



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

**Pwyllgor Deddfwriaeth Rhif 2
Legislation Committee No. 2**

**Dydd Iau, 22 Hydref 2009
Thursday, 22 October 2009**

Cynnwys
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The Proposed National Assembly for Wales (Legislative Competence) (Local
Government) Order 2009—Evidence Session 3

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

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

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

Jeff Cuthbert	Llafur Labour
Gareth Jones	Plaid Cymru The Party of Wales
Val Lloyd	Llafur (Cadeirydd y Pwyllgor) Labour (Chair of the Committee)
Sandy Mewies	Llafur Labour
Jenny Randerson	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Brynle Williams	Ceidwadwyr Cymreig Welsh Conservatives

Eraill yn bresennol
Others in attendance

Daniel Hurford	Pennaeth Polisi (Gwella a Llywodraeth), Cymdeithas Llywodraeth Leol Cymru Head of Policy (Improvement and Government), Welsh Local Government Association
Sarah Titcombe	Cymdeithas Llywodraeth Leol Cymru Welsh Local Government Association
Simon White	Prif Weithredwr, Un Llais Cymru Chief Executive, One Voice Wales

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

Sarah Beasley	Clerc Clerk
Claire Griffiths	Dirprwy Glerc Deputy Clerk
Joanest Jackson	Cynghorydd Cyfreithiol Legal Adviser

Dechreuodd y cyfarfod am 12.59 p.m.

The meeting began at 12.59 p.m.

Cyflwyniad, Ymddiheuriadau a Dirprwyon
Introduction, Apologies and Substitutions

[1] **Val Lloyd:** Good afternoon, everybody, and welcome to this afternoon's meeting of Legislation Committee No. 2. I have not received any apologies for non-attendance, but I understand that Sandy Mewies and Jeff Cuthbert will be a little late in joining us, and they send their apologies for that. There are no substitutions.

[2] We do not expect a fire drill, so if you hear the alarm please leave the room via the marked exits. Please turn off all mobile phones and suchlike equipment, as they interfere with the broadcasting equipment. As you know, the National Assembly for Wales operates through the media of Welsh and English. Headphones are provided for the translation on channel 1, and you can amplify the proceedings on channel 0.

1.00 p.m.

**Gorchymyn Arfaethedig Cynulliad Cenedlaethol Cymru (Cymhwysedd
Deddfwriaethol) (Llywodraeth Leol) 2009—Sesiwn Dystiolaeth 3
The Proposed National Assembly for Wales (Legislative Competence) (Local
Government) Order 2009—Evidence Session 3**

[3] **Val Lloyd:** The purpose of today's meeting is to take evidence from the Welsh Local Government Association and One Voice Wales on the Proposed National Assembly for Wales (Legislative Competence) (Local Government) Order 2009. I welcome to the meeting Mr Daniel Hurford of the Welsh Local Government Association. He is accompanied by Sarah Titcombe, who is an improvement adviser at the WLGA. You are both very welcome.

[4] We will now move directly to the questions. I will start with a question to Mr Hurford. Could you clarify for the record whether the WLGA agrees with the general principles that legislative competence in this area be conferred on the Assembly?

[5] **Mr Hurford:** Thank you for the welcome. The WLGA broadly endorses this proposed LCO on local government and supports it in principle. As the written evidence suggests, the principle of devolving matters around local democracy and local government to the National Assembly for Wales is supported because it brings local democracy closer to local government in Wales, and allows local government and the Assembly Government, together with National Assembly colleagues, to co-produce and develop policies appropriate for local communities in Wales. So, we endorse the proposed LCO.

[6] **Val Lloyd:** Would you like to comment on the scope of the proposed Order, in particular on why some WLGA members believe that it should have a wider scope and on how it should be widened?

[7] **Mr Hurford:** The general agreement at the WLGA council in September when we discussed the proposed LCO was that it was appropriately scoped, certainly in the context of the wider Local Democracy, Economic Development and Construction Bill that is currently going through Parliament, which, as I am sure you are aware, devolves further local government and local democracy matters to Wales relating to scrutiny and executive arrangements, petitions, and promoting local government and local democracy.

[8] There was some debate about the matters that were excluded, particularly around electoral arrangements. You will be aware that the WLGA is a cross-party organisation, representing all parties and none, and that there are differing party political views on electoral arrangements for local government. While we seek a consensus of views, as often as possible, on fundamental party political issues on which there is not necessarily an agreement, it is clear from the evidence that you have already received from individual local authority councillors that some members regard the scope as being too narrow and would like to see electoral arrangements devolved to the Assembly.

[9] **Jeff Cuthbert:** I apologise for my late arrival. I am afraid that it was unavoidable. I also apologise for not having heard all your answers up to now. Are there any other matters outside the scope of the proposed Order that the WLGA wishes to see included?

[10] **Mr Hurford:** Broadly speaking, we felt that the matters were appropriate. As I mentioned, there are some party or group differences on the electoral arrangements but, generally, with the wider developments recently, with the Local Government (Wales) Measure 2009 being passed, which relates to community planning and the Wales programme

for improvement, and the local democracy Bill, which will confer a wider range of powers around governance arrangements, quite a lot of powers have been devolved to or passed by the Assembly, so it is about right—notwithstanding the exceptions that some of the political groups believe should be included in it.

[11] **Jenny Randerson:** My question relates to the exclusions. In evidence to the committee, the Minister for Social Justice and Local Government said:

[12] ‘I do not think that there is a real consensus on whether the voting system should be changed...it would add complexity rather than simplify the system if there were different voting systems for different local elections’.

[13] So, in other words, there is no consensus. He believes that it would be too complex to change the voting system and that there is ‘no pressing pragmatic reason’ to include that. What is your view as an association?

