



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

**Y Pwyllgor Cynaliadwyedd  
The Sustainability Committee**

**Dydd Iau, 26 Chwefror 2009  
Thursday, 26 February 2009**

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cynhwysir cyfieithiad Saesneg o gyfraniadau yn y Gymraeg.

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

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

Mick Bates	Democratiaid Rhyddfrydol Cymru (Cadeirydd y Pwyllgor) Welsh Liberal Democrats (Committee Chair)
Alun Davies	Llafur Labour
Lesley Griffiths	Llafur Labour
Darren Millar	Ceidwadwyr Cymreig Welsh Conservatives
Rhodri Glyn Thomas	Plaid Cymru The Party of Wales
Brynle Williams	Ceidwadwyr Cymreig Welsh Conservatives
Leanne Wood	Plaid Cymru The Party of Wales

**Eraill yn bresennol**  
**Others in attendance**

Dr Stephen Atkins	Prif Weithredwr, Pwyllgor Pysgodfeydd Môr Gogledd Orllewin Lloegr a Gogledd Cymru Chief Executive, North Western and North Wales Sea Fisheries Committee
Sean Bradley	Uwch-gyfreithiwr, Llywodraeth Cynulliad Cymru Senior Lawyer, Welsh Assembly Government
Huw Brodie	Cyfarwyddwr yr Adran Materion Gwledig a Threftadaeth, Llywodraeth Cynulliad Cymru Director of the Department for Rural Affairs and Heritage, Welsh Assembly Government
Phil Coates	Cyfarwyddwr, Pwyllgor Pysgodfeydd Môr De Cymru Director, South Wales Sea Fisheries Committee
Stuart Evans	Fisheries Policy Manager, Welsh Assembly Government
Elin Jones	Rheolwr Polisi Pysgodfeydd, Llywodraeth Cynulliad Cymru Aelod Cynulliad, Plaid Cymru (y Gweinidog dros Faterion Gwledig) Assembly Member, the Party of Wales (the Minister for Rural Affairs)
Nick O'Sullivan	Cadeirydd, Pwyllgor Pysgodfeydd Môr De Cymru Chairman, South Wales Sea Fisheries Committee
Jon Westlake	Rheolwr Prosiect, Adolygiad Echel 2, Llywodraeth Cynulliad Cymru Project Manager, Axis 2 Review, Welsh Assembly Government

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

Dr Virginia Hawkins	Clerc Clerk
Meriel Singleton	Dirprwy Glerc Deputy Clerk
Kate Winnard	Cynghorydd Arbenigol Expert Adviser

*Dechreuodd y cyfarfod am 1.08 p.m.  
The meeting began at 1.08 p.m.*

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

[1] **Mick Bates:** Good afternoon, and welcome to this meeting of the Sustainability Committee. I need to make the usual housekeeping announcements to begin with. In the event of a fire alarm, you should leave the room by the marked fire exits, and follow instructions from ushers and staff. There is no test scheduled for today. Please ensure that all mobile phones, pagers and BlackBerrys are switched off, as they interfere with the broadcasting equipment. The National Assembly for Wales operates through the media of Welsh and English, and headphones are provided through which you can access simultaneous translation. Those who are hard of hearing may also use the headsets to amplify sound. Interpretation is available on channel 1, and the verbatim feed on channel 0. Please do not touch the buttons on the microphones, as that could disable the system.

[2] I have received apologies from Karen Sinclair and Lorraine Barrett. Lorraine, unfortunately, has to attend Legislation Committee No. 4. There are an increasing number of clashes, as I am sure Members are aware. It is something that someone will have to address one day.

[3] Today we will take more evidence on the Marine and Coastal Access Bill. We are fortunate to start with evidence from the Association of Sea Fisheries Committees of England and Wales, and then from the Minister for Rural Affairs, Elin Jones. The committee will also be concluding its inquiry into carbon reduction by land management, and scrutinising the Minister on that topic.

1.10 p.m.

### **Ymchwiliad i Oblygiadau'r Mesur Morol a Mynediad i'r Arfordir i Gymru: Tystiolaeth gan Bwyllgorau Pysgodfeydd y Môr Inquiry into the Implications of the Marine and Coastal Access Bill for Wales: Evidence from the Sea Fisheries Committees**

[4] **Mick Bates:** I have great pleasure in welcoming Dr Stephen Atkins, from the North Western and North Wales Sea Fisheries Committee, and Nick O'Sullivan and Phil Coates from the South Wales Sea Fisheries Committee. I invite all three of you to put your names and positions on record. You may then make an opening statement of three minutes, bearing in mind that we have received your written evidence and the annex with some guidelines for questioning.

[5] **Dr Atkins:** I am Dr Stephen Atkins, and I am the chief executive of the North Western and North Wales Sea Fisheries Committee. I am a marine environmental scientist. The sea fisheries committee manages all the sea fisheries from zero to 6 miles of the coast, from Cemaes Head in Cardigan bay, northwards around Anglesey and north Wales to the border with England. Our particular committee also has an English section going up to Cumbria. We manage all the sea fisheries in that district. I work for the sea fisheries committee. Before that, I worked for the Joint Nature Conservation Committee and Scottish Natural Heritage as an environmental scientist. Should I make my opening remarks now?

[6] **Mick Bates:** I would like everyone to introduce themselves first, then I will come back to you.

[7] **Mr O'Sullivan:** Good afternoon. I am Nick O'Sullivan, and I have been a member of the South Wales Sea Fisheries Committee for 16 years. I am currently in my second term of office as the chairman of the committee. My first term was around the time of the grounding of the Sea Empress and was for three years. I am currently in my second year of this term. I am not a boffin—bless the doctor. My background is fisheries; I have been a fisherman or involved in fishing for the best part of 30 years. I currently own a charter vessel. I take anglers, divers and sightseers out to the western part of Pembrokeshire and the Irish sea.

[8] **Mr Coates:** I am Phil Coates. I am the director of the South Wales Sea Fisheries Committee, a position that I have occupied for 15 years, having been with the committee for five years before that. By training, I am a marine biologist. The South Wales Sea Fisheries Committee covers the same functions as the north-western and north Wales committee, but starts at Cemaes Head and runs round to Cardiff.

[9] **Mick Bates:** Thank you. Please now give us a brief overview of your papers.

[10] **Dr Atkins:** Thank you for this opportunity to give evidence. The key point that I wish to make is that we feel that it is somewhat regrettable that Wales has decided to abolish the sea fisheries committees in Wales. We believe that they are an effective model of fisheries management that has served well for 120 years or so. It is something of a step in the dark that Wales is taking by abolishing these committees and seeking to set up a completely new structure for the management of inshore fisheries. Sea fisheries committees have managed fisheries by taking an integrated, co-management and stake-holder-involvement type of approach. They are responsive to the needs of fisheries; they can react very quickly to changing circumstances, with new regulations, measures and enforcement to deal with situations as they arise. They have created largely sustainable fisheries within 6 miles of the coast, which is the area of their remit. They are the only enforcement agency with the capacity to manage the marine environment as a whole, and not just fisheries, out to 6 miles at present. Setting up anything new will be a very costly exercise.

[11] The inshore fisheries and conservation authorities that are to be established in England will do all that sea fisheries committees have done in the past, and they will do quite a lot more because their powers and duties will be modernised and brought up to date. Our paper shows what the situation was like when sea fisheries committees were set up. We had steam and sail at the time, not power in the way that we have now, so we readily accept that the powers that sea fisheries committees have are nowhere near up to the job of managing the fisheries as they are today. Therefore, we have pressed for them to be modernised, and we are very pleased that the marine Bill is going to do that, through the inshore fisheries and conservation authorities, IFCAs, in England. We think that the duties that sea fisheries committees will have will be very important. They will include the duty to manage fisheries sustainably and to protect environmental features and further the conservation objectives of protected sites.

[12] They will have duties to collect fisheries data and information, and duties to report to the Minister at annual or four-year intervals. Therefore, there is a whole planning framework to do with IFCA, which is very important. There does not seem to be a clear transfer of these duties through to the position in Wales—it does not seem that the Minister in Wales will have a duty to manage fisheries sustainably or to further the conservation objectives of protected sites in Welsh waters. Those things are very important.

[13] The IFCAs will have additional duties over sea fisheries committees—they will have responsibilities for managing the environment, duties to collect data, as I said, and duties to manage recreational fishing and bait digging.

[14] The final point that I wish to make by way of introduction is that we are very concerned about the timescales. At present, the marine Bill is going through Parliament. The marine management organisation is scheduled to be set up on 1 April 2010, and the IFCA's are scheduled to be set up on 1 April 2011. At present, the Assembly intends to withdraw from sea fisheries committees on 1 April 2010. That leaves my committee with a problem, because we will have to make transitional interim arrangements for one year, from 1 April 2010 to 2011. We are not sure what legislation will be in place for us to do that—we are not clear that the marine Bill will have gone through with enough certainty to enable us to make that planning. We would like to see the timescales in England and Wales brought into line.

[15] **Mick Bates:** Thank you very much. Does the representative from South Wales Sea Fisheries Committee wish to say a few words?

[16] **Mr O'Sullivan:** Yes, I will speak from the point of view of the fishing industry, because these gentlemen have more background knowledge than I do. From a fisherman's point of view, there is a lot of uncertainty about how the future will pan out. There is mention of marine conservation zones, possible no-take areas and extensions of marine sites of special scientific interest. The fishermen are very nervous of what may come up in the future. We deal with the likes of the Countryside Council for Wales and the Royal Society for the Protection of Birds in many matters through the sea fisheries committee. These organisations have a great deal of money and help behind them, whereas the fishermen tend to be fairly moderate earners and cannot get lawyers and barristers to help them to prepare a case for presentation to the likes of the Assembly. I am speaking from a fisherman's point of view as to where we currently see ourselves.

[17] We all want to see sustainable fisheries, because we want to see our grandchildren and great grandchildren still fishing out there. From my point of view, I want to see the whales and the dolphins coming into the coastal areas. We are all singing from the same song sheet, but, from a fisherman's point of view, we are a bit nervous about how we are going out.

[18] **Mick Bates:** Thank you for your presentations. There will now be a series of questions from Members. I invite Alun to kick off the questions.

[19] **Alun Davies:** Thank you for the presentations. I will play the devil's advocate here. The sea fisheries committee opposes the abolition of the sea fisheries committee—so what? We would expect you to say that. You have outlined some fears that you have, and you describe the Government policy as a step in the dark. However, what are the concrete problems that you see arising from the new system in Wales? We would anticipate that you would say what you have said, but the written evidence that you submitted does not give us concrete reasons as to why the new system in Wales will not be as effective as the present system.

[20] **Dr Atkins:** I mentioned the duties issue, which could be regarded as a legal matter. I am sure that the Minister can hold fisheries to account, but if she does not have to, she or a future Minister may not do so, and that is a problem. There needs to be a level of control in between the Minister and the fisherman, and that is what may be lost if we are not careful.

1.20 p.m.

