

Pwyllgor Deddfwriaeth Rhif 2

Legislation Committee No. 2

Dydd Iau, 5 Tachwedd 2009
Thursday, 5 November 2009

Cynnwys

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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

| | |
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| 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

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|----------------|---|
| Dorothy Bulled | Cadeirydd, Cymdeithas Cyngorau Trefi a Chymdeithasau Mwyaf Gogledd Cymru Chair, North Wales Association of Larger Town and Community Councils |
| Frank Cuthbert | Llywodraeth Cynulliad Cymru Welsh Assembly Government |

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| Brian Gibbons | Aelod Cynulliad, Llafur (y Gweinidog dros Gyfiawnder Cymdeithasol a Llywodraeth Leol) Assembly Member, Labour (the Minister for Social Justice and Local Government) |
| Stephen Phipps | Llywodraeth Cynulliad Cymru Welsh Assembly Government |
| Deborah Richards | Llywodraeth Cynulliad Cymru Welsh Assembly Government |
| Robert Robinson | Ysgrifennydd, Cymdeithas Cynghorau Trefi a Chymdeithasau Mwyaf Gogledd Cymru Secretary, North Wales Association of Larger Town and Community Councils |

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

| | |
|-----------------|---|
| Sarah Beasley | Clerc Clerk |
| Joanest Jackson | Cynghorydd Cyfreithiol Legal Adviser |
| Sarah Sargent | Dirprwy Glerc Deputy Clerk |

"Dechreuodd y cyfarfod am 1 p.m.
The meeting began at 1 p.m."

Cyflwyniad, Ymddiheuriadau a Dirprwyon
Introduction, Apologies and Substitutions

Val Lloyd: Good afternoon everybody and welcome to this afternoon's meeting of Legislation Committee No. 2. There are no apologies or substitutions. I will start with the usual housekeeping arrangements. In the event of a fire alarm, please take it as being the real McCoy, as we are not expecting any testing. The fire exit is to my left. Please turn off all mobile phones and other gadgets, because they interfere with the broadcasting equipment. The National Assembly for Wales operates through the media of Welsh and English. Headphones are provided for simultaneous translation, for which you need channel 1; otherwise, you can receive amplification through channel 0.

1.01 p.m.

Gorchymyn Cynulliad Cenedlaethol Cymru (Cymhwysedd Deddfwriaethol)
(Llywodraeth Leol) 2009—Sesiwn Dystiolaeth 4
Proposed National Assembly for Wales (Legislative Competence) (Local Government) Order 2009—Evidence Session 4

Val Lloyd: The purpose of this meeting is to take evidence from the North Wales Association of Larger Town and Community Councils and then from the Minister for Social Justice and Local Government. Our first witnesses today represent the North Wales Association of Larger Town and Community Councils, and I ask them to introduce themselves.

Mr Robinson: My name is Robert Andrew Robinson, and I am the secretary of the association.

Ms Bulled: Dorothy Bulled yw fy enw i, a fi yw cadeirydd y gymdeithas.

Ms Bulled: My name is Dorothy Bulled, and I am the chair of the association.

Val Lloyd: You are both very welcome. Are you prepared for questions? I see that you are. I will ask the first question. Does your association agree with the general principles that competence in this area be conferred on the Assembly and, if so, why?

Mr Robinson: Certainly, madam. Yes, we support the general principles. We represent 30 of the larger town councils in north Wales, which serve a population of around 300,000 people. We are very keen on the approach that you have taken. There are one or two issues, but they will come out in the answers to the questions that I am sure will follow on the particular sections. The big underlying thing that we see as an advantage is that there could well be less red tape and more of an ability to achieve things. The one thing that really causes community and town councils a problem is the amount of gobbledegook, the technical detail, that comes through to what are lay people. If we can cut down on that by removing a layer of Government interference, that is marvellous.

Jenny Randerson: You referred to having some points of detail that you wanted to take up. With that in mind, what are your views on the scope of the proposed Order?

Mr Robinson: Again, we are very much in favour of almost all of it—in fact, all bar one issue that was put on the list on matter 12.18. We have support for all of those in one form or another. As far as the scope is concerned, we see it as a real step forward. In Wales, and particularly in mid and north Wales, we have such vast expanses of area with little population, that the more localised we can make a lot of the delivery of services, the better it is. One size really does not fit all, particularly in Wales. You could go to almost any town in the south of England and you would find that the problems are the same as in the next town. In Wales, the problems between towns can be like chalk and cheese even though the towns are just 10 miles apart. So, we see this as a tremendous step forward.

Jenny Randerson: Are there any matters that are outside the scope of the proposed Order that you would have liked to have seen included?

Mr Robinson: There are only two. I do not know whether you wish to take them now, madam Chair, as we mentioned them in our evidence.

Val Lloyd: Yes, if you think that it is applicable.

Mr Robinson: One was a reference to representation. I will explain what I mean by that. At the moment, communities talk to their town and community councillors without any difficulty, but when they go above that level, to a county councillor, nine times out of 10 they are told, 'I am sorry, I cannot speak to you because I am on this committee' or 'I cannot speak to you because I have this interest'. Our worry is that, if town councils take on more responsibility, we may be shackled by the same problem, which we do not want because it stops communication with the people on the ground.

The second point relates to the consultation process and the value put on town and community councils and their responses. At the moment, principal authorities will often consult with the town councils, but town councils feel, rightly or wrongly, that they are just being ignored or ridden over. Town councils, as they are elected bodies, should be a material consideration in consultations, not just another part of them. That does not mean that the county council, or whatever the principal body happens to be, has to take our view, but it ought to have very good reasons why it does not do so. At the moment, quite often we feel that it is just ignored. Those are the two things that I would like to see within the scope of the proposed Order.

Sandy Mewies: I am from north Wales and work closely with my town council, which is Flint Town Council, of which I think you are well aware.

Mr Robinson: Indeed.

Sandy Mewies: I noticed the concern that you raised in the report that you sent to us, namely that, for some reason, county councils are shackled. You also suggest that Assembly Members are shackled in some way by not being able to comment on issues. Could you expand on that? I am quite sure that many Assembly Members, like me, have a surgery every week, where people ask whatever they like. Were you thinking about planning issues? There is planning guidance, under which, if you are the local Member, you have to be aware before you make a declaration of the implications of that. I was a county councillor for a long time, and I am not clear as to the point that you are making.

Mr Robinson: I will give you a classic example, which applies to the Assembly and to Westminster. At the moment, particularly in mid Wales, there is a concern about the transportation of windfarms, and the fact that that is being dealt with by different bodies and that there is no joined-up thinking. One windfarm company told me last week, 'I do not know what you are worrying about; there are dual carriageways'. If they can find the dual carriageway in mid Wales, I would like to see it, because I have not seen it so far. We had a petition, which was due to be delivered to Ed Miliband at Westminster and Jane Davidson in the Assembly. Neither would see us. That is what we mean by the shackles of representation. All we wanted to do was to present the petition and say, 'This is what it is all about,' and then it would be up to her to make a decision from there. However, you do not get that far. The same happens with county councillors, certainly in Powys, and I know that it happens in other areas. You go to talk to your county councillors, but they say, 'Unfortunately I cannot talk to you about that, because that subject is on the agenda of the committee that I am serving on, and I am not allowed to talk to you'. I do not know whether that is right or wrong, or whether they are hiding behind something, but that does happen on the ground.