[14] **Mr Hurford:** As an association, as I have mentioned, there are very few matters on which members tend to disagree, but electoral arrangements are probably a main one because there are strong views on that. Some members would express or have expressed a desire to see the responsibility for electoral arrangements devolved and they clearly support proportional representation; others, possibly the majority, regard the status quo as appropriate on the grounds that there is clear accountability between those who elect and those who have been elected and the concerns around different electoral systems being used for different tiers of government. As an officer, it is difficult to convey the range of political views one way or the other but I am sure that you can all around this table appreciate that there are differing views. Unfortunately, this is one of the few occasions on which the WLGA cannot give a really consistent view.

[15] **Jenny Randerson:** To press you a little on that, have you ever done any work on whether it would be feasible to do that?

[16] **Mr Hurford:** We have not explored it in great detail. I believe that some work was done early in the first Assembly, with the Sunderland commission’s review of local electoral arrangements. However, no extensive work has been undertaken since. Given that it is an issue that has not really emerged until now and that there are strong differences of opinion within the WLGA, it is not one that has been debated at great length. That is not to say that, if it became higher on the agenda, there would not be further work around looking at the pros and cons of different systems.

[17] **Jenny Randerson:** I will now move on to the fact that this will provide the Assembly Government with competence to legislate to confer on local government institutions for communities the powers to promote or improve the economic, social or environmental wellbeing of an area. I believe that your paper states that you support that in principle. Could you provide us with some further information about the importance of that?

[18] **Mr Hurford:** Absolutely. The power of wellbeing, as it is generally known, is a principle that already applies to principal authorities in Wales. It is currently an important legislative recognition of the role of principal authorities; therefore, if this proposed LCO goes through and a Measure follows, it will place community and town councils on an equal footing. It is an important demonstration from the Assembly and Assembly Government of the fundamental role of local government institutions for communities as well as principal councils. On how far it will further empower and enable them in reality, it is largely a matter for community and town councils to decide how they exercise those powers. As I think we have noted in the evidence, it follows the Local Government (Wales) Measure 2009, which was passed in the summer and that makes community and town councils statutory partners in

the community planning process in Wales. It would allow them and give them the powers to play a full role in that partnership, rather than just sitting around the table developing and agreeing policy. They will be articulating and engaging with communities, but will also have the power to be responsible for delivering more of the community strategy aims and ambitions.

[19] **Jenny Randerson:** Moving on to Ministers' powers to give grants directly to community councils, in your response, you expressed concern about that, related to the limited resources for front-line services. You say that community and town councils already have the power to set precepts and receive some funding from the principal authorities that services have been delegated from. You then refer to the problem of double taxation and the need to mitigate that. To clarify your position, can you explain whether, as an association, you oppose the Assembly acquiring the legislative competence in principle, or is it just in the current circumstances?

1.10 p.m.

[20] **Mr Hurford:** There was some debate on this at the WLGA council in September. There is a feeling that, as outlined in the evidence, there are practicalities to consider. As a result, in principle, it would further complicate the funding mechanisms in Wales for local services. It is partly the principle and partly the practicalities; one follows the other.

[21] **Jenny Randerson:** Can you explain double taxation?

[22] **Mr Hurford:** Double taxation occurs where, in an authority area, there is a community and town council and, in another part of the principal authority area, there is no community and town council. This concept was highlighted in the Aberystwyth study of 2003, with which I am sure that you are familiar. Essentially, it relates to where a precept is raised for services in areas that are served by a community and town council, but, in the other parts of the principal authority, only council tax is raised. So, theoretically, citizens in those areas could be taxed via council tax and via the precept for the same services. There may be arguments that the service that is provided in the community and town council area may be further enhanced and that there may be additional investment, but the issue is one of a lack of clarity and accountability and the risk of duplicating the draw on the taxpayer.

[23] **Brynle Williams:** The Minister told the committee that the Welsh Government did not:

[24] 'have a wide range of proposals to directly fund community and town councils if this LCO goes through'.

[25] What comments do you have on that?

[26] **Mr Hurford:** As you can see from the written evidence, there were concerns, in the current financial climate, about limited resources being available and the issue of double taxation and where that is mitigated through local negotiation between town and community councils and local authorities on what services are provided and how they are funded—whether it is through precept or delegated funding from the principal authority. A central grant from the Welsh Assembly Government could circumvent local negotiations, discussions and understandings and, therefore, further cloud the funding arrangements for local services. We are not specifically aware of what sorts of services the central grant might provide for. We are aware that the Assembly Government has talked about covering by-election expenses and so on, but we are not aware of what breadth of services it intends to cover.

[27] **Brynle Williams:** You touched on the possibility of grants to cover by-elections and

you have already covered what the WLGA means by double taxation, so I will leave it at that.

[28] **Val Lloyd:** Before I ask you to come in, Gareth, I need to go back to Jenny Randerson's last question to the WLGA, because I am not certain of the answer. In relation to matter 12.11, can you clarify whether you oppose the Assembly acquiring legislative competence to make grants to community councils? I am not certain what your answer was.

[29] **Mr Hurford:** The WLGA opposes that.

[30] **Val Lloyd:** Thank you for clarifying that, and thank you for your forbearance, Gareth.

[31] **Gareth Jones:** Mae'r cwestiwn hwn yn deillio o fater 12.12 ac yn cyfeirio at y berthynas rhwng y gwahanol haenau o lywodraeth leol—cymuned a sir ac ati. Yr ydych wedi dweud yn eich papur eich bod fwy neu lai'n gefnogol mewn egwyddor i hyn, ond yr ydych hefyd yn cyfeirio at '*powers of last resort*'. A allwch ymhelaethu ar yr hyn yr ydych yn ei olygu wrth bwerau pan fetha popeth arall, sef '*powers of last resort*', yn y cyd-destun hwn? Beth yn union yr ydych yn ei olygu?