[21] There is not a lot of fisheries expertise in the Welsh Assembly Government fisheries policy group currently, because it has taken on a lot of new staff, and relatively few of them have a fisheries background. Scallop fishing is a good example, because it is going on at the moment. The Minister asked our committee to close the rest of our district out to 6 miles, but apparently either she or her officials did not realise that all the scallop fishing, or the great majority of it, is taking place outside 6 miles. That is the case.

[22] **Alun Davies:** I do not want to go into the detail of the debate about scalloping in Cardigan bay, but I will say that a number of people with whom I have discussed the issue are critical of the sea fisheries committee and its ability to monitor and manage scalloping in Cardigan bay, as well as of the impact that it is having on the environment. Considerable debate is taking place, as you know, and it is stated that that is not being managed sustainably at the moment.

[23] **Dr Atkins:** We have the best data about where the vessels are and the extent to which they are fishing, although it is not perfect and the data are limited. Unfortunately, the vessels do not stick within our district; they fish wherever they want to fish, so it is difficult to separate what is happening in our district from what is happening over all the scallop beds. However, you will find that we have the best data, and we will be publishing quite a lot of new data in a committee report over the next few weeks to demonstrate that. Sea fisheries committees have a level of expertise that has been built up over many years, and that is a good example of where that expertise needs to be maintained.

[24] **Alun Davies:** Thank you for that. On that expertise, I assume that many members of staff will transfer to the Welsh Assembly Government—at least, that is what is planned at the moment. So, it will not be lost; it will simply exist in a different structure and a different framework.

[25] **Dr Atkins:** Yes, I certainly hope that that proves to be true. In our initial discussions, fisheries policy officers have made it clear that officers will be able to transfer in, and we welcome that certainty and the fact that the expertise will not be lost. There is a difficulty, however, if you look at the extent of enforcement under the new system. We have not yet agreed that there will be the same level of enforcement in the new structure as there is at present, or the same number of patrol vessels and enforcement assets, such as zodiacs. We do not know what cover there will be, or what responsibilities for enforcement will be needed from 6 miles to 12 miles and even beyond. If we are to have a Welsh fisheries zone going out to the median line, there will be a large job of enforcement to do that does not seem to have been costed or estimated as yet, and we are concerned about how that will work out. Both our patrol vessels have been patrolling the scalloping in Cardigan bay over the past few weeks for nearly all of their patrol time. Patrol vessels have a large enforcement job to do if we are to maintain these fisheries, enforce them, and keep them under control. We are not clear that the resources will be available to do that in Wales, certainly not out to the median line to cover the whole of the Welsh fisheries zone.

[26] **Mick Bates:** To return to the question that Alun referred to, do you have any numbers on staff? For example, how many members of staff are currently employed by the committees and how many are likely to be retained?

[27] **Dr Atkins:** Both committees have done initial work on that. We have met with the fisheries policy officers, and we have initiated discussions. It is clear for the south Wales committee, because its staff all work in Wales. However, nearly all my committee's staff work across the whole district, so there is further discussion to be completed about which staff members will be working in Wales and which in England. I work right across the district, but I am based in Lancaster, and so I expect to end up in England rather than in Wales. We have a patrol vessel, and its three crew members live and work in Wales. That vessel is currently based in Wales, but we are not yet clear about what will happen to it. Similarly, we have scientific staff and other enforcement staff who work across the whole district.

[28] **Mick Bates:** I also asked about the numbers. Is it possible for you to give us those?

[29] **Dr Atkins:** The committee employs 18 members of staff in total—

[30] **Mick Bates:** That is your committee.

[31] **Dr Atkins:** Yes, my committee. It is a reasonable estimate that approximately half of them will be expected to work in Wales and half in England, because approximately half of the committee's resources come from England and half from Wales. Also, roughly half of our district is in Wales and half of it is in England. There is a little bit more in Wales, but it is roughly half.

[32] **Mr Coates:** From the South Wales Sea Fisheries Committee's perspective, we have 14 staff, and they would all expect to transfer into the Assembly Government under the terms of the Transfer of Undertakings (Protection of Employment) Regulations 2006. There is a mixture of staff from policy, enforcement, administration and science backgrounds. Some of the enforcement staff work on a fisheries protection vessel, as Stephen has said. Each committee has a fisheries protection vessel, so there are still questions to be decided on how those staff will slot into any future arrangement.

[33] **Mick Bates:** In your statement, you made it sound as though the arrangements were not in place but, as I understand it, there will be a six-month transition period. Is that not the case?

[34] **Dr Atkins:** I have not heard of a six-month transition period, I must say.

[35] **Ms Winnard:** [*Inaudible.*]—going into that on a six-month secondment.

[36] **Mr Coates:** Sorry, yes. As part of the process of engagement, we are working closely with Welsh Assembly Government officials at the moment, and an officer from each of the sea fisheries committees is to be seconded for up to two days a week for up to six months, to help to integrate those processes, to identify the issues, and to work towards delivery.

[37] **Mick Bates:** I just wanted to clarify that, because you made it sound as though there would be one thing one day, another thing the next day, and a whole year with nothing, but there is to be a transition period.

[38] **Dr Atkins:** On the present timescale, we have about a year and a month in which to do everything that we need to do to transfer from the sea fisheries committees to a Welsh fisheries management structure. At the moment, we anticipate the vesting day, as it were, for the Welsh fisheries management regime to be 1 April 2010.

[39] **Mick Bates:** Thank you very much. I will leave it there.

[40] **Brynle Williams:** I want to ask what will, hopefully, be some practical questions, Chair. You work from Morecambe bay right down to the Severn bridge. How many enforcement vessels patrol that area?

[41] **Dr Atkins:** Ours is a 16m patrol vessel, which can easily patrol out to 6 miles or 12 miles. Phil mentioned his vessel. We also do quite a lot of patrols using zodiacs and quad bikes for shore-based fisheries, like those for cockles and mussels and that sort of thing. I think that we have two or three zodiacs and two or three quad bikes in Wales too.

[42] **Brynle Williams:** I am just concerned that you were asking the question about going beyond the 6 mile limit. How much investment will we have to put in if you have to go beyond that limit? I think that you said that the scalloping is outside the 6 mile limit.



[43] **Dr Atkins:** Yes, it is.

[44] **Brynle Williams:** Are our boats big enough to go into that sort of environment? I do not know; I am just asking. What would the cost be if we had to refurbish them and so on?

[45] **Dr Atkins:** The problem is that the scalloping vessels outside 6 miles are all over 12m in length, because only those that are under 12m in length can come within 6 miles of the shore. Beyond 6 miles, there are much larger vessels towing up to 36 scallop dredges at a time, as 18 a side can be working out there. They are much larger vessels, and they can work in any weather. Our patrol vessels are 16m vessels and they can work well within 6 miles or so, but if they go beyond that, they are quite weather-dependent—and we are talking about force 4 or 5 sort of weather. Beyond that, they cannot really go out, and they certainly cannot board the much larger vessels. Some sea fisheries committees are moving towards having a 25m-class patrol vessel, which is necessary to go further out. I think that we will have to look at that, but it would involve substantial further investment.

[46] **Mick Bates:** I think that we have got the point. Thank you.

[47] **Lesley Griffiths:** Under this regime, there will still be a role for local authority and local council members to play in the management of inshore fisheries. Could you tell the committee how you think that role should pan out?

1.30 p.m.

[48] **Mr Coates:** I am not sure what the role will be because that has yet to be decided. The current role is that council members make up half of each sea fisheries committee. On the future role, it is envisaged that they will have some involvement on a stakeholder advisory group, but the numbers and the apportionment of such groups are still to be decided. Currently, sea fisheries committees work as management committees, getting involved in decisions right at the grass roots or at the coalface, if you like, so right on the ground and in the community. That means that local fishermen are making those decisions and the councillors balance up the economic and political considerations. It has yet to be totally decided, as far as I am aware, how the fishermen and the councillors will engage within a Welsh Assembly Government process.

[49] **Leanne Wood:** Can you tell us what lessons the Welsh Assembly Government can learn from the sea fisheries committees' experiences of sea fisheries management in Wales? Perhaps it is easier for you to give us the good examples rather than the bad.

[50] **Mr Coates:** Sea fisheries committees are able to take very rapid, informed, local decisions, particularly when it comes to inter-tidal fisheries—that is, where the tide goes out between the high-water and the low-water mark—and particularly when they relate to conservation areas. Our bye-laws are very flexible. They are informed by local knowledge, and fishermen are involved in those decisions. I think that the converse—for the Assembly Government to use its powers to apply things within those areas on the coast—will be quite a challenge for it.

[51] **Leanne Wood:** Is that because you are saying that the Assembly Government is too remote, and the current committees are located in those communities to a greater extent?

[52] **Mr Coates:** It is one of the challenges to which Stephen referred. We do not know what the new structures will be or how they will work in practice. In fairness, they are still to be decided, and, as a future official, I will be on the inside advising on the best way to deliver. It is all still to be decided. However, you need flexible management powers. We have discretions within our bye-laws, and there is no certainty yet that the Assembly Government,

through its Orders, will have that flexibility. That is the first point. Then, to exercise that flexibility to allow decisions to be taken, particularly in conservation areas, and allow the discretion to be exercised will involve local knowledge and scientific advice, and the decision being put in place very quickly. I personally have difficulty seeing how a centralised model can deliver that. Finally, the point that you make is that we still do not know how the engagement processes will take place. We know that we have local fishermen involved in those decisions, talking to the local officers of, say, the Countryside Council for Wales, the conservation advisers, and putting in place appropriate measures. I am not sure how that will equate to who is taking decisions under what powers within the Assembly Government. That is the challenge: to adopt the model within the decision that has, as far as I can see, already been taken.

[53] A lot of discussion so far has been about how we will manage this. The first question related to the good and bad points of sea fisheries committees and their delivery. As far as I am concerned, the Assembly Government has already taken the decision to dissolve the sea fisheries committees, so we are now in the position of asking how we can take this and make it work. Consider the question about fisheries protection vessels, for instance. That asset is worth about £2 million between the sea fisheries committees. Those vessels are not capable of running on an all-Wales basis, and the Assembly Government is going to have to look at that. During the deliberation processes about dissolving the sea fisheries committees, we had expected the review to look at how fisheries would be delivered on the coast, how many vessels there would be, and what engagement there would be with stakeholders. However, those things have not been considered at all, in my view. The decision to dissolve the sea fisheries committees has been taken. Now, we are sitting around the table and asking how best we can make this deliver the processes within Wales.

[54] **Dr Atkins:** I want to emphasise the local accountability and local involvement of the fishing industry in sea fisheries committees. Individuals can be appointed as representatives on the committee—that is the first way in which they get an input—but we also have regular meetings with groups of fishermen, often with the entire potting sector on the Llŷn peninsula or all the scalloping sector down in Cardigan. We can get together with groups of fishermen like that and seek their views and opinions on how management should be taken forward. I think that that is a strength of sea fisheries committees that would be difficult to replicate in a centralised system.

