



Cynulliad Cenedlaethol Cymru
The National Assembly for Wales

Pwyllgor Deddfwriaeth Rhif 3
Legislation Committee No. 3

Dydd Iau, 7 Hydref 2010
Thursday, 7 October 2010

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

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

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

Christine Chapman	Llafur Labour
Veronica German	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
William Graham	Ceidwadwyr Cymreig Welsh Conservatives
Helen Mary Jones	Plaid Cymru The Party of Wales
David Lloyd	Plaid Cymru (Cadeirydd y Pwyllgor) The Party of Wales (Committee Chair)
Joyce Watson	Llafur Labour

Eraill yn bresennol
Others in attendance

Dr Rachel Ashworth	Ysgol Fusnes Caerdydd, Prifysgol Caerdydd Cardiff Business School, Cardiff University
Yr Athro/Professor Michael Woods	Prifysgol Aberystwyth Aberystwyth University

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

Ruth Hatton	Dirprwy Glerc Deputy Clerk
Carys Jones	Clerc Clerk
Bethan Roberts	Cynghorydd Cyfreithiol Legal Adviser
Lisa Salkeld	Cynghorydd Cyfreithiol Legal Adviser
Dr Alys Thomas	Gwasanaeth Ymchwil yr Aelodau Members' Research Service

Dechreuodd y cyfarfod am 1.00 p.m.
The meeting began at 1.00 p.m.

Cyflwyniad, Ymddiheuriadau a Dirprwyon
Introduction, Apologies and Substitutions

[1] **David Lloyd:** Croeso i bawb i gyfarfod diweddaraf Pwyllgor Deddfwriaeth Rhif 3 yn y Cynulliad Cenedlaethol y prynhawn yma. Croeso i fy nghyd-Aelodau a hefyd i'r tystion, a dywedaf fwy amdanynt yn nes ymlaen. Nid ydym wedi derbyn unrhyw ymddiheuriadau ac mae pawb yma.

David Lloyd: I welcome you all to the latest meeting of Legislation Committee No. 3 in the National Assembly this afternoon. I welcome my fellow Members and also the witnesses, and more about them later on. We have received no apologies for absence and everyone is here.

[2] O ran y sylwadau agoriadol, os bydd larwm tân yn seinio, dylai Aelodau adael yr ystafell drwy'r allanfeydd tân penodol a dilyn cyfarwyddiadau'r tywyswyr a'r staff. Dylai pawb ddiffodd eu ffonau symudol, eu galwyr a'u 'mwyar duon', gan eu bod yn amharu ar yr offer darlledu. Bydd pawb yn ymwybodol bellach fod Cynulliad Cenedlaethol Cymru yn gweithredu'n ddwyieithog. Mae clustffonau ar gael i glywed y cyfieithiad ar y pryd, a gellir hefyd addasu lefel y sain arnynt, i bobl sy'n drwm eu clyw. Peidiwch â chyffwrdd â'r botymau ar y meicroffonau oherwydd gall hynny amharu ar y system, a sicrhewch bod golau coch yn disgleirio cyn cychwyn siarad. Mae'r cyfieithiad ar y pryd ar gael ar sianel 1 a'r darllediad gair am air i glywed y sain yn well ar gael ar sianel 0.

By way of opening remarks, in the event of the fire alarm sounding, Member should leave the room through the marked fire exits and follow the instructions of the ushers and staff. Everyone should switch off their mobile phones, pagers and BlackBerrys, as they interfere with the broadcasting equipment. Everyone will now be aware that the National Assembly for Wales operates bilingually. Headsets are provided through which the instantaneous translation may be heard and they may also be used to amplify the audio for anyone who is hard of hearing. Please do not touch the buttons on the microphones, as that can disable the system, and ensure that the red light is lit before speaking. The interpretation is available on channel 1 and the verbatim feed to hear the sound better on channel 0.

Mesur Arfaethedig ynghylch Llywodraeth Leol (Cymru)—Sesiwn Dystiolaeth 2 The Proposed Local Government (Wales) Measure—Evidence Session 2

[3] **David Lloyd:** Trown at eitem 2 y cyfarfod hwn, sef trin a thrafod a chraffu ar y Mesur Arfaethedig ynghylch Llywodraeth Leol (Cymru). Fel y bydd Aelodau'n gwybod, ac atgoffaf bawb arall, swyddogaeth y pwyllgor hwn yw ystyried egwyddorion cyffredinol y Mesur arfaethedig a gyflwynwyd gan y Gweinidog dros Gyfiawnder Cymdeithasol a Llywodraeth Leol, Carl Sargeant, ar 12 Gorffennaf, a chyflwyno adroddiad arnynt. Dyna ein swyddogaeth. Rhaid i'r pwyllgor hwn gwblhau ei waith a chyflwyno adroddiad gerbron y Cynulliad erbyn 17 Rhagfyr, fan bellaf. Felly, mae'r amserlen ychydig yn dynn a'r Mesur arfaethedig ychydig yn faith.