Sandy Mewies: Our Chair is the Chair of the Petitions Committee. Are you talking about an officer, rather than an Assembly Member?

Mr Robinson: No, we are talking about Jane Davidson.

Sandy Mewies: I see. We have a Petitions Committee at the Assembly. I bow to the Chair on this, but I sat on it for some time, and it is quite a simple matter to present a petition to the Assembly. I am surprised that you have been blocked in any way.

Mr Robinson: Jane Davidson is an elected representative, and that is who we wanted to see. We did not want to see an officer; we wanted to see an elected representative. That is often where the barrier lies.

1.10 p.m.

Brynle Williams: Like Sandy, I am quite disappointed that you could not approach the Minister about this; perhaps civil servants thought that it should be directed through the Petitions Committee. However, I have never found that to be the case. In all fairness, as an opposition Assembly Member, I have never found that. This is about devolution working and I am a bit disappointed with what I have heard.

Mr Robinson: I am sorry.

Brynle Williams: No, not at all—that is what it is all about.

Val Lloyd: I think that all of our experiences tally with Sandy's. Jenny, did you want to come in on this?

Jenny Randerson: I would like to say to the petitioners, for future reference, to present their petition to the Petitions Committee, where they will be able to speak in an open forum. That committee never sits on a petition: every petition goes somewhere. That is how you get your response. However, I am surprised about this, because I know that Ministers will, generally at least, accept a petition—they may not comment on it at the time, but they normally accept it.

On the substantive issue, some strict rules are in place, following expensive appeals procedures against county councils when planning decisions were found to be outside the regulations. There are strict rules that county councillors, who, for example, sit on planning committees, must adhere to by demonstrating that they have gone into those committees with an open mind. That is why those rules are in place. Are you saying that if you had additional powers, such rules would not be appropriate? The rules came about because some fairly scandalous decisions were made by councils in the distant past, when people had clearly made up their minds before they had seen any evidence. I am sure that we would all agree that that was not appropriate.

Mr Robinson: I fully understand that. Having been in the property industry for most of my life, I have come across that quite a lot. The point is that the town and community councils are the first level of representation; if we had that sort of problem at that level, people would have difficulty talking to a representative. For example, in Taunton, they have delegated the smaller applications to the town council as a trial. If being on the planning committee meant that we ended up not being able to talk to our constituents, it would be better for the process to remain as a consultation and for the principal authority to deal with it. Otherwise, councillors would be shackled so that people could not talk to their councillor on the ground, and we consider that to be an important part of representation.

Val Lloyd: Very much so. Jeff, did you want to come in on this?

Jeff Cuthbert: It struck me that, if the petition that you tried to submit to the Minister involved a planning application in some way, she would not be able to receive it, because she could be the court of appeal. Therefore, she could not have any involvement with that. That may be the explanation for this.

Mr Robinson: It was not about a planning application.

Jenny Randerson: I will move on to a fresh topic. On matter 12.8 and filling spaces on the council, you say in your evidence that:

'there are sometimes exceptional circumstances when an election would not be advisable'.

You go on to say that:

'there should be some form of regulation where this can be covered with approval from the Returning Officer'.

I am interested in what kind of exceptional circumstances you have in mind when an election is not advisable. I am used to the concept of there being no option, for example, when you do not hold an election because you cannot find the candidates.

Mr Robinson: I will give you an example that was given by one of our members at our last meeting, when we discussed this fully with them. They had an election in which 14 people stood in order to occupy 12 places. So, 12 people were duly elected according to the normal process. Two weeks after the appointments were made and after the councillors had been sworn in, one of them decided to step down. So, they were left, two weeks after an election had taken place, facing the possibility of another election, costing another £1,000 or £1,500. They said, 'Why can't we take the thirteenth person, the next one on the list?', because the election was so close. There is an argument against that, because the person who came thirteenth might have received 10 votes, whereas the twelfth person received 800, and that would not be representative. I understand that there are grey areas, but there might be odd times when an election would not be appropriate, because that situation had occurred. That was the viewpoint that was expressed there.

Gareth Jones: Yr wyf am gyfeirio at fater 12.9 ar gymhwysedd y Cynulliad dros faterion sy'n ymwneud â threfniadau etholiadol. Fel y gwyddoch, mae rhai o'r rhain wedi eu heithrio, felly ni chawn gyffwrdd â nhw, ond mae cyfeiriad yma at y system bleidleisio, sydd heb ei heithrio. Fel cymdeithas, yr ydych wedi cyfeirio at hyn a dweud bod gennych bryderon ynghylch unrhyw syniad o newid yn y system bleidleisio bresennol. Ewch ymlaen i ddweud y pleidleisir dros bobl ac nid pleidiau ar lefel tref a chymuned, sydd yn bwynt dilys, ac nad ydych am weld gwleidyddiaeth ar y lefel hon. A allwch egluro a yw'r gymdeithas yn cefnogi'r bwriad y dylai'r Cynulliad gael y cymhwysedd deddfwriaethol arfaethedig ar fater 12.9 ac a ydych yn fodlon gyda'r eithriadau a restrir o dan y mater?

Gareth Jones: I wish to refer to matter 12.9 on the Assembly's competence on issues related to electoral arrangements. As you know, some of these are exempt, so we cannot touch them, but reference is made to the voting system, which is not exempt. As an association, you have referred to this and stated that you have concerns about any suggestion of changing the current voting system. You go on to say that, at the community and town level, votes are cast for people, rather than parties, which is a valid point, and that you do not want to see politics at this level. Can you explain whether the association supports the intention for the Assembly to gain legislative competence in matter 12.9 and whether you are content with the exceptions that are listed under the matter?

Mr Robinson: The answer is that we support the proposal and we are happy with what the Welsh Assembly Government is planning to take over. As far as the election of people to community councils is concerned, anything other than a straight first-past-the-post system would move away from electing individuals to represent communities. That is where we are coming from. We do not want to end up with any proportional type of representation. We are happy with the way things stand at the moment.

Gareth Jones: Mae hwnnw'n bwynt clir ac yr ydym yn gwerthfawrogi eich bod wedi ei gyfleu inni fel hynny. A bwrw ymlaen ar yr un thema, beth yw barn y gymdeithas ar awgrym Un Llais Cymru y byddai'n well ystyried y mater o system bleidleisio mewn Gorchymyn cymhwysedd deddfwriaethol ar wahân?

Gareth Jones: You have made that point clearly, and we appreciate that you put it in that way. To continue on the same theme, what is the association's opinion regarding One Voice Wales's suggestion that it would be better to address the issue of the voting system in a separate legislative competence Order?

Mr Robinson: I do not think that we disagree with that. That is a fair comment. It would certainly give more clarity.

Gareth Jones: Mae gennyf un cwestiwn arall, sy'n symud ymlaen i fater 12.10, sy'n ymwneud â lles ardal—materion fel yr amgylchedd, materion cymdeithasol ac economaidd. A fydddech yn fodlon ymhelaethu ychydig ar hwn fel cymdeithas a sôn am bwysigrwydd cymhwysedd deddfwriaethol ar y mater hwn i roi'r pŵer dros les ardal i gynghorau tref a chymuned? Beth yw eich barn ar drosglwyddo'r cyfrifoldeb hwnnw am les?