Gareth Jones: This question emanates from matter 12.12 and refers to the relationship between the various tiers of local government—community and county and so on. In your paper, you stated that you are more or less supportive in principle to this, but you also refer to 'powers of last resort'. Can you expand on what you mean by the phrase 'powers of last resort' in this context? What exactly do you mean by it?

[32] **Ms Titcombe:** We were saying that this is a power that should be implemented only if collaboration is not happening naturally and if there has been some kind of breakdown in relationships, so that what should be happening is not for some reason. However, in general, we think that collaboration is happening, and that charters are seen as being useful in formalising this.

[33] **Mr Hurford:** You will be aware of the charter that deals with relations. A power to direct positive relations would not work, because relationships and partnerships are built on personal relationships, so it is important that best practice and the development of relationships is a natural, organic process. If you force people into a room to discuss things, you will not necessarily get a healthy relationship. That is why we think that the power should be used as a last resort. For instance, if relationships have broken down, the Minister could convene meetings of parties, and so on.

[34] **Gareth Jones:** Mae mater 12.13 yn sôn am effeithiolrwydd cynghorau cymunedol yn bennaf. Yn ôl yr hyn yr wyf yn ei ddeall, yr ydych yn cefnogi'r pŵer newydd a fyddai'n gwella'r effeithiolrwydd hwn. Yr ydym hefyd wedi cyfeirio yn y papurau at gynllun cynghorau plwyf a thref o safon yn Lloegr, ac er nad oes sail statudol iddo, mae'n parhau i fod yn weithredol ac yn bwysig. A ydych yn ystyried y byddai angen Mesur i gyflwyno cynllun o'r fath yng Nghymru, ynteu a fyddai cyflwyno canllawiau yn ddigonol?

Gareth Jones: Matter 12.13 talks mainly about the effectiveness of community councils. From what I understand, you support this new power that would improve that effectiveness. We also refer in the papers to the quality parish and town council scheme in England, and although it is not statutory, it remains operational and important. Do you consider that a Measure would be required to introduce such a scheme in Wales, or would the introduction of guidelines be sufficient?

[35] **Mr Hurford:** Again, it is a similar matter to the development of charters and relationships between town and community councils and principal authorities. It would

probably be done best, initially, through voluntary arrangement, best practice and learning from what is happening in England, where, as you said, it is a voluntary arrangement and not statutory. The development of accreditation or charter status around the quality of democracy, local engagement, the qualifications of clerks and so on, would be best done voluntarily initially. However, legislation could be used if the Assembly Government wanted to set out specific criteria around levels of efficiency, effectiveness and good corporate governance around the delegation of services, for example. I presume that that is where the Assembly Government would wish to have legislative competence, so that it could set a clear benchmark if groupings of town and community councils wanted to deliver a specific range of services or collect a certain amount of money. I presume that that is why the Assembly Government wants that power, but in terms of improving practice and standards, it is probably best done on a voluntary basis first of all.

[36] **Gareth Jones:** Would you have faith that that was being acted upon voluntarily, given that that is the status quo?

[37] **Mr Hurford:** Absolutely. It is the status quo, but I do not think that there is currently a concerted effort in Wales with national guidance and support with funding, training and development, and so on. It has been a fairly slow process in England, but it is a gradual process in terms of forcing people to undertake training. A certain level of democratic accountability is required in the quality parish and town council scheme—two-thirds of members must be elected. We cannot force that on a community and town council, because it will take time through the electoral process. There will have to be a gradual progression towards any accredited status.

[38] **Gareth Jones:** You make a very important point, so is it your belief that a better system of support would lead to an improvement in competence, and so on, which is not there currently?

[39] **Mr Hurford:** There is a level of support—One Voice Wales works very hard to support community and town councils, and it provides training. We have worked with colleagues from One Voice Wales to share some of our training methodologies, resources, induction materials and so on. However, in terms of the accreditation scheme where there are specified standards that community and town councils should aspire to in the steps that they take, I do not believe that extensive work has been undertaken, as has been done in England.

1.20 p.m.

[40] **Jeff Cuthbert:** I have a brief supplementary question on that, if I may. Who is best placed to take forward the issue of drawing up standards for community councillors and, indeed, carrying out the assessments?

[41] **Mr Hurford:** That is a good question. Generally, the Assembly or the Assembly Government can set out certain levels of expectations, certainly if there is a service or financial requirement attached to them. However, in terms of the practicalities and realism about what can be achieved, and in what time period, it is up to the local authorities, or, in this case, the community and town councils, to decide themselves. As elected representatives for their areas, they can decide what is most appropriate for their own community. You will be aware that one of the WLGA's mantras is that one size does not fit all in Wales, across the 22 authorities; it is particularly the case with community and town councils, where there are 735—some large, influential and powerful, delivering services, and others much smaller, with ambitions to be representatives of the community, but not necessarily wanting to take on many service-related functions. To impose a common standard without any sort of local negotiation or flexibility would not work, so although the national drive and the support has to come from the Assembly, the Assembly Government, us and One Voice Wales, ultimately

there has to be clear engagement and ownership at a local level as well.

[42] **Jeff Cuthbert:** Matter 12.14 relates to competence in respect of public participation in local government for communities, and matter 12.15 relates to the provision of information on local government for the public. On both these matters, you have commented that, while there may be an additional administrative burden, and therefore financial implications for local authorities, the rationale around supporting local democracy and engagement is supported. Which provisions in the proposed Order imply that an additional administrative burden will fall on local authorities? What is the justification for your statement?