[55] **Mr O’Sullivan:** If I may come in too, I will not hold you up too long. From the practical side of the fishermen, we get this situation when you get rushed cockles in the Burry inlet. At a local level, we can make a decision quite quickly as to whether to allow gatherers to go in and fetch them before they die, whereas if we were in a centralised situation it could take days, by which time these animals would be lost. That is a disadvantage, if you like, of centralisation rather than a local system.

[56] **Leanne Wood:** But if a structure could be set up whereby that local information could be fed in quickly and decisions could be made quickly, that would reduce one of your objections, would it?

[57] **Mr O’Sullivan:** Yes, it would. It is not an objection; it is a concern from my point of view. At the moment, we are in Swansea, and Burry inlet is just over the hill, so we can get an officer there fairly quickly to see the situation, report back and decide that, yes, we will get these cockles gathered. It can be the same with mussels. We get mussels in certain points where, if they are not gathered as seed mussel, they will be lost to the storm and the bad weather. You need that local input, if you like, or local accountability, to get these situations sorted as quickly as possible.

[58] **Darren Millar:** Dr Atkins, you have talked about the enforcement-related issues and

the fact that, because you are effectively a cross-border agency at the moment, as a sea fisheries committee, things will obviously be different on one side of the border to what they are here in Welsh waters. How do you think that that needs to be managed going forward, because there will be issues, will there not be, of fishermen who are fishing on both sides of the border? How will the enforcement arrangements work out? Is there any advice that you would like to give to the committee in terms of the recommendations that we might make to the Minister on that?

[59] **Dr Atkins:** If I was not starting from here, I would put the boundary, probably, at Holyhead or somewhere like that, so you would manage the whole of Liverpool bay as a single entity. At the moment we can manage it as a single entity, as it is all within our district, but clearly we are going to have to have a boundary and that is going to have to be managed quite carefully. There will be a boundary in Liverpool bay, where we will have separate jurisdictions managing different parts of the sea in quite a small and very busy area. I think that there should be a process of making sure that the statutory instruments, or whatever you have in Wales, and the bye-laws in England mesh and that the same regulations apply, so that the fishermen are subject to the same regulations wherever they are fishing in Liverpool bay, and they do not have to watch for an arbitrary line that will be difficult to keep abreast of, even with modern position-fixing devices. That is probably the most important thing. We need to manage that very carefully, and we need to make sure that the bye-laws and the regulations mesh in as many respects as possible.

[60] **Darren Millar:** Essentially, you are saying that there should be the same bye-laws and regulations and that, if Welsh Ministers want to go in a different direction, they should not be able to. We are talking about devolution here, are we not? The more concerning question is how things are communicated to fishermen so that they know exactly where they stand on both sides of the border if they are in those cross-border areas, where they are straddling the border, fishing on one side of the line, as it were, one day and the other side of the line the next day. They are not sure what bye-laws or regulations might be in place. I suppose that you are the voice of the fishermen, Mr O'Sullivan. How will fishermen be able to cope with that? It is quite complex already for them, is it not?

[61] **Mr O'Sullivan:** It is indeed, yes. As Dr Atkins says, you have got to marry in cross-borders. We have a bigger problem with the Bristol channel, because half of the Bristol channel is obviously north Devon, Somerset, Avon and going down towards Cornwall. There is no reason why vessels sailing out of Padstow cannot fish off Pembrokeshire or Carmarthenshire.

[62] **Darren Millar:** Do you think that there needs to be a clear duty upon the Minister to make sure that there is co-operation in those cross-border areas? At the moment the proposals are very light on duties, are they not?

[63] **Dr Atkins:** I would say that there should be a duty, yes, on both sides. If Wales wants to go its own way and produce a bye-law that is different from what is in place in England, then let the authorities in Wales and the authorities in England get together and work out what is best for the unit of Liverpool bay, rather than try to split it in half and have different regulations either side of a line that is going to be very difficult to enforce. Work together, that is what I would say; not that either England or Wales should take priority, but that they should come to a consensus on the best solution for the fishery in that part of the sea.

[64] **Mick Bates:** Do you wish to come in on this, Phil?

[65] **Mr Coates:** Yes, very briefly. Boundaries are a human concept, as jurisdictions or management points—fish do not know any boundaries. So, the challenge will be to reduce the numbers of boundaries to manage fish as a conservation entity. In that respect, there will be

challenges down the middle of the Bristol channel, as we have already seen between us and north Devon. However, the big challenge, as far as I see it, will be the Dee estuary, which is currently managed as a unit, because it is managed by the Environment Agency. I am not sure—it is one of the tasks for us to tease out—what the intentions are and what the best practice is in looking down the middle of the Dee. Overall, we should be looking at the management of fish and fish stocks and the environment from a consistent basis, in order to look after the fish and fish stocks, and the boundary is a minor consideration. So, yes, absolutely, you should minimise boundaries, and, on either side of that boundary, there should be consistent rules to enforce measures that are set to the best conservation advantage.

[66] **Leanne Wood:** Boundaries exist already, between Wales and Ireland, for example, and other parts of Europe. I accept the point that you make that fish know no boundaries, so would it make sense, perhaps, to have the same regulations on a European level? If you just look at doing it on a UK level, there will be boundaries between the UK and other countries.

[67] **Mr Coates:** Therein you have a huge challenge; it is called the common fisheries policy. It is a fact that other member states have fishing rights right into our 6-mile boundaries. The fact that Europe fails to put in place adequate controls over its fleet means that our local fishermen are reluctant to take forward conservation measures involving putting fish back only to see them taken by the ‘foreigners’, or our European colleagues, across the boundary. That is a false boundary and it is a false situation. You asked for some advantages of the system, and perhaps the Assembly’s involvement in managing fisheries over a wider area—we are talking about the offshore zone now—could lead to some influence in due course within Europe that will support Welsh fishermen, so that when they put Welsh fish back, they are not caught as a small size just over the limit by Belgians, in particular, in our area. That is a challenge for all fishery managers.

[68] **Mick Bates:** That issue is slightly beyond this discussion at the moment.

[69] **Brynle Williams:** Briefly, on these boundaries, the same is true with the Dee in my region of north Wales. What is the point of having a 3-mile limit or even a 6-mile limit when we are trying to replenish the stocks right up the river Dee? They are being caught long before they ever get there. Moving on from that, you answered part of the question earlier, Mr O’Sullivan, on suggestions about local stakeholders. You have emphasised the fishermen’s side of this. How do you envisage bringing on board the non-fisheries people who have interests in the future management of fisheries?

[70] **Mr O’Sullivan:** Could you explain ‘non-fisheries’?

[71] **Brynle Williams:** There will be interested bodies besides commercial fishermen involved in the future management of fisheries in Wales. How do you envisage incorporating other stakeholders?

[72] **Mr O’Sullivan:** I take it that you mean the likes of the Countryside Council for Wales and those bodies?

[73] **Brynle Williams:** Yes.

[74] **Mr O’Sullivan:** I would imagine that we will have to thrash it out at stakeholder meetings, basically. This is where our nerves are tingling a little bit, because, as I said to you earlier on, these bodies have a lot of resources behind them and can employ lawyers and barristers to put a good case forward. Fishermen tend to be out in the fields or on the water all the time. If the weather is nice, that is where we are. We do not have time to spend wading through reams of paper looking at what possible loopholes there may be. Stakeholder meetings are obviously the way to go, but from my point of view I feel that, given the weight

of the Royal Society for the Protection of Birds and the Countryside Council for Wales, we will be fighting an uphill battle in certain aspects. As sea fisheries committees, we have always worked for sustainable fisheries, and we have always worked with conservation in mind, but this is a new ball game, I am afraid, from my point of view.

[75] **Mr Coates:** From my perspective, I do not see it as being a problem to involve all facets of all sectors. It is just a question of setting up a mechanism to do so. What is more difficult is coming out with considered management action when you have very strong differences of view and differences, often, in science and judgment, where you have to take a decision and then carry that action out and learn from that decision for future management processes. It is beyond me at the moment as to how I can consider the Assembly taking those decisions, whether it is at official level or whether it involves the Minister and the extent to which Assembly Members can be involved in that process, particularly with some feedback loop to understand what is going on, so that you can modify your management for the future. That is happening within sea fisheries committees. The same members sit around the table for a period of office of years on end, and spend hours debating and being involved in the debate with CCW—we have conservationists and scientists on the group—before putting in place management actions and adjusting them. I am not sure how it can work in the same way within future Assembly operations. That is the challenge now, to make it work within the decision that has been taken.

[76] **Mick Bates:** Thank you for your answers to Members' questions. Are there any further questions, or any final comments from our witnesses? I see that there are not. In that case, thank you for both your written evidence and your answers this afternoon. It has been very interesting. I am sure that some of us share some of your scepticism about the capacity within Government to replace what has obviously been, in your opinion, a very effective management mechanism. A draft transcript of this evidence will be sent to you if you wish to examine it. If there is any further evidence that you wish to put before us, please do so. Thank you all.

1.48 p.m.

**Ymchwiliad i Oblygiadau'r Mesur Morol a Mynediad i'r Arfordir i Gymru:  
Tystiolaeth gan y Gweinidog  
Inquiry into the Implications of the Marine and Coastal Access Bill for Wales:  
Evidence from the Minister**

[77] **Mick Bates:** It is a great pleasure to welcome the Minister to look at the implications of the Marine and Coastal Access Bill for Wales. Along with the Minister, I also welcome Sean Bradley and Stuart Evans. May I ask you both to introduce yourselves for the record before the Minister makes her opening statement?

[78] **Mr Bradley:** I am Sean Bradley, the senior lawyer in the rural affairs team in the Welsh Assembly Government's legal services.

[79] **Mr Evans:** I am Stuart Evans, head of the fisheries policy section of the fisheries unit in the Assembly Government.

[80] **Mick Bates:** I invite you, Minister, to make your opening statement.

[81] **The Minister for Rural Affairs (Elin Jones):** Thank you, Chair, and thank you for inviting me for scrutiny on the Marine and Coastal Access Bill, and on the fisheries element of that Bill in particular as it pertains to Wales. I thought that it would be useful to put the Bill in its context in terms of a number of major developments that are happening in the fisheries

policy area in Wales. A major part of that, which is directly related to the Bill, is my decision to take fisheries management and enforcement in-house, into the Assembly Government, and not to continue with the current sea fisheries committees model or, in fact, to create the model of inshore fisheries and conservation authorities that is proposed for England. Also, in the autumn, I launched a fisheries strategy for the Assembly Government and for Wales, in close collaboration with all stakeholders. At its core is the ambition to have a sustainable fishery, both marine and freshwater, in Wales. Soon—over the next few weeks, hopefully—we will start to spend some of the European funding that is now available to us in Wales through the European fisheries fund in order to meet some of the objectives of that fisheries strategy. That spend should be starting within the next few months.

[82] I want to say one thing at the start, because I have looked at some of the evidence already submitted to your committee and there seems to have been a great deal of interest in the duties placed, or not placed, on Welsh Ministers as they relate to IFCA's in the marine Bill. I consider this to be a political argument, fundamentally, and I understand completely why English fisheries Ministers would want to place duties on IFCA's as third-party organisations. However, I do not agree with the principle that UK legislation should put duties on Welsh Ministers. Giving us powers to undertake work in fisheries is important, but placing duties on us is not appropriate for UK legislation in this particular field. Welsh Ministers will be accountable to the Assembly and to the people of Wales for their actions and for their decisions on any implementation of powers.