Gareth Jones: I have one further question, which moves on to matter 12.10 with regard to the wellbeing of an area—issues such as the environment, social and economic issues. Can you expand a little on this as an association and discuss the importance of legislative competence on this matter to devolve the power over the wellbeing of an area to town and community councils? What is your opinion on transferring that responsibility for wellbeing?

Mr Robinson: I see it as being an advantage. As far as the power over wellbeing is concerned, it gives a much wider remit for the council to move towards. However, a big issue that comes out of this is that a lot of community and town councils are very small and the amount that they can take on is probably small. To take, for example, my area of Welshpool, it might be that because Welshpool has a bigger council, it should, for some items—with particular reference to wellbeing—spread its wings out to help and work with the surrounding smaller councils to deliver a service economically and on the right level.

1.20 p.m.

Gareth Jones: I am sure that Dorothy from Bangor shares my opinion, as I represent a ward in Llandudno. I feel that there is great scope here to develop the wellbeing. I do not know whether Dorothy would like to say anything.

Ms Bulled: Yes; I really do believe that. Wellbeing is something on which we really must concentrate. As you say, there are little areas around us.

Mae yna leoedd o'n hamgylch, o Fethesda, Llandygái, Tal-y-bont i Fangor a Phentir. Nid lleoedd mawr mohonynt ond mae angen inni edrych ar eu holau ychydig yn well nag a wneir ar hyn o bryd.

There are areas surrounding us, from Bethesda, Llandygái, Tal-y-bont to Bangor, and Pentir. They are not large areas but we need to look after them a little better than we do at present.

Val Lloyd: Thank you. That was very clear. I now call on Sandy Mewies

Sandy Mewies: Matter 12.11 would provide the Assembly with competence for the Welsh Ministers to make grants to community councils. The Welsh Local Government Association has given evidence and expressed its concern about the transfer of this proposed matter in the current financial climate, given that there are limited resources for front-line services. It is also concerned that some funding arrangements would be best agreed locally due to the double taxation issue that can arise so that it can be mitigated. It is also concerned that there would be a clouding of transparency in who was funding what. We have all heard the phrase 'funding fog' and it thinks that that fog might get thicker. Its concerns are that it is splitting a cake into smaller pieces, that it could result in double taxation in some areas, and that the funding fog would increase. What is your view about having the competence at the Assembly for matter 12.11, and what do you think about the views of the Welsh Local Government Association?

Mr Robinson: On funding and the point about the 'double taxation', many of the councils, particularly in mid and part of north Wales, are finding services that they do not want to lose being cut. I cite tourism, in particular, where, in mid Wales, it has been decided that all tourism information offices should be removed because they are too expensive. In Welshpool, we have taken it on ourselves and although there is some double taxation it was necessary to have that in place. Although we recognise that, that situation can happen. If there is funding directly from the Welsh Assembly Government for some of these things, through Visit Wales for example, that would aid us channelling that into the service directly, rather than it going into a more general pot.

Best value for money also creeps in here. If you are passing money down from the Welsh Assembly Government to a county and then to a town, it gets reduced in sum from the moment that it leaves the Welsh Assembly Government to the time that it arrives at the town council due to various administrative costs that are deducted on the way down. If it comes directly to the town council, you have cut out that loss and gain a little from it.

A few issues were raised by our members, one of which was the effect of the Welsh language scheme on the much smaller councils because, gradually, the Welsh language schemes are coming in at the three different levels. It could be the case that a council, which has a precept of only £15,000 or £20,000 perhaps, would suddenly discover that it has to find another £1,000 or £1,500, which is a tremendously small amount of money for the Assembly, but would be quite expensive for that council. Also, there is the difficulty on the way down the line of gaining expertise to spend the money that comes directly to community councils. With the best will in the world, you can have Superman as the town clerk but he cannot be everything to everyone. Therefore, you need the ability to resource the expertise to advise councils and it may be the case that by funding them directly from the Welsh Assembly Government we might lose some of that. Similarly, if you decided to fund tourism, for example, directly through town councils, the county councils might not see any point in having a tourism officer and we will have lost that level of expertise. I hope that I have explained myself. That is just the worry that we have on that front.

Sandy Mewies: Yes, you did. That was very clear. It has also been suggested that the Welsh Government could provide grants for by-elections to be held by the community council. Do you have a view on that?

Mr Robinson: That would be a good thing, particularly alongside the proposals regarding the co-option situation that we have just discussed. For many town and community councils, to suddenly have to find £3,000 or £4,000 during the term because two or three councillors happen to have stepped down would be a big issue. For the bigger town councils, it is perhaps not such a big issue, but yes, I think that grants would be a very good thing, and would encourage democracy. They would encourage councils to hold by-elections rather than keeping quiet to save money.

Sandy Mewies: My final question is on the co-operative arrangements that have been talked about regarding relationship building and charters for unitary authorities—the 'Shared Communities' paper. You have talked about Denbigh and Welshpool, and you obviously have personal knowledge of that situation, so how does it work, and to what extent is Assembly legislation needed if action is already taking place on a voluntary basis? How extensive is this partnership working?

Mr Robinson: It is working for Welshpool; perhaps I should take a few seconds to explain how that came about. I arrived as the town clerk there three years ago. I came from private industry, so I have a different approach to the way that things are done. We went and saw the chief executive of the county council and said that, as a policy, we would like to take on all the local work that directly relates to our community—if something is only related to Welshpool, then we would like to take it on. The chief executive said that that was all very well, but if we did that, then another 121 community councils could knock on his door and ask for the same thing, and they may not be capable of taking it on. I therefore asked, if we got ourselves up to the equivalent of quality council level in England as it stands at the moment, whether the chief executive would accept that as the benchmark for demonstrating that we are committed and confident in taking things on? He said 'yes', so in six months we got to that level and demonstrated that, and from then on, we had a charter between us that said that we could list the responsibilities that we wanted to take on, and then discuss them, and come to an agreement. Gradually, those responsibilities have come over to us. We have taken six over so far, and we have another nine to go. They vary from the management of a CCTV system right the way through to managing car parks, the tourism service—which I have already touched upon—and minor roads, which is next on the list. Those were issues that we were very willing to talk about once we had demonstrated our confidence in being able to take them over.

Another issue that arose, and which is relevant, was the possibility that the town clerk and other key staff at the time of transfer might move on. What happens then? How are these things managed thereafter? We then had to demonstrate how that would work, and in fact, Welshpool operates a full committee system within its council, meeting every Wednesday night and feeding into full council, and so on. We used that to demonstrate how we would cope with the loss of individual members of staff.

What has resulted from that in Montgomeryshire is that the smaller community councils have seen what has happened and have said that they want to be part of it. We have therefore had community councils knock on our door and ask whether they can join us. We then formed a Welshpool forum for all the smaller councils around us to deal with common issues. That got around the county as well, and now we are at the stage where, on 17 November, there will be a meeting of all the Montgomeryshire community councils to form a forum similar to that held in Gloucestershire, where I believe they have a charter between the community and the county councils, meeting four times a year and holding a conference on matters of policy that affect them all. We are leading on putting that together at the moment.

Gareth Jones: That is interesting. I believe that you said earlier that direct grants would possibly entail a certain level of expertise, which might not be in place at the moment, and certain councils would find that difficult to accommodate. Looking at the areas that you have taken ownership of, it seems to me that you are also investing in human resources to cater for this change, and other councils might find that difficult. When you talk about the charters, and so on, are you also talking about shared resources? For example, an officer could handle this work for more than one council, or it could be tied in with what the county council might offer. Is that a particularly challenging area? I think that is the way to go, but what are the challenges?