[43] **Mr Hurford:** Perhaps we stray slightly into policy implications there. In principle, the rationale for supporting local democracy is obviously fine, and local government and the WLGA would endorse that, but it depends how a resultant Measure would specify duties on authorities—whether they would be duties, or just powers. As you are aware, in terms of promoting public participation and producing information, authorities already engage with citizens—through the citizen jury, citizen panels, websites, regular newsletters and community meetings. However, if there were additional duties on authorities as a result of this, there may be additional administrative costs as well. So we are speculating, slightly, about what the implications may be.

[44] **Jeff Cuthbert:** Matter 12.16 provides competence over salaries, allowances, pensions and other payments to members of county and county borough councils, national park authorities, community councils and fire and rescue authorities. Ministers already have the powers in relation to councillors' allowances, so is this further competence appropriate here? If so, why?

[45] **Mr Hurford:** As you said, the Assembly Government essentially has power over many of these areas already. We are of the understanding that some of the recommendations from the independent remuneration panel, particularly around powers for the panel to prescribe allowances rather than setting a maximum, require a legislative competence. That is why we would support this. I know that you have taken evidence from the chair of the independent remuneration panel, and again, on the recommendations that it brought forward, while there is broad support across local authorities and among members for many of them, there are some differences of opinion around the issue of prescription for salary levels. However, generally, the majority of members in authorities felt quite strongly that the levels of salary that front-line members through to leaders receive should be prescribed. So, our understanding is that this area of legislative competence would give the potential for the panel to set those levels.

[46] **Jeff Cuthbert:** Definitions and interpretations are always good to get your teeth into. We use the term 'local government for communities' rather than 'community councils', which is used in the Local Government Act 1972, as amended by the Local Government (Wales) Act 1994. I do not think that this is just a question of semantics. Do you think that the definitions are right or confusing?

[47] **Mr Hurford:** That is an interesting question. I am about to move house in Cardiff, to an area that has a local government institution for communities, so I am looking forward to the first elections to that body, which will be held soon. We have not received any clarification from the Assembly Government as to why that terminology has been used. It is not necessarily consistent, as you have outlined, with previous legislation. 'Community and town councils' is the commonly accepted term. However, I presume that it is a broader concept that would allow the legislation to cover community meetings and possibly groupings of community and town councils. You will be aware that One Voice Wales and the Assembly Government, through guidance, has been encouraging community and town councils to group together to undertake certain activities, and it could well mean that that new legal definition

could encapsulate a broader range of groupings of community and town councils.

[48] **Val Lloyd:** We have more or less covered everything that we wished to ask Mr Hurford and Ms Titcombe. Are there any other points that you would like to make that we have not covered in our questions?

[49] **Mr Hurford:** No. I think that our written evidence covers everything else. I would like reiterate that the WLGA would be keen to work with the Assembly and Assembly Government in taking these issues forward, should the LCO go through, and in developing further policies and Measures in relation to local democracy and local government.

[50] **Val Lloyd:** I thank you both for your contribution. You will receive a draft transcript of the proceedings, which will be sent to you by the clerks, for any correction before it is finalised and published.

[51] Members, we are a little ahead of time. The next witness has arrived, but it will take a little time for him to get down here. We have tried to move it, but the coffee is not available until 1.45 p.m., so perhaps you would like to bring it into the meeting so that we can carry on, as we have finished early. Is that acceptable? I see that it is. We will therefore take a short break.

*Gohiriwyd y cyfarfod rhwng 1.28 p.m. a 1.38 p.m.
The meeting adjourned between 1.28 p.m. and 1.38 p.m.*

[52] **Val Lloyd:** Good afternoon, everyone, and welcome to the second part of this meeting of Legislation Committee No. 2. I welcome our next witness, Mr Simon White, from One Voice Wales. Are you ready for us to start asking questions?

[53] **Mr White:** I believe so.

[54] **Val Lloyd:** I will ask the first question, and then Members will proceed. Can you confirm for the record whether One Voice Wales agrees with the general principle that legislative competence in this area be conferred on the Assembly? If you do agree, could you tell us why?

[55] **Mr White:** We very much do, particularly because some of the Measures that might then flow from the approval of the proposed LCO have been awaited by the sector for some time—going back to the 2003 Aberystwyth study. There have been attempts since the publication of that study, and the agreement of its recommendations in 2004, to implement some of those recommendations that required primary legislation. However, that has not been possible, largely because of prioritisation issues related to getting a slot in the Westminster timetable. So, we very much feel that it is appropriate for the National Assembly for Wales to have competence over these matters. It is also of benefit to community and town councils, because if the legislation is made in Wales, it will be far easier for community councils, and for us as a representative body, to engage in the legislative process, and, hopefully, to have a result that is the best fit for Wales.

[56] **Gareth Jones:** Diolch am yr ateb hwnnw. Mae fy nghwestiwn yn ymwneud â chwmpas y Gorchymyn arfaethedig a'i elfennau cyffredinol. I ryw raddau, gallaf gyflysu fy ail gwestiwn â'r cwestiwn hwn. Hoffwn glywed—ac yr wyf yn siŵr y byddai fy nghyd-Aelodau hefyd eisiau clywed—eich syniadau ar gwmpas y Gorchymyn

Gareth Jones: Thank you for that answer. My question relates to the scope of the proposed Order and its general elements. I can, to some extent, include my second question in this one. I would like to hear—and I am sure that my fellow Members would also like to hear—your ideas on the scope of the proposed Order. Following on from that,

arfaethedig. Fel dilyniant i hynny, a oes are there any matters outside the proposed unrhyw faterion y tu allan i'r Gorchymyn Order that you would like to see included arfaethedig yr hoffech weld yn cael eu within it? cynnwys?

