



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

**Pwyllgor Deddfwriaeth Rhif 1
Legislation Committee No. 1**

**Dydd Iau, 10 Rhagfyr 2009
Thursday, 10 December 2009**

Cynnwys
Contents

- 3 Cyflwyniad, Ymddiheuriadau a Dirprwyon
Introduction, Apologies and Substitutions
- 4 Mesur Arfaethedig Cynulliad Cenedlaethol Cymru (Taliadau)—Cyfnod 1, Sesiwn
Dystiolaeth 1
The Proposed National Assembly for Wales (Remuneration) Measure—Stage 1,
Evidence Session 1

Yn y golofn chwith, cofnodwyd y trafodion yn yr iaith y llefarwyd hwy ynndi yn y pwyllgor.
Yn y golofn dde, cynhwyswyd cyfieithiad o'r areithiau hynny.

In the left-hand column, the proceedings are recorded in the language in which they were spoken in the committee. In the right-hand column, a translation of those speeches has been included.

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

Eleanor Burnham	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Rosemary Butler	Llafur (Cadeirydd y Pwyllgor) Labour (Committee Chair)
Ann Jones	Llafur Labour
Nick Ramsay	Ceidwadwyr Cymru Welsh Conservatives

Eraill yn bresennol
Others in attendance

Yr Arglwydd/Lord Dafydd Elis-Thomas	Aelod Cynulliad, Plaid Cymru (y Llywydd a Chadeirydd Comisiwn y Cynulliad) Assembly Member, The Party of Wales (the Presiding Officer and Chair of the Assembly Commission)
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Swyddogion Cynulliad Cenedlaethol Cymru yn bresennol
National Assembly for Wales officials in attendance

Keith Bush	Cyfarwyddwr, Gwasanaethau Cyfreithiol Director of Legal Services
Claire Griffiths	Dirprwy Glerc Deputy Clerk
Bethan Roberts	Cynghorydd Cyfreithiol Legal Adviser
Chris Reading	Rheolwr Prosiect Cymorth i Aelodau'r Cynulliad Supporting Assembly Members Project Manager
Dr Alys Thomas	Gwasanaeth Ymchwil yr Aelodau Members' Research Service
Liz Wilkinson	Clerc Clerk

Dechreuodd y cyfarfod am 9.30 a.m.
The meeting began at 9.30 a.m.

Cyflwyniad, Ymddiheuriadau a Dirprwyon
Introduction, Apologies and Substitutions

[1] **Rosemary Butler:** Good morning, everyone, and welcome to this meeting of Legislation Committee No. 1. Before we start on the main agenda, I remind committee members that the committee operates bilingually and that you can use the headsets to listen to a translation of the Welsh contributions or as an induction loop to hear the proceedings more clearly. I remind you to switch off your mobile phones, pagers or other electronic devices as they interfere with the broadcasting system. Just to warn you, I

Rosemary Butler: Bore da, bawb, a chroeso i'r cyfarfod hwn o Bwyllgor Deddfwriaeth Rhif 1. Cyn inni gychwyn ar y brif agenda, yr wyf yn atgoffa aelodau'r pwyllgor bod y pwyllgor yn gweithredu'n ddwyieithog ac y gallwch ddefnyddio'r clustffonau i wrando ar gyfieithiad o'r cyfraniadau Cymraeg neu fel dolen sain i glywed y trafodion yn gliriach. Hoffwn eich atgoffa i ddiffodd eich ffonau symudol, galwyr neu ddyfeisiau electronig eraill gan eu bod yn amharu ar y system ddarlledu. I'ch rhybuddio, mae gennyf

have a system of fines in place—the fine is now up to £5. Please do not touch the microphones as that could disable the system; they come on automatically.

system o ddirwyon ar waith—mae'r ddirwy wedi codi i £5 bellach. Peidiwch â chyffwrdd â'r microffonau gan y gallai hynny analluogi'r system; maent yn cynnau yn awtomatig.

**Mesur Arfaethedig Cynulliad Cenedlaethol Cymru (Taliadau)—Cyfnod 1,
Sesiwn Dystiolaeth 1
The Proposed National Assembly for Wales (Remuneration) Measure—Stage 1,
Evidence Session 1**

[2] **Rosemary Butler:** The purpose of today's meeting is to take oral evidence in connection with the Proposed National Assembly for Wales (Remuneration) Measure. As you will recall, the proposed Measure has been referred to this committee by the Business Committee in accordance with Standing Order No. 23.21. The role of this committee, as set out in Standing Orders, is to consider and to report on the general principles of the proposed Measure. The committee must report to the Assembly no later than 12 March 2010, in line with the deadline set by the Business Committee. This morning, I particularly welcome Dafydd Elis-Thomas, Presiding Officer and Chair of the Assembly Commission, who is the Member in charge of the proposed Measure. He is accompanied by Keith Bush, who is a regular attendee at our committee. Welcome to you, Keith. Chris Reading, who has been running the supporting Assembly Members project, is also here. Welcome to you.

Rosemary Butler: Diben cyfarfod heddiw yw cymryd tystiolaeth lafar mewn cysylltiad â Mesur Arfaethedig Cynulliad Cenedlaethol Cymru (Taliadau). Fel y byddwch yn cofio, mae'r Mesur arfaethedig wedi'i gyfeirio at y pwyllgor hwn gan y Pwyllgor Busnes yn unol â Rheol Sefydlog Rhif 23.21. Swyddogaeth y pwyllgor hwn, fel y nodir mewn Rheolau Sefydlog, yw ystyried ac adrodd ar egwyddorion cyffredinol y Mesur arfaethedig. Rhaid i'r pwyllgor adrodd i'r Cynulliad erbyn 12 Mawrth fan bellaf, yn unol â'r terfyn amser a bennwyd gan y Pwyllgor Busnes. Y bore yma, estynnaf groeso arbennig i Dafydd Elis-Thomas, y Llywydd a Chadeirydd Comisiwn y Cynulliad, sef yr Aelod sy'n gyfrifol am y Mesur arfaethedig. Yn gwmni iddo y mae Keith Bush, sy'n mynychu ein pwyllgor yn rheolaidd. Croeso i chi, Keith. Mae Chris Reading hefyd yma, sydd wedi bod yn cynnal y prosiect cynorthwyo Aelodau'r Cynulliad. Croeso i chi.

[3] We have a series of questions for you this morning. Would you like to move straight to the questions, or would you like to make an introductory—

Mae gennym gyfres o gwestiynau i chi y bore yma. A hoffech chi symud ymlaen ar unwaith i'r cwestiynau, neu a hoffech chi wneud cyflwyniad—

[4] **The Presiding Officer (Dafydd Elis-Thomas):** As you know, Chair, I believe in making the maximum possible effective use of Assembly time in committees and elsewhere.

Y Llywydd (Dafydd Elis-Thomas): Fel y gwyddoch, Gadeirydd, credaf mewn defnyddio amser y Cynulliad mewn pwyllgorau ac mewn manau eraill yn y ffordd fwyaf effeithiol bosibl.

[5] **Rosemary Butler:** That is appreciated. Thank you. I forgot to say that, as you are aware, Mohammad Asghar is no longer a member of this committee because he was on the committee representing Plaid Cymru. Plaid Cymru has appointed Chris Franks to the committee, but, unfortunately, he is unable to attend this morning. He is an

Rosemary Butler: Gwerthfawrogir hynny. Diolch. Anghofiais ddweud nad yw Mohammad Asghar, fel y gwyddoch, yn aelod o'r pwyllgor hwn bellach ohrewydd yr oedd ar y pwyllgor i gynrychioli Plaid Cymru. Mae Plaid Cymru wedi penodi Chris Franks i'r pwyllgor, ond, yn anffodus, nid yw'n gallu bod yma heddiw. Mae'n

Assembly Commissioner and so will not be able to take part in these proceedings. Plaid Cymru is therefore finding an alternative. We have had apologies from Huw Lewis, who will be here later.

Gomisiynydd y Cynulliad ac felly ni fydd yn gallu cymryd rhan yn y trafodion hyn. Felly, mae Plaid Cymru yn chwilio am aelod arall. Yr ydym wedi derbyn ymddiheuriadau gan Huw Lewis, a fydd yma'n ddiweddarach.

[6] Llywydd, could you please explain the purpose and aim of the proposed Measure?

Lywydd, a allwch egluro diben a nod y Mesur arfaethedig?

[7] **The Presiding Officer:** I think that this is pretty straightforward because it establishes a principle that, even as we speak, other legislatures are seeking to pursue in their different ways. The principle is that all aspects of financial support for Assembly Members, in particular salaries—which, again, have caused some difficulty elsewhere; I have not heard anything today, but perhaps tomorrow we may know what might happen in Westminster and the House of Commons on that score—will be seen to be decided by people other than Assembly Members themselves. That is the basic principle, which I believe should apply and does apply throughout the private sector, where remuneration boards and committees are the order of the day, and, of course, in the public sector. Therefore, it is no longer appropriate—if it ever was, if I may say so as a philosophical point—that elected people should be subject to the pressures of having to decide their own pay and rations, so to speak. That cuts both ways. I have seen it, and one could well argue that that is happening currently in the Northern Ireland Assembly. I have seen Members who are unwilling to vote for a salary increase because of the bad press that they will get, which means that there is always a danger that we may not be able to recruit people from other walks of life, in which they were used to having a reasonable salary, to become democratically elected representatives, which I think is a very important principle, and, of course, that is one of the objectives of the board in deciding the level of remuneration.

Y Llywydd: Credaf fod hynny yn eithaf syml, gan ei fod yn sefydlu'r egwyddor bod deddfwrfeydd eraill yn ceisio ei dilyn mewn gwahanol ffyrdd, hyd yn oed wrth i ni siarad,. Yr egwyddor yw bod pob elfen o gymorth ariannol ar gyfer Aelodau'r Cynulliad, yn enwedig cyflogau—sydd, eto, wedi achosi rhai anawsterau mewn manau eraill; nid wyf wedi clywed unrhyw beth heddiw, ond efallai yfory y cawn wybod beth allai ddigwydd yn San Steffan a Thŷ'r Cyffredin o ran hynny— yn cael eu gweld yn cael eu penderfynu gan bobl ar wahân i Aelodau'r Cynulliad eu hunain. Dyna'r egwyddor sylfaenol, y credaf a ddylai fod yn gymwys ac sydd yn gymwys ledled y sector preifat, lle ceir byrddau a phwyllgorau taliadau, ac, wrth gwrs, yn y sector cyhoeddus. Felly, nid yw'n briodol bellach—os ydoedd erioed, os caf ddweud fel pwynt athronyddol—fod pobl a etholir yn gorfod wynebu'r pwysau o orfod penderfynu ar eu tâl a'u dognau eu hunain, fel pe bai. Mae hynny'n gweithio mewn dwy ffordd. Yr wyf wedi gweld hyn, a gellid dadlau bod hynny'n digwydd ar hyn o bryd yng Nghynulliad Gogledd Iwerddon. Yr wyf wedi gweld Aelodau nad ydynt yn barod i bleidleisio o blaid codiad cyflog oherwydd yr enw drwg y byddant yn ei gael, sy'n golygu bod perygl drwy'r amser na fyddwn yn gallu recriwtio pobl o feysydd eraill, lle yr oeddynt wedi arfer cael cyflog rhesymol, i fod yn gynrychiolwyr a etholir yn ddemocrataidd, sy'n egwyddor bwysig iawn yn fy marn i, ac, wrth gwrs, dyna un o amcanion y bwrdd wrth benderfynu lefel y taliadau.

[8] The recent decision in Northern Ireland is quite important. The request that the Northern Ireland Assembly Commission has made for the Northern Ireland Assembly Members Bill will pave the way for the change in the direction of the powers that we have now in the Government of Wales Act 2006 and the powers that we will be using

Mae'r penderfyniad diweddar yng Ngogledd Iwerddon yn eithaf pwysig. Bydd y cais a wnaed gan Gomisiwn Cynulliad Gogledd Iwerddon am Fesur Aelodau Cynulliad Gogledd Iwerddon yn paratoi'r ffordd ar gyfer y newid yng nghyfeiriad y pwerau sydd gennym bellach yn Neddf Llywodraeth Cymru 2006 a'r pwerau y byddwn yn eu

under this proposed Measure. Northern Ireland was unable to move to an independent body because it did not have the legislative powers. That Bill received its Second Reading in the House of Lords on, I think, 1 December. The Scottish Parliamentary Corporate Body is still actively considering the issue, and a report is due from Neil McIntosh, but it has not yet appeared. Then, of course, Sir Christopher Kelly, in the report of the Committee on Standards in Public Life, stated the same principle, that expenses and allowances should be the responsibility of the Independent Parliamentary Standards Authority, IPSA, and that there should be statutory responsibility for setting MPs' pay levels and overseeing pensions and expenses with it. The principle that we are seeking to give effect to in this Bill—sorry, Chair, this proposed Measure; I am anticipating a referendum—is that principle of independent decision making in relation to Members' salaries.

[9] **Rosemary Butler:** So, we are transferring the Commission's powers to an independent board. Is that what you are saying?

[10] **The Presiding Officer:** Yes, that is the way that we have done it. The proposed Measure proposes to amend the section of the Government of Wales Act 2006 that relates to the work of the Commission and to the salaries of Members. That is section 21. That section relates to how the Assembly currently has the powers to decide on salaries, and includes provision conferring functions on the Assembly Commission.

[11] **Rosemary Butler:** I think that you are pre-empting some of our questions.

[12] **The Presiding Officer:** Oh, I am sorry.

[13] **Rosemary Butler:** A 'yes' answer would have been fine, Presiding Officer. We will move on. Ann Jones is next.

[14] **Ann Jones:** You have pre-empted the first part of my question, which was on the reasons for an independent board, so thank

defnyddio o dan y Mesur arfaethedig hwn. Nid oedd Gogledd Iwerddon yn gallu symud i fod yn gorff annibynnol gan nad oedd ganddi'r pwerau deddfwriaethol. Cafodd y Mesur hwnnw ei Ail Ddarllenriad yn Nhŷ'r Arglwyddi ar 1 Rhagfyr, mi gredaf. Mae Corff Corfforaethol Senedd yr Alban yn ystyried y mater hwn, ac mae adroddiad ar y gweill gan Neil McIntosh, ond nid yw wedi ymddangos eto. Yna, wrth gwrs, nododd Syr Christopher Kelly yr un egwyddor yn adroddiad y Pwyllgor Safonau mewn Bywyd Cyhoeddus, sef y dylai'r Awdurdod Safonau Seneddol Annibynnol, yr IPSA, fod yn gyfrifol am dreuliau a lwfansau, ac y dylai bod cyfrifoldeb statudol ar gyfer pennu cyflogau ASau ynghyd â goruchwyllo pensiynau a threuliau. Yr egwyddor yr ydym yn ceisio ei rhoi mewn grym gyda'r Mesur seneddol hwn—mae'n ddrwg gennyf, Gadeirydd, y Mesur arfaethedig hwn; yr wyf yn achub y blaen ar y refferendwm—yw'r egwyddor honno o wneud penderfyniadau annibynnol mewn perthynas â chyflogau Aelodau.

Rosemary Butler: Felly, yr ydym yn trosglwyddo pwerau'r Comisiwn i fwrdd annibynnol. Ai dyna yr ydych yn ei ddweud?

Y Llywydd: Ie, dyna sut yr ydym wedi gwneud pethau. Mae'r Mesur arfaethedig yn cynnig diwygio'r adran honno o Ddeddf Llywodraeth Cymru 2006 sy'n ymwneud â gwaith y Comisiwn a chyflogau Aelodau. Adran 21 yw honno. Mae'r adran honno'n ymwneud â sut mae gan y Cynulliad y pwerau ar hyn o bryd i benderfynu ar gyflogau, ac mae'n cynnwys darpariaeth sy'n rhoi swyddogaethau i Gomisiwn y Cynulliad.

Rosemary Butler: Credaf eich bod yn achub y blaen ar rai o'n cwestiynau.

Y Llywydd: O, mae'n ddrwg gennyf.

Rosemary Butler: Byddai 'ie' wedi bod yn ateb digonol, Lywydd. Symudwn ymlaen. Ann Jones sydd nesaf.

Ann Jones: Yr ydych wedi ateb rhan gyntaf fy nghwestiwn, ar y rhesymau dros gael bwrdd annibynnol, felly diolch i chi am y

you for that information. What consideration did you give to alternative arrangements for determining financial support for Assembly Members? In particular, why has the Senior Salaries Review Body not featured?

[15] **The Presiding Officer:** The Senior Salaries Review Body is a UK body that is accountable and answerable to the United Kingdom Government. We are a parliamentary body; therefore, it would not be appropriate for us to revert to a situation that did apply before, when the SSRB was responsible—it was commissioned by me, actually, to undertake this work. I did not think that it was satisfactory. By that I mean that it has no real understanding of the nature of the work of Assembly Members as compared with the work of Members of Parliament, in relation to which it is obviously experienced. I always resented, as someone who has been a Member of Parliament and still am part time in the upper House, the idea that the work of an Assembly Member should be defined as a percentage of the work of a parliamentarian in Westminster, and that we were at 75 per cent—Northern Ireland Assembly Members, poor things, are still at 75 per cent—and were at 82 per cent until the link was broken. It seems to me that what we need here, and we have the powers in the Government of Wales Act 2006—we have the competence to do it—is a body that will take account of what Assembly Members actually do. Early on, the idea was that we were not proper legislators. For the same reason, we did not have a proper mace to begin with—the idea was that we were not a proper Parliament. We therefore took a lower percentage of salary because of that. I really resented that, because I knew, and we all know, how tremendously hard Assembly Members work. We should not be compared with other people in other legislatures, but it is appropriate for the level of the remuneration to be set, as the proposed Measure states, to reflect

[16] ‘the complexity and importance of the functions’.