1.30 p.m.

Mr Robinson: There are several issues there. First, most town councils have between 12 and 20 councillors. Taking my council as an example, one is an accountant, one is an expert in trusts, one is a builder, and one has been a planning officer. We have all of that expertise around the table, and we have harnessed and used that. So, that helps tremendously from the advice point of view. We are also—dare I say it—lucky to a certain extent, in that 'chartered surveyor' happens to be quite a broad qualification that takes in a great deal of what we are talking about.

More importantly, beyond that, the officers at the county council have responded brilliantly and offered their advice to us. Part of the charter is that they will offer advice to us to help us, but, more importantly, part of it is that, when they send a consultation out, we will respond to it. I am sure that the Welsh Assembly Government finds the same thing: you send out 1,000 consultation papers, and, if you are lucky, you will get 100 back. It is a two-way process. We believe that, if the county councils, the Welsh Assembly Government and the senior authorities are giving us more help or responsibility, we need to demonstrate a commitment to supporting them at the same time. It is not one-way traffic.

Gareth Jones: This proposed LCO is about enhancing that communication and those relationships, of course.

Mr Robinson: Absolutely.

Val Lloyd: Councillor Bulled, I believe that you want to come in on this point.

Ms Bulled: I just wish to say that Bangor is trying to go down the same route. I was at a meeting of town and community councils, invited by Gwynedd Council, and we were asking that, if there is something that it needs to do in Bangor, it comes to talk to us first. We do not want to receive a set of plans; we want to talk to Gwynedd Council and say what we want first. That is what we are trying to do. We would like to take over the car parks, for example, because it would give us additional income. Those are the sorts of things that we are interested in as well.

Jeff Cuthbert: It is very interesting to hear about the situation in Welshpool and, indeed, in Bangor. However, how typical would that position be of your member councils? Are you speaking anecdotally about your direct experience, or do you feel that what you are saying would be the aspiration across the board?

Mr Robinson: It is certainly the aspiration of most of the larger councils that we represent in north Wales. Llandudno already takes on quite a lot of responsibility. Denbigh Town Council has already followed a similar system by establishing a charter with Denbighshire County Council, just as Welshpool has. So, there is certainly evidence that they want to do more, but, equally, there is evidence that some smaller councils are concerned that they would not be able to cope with more. So, it comes back to the fact that one size does not fit all. Some councils may feel that they cannot go down this route, and some will feel that they want to. How you square the circle so that you do not end up with a fragmented system is a difficult issue to approach.

Sandy Mewies: As you said earlier, you have a well qualified council, but what happens if someone retires? I would not have thought that you could demand all of that expertise from the clerk. Perhaps you can; I do not know. I was a community councillor, and we had a very expert clerk, but it tends to be a part-time job with limited pay. So, how do you maintain that level of expertise? You cannot go into a community council election seeking people with specific qualifications, so how would you keep that going?

Mr Robinson: I think that it would depend on what skills you have around the table as to what direction the council will go in. It needs to be community council-led. Welshpool, not unlike some of the bigger councils, has full-time staff. I have 25 members of staff for everything that we do. Taking me as an example, as a chartered surveyor, I do not claim to know everything about property, but I know where to go to find the answers. Therefore, when you are asked a question—or you are asked whether we can take over roads, for example—it is the clerk's job to research that and put it into words that people can understand. Take the papers that you issued for today's meeting as an example. They were very helpful, but I did a précis for my council so that people did not have to wade through loads of paper. That is not a criticism; that is my job. My job is to ensure that councillors understand what they are talking about. If I do not have that expertise, I have to go out and find it. In many instances, particularly in Welshpool—I use the example of Welshpool because I happen to be sitting here—we do not use the county council for architectural and engineering services. We will go outside to private contractors, because we only then pay for what we need for that job and because if something goes wrong, we have some recourse.

Brynle Williams: The quality of parish and town council scheme in England is not statutory. Is a Measure required to introduce such a scheme in Wales, or would guidance be sufficient?

Mr Robinson: The system that we have in the rest of the UK is superb. I support it fully. I gained the certificate in local council administration in England and I am the first to be qualified in the Welsh version too. I got that on 7 October this year. So, that is part of it and it demonstrates a level of quality. It also gives very clear guidelines to councils on the sorts of things that they need to do to become a quality council and, as I mentioned earlier on, it is a very good benchmark for community councils to demonstrate to a principal authority their ability to take over, because you have to have some level of understanding of whether or not a community council is able to take something over. That is a very good benchmark for whether a council has made the effort and commitment to become a quality council. So, we would support the system fully.

Brynle Williams: Is legislative competence appropriate in respect of these matters and, if so, why? This appertains to matter 12.15.

Mr Robinson: On accountability?

Brynle Williams: Yes.

Mr Robinson: Without a doubt there should be more accountability. Within the quality council system, one of the things on the list is communication with your electorate, and in particular things such as newsletters, websites and so on. It is absolutely imperative, because the one thing that I have seen change, not only in Welshpool but in other areas, is with regard to where there is little accountability in the way of communication. Complaints come in, not because there is an issue of complaint, but because people do not understand what is happening. By letting your electorate know what is going on for better or for worse—tell them the bad news as well as the good news—the electorate is far more satisfied with the system as it operates. So, from an accountability point of view, it is about communication with your electorate on the ground.

Brynle Williams: I agree with you entirely. Where were we?

Val Lloyd: We are on matter 12.16.

Brynle Williams: Do you consider that a legislative competence Order is appropriate in respect of matter 12.16 and, if so, why?

Mr Robinson: We raised this subject with our members at the meeting, and they had no comment to make. They had no strong feelings one way or the other on this matter.

Brynle Williams: None at all?

Mr Robinson: None at all. Sorry about that. ["Laughter."]

Brynle Williams: That simplifies the matter.

Val Lloyd: You can only tell it as it is.

Mr Robinson: I am trying to represent the views of the association rather than the views that I might personally have.

Ms Bulled: I think that a lot of people would like to see the National Assembly or an independent body sorting this out and not talking to us about it. Small town councillors are not paid and therefore, we do not feel that we should be telling anybody else what they should have, to be honest with you.

Val Lloyd: Thank you; that has extended the answer.

Jeff Cuthbert: My two questions will really get the blood racing; they are on definitions and interpretations. What are your views on the use of the term 'local government for communities' rather than 'community councils', which is used in the Local Government Act 1972, as amended in 1994. Is the term 'local government for communities' better than 'community councils' or not? Might it lead to confusion?

Mr Robinson: The view that was expressed to me by the members of our association was that the more that we change things, the more confusion is caused. People have got used to the name 'town council' or 'community council'. If we change it again, that will cause more confusion than leaving it alone.

1.40 p.m.

Jeff Cuthbert: In your written evidence you say that, in the terms of reference, town and community council consultations should be treated as 'material considerations'. Could you explain further what you mean by 'material considerations' in this regard?

