powers.

[105] **Peter Black:** On the tenure-neutral and the single social housing tenancy, do you have the powers to do that now?

[106] **Jocelyn Davies:** No. I told the committee that we do not have the powers over tenancy, but we are hopeful. There were proposals for a Bill, and this is the problem if you go just for the Bill process. The journey of Bills through Westminster is tortuous. Bills are announced, but they do not always end up as Acts. Parts of them fall by the wayside, are guillotined, or dropped, or whatever. So, if you put all of your eggs in that basket, you cannot be certain that you will end up with the powers. However, I am hopeful that there will soon be the ability, through an Act, to get the sole social housing tenancy.

[107] **Peter Black:** So, why did you not use this LCO to acquire those powers?

[108] **Jocelyn Davies:** The process had already started.

[109] **Peter Black:** However, you have changed it already.

[110] **Jocelyn Davies:** When I came to the committee, I told you that I would like to see that but that there would be an opportunity soon, and I was quite happy to take that opportunity. I am not saying that it would solve the housing problems that we are facing in Wales, but I would like to pursue it. I am happy to admit to you that we do not have the powers to do that at the moment. I do not want to pursue that urgently, but I would like to see that happening.

[111] **Peter Black:** It just seems strange to me that, if the LCO can be changed halfway through the process, it was not changed to accommodate that particular need.

[112] **Jocelyn Davies:** The wording of the LCO still refers to 'disposal by a social landlord'. Tenancy law would have been outside that.

[113] **Peter Black:** The subject of the LCO is 'affordable housing'.

[114] **Alun Davies:** We could conceivably put almost anything we chose into this LCO, as we are seeking the power to legislate. As Peter said, this is the National Assembly for Wales (Legislative Competence) (No. 5) Order 2008 on affordable housing. I would argue that it is a matter for the Deputy Minister to choose the areas in which she seeks competence under this Order. It is a matter for her to make that choice. I assume that she would then have discussions with Westminster to seek agreement on that.

[115] **Jocelyn Davies:** I would be pleased if we had the powers to create a single social housing tenancy, to take away the differences between housing association tenants and local authority tenants. When we discussed this when I appeared before the committee previously, Peter made the point that a great deal of the difference is about perception, but I still think that it would be desirable to do that. I would not say that it is urgent, however.

[116] If we had added that in, it would have represented a change in policy as well as a change in the wording of the Order. The discussions that took place about this legislative competence Order were about disposals by social landlords and that general area of housing. We would not just have been changing the wording of the Order; we would have been changing policy. However, I would like to see the idea of a sole social housing tenancy developed in future, even if it is only to address perceptions.

[117] **Leanne Wood:** Do you want to come back on that, Alun?

[118] **Alun Davies:** I simply want to say that the difference between the committee and you, Deputy Minister, is that we are concerned that you will require additional powers to deal with affordable housing subsequent to this. You mentioned the tortuous process of Bill-making at Westminster, but I would argue that LCOs are at least as tortuous if not more so. Our concern is simply that we do this now. Now that Mark has left, I do not think that there is any political difference on either side of the table in wanting to achieve the policy objective; our concern is that we will be meeting again in similar circumstances next year and the year after. That is the only difference between us.

[119] **Jocelyn Davies:** I would not say that there is a difference between us, but, as we develop policies, if we find that we need more powers, I am happy to make the case and to apply for them. However, I return to the same point: in 'One Wales' and in three of the four parties' manifestoes, this was a distinct and discrete commitment. It was also included in the manifestoes of Community Housing Cymru, and it has been warmly welcomed by those from whom you have taken evidence, including the Welsh Local Government Association and tenants' associations. I understand why the First Minister thought last June that this would be a good area in which to start this legislative competence Order process, as it is a discrete policy area with a specific policy in it. I hope that, over time, as we become more used to the system and as we become a bit bolder, we might go further. However, I can see why this was chosen, and the One Wales Government was perfectly happy to continue with this course of action.

[120] **Lesley Griffiths:** You say that many of our witnesses warmly welcomed this, but several also said that they felt that we were just testing the water and that we would need more powers to address affordable housing issues. That is where we are coming from with our concern that this is not sufficiently encompassing.

[121] **Jocelyn Davies:** I can see why they would make that point. I have been looking through the transcripts and, despite witnesses saying that more needed to be done, or whatever, I did not think that such comments detracted from the point that this is seen as something that can be done and something that should be done now rather than delaying until we see exactly what we can do over time. I do not think that we should be at all reluctant to go back and ask for extra powers if we find that what we have is insufficient, rather than assume that we have just one opportunity to do this, and so we had better make it as broad as possible because we do not know what we will need in future. I do not think that we should be at all reluctant to do that. I would certainly be very happy to do that.

[122] **Peter Black:** Is it not the reality that you may have only the one opportunity in the current parliamentary session, given the time that this LCO has taken to go through, and the time that it takes to draw up Measures and so on?

[123] **Jocelyn Davies:** I am sure that we will become quicker with this process as time goes on, Peter. As I was explaining to you, housing Bills seem to arise in Westminster with incredible frequency. They do not say, 'Well, let us have one huge Bill, because we might not get another opportunity next year'. There seems to be one every year at Westminster. So, there you are.

[124] **Peter Black:** I note from the transcript of the Select Committee on Welsh Affairs meeting that you are a glass-half-full person, Deputy Minister, as opposed to a glass-half-empty one.

[125] **Jocelyn Davies:** My glass is empty now. *[Laughter.]*

[126] **Leanne Wood:** I believe that Members have covered everything that they wanted to raise. Is that correct? I see that it is.

[127] I thank the Deputy Minister and her officials for their additional evidence to the committee.

10.30 a.m.

**Cynnig Trefniadol
Procedural Motion**

[128] **Leanne Wood:** I propose that

the committee resolves to exclude the public from the remainder of the meeting in accordance with Standing Order No. 10.37(vi).

[129] I see that the committee is in agreement.

*Derbyniwyd y cynnig.
Motion carried.*

*Daeth rhan gyhoeddus y cyfarfod i ben am 10.30 p.m.
The public part of the meeting ended at 10.30 p.m.*