[83] **Mick Bates:** Thank you, Minister, for that opening statement and, in particular, for your view on duties. I am certain that that will be scrutinised during questions. I will begin by questioning the concept of a Welsh zone, which is created up to the mid line between us and Ireland. The Bill itself, of course, does not create a zone—the zone will eventually be created by an Order in Council. Two points arise from that: what assurance have you been given that a Welsh zone will actually be created and, if so, what is the timetable for creating that Welsh zone by an Order in Council?

[84] **Elin Jones:** You will be aware that we undertook a consultation on the creation of a Welsh zone. I think we had around 13 responses and, with one exception, there was no objection to the principle of a Welsh zone. We have worked closely with Whitehall departments on the creation of the zone and on the Orders which, as you rightly say, will need to follow to put this into practice once the marine Bill becomes an Act. I will ask Sean to say a few words about the process and the current timetable for putting those Orders and transfers of function in place.

[85] **Mr Bradley:** There is a three-stage process to set up the Welsh zone. The marine Bill, once enacted, will amend the Government of Wales Act 2006 to include a reference to the Welsh zone. To that extent, a Welsh zone will exist in law. However, two further pieces of secondary legislation will be needed to put some meat on that—one being an Order that will identify the precise co-ordinates of the boundary of the Welsh zone, and the other being a transfer of functions Order for the arrangements that will be exercisable in relation to that Welsh zone. The intention is that the same fisheries-related functions that the Welsh Ministers currently exercise in the 12 nautical miles zone will be extended to the wider Welsh zone. So, regarding the timing, work will need to be done between the time that the marine Bill is enacted and the time that the legislation is put in place. That legislation could be complex, but the intention is to have it in place so that the Welsh zone can be established and be functioning as of 1 April 2010. That is my understanding.

[86] **Mick Bates:** Thank you for that introductory remark. You say that that is your understanding. Obviously it is work in progress—I am making that assumption. Can you confirm today that you will be ready to enact the Bill on 1 April 2010?

[87] **Elin Jones:** We are working towards 1 April 2010 to extend the Welsh fisheries zone. If we do not meet that date for whatever reason, we will continue until we have the transfer of functions Order that will enable us to carry on. For clarity and for all kinds of practical reasons, it would be much better to have complete coincidence of timing, but if that is not the case we will catch up as quickly as possible. Our working assumption now is that 1 April next year is the target date and we are not currently nervous that we will not meet that date. However, I cannot give you categorical assurances because some of that is outside our control.

[88] **Mick Bates:** We have already received evidence that there is some uncertainty about the transitional period too. However, are you fairly confident that you will reach this deadline?

[89] **Mr Bradley:** The work has already started to set all that in place and we will pursue this as best we can. As with any legislation, there is always a risk, but we are certainly working towards that date.

[90] **Mick Bates:** We will leave that there. Brynle, do you have any questions?

[91] **Brynle Williams:** Good afternoon, Minister. How will fisheries enforcement in the Welsh zone be managed or directed by the Welsh Assembly Government?

[92] **Elin Jones:** Are you asking about the new zone—the area outside the 12 nautical miles?

[93] **Brynle Williams:** Yes.

[94] **Elin Jones:** That is currently enforced by the Royal Navy and we do not foresee any change. We have a working agreement with the Royal Navy on enforcement within the 12 nautical miles zone. The Department for Environment, Food and Rural Affairs has the agreement beyond the 12 nautical miles, and that would transfer to us.

[95] **Darren Millar:** On the border areas, we have just received evidence from the sea fisheries committees, which referred to the issue of enforcement between Welsh waters and waters on the other side of the border in places such as the Dee estuary. How do you envisage the arrangements in those areas where it will be difficult for fishermen to establish whether they have crossed the line or not? You will be working jointly, I assume, with the IFCA's on the other side of the border?

[96] **Elin Jones:** Yes. The Environment Agency is the lead enforcement agency in the Dee estuary and in the Severn estuary. It is, in itself, an England and Wales body but it works to different legislation depending on which side of the border it is. As you can imagine, these are issues of substance now and they will continue to be so in the future because there are borders, and fish—and sometimes even the fishermen, possibly—do not keep to these borders. We need to ensure that they are enforced in line with the legislation that is in place. There is a close working relationship on all issues regarding borders.

[97] **Darren Millar:** Clearly, there may be times when there are different priorities on different sides of the border, and different bye-laws and so on which the fishermen may find it difficult to appreciate or understand, particularly if they are used to just fishing in the Dee estuary or in the Bristol channel, for example. I am worried about the confusion that might be caused unless there is clear joint working and joint working arrangements in those areas.

[98] **Elin Jones:** One of the intentions of creating the Welsh zone is to get rid of some of that confusion by making it clear that, within the Welsh zone, the enforcement and

management is the responsibility of the Welsh Government. Currently, we have two sea fisheries committees, the Welsh Government, DEFRA beyond the 12 nautical miles zone, and the Environment Agency in its role in the estuaries and with migratory fish.

[99] **Brynle Williams:** Thank you for your previous answer on the situation outside the 12 nautical miles zone. According to previous evidence, if I understood it correctly—perhaps the Chair will correct me—our current vessels are sound up to a distance of 6 miles, but there is a six-mile difference. How much will that cost, and who will police it? I do not think that our current vessels are large enough to go out to that 12-mile radius line. Is it the Welsh Assembly Government or the UK Government that will have to stump up money to send out bigger boats to cover the additional 6 miles?

2.00 p.m.

[100] **Elin Jones:** We are talking about the enforcement vessels that are currently owned by sea fisheries committees in north-west Wales and south Wales. In my answer, I said that the Royal Navy currently undertakes enforcement for the Welsh Government and for DEFRA beyond the 12 nautical miles line, and we foresee that that will continue.

[101] On your question about the actual vessels, as part of the process a decision has been made to bring the enforcement and management of fisheries in-house. We are undertaking detailed work with the sea fisheries committees and other stakeholders to draw up plans for the exact nature of enforcement as it currently exists, and the assets that the sea fisheries committees now hold. That is work in progress and it is an area where we do not want to lessen enforcement as part of this project. So, we are aware of the point that Brynle made.

[102] **Rhodri Glyn Thomas:** Mae'r Gweinidog wedi codi pwynt diddorol ynglŷn â chyfrifoldebau Llywodraeth Cymru a chyfrifoldebau'r Gweinidog priodol yn San Steffan ar y materion hyn. Mae gennyf bwynt ychydig yn wahanol i'r hyn y buom yn ei drafod. Credaf fod gan y Gweinidog ddiddordeb etholaethol yn hyn, sef y cyfrifoldeb ynglŷn â phobl sydd am gael eu claddu yn y môr. Nid oes man wedi ei ddynodi yng Nghymru ar hyn o bryd ar gyfer claddedigaethau yn y môr. Yr wyf yn derbyn nad yw'n digwydd yn aml, ond rhannodd y Gweinidog a minnau ddiddordeb mewn achos diweddar lle yr oedd dymuniad felly gan y teulu. Bu'r pwerau gan y Cynulliad Cenedlaethol ers 10 mlynedd i ddynodi man priodol oddi ar arfordir Cymru ar gyfer y math hwn o gladdedigaeth ond, hyd y gwn, nid oes dim wedi cael ei wneud. A yw'r Gweinidog yn bwriadu dynodi man priodol oddi ar arfordir Cymru i sicrhau bod teuluoedd o Gymru sydd yn dymuno gweld eu perthnasau yn cael eu claddu yn y môr yn cael gwneud hynny?

**Rhodri Glyn Thomas:** The Minister has raised a very interesting point about the responsibilities of the Welsh Government and the responsibilities of the appropriate Minister in Westminster on these issues. I have a slightly different point to the one that we have been discussing. I believe that the Minister has a constituency interest in this, namely the responsibility for people that wish to be buried at sea. No area has currently been designated in Wales for burials at sea. I accept that it is not a frequent occurrence, but the Minister and I shared an interest in a recent case where such a wish was expressed by the family. The National Assembly has had the powers for over 10 years to designate an appropriate area off the coast of Wales for this type of burial but, as far as I know, nothing has been done. Does the Minister intend to designate an appropriate area off the coast of Wales to ensure that families from Wales that wish to see their relatives buried at sea are able to do so?

[103] **Elin Jones:** Rhagwelais nifer o gwestiynau y gallwn gael fy holi arnynt yn ystod y sesiwn hon, ond ni wneuthum

**Elin Jones:** I had foreseen a number of questions that could be asked of me in this session, but I did not foresee a question about



ragweld y cwestiwn am gladdu pobl yn y môr. Nid wyf o'r farn mai fy nghyfrifoldeb i fel Gweinidog yw neilltuo ardaloedd ar gyfer y pwrpas penodol hwn. Felly, os yw'r pwyllgor eisiau cael gwybodaeth am hyn, bydd yn rhaid imi ofyn i'r Gweinidog sydd â chyfrifoldeb dros yr amgylchedd i roi ateb i'r pwyllgor.

burials at sea. I am not of the opinion that it is my responsibility as Minister to designate areas for this specific purpose. So, if the committee wants information on this, I will have to ask the Minister with responsibility for the environment to provide an answer to the committee.

[104] **Mick Bates:** Do either of your colleagues have anything to add to that? I see that they do not.

[105] **Alun Davies:** Minister, you are tantalising us with your views on enforcement. You say that you are working on it at the moment, but one of the issues on which we wish to have some reassurance is what the new enforcement regime will look like. While I appreciate and understand that your target date is in the future, and therefore work on this will not yet be complete, it would be useful for us to have a clearer idea of your thinking and where you are at the moment in designing the new enforcement regime.

[106] **Elin Jones:** All I can tell you at this point is that I do not want the new changes to management and enforcement to lessen the enforcement capacity in Welsh waters, but I cannot tell you at this stage what exactly that will mean in terms of which boats will be based where and what the exact boats will be. So, I cannot give you the detail of what you are searching for in terms of assurance, but I can tell you that the work in progress is very much in line with ensuring that we have adequate enforcement and that we look to strengthen and improve on the current arrangements. That is one of the reasons why we are undertaking this major change—we want to ensure that we are able to enforce the legislation that is in place in order to sustain the fisheries.

[107] With regard to the creation of the Welsh zone, I need to stress once again that we are confident that we will be able to use the Royal Navy, as the Department for Environment, Food and Rural Affairs does currently, for the purposes of that enforcement. I also need to make the point that when we do this, in 2010, we will be doing only what was done for Scotland and Northern Ireland in 1998 as part of their devolution agreements. We are only now putting that into place.

[108] **Mick Bates:** Darren, do you wish to ask anything about existing powers in comparison with IFCA's?