Mr Robinson: Community councils are consulted by principal authorities on a whole range of things. They are a consultee with regard to planning in particular, and they have 21 days in which to reply. They reply, but nine times out of 10 they do not hear anything else, until they suddenly find that the council's decision goes against their views—and the views that they hold might be quite strong. In Berkshire in England, for example, the planning officer, if there is an objection by the community or town council, will call it to see whether that objection can be resolved before moving on. To me, that is a material objection being taken notice of. With regard to consultations, community councils are almost on the same level as a residents' association, which is unelected, or a pressure group down the road. We believe that, as community councils are made up of elected representatives, their views should carry more weight. A material consideration would be if the community council makes an observation to the county council about a particular matter. That should be taken seriously, and the county council should be saying, 'That is what we should be doing unless we have reasons for not doing it'. There may well be such reasons, and we fully understand that, but we believe that the benchmark for community council consultation should be moved up a level from that of general consultation, because community councils are made up of elected members.

Val Lloyd: Jeff, before you come in with your next question—

Jeff Cuthbert: I was going to say that I think that we dealt with the next question earlier.

Val Lloyd: I have two more questions on this: one from Brynle, and then one from Jenny.

Brynle Williams: Cytunaf yn llwyr â'r hyn yr ydych yn ei ddweud, ac yr wyf yn gweld hynny yn fy mhentref fy hun. Mae'r cynghorydd cymuned yn cyflwyno ei syniadau i'r cyngor sir, nid yw'n clywed dim, ac wedyn mae'r cyngor sir yn gwneud penderfyniad sydd yn groes i ddyuniadau'r gymuned. Mae hynny'n digwydd yn rhy aml. Os ydym am ddod â llywodraeth yn nes at y bobl, rhaid i'r cynghorydd sir wrando'n astud iawn ar yr hyn sy'n cael ei ddweud gan y gymuned ei hun, yn enwedig yn y cymunedau lleiaf—yr oeddech yn tynnu sylw at leoedd megis Pentir, ac yn y blaen. Mae hyn yn ofnadwy o bwysig, ac yr wyf yn ddiolchgar eich bod yn trafod y pwyntiau hyn.

Brynle Williams: I agree entirely with what you are saying, and I see it happening in my own village. The community councillor puts ideas forward to the county council, does not hear anything, and then the council makes a decision that goes against the wishes of the community. That happens far too often. If we want to bring government closer to the people, county councils have to listen carefully to what is being said by the community itself, particularly in the smallest communities—you drew attention to places such as Pentir, and so on. This is extremely important, and I am grateful that you are putting these points forward.

Jenny Randerson: You are suggesting that community councils become statutory consultees, and that their views are, by law, taken account of. Do you acknowledge that county councillors who make representations to a planning committee, and especially those who make representations to a licensing committee, are in exactly the same position of not having any additional weight? This is something that I grapple with as a representative of a Cardiff constituency. We do not have community councils in my constituency, to my sadness, although one delight of the proposed Order is that it would be easier to set one up. The point that I am making is that members of the public do not understand that, when they go to a councillor, the councillor is just another person because of the way in which planning is now dealt with, and, in particular, because, as an elected representative, you cannot make an objection to a licensing application unless residents have given you their written permission.

Mr Robinson: One thing that I have found during my life—you have probably gathered that it is in my nature—is that the word 'no' does not form part of my vocabulary. Often, my county council officers are told, 'Perhaps you would like to 'uncan't' it', simply from the point of view that there is a barrier put in the way. Quite often, officers treat councillors with great disrespect. They give you an answer in the hope that you will go away. They try to blind you with science, which is not what they are there for. There is a question regarding better conditions for councillors, but that starts with the officers—town clerks included—having tremendous respect for the people who have been elected and whom they are serving, not running.

Ms Bulled: It is often the case that the county councillors do what the officers tell them and not the other way around. Not only that, but when it comes to planning and licensing, as you rightly said—and I have seen this time and again in my council—we are not allowed as town or city councils to tell them that we object to something, and that needs changing. Last week, of 20 councillors, only six city councillors and six county councillors were in the chamber, and planning issues were being discussed. Only six of us could reply to the debate; what were the other six doing there? I felt that they were wasting their time being there, because they were not allowed to speak or vote. They have to go to the county council meeting, but they would have heard what we said. I do not understand what that is about.

Val Lloyd: We are coming to the end of our session. Do you have any further comments to make on the proposed Order?

Mr Robinson: I have a couple of points to raise. I know that there was a point in matter 12.17 about better conditions for councillors. I will make a point that you might want to consider. The position of town clerk of a community council is a very powerful position. If you want to do something, your council gives approval and you go and do it. If the council gives approval for something and the town clerk does not fancy doing it, he just does not do it, and the council seems to have little recourse to ensure that it is carried out. I lay that on the table as a thought, because one of the common complaints that we get from smaller councils is that the town clerk is obstructive in terms of the council achieving its wishes. So, I put that on the table for all its worth.

Also, as regards better conditions for councillors, the one thing that staff need to do is make councillors feel valued. That is what I have done with my council. I believe that providing tea, coffee and biscuits at their meetings is standard and is important, particularly when they are not paid and giving of their time for nothing.

I have touched upon the material consideration, so that is probably as much as we had to offer on this, other than to say that we are very grateful for the opportunity to talk to you all today and that I hope that our input has been helpful.

Ms Bulled: Diolch yn fawr am roi'r fraint inni o fod yma.
Dyma'r tro cyntaf imi fod i lawr yma. Mae'n adeilad gwych.

Ms Bulled: Thank you for the privilege of being here. This is the first time that I have been down here. It is a wonderful building.

Val Lloyd: We have been delighted to have you. On behalf of the committee, thank you very much for your contribution. A draft transcript of the proceedings will be sent to you so that you can correct it, if you think it necessary. The Petitions Committee was referred to earlier on, and you can find information about that on the Assembly's website or you can ring the helpline and ask to be put through to the committee clerks, should you wish to use it at any time. Thank you again for your contribution. We will now take a short break.

Jeff Cuthbert: That is to have our tea and biscuits. ["Laughter."]

"Gohiriwyd y cyfarfod rhwng 1.49 p.m. a 1.59 p.m."

"The meeting adjourned between 1.49 p.m. and 1.59 p.m."

Val Lloyd: Good afternoon again, everyone and welcome to the resumption of this meeting of Legislation Committee No. 2. I would very much like to welcome Dr Brian Gibbons, the Minister for Social Justice and Local Government and his officials to this afternoon's evidence session. I invite your officials to introduce themselves.

Mr Cuthbert: I am Frank Cuthbert, from the local government policy division of the Welsh Assembly Government.

Ms Richards: I am Deborah Richards, from legal services.

Mr Phipps: I am Stephen Phipps, and I am also from the local government policy division.

2.00 p.m.

Val Lloyd: Thank you. We will go straight to questions unless you want to make an introduction, Minister.

Brian Gibbons: No, I am happy to proceed to questions.

Val Lloyd: I thought that we would be ready to go straight to questions at this stage. In response to a question on whether any other issue should be included in the proposed Measure, Mr Owen Watkin, speaking in a personal capacity said:

'The nature of the proposed LCO is that it clothes the Assembly with the initial step of competency. The next step, when it has gone through Westminster and gets to creating Measures, is something else. I do not know whether the Minister proposes, for example, to have a look at the structure of principal unitary authorities with regard to having an executive split within unitary authorities in the same way as the Assembly has an executive split. If that is not included, and it is a pretty firm recommendation of the expert panel, it is a shame that the Assembly is not clothed with that to debate the issue at Measure stage.'

I read that quotation because it is quite comprehensive. Would you comment on that?