[17] Those functions may develop in the future.

wybodaeth honno. Faint o ystyriaeth a roddwyd gennych i drefniadau amgen ar gyfer pennu cymorth ariannol ar gyfer Aelodau'r Cynulliad? Yn benodol, pam nad ymgynghorwyd â'r Corff Adolygu Cyflogau Uwch-swyddogion?

Y Llywydd: Corff ar gyfer y DU yw'r Corff Adolygu Cyflogau Uwch-swyddogion sy'n atebol i Lywodraeth y Deyrnas Unedig. Yr ydym yn gorff seneddol, felly ni fyddai'n briodol i ni ddychwelyd i sefyllfa a oedd yn gymwys yn flaenorol, pan oedd y Corff Adolygu Cyflogau Uwch-swyddogion yn gyfrifol—yr oedd yn cael ei gomisiynu gennyf i, a dweud y gwir, i wneud y gwaith hwn. Nid oeddwn o'r farn ei fod yn foddhaol. Yr hyn a olygaf yw nad oes ganddo ddealltwriaeth wirioneddol o natur gwaith Aelodau'r Cynulliad o'i gymharu â gwaith Aelodau Seneddol, lle mae ganddo brofiad yn amlwg. Fel rhywun a fu'n Aelod Seneddol ac sy'n rhan amser yn y Tŷ uchaf hyd heddiw, yr wyf bob amser wedi casáu'r syniad y dylid diffinio gwaith Aelod Cynulliad fel canran o waith seneddwr yn San Steffan, a'n bod yn 75 y cant—mae Aelodau Cynulliad Gogledd Iwerddon, druan ohonynt, yn dal ar 75 y cant—ac yn 82 y cant tan i'r ddolen gael ei thorri. Ymddengys i mi mai'r hyn sydd ei angen arnom yma, ac mae gennym y pwerau yn Neddf Llywodraeth Cymru 2006—mae gennym y cymhwysedd i wneud hynny—yw corff a fydd yn ystyried beth mae Aelodau'r Cynulliad yn ei wneud mewn gwirionedd. Ar y dechrau, y syniad oedd nad oeddem yn ddeddfwyr iawn. Am yr un rheswm, nid oedd gennym fyrllysg iawn ar y cychwyn—y syniad oedd nad oeddem yn Senedd iawn. Felly, cymerwyd canran is o gyflog oherwydd hynny. Yr oeddwn i'n ddi iawn ynghylch hynny, oherwydd gwn, a gwyddom oll, pa mor galed y mae Aelodau'r Cynulliad yn gweithio. Ni ddylid ein cymharu â phobl eraill mewn deddfwrfeydd eraill, ond mae'n briodol pennu lefel y taliadau, fel y mae'r Mesur arfaethedig yn ei nodi, i adlewyrchu.

‘cymhlethdod a phwysigrwydd y swyddogaethau’.

Efallai y bydd y swyddogaethau hynny'n datblygu yn y dyfodol.

[18] I also have a clear constitutional imperative. If the National Assembly has powers, I think that we should be using them, especially when it would be quite clear, as we use them, that it is for the intention of reassuring the people of Wales that we are not living off them, to put it crudely.

[19] **Rosemary Butler:** Are you happy with that, Ann?

[20] **Ann Jones:** Yes.

[21] **Rosemary Butler:** Nick Ramsay will now ask you about the functions of the board.

[22] **Nick Ramsay:** Under the proposed Measure, the functions of the board are those conferred on it by sections 20, 22, 24, 53 and 54 of the Government of Wales Act 2006, which are currently conferred on the Assembly Commission. Why is section 21 of the 2006 Act, which would confer functions in relation to limits on the salaries of dual-mandate Assembly Members, not included?

9.40 a.m.

[23] **The Presiding Officer:** I will ask my senior legal adviser to give you the legal answer on that.

[24] **Mr Bush:** The answer is that the Assembly has no power to amend by Measure section 21 of the Government of Wales Act 2006. When the Act was passed, it provided that Measures could not amend certain key constitutional Acts of Parliament, one of which was the Government of Wales Act 2006 itself. There were some exceptions. Those that deal with day-to-day matters relating to the remuneration of Members and Ministers can be amended, but, for some reason—and I am not quite sure what the thinking behind it is—it is a matter of fact that section 21 is one of the sections of the Government of Wales Act 2006 that the Assembly cannot amend by way of a Measure. It is not directly relevant to anybody at the moment, because all that it deals with is the amount of the reduction in salary as an AM that a person would suffer if that person were both an AM and a Member

Mae gennyf innau hefyd gymhelliad cyfansoddiadol clir. Os oes gan Lywodraeth y Cynulliad bwerau, credaf y dylem eu defnyddio, yn enwedig pan fyddai'n eithaf clir, wrth i ni eu defnyddio, eu bod er mwyn sicrhau'r bobl yng Nghymru nad ydym yn byw ar eu cefnau, i fod yn ddi-flewyn ar dafod.

Rosemary Butler: A ydych yn hapus gyda hynny, Ann?

Ann Jones: Ydwyf.

Rosemary Butler: Bydd Nick Ramsay yn gofyn am swyddogaethau'r bwrdd yn awr.

Nick Ramsay: O dan y Mesur arfaethedig, swyddogaethau'r bwrdd yw'r rhai hynny a roddir iddo gan adrannau 20, 22, 24, 53 a 54 o Ddeddf Llywodraeth Cymru 2006, sy'n cael eu rhoi i Gomisiwn y Cynulliad ar hyn o bryd. Pam nad yw adran 21 o Ddeddf 2006, a fyddai'n rhoi swyddogaethau mewn perthynas â chyfyngiadau ar gyflogau Aelodau'r Cynulliad sydd â mandad deuol, wedi'i chynnwys?

Y Llywydd: Yr wyf am ofyn i'm huwchgynghorydd cyfreithiol roi'r ateb cyfreithiol i hynny.

Mr Bush: Yr ateb yw nad oes gan y Cynulliad bŵer i ddiwygio adran 21 o Ddeddf Llywodraeth Cymru 2006 drwy Fesur. Pan basiwyd y Ddeddf, yr oedd yn ei gwneud yn amod na allai Mesurau ddiwygio Deddfau seneddol cyfansoddiadol allweddol penodol, ac yr oedd Deddf Llywodraeth Cymru 2006 yn un o'r rhain. Yr oedd rhai eithriadau. Gellir diwygio'r rhai hynny sy'n ymwneud â materion dydd i ddydd sy'n gysylltiedig â thaliadau Aelodau a Gweinidogion, ond, am ryw reswm—ac nid ydwyf yn sicr beth yw'r meddylfryd wrth wraidd hyn—mae adran 21 yn un o'r adrannau o Ddeddf Llywodraeth Cymru 2006 na all y Cynulliad ei diwygio drwy Fesur. Nid yw'n uniongyrchol berthnasol i unrhyw un ar hyn o bryd, oherwydd y cwbl y mae'n ei drafod yw swm y gostyngiad mewn cyflog fel AC y byddai person yn ei gael pe bai'r person hwnnw yn AC ac yn Aelod o naill ai

of either the UK Parliament or the European Parliament. If someone were a Member of both bodies, the function of deciding what reduction in salary as an AM will follow will continue to be a function of the Commission, as it is at the moment.

[25] **Nick Ramsay:** You are confirming that the Commission will retain responsibility for making provision in relation to the limits on the salaries of dual-mandate Members. Is that right?

[26] **Mr Bush:** Yes, subject to Standing Orders. The power lay originally with the Assembly, but it delegated that power to the Commission through Standing Orders. It could, if it wanted to, amend Standing Orders to retake that function.

[27] **Nick Ramsay:** So, it is not in there because it cannot be, given the terms of the original Act.

[28] **Mr Bush:** Absolutely.

[29] **The Presiding Officer:** Since he wrote most of the Government of Wales Act 2006, he should know.

[30] **Rosemary Butler:** May I come in on that, Nick? We have talked about MEPs and Members of Parliament. What about councillors? Does that count?

[31] **Mr Bush:** No.

[32] **Nick Ramsay:** How did you decide on the objectives provided for in section 2(2) that the board must seek to achieve when exercising its functions?

[33] **The Presiding Officer:** Those are derived from the report of the independent panel, 'Getting it Right for Wales'. I have done most of the work on this through the medium of Welsh, so I may quote sometimes in Welsh if I cannot find my place or remember the quote in English. I do know that the name of the document in English is 'Getting it Right for Wales', so I have got that bit right. The functions reflect those recommendations. They are recommendations that follow quite clearly

Senedd y DU neu Senedd Ewrop. Pe bai rhywun yn Aelod o'r ddau gorff, bydd y swyddogaeth o benderfynu faint o ostyngiad mewn cyflog fel AC a fydd yn dilyn yn parhau i fod yn un o swyddogaethau'r Comisiwn, fel y mae ar hyn o bryd.

Nick Ramsay: Yr ydych yn cadarnhau y bydd y Comisiwn yn cadw cyfrifoldeb am wneud darpariaeth mewn perthynas â chyflogau Aelodau â mandad deuol. A yw hynny'n iawn?

Mr Bush: Ydy, yn amodol ar Reolau Sefydlog. Yr oedd y pŵer yn nwylo'r Cynulliad yn y lle cyntaf, ond dirprwyodd y pŵer hwnnw i'r Comisiwn drwy Reolau Sefydlog. Gallai, pe bai'n dymuno, ddiwygio'r Rheolau Sefydlog i adennill y swyddogaeth honno.

Nick Ramsay: Felly, nid yw yno oherwydd na all fod, o ystyried telerau'r Ddeddf wreiddiol.

Mr Bush: Yn hollol.

Y Llywydd: Gan mai ef a ysgrifennodd y mwyafrif o Ddeddf Llywodraeth Cymru 2006, dylai wybod.

Rosemary Butler: A gaf fi gyfrannu yma, Nick? Yr ydym wedi siarad am ASEau ac Aelodau Seneddol. Beth am gynghorwyr? A yw hynny'n cyfrif?

Mr Bush: Na.

Nick Ramsay: Sut y gwnaethoch benderfynu ar yr amcanion a ddarperir yn adran 2(2) y mae'n rhaid i'r bwrdd geisio'u cyflawni wrth arfer ei swyddogaethau?

Y Llywydd: Mae'r rhai hynny'n deillio o adroddiad y panel annibynnol, 'Yn Gywir i Gymru'. Yr wyf wedi gwneud y mwyafrif o'r gwaith ar hyn drwy gyfrwng y Gymraeg, felly efallai y byddaf weithiau'n dyfynnu yn Gymraeg os nad ydwyf yn gallu dod o hyd i fy lle neu'n cofio'r dyfyniad yn Saesneg. Gwn mai enw'r ddogfen yn Saesneg yw 'Getting it Right for Wales', felly yr wyf wedi cael hynny'n iawn. Mae'r swyddogaethau'n adlewyrchu'r argymhellion hynny. Maent yn argymhellion sy'n dilyn yn

from the study that the panel undertook and the evidence that it received. It was a very wide-ranging consultation, and the report was a very clearly written document. These are the principles; they are recommendations 1, 2 and 12 of the panel's report. They counterbalance quite elegantly the different principles, which are to ensure—and I think that I have quoted this already—that there is a reflection of the 'complexity and importance'. I had better quote it in the Welsh, which I have in front of me:

[34] 'Darparu lefel taliadau ar gyfer aelodau'r Cynulliad—

[35] sy'n adlewyrchiad teg o gymhlethdod a phwysigrwydd y swyddogaethau y disgwylir iddynt eu cyflawni.'

[36] That is the first one. The second one, which is equally important for consideration by the panel, is:

[37] 'nad yw, ar sail ariannol, yn atal personau y mae ganddynt yr ymrwymiad a'r gallu angenrheidiol rhag ceisio cael eu hethol i'r Cynulliad.'

[38] That is the disincentive argument that I mentioned earlier of a salary that is set too low. There are other aspects, such as

[39] 'providing Assembly members with resources which are adequate to enable them to exercise their functions as Assembly members'

[40] The other objective, objective (c), is:

[41] 'ensuring probity, accountability, value for money and transparency with respect to the expenditure of public funds.'

[42] All these are functions of the board, and they are set out there—and this is not unusual in legislation, as you know—and the board has to have regard to them in all that it does. So, these functions, these responsibilities, may be contradictory but that is part of the joy of having an independent body that has a statutory responsibility. We are very keen on the removal of the decision completely away from Members, as I said

eithaf clir o'r astudiaeth a gynhaliwyd gan y panel a'r dystiolaeth a dderbyniodd. Yr oedd yn ymgynghoriad eang iawn, ac yr oedd yr adroddiad yn ddogfen a oedd wedi'i hysgrifennu'n glir iawn. Dyma'r egwyddorion, sef argymhellion 1, 2 a 12 o adroddiad y panel. Maent yn gwrthbwysu'n eithaf cywrain y gwahanol egwyddorion, sydd yno i sicrhau—a chredaf fy mod eisoes wedi dyfynnu hyn—fod adlewyrchiad 'o gymhlethdod a phwysigrwydd'. Byddai'n well i mi ei ddyfynnu yn Gymraeg, sydd o fy mlaen:

'Providing Assembly members with a level of remuneration which—

fairly reflects the complexity and importance of the functions which they are expected to discharge'.

Dyna'r un gyntaf. Yr ail un, sydd yr un mor bwysig i'r panel ei hystyried, yw:

'does not, on financial grounds, deter persons with the necessary commitment and ability from seeking election to the Assembly'.

Dyna'r ddadl anghymhellol y crybwyllais yn gynharach o gyflog sydd wedi'i osod yn rhy isel. Mae agweddau eraill, fel

'darparu adnoddau ar gyfer aelodau'r Cynulliad sy'n ddigonol i'w galluogi i arfer eu swyddogaethau fel aelodau o'r Cynulliad'

Yr amcan arall, amcan (c), yw:

'sicrhau priodoldeb, atebolrwydd, gwerth am arian a thryloywder o ran gwariant cyllid cyhoeddus.'

Mae'r rhain i gyd yn swyddogaethau i'r bwrdd, ac maent wedi'u nodi yno—ac nid yw hyn yn anarferol mewn deddfwriaeth, fel y gwyddoch—a rhaid i'r bwrdd eu hystyried ym mhopeth a wna. Felly, gall y swyddogaethau hyn, y cyfrifoldebau hyn, fod yn groes i'w gilydd ond mae hynny'n rhan o'r hwyl o gael corff annibynnol sydd â chyfrifoldeb statudol. Yr ydym yn awyddus iawn i symud y penderfyniad yn llwyr oddi

earlier on the SSRB point. Even if—to add to my reply to Ann Jones earlier—the SSRB were still to be responsible, it would have to report to the Assembly Commission, and so any determination would still be made by the Commission and would not be, in that sense, independent. That would be contrary to recommendation 12 of the original panel report, but this independent body, with these objectives clearly set out, means that the decision is handed over to that body to carry out those statutory functions. Do you want to add anything, Keith?

[43] **Nick Ramsay:** Are you absolutely confident that the objectives provided are measurable? You have identified remuneration, resources and the transparency issue, and that it is important that there should be no deterrent to people who might otherwise find the remuneration too low. Are you absolutely confident that it will be sufficient, and that it will be measurable?

[44] **The Presiding Officer:** This is a very difficult issue, really. How do you measure the outcomes and the effectiveness of a public body that is set up? The final test of its effectiveness and the final measurement is whether it is acceptable to the public, I think. The fact that we have started on the transparency route, taking very seriously the whole question of the regular publication of Members' expenses, has been very well received by the media—because it does not have anything to write about anymore, at least not on that score—and by the Welsh public, I must say. As we all know, we have been taken to task very directly and quite rightly by people on account of some things that we have not actually done around here, but we are still seen as being people who perhaps have, in the past, not been as transparent as we should have been. I believe that we have overcome that hurdle, and I was very pleased to see the high level of trust that there appeared to be in Assembly Members because of this. Therefore, I think that we have already started a long way down the road of probity, transparency and value for money by what we have already done.

wrth yr Aelodau, fel y dywedais eisoes ar y pwynt am yr SSRB. Hyd yn oed pe bai—i ychwanegu at fy ateb i Ann Jones yn gynharach—y corff yn parhau i fod yn gyfrifol, byddai'n rhaid iddo adrodd i Gomisiwn y Cynulliad, ac felly byddai unrhyw benderfyniad yn dal i gael ei wneud gan y Comisiwn ac ni fyddai felly, yn hynny o beth, yn annibynnol. Byddai hynny'n groes i argymhelliad 12 adroddiad gwreiddiol y panel, ond mae'r corff annibynnol hwn, gyda'r amcanion hyn wedi'u nodi'n glir, yn golygu bod y penderfyniad yn cael ei drosglwyddo i'r corff hwnnw i gyflawni'r swyddogaethau statudol hynny. A ydych am ychwanegu unrhyw beth, Keith?

Nick Ramsay: A ydych yn hollol hyderus y gellir mesur yr amcanion a nodwyd? Yr ydych wedi nodi taliadau, adnoddau a'r mater o eglurder, a'i bod yn bwysig na ddylid rhwystro pobl a allai ystyried y taliadau'n rhy isel fel arall. A ydych yn hollol hyderus y bydd yn ddigonol, ac y bydd modd ei fesur?