David Lloyd: We will now turn to item 2 of this meeting, namely to discuss and scrutinise the Proposed Local Government (Wales) Measure. As Members will be aware, and I remind everyone else, the role of this committee is to consider and report on the general principles of the proposed Measure, which was introduced by the Minister for Social Justice and Local Government, Carl Sargeant, on 12 July. That is our function. This committee must conclude its work and lay a report before the Assembly by 17 December at the latest. Therefore, our schedule is quite tight and the proposed Measure is quite lengthy.

[4] Hon yw'r ail sesiwn dystiolaeth mewn perthynas â'r Mesur arfaethedig, a daeth yr ymgynghoriad i ben ddydd Gwener, 1 Hydref. Bydd yr ymatebion a ddaeth i law ar gael ar wefan y pwyllgor maes o law. Diben cyfarfod heddiw yw clywed rhagor o dystiolaeth am y Mesur Arfaethedig ynghylch Llywodraeth Leol (Cymru). I'r perwyl hwnnw, yr wyf yn falch o estyn croeso i Dr Rachel Ashworth o Brifysgol Caerdydd a'r Athro Michael Woods o Brifysgol Aberystwyth. Yr ydym wedi derbyn eich papurau ac mae pawb wedi darllen pob gair ohonynt. Y drefn arferol yw ein bod yn mynd yn syth at y cwestiynau.

This is our second evidence session in connection with the proposed Measure, and our consultation closed on Friday, 1 October. The responses that were received will be available on the committee's website in due course. The purpose of today's meeting is to take further oral evidence on the Proposed Local Government (Wales) Measure. Therefore, to that end, I am pleased to extend a welcome to Dr Rachel Ashworth from Cardiff University and Professor Michael Woods from Aberystwyth University. We have received your papers, and everyone has read every word of them. Our usual practice is to go straight to questions. There are a

Mae nifer o gwestiynau—a nifer sylweddol y byddai rhai Aelodau yn dweud—ac mae'r amser yn gyfyngedig, felly gofynnaf am gwestiynau byr a bratiog gan obeithio y bydd yr atebion yn gryno hefyd.

number of questions, some Members would say a substantial number, and we do not have that much time, so I ask for short and snappy questions and hope that the answers will also be concise.

[5] Yn ôl y drefn arferol, a minnau'n Gadeirydd—ac mae gennyf ryw fath o drefn ar bethau—dechreuaf y cwestiynau gyda dau gwestiwn cyffredinol i chi'ch dau. Yn eich papurau, yr ydych yn croesawu'r Mesur arfaethedig. A allwch chi esbonio pam mae angen y ddeddfwriaeth, yn eich tyb chi?

As usual, as Chair—and I do manage to keep some semblance of order—I will start the questioning with two general questions for both of you. In your papers, you welcome the proposed Measure. Can you outline why this legislation is necessary, in your view?

[6] **Dr Ashworth:** I will comment specifically on the proposed Measure's provisions for over-viewing scrutiny, and there is an overwhelming and growing body of evidence to suggest that scrutiny has not been as effective as it might have been, and that, if certain conditions are put in place, they will improve the effectiveness of scrutiny. The proposed Measure goes some way towards meeting those concerns.

[7] **Professor Woods:** The particular sections that I am interested in are in Part 7. That largely puts into effect the recommendations that we made in the Aberystwyth report, presented in 2003. Really, they should be seen as part of that wider process of the changes that have occurred over the past seven years, which include earlier guidance from the Welsh Assembly Government on the charter and relationships between principal authorities and community and town councils, as well as the development of One Voice Wales and other initiatives. What is contained in this proposed Measure relates specifically to areas in which changes could not be made or recommendations not implemented without legislation.

[8] **David Lloyd:** Diolch am yr ateb hwnnw. Yn eich tyb chi, a yw'r Mesur arfaethedig yn mynd yn ddigon pell i gyflawni ei amcanion, neu a oes unrhyw faterion penodol y dylid eu cryfhau? Atebwch ar sail eich meysydd arbenigedd gwahanol, yn amlwg.