Brian Gibbons: Colleagues might like to clarify the precise detail, but there is effectively a split at the moment because the executive—or the board, if, for example, there are non-executive relations under the fourth option—is defined as being separate from the body of the council. So, in law, the difference between the executive and the rest of the council is already outlined. What is not so well defined is the level of support that is available to backbenchers in local authorities as compared with that for the executives. In most authorities, the perception would be that virtually all of the support goes to the executive and that very little support goes to backbench members. Certainly, this proposed LCO would allow us to institute legislation to require more support to be given to backbench members if that were felt to be appropriate.

Jeff Cuthbert: On matter 12.9, particularly relating to the exclusion of the local government franchise, electoral registration and administration and the voting system for the return of members in an election, Simon White of One Voice Wales said that the issues of local government franchise and the voting system would,

'probably be best addressed in a separate LCO.'

Owen Watkin made a similar point. What is your view on that? Would you contemplate bringing forward a separate proposed Order, drawing down the legislative competence needed, as suggested and supported by Mr White and Mr Watkin?

Brian Gibbons: It would not be appropriate to include those matters in this proposed LCO because it is relatively non-controversial; it is about delivering a range of long-standing commitments to local government, going back many years. There is a broad-based consensus on the content of this proposed LCO.

Some of these issues, for example on electoral arrangements, would be much more controversial, and, after looking at the consultation responses, there was no groundswell of support to include electoral arrangements in this proposed LCO. So, I would agree with the thesis that if we want to change the electoral arrangements, it should be done outside the scope of this proposed LCO and be brought forward as a separate proposed LCO. That case should be made independently of this proposed LCO.

Jenny Randerson: Setting aside the issue of controversy, do you not accept that it would be constitutionally neater to have dealt with everything at the same time rather than having exceptions, as you have here?

Brian Gibbons: It might be constitutionally neater, but we operate within a political framework and we should consider getting done what is possible. I suspect that if some of these issues were included in the proposed LCO—although we are optimistic that it will make good progress—the political judgment involved would result not in this proposed LCO having a fair wind but potentially in its getting bogged down in controversial areas. We have to bear in mind that there is a window of opportunity for us to get through our long-standing commitments to key partners or other organisations before the end of the current Parliament. If we were to put controversial areas in, or others for which there is not consensus, it would be a recipe for delaying this set of commitments that we have entered into, and that would not be well understood by our partners.

Sandy Mewies: Minister, the Welsh Local Government Association has submitted evidence to this committee with regard to matter 12.11. It suggests that double taxation could cause a problem. One concern was that the funding fog would get worse, because of a lack of transparency if grants were to go forward, and another was that this problem of double taxation could arise in certain areas. What are your thoughts on that, particularly the issue of a lack of clarity or accountability?

Brian Gibbons: Double taxation, as it is called, is difficult in every area where there is a community or town council. Certainly, it would come up wherever a proposal emerges to set up a new one. There are ways around that, however. It is a real issue that has to be addressed, and I do not think that it is a straw man that has been put up just to be difficult. There are ways forward, however. Neath Port Talbot County Borough Council has tried to address this issue by means of a special grant mechanism in the local authority. Those local authorities that have developed a charter, such as Caerphilly or Torfaen, have tried to address that in their relationship with their town and community councils. Some local authorities have developed service level agreements with community and town councils to address double taxation. They are just two or three solutions, but I am sure that other, more innovative ways that I am not yet aware of could be devised in the future. So, it is a real issue that needs to be addressed, but I do not think that it is a showstopper.

Sandy Mewies: Thank you for that. I think that you commented on the second question that I was going to ask about double taxation. Forgive me, as I was not here to hear the nuances of the WLGA's evidence, but there seem to be some concerns about and a suggestion that, in the difficult economic climate that we are in, the cake will be shared in even smaller pieces. Have you heard anything about that?

Brian Gibbons: I do not think that there is an expectation either on the part of the Welsh Local Government Association or One Voice Wales that this will result in any massive transfer of resources to community and town councils. In fairness to One Voice Wales, it would certainly not advocate the use of this route in the immediate future to divert large sums of money to it at the expense of county borough councils. However, with regard somewhat to Jenny's question, it makes sense to bring this competence forward at this juncture, seeing as we are trying to bring together a package of proposals, not just for the short term but, we hope, for the medium to long term. So, it makes sense to bring this proposal forward, but not in the expectation that it will result in massive transfers of resource in the foreseeable future, and I do not think that anyone is asking for that either.

Jenny Randerson: Relating to matter 12.12, on relations between different community institutions and community and principal councils, Owen Watkin suggested that there was

'a philosophical issue around the point whether encouraging relations and practical collaboration can be achieved through the mechanism of legislation'.

2.10 p.m.

Specifically, he said that there is

'a concern that over the recent past government in general, especially in Westminster, has often been too ready to quickly legislate in too many fields, creating laws that become meaningless because of their inappropriateness. The National Assembly could show its maturity by restraining its legislation to areas which count'.

I would be interested in your observations on the appropriateness of legislating on relations between local institutions, and on the dangers of over-legislating.

Brian Gibbons: That, too, is a fairly knowledgeable comment. There is a lot of wisdom in that statement. When I gave evidence at an earlier stage, I indicated that, by and large, collaboration really has to be done voluntarily. Legislation-based or enforced collaboration is never the first route that we want to go down, but, when we are trying to draw down a suite of powers, it strikes me as sensible to have the capacity to give direction should the need arise. So, I think that this issue is very much in the context of having a reserve power or the like should the occasion require, but it would not be a part of the mainstream means of promoting collaboration between community and town councils, or between those councils and the lead authority.

Jenny Randerson: On the same issue, Simon White of One Voice Wales said that they were reasonably happy with the encouragement of the charter working that has been going on and with the voluntary improvement in relationships, but that there are areas in which a lot of progress still needs to be made. He said that this was not yet a reason to think about 'pushing for the mandatory power'. He said that he saw any Measure resulting from matter 12.12 as only a reserve power. Do I take it from your previous answer that you agree with that?

Brian Gibbons: Charters are very much about giving relationships a framework. You are right that the best-quality relationships will be those based on mutual respect and a mutual willingness to be involved and work together. So, that would be a last stop or a reserve power, which we would not really use except in unusual or exceptional circumstances.

Gareth Jones: Mae mater 12.13 yn ymwneud â chynlluniau i achredu ansawdd llywodraeth leol. Mae Simon White o Un Llais Cymru wedi dweud o ran hynny ac ynghylch ansawdd cynlluniau'r cynghorau tref a chymuned,

Gareth Jones: Matter 12.13 relates to schemes for the accreditation of quality in local government. Simon White of One Voice Wales has said about that, and with regard to the quality of town and community council schemes that,

'we would want to see any such scheme developed on a voluntary basis in the first instance'.

Mewn perthynas uniongyrchol â mater 12.13, a ydych yn rhagweld symud ymlaen yn gyflym i ddeddfu o dan y mater hwn os caiff y cymhwysedd ei sicrhau?

In relation to matter 12.13 directly, do you foresee rapid progress towards legislation under this matter if the competency is secured?