Y Llywydd: Mae hyn yn fater anodd iawn, mewn gwirionedd. Sut ydych yn mesur canlyniadau ac effeithlonrwydd corff cyhoeddus a sefydlir? Y prawf terfynol o'i effeithlonrwydd a'r llinyn mesur terfynol yw a yw'n dderbyniol i'r cyhoedd, fe gredaf. Mae'r ffaith ein bod wedi dechrau ar y llwybr eglurder, gan roi ystyriaeth ddifrifol i gwestiwn cyhoeddi treuliau Aelodau yn rheolaidd, wedi'i groesawu'n frwd gan y cyfryngau—gan nad oes ganddo ddim i ysgrifennu amdano bellach, o leiaf o ran hynny—a chan y cyhoedd yng Nghymru, rhaid dweud. Fel y gwyddom oll, yr ydym wedi ein ceryddu yn uniongyrchol iawn ac yn ddigon teg gan bobl am rai o'r pethau nad ydym wedi'u gwneud mewn gwirionedd yma, ond yr ydym yn dal i gael ein hystyried yn bobl nad ydym o bosibl, yn y gorffennol, wedi bod mor eglur ag y dylem. Credaf ein bod wedi goresgyn y rhwystr hwnnw, ac yr oeddwn yn falch iawn o nodi lefel uchel yr ymddiriedaeth a oedd i'w weld yn Aelodau'r Cynulliad oherwydd hyn. Felly, credaf ein bod eisoes wedi dechrau gwneud cynnydd sylweddol ar lwybr priodolder, tryloywder a gwerth am arian drwy'r hyn yr ydym eisoes wedi'i wneud.

[45] There are audit and corporate governance recommendations in chapter 12 of the panel's report, which will ensure that these standards are maintained and that the objectives of section 2(2) in particular are met. There is also provision in the proposed Measure for the board, either of its own volition or as requested by the Chief Executive and Clerk of the Assembly, to review its decisions, and that will ensure that the objectives are measured self-critically by the board itself, as well as by public reaction.

[46] On the more general question of the measurability of public bodies and their effectiveness, it is an important issue for us in the National Assembly and is very much a part of effective scrutiny. By scrutinising this proposed Measure and ensuring that we are establishing an exemplar body, we can help the overall case of transparency and accountability in the public sector, as we should do. Elected Members of the National Assembly have to be exemplary in all that we do, especially in this area of remuneration.

[47] **Nick Ramsay:** Section 2(4) provides that the board:

[48] 'may, from time to time, consider any other matter that is relevant to the discharge of its functions, either on its own initiative, or at the written request of the clerk'.

[49] Could you provide the committee with examples of the types of matters that you might expect the board to consider under this section?

9.50 a.m.

[50] **The Presiding Officer:** Do you mean having an extraordinary meeting to consider an issue?

[51] **Nick Ramsay:** Yes, the wording of it is that

[52] 'The Board may, from time to time, consider'.

[53] However, when we discussed this last

Mae argymhellion o ran llywodraethu corfforaethol ac archwilio ym mhennod 12 adroddiad y panel a fydd yn sicrhau bod y safonau hyn yn cael eu cynnal ac y bydd amcanion adran 2(2) yn benodol yn cael eu cyflawni. Mae darpariaeth hefyd yn y Mesur arfaethedig ar gyfer y bwrdd, naill ai o'i ddewis ei hun neu ar gais Prif Weithredwr a Chlerc y Cynulliad, i adolygu ei benderfyniadau, a bydd hynny'n sicrhau bod yr amcanion yn cael eu mesur yn hunanfeirniadol gan y bwrdd ei hun, yn ogystal â chan ymateb y cyhoedd.

O ran y cwestiwn mwy cyffredinol am fesur cyrff cyhoeddus a'u heffeithlonrwydd, mae'n fater pwysig i ni yn y Cynulliad Cenedlaethol ac yn rhan bwysig iawn o graffu effeithiol. Drwy graffu ar y Mesur arfaethedig hwn a sicrhau ein bod yn sefydlu corff sy'n esiampl i eraill, gallwn gynorthwyo'r achos cyffredinol dros eglurder ac atebolrwydd yn y sector cyhoeddus, fel y dylem. Mae'n rhaid i Aelodau etholedig o'r Cynulliad Cenedlaethol osod esiampl ym mhopeth a wnawn, yn enwedig ym maes taliadau.

Nick Ramsay: Mae adran 2(4) yn nodi:

'caiff y Bwrdd, o dro i dro, ystyried unrhyw fater arall sy'n berthnasol i gyflawni ei swyddogaethau, naill ai o'i ben a'i bastwn ei hun neu ar ôl cael cais ysgrifenedig gan y Clerc'.

A allwch roi enghreifftiau i'r pwyllgor o'r mathau o faterion y byddech yn disgwyl i'r bwrdd eu hystyried o dan yr adran hon?

Y Llywydd: A ydych yn golygu cynnal cyfarfod anghyffredin i ystyried mater?

Nick Ramsay: Ydw, dyma'r geiriad:

'caiff y Bwrdd, o dro i dro, ystyried'.

Fodd bynnag, pan drafodwyd hyn gennym yr

week, we thought that we would like some more information on what those matters may be, even if they are quite rare.

[54] **The Presiding Officer:** I am torn here between not seeking to pre-empt the independence of the board and also wanting to explain what we had in mind here, so I will turn to Keith. The obvious ones that come to my mind would be that there was some issue relating to hyperinflation or circumstances in the economy that affected a judgment that the panel had made earlier—because we are talking here about a four-year timescale of judgment in relation to salaries. There may be other examples that Keith will have.

[55] **Mr Bush:** Section 2 works by, first, setting out the core functions of the board, namely making the determinations. That is deciding the level of salary and other kinds of financial support for Members, which is dealt with by section 2(1). In section 2(2), we get the principles that it needs to apply. Then we have section 2(3), which moves slightly away from those core functions, because it requires the board to seek to measure to what extent its decisions have met the objectives. For example—to go back to your previous question—it might take evidence about whether people were being deterred from coming forward to present themselves as candidates for election because of financial issues.

[56] We thought that it was essential not to confine the board to those two fairly narrow kinds of topic, and to allow it the flexibility to consider more general issues if it wanted to, or if the clerk were to ask it to. So, because it is a bit of a catch-all and is designed to prevent someone from saying to the board that it must not consider something because it is not specifically to do with a particular decision about the level of financial support for Members, it is quite difficult to hypothesise about what it might look at. It might want to take a step back and look at some general principles. For example, it may want to compare the overall structure of salaries and allowances in the Assembly with those of similar bodies elsewhere. If it came to the conclusion that some of the rules laid

wythnos diwethaf, yr oeddem o'r farn y byddem yn hoffi mwy o wybodaeth am beth allai'r materion hynny fod, hyd yn oed os ydynt yn eithaf prin.

Y Llywydd: Yr wyf rhwng dau feddwl yma rhwng peidio â cheisio llesteirio annibyniaeth y bwrdd ond hefyd i egluro beth a oedd gennym mewn golwg, felly yr wyf am droi at Keith. Y rhai amlwg sy'n dod i'm meddwl fyddai bod rhai materion a oedd yn ymwneud â gorchwyddiant neu amgylchiadau yn yr economi a oedd yn effeithio ar benderfyniad yr oedd y panel wedi'i wneud yn gynharach—gan ein bod yn siarad yma am amserlen bedair blynedd o benderfyniadau mewn perthynas â chyflogau. Efallai y bydd gan Keith enghreifftiau eraill.

Mr Bush: Mae adran 2 yn gweithio drwy, yn gyntaf, sefydlu swyddogaethau craidd y bwrdd, sef gwneud y dyfarniadau. Mae hynny'n ymwneud â phenderfynu ar lefel cyflogau a mathau eraill o gymorth ariannol ar gyfer Aelodau, a drafodir yn adran 2(1). Yn adran 2(2), ceir yr egwyddorion y mae angen iddo eu cymhwyso. Yna, mae gennym adran 2(3), sy'n symud ychydig i ffwrdd o'r swyddogaethau craidd hynny, gan ei bod yn gofyn i'r bwrdd geisio mesur i ba raddau y mae ei benderfyniadau wedi bodloni'r amcanion. Er enghraifft—i fynd yn ôl at eich cwestiwn blaenorol—gallai gymryd tystiolaeth am a yw pobl yn cael eu hatal rhag cyflwyno eu hunain yn ymgeiswyr i'w hethol oherwydd materion ariannol.

Credem ei bod yn hanfodol peidio â chyfyngu'r bwrdd i ddau bwnc cymharol gul fel hyn, a rhoi'r hyblygrwydd iddo ystyried materion mwy cyffredinol os bydd am wneud hynny, neu pe bai'r clerwr yn gofyn iddo wneud hynny. Felly, gan ei fod yn eang ei gwmpas ac wedi'i lunio i atal rhywun rhag dweud wrth y bwrdd na ddylai ystyried rhywbeth gan nad yw'n ymwneud yn benodol â phenderfyniad penodol am lefel y cymorth ariannol ar gyfer Aelodau, mae'n eithaf anodd tybio beth y gallai edrych arno. Efallai y bydd am gymryd cam yn ôl ac edrych ar rai egwyddorion cyffredinol. Er enghraifft, efallai y bydd am gymharu strwythur cyffredinol cyflogau a lwfansau yn y Cynulliad gyda rhai cyrff tebyg mewn manau eraill. Pe bai'n dod i'r casgliad bod

down in the final Measure about how it goes about its business were too inflexible—and the proposed Measure is fairly prescriptive about how often it needs to meet and when it needs to do its work, and so on—it could not be prevented from considering them, making some recommendations, and suggesting some improvements to the system just because they do not specifically relate to a particular decision on the level of remuneration.

[57] **Eleanor Burnham:** Is there any guidance for the board to use to ‘benchmark’, to use modern parlance, the expected complexity and importance of functions and so on, which could then be reflected in the salary? One example may be within the civil service. Is that how you anticipate developments?

[58] **The Presiding Officer:** We will give the board no guidance beyond what is included in the Measure, if it is passed, because, clearly, this is an independent board. It is important that an independent remuneration board should have its own objective ways of undertaking its work. Therefore, when it assesses the question of the reflection of the complexity and importance of the functions of Assembly Members, that would be a piece of work that I am sure the board would be interested in having advice on from the extensive accountancy and other professions that could provide it with such advice, and obviously it will be supported by Assembly staff in its work, or at least we will ensure that there will be support for it. How that is organised will be a matter for the board itself to decide. Yes, I would encourage the board to look at the developing situation in Welsh local government, for example, the work of a different panel accountable to the Minister for Social Justice and Local Government but, as it happens, chaired by Richard Penn, who also works as an independent commissioner for standards for the Assembly. That ongoing work—I think that they have produced two reports so far—is a good example of how there is an attempt to really cost-quantify the work of all kinds of local authority elected representatives. They may or may not be moving towards a situation where local

rhai o’r rheolau a nodir yn y Mesur terfynol ynglŷn â sut mae’n mynd ati i wneud ei waith yn rhy anhyblyg—ac mae’r Mesur arfaethedig yn eithaf penodol ynglŷn â pha mor aml y mae angen iddo gyfarfod a phryd y mae angen iddo wneud ei waith, ac ati—ni ellid ei atal rhag eu hystyried, gwneud rhai argymhellion, ac awgrymu rhai gwelliannau i’r system am nad ydynt yn ymwneud yn benodol â phenderfyniad penodol am lefel y taliadau.

Eleanor Burnham: A oes unrhyw ganllawiau i’r bwrdd eu defnyddio i ‘feincnodi’, i ddefnyddio iaith fodern, gymhlethdod a phwysigrwydd disgwylidig y swyddogaethau ac ati, y gellid eu hadlewyrchu o ganlyniad yn y cyflogau? Gallai un enghraifft fod yn y gwasanaeth sifil. Ai dyna sut yr ydych yn rhagweld datblygiadau?

Y Llywydd: Ni fyddwn yn rhoi unrhyw ganllawiau i’r bwrdd y tu hwnt i’r hyn sydd wedi’i gynnwys yn y Mesur, os yw’n cael ei basio, oherwydd, yn amlwg, mae hwn yn fwrdd annibynnol. Mae’n bwysig y dylai bwrdd taliadau annibynnol gael ei ffyrdd gwrthrychol ei hun o wneud y gwaith hwn. Felly, pan fydd yn asesu’r mater o adlewyrchu cymhlethdod a phwysigrwydd swyddogaethau Aelodau’r Cynulliad, byddai hynny’n waith yr wyf yn sicr y byddai gan y bwrdd ddiddordeb mewn derbyn cyngor arno gan y llu o weithwyr cyfrifyddu a phroffesiynol eraill a allai ddarparu cyngor o’r fath iddo, ac yn amlwg bydd yn cael ei gynorthwyo yn ei waith gan staff y Cynulliad, neu byddwn o leiaf yn sicrhau y bydd cymorth ar gael iddo. Mae sut bydd hynny’n cael ei drefnu yn fater i’r bwrdd ei hun ei benderfynu. Ie, byddwn yn annog y bwrdd i edrych ar y sefyllfa sy’n datblygu mewn llywodraeth leol yng Nghymru, megis gwaith panel gwahanol sy’n atebol i’r Gweinidog dros Gyfiawnder Cymdeithasol a Llywodraeth Leol, ond, fel mae’n digwydd, sy’n cael ei gadeirio gan Richard Penn, sydd hefyd yn gweithio fel comisiynydd safonau annibynnol ar gyfer y Cynulliad. Mae’r gwaith hwnnw sy’n mynd rhagddo—credaf eu bod wedi llunio dau adroddiad hyd yma—yn enghraifft dda o ymgais go iawn i fesur costau gwaith pob math o gynrychiolwyr etholedig awdurdod lleol. Efallai eu bod yn

authority representatives are properly remunerated as opposed to a per diem and the other extra responsibility allowances that they have.

[59] **Rosemary Butler:** That is not for this board.

[60] **The Presiding Officer:** No, but what I am saying is that this board is entirely concerned with National Assembly Members, but clearly there are other developments in Welsh public life that will be relevant to what it does. Some people do not like the idea of the professionalisation of democratic representatives. I am afraid that I take the other view—I think that the people who are elected should be able to be effective in what they do, at whatever level of government. The reason that I mentioned Welsh local government is because I want this board to be an exemplar in setting salary levels and support and in ensuring that we have a very effective democratic function.

[61] **Rosemary Butler:** Could I just clear up a couple of points here? We will come to them later, but it might be helpful for me to clarify things now. This board, in the first instance, will take on board Sir Roger Jones's committee's recommendations.

[62] **The Presiding Officer:** It has to have regard for them.

[63] **Rosemary Butler:** Yes, in the first instance, but from then on, it does not have to have regard for them.

[64] **The Presiding Officer:** Indeed. That is very important. Do you want me to explain the reasoning behind that? This will be, if established, the third remuneration panel, but it will be the first statutory independent one, if it is established under this proposed Measure. The first panel, which recommended 82 per cent of Westminster at that time, also recommended that there should be an independent panel to review again and that was the Sir Roger Jones study. However, we wanted to maintain a link between '*Yn Gywir i Gymru*' or 'Getting it Right for Wales' and the work of the panel. Our legal adviser thought it appropriate to do

symud tuag at sefyllfa lle mae cynrychiolwyr awdurdodau lleol yn cael eu talu'n iawn yn hytrach na fesul diwrnod neu'r lwfansau cyfrifoldeb ychwanegol eraill sydd ganddynt, neu efallai nad ydynt.

Rosemary Butler: Nid yw hynny'n fater i'r bwrdd hwn.

Y Llywydd: Na, ond yr wyf yn dweud bod a wnelo'r bwrdd hwn yn llwyr ag Aelodau'r Cynulliad Cenedlaethol, ond mae'n amlwg y bydd datblygiadau eraill ym mywyd cyhoeddus Cymru yn berthnasol i'r hyn y mae'n ei wneud. Nid yw rhai pobl yn hoffi'r syniad o broffesiynoli cynrychiolwyr democrataidd. Ofnaf nad wyf yn cytuno â hyn—credaf y dylai'r bobl sy'n cael eu hethol allu bod yn effeithiol yn yr hyn a wnant, ar ba lefel bynnag o lywodraeth. Y rheswm y crybwyllais llywodraeth leol Cymru yw fy mod am i'r bwrdd hwn fod yn esiampl o ran gosod lefelau cyflogau a chymorth ac wrth sicrhau bod gennym swyddogaeth ddemocrataidd effeithiol iawn.

Rosemary Butler: A gaf fi eglurhad ar bwynt neu ddau yma? Byddwn yn dod atynt yn y man, ond gallai fod yn ddefnyddiol i mi gael eglurhad ar bethau'n awr. Bydd y bwrdd hwn, yn y lle cyntaf, yn derbyn argymhellion pwyllgor Syr Roger Jones.

Y Llywydd: Rhaid iddo eu hystyried.

Rosemary Butler: Oes, yn y lle cyntaf, ond o hynny allan, nid oes yn rhaid iddo eu hystyried.

Y Llywydd: Yn wir. Mae hynny'n bwysig iawn. A ydych am imi egluro'r rheswm wrth wraidd hynny? Hwn, os yw'n cael ei sefydlu, fydd y trydydd panel taliadau, ond dyma'r un annibynnol statudol cyntaf, os yw'n cael ei sefydlu o dan y Mesur arfaethedig hwn. Argymhellodd y panel cyntaf, a argymhellodd 82 y cant o San Steffan bryd hynny, hefyd y dylid cael panel annibynnol i adolygu eto ac astudiaeth Syr Roger Jones oedd honno. Fodd bynnag, yr oeddem am gynnal cysylltiad rhwng '*Yn Gywir i Gymru*' neu '*Getting it Right for Wales*' a gwaith y panel. Credai ein hymgyngorydd cyfreithiol ei bod yn briodol gwneud hynny drwy

that by ensuring that these recommendations were the agenda of the first meeting of the panel, if you like, so that when it came to the setting of the remuneration—and, hopefully, if we get everything going through according to plan, that will be six months before the next Assembly elections—everyone contemplating standing for the Assembly election will know what the level of remuneration will be. That would begin where the Sir Roger Jones work left off. Obviously, Sir Roger Jones and his panel are no longer relevant to our discussion here because their work is done. However, their work is the basis of the agenda for the new panel.