David Lloyd: Thank you for that reply. In your view, does the proposed Measure go far enough towards achieving its objectives, or are there any specific elements that should be strengthened? Please answer on the basis of your different areas of expertise, obviously.

[9] **Dr Ashworth:** On the whole, I think that it goes far enough and strikes the right balance between local discretion and general guidance and provision. The area that concerns me, which is not explicitly addressed in the proposed Measure, is support for overview and scrutiny. That is an issue around which a lot of evidence has been built up, that is, the need for the provision of adequate support.

[10] **David Lloyd:** Bydd cwestiynau ychwanegol ar y gwahanol adrannau hynny yn nes ymlaen.

David Lloyd: There will be additional questions on those various sections later on.

[11] **Professor Woods:** Yes, I agree that the provisions relating to Part 7 in particular are broadly in line with the recommendations that we made. Some of them have changed slightly from our recommendations following consultation, as is only proper, but nothing has been omitted that would be a significant area to which I would wish to draw your attention.

[12] **David Lloyd:** Fel y gwyddoch, mae'r Mesur arfaethedig yn un hir a maith, ac os oes unrhyw gwestiynau nad ydych yn

David Lloyd: As you will be aware, the proposed Measure is lengthy, and if you feel that you are not in a position to answer

teimlo mewn sefyllfa i'w hateb, nid oes rhaid
 ichi wneud hynny gan mai craffu sydd yn
 digwydd yn y fan hyn hefyd. Mae'r cwestiwn
 nesaf yng ngofal Joyce Watson.

particular questions, you do not have to do so
 because it is scrutiny that we are also
 undertaking here. Joyce Watson has the next
 question.

[13] **Joyce Watson:** My question is on Part 1, on strengthening local democracy. Part 1 of the proposed Measure will place a duty on local authorities to conduct a survey of councillors and unsuccessful candidates with a view to providing information relating to the diversity of candidates and representatives in local government. What are your views on that provision? Do you think that conducting a survey in this way is the best way of achieving this aim?

[14] **Professor Woods:** We have relatively little accurate and up-to-date information on the profile of councillors on principal council and community and town council level in Wales. That was highlighted in our research and in the research undertaken for the commission on local government electoral arrangements about the same time. The research revealed significant disparities between the profile of councillors and the population profile of Wales. Therefore, there is an issue to be addressed in that regard. Collecting data in this way will help to monitor whether progress is being made in that respect. Including candidates in that data will allow us to identify whether the issue is that people from certain backgrounds are more likely to get elected or whether there is a shortage of candidates from certain groups and communities. So, there is a value to that data. As a note of caution, there will be issues about who responds to such an exercise, particularly candidates. Difficulties may be encountered in respect of that.

[15] Secondly, the big question is what then happens to this data, how will it be analysed and how will it be followed through. In that respect, a more periodic survey of analysis may be a more fruitful way of trying to achieve this aim, rather than this duty being imposed upon authorities.

[16] **Dr Ashworth:** There is also a danger that the survey may not be able to capture some of the data that it would like to. Experience of equality surveys shows that many respondents will not reply about certain equality strands, so we may not get the data around issues such as disability, for instance, that we might expect.

[17] **Veronica German:** You have already mentioned your concerns about scrutiny and that the proposed Measure is not specific about the nature of the support for scrutiny. I have a general question about the appointment of a head of democratic services and the establishment of a democratic services committee. Will that do enough for backbenchers to receive adequate support for their role? I have rolled my questions into one, because they are all linked.

[18] **Dr Ashworth:** The research shows that non-executive members see their home within democratic services, and they see that as the part of the authority that provides search and support for them, as opposed to other areas of the authority. So, there is a need to support and invest in that function.

1.10 p.m.

[19] The initial trend showed that there was a lot of scrutiny support within democratic services, but now that support is coming away from democratic services and is being located in the chief executive's department, policy, performance and corporate services, and there is then a debate about how independent that support is. On the role of the committee, many authorities will have a version of this in place, but there is an issue about the status of the head of democratic services. It states in the proposed Measure that this person will be a champion for scrutiny. We have already highlighted the need for a champion on the corporate

management team of the authority; however, I am not clear about whether that person would be of that status.

[20] **William Graham:** Do you think that there should be more detail on these requirements on the face of the proposed Measure? Do these provisions provide sufficient clarity with regard to the relationship between the head of democratic services and the local authority's committees?