Brian Gibbons: The limiting factor would be the capacity of an organisation such as One Voice Wales to deliver an accreditation system. One Voice Wales, or some similar body, would probably be the best organisation to do the accrediting, so the speed of progress would depend on the capacity of such organisations to deliver. From their point of view, this would not be on the front burner of their priorities, because they are still very much at the stage of trying to build the capacity of One Voice Wales, increasing the training of clerks to councils and increasing the training given to councillors. Unless that solid infrastructure is in place, going on to accreditation would seem to be putting the cart before the horse. Once a certain level of resilient infrastructure is in place, the next step would be to put in an accreditation system. However, unless clerks are well trained and councillors are better trained, the accreditation system is not likely to prove very much, except that there is a training need. So, the need for the accreditation system will not be on the front burner, but it will probably not be on the back burner either. It will be somewhere in between.

Gareth Jones: To press you slightly on that, in light of the earlier discussions that we had with the association, given the direction that fairly big community or town councils are moving in, it appears as though they are acquiring powers or control over certain services. A tremendous input of extra resources or training would be needed to enable that to happen successfully. Will you be building that into this somehow or other? I totally agree with what you have said, but I can also foresee quite a challenge given the level of expertise that might accrue from all this, and we would not wish to undermine that or to raise expectations, only to say that training is not available.

Brian Gibbons: I think that I sent a letter to the Chair a month or six weeks ago about the training.

Val Lloyd: Yes, and it has been distributed.

Brian Gibbons: We have a training pack, and around 100 packs were requested. A third of the applicants did not seek assistance from us, although we said that we would help to subsidise the purchase of the packs. I presume that the ones that looked for assistance were the smaller councils, because they have less revenue. However, the fact that a third of those that requested a pack did not require any assistance from us suggests that some of the bigger councils are doing it. I cannot remember the exact number of councillors, but some 400 or 500 will go through the training programme in the next 12 to 18 months. So, we are talking about hundreds of councillors—

Val Lloyd: There will be 265 councillors undergoing the training between October and April of next year.

Brian Gibbons: However, I think that One Voice Wales indicated that it expected—

Mr Phipps: Six hundred councillors will undertake the training by next April.

Brian Gibbons: Yes, so it is anticipating that up to 600 councillors will go through the current training programme, and we are financially supporting that training programme and working with One Voice Wales.

Gareth Jones: That is certainly encouraging.

Symudwn ymlaen at faterion 12.14 a 12.15, sy'n ymwneud â sut mae'r cyhoedd yn cyfranogi mewn llywodraeth leol i'n cymunedau, a hefyd â throsglwyddo gwybodaeth am lywodraeth leol i'r cyhoedd. Mae Cymdeithas Llywodraeth Leol Cymru yn cefnogi'r rhain mewn egwyddor. Mae hefyd yn cydnabod y bydd haen ychwanegol o weinyddiaeth yn perthyn iddynt ac y bydd goblygiadau ariannol i awdurdodau lleol, er ei bod yn cefnogi'r rhesymeg. Byddai Aelodau yn hoffi clywed eich barn am bryderon Cymdeithas Llywodraeth Leol Cymru ynghylch y baich gweinyddol ychwanegol a goblygiadau ariannol unrhyw ddeddfwriaeth a wneir o dan faterion 12.14 a 12.15.

Let us move on to matters 12.14 and 12.15, which relate to public participation in local government for our communities and to the provision of information about local government to the public. The Welsh Local Government Association supports these in principle. It also acknowledges that there will be an extra administrative burden attached to it and that there will be financial implications for local authorities, although it supports the rationale. Members would like to hear your opinion about the Welsh Local Government Association's concerns about the additional administrative burden and the financial implications of any legislation made under matters 12.14 and 12.15.

2.20 p.m.

Brian Gibbons: I accept that there are potential costs, but I do not think that there are inevitable costs. Even if there are, they would not necessarily be particularly onerous. Putting up a page on a website on which a local elected member could put up an annual report—nothing would be printed off—but the councillor could have a page on the local authority's website. I do not think that it would be particularly expensive or onerous for the local authority to do that as a minimum. Nearly all local authorities have a communication budget, and many of us receive free newsletters and so on from our local authorities through our letterboxes. The authority could look at that communication budget and say, 'Some of that communication budget may be more effectively used to promote communication by the local elected member'. So, there are ways that this can be addressed without necessarily incurring extra cost. An authority may decide to reprioritise its existing communications budget, but if it decided, 'We want it to be all-singing and all-dancing, and we want to do everything', that would incur a cost, but it is not inevitable by any means.

Gareth Jones: In addition, you can build on what is out there currently. You have invested in letting people know about their rights as far as the council tax and so on are concerned, so there are already means of communication that could be enhanced or developed.

Brian Gibbons: To go back to an earlier question, one thing that One Voice Wales has spent a lot of time doing over the last 12 or 18 months is setting up the One Voice Wales website and making a provision on that website for every community and town council in Wales to have its own dedicated website. A lot of work is being done by One Voice Wales. So, councils could choose to build on that work, rather than building a bespoke website. There are opportunities to increase communication without incurring exorbitant costs.

Jeff Cuthbert: I will move on to definitions and interpretations, which is an exciting section. In his evidence, Owen Watkin suggested that the use of the term 'local government for communities' would need to be tightened up in any resulting Measures. He said:

'When you move to the area of the exercise of legal powers and the expenditure of public money, there has to be a much tighter definition and it has to refer to specific elected authorities'.

Do you have any comments on that view?

Brian Gibbons: Deborah may want to speak on this in more detail, but I would accept that the first time that I saw this definition it almost seemed to be a definition for the sake of a definition, but I was persuaded that, at the moment, there is no definition of what a community or town council is. There is a description of community and town councils in that they exist, but if you ask what that means in terms of definitions, as I understand it, there is no definition of what constitutes a community or town council and the only references are to the community and town councils that already exist. So, there is a need for definition. Whether or not this definition is totally fit for purpose may be a matter for further consideration, but, on reflection, I think that it is a good definition.

We use the phrase 'community' in a colloquial, everyday sense and that is what complicates the situation, because in the context of local government structures, a community has a fairly definite meaning: it is the basic sub unit of which the local authority is made up. So, we are saying that community and town councils are the local government structure for these sub units; in other words, the legally or formally defined community. That is a fairly good definition and it makes the distinction between community and town councils and the unitary authority or county council, but there is no reason why we cannot revisit this in the future and see whether it can be improved upon. This will probably stand the test of time; that is my view, without being dogmatic, and while retaining an open mind. I do not know whether Deborah wants to add anything.

Ms Richards: The Minister is absolutely correct. There are no current definitions and, with the proposed Order, you want to retain the ability to legislate by way of Measure for entities that may also exist in the future, and are not just confined to what is currently in legislation. I think that this term was chosen because, basically, the ordinary meaning of the words convey what the phrase is intended to encompass; that is things like 'constitution', 'members', 'structures', 'procedures', 'powers' and 'services'. You could read those in to that term. However, there is nothing to stop legislators in the future from creating a definition for the purpose of a particular Measure, if they so wanted.

Val Lloyd: Does that answer your question?

Jeff Cuthbert: Yes, thank you. That is fair enough.

Brynle Williams: On other issues, Owen Watkin's paper stated that the wording of the proposed LCO omits any reference to the exercise of powers by community councils in the interest of sustainable development. It also stated that the issues of climate change and sustainable development should inform the exercise of powers at all levels of governmental activity, including community councils. According to his paper, it is not suggested that community councils should be obliged to make individual community strategies, under section 4 of the Local Government Act 2000, but that the emphasis of their activities should be to contribute to sustainable development. The paper suggested that the omission should be rectified. Minister, do you intend to give any further consideration to Owen Watkin's comments in respect of sustainable development?