[65] **Rosemary Butler:** Yes, but what I am saying is that they could, at the next or at future meetings, just disregard those recommendations.

[66] **The Presiding Officer:** It would be an interesting argument as to whether, if they disregarded the recommendations, they would be carrying out their functions properly, but that is a matter for them.

[67] **Rosemary Butler:** Yes, but it is a possibility. The other point is that Keith Bush mentioned the general issues. This has concerned committee members—what are those general issues? For example, you said that the clerk could write with some suggestions and it would make recommendations. To whom would it make recommendations—to itself?

[68] **Mr Bush:** It would depend on the nature of the recommendation. I gave an example of a situation in which the board decides that some of the detailed rules on how often it might meet or when it should make determinations and so on are too restrictive and it feels that it wants to change that. If so, it would have to make a recommendation to the Assembly Commission to bring forward amending legislation to amend the Measure to give it the change that the board wanted.

10.00 a.m.

[69] On the other hand, if it was looking at

sicrhau mai'r argymhellion hyn oedd yr agenda ar gyfer cyfarfod cyntaf y panel, os hoffech chi, felly pan fyddai'n dod yn amser i bennu'r taliadau—a, gobeithio, os yw popeth yn digwydd yn ôl y bwriad, bydd hynny chwe mis cyn etholiadau nesaf y Cynulliad—bydd pawb sy'n ystyried sefyll ar gyfer etholiad y Cynulliad yn gwybod beth fydd lefel y taliadau. Byddai hynny'n dechrau lle y daeth gwaith Syr Roger Jones i ben. Yn amlwg, nid yw Syr Roger Jones a'i banel yn berthnasol bellach i'n trafodaeth yma gan fod eu gwaith wedi'i wneud. Fodd bynnag, eu gwaith yw sylfaen yr agenda ar gyfer y panel newydd.

Rosemary Butler: Ie, ond yr hyn yr wyf yn ei ddweud yw y gallent, yn y cyfarfod nesaf neu mewn cyfarfodydd yn y dyfodol, ddiystyru'r argymhellion hynny.

Y Llywydd: Pe baent yn diystyru'r argymhellion, byddai'n ddadl ddiddorol a fyddent yn cyflawni eu swyddogaethau'n iawn, ond mater iddynt hwy yw hynny.

Rosemary Butler: Ie, ond mae'n bosibilrwydd. Y pwynt arall yw bod Keith Bush wedi crybwyll y materion cyffredinol. Mae hyn wedi peri pryder i aelodau'r pwyllgor—beth yw'r materion cyffredinol hynny? Er enghraifft, yr oeddech yn dweud y gallai'r clerwr ysgrifennu gyda rhai awgrymiadau ac y byddai'n gwneud argymhellion. I bwy y byddai'n gwneud argymhellion—i'w hun?

Mr Bush: Byddai'n dibynnu ar natur yr argymhelliad. Rhoddais enghraifft o sefyllfa lle mae'r bwrdd yn penderfynu bod rhai o'r rheolau manwl o ran pa mor aml y gallai gyfarfod neu pryd y dylai wneud penderfyniadau ac ati yn rhy gyfyng ac mae'n teimlo ei fod am newid hynny. Os felly, byddai'n gorfod gwneud argymhelliad i Gomisiwn y Cynulliad i ddwyn ymlaen deddfwriaeth ddiwygio i ddiwygio'r Mesur i wneud y newid y mae'r bwrdd yn ei ddymuno.

Ar y llaw arall, pe bai'n edrych ar yr arfer

practice elsewhere and saying, ‘We want to make fundamental changes to the pattern of financial support for Members’, the board would be making that recommendation to itself, because it would be the body with the power to put that into effect.

[70] **Rosemary Butler:** So, the recommendations on the functions, on the way in which it works, would go to the Assembly Commission. If the board wanted to meet more regularly, it would cost more money to do so, but other recommendations, or its own observations or decisions on salary would then be implemented. Is that right?

[71] **Mr Bush:** It depends on whether it is something within its ability to deliver, or, alternatively, something with which it needs the assistance of the Assembly Commission or the Assembly, or the UK Government, I suppose. What if it felt that something required it to have greater powers than even the Assembly has at the moment? So, it would depend on what it was looking at, what its recommendations were, and then it would be able to make that approach to the appropriate body to effect the change that it felt was desirable.

[72] **Rosemary Butler:** Sorry to have cut across your questions, Nick.

[73] **Nick Ramsay:** I have two very quick questions. Related to what we were just saying, to whom will the board be accountable and how can people be assured that it is adequately performing its functions and achieving what we want it to achieve? Do you see any potential overlap between the type of matters that will fall within the remit of the board and those that come under the jurisdiction of the commissioner for standards, such as the investigation by the Assembly Commission of any complaints relating to determinations of financial support?

[74] **The Presiding Officer:** I will answer the second question first. I am very pleased that we are about to have the Measure—it has not been to the Privy Council, has it?

[75] **Mr Bush:** I think that it went

mewn mannau eraill ac yn dweud, ‘Yr ydym am wneud newidiadau sylfaenol i batrwm cymorth ariannol ar gyfer Aelodau’, byddai’r bwrdd yn gwneud yr argymhelliad hwnnw i’w hun, gan mai ef fyddai’r corff â’r pŵer i roi hynny ar waith.

Rosemary Butler: Felly, byddai’r argymhellion ar y swyddogaethau, ar y ffordd y mae’n gweithio, yn mynd i Gomisiwn y Cynulliad. Pe bai’r bwrdd am gyfarfod yn fwy rheolaidd, byddai’n costio mwy o arian i wneud hynny, ond byddai argymhellion eraill, neu ei arsylwadau neu ei benderfyniadau ei hun ar gyflogau yna’n cael eu rhoi ar waith. A ydy hynny’n iawn?

Mr Bush: Mae’n dibynnu ar a yw’n rhywbeth o fewn ei allu i’w gyflawni, neu, fel arall, yn rhywbeth y mae arno angen cymorth Comisiwn y Cynulliad neu’r Cynulliad, neu Lywodraeth y DU, mae’n debyg. Beth pe bai’n teimlo bod rhywbeth yn mynnu bod angen iddo gael mwy o bwerau nag sydd gan y Llywodraeth hyd yn oed ar hyn o bryd? Felly, byddai’n dibynnu ar yr hyn yr oedd yn edrych arno, beth oedd ei argymhellion, ac yna byddai’n gallu mynd at y corff priodol i roi’r newid y credai a oedd yn ddymunol ar waith.

Rosemary Butler: Mae’n ddrwg gennyf am dorri ar draws eich cwestiynau, Nick.

Nick Ramsay: Mae gennyf ddau gwestiwn cyflym iawn. Mewn perthynas â’r hyn yr oeddem yn ei ddweud yn awr, i bwy y bydd y bwrdd yn atebol a sut y gellir sicrhau pobl ei fod yn cyflawni ei swyddogaethau’n ddigonol ac yn cyflawni’r hyn yr ydym am iddo’i gyflawni? A ydych yn gweld unrhyw orgyffwrdd posibl rhwng y math o faterion a fydd yn rhan o gylch gwaith y bwrdd a’r rhai o dan awdurdodaeth y comisiynydd safonau, fel Comisiwn y Cynulliad yn ymchwilio i unrhyw gŵynion sy’n ymwneud â phenderfyniadau am gymorth ariannol?

Y Llywydd: Yr wyf am ateb yr ail gwestiwn yn gyntaf. Yr wyf yn falch iawn ein bod ar fin cael y Mesur—nid yw wedi bod gerbron y Cyfrin Gyngor, naddo?

Mr Bush: Credaf ei fod wedi bod ddoe.

yesterday.

[76] **The Presiding Officer:** Oh, it has been? There we are.

Y Llywydd: O, mae wedi bod? Dyna ni.

[77] **Mr Bush:** I know that Her Majesty was quite busy with one thing and another yesterday.

Mr Bush: Gwn fod Ei Mawrhydi yn eithaf prysur rhwng popeth ddoe.

[78] **The Presiding Officer:** She did reply to my e-mail very promptly. The commissioner Measure, which may or may not be law as we speak, is very important for us, and I am very grateful to Jeff Cuthbert for taking it through as the Chair of the Committee on Standards. It lays out very clear principles about the way in which the commissioner promotes standards in public life in relation to the work of Assembly Members. That is a philosophical link, if you like, between the objectives of this proposed Measure and that Measure, but there is no overlap of function between the board and the commissioner. The board sets the rules of financial support for Members, and the commissioner may be involved if there is an allegation that any one of those rules has been broken. Otherwise, these are very separate functions—one is judge and the other is the Minister for finance, if you like, in those situations, so the functions are quite different. Although the functions of the board will not overlap, they do, as I indicated earlier, complement each other. The commissioner is required by the Measure referring to her or his work to communicate with the Chief Executive and Clerk of the Assembly in any circumstances in the course of an investigation that give rise to issues of principle or general practice relevant to the clerk's role as the Assembly Commission's principal accounting officer. The reason why that it is included is to enable whistleblowing to take place, and to enable the work of the Assembly Commission in relation to, especially, the overall accounting officer role, for that to have a clear legal basis, where there is a link between the commissioner and his or her investigations and the work of the Assembly Commission's principal accounting officer. So, a complaint about an alleged breach of rules relating to expenses in the case that you asked me about might lead the commissioner to the conclusion that the rules were not well drafted.

Y Llywydd: Atebodd fy e-bost yn brydlon iawn. Mae Mesur y comisiynydd, a allai neu na allai fod yn gyfraith wrth inni siarad, yn bwysig iawn i ni, ac yr wyf yn ddiolchgar i Jeff Cuthbert am hwyluso hynt y Mesur fel Cadeirydd y Pwyllgor Safonau. Mae'n gosod egwyddorion clir iawn am y ffordd y mae'r comisiynydd yn hyrwyddo safonau mewn bywyd cyhoeddus mewn perthynas â gwaith Aelodau'r Cynulliad. Mae hwnnw'n gysylltiad athronyddol, os hoffwch chi, rhwng amcanion y Mesur arfaethedig hwn a'r Mesur hwnnw, ond nid yw swyddogaethau'r bwrdd a'r comisiynydd yn gorgyffwrdd. Mae'r bwrdd yn pennu'r rheolau ar gyfer cymorth ariannol i'r Aelodau, a gall y comisiynydd gyfrannu os cyhuddir unrhyw un o dorri'r rheolau hynny. Fel arall, mae'r rhain yn swyddogaethau cwbl ar wahân—mae un yn farnwr a'r llall yn Weinidog cyllid, os hoffwch chi, yn y sefyllfaoedd hynny, felly mae cryn wahaniaeth rhwng y swyddogaethau. Er na fydd swyddogaethau'r bwrdd yn gorgyffwrdd, fel y soniais yn gynharach, maent yn ategu ei gilydd. Mae'n ofynnol i'r comisiynydd yn ôl y Mesur gyfeirio at ei gwaith neu ei waith yn cyfathrebu â Phrif Weithredwr a Chlerc y Cynulliad o dan unrhyw amgylchiadau yn ystod ymchwiliad sy'n codi mater o egwyddor neu ymarfer cyffredinol sy'n berthnasol i swyddogaeth y clerc fel prif swyddog cyfrifyddu Comisiwn y Cynulliad. Y rheswm ei fod wedi'i gynnwys yw er mwyn galluogi i bobl allu chwythu'r chwiban, ac i alluogi gwaith Comisiwn y Cynulliad mewn perthynas, yn arbennig, â swyddogaeth gyffredinol y swyddog cyfrifyddu, i honno gael sail gyfreithiol glir, lle mae cysylltiad rhwng y comisiynydd a'i ymchwiliadau neu ei hymchwiliadau a gwaith prif swyddog cyfrifyddu Comisiynydd y Cynulliad. Felly, gallai cwyn am dorri'r rheolau honedig o ran treuliau yn yr achos yr oeddech chi'n gofyn i mi amdano arwain y comisiynydd i'r casgliad nad oedd y

rheolau wedi'u drafftio'n dda.

[79] Indeed, as we are aware, issues like this have arisen already, where out of the commissioner's report on a particular case of a complaint against a Member, there has arisen a discussion about whether the guidance prepared—the issue of conforming to the guidance was the issue that the commissioner was deciding on—was adequate for purpose. So, that kind of issue would be one that would link between the investigation by a commissioner and the work of the clerk. Obviously, then, the commissioner would be required to bring that to the attention of the clerk, who could then turn to the proposed board to review the rules to improve them. So, the commissioner could be feeding in any improvement to the work of the board, but the roles are quite distinct. Is that clear?

Yn wir, fel y gwyddom, mae materion fel hyn eisoes wedi codi, lle yn adroddiad y comisiynydd ar achos penodol o gŵyn yn erbyn Aelod, mae trafodaeth wedi codi ynglŷn ag a yw'r canllawiau a baratowyd—cydymffurfio â'r canllawiau oedd y mater yr oedd y comisiynydd yn penderfynu yn ei gylch—yn ddigonol at y diben. Felly, byddai'r math hwnnw o fater yn un a fyddai'n gysylltiad rhwng yr ymchwiliad gan gomisiynydd a gwaith y cler. Yn amlwg, felly, byddai'n ofynnol i'r comisiynydd ddod â hynny at sylw'r cler, a allai wedyn droi at y bwrdd arfaethedig i adolygu'r rheolau i'w gwella. Felly, gallai'r comisiynydd fod yn cyfrannu unrhyw welliannau i waith y bwrdd, ond mae'r swyddogaethau'n eithaf unigryw. A yw hynny'n glir?

[80] **Nick Ramsay:** Yes, thank you.

Nick Ramsay: Ydy, diolch.

[81] **Rosemary Butler:** Fine. We will move on.

Rosemary Butler: Da iawn. Symudwn ymlaen.

[82] **Ann Jones:** I want to turn to section 3 of the proposed Measure, which is—

Ann Jones: Hoffwn droi at adran 3 o'r Mesur arfaethedig, sef—

[83] **The Presiding Officer:** Sorry, but I have not answered the question about the accountability of the board.

Y Llywydd: Mae'n ddrwg gennyf, ond nid wyf wedi ateb y cwestiwn am atebolrwydd y bwrdd.

[84] **Nick Ramsay:** That was the second one, was it not?

Nick Ramsay: Dyna oedd yr ail un, onid e?

[85] **The Presiding Officer:** It was the first question. Sorry, Ann.

Y Llywydd: Y cwestiwn cyntaf ydoedd. Mae'n ddrwg gennyf, Ann.

[86] **Ann Jones:** That is fine.

Ann Jones: Mae hynny'n iawn.

[87] **The Presiding Officer:** The board will be independent and therefore not accountable to the Assembly. This is a fundamental principle. The accountability would kick in—apart from the overall accountability to the courts, obviously—if there was a serious breach on the part of board members, and that links to the question of appointment and disqualification. So, because it is an independent body, it is not accountable to the Assembly, but, of course, it is accountable in audit terms and, ultimately, to the supervision of the courts.

Y Llywydd: Bydd y bwrdd yn annibynnol ac felly ni fydd yn atebol i'r Cynulliad. Mae hon yn egwyddor sylfaenol. Byddai'r atebolrwydd yn dod i rym—ac eithrio'r atebolrwydd cyffredinol i'r llysoedd, yn amlwg—pe bai achos difrifol o dorri'r rheolau gan aelodau'r bwrdd, ac mae hynny'n gysylltiedig â'r cwestiwn o benodi ac anghymwyso. Felly, gan ei fod yn gorff annibynnol, nid yw'n atebol i'r Cynulliad, ond, wrth gwrs, mae'n atebol o ran archwilio ac, yn y pen draw, i oruchwyliaeth y llysoedd.

[88] **Rosemary Butler:** So, if there is some kind of misdemeanour, although that is not the right word, would it be the clerk of the Assembly, the standards commissioner or you who would take them to task, if that is the right expression?

[89] **The Presiding Officer:** It could involve all three in a worst-case scenario, I suppose. However, the criteria for the termination of an appointment are clearly set out. It is the same provision as that for the removal of someone from public office. It is not dissimilar to the provisions in the Parliamentary Standards Act 2009. There is, within the proposed Measure, provision to ensure that a person can be removed and that is a standard safeguard in public appointments. This would, hopefully, be used in only very exceptional circumstances. Issues of long-term incapacity and other issues might be considerations here. The only area where we involve the Assembly is in the question of a termination in exceptional circumstances. That would involve a resolution of the Assembly by, I think, a two-thirds majority.

[90] **Ann Jones:** We move on to section 3, on disqualification from membership of the board. There is a comprehensive Schedule 1 to the proposed Measure that tells us about people who would be disqualified. Schedule 1, section 1(1) provides for the disqualification of members of the independent review panel and the first review panel, both of which were set up by the Commission. Can you explain the rationale behind a person being disqualified from membership of the board, in particular, under that section?

[91] **The Presiding Officer:** People under that section are disqualified because we wanted to make it clear that anybody who had taken a public stance or expressed a view or, in this case, produced a report in this area should not be involved in the work of the panel, because that would mean that it was not truly independent. As we have discussed earlier, for the first round of work, there is an obligation on the proposed board to consider what a previous panel said, but in no way is

Rosemary Butler: Felly, pe bai rhyw fath o gamymddygiad, er nad dyna'r gair iawn, ai clerc y Cynulliad, y comisiynydd safonau neu chi fyddai'n eu ceryddu, os dyna'r ymadrodd cywir?