1.40 p.m.

[57] **Mr White:** The scope of the proposed Order is about right. As I said, it reflects some of the priorities that are coming from the Aberystwyth study, but not exclusively. One of the other important proposals that would flow from the proposed LCO is to allow the power of wellbeing to be extended to the sector. That was not a recommendation from the Aberystwyth study, but it is something we believe was proposed in Wales before it was proposed in England. So, we support its inclusion.

[58] No areas have surfaced with us as we have been discussing it in the sector and with our national executive committee, and, indeed, looking at the written evidence that has been put forward to the committee as well. There are no particular gaps that we would want to see added to what has currently been included.

[59] **Val Lloyd:** Would you like to ask question 4, or do you feel that it has been covered?

[60] **Gareth Jones:** Mae mater 12.8 yn ymwneud â rhoi rheolaeth i'r Cynulliad dros y cyfansoddiad, y strwythur a sut y mae cynghorau cymuned yn gweithio ac yn cynnal eu cyfarfodydd. Gan eich bod yn sôn am y mater hwn yn eich papur, a wnewch chi egluro paham y mae'n addas i'r Cynulliad gael cymhwysedd dros faterion sy'n ymwneud â'r Comisiwn Ffiniau Llywodraeth Leol i Gymru a chyfethol aelodau a chynrychiolwyr pobl ifanc?

Gareth Jones: Matter 12.8 relates to giving control to the Assembly over the constitution, the structure and the way in which community councils work and conduct their meetings. As you mention this matter in your paper, will you explain why you think it is appropriate for the Assembly to have competence over matters relating to the Local Government Boundary Commission for Wales and co-opting members and young people's representatives?

[61] **Mr White:** In principle, our view is one of subsidiarity in terms of the Assembly having competence over issues to do with the constitution, structure and procedures of local government institutions for communities. With regard to the specifics relating to the Local Government Boundary Commission for Wales and to co-option arrangements, again, my understanding is that for the local government boundary commission to get involved in carrying out a review of community council boundaries within a unitary authority area, the unitary authority effectively has to ask the Minister and the Minister has to ask the boundary commission to carry out that work. That seems to be a rather cumbersome way of proceeding when, in a large number of cases, it is probably a sensible way to proceed. So, giving the Assembly the competence over those arrangements makes sense.

[62] **Jeff Cuthbert:** Matter 12.9 would give the Assembly competence over a number of electoral arrangements for community councils. However, within the explanatory memorandum, it is clear that there are a number of exclusions. Two of them, namely the local government franchise and the electoral register administration, are reserved matters, but we have the issue of the voting system. When the Minister was asked to comment on the exclusion, he said that he did not think that there was a real consensus on whether the voting system should be changed. Does your organisation have views on that? If you believe that it should—and I think that you do—can you explain why it would be better addressed in a separate LCO?

[63] **Mr White:** I suppose that the root of our position is that it is an issue that has never

been raised within the sector—or, at least, not in the time that I have been involved, which is three years, nor before that when I was a town councillor. During the process of consultation on the proposed LCO, once again, it has not been raised with us as something that ought to be included. So, we do not see a strong demand coming from community and town councils for it to be included within the scope of this proposed LCO.

[64] The reason for seeing it as a separate LCO is that it could clearly have quite a broad impact across local government. If it were to be included, it should be taken in terms of looking at the local government franchise, as well as electoral registration and administration arrangements. So, the exclusions, taken together, are of sufficient scope for an LCO on their own. That would allow all of the issues to be debated across the board. However, the bottom line for us is that this is not an issue that has come forward from our members as one on which they particularly want to see change.

[65] **Jeff Cuthbert:** So, you see no evidence of a burning need for change?

[66] **Mr White:** Not from our membership, no.

[67] **Val Lloyd:** Jeff, before you continue, Jenny Randerson would like to come in on this.

[68] **Jenny Randerson:** I am interested in why you think that a separate LCO is needed. Given the problems we have here getting any LCO through Parliament, parties here generally welcome getting the maximum amount of power possible through any one LCO. Setting aside the issue of whether there is a call for this, why do you think it should be in a separate LCO?

[69] **Mr White:** I suppose that that goes back to the issue of the likelihood of getting agreement at this stage. As I said, although it has not been an issue in the sector, I am aware that comments have been made on this in other submissions to the committee, and, indeed, that there have been discussions on this in the committee itself. I feel that there is very broad agreement on what is being put forward in the proposed LCO as it stands, and, to be pragmatic about it, I suppose, we have waited five years since the Aberystwyth study was published to see progress on many of these recommendations. I would not want to see that further delayed or not going ahead because matters were brought within the scope of the proposed LCO that could mean it falling by the wayside for one reason or another.

[70] **Gareth Jones:** I want to pursue that point. I am looking at Joaneest on this. I listened to what Jenny said about a separate LCO, and, although I know that there are legal limitations, I wonder whether this proposed LCO could be worded in such a way that it might accommodate some change in future that might incorporate those elements that are currently totally excluded. As Jenny has quite rightly pointed out, going through any aspect of this again will be demanding. Can it not be worded subtly so that, if this becomes a necessity in relation to improving local government, we can accommodate that?

[71] **Ms Jackson:** I do not think that there would be much scope for including exclusions A and B, because they are referred to in the Local Government Act 2000 as matters that would be excluded even in the event of the Assembly's having the power to pass Acts, that is, if Part 4 of the Government of Wales Act 2006 were brought into force. The voting system is not in the same category. I could not try to draft on the hoof, but I am sure that some consideration could be given to rewording the proposed matter to include exclusion C if the committee felt that it was something it wanted to recommend in due course.