Brian Gibbons: Deborah may be able to give chapter and verse on this, but I think that the definition of 'wellbeing' originally came from earlier legislation and that it was expressed in terms of social, economic and environmental wellbeing. When we talk about sustainable development we talk about sustainable development in the sense of social, economic and environmental sustainability. The concept of 'wellbeing' is almost symmetrical with what we are trying to achieve in the concept of sustainability. That sort of symmetry between definitions is there, but to further underpin that, if we look at the requirements for community strategies, which are the broad strategies on which community and town councils will be our statutory consultee, this specifically requires sustainability factors to also be taken into account. If we understand what we mean by 'wellbeing', and equally if we look at the requirements for the development of community strategies, we will see that we are fairly well covered in relation to our statutory duties as an Assembly Government towards sustainable development. I do not know whether or not Deborah wishes to add anything.

Ms Richards: I can only confirm that the Minister is referring to section 37 of the Local Government (Wales) Measure 2009, which requires that community planning is a process by which the unitary authority and its community planning partners—community councils—identify objectives that contribute to the achievement of sustainable development. So, there is already statutory responsibility to do that.

Brynle Williams: Simon White expressed support for the terminology in the proposed Order but only given what we are seeking to achieve. He noted that,

'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 us.'

I entirely agree with him. Could we have your comments, Minister, on Mr White's observation?

2.30 p.m.

Brian Gibbons: I suppose that it is about the angle; if you look at an elephant, depending on the angle that you look at it, you may see something slightly different. You mentioned some terms in particular. You are only likely to use the words 'principal authority' if you are speaking about community and town councils. The opportunity to use those words actually helps to add clarity when you are talking about the council, vis-à-vis the town and community council. So, in that sense, there is value added.

It is not particularly relevant with regard to unitary authorities in Wales, because we only have unitary authorities. However, if you were talking to someone in England—where there are districts, shire counties and unitary authorities—to explain that the local government structure in Wales is based on unitary authorities, it provides additional information within that context. I suppose that it is the same when people talk in town centres and in supermarkets and understand what is meant by the local council.

So, I think that the words, even though they are all describing the same thing, have a little bit of additional value, depending on the context in which they are used. If we did not have these words to use in these contexts, we would probably find ourselves in a situation of having to reinvent them.

Gareth Jones: My question relates to sustainable development. I was listening to what Deborah said that what town and community councils can achieve is currently in legislation, but it seems to me that there is a tendency for them—I have quite a few in my constituency—not to take initiatives. There is a feeling that they are not empowered to do it—it may be lack of communication, I do not know. When we refer to sustainable development in its fullest sense, we are talking about local education, the village shop, the post office and so on, and not just about the environment itself. Communities like Capel Curig or Ysbyty Ifan know that they must work hard to be sustainable for the future. Will this proposed LCO bring about significant change for those sorts of communities to take the lead on these issues? At the moment, many of our community councils sit back and wait for things to happen to them, rather than take the initiative on key issues. I feel that there is scope here and I am heartened by this, provided that we can relate it in a way so that people and the councils understand what is available. Do you have any views on that, Minister?

Brian Gibbons: One key reason why we are anxious to make progress on this proposed LCO is because of the message following the Aberystwyth report and the fact that One Voice Wales sees this legislation as giving town and community councils the extra bit of oomph to allow them to move forward. One reason that that has not happened thus far is the lack of skills and confidence. Therefore, because community and town councils will be statutory planning partners in the development of community strategies, they will have a much more meaningful role in deciding what the long-term strategy of their local authority will be. The local authority will not be required to have a chapter in its strategy for every single community, but it is expected that the principal authority would be able to capture the needs of the community and town council in its overall strategic plan. That means that the relationship will be more meaningful and will assist in developing charters and will even allow for some direct funding of community and town councils. All of these things will up the game, but, ultimately, it is up to the community and town council itself to do those things. I do not think that we can legislate in order to force them to do things.

Gareth Jones: However, the opportunity is there for them.

Brian Gibbons: Yes; it is the difference between a duty and a power. We are trying to give them the powers, but it would be inappropriate in a number of instances to give them the duty because it would be setting them up to fail.

Val Lloyd: It is a world of difference. Does the proposed Order provide a power for the Assembly to legislate to prevent county councillors from being town or community councillors at the same time or vice versa? If so, are you considering using this power in future?

Brian Gibbons: I saw that this was raised in some of the evidence, and I have had a chat with officials about it. However, it seemed to be an asymmetrical set of consequences. In other words—if I can remember this correctly, although I am sure I will be rescued if I cannot—under this legislation, a county councillor can be prevented from being a community councillor, but a community councillor cannot be prevented from being a county councillor.

Mr Cuthbert: That is right. I think that the legislation could address qualifications to become a community councillor. So, if county councillors were added to the list of those disqualified from being community councillors, a county councillor could not stand to become a community councillor, but it could not happen the other way round.

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| Brian Gibbons: Yes, because this legislation is not dealing with the qualifications for county councillors. So, it is an asymmetrical set of consequences. |
| Jenny Randerson: Are you thinking of doing that, Minister? |
| Brian Gibbons: No. |
| Jenny Randerson: So, why is it like this? |
| Brian Gibbons: I think that it was only when the evidence was presented that this came out as an issue. |
| Jenny Randerson: I am just worried because we have so much trouble finding people who are prepared to put their names forward for things. One thing leads to another, as you well know. |
| Brian Gibbons: Yes, but there is no policy intention to do that. |
| Val Lloyd: Minister, is there anything else that you would like to comment on? |
| Brian Gibbons: I just wish to say that this proposed LCO is important to really move community and town councillors on in terms of the work that they do, but there are some wider implications for county councillors as well, because part of the proposed Order is to facilitate support for county councillors and the role that they play. I have said previously in evidence to the committee that, until now, we have spent a great deal of time looking at the role of county councillors as corporate scrutineers and looking at the corporate wellbeing of the councils. However, there is a great deal in this proposed legislation that will, I hope, enable county councillors and community and town councillors to better fulfil their roles as local elected members representing their communities. |
| That does not seem to have received as much attention, but that is a pretty important part of this proposed Order, which will give effect to the request of the independent panel on remuneration, which wanted more flexibility with regard to how it could consider remunerating county councillors. So, this has fairly far reaching implications for the future of local government in Wales. However, in the main, it is not controversial. There is a good consensus on all of these issues, and we hope that, in the time available to us between now and the end of the current Parliament, we will be able to get this proposed LCO passed. We can then propose Measures on the basis of legal competence. |
| Val Lloyd: Thank you, Minister. On behalf of the committee, I thank you and your officials for your contribution and your time this afternoon. As usual, you will receive a draft of the transcript before it is published. |
| Brian Gibbons: That is lovely. Thank you. |

2.39 p.m.

Cynnig Trefniadol Procedural Motion

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| Val Lloyd: I move that |
| "the committee resolves to exclude the public from future meetings in accordance with Standing Order No. 10.37(vi)." |
| I see that there are no objections. |

"Derbyniwyd y cynnig.
Motion agreed."

"Daeth rhan gyhoeddus y cyfarfod i ben am 2.39 p.m.
The public part of the meeting ended at 2.39 p.m. "