Y Llywydd: Yn y sefyllfa waethaf bosibl, mae'n debyg y gallai gynnwys y tri. Fodd bynnag, nodir yn glir y meini prawf ar gyfer terfynu penodiad. Yr un yw'r ddarpariaeth â'r un ar gyfer diswyddo rhywun o swydd gyhoeddus. Nid yw'n rhy annhebyg i ddarpariaethau Deddf Safonau Seneddol 2009. O fewn y Mesur arfaethedig, mae darpariaeth i sicrhau y gellir diswyddo rhywun ac mae hynny'n fesur diogelwch safonol mewn penodiadau cyhoeddus. Byddai hyn, gobeithio, yn cael ei ddefnyddio o dan amgylchiadau eithriadol iawn yn unig. Gallai materion analluogrwydd hirdymor a materion eraill fod yn berthnasol i'w hystyried yma. Yr unig faes lle byddwn yn cynnwys y Cynulliad yw mewn achos o ddiswyddo o dan amgylchiadau eithriadol. Byddai hynny'n gofyn penderfyniad gan y Cynulliad o fwyafrif o ddwy ran o dair, fe gredaf.

Ann Jones: Symudwn ymlaen i adran 3, ar anghymwyso rhag bod yn aelod o'r bwrdd. Mae Atodlen 1 gynhwysfawr i'r Mesur arfaethedig sy'n dweud wrthym am bobl a fyddai'n cael eu hanghymwyso. Mae Atodlen 1, adran 1(1) yn darparu ar gyfer anghymwyso aelodau o'r panel adolygu annibynnol a'r panel adolygu cyntaf, a chafodd y naill a'r llall eu sefydlu gan y Comisiwn. A allwch egluro'r sail resymegol wrth wraidd anghymwyso rhywun rhag bod yn aelod o'r bwrdd, yn arbennig, o dan yr adran honno?

Y Llywydd: Mae pobl o dan yr adran honno'n cael eu hanghymwyso gan ein bod am ei gwneud yn glir na ddylai neb a oedd wedi cymryd safiad cyhoeddus neu wedi mynegi barn, neu, yn yr achos hwn, wedi llunio adroddiad yn y maes hwn gyfrannu at waith y panel, gan y byddai hynny'n golygu nad oedd yn wirioneddol annibynnol. Fel a drafodwyd eisoes gennym, ar gyfer y gyfres gyntaf o waith, mae rhwymedigaeth ar y bwrdd arfaethedig i ystyried yr hyn a

the board, from then on, bound by that. So, it was very important for us that we had fresh minds and a fresh attitude. We are very grateful to the first two panels for the work that they have done, but that is finished. They no longer have anything to do with this matter. It is important to emphasise that this board will be recruiting good quality different people to take a fresh look at all this.

ddywedodd panel blaenorol, ond nid yw'r bwrdd ar unrhyw gyfrif yn cael eu rhwymo gan hynny o hynny allan. Felly, yr oedd yn bwysig iawn inni fod â meddyliau ffres ac agwedd ffres. Yr ydym yn ddiolchgar iawn i'r ddau banel cyntaf am eu gwaith, ond mae hynny ar ben. Nid oes ganddynt ddim i'w wneud â'r mater hwn bellach. Mae'n bwysig pwysleisio y bydd y bwrdd hwn yn recriwtio pobl wahanol o ansawdd da i gymryd safbwynt ffres ar hyn.

10.10 a.m.

[92] **Ann Jones:** Did you give consideration to disqualifying others from the board, such as Assembly Members' family members, for example, or persons who have been declared bankrupt? I do not see that in the Schedule.

Ann Jones: A wnaethoch ystyried anghymwyso eraill o'r bwrdd, fel aelodau o deuluoedd Aelodau'r Cynulliad, er enghraifft, neu bobl sydd wedi'u datgan yn fethdalwyr? Nid wyf yn gweld hynny yn yr Atodlen.

[93] **The Presiding Officer:** My understanding is that bankrupts are no longer as such disqualified automatically from holding an office such as that of Assembly Member or Member of Parliament—a great relief to us all, I am sure, if we were in that situation. This is no laughing matter, obviously. [*Laughter.*]

Y Llywydd: Fy nealltwriaeth i yw nad yw pobl sy'n fethdalwyr bellach yn cael eu hanghymwyso yn awtomatig rhag gweithio fel Aelod o'r Cynulliad neu Aelod Seneddol—rhyddhad mawr i ni gyd, yr wyf yn siŵr, pe baem ni yn y sefyllfa honno. Nid yw hyn yn destun difyrwch, yn amlwg. [*Chwerthin.*]

[94] **Ann Jones:** Not with Christmas coming. [*Laughter.*]

Ann Jones: Nid gyda'r Nadolig yn agosáu. [*Chwerthin.*]

[95] **The Presiding Officer:** I do not put family members in the same category, but there are difficulties, I think, as we have met before, in this field of trying to define what is a family member. If family members are to be disqualified, decisions would need to be taken as to how widely to define family members, I am advised. Now, obviously, candidates to be a member of the board would include all relevant information, including any affiliations they had, I would think, in their application, and that would be given due consideration by the appointments panel. The important point here is that these will be public appointments on Nolan rules, and, you know, there has been so much discussion about the employment of family members and connections with families that I think that we can leave this to the judgment of the persons appointing the independent panel.

Y Llywydd: Nid wyf yn rhoi aelodau teulu yn yr un categori, ond mae anawsterau, fe gredaf, fel yr ydym wedi dod ar eu traws o'r blaen, yn y maes hwn o geisio diffinio beth yw aelod teulu. Os yw aelodau teulu i gael eu hanghymwyso, byddai angen gwneud penderfyniadau ar ba mor eang y dylid diffinio aelodau teulu, fe'm cynghorir. Nawr, yn amlwg, credaf y byddai ymgeiswyr i fod yn aelodau o'r bwrdd yn cynnwys yr holl wybodaeth berthnasol, gan gynnwys unrhyw gysylltiadau ganddynt, yn eu cais, a byddai hynny'n cael ei ystyried yn ofalus gan y panel penodi. Y pwynt pwysig yma yw y bydd y rhain yn benodiadau cyhoeddus ar sail rheolau Nolan, ac, fe wyddoch, mae cymaint o drafodaethau wedi bod am gyflogi aelodau teulu a chysylltiadau â theuluoedd y credaf y gallwn adael y penderfyniad hwn i'r bobl sy'n penodi'r panel annibynnol.

[96] **Ann Jones:** So, you are not ruling out that the family members of Assembly Members could be involved in the panel.

[97] **The Presiding Officer:** Well, I do not think my 20-month-old granddaughter would qualify, for other reasons—although she is very intelligent, obviously.

[98] **Ann Jones:** Absolutely.

[99] **The Presiding Officer:** We do not want to miss out people in that category. There may be people who are distant cousins of Assembly Members who might be good for this job. However, this is the sort of issue that arises in all public appointments, and it would have to be declared, would it not?

[100] **Ann Jones:** Yes.

[101] **Mr Bush:** I will just supplement that a bit. A major issue is the clarity of the definition. As the person responsible for the drafting, my feeling was that to try to define which family members would be disqualified would be quite difficult. You would have to do that; you would have to define what the relationship was. You also, of course, would then immediately run into issues such as, if the husband or wife of an Assembly Member is disqualified, what about a person who is co-habiting with an Assembly Member but is not married to him or her? You begin to get into increasingly difficult areas of definition, and the thing would very rapidly, in my professional judgment, grow out of proportion to the nature of the problem. As the Presiding Officer said, the appointment process will be able to take account of that kind of issue, and it would be a matter for the clerk to make the arrangements. However, I have little doubt that those who apply will be required to disclose whether they have any kind of connection, and not just a family connection but a business connection, a connection of friendship or whatever, and then the panel that appoints the members of the board can make a judgment. So, something need not necessarily automatically disqualify someone—being a remote relative or whatever. Certainly, in drafting it, an issue was avoiding very complicated definitions that can be dealt with more effectively in

Ann Jones: Felly, nid ydych yn gwrthod y gallai aelodau teulu Aelodau'r Cynulliad fod yn rhan o'r panel.

Y Llywydd: Wel, ni chredaf y byddai fy wyres 20 mis oed yn gymwys, am resymau eraill—er ei bod hi'n ddeallus iawn, yn amlwg.

Ann Jones: Wrth gwrs.

Y Llywydd: Nid ydym am fethu pobl yn y categori hwnnw. Efallai fod pobl sy'n gefndryd neu'n gyfnitherod o bell i Aelodau'r Cynulliad a allai fod yn ddelfrydol ar gyfer y swydd hon. Fodd bynnag, dyma'r math o fater sy'n codi ym mhob penodiad cyhoeddus, a byddai'n rhaid ei ddatgelu, oni fyddai?

Ann Jones: Byddai.

Mr Bush: Yr wyf am ychwanegu rhywfaint at hynny. Mae eglurder y diffiniad yn fater pwysig. Fel y person sy'n gyfrifol am y drafftio, credwn y byddai'n eithaf anodd ceisio diffinio pa aelodau teulu fyddai'n cael eu hanghymwyso. Byddai'n rhaid ichi wneud hynny; byddai'n rhaid ichi ddiffinio'r berthynas. Hefyd, wrth gwrs, byddech wedyn ar unwaith yn wynebu materion fel, os yw gwŷr neu wragedd Aelod Cynulliad wedi'u hanghymwyso, beth am bobl sy'n cyd-fyw ag Aelodau ond nad ydynt yn briod? Yr ydych yn dechrau wynebu meysydd diffinio cynyddol anodd, a byddai'r sefyllfa, yn fy marn broffesiynol i, yn tyfu yn anghymesur â natur y broblem. Fel y dywedodd y Llywydd, bydd y broses benodi'n gallu ystyried materion fel hynny, a chyfrifoldeb y clerf fyddai gwneud y trefniadau. Fodd bynnag, nid oes gennyf lawer o amheuaeth y bydd yn ofynnol i'r rhai hynny sy'n ymgeisio ddatgelu a oes ganddynt unrhyw fath o gysylltiad, ac ni fyddai hynny'n gysylltiad teuluol yn unig, ond yn gysylltiad busnes, neu'n gysylltiad o gyfeillgarwch neu beth bynnag, ac yna gall y panel sy'n penodi aelodau'r bwrdd benderfynu. Felly, nid oes rhaid i rywbeth anghymwyso rhywun yn awtomatig o reidrydd—sef bod yn berthynas pell neu beth bynnag. Yn sicr, wrth ei ddrafftio, yr oedd yn bwysig osgoi diffiniadau cymhleth iawn y gellir ymdrin â hwy yn fwy effeithiol mewn ffordd arall.

another way.

[102] **Ann Jones:** Okay.

Ann Jones: Iawn.

[103] **Eleanor Burnham:** I have subsequent questions to do with this exact issue. What arrangements do you anticipate putting in place to deal with serving board members who subsequently become disqualified under Schedule 1? Would you expect disqualification to be immediate in the circumstances, or is it anticipated that a board member would serve a period of notice?

Eleanor Burham: Mae gennyf gwestiynau dilynol ar yr union fater hwn. Pa drefniadau yr ydych yn disgwyl eu rhoi ar waith i ymdrin ag aelodau cyfredol o'r bwrdd sy'n cael eu hanghymwyso wedi hynny o dan Atodlen 1? A fydddech yn disgwyl iddynt gael eu hanghymwyso ar unwaith o dan yr amgylchiadau, neu a ragwelir y byddai aelod o'r bwrdd yn gweithio cyfnod o rybudd?

[104] **The Presiding Officer:** Disqualification would be immediate; I would answer that. Keith, would you like to add to that?

Y Llywydd: Byddai'n cael ei anghymwyso ar unwaith; byddwn yn ateb hynny. Keith, a hoffech ychwanegu at hynny?

[105] **Mr Bush:** There is nothing that I can usefully add to that.

Mr Bush: Nid oes dim y gallaf ei ychwanegu'n ddefnyddiol at hynny.

[106] **Eleanor Burnham:** Thank you.

Eleanor Burham: Diolch.

[107] **The Presiding Officer:** Was that a good short answer? I am trying to get there.

Y Llywydd: A oedd hwnnw'n ateb da cryno? Dyna fy nod.

[108] **Eleanor Burnham:** Was that a good short question?

Eleanor Burham: A oedd hwnnw'n gwestiwn da cryno?

[109] **Rosemary Butler:** Quite refreshing, PO; quite refreshing.

Rosemary Butler: Chwa o awyr iach, Lywydd; chwa o awyr iach.

[110] **Nick Ramsay:** Moving on methodically to section 4 and Schedule 1, 'Appointment of the members of the Board', the proposed Measure provides for the clerk of the Assembly to make arrangements for selecting candidates for appointment as members of the board, and for the Assembly Commission to appoint those persons selected. What is the rationale behind these selection and appointment arrangements?

Nick Ramsay: Gan symud ymlaen yn drefnus i adran 4 ac Atodlen 1, 'Penodi aelodau'r Bwrdd', mae'r Mesur arfaethedig yn darparu ar gyfer clerc y Cynulliad yn gwneud trefniadau ar gyfer dethol ymgeiswyr i'w penodi yn aelodau o'r bwrdd, ac i Gomisiwn y Cynulliad benodi'r bobl hynny a ddewisir. Pa sail resymegol sydd wrth wraidd y trefniadau dethol a phenodi hyn?

[111] **The Presiding Officer:** Recommendation 12 refers specifically to the need for the members of the board to have relevant expertise, and selection by the clerk, the auditor general and the Commission's independent adviser was the route that was recommended. We did not feel that it was necessary to specify that in the proposed Measure. The purpose of fair and open competition is to be an effective way of identifying the best person for the job. There

Y Llywydd: Mae argymhelliad 12 yn cyfeirio'n benodol at yr angen i aelodau'r bwrdd fod ag arbenigedd perthnasol, a'u dethol gan y clerc, yr archwilydd cyffredinol a chynghorydd annibynnol y Comisiwn oedd y llwybr a argymhellwyd. Ni chredem fod angen nodi hynny yn y Mesur arfaethedig. Diben cystadleuaeth deg ac agored yw bod yn ffordd effeithiol o ganfod y person gorau ar gyfer y swydd. Ceir anawsterau wrth nodi sut byddai panel penodi yn gweithredu heb

are difficulties in specifying how an appointment panel would function without having too prescriptive an approach. The clerk is currently seeking the approval of the Commission for a general procedure to apply; it has already been drafted—I have seen a draft of it. The general procedure to apply is the same as with appointments, or recommendations or nominations of the Assembly—for example, the commissioner for standards—and it will deal with the issue of the composition of selection panels. It would not be appropriate, in our view, to apply this directly to appointments to the board, because it states that it is right for an Assembly Member to participate in such selection panels, but the clerk would be asked to publish a similar statement so worded so that it would provide an essential degree of flexibility in relation to the membership of panels making appointments to the board. As we are working this through, the clerk of the Assembly, similarly, is developing a common approach to the public appointments that we make, and this will relate to that document when it is published.

[112] **Nick Ramsay:** That leads to my supplementary question. I was going to point out that the appointments procedure for the chair and members of the board is different to that for similar bodies, such as the auditor general and the commissioner for standards.

[113] **The Presiding Officer:** Indeed.

[114] **Nick Ramsay:** From what you have just said, you anticipate changes to the way in which appointments are made in general, and this would fit better into that way of doing things.

[115] **The Presiding Officer:** As you quite rightly say, there are different ways in which these appointments have been made. There has been little or no provision governing the process by which candidates for public appointment are to be identified. This has been a feature of legislation in the past. Obviously, I will ask Keith to make some further comments on this. The Government of Wales Act 2006, in the appointment of the auditor general, as you say, just says that the auditor general is to be appointed by Her Majesty on the nomination of the Assembly,

fynd ati'n rhy benodol. Ar hyn o bryd, mae'r clerc yn ceisio cymeradwyaeth y Comisiwn ar gyfer gweithdrefn ymgeisio gyffredinol; mae eisoes wedi'i drafftio—yr wyf wedi gweld drafft ohoni. Mae'r weithdrefn ymgeisio gyffredinol yr un fath â gweithdrefn penodiadau, neu argymhellion neu enwebiadau'r Cynulliad—er enghraifft, y comisiynydd safonau—a bydd yn ymdrin â chyfansoddiad paneli dethol. Ni fyddai'n briodol, yn ein barn ni, i gymhwyso hyn yn uniongyrchol at benodiadau i'r bwrdd, gan ei bod yn nodi ei bod yn iawn i Aelod o'r Cynulliad gymryd rhan mewn paneli dethol o'r fath, ond byddai gofyn i'r clerc gyhoeddi datganiad tebyg wedi'i eirio mewn modd fel y byddai'n darparu rhywfaint o hyblygrwydd hanfodol mewn perthynas ag aelodaeth paneli sy'n penodi i'r bwrdd. Wrth i ni weithio drwy hyn, mae clerc y Cynulliad, yn yr un modd, yn datblygu dull cyffredin o ymdrin â'r penodiadau cyhoeddus yr ydym yn eu gwneud, a bydd hyn yn ymwneud â'r ddogfen honno pan fydd yn cael ei chyhoeddi.

Nick Ramsay: Mae hynny'n arwain at fy nghwestiwn atodol. Yr oeddwn am nodi bod y weithdrefn benodi ar gyfer y cadeirydd ac aelodau'r bwrdd yn wahanol i'r rhai ar gyfer cyrff tebyg, fel yr archwilydd cyffredinol a'r comisiynydd safonau.