[72] **Gareth Jones:** Thank you for that. I think that it was a point worth raising. As Jenny pointed out, there is cross-party consensus on acquiring powers, if they will eventually make life better for us, and, if the scope is there, we should make use of it.

[73] **Jeff Cuthbert:** Matter 12.10 would provide the Assembly with the competence to legislate to confer powers on community councils to

[74] 'promote or improve the economic, social or environmental well-being of an area'.

1.50 p.m.

[75] Your organisation stated that

[76] 'in detailed terms, the power of wellbeing will facilitate the role of community councils in collaborating to produce and deliver community strategies, now a statutory function under the new Local Government Measure.'

[77] Could you explain what you mean by that? Linked to that is my next question on sustainable development. It was said by Mr Watkin, who is a member of the Councillor Commissioner Expert Panel Wales, that it was a shame that sustainable development had not been embedded in the proposed LCO. Do you also have any views on that?

[78] **Mr White:** The power of wellbeing is as important for the overall message that it sends to community and town councils as for the detailed improvements in relation to how it can respond in support of its community. It is an enabling power that will serve to raise the aspirations of community and town councils because any message that conveys to such an organisation that it can do anything to improve the social, economic or environmental wellbeing of its area—obviously subject to reasonableness and so on—is a powerful message for the sector. In detailed terms, I am aware of examples of things that principal authorities can do at the moment, which community and town councils cannot.

[79] I came across a practical example of that recently in relation to support for a post office in a local community in Carmarthenshire. The community council wanted to make a contribution to the running of the post office to help support it in the community and the county council was putting in around £5,000. The county council was providing that support using the power of wellbeing. We had to advise the council that we felt that it was questionable whether section 137, which is its only alternative under existing powers to support that activity, would be legal, because section 137 bars a council from supporting an individual. Of course, in supporting a sub-postmaster, it could certainly be deemed that the support was going to an individual in the community. So, that is a practical example of how the power of wellbeing could open up the ability of community and town councils to respond. As it has been portrayed in England, it should, hopefully, become a power of first resort. The experience of the power of wellbeing within the principal authority arrangements is that it probably has not necessarily been used as much as it could be used in some cases. So, that will allow certain practical improvements to how councils operate.

[80] On the community strategy process, now that community councils have the statutory duty to collaborate on the production of community strategies, under the recently approved Local Government (Wales) Measure 2009, any actions resulting from such strategies could be implemented in a more straightforward way by resorting to the power of wellbeing as opposed to having to look across a range of existing powers and chop up one activity into several different discrete activities in order to ensure that it is eligible under different headings. So, it is supported because of the overall message that it sends, but it also allows for practical improvements.

[81] On including sustainable development explicitly, I had another look at the Local Government Act 2000, which only mentions 'sustainable' once, I think, and yet that is the basis on which the community strategies are being prepared. The guidance that is currently being drafted, which will apply to community strategies, emphasises the need to take account

of the Assembly's overall commitment to sustainable development and for sustainable development principles to be adhered to in the development of the community strategy. That is also reinforced in the recently approved Local Government (Wales) Measure 2009. So, I think that the sustainable development angle is appropriately covered. If there were a move to strengthen sustainable development across local government as a whole, perhaps that needs to be looked at in a separate light. Clearly, there are other legal requirements placed on councils at the moment in any case, to do with such things as biodiversity and sustainable development. So, I do not see a particular need to include it, because it is already catered for in existing legislation and in the guidance pertaining to that legislation.

[82] **Jeff Cuthbert:** I will group the next three questions together, as they relate to financial support. Matter 12.11 would provide the Assembly with competence for the Welsh Ministers to make grants to community councils. If I have understood your written submissions properly, you seem to be broadly in support, and you think that it makes sense to have the powers to do that—not that it would necessarily lead to fundamental changes, but the powers would be appropriate. Indeed, the Minister said, by way of qualification, that if the proposed LCO goes through, it would not mean necessarily that they would have a wide range of powers to directly fund community councils, but opportunities could arise, and they might well be able to take advantage of them. The WLGA, however, tends to argue, if I interpret it correctly, that funding arrangements are best agreed locally, and it even referred to the possibility of reducing 'double taxation'—it used that expression. It felt that an additional central grant direct from the Assembly Government could cloud clarity.

[83] So, on the face of it, there are two different points of view. Can I have your comments on that? Does your organisation believe that it would be a good thing for Welsh Ministers to have the powers to make grants and provide support? Furthermore, I was going to mention the Minister's view that they did not go for a wide range of powers, but I alluded to that earlier.

[84] On the specific issue of providing grants for by-elections, do you think that that would be useful? What is your organisation's view?

[85] **Mr White:** Yes, we think that the general power to make grants should be vested in the Assembly Government. As I said in our response, I do not think that there is an expectation that there would be any huge change to the funding arrangements for community and town councils, and I do not think that community and town councils themselves are looking for such a change. It is always nice to have more money, of course, but there is a strong tie between the precept paid by the community and the council's accountability for that precept. The sector is unique in that sense in being virtually 100 per cent funded through the direct local precept.

[86] However, there are issues, and the issue of by-elections is a strong case in point in that a community council, especially one of the smaller ones, can find itself with a by-election, or maybe even a couple of them within a few years, and that could leave it facing a bill of up to £3,500. That is not unheard of. For a council that does not expect that to take place, or for a smaller council that does not have that sort of budget, that sort of impact can be a disincentive to the local democracy process.