[109] **Darren Millar:** Yes, if I may. Minister, you made some interesting opening remarks on duties, and I appreciate the political point that you are trying to make. Before I go into some detail on the new powers, why have you picked a fight, as it were, about the duties that could be imposed under the marine Bill when there have been no political objections to some of the duties under the Climate Change Act 2008, for example?

[110] **Elin Jones:** I had not realised that there was a fight to be had, I must say. There was certainly no intention to pick a fight on this issue. As currently worded, the marine Bill will provide the powers necessary for Welsh Ministers to undertake the fisheries management and enforcement actions that we need to undertake. The issue of whether you place duties on Welsh Ministers is a different argument from whether duties should be placed on a third party. Welsh Ministers or legislators wanting duties placed upon them is a different issue. I understand why organisations feel that they would have more confidence if they were able to place the duties in UK legislation on Welsh Ministers, but Welsh Ministers will have all the necessary powers at their disposal to undertake what we have put forward as our fisheries policy—which is very much in line with a number of the duties of the IFCA's. Do you want to

say something about the powers, Sean?

[111] **Dr Bradley:** Yes, there are a couple of issues. The fact that there may not be duties explicitly imposed upon Welsh Ministers in the legislation does not mean that Welsh Ministers could not or would not take those things into account when exercising policy in relation to fisheries. The important point is that it leaves the discretion to the Welsh Ministers to develop their own policy and priorities. In that regard, they are answerable to the National Assembly for Wales, which will hold them to account. The lack of duties does not mean to say that those things are not going to happen. There is a difference between imposing duties on a body such as an IFCA and imposing duties on Welsh Ministers. Other bodies, such as the Environment Agency, also have these sorts of duties imposed upon them—things that they must take into account when exercising all of their functions. Therefore, that is not unusual, and the absence of duties on Welsh Ministers is not unusual at all either.

[112] **Darren Millar:** I appreciate the political point here, and I understand that you have no desire not to see the same outcomes. You have answered that reasonably satisfactorily in that the outcomes will be the same. One duty that I think Members of the National Assembly for Wales would like to see—certainly a duty that I and some members of the committee would like to see—is a duty to report back annually to the National Assembly for Wales, because there is not even a duty to do that at the moment. I suspect that you will happily report back on a regular basis to Assembly Members, but I would like to see that as a duty.

2.10 p.m.

[113] **Elin Jones:** The democratic accountability of a Welsh Minister is far greater than that of an IFCA in England. As is the case for any Welsh Minister, my work is subject to scrutiny at any point in time, should this committee or the Assembly as a whole so choose. If this committee or others felt that it wanted a formal commitment to an annual review of the new arrangements that will be in place following the enactment of this Bill, and of the new enforcement and management arrangements, then I would be happy to consider that at the appropriate time with the Chair, or with the Assembly.

[114] **Darren Millar:** I am glad to hear that. If I can turn to the powers issue, what sort of analysis has been done to compare the existing powers of Welsh Ministers to those that will be given to the IFCA in England? I understand that there is an issue with clause 180 of the Bill, which gives Welsh Ministers the ability to make Orders for inshore fisheries management where Welsh Ministers do not already have the same kind of power. Why is the word ‘kind’ used? Does that mean that you will have the same powers, and, if so, why does it not just say so?

[115] **Dr Bradley:** It is a complicated issue from a legal point of view, because the various powers under the whole raft of fisheries legislation are complex, and have developed over time. It is difficult to take a snapshot of exactly what powers exist at any one point in time. The intention of clause 180—and we are confident that it will achieve this—is to ensure that the Welsh Ministers will not only be able to do what the sea fisheries committees can do at the moment, but also have whatever powers are conferred on the IFCA in England. That is an important point to bear in mind with regard to enforcement and so on; we are not taking away any powers or duties. The purpose of clause 180 is to fill the gap where there is a discrepancy between the powers of the IFCA and those that the sea fisheries committees currently have. Clause 180 provides Welsh Ministers with the powers to do those things.

[116] **Darren Millar:** Why does it not just state that Welsh Ministers will have the same powers as IFCA? Why does it use the word ‘kind’? Some non-governmental organisations, and the Countryside Council for Wales, have suggested to us that this may mean that you will not have the same level of powers. Surely, that would be inappropriate in a devolved context.

[117] **Dr Bradley:** To understand it, it is necessary to look at how the powers for the IFCA are formulated. The Bill refers to fairly wide powers in relation to purposes and objectives, and the provisions for which they can make bye-laws, and clause 180 is intended to be consistent with that. The particular drafting and use of the words ‘of that kind’, which you referred to, is meant to capture, as I tried to explain, the fact that the Welsh Ministers will be able to do what the IFCA can do. The reason for that wording is because these are default or reserve powers. Therefore, to the extent that there is not a sufficient power available under existing legislation, it is used, and the IFCA powers are a kind of top-up. We are happy from a legal point of view that it leads to the same outcome. At the end of the day, Welsh Ministers will be able to do what the IFCA will be able to do.

[118] **Elin Jones:** This point has been raised with me by some of the environmental organisations. As Darren has outlined, they are concerned that something might be lost in this process, and that Welsh Ministers would end up without a particular power that they might want to use at any point in time.

[119] However, we have the combination of the existing powers, and the intention in clause 180 is to have a kind of catch-all situation, where we can futureproof the development of powers in line with those of the IFCA. I have sought additional legal advice, and we have discussed this matter with the drafters of the original Bill, and the Parliamentary Counsel, and I have not been persuaded that there is anything out there that is not covered by the existing powers that Welsh Ministers would have or by what clause 180 allows. If there is a challenge on any particular power, I would be perfectly happy to look at that, but the current legal advice is that nothing will be lost.

[120] **Mick Bates:** We will leave that there. I think that we see the point. You have offered to do an annual report, but the first opportunity to do that would be after 1 April 2011, which will be an interesting time.

[121] **Elin Jones:** I cannot commit to that. [*Laughter.*]

[122] **Alun Davies:** Minister, could you provide us with a note on this issue of powers? It appears to me to be a piecemeal process and to be more confusing than perhaps it needs to be. I understand that that can happen for all sorts of different reasons that are outwith your responsibility and control, Minister, but it would be useful to receive a note on the Government’s views on the powers that are being transferred in this legislation, on how you expect to be able to exercise those powers, giving a comparison with similar situations across Offa’s Dyke. That would at least give us a basis on which to take a view on what has been expressed to us this afternoon.

[123] **Mick Bates:** We will move on to sustainable management. Lesley, you wanted to ask a question on this.

[124] **Lesley Griffiths:** Minister, under the Government of Wales Act 2006, there is a duty to prepare a sustainable development scheme to promote sustainable development and to report on how effective that scheme has been. Some organisations, including the Countryside Council for Wales, argue that that is not as strong as a duty to ensure that fishing is carried out in a sustainable manner. How will you, as Minister, ensure that fisheries in Wales are managed sustainably?

[125] **Elin Jones:** As the current Welsh Minister with responsibility for fisheries, I can tell you that my fisheries policy and strategy, which is the Government’s policy and which has been worked up in conjunction with a number of stakeholders—and I do not like to pigeonhole people—whose primary, environmental concerns are with fishing interests, is very

much in line with sustainable fisheries, both marine and freshwater, and with the requirement to ensure that we comply with all environmental management legislation. So, we have the declaration by Welsh Ministers on the policy, and now we have the prospect of having a clear fisheries management and enforcement capacity within the Welsh Government to put that aspiration fully into place and to provide a degree of clarity and direction. Due to the large number of organisations that have been involved in Welsh fisheries management, there may not have been that clarity of direction before, given that both sea fisheries committees, the Environment Agency, the Department for Environment, Food and Rural Affairs and the Assembly Government have all had an involvement.

[126] **Mick Bates:** You said that there was a lack of clarity about engagement on sustainable management with the sea fisheries committees—

[127] **Elin Jones:** No, I said that there was a lack of clarity and direction given the plethora of organisations that are involved and the complexity of who is responsible for which bye-law and which particular part of the sea. Since all legislation will, as of April next year, hopefully, be the responsibility of the Welsh Minister, with the exception of bye-laws on migratory fish, which will be the responsibility of the Environment Agency, there will be clarity for that purpose.

2.20 p.m.

[128] **Mick Bates:** However, as you may have heard, the sea fisheries committees think that the local democratic engagement that occurs currently may be diminished by the new arrangements.

[129] **Elin Jones:** When you say ‘local democratic engagement’, do you mean the two members of each authority who sit on the committees?

[130] **Mick Bates:** Yes, the engagement with local authorities, and the fact that practising fishermen take part in the committees. That gives a practical bent to their presentations and their lobbying views.

[131] **Elin Jones:** I received representations during the consultation from some of those practising fishermen, some of whom are supportive of the Welsh Government taking responsibility and some of whom are not. So, I do not think that it is right to say that, just because someone is a Welsh fisherman involved locally, they will necessarily support the current system over the proposed system. However, I agree that there was a divergence of views and that it was not the preferred option of the sea fisheries committees to see the Welsh Government taking the responsibility in-house. However, I understand your point about the need to ensure local knowledge and local involvement in any designations around the coasts of Wales for legislative purposes. I have set up a stakeholder group to ensure that that level of local engagement and local knowledge—especially from some of the staff of the sea fisheries committees—is not lost as part of this process, as we develop into the new system.

[132] **Mick Bates:** How will you ensure that the process is transparent and that all those who were previously engaged can see the aims of the stakeholder group?

[133] **Elin Jones:** I hope that we can be as transparent as the current system. The accountability is direct to me and I am accountable to your committee and to the process here. I have come to no fixed view on this, but I want the stakeholder group that I have set up to bring practical ideas to me on how we can ensure local knowledge and local engagement on any legislation and enforcement activities around the coasts of Wales. So, I have come to no fixed view on it, but I am keen to try to find the best possible outcome. Of course there is a danger—whether in perception or in reality—that the Welsh Government’s taking functions

in-house could be overly centralised and that something quite valuable will be lost in the process, and I do not want that to happen.

[134] **Mick Bates:** Alun, I know that you have a view on this. Would you like to add anything?

[135] **Alun Davies:** If I could, yes. I would like to confirm my understanding of an answer that you gave to a previous question, Minister. Will legislative competence be transferred to the Assembly Government in the same way as executive responsibility is transferred to Welsh Ministers?

[136] **Elin Jones:** With regard to the current functions and the legislative competence of the sea fisheries committees—and am I right in saying ‘competence’ there, or do we delegate functions?—

[137] **Dr Bradley:** Let us steer clear of the ‘competence’ word, so it is the functions of the committees that will be transferring to Welsh Ministers.

[138] **Elin Jones:** The functions that are currently undertaken by sea fisheries committees will no longer be undertaken by them. So, for example, where sea fisheries committees have responsibilities for various bye-laws, they will become a part of the Assembly Government’s legislative output.

[139] **Alun Davies:** I appreciate the position with regard to legislation; my concern relates more to primary legislation. Have you sought legislative competence for the Assembly to sit alongside the executive responsibilities that you will have as a result of this legislation?