Y Llywydd: Yn wir.

Nick Ramsay: O'r hyn yr ydych newydd ei ddweud, yr ydych yn rhagweld newidiadau i'r ffordd y gwneir penodiadau yn gyffredinol, a byddai hyn yn fwy addas ar gyfer gwneud pethau fel hynny.

Y Llywydd: Yn gywir fel yr ydych yn ei ddweud, gwnaed y penodiadau hyn mewn gwahanol ffyrdd. Ni fu llawer o ddarpariaeth, os o gwbl, o ran rheoli'r broses o nodi ymgeiswyr ar gyfer penodiadau cyhoeddus. Bu hyn yn nodwedd o ddeddfwriaeth yn y gorffennol. Yn amlwg, byddaf yn gofyn i Keith wneud rhai sylwadau pellach ar hyn. Wrth benodi'r archwilydd cyffredinol, dywed Deddf Llywodraeth Cymru 2006, fel yr oeddech yn ei ddweud, y bydd yr archwilydd cyffredinol yn cael ei benodi gan Ei Mawrhydi ar sail enwebiad gan y Cynulliad,

and that no nomination is made until the Assembly is satisfied that reasonable consultation has been undertaken by the bodies representing local government. The Act says nothing about how a preferred candidate is identified or how the consultation process is to be arranged. The Public Service Ombudsman (Wales) Act 2005 merely says that the ombudsman is to be appointed by Her Majesty on the recommendation of the Assembly without any guidance. In the commissioner for standards legislation, the Assembly departed from this approach by imposing a framework within which the appointments process must be conducted. Paragraphs 1 and 2 of the Schedule to this proposed Measure adopt a similar approach, although with some differences reflecting the requirements of the Committee on Standards of Conduct and the Commission respectively. Would you like to add anything to that, Keith?

10.20 a.m.

[116] **Mr Bush:** At the risk of taking up the committee's time with general discussion of public appointments, I will just underline what the Presiding Officer has said, which is that, traditionally, Acts of Parliament say little or nothing about how you get to the point where someone is actually appointed or nominated by Parliament, the Assembly or whatever. There is, increasingly, a move away from that to lay down some basic criteria at least, or to identify some general rules as to how the procedure is to go ahead. That is what this does—it makes it clear that a candidate for appointment as a member of the board will not emerge by some magical process, but rather that there will be an individual, namely the clerk, responsible for putting together a process based on equality of opportunity, which will identify a person whom the Commission must then appoint. Then, as the Presiding Officer has said, we are developing procedures that will be available to the public and to Assembly Members to illustrate how that process will work—for example, what kind of people should be members of the selection panel. In fact, this approach is not a million miles away from that of the Parliamentary Standards Act 2009, which was passed back in the summer, in the level of detail that it

ac na wneir enwebiad hyd nes fod y Cynulliad yn fodlon bod ymgynghoriad rhesymol wedi'i gynnal gan y cyrff sy'n cynrychioli llywodraeth leol. Nid yw'r Ddeddf yn dweud dim am sut y nodir ymgeisydd dewisol neu sut y bydd y broses ymgynghori'n cael ei threfnu. Mae Deddf Ombwdsmon Gwasanaethau Cyhoeddus (Cymru) 2005 yn dweud yn syml y bydd yr ombwdsmon yn cael ei benodi gan Ei Mawrhydi ar sail argymhelliad gan y Cynulliad heb unrhyw arweiniad. Yn neddfwriaeth y comisiynydd safonau, ni ddefnyddiodd y Cynulliad y dull hwn gan osod fframwaith ar gyfer cynnal y broses benodi. Mae paragraffau 1 a 2 yr Atodlen i'r Mesur arfaethedig hwn yn mabwysiadu dull tebyg, er bod rhai gwahaniaethau yn adlewyrchu gofynion y Pwyllgor Safonau Ymddygiad a'r Comisiwn. A hoffech ychwanegu unrhyw beth at hynny, Keith?

Mr Bush: Rhag mynd ag amser y pwyllgor gyda thrafodaeth gyffredinol am benodiadau cyhoeddus, pwysleisiaf yr hyn a ddywedodd y Llywydd, sef, yn draddodiadol, mai ychydig iawn, os o gwbl, y dywed Deddfau seneddol am sut mae cyrraedd y pwynt lle mae rhywun yn cael ei benodi neu ei enwebu gan y Senedd, y Cynulliad neu bwy bynnag. Mae tuedd gynyddol i symud i ffwrdd o hynny i osod rhai meini prawf sylfaenol o leiaf, neu rai rheolau cyffredinol ynglŷn â sut y bydd y weithdrefn yn cael ei gweithredu. Dyna'r hyn y mae hyn yn ei wneud—mae'n nodi'n glir na fydd aelod o'r bwrdd sydd am gael ei benodi yn dod i'r fei drwy ryw broses wyrthiol, ond yn hytrach y bydd unigolyn, sef y cler, yn gyfrifol am lunio proses sy'n seiliedig ar gyfle cyfartal, a fydd yn nodi person y mae'n rhaid i'r Comisiwn ei benodi yn sgîl hynny. Yna, fel y dywedodd y Llywydd, yr ydym yn datblygu gweithdrefnau a fydd ar gael i'r cyhoedd ac i Aelodau'r Cynulliad ddangos sut y bydd y broses honno'n gweithio—er enghraifft, pa fath o bobl ddylai fod yn aelodau o'r panel dethol. Yn wir, nid yw'r dull hwn yn wahanol iawn i Ddeddf Safonau Seneddol 2009, a basiwyd yn ôl yn yr haf, o ran lefel ei fanylder.

goes in for.

[117] **Nick Ramsay:** Predictably, Keith has just answered, or half answered, the next question that I was going to ask him, which was about selection. The proposed Measure is quite non-prescriptive in determining who will do the selecting; I think that it mentions the chief executive of the Assembly and the Auditor General for Wales.

[118] **The Presiding Officer:** As well as a Commission independent adviser.

[119] **Nick Ramsay:** Beyond that, there is no guide, but do you see those three people as the key to any selection process, or would others be involved?

[120] **The Presiding Officer:** The Commission independent advisers will include people who currently sit on our audit committee, who provide advice for us at the highest level in relation to the management of the Commission's activity, and indeed its governance. We very much think it appropriate to make use of the expertise of these people—people like Mair Barnes, for example. Maybe I should not have mentioned her, because she may not want to do this sort of work, but it is people of that quality who already work with us. We think it important to involve the auditor general because there is clearly an important link there on the question of probity and effectiveness in public life in relation to this panel. I think that people of the quality of the auditor general, as a national officer of Wales, elected by the Assembly and appointed by the Queen, should always be available to support those sensitive areas of our work. I do not know whether you want to add anything to that. Keith.

[121] **Mr Bush:** I just want to remind everyone that the panel was quite specific about the kind of person who should be involved in selection, including the auditor general and a Commission independent adviser. The proposed Measure does not go that far, but, as it happens, the procedure that the Presiding Officer referred to regarding Assembly appointments generally would certainly enable that recommendation to be followed. Without giving too much away,

Nick Ramsay: Yn ôl y disgwyl, mae Keith newydd ateb, neu hanner ateb, y cwestiwn nesaf yr oeddwn am ofyn iddo, ynglŷn â dethol. Mae'r Mesur arfaethedig yn gymharol amhenodol o ran pwy fydd yn gwneud y gwaith dethol; credaf ei fod yn crybwyll prif weithredwr y Cynulliad ac Archwilydd Cyffredinol Cymru.

Y Llywydd: Yn ogystal â chynghorydd annibynnol i'r Comisiwn.

Nick Ramsay: Y tu hwnt i hynny, nid oes arweiniad, ond a ydych yn ystyried y tri pherson hynny yn allweddol i unrhyw broses ddethol, neu a fyddai eraill yn cymryd rhan?

Y Llywydd: Bydd cynghorwyr annibynnol y Comisiwn yn cynnwys pobl sy'n aelodau o'n pwyllgor archwilio ar hyn o bryd, sy'n darparu cyngor i ni ar y lefel uchaf mewn perthynas â rheoli gweithgarwch y Comisiwn ac, yn wir, sut mae'n cael ei lywodraethu. Credwn ei bod yn briodol manteisio ar arbenigedd y bobl hyn—pobl fel Mair Barnes, er enghraifft. Efallai na ddylwn fod wedi'i chrybwyll hi, oherwydd efallai na fydd am wneud gwaith fel hyn, ond pobl o'r ansawdd hynny sydd eisoes yn gweithio gyda ni. Credwn ei bod yn bwysig cynnwys yr archwilydd cyffredinol gan fod cysylltiad pwysig amlwg yno o ran priodoldeb ac effeithiolrwydd mewn bywyd cyhoeddus mewn perthynas â'r panel hwn. Credaf y dylai pobl o ansawdd yr archwilydd cyffredinol, fel swyddog cenedlaethol yng Nghymru, a etholwyd gan y Cynulliad ac a benodwyd gan y Frenhines, fod ar gael bob amser i'n cynorthwyo yn y meysydd sensitif hyn o'n gwaith. Ni wn a ydych am ychwanegu rywbeth at hynny, Keith.

Mr Bush: Hoffwn atgoffa pawb i'r panel fod yn eithaf penodol am y math o berson a ddylai gyfrannu at y broses ddethol, gan gynnwys yr archwilydd cyffredinol a chynghorydd annibynnol y Comisiwn. Nid yw'r Mesur arfaethedig yn mynd mor bell â hynny, ond, fel mae'n digwydd, byddai'r weithdrefn y cyfeiriodd y Llywydd ati o ran penodiadau'r Cynulliad yn gyffredinol yn sicr yn ein galluogi i ddilyn yr argymhelliad hwnnw. Heb ddweud gormod, gan nad yw

because it has not been signed off yet, it would provide for participation by more than one independent person, and a person with particular expertise in the field in question—the auditor general, maybe—could identify potential board members who would have the right expertise to be taking the kind of decision that the board would have to take.

[122] **Nick Ramsay:** There is one more question from me. May I take you back to the Parliamentary Standards Act 2009 and a comparison with that—you mentioned it earlier? That Act specifies that the Independent Parliamentary Standards Authority should include a member who has held a high judicial office, a qualified auditor from the National Audit Office—and you just mentioned the auditor general—and a former Member of the House of Commons. Have you given any similar consideration to the make-up of the board here in Wales?

[123] **The Presiding Officer:** We are confident, in following the recommendation of the panel, and involving the auditor general, one of our senior independent advisers, and the clerk to the Assembly, and also, as a result of what we have both referred to now, which is this ongoing work on appointments by the Assembly Commission, that that work will result in a clear, publicly available and understood framework of how appointments are derived. It is not enough to say ‘fair and open competition’, although we understand what that means. It is also important to emphasise that the people who will appoint an independent panel have to be themselves people in positions where their decision on an appointment will be one that is generally respected and accepted. If we do not have that, clearly, the whole system breaks down. However, we do not think it necessary to specify a retired Assembly Member or a senior member of the judiciary, although they are excellent people, I am sure.

[124] **Mr Bush:** May I add something? One needs to bear in mind that the functions of the Independent Parliamentary Standards Authority and those of the board are not exactly the same, in that the IPSA has functions in relation to the conduct of Members of Parliament. It is also required to draw up a code of conduct in relation to

wedi'i gymeradwyo eto, byddai'n galluogi i fwy nag un person annibynnol gymryd rhan, a gallai person sydd ag arbenigedd penodol yn y maes dan sylw—yr archwilydd cyffredinol, efallai—nodi darpar aelodau'r bwrdd a fyddai â'r arbenigedd iawn i fod yn gwneud y math o benderfyniadau y byddai'n rhaid i'r bwrdd ei wneud.

Nick Ramsay: Mae gennyf un cwestiwn arall. A gaf fi fynd â chi yn ôl at Ddeddf Safonau Seneddol 2009 a chymhariaeth â hi—bu ichi grybwyll y peth yn gynharach? Mae'r Ddeddf honno yn nodi y dylai'r Awdurdod Safonau Seneddol Annibynnol gynnwys aelod sydd wedi bod â swydd farnwrol uchel, archwilydd cymwys o'r Swyddfa Archwilio Genedlaethol—ac yr ydych newydd grybwyll yr archwilydd cyffredinol—a chyn-Aelod o Dŷ'r Cyffredin. A ydych wedi rhoi unrhyw ystyriaeth debyg i gyfansoddiad y bwrdd yma yng Nghymru?

Y Llywydd: Yr ydym yn hyderus, wrth ddilyn argymhelliad y panel, a chynnwys yr archwilydd cyffredinol, un o'n uwch-gynghorwyr annibynnol, a chlerc y Cynulliad, a hefyd, yn sgîl yr hyn yr ydym wedi cyfeirio ato'n awr, sef y gwaith hwn sydd ar y gweill ar benodiadau gan Gomisiwn y Cynulliad, y bydd y gwaith hwnnw yn arwain at fframwaith clir, sydd ar gael ac yn cael ei ddeall gan y cyhoedd o'r hyn sy'n sail i benodiadau. Nid yw'n ddigon dweud 'cystadleuaeth deg ac agored', er ein bod yn deall ystyr hynny. Mae hefyd yn bwysig pwysleisio bod yn rhaid i'r bobl a fydd yn penodi panel annibynnol fod eu hunain yn bobl mewn swyddi lle y bydd eu penderfyniad ar benodiad yn cael ei barchu a'i dderbyn yn gyffredinol. Os nad oes gennym hynny, yn amlwg, mae'r holl system yn methu. Fodd bynnag, ni welwn yr angen i nodi Aelod o'r Cynulliad sydd wedi ymddeol neu uwch-aelod o'r farnwriaeth, er eu bod yn bobl ragorol, yr wyf yn siŵr.

Mr Bush: A gaf fi ychwanegu rhywbeth? Mae angen cofio nad yw swyddogaethau'r Awdurdod Safonau Seneddol Annibynnol a rhai'r bwrdd yn union yr un fath, gan fod gan yr awdurdod swyddogaethau mewn perthynas ag ymddygiad Aelodau Seneddol. Mae hefyd yn ofynnol iddo lunio cod ymddygiad mewn perthynas â materion ariannol. Felly, dyna'r

financial matters. So, that is the thinking behind the idea that you should have a former judge; it is because of the conduct aspect of things. The other thing that I would add is that, in his recent report, Sir Christopher Kelly talked about some of the rough edges of the Parliamentary Standards Act 2009 and, without being too critical, it may be thought that one of the rough edges is that that Act says on the one hand that there must be a person on the authority who has been a Member of the House of Commons, but, on the other, apart from that Member, no other person on the board may be a Member of the House of Commons, or may even be someone who has been a Member over the last five years. So, it may be thought that there is a little inconsistency there between saying, on the one hand, that you must have parliamentary representation and, on the other, saying 'Actually, we don't want parliamentarians being members of it'.

[125] The proposed Measure takes a different view and makes it clear that Assembly Members should not be capable of having any direct input and cannot be board members. So, while there are some similarities between the IPSA and the board, it is fair to say that one should be careful not to take the analogy too far.

[126] **Eleanor Burnham:** Gwyddoch fod adran 5 o'r Mesur arfaethedig yn gwneud darpariaeth ar gyfer terfynu aelodaeth o'r bwrdd a bod adran 5(d) yn nodi y dylai cynnig i derfynu aelodaeth o'r bwrdd gael ei wneud ar ran Comisiwn y Cynulliad gan aelod o'r Comisiwn. Sut y penderfynwyd hyn, fel yr amlinellir yn adran 5(d)?

[127] **Y Llywydd:** Mae'n rhaid cael rhyw ffordd i derfynu aelodaeth o unrhyw gorff cyhoeddus, rhag ofn bod amgylchiadau annisgwyl yn codi. Mae gallu sicrhau bod rhywun yn ymadael â swydd gyhoeddus am resymau heblaw eu bod wedi anghymwysu yn y lle cyntaf yn beth cyson sy'n bodoli er mwyn diogelu natur apwyntiadau cyhoeddus. Dyna pam mae'r elfen hon o warchod safonau ac ymddygiad yn y Mesur arfaethedig. Mae'n cael ei osod allan yma, fel yr ydych yn dweud, ac mae ffordd o'i

meddylfryd sydd wrth wraidd y syniad y dylech gael cyn-farnwr; mae oherwydd yr elfen ymddygiad. Y peth arall yr hoffwn ei ychwanegu yw bod Syr Christopher Kelly, yn ei adroddiad diweddar, yn siarad am rai o wendidau Deddf Safonau Seneddol 2009 a, heb fod yn rhy feirniadol, efallai y tybir mai un o'r gwendidau yw bod y Ddeddf, ar y naill llaw, yn dweud bod yn rhaid cael person ar yr awdurdod sydd wedi bod yn Aelod o Dŷ'r Cyffredin, ond, ar y llaw arall, ar wahân i'r Aelod hwnnw, ni chaiff neb arall ar y bwrdd fod yn Aelod o Dŷ'r Cyffredin—hyd yn oed rywun sydd wedi bod yn Aelod yn ystod y pum mlynedd diwethaf. Felly, gellid meddwl bod rhywfaint o anghysondeb yno rhwng dweud, ar y naill llaw, eich bod yn gorfod cael cynrychiolaeth seneddol, ac ar y llaw arall, ddweud 'A dweud y gwir, nid ydym am i seneddwyr fod yn aelodau'.

Mae gan y Mesur arfaethedig safbwynt arall ac mae'n nodi'n glir na ddylai Aelodau'r Cynulliad allu cael unrhyw fewnbnw uniongyrchol ac ni allant fod yn aelodau o'r bwrdd. Felly, tra bod rhai pethau'n debyg rhwng yr Awdurdod Safonau Seneddol Annibynnol a'r bwrdd, mae'n deg dweud y dylai rhywun fod yn ofalus i beidio â gorliwio'r tebygolrwydd.