[21] **Dr Ashworth:** All committees?

[22] **William Graham:** Yes.

[23] **Dr Ashworth:** Yes, because there is that statement in there about being a promoter of scrutiny. However, there are also some statements in there about supporting all members in their work on committees, so there is a balancing act between supporting a general membership, being seen as this promoter of the scrutiny function and being independent of the rest of the authority in that sense. It is difficult for the proposed Measure to be more specific. I know that there has been talk about the need for independent and strong scrutiny support, and people have wanted clarification on what that means. The proposed Measure stops short of introducing a statutory scrutiny officer. This is a really live issue that needs to be monitored once the legislation is in place.

[24] **William Graham:** What impact could these provisions have on those local authorities that already have good structures in place? Do you think that it would be enhanced if the democratic services committee met more than once a year?

[25] **Dr Ashworth:** On the latter point, the proposed Measure states once a year, but there is a provision within that to meet more often if necessary, so that is fine. There may be similar committees in operation; it will just be a case of re-labelling and reconfiguring those slightly. I do not see that this could be in opposition to anything that is going on.

[26] **William Graham:** You touched on the appointment of the democratic services officer. You will know that there has been a lot of criticism in the past in certain authorities of the status and appointment of the monitoring officer. Do you think that the way in which the democratic services officer is set up in this proposed Measure is robust enough?

[27] **Dr Ashworth:** Like I said, it just says that the head of democratic services has to be an officer of the authority, so it does not give an indication of status. It depends; authorities will have someone in their corporate management team who is supposed to be responsible for scrutiny, but how that person relates back to democratic services will vary between authorities.

[28] **Christine Chapman:** I have a question on the different governance arrangements. What are your views on the decision to remove the alternative arrangement option? It is about the council being headed up by a politically balanced board. What are the implications of this development?

[29] **Dr Ashworth:** Some arguments suggest that some forms of local political structure have been more successful and effective than others. There is some evidence out there that indicates that the cabinet with a leader model, in particular, seems to be a strong model as regards impact on performance. Normally, you would want to be able to provide a degree of local choice, but the Assembly Government must have good reasons for wanting to do away with the alternative arrangements. The only complicating factor is, as I highlighted in the evidence, that we may see the re-emergence of the committee system in England with the new decentralisation and localism Bill. Politically, it might be quite difficult to take that provision

away in Wales, where members might see a similar option appearing in England. It also depends on the degree to which there is flexibility within the cabinet and leader model.

[30] **Christine Chapman:** I have another question for Dr Ashworth. How will the provisions that allow for the delegation of executive functions to non-executive members operate in practice, and would you envisage any problems with that process?

[31] **Dr Ashworth:** There are likely to be some problems; there have been problems for everybody in getting to grips with the collaboration agenda. When we spoke to non-executive members as we researched the role of elected members, we found a real lack of engagement and knowledge of the collaboration agenda. Non-executive members did not feel a part of the agenda, because they did not have an opportunity to engage with it. The proposed Measure will allow for that to happen, and will also allow a broader take-up. It has taken a while for everybody on the partnership boards to understand their roles and responsibilities: they are not there to represent their organisation, but to work for the partnership. Just as executive members have had training, development and support to enable them to fulfil their roles, so would non-executive members. You can imagine that some non-executive members, such as former scrutiny committee chairs, could be well able to take part in those kinds of activities.

[32] **Christine Chapman:** I want to pursue the issues of scrutiny and overview, and this question is again for Dr Ashworth. Part 6 of the proposed Measure will enable two or more local authorities to undertake joint scrutiny. Existing provisions allow for this to happen, with several local authorities operating in this way. Why do you think that there is a need to legislate in this area?

[33] **Dr Ashworth:** Some local authorities will be proactive and will experiment, while others may need a push to do those sorts of things. There may be a need for legislation to encourage everyone to engage in joint scrutiny in a meaningful way.

[34] **Christine Chapman:** To follow on from that, in your written submission, you identify some difficulties that might be experienced by those local authorities that wish to operate in this way. Does the proposed Measure address the concerns that you raise regarding the alignment of different cultures, methodologies and support mechanisms for scrutiny?

[35] **Dr Ashworth:** I am not sure that the proposed Measure addresses that issue, but I am not sure that it has to; we just need to ensure that we build that into the capacity building that will be required for joint scrutiny. This has come up in England in relation to health scrutiny—a three-year study picked up on the issue of different cultures around scrutiny. We have seen it in Wales, where an authority with independent and strong scrutiny support engages with another authority with a different form of scrutiny support from the chief executive's office, and there is an immediate clash in terms of what scrutiny is about.