[140] **Dr Bradley:** The Bill as it stands makes no provision for primary legislative competence to make Measures or to amend the Government of Wales Act 2006. As it stands, it confers only executive functions on the Welsh Ministers, so there will not be any amendments to the Government of Wales Act 2006.

[141] **Alun Davies:** So, the answer is ‘no’. Has the Assembly Government sought legislative competence in these areas?

[142] **Mr Bradley:** We have taken the view that, to achieve the policy objectives that this Bill pursues, there is no need to seek the primary legislative competence.

[143] **Elin Jones:** Part of the project work at the moment involves considering the legislation that is out there, whether it is the sea fisheries committee’s legislation or even our own, and analysing how that needs to be brought together in a coherent form to ensure that we have the necessary ability to enforce and to manage that. So, there is a project of work that looks to bring all of that together, as there is a lot of legislation that governs the seas around Wales currently. That project work is happening now.

[144] **Mr Evans:** A stock-take of all legislation relating to fisheries is under way, and, as was mentioned earlier, two colleagues from the sea fisheries committee have been seconded to our department to work on that project, to draw up the enforcement strategy for the future.

[145] **Alun Davies:** It appears to me that there is a significant gap between the Assembly Government’s approach and its policy. If you are actively seeking the transfer of executive responsibilities to do that without seeking the transfer of legislative competence, you are putting yourself in the position of having the responsibility but not the power to change whichever regime you put in place.

[146] **Elin Jones:** The Marine and Coastal Access Bill will enable us to draft the legislation required for those purposes.

[147] **Alun Davies:** You do not have the legislative competence with which to legislate. All you can do is pass regulations and statutory instruments, assuming that we, as a National Assembly, agree with you. However, you do not have the ability to put forward any new legislation within areas in which you are actively seeking executive responsibility.

[148] **Mr Bradley:** This Bill will not confer legislative competence or Measure-making powers.

[149] **Alun Davies:** I understand that, but this is a political issue, and I want the Minister to tell me why the decision has been made by the Assembly Government not to seek those powers at this time.

[150] **Elin Jones:** Do you mean the framework powers?

[151] **Rhodri Glyn Thomas:** No, the competence.

[152] **Elin Jones:** Do you mean legislation that we do not currently have the ability to undertake? We have the ability to undertake all the necessary legislation that is currently in place, so I fail to understand your point.

[153] **Rhodri Glyn Thomas:** I think that Alun makes a fairly fundamental point about functions and competence to make legislation. From what you and your officials have said, it seems to me that the functions have been devolved but the competence to make legislation has not. Without the competence, you are not in the position to create legislation, as I understand the Government of Wales Act 2006. As many views on this have been raised, I suggest—unless someone disagrees—that the Chair of this committee writes to the Minister to say that the committee feels that the competence to make legislation is a fundamental point, and we believe that it should be devolved to the Minister along with the functions.

[154] **Mick Bates:** Your point has been made.

[155] **Darren Millar:** I think that we need to inquire whether the Minister is minded to seek the competence, rather than saying—

[156] **Mick Bates:** That is what Rhodri proposes.

[157] **Darren Millar:** No, it is not. With respect, Chair, he has just suggested that the committee seek the devolution of these powers. We need to take more evidence on that before we determine whether that is appropriate at present.

[158] **Mick Bates:** I do not believe that framework powers confer any legislative competence over fisheries, and I am looking at my expert adviser for confirmation of that fact.

[159] **Ms Winnard:** There are no framework powers for fisheries.

[160] **Mick Bates:** That is right.

[161] **Alun Davies:** I am curious, Minister, because you have sought a substantial degree of executive authority in this legislation, and I think that you are right to do so, but it seems to be a bit of a curious approach to have such executive powers without any legislative powers at all.

[162] **Mick Bates:** We will draft a letter that will be circulated to Members to agree on its wording. However, I have to move on at this point, although I am keen for Leanne to examine the costs involved first.

2.30 p.m.

[163] **Leanne Wood:** Before coming to the costs, Chair, I want to look at the question of the difference between England and Wales. Minister, you have explained why you do not think that a duty should be placed on Welsh Ministers, but, in England, under clause 149 of the marine Bill, there will be a duty to ensure the sustainable management of fisheries and, therefore, conservation is more important than fishing. It is not clear what the relative importance is in Wales. We know that the non-governmental organisations want that duty to be placed on Welsh Ministers, and they want more clarity about what will take priority in Wales. Is it the conservation of the marine conservation zone or the fishing?

[164] **Elin Jones:** That is an issue of policy, and is not a matter for this legislation. The outline of the policy on fisheries is part of my Welsh fisheries strategy, and, given that a number of the environmental organisations to which you may be referring have given evidence and have supported the general direction of that strategy, I hope that they would have confidence that that is the aspiration of the Welsh Government. However, I go back to the point that I made at the start that I would not, and do not, wish for that duty to be placed on Welsh Ministers by UK legislation.

[165] **Mick Bates:** I have to wrap this session up. Could we just look at the costs, please?

[166] **Leanne Wood:** Yes. There is a big difference between the Department for Environment, Food and Rural Affairs and the WAG estimates of what all this will cost. DEFRA says that it will cost 10 times more to implement than you have estimated. How can you account for those differences?

[167] **Elin Jones:** I have no idea what those figures are, so I cannot give you an answer as to what DEFRA has suggested is 10 times more.

[168] **Leanne Wood:** The marine Bill's impact assessment estimates that the reform of inshore fisheries management in England will cost an extra £5 million a year. That includes one-off costs of £500,000 to implement the reforms and £200,000 of set-up costs for a new information technology system. It totals up to £5 million a year, but WAG has estimated that the total cost of reform for Wales will amount to only £29,000. So, there is a big difference there.

[169] **Elin Jones:** I thought that you were saying that DEFRA had made an assessment of how the Assembly Government's policy would work, but you are referring to the Assembly Government's own estimate. We are bringing the management and enforcement functions in-house and are not setting up a whole new system. In fact, we are disestablishing the current system. If I remember correctly, the Assembly currently makes a contribution to local authorities of—

[170] **Mr Evans:** It is approximately £900,000.

[171] **Elin Jones:** That is to meet the costs of the sea fisheries committees. We have now agreed with the Welsh Local Government Association and the Minister for Social Justice and Local Government that that funding will no longer be passed on to local authorities as part of the revenue support grant, once these functions have been brought into the Welsh Government. Therefore, that funding will be available to us in the Assembly Government. We

have made the working assumption and are confident that, by undertaking these functions in-house, we will be able to do the work at a reasonable cost to the taxpayer. We are not setting up completely new organisations to do it, so it should be cheaper for us than it will be in England.

[172] **Leanne Wood:** Thank you for that answer. However, the Association of Sea Fisheries Committees estimates that the new inshore fisheries and conservation authorities in England will have twice the workload of the current sea fisheries committees, so what is the Welsh Assembly Government estimate of the changing workload for fisheries management in Wales, and how will you account for the difference?

[173] **Mr Evans:** As part of the consideration given by the Welsh Assembly Government to the extra marine environmental duties that the IFCA's would be taking on board, the Minister agreed with the Minister for Environment, Sustainability and Housing that, as part of the project to look at the new enforcement regime, they will also consider the enforcement of marine environmental duties in Wales. As part of the stocktake that we currently undertake, we will also look at the kinds of duties involved. A business case will then be put together on the kinds of enforcement measures that will be required to those duties, which will then be presented back to Jane Davidson and her department to consider.

[174] **Mick Bates:** Are you happy with that, Leanne?

[175] **Leanne Wood:** No. If that report identifies that more resources are needed, is there flexibility within the budget to provide more resources?

[176] **Elin Jones:** There is no flexibility in any budget—as far as I can tell—in the Assembly Government at present. Those are cases that would have to be made once we have identified whether there are additional requirements on us for this work.

[177] **Mick Bates:** Thank you. Do Members have any further questions to ask, or do the witnesses have any comments to make? I see that there are none. Thank you for your written evidence and for your answers today. It appears that we have exposed a constitutional issue on taking the competence in order to legislate on fisheries. Also, there is a rather grey area around the costs. In our opinion, it appears that the costs will increase substantially. Is it possible to have any details that you have, Minister, of what you project to be the cost of taking the functions in-house?

[178] Notwithstanding that, of course, the transcript of this meeting will be sent to you for any corrections. I thank your two colleagues and invite two further witnesses to join the Minister for the final session of the afternoon.

2.38 p.m.

**Ymchwiliad i Leihau Allyriadau Carbon yng Nghymru: Sesiwn Graffu ar y  
Defnydd o Dir  
Inquiry Into Carbon Reduction in Wales: Scrutiny Session on Land Use**

[179] **Mick Bates:** For this item, I again welcome Elin Jones, the Minister for Rural Affairs, who is now joined by Huw Brodie, director of the Department for Rural Affairs and Heritage, and Jon Westlake, project manager for the axis 2 review. I thank you for your attendance. Minister, will you make some opening remarks? Thank you also for your written presentation on this.

[180] **Elin Jones:** I have no opening remarks and I am happy to move to questions.



[181] **Mick Bates:** In that case, I invite Alun to ask the first questions.

[182] **Alun Davies:** Minister, you have discussed, in different ways, in statements that you have made, how land use can contribute to achieving the 3 per cent carbon reduction target. Can you outline to us how you believe that that will be achieved? I think that you have mentioned before other figures in excess of 3 per cent, therefore could you explain how you see land use contributing not only to achieving that target but exceeding it?

[183] **Elin Jones:** In terms of land use and the contribution that land use activities can make to tackling climate change, it is important that we recognise that carbon emissions are part of that, but that there are other greenhouse gases that are particularly problematic for agriculture and land use that are damaging to the environment. Therefore, we need to look at all of those emissions.

2.40 p.m.

[184] As you will know, because I made a statement to the Assembly on this, I have set up a land use climate change group, and I have asked for nominations from stakeholder groups to give me advice on how land use, and various activities on land, can be changed in order to meet Assembly Government aspirations for a 3 per cent reduction. The paper goes into a number of aspects of land use, whether it is the land itself or the use that affects climate change. Agriculture and land use are central to the Assembly Government's intention to reduce greenhouse gas emissions by 3 per cent. In part, the complexity of these issues stems from the difficulty of measuring the baseline, where we are now, and then reporting annually on progress in a way that makes sense. There is a lot of work happening as we speak on some of these issues, in preparation for meeting the Government target.

[185] **Alun Davies:** How could farmers who are not covered by agri-environment schemes be encouraged to reduce their carbon emissions? Does the Government see a role for itself as a persuader, if you like, for those farmers who are outside the current schemes? Will you create any incentives for them to reduce their emissions?

[186] **Elin Jones:** We certainly see ourselves as persuaders, as well as offering financial incentives. That is why I was keen to set up, under the Farming Connect umbrella of the rural development plan, a climate change theme to that work that will allow Government to work with farmers and to demonstrate good practice. That can mean showing farmers that a reduction in emissions can result in a reduction of costs as well. There is a lot of technical work that needs to be done on the practical differences and changes that farmers could make, which might not cost them very much, and might even save them money, but would also contribute to an overall reduction in greenhouse gas emissions. The paper goes into some of that. I think that Huw wants to say something on this.