Eleanor Burnham: You will know that section 5 of the proposed Measure provides for the termination of membership of the board and that section 5(d) provides that a motion to propose the termination of membership of the board must be proposed on behalf of the Assembly Commission by a member of the Commission. How was this decided upon, as set out in section 5(d)?

The Presiding Officer: There must be some way to terminate membership of any public body, in case unexpected circumstances arise. Being able to ensure that someone leaves public office for reasons other than being incompetent in first place is a constant arrangement to safeguard the nature of public appointments. That is why this element of upholding standards and conduct is included in the proposed Measure. It is set out here, as you say, and there is a way of implementing it. We only expect it to happen in extremely

weithredu. Nid ydym yn disgwyl iddo ddiwydd mewn amgylchiadau ac eithrio rhai eithriadol iawn—ac yr wyf yn meddwl fy mod wedi cyfeirio at hyn yn gynharach—er enghraifft, pe bai aelod o'r bwrdd yn dioddef anabledd difrifol neu afiechyd difrifol ac nid oedd yn alluog i ymddiswyddo ohono'i hun. Mae rhywbeth tebyg yn y Ddeddf y cyfeiriwyd ati, y Ddeddf Safonau Seneddol. Yn y fan honno, mwyafrif o ddau Dŷ'r Senedd yn San Steffan sydd ei angen i ddiswyddo person o'r bwrdd.

10.30 a.m.

[128] Yr hyn yr ydym wedi'i osod yma yn adran 5(d) yw y byddai'n rhaid i aelod o'r Comisiwn gyflwyno cynnig ar ran Comisiwn y Cynulliad, a byddai'n rhaid bwrw pleidlais, a chael dwy ran o dair o gyfanswm y pleidleisiau i wneud hynny. Felly, pan soniwn am ddwy ran o dair o fwyafrif ar gynnig fel hyn, yr ydym yn ei wneud yn glir ei fod yn y categori hwnnw o bethau eithriadol o ran diswyddo. Efallai ei bod yn bwysig tanlinellu mai dyma'r unig gysylltiad uniongyrchol rhwng y Cynulliad neu Gomisiwn y Cynulliad a'r bwrdd, hynny yw mae'r bwrdd yn annibynnol hyd at y pwynt y mae aelod o'r bwrdd yn dod yn anweithredol am resymau eithriadol iawn. A yw'r ateb hwnnw'n crynhoi'r sefyllfa ichi?

[129] **Eleanor Burnham:** Diolch am yr eglurhad cynhwysfawr hwnnw. Yr ydych wedi sôn am yr angen am gymeradwyaeth y Cynulliad cyn terfynu aelodaeth o'r bwrdd, a deallwn hynny'n iawn. Fodd bynnag, efallai y bydd pobl yn gofyn pam nad oes angen hynny wrth benodi aelodau'r bwrdd.

[130] **Y Llywydd:** Dyna'r gwahaniaeth. Mae'r bwrdd yn fwrdd annibynnol ar y Cynulliad, felly, yn ein barn ni, nid yw'n briodol i'r bwrdd nac i'r rhai sy'n penodi'r bwrdd fod yn Aelodau Cynulliad, neu'n gallu cael eu dylanwadu gan Aelodau Cynulliad. Mae hynny'n deillio o'r sail athronyddol a roesom gerbron o'r dechrau'n deg, sy'n dod allan o argymhelliad y panel 'Yn Gywir i Gymru', sef mai panel annibynnol ddylai hwn fod heb fod unrhyw gysylltiad rhyngddo ag Aelodau Cynulliad. Felly, mewn ffordd, yr hyn yr ydych wedi'i danlinellu wrth ofyn y cwestiwn hwn yw natur gwbl annibynnol y

exceptional circumstances—and I think that I referred to this earlier—for example, if a member of the board suffered from a serious disability or a serious illness, and was not capable of resigning themselves. There is something similar in the Act that was referred to, the Parliamentary Standards Act, where a majority in the two parliamentary Houses in Westminster is required to dismiss a person from the board.

What we have set down here in section 5(d) is that the motion would have to be tabled on behalf of the Assembly Commission by a member of the Commission, and a vote would be necessary, with a two-thirds majority in order to do so. So, when we talk about a two-thirds majority on a motion such as this, we make it clear that it is in the exceptional category as regards dismissal. Perhaps it is important to underline that this is the only direct link between the Assembly or the Assembly Commission and the board, that is the board is independent up to the point when a board member's membership is terminated for very exceptional reasons. Does that answer summarise the situation for you?

Eleanor Burnham: Thank you for that comprehensive explanation. You have mentioned the need for Assembly approval to terminate membership of the board, and we understand that perfectly. However, perhaps people will ask why that is not needed when appointing board members.

The Presiding Officer: That is the difference. The board is independent of the Assembly, therefore, in our view, it is not appropriate for the board or for those appointing the board to be Assembly Members, or to be influenced by Assembly Members. That arises from the philosophical premise that we set at the outset, which emanates from the recommendation of the 'Getting it Right for Wales' panel, namely that this should be an independent panel without having any link between it and Assembly Members. Therefore, in a way, what you have underlined by asking this

corff, ac mai *in extremis* yn unig, fel petai, y byddai'r cwestiwn yn codi os ydych yn diswyddo pobl. Fodd bynnag, mae modd ichi gael dull o benodi'n gyhoeddus nad yw'n creu cysylltiad neu'n golygu cyfranogaeth gan Aelodau Cynulliad.

[131] **Eleanor Burnham:** Symudaf ymlaen at adran 7, sef 'Cymorth gweinyddol'. Yr ydych yn gwybod hyn yn iawn, ond dywedaf hyn rhag ofn bod pobl yn gwylio neu'n gwrando. Mae adran 7 yn nodi bod

[132] 'Rhaid i Gomisiwn y Cynulliad ddarparu ar gyfer y Bwrdd unrhyw gymorth gweinyddol y mae'n rhesymol i'r Bwrdd ofyn amdano i'w alluogi i gyflawni ei swyddogaethau.'

[133] A allwch chi esbonio beth mae 'y mae'n rhesymol i'r Bwrdd ofyn amdano' yn ei olygu yn y cyd-destun hwn?

[134] **Y Llywydd:** Yr wyf yn hoff iawn o'r gair 'rhesymol'—

[135] **Eleanor Burnham:** A minnau, hefyd.

[136] **Y Llywydd:** A hynny yn enwedig mewn deddfwriaeth. Cefais y cyfle, fel y gwyddoch, o gadeirio Bwrdd yr Iaith Gymraeg am chwe blynedd, ac yr oedd y geiriau 'rhesymol ymarferol ac yn briodol o dan yr amgylchiadau' wedi'u hysgrifennu ar fy nhalcen am y cyfnod hwnnw. Efallai y gall Keith roi seminar fer, Gadeirydd, ar ystyr y gair 'rhesymol' mewn deddfwriaeth, ond yr hyn yr ydym eisiau ei wneud yma yw sicrhau nad yw gofynion y bwrdd yn ormodol, er enghraifft, drwy gyfarfod yn rhy aml, oherwydd mae hynny'n digwydd weithiau. Byddai hawl, wedyn, i'r Comisiwn yn y sefyllfa honno i dynnu cefnogaeth weinyddol yn ôl. Nid ydym wedi trafod eto sut y byddai'r gefnogaeth weinyddol yn codi oherwydd mae'n rhy gynnar. Mae'n debyg y byddai'n digwydd drwy uned gorfforaethol Comisiwn y Cynulliad, ond nid ydym wedi trafod hynny o gwbl. Mae cwestiwn yn codi, wrth i waith o'r natur hon—gwaith rheoleiddio a diogelu safonau—gynyddu, a yw'n briodol inni feddwl am ddatblygu rhyw fath o uned a fyddai'n gyfrifol am benodiadau ac am gefnogi bwrdd fel hwn a

question is the totally independent nature of the body, and that it would only be *in extremis* that the question would arise if you dismiss people. However, it is possible to have a method of making public appointments that does not create a link with or involvement by Assembly Members.

Eleanor Burnham: I move on to section 7, which is 'Administrative support'. You know this full well, but I will restate it just in case people are watching or listening. Section 7 states that

'The Assembly Commission must provide the Board with such administrative support as the Board reasonably requires to enable it to discharge its functions.'

Can you explain what is meant by 'as the Board reasonably requires' in this context?

The Presiding Officer: I am very fond of the word 'reasonable'—

Eleanor Burnham: I am, too.

The Presiding Officer: And particularly in legislation. I had the opportunity, as you know, of chairing the Welsh Language Board for six years, and the words 'reasonably practicable and appropriate in the circumstances' were stamped on my forehead during that time. Perhaps Keith can give a brief seminar, Chair, on the meaning of the word 'reasonable' in legislation, but what we want to do here is ensure that the demands of the board are not excessive, for example, meeting too frequently because that sometimes occurs. The Commission would then have a right, in that situation, to withdraw its administrative support. We have not yet discussed how this administrative support would be provided because it is too early. It is likely that it would be provided through the Assembly Commission's corporate unit, but we have not discussed that as yet. However, a question arises, as work of this nature—regulating and safeguarding standards—increases, as to whether it is appropriate for us to think of developing some kind of unit that would be responsible for appointments and for supporting such a

gwaith y comisiynydd safonau. Ar hyn o bryd, mae staff y Cynulliad yn berffaith abl i ymwneud â'r gwaith hwn fel rhan o'u dyletswyddau eraill, ond mae'n bwynt a fyddai'n werth ei ystyried, oherwydd, yn amlwg, nid yw un cyfarfod y flwyddyn ac, o bosibl, yn amlach yn dreth aruthrol ychwanegol ar adnoddau gweinyddol Comisiwn y Cynulliad.

[137] Fodd bynnag, efallai bod cwestiwn o furiau Tsieineaidd yn yr achos hwn. Mae staffio yn fater gweinyddol i'r clerck. Yr wyf yn sicr ei bod yn ystyried y materion hyn tra ddym yn siarad.

[138] **Eleanor Burnham:** Diolch yn fawr iawn. Symudaf ymlaen at adran 10, arfer swyddogaethau mewn perthynas â chyflogau. Mae'r adran hon yn nodi na all y bwrdd wneud mwy nag un penderfyniad ar dalu cyflogau Aelodau'r Cynulliad, y Prif Weinidog, Gweinidogion Cymru, y Cwnsler Cyffredinol na Dirprwy Weinidogion Cymru yn ystod pob un o dymhorau'r Cynulliad, sef pedair blynedd. Mae adran 10(4) yn nodi y gall y bwrdd wneud mwy nag un penderfyniad ar dalu cyflogau Aelodau'r Cynulliad, y Prif Weinidog a'r Aelodau yr wyf newydd sôn amdanynt os yw 'amgylchiadau eithriadol' yn golygu ei bod 'yn gyfiawn ac yn rhesymol' iddo wneud hynny. A allwch esbonio pam nad yw'r bwrdd yn gallu gwneud mwy nag un penderfyniad mewn perthynas â thalu cyflogau yn ystod pob tymor Cynulliad heblaw mewn amgylchiadau eithriadol?

[139] **Y Llywydd:** Credaf fy mod yn iawn i ddweud bod hwn yn argymhellid yng ngwaith y panel 'Yn Gywir i Gymru' yn wreiddiol: bod un penderfyniad am gyfnod o bedair blynedd yn briodol. Fel yr wyf wedi dweud yn barod, gobeithiwn y bydd y cyntaf yn digwydd chwe mis cyn etholiad nesaf y Cynulliad, a threfn fel hynny y bydd hi o hynny ymlaen. Bydd cyfarfod yng nghanol, neu yn nes, efallai, at ddiwedd tymor y Cynulliad i ystyried y mater hwn fel ei bod yn gwbl glir beth yw'r amodau gwaith a'r cyflogau.

[140] Yr wyf wedi gweld pob math o bethau'n digwydd gyda phenderfynu ar

board and the work of the standards commissioner. At present, Assembly staff are perfectly capable of undertaking this work as part of their other duties, but it is a point that may be well worth considering, because, obviously, one meeting per annum or possibly more often would not be a huge additional drain on the resources of the Assembly Commission.

However, there may be a question of Chinese walls in this case. Staffing is an administrative issue for the clerk. I am sure that she is considering these matters as we speak.

Eleanor Burnham: Thank you very much. I will move on to section 10, the exercise of functions in relation to salaries. This section notes that the board may make no more than one determination in respect of the payment of salaries to Assembly Members, the First Minister, the Welsh Ministers, the Counsel General and Deputy Welsh Ministers during each Assembly term, which is four years. Section 10(4) provides for the board to make more than one determination in respect of the payment of salaries to Assembly Members, the First Minister, and the other Members whom I have just mentioned if 'exceptional circumstances' make it 'just and reasonable' for it to do so. Can you clarify why the board cannot make more than one determination in respect of the payment of salaries during each term of the Assembly except in exceptional circumstances?

The Presiding Officer: I believe that I am right in saying that this was a recommendation from the work of the 'Getting it Right for Wales' panel originally: that one decision for a period of four years would be appropriate. As I have already said, we hope that the first would take place six months prior to the next Assembly election, and then there will be a similar pattern following that. There would be a meeting in the middle, or perhaps closer to the end of the Assembly term to consider this matter so that we are completely clear what the terms and conditions and salaries will be.

I have seen all sorts of things happening with regard to the determination of Members'

gyflogau Aelodau mewn seneddau eraill, lle mae pobl yn gohirio penderfyniad neu'n gwrthod dod i benderfyniad oherwydd amgylchiadau gwleidyddol ac ofn y farn gyhoeddus, ac yn y blaen. Fodd bynnag, os symudwch i sefyllfa annibynnol, yr ydych yn rhoi'r cyfrifoldeb yn llwyr ar bobl eraill, ond yr ydych hefyd yn dweud mai unwaith yn unig y mae angen gwneud hyn bob tro. Mae hynny'n rhoi hyder pellach i bobl gan y byddant yn gwybod mai dyna fydd y cyflog os ydynt yn sefyll am y swydd ac yn cael eu hethol, ac ni fydd modd i hynny newid.

[141] Yr ydym wedi cynnwys y geiriau 'amgylchiadau eithriadol' rhag ofn, er enghraifft, fod teimlad bod rhai penderfyniadau yn eithriadol o ormodol. Mae hynny'n un amgylchiad eithriadol. Hefyd, gall gwaith newydd sylweddol ddod i ran Aelodau—nid wyf yn ystyried bod cynnal refferendwm yn beth eithriadol, ond gallwch gael cyfrifoldebau newydd a gall hynny effeithio nid yn unig ar yr Aelodau ond hefyd ar y Gweinidogion. Felly, yr ydym eisiau sicrhau digon o hyblygrwydd i'r panel allu cyfarfod mewn amgylchiadau eithriadol. Fodd bynnag, efallai na fydd diffiniad y bwrdd a'n diffiniad ni o 'eithriadol' yn debyg; bydd cyfrifoldeb arno i brofi bod yr amgylchiadau'n rhai eithriadol.

[142] **Eleanor Burnham:** I bwy y bydd yn rhaid i'r bwrdd brofi hynny?

[143] **Y Llywydd:** Pe bai'n penderfynu cyfarfod yn amlach, mae perygl y bydd y gefnogaeth weinyddol yn cael ei thynnu yn ôl, fel y trafodwyd ynghynt. Mae'r penderfyniad o ran pryd i gynnal cyfarfod eithriadol yn benderfyniad i'r bwrdd. Yn y diwedd, yr unig ffordd y gallwch brofi Mesur fel hyn yw yn y llysoedd—i weld a yw'n ymddwyn yn rhesymol ac yn ymddwyn yn ôl ei gyfrifoldeb statudol.

[144] **Eleanor Burnham:** A yw hynny'n iawn, Gadeirydd? A hoffech chi ofyn rhywbeth ychwanegol am hyn?

[145] **Rosemary Butler:** That is very kind of you, Eleanor. Thank you very much. Did you want to ask anything extra?

[146] **Eleanor Burnham:** No, I am fine.

salaries in other parliaments, where people defer decisions or refuse to come to a decision because of political circumstances or because they are afraid of public opinion, and so on. However, if you move to an independent situation, you place the responsibility wholly on other people, but you are also saying that it is necessary to do this only once each time. This gives people greater confidence and people will know that that will be the salary if they stand for the job and are elected, and it will not be possible to change that.

We have included 'exceptional circumstances' in case, for example, there is a feeling that some decisions are exceptionally excessive. That is one exceptional circumstance. In addition, Members might be required to undertake substantial new work—I do not think that we would consider holding a referendum as exceptional, but there could be new responsibilities that would impact not only on Members but also on Ministers. So, we want to ensure that there is sufficient flexibility for the panel to meet in exceptional circumstances. However, perhaps the board's definition and our definition of 'exceptional' would differ; it will be its responsibility to prove that it is exceptional.

Eleanor Burnham: To whom will the board have to prove that?

The Presiding Officer: If it decided to meet more regularly, there is a possibility that the administrative support could be withdrawn, as we discussed earlier. The decision regarding when to meet exceptionally is a matter for the board. Ultimately, the only way that you can test such a Measure is in the courts—to see whether it is being reasonable and acting according to its statutory responsibilities.

Eleanor Burnham: Is that okay, Chair? Would you like to ask anything else in relation to this?

Rosemary Butler: Mae hynny'n garedig iawn, Eleanor. Diolch yn fawr iawn. A oeddech am ofyn unrhyw beth arall?