[87] **Jeff Cuthbert:** On that very point, in effect, we want to see healthy elections in which people compete for seats, but the cost of that is, as you say, a disincentive, and the move would be to co-opt somebody because that is cheaper.

[88] **Mr White:** Yes. I am aware, anecdotally, of candidates who have withdrawn candidacy papers on finding out how much it would cost the community council if it were to go ahead with an election. It cannot be a good thing for local democracy that people are

willing to put their names forward, but, because of the cost locally, they then withdraw. That is a strong example of a case in which a direct grant from the Assembly Government would help to facilitate local democracy.

2.00 p.m.

[89] There may be other examples, but we do not expect this to place a huge additional drain on resources; it is about allowing certain things to happen that should happen in any case. There may be instances where you want to see a particular development, which could be something in relation to sustainable development, such as looking to encourage community and town councils to develop a sustainable development plan for their communities. That might merit some additional grant support to encourage the council to move in that direction.

[90] I do not think that an issue of double taxation will come out of this, because any such grant would be constrained to a particular activity. Therefore, it would be quite easy to delineate what was being funded through the grants and what might be happening elsewhere. Double taxation is an issue in the funding relationships between principal authorities and community and town councils. However, it is one of these instances of where there is a will, there is a way, and if the two parties come together with a positive approach to look at the delegation of services, any double taxation issue that arises can be addressed through discussion and debate.

[91] **Brynle Williams:** Moving on to matter 12.12, can you explain further why you believe legislative competence under this matter would provide an important reserve power?

[92] **Mr White:** We are very happy with the approach that is being taken at the moment to encourage charter working to improve relationships on a voluntary basis. It is far more effective if you have people coming to a meeting and both sides want to achieve the same thing as a result. However, while the progress to date has been good in some areas, it is still a bit patchy—we wish to see more progress in some authorities than has been the case, but that is not yet a reason to think about pushing for the mandatory power. We think that there is more time to run to allow the charter working process to embed itself, bearing in mind that the guidance has only been out for a year or so and that these things take time to develop. However, if we were to find three, four or five years down the road that 90 per cent of unitary authorities had put in place a charter that was seen to be working effectively, and there were one or two authorities where it was not happening, the reserve power for the Assembly Government to require that type of discussion to take place towards producing a charter would be important. It is important because, hopefully by having it, we will never get there, and that is why I see it as a reserve power. It is an indication of the importance placed by the Assembly on having good working relationships between the two tiers of Government, and that importance would hopefully encourage the collaboration to take place.

[93] **Brynle Williams:** So, you are happy with a period of three, four or five years, before looking at it. Thank you for that.

[94] **Gareth Jones:** On that point, we heard from the representative of the WLGA that more could be done to enhance the voluntary approach in terms of induction and other forms of training. Is there a deficit in that area?

[95] **Mr White:** In terms of training and capacity building within community councils in general, there is scope to do more. We are already making good progress, but there is scope to do more. In terms of the specific issue under matter 12.12 about charter working, it is about bringing the two sides together in an appropriate forum. It may not happen in the first meeting, because if there is a history of the two tiers not collaborating particularly well—I will not name any areas—the first two or three meetings might be a bit fraught because there

will probably be quite a bit of pent-up frustration from one side or the other. You must go through a process of allowing a group or partnership dynamic to develop. It takes a while to happen, and through our area committees, which meet across Wales, we always encourage principal authority officers, cabinet members and so on to come to speak to community councils. Through that, we are starting to identify the potential to develop more charters than are currently in place.

[96] **Gareth Jones:** Out of interest, what are your views on individuals who might be community councillors and county councillors, given that that sometimes leads to a clash of interests? Do you have any views on that?

[97] **Mr White:** It comes down to personal relationships and histories in particular councils. We all know that people know one another well in individual communities, and other things might come in and crowd issues sometimes. I was at a meeting yesterday, and some of our members said that they felt that there were great benefits to having dual-hatted members sitting on a community council, because they could give an input about what was happening at the county council level. Equally, I know of other councils where that has been a source of tension. Therefore, the issue is to address the underlying reasons for those tensions, rather than looking to change the law in that regard.

[98] **Gareth Jones:** As a follow-up, would the proposed LCO allow or prevent that from happening? Would it have the powers to stop individuals from being both community councillors and county councillors?

[99] **Val Lloyd:** Joanest, would you like to come back to us on that later? I see that you would. Do you mind if Joanest is given time to consider that, Gareth? I see that you do not. Thank you.

[100] **Brynle Williams:** The quality parish and town council scheme in England is not statutory. Do you consider that a proposed Measure would be required in the future to introduce such a scheme in Wales, or would guidance be sufficient?

[101] **Mr White:** It is similar to the charter working arrangements that we have just been discussing under matter 12.12. We would want to see any such scheme developed on a voluntary basis in the first instance. The quality parish scheme in England is a voluntary scheme. Again, I know that some councils out there are keen to see such a scheme coming into place, and others are a bit more reticent because they do not quite know what responsibilities it would place upon them. So, it is always better to start off on a voluntary basis and then, with experience, you might seek to make it mandatory. However, the key point here is that the power to make it mandatory should sit in Wales and not in Westminster. That is the reason why it is appropriate for it to be included here.

[102] **Brynle Williams:** Finally, do you consider that legislative competence is appropriate in respect of matter 12.15 and, if so, why?

[103] **Mr White:** Matter 12.15 relates to the provision of information on local government to citizens, which is an essential part of the democratic process. The vast majority of councils work well as far as that is concerned by making minutes available and so on. If we are looking to do more in those terms, the principle is that the decision should be taken in Wales, not Westminster. That is the underlying reason for having it in the LCO. When we discussed any Measure that came forward relating to this, we would want to ensure that any requirements would be proportionate. You might expect a larger town council to undertake a different set of activities to provide information to its local citizens than a small rural council might. It is about recognising that implementation would need to be proportionate.