[187] **Mr Brodie:** It is important to distinguish between two complementary issues that the paper tries to bring out. The first involves ongoing emissions from agriculture, which, as we know, are around 11 per cent of Wales' total greenhouse gas emissions. I sometimes envisage that as the current account, and then there is the deposit account, which includes the carbon stored in our soil in particular. Put simply, the prime role of axis 2 is to help to conserve and make the best of the deposit account, and Farming Connect is currently our main tool for trying to persuade, influence and inform farmers about reducing their current account emissions. As the Minister has said, they can usually do that in ways that will pay off, because they will be cutting their costs.

[188] **Brynle Williams:** On that theme, it is true that farmers account for 11 per cent of these emissions, but looking at soil management, carbon release and water management across the country, there is an awful lot of land that does not come under the single farm

payment, and is therefore not covered by cross-compliance. Have you any plans to look at that? I do not want to emphasise one specific group, but on my journeys to north Wales I see a lot of land belonging to hobby farmers, smallholders and so on, that is poached to death at this time of year, and again, that could be brought into this. How do we achieve that? Farmers make up the bulk of it, but, of that 11 per cent, about 2 per cent would probably be outside the control of the SFP system. It is something that has concerned me for a long time.

[189] **Elin Jones:** I do not think that Government can aspire to micromanage every piece of land or even every activity in Wales for the purposes of climate change mitigation. However, we can use the tools at our disposal that affect the majority of land in Wales. You have referred to the single farm payment and the cross-compliance requirements within that. As part of the health check—the mid-term review of the common agricultural policy—the European Commission and the agriculture Ministers at a European level have now identified climate change as part of the longer-term aim of single farm payments and the whole EU CAP subsidy system being used to address some of the new challenges of water and carbon management that you have identified.

[190] **Mick Bates:** Darren has a question about carbon management.

[191] **Darren Millar:** One of the big problems that we have identified in receiving evidence is that very little data exist to confirm, on one hand, how much carbon there is in Welsh soils—there is conflicting evidence, ranging from 110 million tonnes to 400 million tonnes—and, on the other hand, the impact of certain types of land management with regard to the release of that carbon from Welsh soils. Mr Brodie has just suggested that, through the use of the carbon accounting tool, there may be an opportunity for people to benefit from some measures with regard to the way in which they manage their land—there may be some cost savings and so on. However, how are they going to be able to use data—which is not there—to reduce their carbon footprints? How can we incentivise people if we are not really sure what the impact is of land management on carbon?

[192] **Mr Brodie:** I think that it is possible to exaggerate some of the uncertainty. Our paper underlines the need for much more research into what is happening to the carbon in Welsh soils. Our technical services are firm in their advice to us that there are between 400 million and 500 million tonnes of carbon in Welsh soils, depending on how deep you go. There is real uncertainty about the extent to which that carbon is degrading and about why, as well as about the losses to water and air. There is a consensus on what represents the best chance of conserving that carbon, which is basically to keep the soil wet and not overgrazed—not drained in that sense. Therefore, given the potential scale of the losses to the atmosphere that would occur if there were to be oxidation of our soil carbon of even 1, 2 or 3 per cent, a precautionary approach suggests that, through axis 2, we ought to be trying to do something at least to encourage farmers to look after the soils that are particularly heavy in carbon, which are obviously the peaty upland soils.

[193] With regard to tracking how far we can get a farmer to adopt practices with his dairy herd that will reduce methane emissions, the inventory estimates are very crude at the moment; they are done on a Wales-wide level and use averages of a standard British cow and a standard British sheep. Our technical services are working on how we can refine the inventory and, at the Minister's request, on how we can investigate how the farm business survey might be adapted in future to help us to provide some finer estimates. There is a long way to go before we can really firm up those estimates as to what is going on.

2.50 p.m.

[194] **Darren Millar:** In your paper, Minister, you mention the development of an on-farm carbon-accounting tool, on which we received evidence suggesting that that is exactly the

way forward for you. Given that all the information is on a nationwide basis, it needs to be more localised, does it not? How will that operate? Who will administer it and decide which bits of information go into it in order to get some accurate information out? No IT-based system will give you good information coming out unless there is good information going in.

[195] **Mr Brodie:** No, indeed. These are precisely the questions that our technical service is considering and that the Minister's land use climate change group will also want to consider, I am sure. There is a spectrum of best practice here; we can encourage farmers to do a whole range of things to cut their costs, make their dairy herds more efficient, and be of benefit to the environment. We do not need to measure those farm by farm and start using Farming Connect to draw their attention to the best practice that is already available. As you say, further along the spectrum there is a whole set of other types of interventions, such as carbon trading schemes, which would require very firm and reliable estimates, and we are clearly not in that position at present. Hopefully, the kind of analysis that will be done will give us a sense of how far we can go in that direction, and what the costs and benefits would be. You might spend so much on having the most sophisticated system for measuring what was actually being emitted farm by farm, but that might actually outweigh some of the benefit that you will get. So, with the first steps, I do not think that we are yet at the point of being able to move beyond what is common sense to work out where to strike the balance on the more sophisticated trading schemes that you could envisage coming in.

[196] **Darren Millar:** One of the tools that is already available, to which several witnesses made reference during their evidence, is the Country Land and Business Association's ecological footprint and carbon accounting tool. Do you want to develop something along those lines, or even use the CLA's tool in the interim?

[197] **Mr Brodie:** We are certainly keen to encourage farmers to use the CLA's tool. It is quite crude, but it is a start.

[198] **Elin Jones:** In general, there are clear principles that could be followed on-farm or by areas, which would work towards reducing greenhouse gas emissions. Where we get to the complexity of all this is on the measurement. It becomes even more challenging for Government when it considers the financial incentives and intervention, as with the axis 2 review of the rural development plan. We have to make sure that what we are financially incentivising has the best return by way of reducing greenhouse gas emissions. Therefore, there are a lot of challenging data and a lot of gaps, because all of this is still quite new. When I say 'quite new', I mean it in the context of the common agricultural policy's idea of new. Therefore, it is a challenge for the Government to find the right balance between financial incentive and the aspirations that the Government and the European Commission now hold for climate change adaptation and mitigation.

[199] **Mick Bates:** I think that we accept the challenges, but will all this be ready by 2011 when you are committed to starting the 3 per cent carbon reduction?

[200] **Elin Jones:** We will have to have in place the baselines and the ability to measure the contribution of Welsh agriculture to this. I think that the paper identifies, in some places, what has already been reduced, and what are quite clearly—

[201] **Mick Bates:** Yes, the paper does that with regard to the 1990 baseline. However, your commitment in 'One Wales' is to achieve a 3 per cent overall cut. We accept all of the things that you are talking about, but will they be ready to implement a further 3 per cent cut, year on year?

[202] **Mr Brodie:** The figures in the paper stem from the in-depth analysis that our technical services have undertaken, which I am sure we could make available to you. It is

about half an inch thick. To summarise very crudely, if all Welsh farmers adopted what is currently best practice, the current account—or ongoing omissions, if you like—could be reduced by around 3 per cent. That is not 3 percentage points or 3 per cent from 11 per cent, but 3 percentage points taking 11 per cent as a 100 per cent, if you know what I mean—just so that we are clear on that. *[Laughter.]*

[203] **Mick Bates:** It may be easier to express it in tonnes.

[204] **Mr Brodie:** It would be around 10 per cent if they all adopted best practice. That represents quite a challenge, but a start has been made through Farming Connect, and the more farmers who can start from now, the better. That is coupled with issues such as what happens to the number of livestock.

[205] **Rhodri Glyn Thomas:** Deallaf yr hyn y mae Huw Brodie yn ei ddweud, sef bod modd gor-ddweud y sefyllfa o ran y data, ond rhaid derbyn bod data manwl yn eithriadol o brin. Hynny yw, mae Asiantaeth yr Amgylchedd yn sôn am y ffaith bod y gwahaniaeth o ran y carbon sydd yn y tir yn amrywio o ychydig dros 110 miliwn i 400 miliwn o dunelli. Yr oedd y ffigurau a ddefnyddiodd Huw Brodie yn gynharach hyd yn oed yn fwy na hynny, sef rhwng 400 miliwn a 500 miliwn, os clywais yn gywir. Mae nifer o dystion wedi dweud bod angen gwerth o leiaf pum i 10 mlynedd o ddata er mwyn gallu gwneud asesiad cywir, a'r cyfan sydd gennym ar hyn o bryd yw gwerth dwy flynedd. Felly, o ran y gosodiad yn eich papur am annog ffermwyr, Weinidog, mae hynny'n iawn ac yn dderbyniol, ac yr ydym yn eich cefnogi'n llwyr ar hynny, ond sut byddwch yn gwerthuso yr hyn y maent yn ei wneud os yw'r data mor amrywiol ac anghyson, a phan nad oes gennym gorff digon mawr o ddata i allu gwerthuso yn gywir yr hyn sy'n digwydd?

**Rhodri Glyn Thomas:** I accept what Huw Brodie is saying, that it is possible to overstate the case in relation to the data, but we must concede that detailed data are very hard to come by. The Environment Agency talks about the difference between the carbon in the soil varying from a little over 110 million to 400 million tonnes. The figures quoted by Huw Brodie earlier were even higher than that, namely between 400 million and 500 million, if I heard correctly. Several witnesses have said that we need at least five to 10 years' worth of data if we are to be able to make a correct assessment, and, at present, we have only two years' worth. So, given the statement in your paper about encouraging farmers, Minister, that is all well and good, it is acceptable, and we support you in that regard. However, how will you evaluate what they are doing if the data are so variable and inconsistent, and when we do not have a large enough body of data to be able to evaluate correctly what is happening?

[206] **Elin Jones:** Mae gennyf flaenoriaeth fel y Gweinidog i leihau'r baich tâp coch sydd ar ffermwyr, drwy geisio osgoi gosod gormod o ofynion arnynt i gofnodi yr hyn y maent yn ei weithredu ac yn ei fesur. Felly, mae eich pwynt yn bwysig, ac mae'n sialens i Lywodraeth y Cynulliad sicrhau fod yr hyn yr ydym yn ei weithredu yn ateb ein gofynion ac yn ein galluogi i adrodd yn ôl a'ch perswadio, yn Aelodau'r Cynulliad, fod gennym darged cadarn y mae modd ei fesur yn effeithiol. Fodd bynnag, pan fydd hynny'n golygu cyfuno'r data sy'n dod o ffermwyr unigol ac o asiantaethau, gwelwn y bydd yn sialens wirioneddol. Soniodd Huw Brodie fy mod wedi gofyn iddo ystyried a oedd

**Elin Jones:** I have a priority as the Minister to reduce the red-tape burden on farmers, by trying to avoid making excessive demands of them to record their operations and their measurements. So, your point is important, and it is a challenge for the Assembly Government to ensure that whatever we put in place is suitable for our requirements, and enables us to report back and persuade you, as Assembly Members, that we have a robust target that can be measured effectively. However, when that involves a combination of the data coming from individual farmers and from agencies, we see that it will be a real challenge. Huw Brodie mentioned that I had asked whether he could look at the

posibilrwydd i'r arolwg busnes fferm yr ydym yn ei gomisiynu ar hyn o bryd, sy'n gweithio gyda ffermwyr ar eu hincwm, gynnwys elfen o fesur yr effaith carbon a'r nwyon tŷ gwydr ar lefel ffermydd unigol, hynny yw, y ffermydd sy'n cael eu hasesu. Felly, mae hwnnw'n un mecanwaith posibl i fesur yn erbyn ein targed ar hynny.

possibility of getting the farm business survey that we are currently commissioning, which works with farmers on their incomes, to include an element measuring the carbon impact and the greenhouse gases on an individual farm level, so those farms being assessed. So, that is one possible mechanism to measure against our target on that.