Eleanor Burnham: Na, mae'n iawn. Diolch.

Thank you.

[147] **Rosemary Butler:** We have already covered question 21 in some detail. Ann, could you move on to question 22, please?

Rosemary Butler: Yr ydym eisoes wedi trafod cwestiwn 21 yn go fanwl. Ann, a allwch symud ymlaen i gwestiwn 22, os gwelwch yn dda?

[148] **Ann Jones:** This relates to section 12, which is the exercise of functions: general. In what circumstances would you consider it reasonable for the board not to apply the recommendations of the panel when making a determination, either on the first or on successive occasions?

Ann Jones: Mae hyn yn ymwneud ag adran 12, sef ymarfer swyddogaethau: cyffredinol. O dan ba amgylchiadau y byddech yn ystyried ei bod yn rhesymol i'r bwrdd beidio â rhoi argymhellion y panel ar waith wrth wneud penderfyniad, naill ai y tro cyntaf neu yn gyson wedi hynny?

10.40 a.m.

[149] **The Presiding Officer:** I do not think that I would want to go into that territory.

Y Llywydd: Ni chredaf fy mod am fentro i'r maes hwnnw.

[150] **Ann Jones:** Go on; it is Christmas. *[Laughter.]*

Ann Jones: Ewch amdani; mae'n Nadolig. *[Chwerthin]*

[151] **Mr Bush:** Perhaps I can give an example. One of the main recommendations of the panel was that the current salaries of Assembly Members are correct subject to an uprating for inflation as of April 2010, and the panel then said that the starting point should be when it comes to fix the salaries for the next term of the Assembly, from 2011 to 2015. So, that is something that the board would be required to consider. If it wanted to depart from that, it would have to give its reasons for doing so. What might those reasons be? If it was clear, for example—and this is a purely hypothetical situation—that, as of 2011, there was to be a major change in the responsibilities of Assembly Members, which the panel could not take into account when it made its recommendations earlier this year, in that example, the board could say, 'Things have now changed and therefore we do not take that figure as a starting point; we look at the matter afresh'.

Mr Bush: Efallai y caf roi enghraifft. Un o brif argymhellion y panel yw bod cyflogau presennol Aelodau'r Cynulliad yn gywir yn amodol ar uwchraddio ar gyfer chwyddiant ym mis Ebrill 2010, ac yna dywedodd y panel y dylai'r man cychwyn fod pan fydd yn pennu'r cyflogau ar gyfer tymor nesaf y Cynulliad, rhwng 2011 a 2015. Felly, mae hynny'n rhywbeth y byddai'n ofynnol i'r bwrdd ei ystyried. Pe bai am beidio â gwneud hynny, byddai'n rhaid iddo roi rhesymau dros hynny. Beth allai'r rhesymau hynny fod? Pe bai'n glir, er enghraifft—ac mae hon yn sefyllfa gwbl ddamcaniaethol—y byddai newid sylweddol yng nghyfrifoldebau Aelodau'r Cynulliad o 2011 na allai'r panel eu hystyried wrth wneud ei argymhellion yn gynharach eleni, yn yr enghraifft honno, byddai'r bwrdd yn gallu dweud, 'Mae pethau wedi newid bellach ac felly nid ydym yn cymryd y ffigur hwnnw fel man cychwyn; yr ydym am edrych ar y mater o'r newydd'.

[152] **Ann Jones:** We are talking about requiring the board to have regard to the recommendations, and I think that we have covered that bit. Are there any sanctions that could be imposed on the board if it did not meet the requirement to have regard to the panel's recommendations? If that is a possibility, who would impose the sanction?

Ann Jones: Yr ydym yn siarad am ofyn i'r bwrdd ystyried yr argymhellion, a chredaf ein bod wedi trafod hynny. A oes unrhyw gosbau y gellid eu gosod ar y bwrdd pe na bai'n bodloni'r gofyniad i ystyried argymhellion y panel? Os yw hynny'n bosibilrwydd, pw yddai'n pennu'r gosb?

[153] **The Presiding Officer:** We are back again to the termination issue. The board is independent but if the board is dysfunctional the Assembly ultimately, having set up the board through this proposed Measure, might have to step in. That is the extreme scenario. Obviously, the clerk, as the accounting officer of the Commission, would be in a situation to advise the board that it was operating in a way that was disregarding the panel's recommendations. This could be a matter for the courts again, but ultimately, it would be the sanction of passing a motion by a member of the Commission with a two-thirds majority of the Assembly. This is all extreme stuff, and I do not want to give the impression that we tend to be control freaks or put any pressure on the board; I am giving you an honest answer to the question but emphasising at the same time that we do not want to interfere, which is why I was a little reluctant even to respond to your earlier question. We discussed a lot of this in the summer as to how we could meet both criteria and that the board had regard to what the panel had done, but was also independent. That was the conundrum. The board was able to function independently but was not accountable to the Assembly. However, in the final instance, if anything went wrong, we had to take responsibility. That is why Keith has drafted this for us in this way; it is just to try to meet those requirements.

[154] I am very grateful for the opportunity to respond to these questions because, hopefully, it will make clear to you, when you come to produce your report and the Stage 1 report, and also to anyone who is really interested in these issues. I am sure that many people are interested in the outcome of it, if not in the detail, and people will feel that we have gone about it in a way that makes sense. Obviously, we will come to a later stage where there will be consideration of detailed amendments and there may be some issues that you have; therefore, I give you the assurance, which I was going to do at the end in any case, that we will, of course, consider any amendments on their merits and they will have the usual rigorous analysis of our lawyers. That is how we want to take this through.

Y Llywydd: Yr ydym yn dychwelyd eto at fater anghymwyso. Mae'r bwrdd yn annibynnol ond os yw'r bwrdd yn camweithredu efallai y bydd yn rhaid i'r Cynulliad yn y pen draw, yn sgîl sefydlu'r bwrdd drwy'r Mesur arfaethedig hwn, orfod ymyrryd. Dyna'r sefyllfa waethaf. Yn amlwg, byddai'r clerc, sef swyddog cyfrifyddu y Comisiwn, mewn sefyllfa i gynghori'r bwrdd ei fod yn gweithredu mewn ffordd a oedd yn diystyru argymhellion y panel. Gallai hyn eto fod yn fater i'r llysoedd, ond yn y pen draw, byddai'n ymwneud â chosb pasio cynnig gan aelod o'r Comisiwn gyda mwyafrif o ddwy ran o dair o'r Cynulliad. Byddai hon yn sefyllfa eithafol, ac nid wyf am roi'r argraff bod tuedd i ni fynnu rheolaeth dros bawb neu roi pwysau ar y bwrdd; yr wyf yn rhoi ateb gonest i chi i'r cwestiwn ond yn pwysleisio ar yr un pryd nad ydym am ymyrryd, a dyna pam yr oeddwn braidd yn amharod hyd yn oed i ateb eich cwestiwn cynharach. Buom yn trafod llawer o hyn yn yr haf o ran sut y gallem gyflawni'r meini prawf a bod y bwrdd yn ystyried yr hyn yr oedd y panel wedi'i wneud, ond ei fod hefyd yn annibynnol. Dyna oedd y penbleth. Yr oedd y bwrdd yn gallu gweithredu'n annibynnol ond nid oedd yn atebol i'r Cynulliad. Fodd bynnag, yn y pen draw, pe bai unrhyw beth yn mynd o'i le, yr oedd yn rhaid i ni gymryd cyfrifoldeb. Dyna pam mae Keith wedi drafftio hyn i ni yn y ffordd hon; er mwyn ceisio cyflawni'r gofynion hynny.

Yr wyf yn ddiolchgar iawn am y cyfle i ymateb i'r cwestiynau hyn oherwydd, gobeithio, bydd yn gwneud pethau'n glir i chi, pan fyddwch yn mynd ati i lunio'ch adroddiad a'r adroddiad Cyfnod 1, a hefyd i unrhyw un sydd â diddordeb gwirioneddol yn y materion hyn. Yr wyf yn sicr bod gan lawer o bobl ddiddordeb yng nghanlyniad hyn, os nad yn y manylion, a bydd pobl yn teimlo ein bod wedi gwneud pethau mewn ffordd sy'n gwneud synnwyr. Yn amlwg, byddwn yn cyrraedd cyfnod diweddarach pan fyddwn yn ystyried gwelliannau manwl ac efallai y bydd gennyhych rai cwestiynau; felly, rhoddaf y sicrwydd i chi, yr oeddwn am ei wneud ar y diwedd beth bynnag, y byddwn, yn amlwg, yn ystyried unrhyw welliannau ar sail eu teilyngdod ac y byddant yn cael eu dadansoddi yn y ffordd gadarn arferol gan ein cyfreithwyr. Dyna sut yr ydym am fynd ati i

fwrw'r maen i'r wal.

[155] **Ann Jones:** They were not meant to be difficult questions; they were meant to put information on the record so that we all know which way we are going.

Ann Jones: Nid oedd yn fwrriad gennym ofyn cwestiynau anodd; y bwriad oedd rhoi gwybodaeth ar gofnod er mwyn i ni i gyd wybod i ba gyfeiriad yr ydym yn mynd.

[156] **The Presiding Officer:** I am very grateful for that.

Y Llywydd: Yr wyf yn ddiolchgar iawn am hynny.

[157] **Rosemary Butler:** Nick, I think that you have the last question.

Rosemary Butler: Nick, credaf mai gennych chi y mae'r cwestiwn olaf.

[158] **Nick Ramsay:** Yes, which is moving onto the financial implications of the proposed Measure. I will probably be asking the same questions in the Finance Committee—that is what normally happens. Can you clarify whether the cost estimate provided for in the explanatory memorandum takes account of any future comprehensive revaluations relating to election years for the fifth Assembly and beyond? If not, how much do you anticipate the cost to be?

Nick Ramsay: Ie, sy'n symud ymlaen at oblygiadau ariannol y Mesur arfaethedig. Mae'n debyg y byddaf yn gofyn yr un cwestiwn yn y Pwyllgor Cyllid—dyna sy'n digwydd fel arfer. A allwch egluro a yw'r amcangyfrif o gostau a ddarperir yn y memorandwm esboniadol yn ystyried unrhyw ailbrisiadau cynhwysfawr yn y dyfodol mewn perthynas â blynyddoedd etholiad ar gyfer y pumed Cynulliad a thu hwnt i hynny? Fel arall, faint y rhagwelwch fydd y gost?

[159] **The Presiding Officer:** We have given a lot of detailed information on this in the explanatory memorandum. It is quite simple really—it is based on a reasonable day rate, namely the daily rate for the previous independent review panel. I have to say that it is substantially less than the daily rate for prime ministerial appointments for the UK or indeed for the chair of the IPSA, as advertised, and for board members. However, we have taken account of a reasonable number of meetings, that is the four yearly meeting—

Y Llywydd: Yr ydym wedi rhoi llawer o wybodaeth fanwl am hyn yn y memorandwm esboniadol. Mae'n eithaf syml, mewn gwirionedd—mae'n seiliedig ar gyfradd ddyddiol resymol, sef y gyfradd ddyddiol ar gyfer y panel adolygu annibynnol blaenorol. Rhaid dweud ei fod yn llawer llai na'r gyfradd ddyddiol ar gyfer penodiadau prif weinidogol ar gyfer y DU neu yn wir ar gyfer cadeirydd yr Awdurdod Safonau Seneddol Annibynnol, fel y'i hysbysebwyd, ac ar gyfer aelodau'r bwrdd. Fodd bynnag, yr ydym wedi ystyried nifer resymol o gyfarfodydd, sef y cyfarfod pob pedair blynedd—

[160] **Nick Ramsay:** May I just clarify that this is the £237 for the chair?

Nick Ramsay: A gaf fi gadarnhad mai dyma'r £237 ar gyfer y cadeirydd?

[161] **The Presiding Officer:** Yes; £237 and £185.

Y Llywydd: Ie; £237 a £185.

[162] **Eleanor Burnham:** That is obviously considerably more than an Assembly Member's pay.

Eleanor Burnham: Mae hynny'n amlwg yn llawer mwy na chyflog Aelod Cynulliad.

[163] **The Presiding Officer:** No, this is not pay; this is what we have already paid as a daily rate and it is the standard rate for part-time membership of a public appointments body.

Y Llywydd: Na, nid cyflog yw hwn; dyma faint yr ydym eisoes wedi'i dalu fel cyfradd ddyddiol a dyma'r gyfradd safonol ar gyfer aelodaeth rhan amser o gorff penodiadau cyhoeddus.

[164] **Rosemary Butler:** Are you satisfied that those rates will attract people of sufficient calibre, knowledge and expertise?

Rosemary Butler: A ydych yn fodlon y bydd y cyfraddau hynny'n denu pobl o safon, gwybodaeth ac arbenigedd digonol?

[165] **The Presiding Officer:** I have been thrilled—that is a good word to use in this case—to find that there are people who really want to do things for us. When we recently advertised—and I believe that it is about to be made public if it is not public already—the membership of the independent panel that is assisting us with our delivery of bilingual services for the next Assembly, we managed to get people of a wide breadth of experience and, I think, of a very high calibre. You may say that I would say that, wouldn't I, but it was a similar situation with the independent advisers who sit alongside the Commission's audit committee. I think that there are people who find the development of devolution quite fascinating. They quite like the open and transparent way in which we go about our business and they want to be involved. So, I think that people will be interested in this.

Y Llywydd: Yr wyf wedi fy ngwefreiddio—mae hwnnw'n air da i'w ddefnyddio yn yr achos hwn—i ganfod bod pobl sydd wir am wneud pethau i ni. Yn ddiweddar, bu inni hysbysebu—a chredaf ei fod ar fin cael ei gyhoeddi os nad yw eisoes wedi'i gyhoeddi—am aelodau'r panel annibynnol sy'n ein cynorthwyo i ddarparu gwasanaethau dwyieithog ar gyfer y Cynulliad nesaf, a bu inni lwyddo i ddenu pobl o ystod eang o brofiad ac, fe gredaf, o safon uchel iawn. Gallech ddweud y byddwn i'n dweud hynny, yn naturiol, ond yr oedd yn sefyllfa debyg gyda'r cynghorwyr annibynnol sy'n eistedd ochr yn ochr â phwyllgor archwilio'r Comisiwn. Credaf fod pobl sy'n teimlo fod datblygiad datganoli yn hynod ddiddorol. Maent yn hoffi'r ffordd agored ac eglur yr ydym yn mynd ati i wneud ein gwaith ac maent am fod yn rhan o hynny. Felly, credaf y bydd gan bobl ddiddordeb yn hyn.

[166] **Rosemary Butler:** We have asked the formal questions. Do any Members want to ask further questions? I see that you do not. Do our witnesses have any further points to raise?

Rosemary Butler: Yr ydym wedi gofyn y cwestiynau ffurfiol. A oes unrhyw gwestiynau pellach gan Aelodau? Gwelaf nad oes. A oes gan ein tystion unrhyw bwyntiau pellach i'w codi?

[167] **The Presiding Officer:** No, but I would like to say how grateful we are for the opportunity to take part in this Stage 1 procedure. This is a totally new experience for me, Chair, and is a learning curve, but I am grateful to you for the way in which you have conducted this Stage 1 committee and I look forward to your deliberations with interest, I suppose is what I should say.

Y Llywydd: Na, ond hoffwn ddweud pa mor ddiolchgar yr ydym am y cyfle i gael cymryd rhan yn y weithdrefn Cyfnod 1 hon. Mae hwn yn brofiad cwbl newydd i mi, Gadeirydd, ac mae'n broses ddysgu, ond yr wyf yn ddiolchgar i chi am y ffordd yr ydych wedi cynnal y pwyllgor Cyfnod 1 hwn ac edrychaf ymlaen at eich ystyriaethau gyda diddordeb, mae'n debyg y dylwn ei ddweud.

[168] **Rosemary Butler:** Thank you for attending the meeting and for bringing your advisers with you. A copy of the transcript will be available to you soon. You will obviously let us know about anything that concerns you. We will deliberate further; we have more people coming to give us evidence and I understand that you are coming back to this committee in the new year, so hopefully we will be able to resolve any difficult points at that time. This session has been very

Rosemary Butler: Diolch am fynychu'r cyfarfod ac am ddod â'ch cynghorwyr gyda chi. Bydd copi o'r trawsgrifiad ar gael i chi'n fuan. Byddwch yn amlwg yn rhoi gwybod i ni am unrhyw beth sy'n achosi pryder i chi. Byddwn yn trafod ymhellach; mae gennym fwy o bobl yn dod i roi tystiolaeth i ni a deallaf eich bod yn dychwelyd at y pwyllgor hwn yn y flwyddyn newydd, felly gobethio y byddwn yn gallu datrys unrhyw bwyntiau anodd bryd hynny. Bu'r sesiwn hon yn

helpful, so thank you for attending.

ddefnyddiol iawn, felly diolch am ddod iddi.

[169] I remind Members that the next meeting will be on 14 January. We have not yet decided who our next witnesses will be, but on 21 January, Sir Roger Jones will be giving evidence. Thank you all for attending this morning. I wish you all a very happy and peaceful Christmas. That brings today's business to a close.

Yr wyf yn atgoffa Aelodau y bydd y cyfarfod nesaf ar 14 Ionawr. Nid ydym wedi penderfynu eto pwy fydd ein tystion nesaf, ond bydd Syr Roger Jones yn rhoi tystiolaeth ar 21 Ionawr. Diolch i chi i gyd am eich presenoldeb y bore yma. Dymunaf Nadolig llawen a thangnefeddus i chi i gyd. Daw hynny â thrafodion heddiw i ben.

Daeth y cyfarfod i ben am 10.50 a.m.

The meeting ended at 10.50 a.m.