[36] **Christine Chapman:** What do you mean when you talk about capacity building to enable collaboration?

[37] **Dr Ashworth:** I mean the support that will be there to enable scrutiny officers and members to deal with this different form of scrutiny. Some of that capacity building can be supported in Wales, but may also involve organisations that will be able to provide assistance, such as the Centre for Public Scrutiny.

[38] **Christine Chapman:** Are you talking about training and facilitating meetings?

[39] **Dr Ashworth:** More or less, yes. Different types of scrutiny will require different approaches, and people need support in developing them.

[40] **Helen Mary Jones:** I have some more questions on the overview and scrutiny process; these are predominantly for you, Dr Ashworth, but Professor Woods is welcome to comment too. Dr Ashworth, your written submission highlights some of the problems that overview and scrutiny committees might experience with regard to obtaining information from external organisations. The enabling power contained in the proposed Measure will help to bring local authority scrutiny into line with the arrangements of other tiers of government; at least, that is the aspiration. In your view, does the proposed Measure have the teeth to provide what you say is required for effective scrutiny, such as being able to compel organisations to give evidence and that sort of thing?

[41] **Dr Ashworth:** Yes, I think that it does; as you said, the proposed Measure brings local authorities into line with scrutiny at other levels of governance. Experience elsewhere shows that the sentences in the legislation that refer to that are important for encouraging organisations to co-operate with the process, particularly initially, but we cannot rely on the legislation alone; we have to demonstrate that overview and scrutiny is a valuable process for organisations to engage in. It will add value. The legislation has some teeth, but the scrutiny committees have very few sanctions that they can impose compared with regulators and other organisations that hold bodies to account; work needs to be done early on to convince these partners and other organisations that scrutiny will be valuable.

[42] **Helen Mary Jones:** I want to move on to scrutiny of local service boards, which varies, as we know. Overall, it fits into some kind of model where the scrutiny of service boards is done by committees comprising elected members and representatives of other public services. You raise some concerns about the potential damage to relationships as a result of the duty to scrutinise services delivered by other public service providers. Can you tell us more about those concerns?

1.20 p.m.

[43] **Dr Ashworth:** These are not so much my concerns, but something that I hear when we talk about the extent of external scrutiny, which is still not very significant, compared with other forms. The answer that I get is that people do not want to damage any collaborative relationships. Where there has been scrutiny of partnerships of local service boards and others, the evidence shows that, in terms of the policy development and policy review side of that scrutiny, things work pretty well, but where things are not effective yet is around the challenge of campaigning around particular issues, which might then end up focusing on one particular organisation. These problems are similar to the ones that play out in relation to internal overview and scrutiny. People are conscious of the fact that they do not want to disrupt any other positive activities that are going on.

[44] **Helen Mary Jones:** It is therefore difficult for it to be perceived as being critical; I understand. Does the proposed Measure adequately address these potential difficulties? For example, should there be specifics in the associated guidance to help to address that?

[45] **Dr Ashworth:** I am not sure. Ultimately, you will reach a point where there will be different sorts of scrutiny going on within that label of external scrutiny. The key thing will be the support that members get in engaging in that external scrutiny. You need to convince partners and others of expertise, but it has been difficult for members to gain expertise across these various fields. Therefore, they need to be supported by officers who can help them with that. I am not sure whether that is reflected yet in the proposed Measure.

[46] **Helen Mary Jones:** The explanatory memorandum explains that the proposed Measure seeks to address the concerns that scrutiny committees are not as effective as they could be in holding the executive to account due to the way that the chairs of committees are sometimes allocated in some authorities. What evidence exists that such factors are

undermining the effectiveness of overview and scrutiny?

[47] **Dr Ashworth:** Numerous reports and studies have reported on this element. It can be problematic in its own right, but it is normally an issue when it is in combination with a number of other factors. If all chair positions are allocated to the majority party, but there is very little independent support for scrutiny and very little resource, you have a dire situation. The view is that chairs should be appointed on merit and that parties should be in a position where they are prepared to give some chairs to other parties.

[48] **Helen Mary Jones:** In your view, how will requiring the appointment of committee chairs to reflect political balance enable councillors to address this?