[207] **Mick Bates:** There are three important points to make before I close the meeting, and I am mindful of the fact that Members have other engagements post 3 p.m.. Could I take questions from Brynle about anaerobic digestion next, and then from Leanne on conservation and sequestration? I also want to hear from Jon Westlake how he thinks axis 2 reform could achieve some carbon reduction. We will start with Brynle.

3.00 p.m.

[208] **Brynle Williams:** As we are well aware, livestock are one of the greatest producers of greenhouse gases, and the dairy industry is probably the most 'major' producer—I was going to say 'offensive'. Minister, have you had any discussions with your colleague in the Department for Environment, Sustainability and Housing about planning applications for biodigesters? We could kill two birds with one stone here.

[209] **Elin Jones:** Not that we want to kill any birds. [*Laughter.*]

[210] **Rhodri Glyn Thomas:** Just badgers. [*Laughter.*]

[211] **Mick Bates:** We have been made aware of planning applications that have been held up. The Government is promoting anaerobic digestion to a great extent but we are all beginning to wonder how you will achieve what you want to if the planning authorities do not pass the applications.

[212] **Brynle Williams:** We could tackle two issues at once here: we could address the greenhouse gas emissions from the high-density stocking units and also produce a usable commodity. The problem seems to be that these applications get held up in planning departments.

[213] **Mr Brodie:** The lead on this is with our colleagues in the Department for Environment, Sustainability and Housing, and with Jasper Roberts in particular. Our team in rural affairs works very closely with DESH, in particular because anaerobic digestion units need a mixture of domestic and farm waste to work to best efficiency, so it does not make sense to treat them separately. We are feeding into Jasper's side on that, and that team is taking the lead on issues with planning. We are leaving that to that department.

[214] **Mick Bates:** Perhaps we need information on how many applications there are, at what stage those applications are, and what assistance the Government is offering for people who wish to build biodigesters.

[215] **Darren Millar:** And on the average length of time taken for a planning decision to be made.

[216] **Brynle Williams:** Another major point that has come up in my constituency is that a farmer wants to invest some £1 million in a biodigester, but there is no electricity connection for it. Joined-up thinking between everybody is needed. The industry is ready to respond in certain areas, and that is putting us well on the way to reducing that 11 per cent.

[217] **Mick Bates:** Leanne, you have a point on sequestration and, in particular, the use of woodlands.

[218] **Leanne Wood:** When Forestry Commission representatives came in to give us evidence, they said that forestry has a small but significant role to play in carbon reduction and they highlighted the role that wood could play in replacing other, more carbon-intensive products. Minister, in your paper, you refer to the value of woodland as a carbon sink and as a fuel source. Has any consideration been given to the substitution role of harvested wood products in construction and how the potential market in Wales could be identified and expanded?

[219] **Elin Jones:** Although this is not directly my responsibility, I am aware of various projects in Wales, and the work that Coed Cymru is doing on the use of Welsh wood for construction purposes comes instantly to mind. I visited, as, I guess, have other Members here, its exhibition here in the Assembly just before Christmas, and I agree that wood is a particularly useful and sustainable resource for addressing all kinds of issues, not to mention the usefulness of trees as carbon sinks. You may be aware that the Assembly Government has a commitment in its 'One Wales' programme to use the national forest in Wales as a sink for carbon, and I will be outlining my woodland strategy in a few weeks' time. Jon, would you like to say something on woodland?

[220] **Mick Bates:** I would also like you to develop this theme to say how axis 2 can contribute to carbon reduction.

[221] **Mr Westlake:** I will deal with the woodland issues first. Quite a few initiatives are currently taking place. You may be familiar with the old wood energy business scheme. The Forestry Commission and the Welsh Assembly Government have either just agreed or are about to agree on a successor scheme for WEBS, which is, unromantically, called WEBS 2. It is, essentially, aimed at the installation of wood-fuelled boilers in large-scale institutions such as hospitals. If it tracks WEBS 1, that will be quite a significant project.

[222] The Forest Stewardship Council, which is known for its tick mark on sustainably produced wood, has started to become involved in outreach work with timber suppliers, builders and architects. Bovis Lend Lease has just become the first FSC-certified builder in this country. It is looking to access more home-grown wood as part of its certification initiative. The Confederation of Forest Industries is also active in Wales, particularly with regard to developing opportunities for an increased use of home-grown wood. It held a couple of seminars with the Royal Institute of British Architects down here—perhaps there is a Welsh equivalent—in Cardiff for architects fairly recently and talked about sourcing local wood. There is also Coed Cymru, of course. There have been quite a few INTERREG 3 and 4 projects which have brought expertise from other parts of Europe, where locally produced wood is much more commonly used for construction and energy, into Wales and experience and ideas have been exchanged. There is quite a lot going on.

[223] **Mick Bates:** Is there potential, then, within axis 2 and the agri-environment schemes to reduce carbon?

[224] **Mr Westlake:** Yes, there are a few areas. I will use Huw's current and deposit account metaphor, if I may. In terms of the current account activities, a clear area for incentivisation is the development of more low-input agriculture. By that, I mean targeting the application of nutrient, particularly artificial fertiliser, on the basis of the nutrient status of the soil. One of the major emitters of nitrous oxide is fertiliser, particularly artificial fertiliser that is put on the land but is not taken up as a soil nutrient because there is already too much in the soil. Incidentally, that also presents big issues for water quality. It tickles two birds with one

stone. [*Laughter.*] So, a reduction in fertiliser use and the adoption of a lower input approach—the organic approach, one might argue, if you want to take it to a slightly greater extreme—are areas where the current account can certainly be affected.

[225] In relation to the deposit account, recognising the points that have been made about the lack of data, I would say that the precautionary principle is certainly something that we should be applying with regard to soil carbon. There is a clear risk of much hotter, drier summers in Wales as climate change starts to develop. That will have a significant impact upon the upland soils in Wales. Peat will dry out much more rapidly and there will be more oxidation. Anything that we can do to reverse that trend is worth doing. Even if we started blocking all moorland grips in Wales now, it is likely that we would detect very little difference in the first 10 years. It is a long-term programme. Nevertheless, it is pretty important to do it.

[226] Alongside that, on mineral soils, we should certainly be looking—and the consultation discusses this in some detail—at developing new woodland and wetlands on mineral soils. I say that it should be on mineral soils specifically, because we want, as far as possible in the future, to avoid cultivation on organic and organo-mineral soils, because that is one of the most significant carbon emission practices that you can undertake. That is a rapid summary, but I think that that is where we need to be.

3.10 p.m.

[227] **Mick Bates:** Thank you. That is useful. Brynle, you wanted to come in on that.

[228] **Brynle Williams:** I will be brief. You touched on two points. I appreciate what you say about the need for less cultivation, but that rather conflicts with the fact that under Tir Gofal we want areas to be kept in stubble over winter and so on. It has been established that we are short of data and I would like to see what has happened since 2007 and what will happen. I imagine that nitrates levels will drop considerably, given the price of fertiliser. I would be interested to see by how much that decreases. Hopefully, we will have the data on that to see whether it drops in the next four or five years.

[229] **Mr Westlake:** It is an interesting point. It depends on how often that land has had nitrates put on it in the past and the current nutrient status of the soil, so that may or may not happen.

[230] **Mr Brodie:** Just to come back on this issue about data, we must recognise that with something as complex as climate change, the world has to make decisions based on inadequate data because by the time that fully adequate research comes through, the time for intervention would have long passed.

[231] On the type of data that we would ideally need, things are a bit different, for example, in terms of the deposit account and the current account. As John said, in terms of a deposit account—the carbon in the soil and so on—we need a good understanding of the science of what is going on and an ability to track what is happening to that resource in the long term. Changes from year to year are not particularly significant; the changes that count are those that take place over five or 10 years. On the current account, if a farmer changes the management practice of his dairy herd, knowing whether that has made a difference from one year to the next would be useful for the farmer and for us, but we are not yet at that point. However, we need to keep a sense of what is possible, practical and useful in terms of collecting data.

[232] **Mick Bates:** The banking analogy is interesting, provided that you have the right bank. [*Laughter.*] Has any research been undertaken to incentivise carbon reduction through a

carbon trading mechanism? There is a power under the climate change Bill to have a Welsh carbon trading scheme. A value could be placed on reducing carbon, above and beyond the agri-environment side, so that biodiversity improvement not only ensured carbon reduction, but that people were paid for reducing it.

[233] **Mr Westlake:** I assume you mean a cap-and-trade scheme.

[234] **Mick Bates:** Yes, a cap-and-trade type of scheme.

[235] **Mr Westlake:** That has been done fairly successfully in parts of America and in Australia. However, the issue for us is that the soils here are much more complex. For example, Australia, where a cap-and-trade scheme operates, has a simple and predictable soil horizon for hundreds of miles, so it can be certain that its actions are taken on the right soils. Here, we have a much more complex soil profile. I am not saying that it cannot be done, but you would need better data on where these soils are in order to make such a scheme work.

[236] **Elin Jones:** In general, I would love to get to a point where the steelworks in Port Talbot were paying farmers in your constituency, Chair, to maintain carbon and to trade off carbon. However, these are not straightforward issues, as you can imagine. They are not straightforward for Government, in terms of financial incentivisation, or for private sector direct involvement and interchange.

[237] **Rhodri Glyn Thomas:** We would welcome your commitment on that.

[238] **Elin Jones:** You have my commitment to move in that general direction, Rhodri.

[239] **Mick Bates:** Thank you. We will finish on that positive note about the agriculture industry being able to trade carbon in the future. I can see that there may be yet another income stream that may help to keep many of our farms in business. Thank you, Minister, and thanks to your colleagues for your evidence this afternoon and for the written paper that refers to Cranfield University's work, which provides a lot of good data on soil types and types of woodland. It is a very useful reference point for us at the moment. However, if there is any further information that you think would be useful to aid our recommendations on this, please send it on. I thank you for your attendance.

3.15 p.m.

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

[240] **Mick Bates:** I ask colleagues to note the papers that are to note. They are noted. The next meeting will be on 5 March. Thank you very much for your attendance.

*Daeth y cyfarfod i ben am 3.16 p.m.  
The meeting ended at 3.16 p.m.*