2.10 p.m.

[104] **Jenny Randerson:** Matter 12.16 deals with competence over issues relating to the salaries, allowances, pensions, and so on, of county borough councils, national park authorities, community councils and fire and rescue authorities, whereas Welsh Ministers currently have powers only in relation to councillors' allowances under the Local Government Act 1989, which was updated in 2000. Is it appropriate for Welsh Ministers to have legislative competence in respect of this matter?

[105] **Mr White:** Yes, because it complements the other legislation that has been referred to. As far as community and town councils are concerned, there are differing views out there. Some councillors would welcome some sort of recognition, certainly as regards allowances for the care of children and elders. These types of issues are of concern to some councils. There was more of a mixed view on the payment of a basic allowance. A lot of community and town councillors see the fact that they work on an entirely voluntary basis as an important part of their reasoning for being involved with the sector in the first place. If, having gained the competence, such a Measure was to come forward, we would certainly want the power to provide an allowance to be a voluntary matter for each council, rather than mandatory.

[106] **Jenny Randerson:** Matter 12.17 relates to promoting and supporting membership of local government institutions for community and principal councils. Is it appropriate to devolve that legislative competence?

[107] **Mr White:** Yes. I was on the Councillors' Commission expert panel representing the sector, and that work convinced me that there is a need for more support for councillors. There was a particular concern about the level of support for backbench county borough councillors, and the emphasis of any legislation under this matter might well be on support for such councillors. I suppose that the complete absence of any support for community and town councillors at the moment would mean quite a change in how the sector operates, if we were suddenly to provide additional support of the kind that is provided to county councillors. So, it is absolutely right that the competence is transferred, and we would look forward to any discussion as to how it would apply to the sector in due course.

[108] **Jenny Randerson:** In your paper, you say that the term 'local government institutions for communities' refers to community meetings as defined by the Local Government Act 1972, as well as community and town councils. This was an issue that we got our heads around a couple of weeks ago. You then go on to say how useful community meetings are, that they are more common in England than in Wales, and that they are essential to fulfil the Aberystwyth study recommendation regarding the encouragement of the establishment of community councils where they do not already exist. What is your view on the use of the term 'local government for communities' rather than 'community councils', which is the phrase used in the 1972 and 1994 Acts?

[109] **Mr White:** I have come to the conclusion that we have to accept this term, 'local government institutions for communities', because it embraces the community meetings, and if we were solely to refer to 'community councils', there would be a type of community meeting that would fall outside the scope of the LCO. If you wish to establish a community or town council, the way to do so is to start with a community meeting. So, that is the tie-in with the Aberystwyth recommendations. If we are to make it easier to establish councils, as is the stated intent, and more difficult to dissolve them, you have to include the scope of the community meeting in the proposed LCO.

[110] In putting together our submission, I reflected on how many terms we have for local government in Wales. It is immensely confusing. We talk about unitary, principal and local authorities, community councils, county borough councils, county councils and so on, and, at

some point, it would be useful to have some sort of tidying-up exercise because it is quite hard for citizens to relate to this. Having said that, bearing in mind what we are doing here, I think that it is appropriate that the terminology makes sense given what we are seeking to achieve.

[111] **Jenny Randerson:** I have some sympathy for what you just said. Forgive me for my ignorance, as I represent Cardiff Central where there are no community councils, but is the term ‘community meeting’ used in statute to refer to a statutorily convened community meeting? I start from the point of view of being quite confused by the terminology used here, and I think that the public might be, too. I am searching for what alternative the Government could possibly have used.

[112] **Mr White:** Community meetings are referred to in the 1972 Act. We have a different situation in Wales compared with that in England. In England, a parish is required to hold an annual meeting, which is separate from the annual meeting of the council. In Wales, a community council is required to hold an annual meeting of its members, but it is not required to hold a meeting for the wider community. So, there are differences. The term ‘community meeting’ is probably fine as regards citizens understanding what that might mean. It probably makes sense. The term ‘local government institutions for communities’ used in the proposed LCO would not ever feature on a meeting notice for a community meeting. I am happy with it provided that it is seen in the sense that we are just using it to recognise the fact that the 1972 Act goes broader than community and town councils.

[113] **Val Lloyd:** Joaneest, are you in a position to comment now, or would you prefer to provide us with a written note after the meeting?

[114] **Ms Jackson:** I think that I would prefer to give you a written note, as I would like to check back on the current legislation and see how it interacts with the proposed Order.

[115] **Val Lloyd:** Thank you. Mr White, is there anything that you would like to raise that we have not covered?

[116] **Mr White:** I do not think so. From the discussions in committee meetings that I have observed online and the discussion here today, I feel that we have had ample opportunity to make our comments. I am grateful that this is being taken forward—although I would add, in brackets, ‘at long last’ because of the frustration within the sector. I think that the sector will strongly welcome the passing of the proposed LCO. We look forward to that.

[117] **Val Lloyd:** On behalf of the committee, I thank you very much for coming today. I remind you that you will be sent a transcript of the proceedings, which you can check for accuracy before a final version is published.

[118] Members, it is half-term recess next week, so we will not be meeting. Our next meeting is on Thursday, 5 November, when we will be taking evidence from the North Wales Association of Town and Larger Community Councils and the Minister for Social Justice and Local Government. Thank you all very much. Have a relaxing half-term break.

*Daeth y cyfarfod i ben am 2.19 p.m.
The meeting ended at 2.19 p.m.*