[49] **Dr Ashworth:** This varies; just under 40 per cent of authorities currently give chairs to other parties. There is a group that does not, and it will obviously affect that group more significantly.

[50] **David Lloyd:** Joyce has a supplementary question here.

[51] **Joyce Watson:** I have. This has been a hobby-horse of mine for years. I agree with what you have said. What concerns me is when you say that, in your opinion, scrutiny chairs should be given on merit. Who decides on that merit? That is like a red rag to a bull, in my case. I have done some research on this. First of all, the majority of councillors are male. We start from that base. Most, if not all, scrutiny chairs and executive positions are held by men. Who is going to ascertain merit given those facts and figures? If we go down the road of merit, the writer decides, the voter within a very male-dominated regime decides, and women get left out in the cold. Could you tell us how you hope to produce anything based on merit?

[52] **Dr Ashworth:** I will put this in some context. One of the major findings in the Centre for Public Scrutiny's annual survey last year, in terms of how people would like to improve scrutiny, was not about the allocation of chairs, but about chairs having to fulfil a development programme, and a sort of competence-based approach, in that sense, to chairing a scrutiny committee. Therefore, in those terms, merit is difficult to define in terms of a skill set, rather than affiliation.

[53] **Joyce Watson:** Therefore, it will not add to anything. All that they will have to say is, 'I got through this training programme. I've ticked all the boxes. Thank you very much. I have done that, and now we just hand it back out to the boys'.

[54] **David Lloyd:** You do not have to comment. *[Laughter.]*

[55] **Dr Ashworth:** Possibly.

[56] **Joyce Watson:** It is not merit, is it?

[57] **Dr Ashworth:** The merit element is a response to the fact that you are allocated on the basis of your political affiliation. The current situation is that there is a possibility that chairs are not being allocated on merit and we could move to a situation where, if we tried to balance things out, we still may not achieve that. The chairs' skills are absolutely crucial in driving the process forward.

[58] **Helen Mary Jones:** I am still looking at scrutiny. It is something that I am particularly worried about. Section 77 of the proposed Measure permits co-opted members of overseeing scrutiny committees to vote if the local authority so decides. What is your view of that provision?

[59] **Dr Ashworth:** In a general sense, much of the evidence shows that co-option is hugely beneficial for scrutiny, particularly in terms of some of these new forms of external scrutiny. However, there is an issue then about getting engagement and proper ownership of an agenda if you are not a full member of a committee, hence the move to the voting rights. I did some research a few years ago on the English regional assemblies, which were made up of elected members but also social, economic and environmental partners. It was very interesting to see the dynamic between those two groups. The partners brought a lot of expertise, but also sometimes some vested interests. Over time, the two groups grew closer together and worked very effectively together. There are some positive aspects around co-option, but there are also some dangers.

[60] **Helen Mary Jones:** Do you think that there are any issues with regard to democratic accountability? The public elects councillors; what is the situation if the councillors can then co-opt whoever they wish, and that those who are co-opted by the councillors are full voting members of the committee? I am a great fan of having that expertise around the table. The old model that we used to have in the equality committee in the Assembly meant that the representatives of the equality body sat with the Assembly Members, asked questions of witnesses on an equal basis, but on the rare occasion when it came to a vote, they did not vote. The reason why we did that was partly to do with existing Standing Orders, although we could have got those changed, but also because those people were not elected by anyone. In terms of the engagement of those co-optees with the process, I can see why it would help them to vote. Do you have any concerns about the way that the public might view that, particularly given the fact that co-option is a matter for that committee? There is a big question about who you co-opt and why.

[61] **Dr Ashworth:** In the case of the regional assemblies, those individuals were members of the assembly. So, they had an accountability role. In this case, it is not clear how those co-optees will be accountable. There are arguments for other forms of representation, which are valid here, and some co-optees may argue that they can bring those other voices that are not around the table. Obviously, there is a mechanism within that to ensure that co-optees meet the code of conduct and so on, which I think is important, because the only representative of an organisation, sometimes, has a vested interest. However, perhaps more thought needs to be given as to how accountable those individuals will be.

[62] **David Lloyd:** Mae'r cwestiwn nesaf **David Lloyd:** The next question is from yn nwylo Veronica German. Veronica German.

1.30 p.m.

[63] **Veronica German:** We are talking about whipping in scrutiny committees. In the past, the Welsh Local Government Association has raised concerns that, if you banned whipping, it could, in practice, undermine the credibility and the legitimacy of scrutiny, because it might lay their decisions open to challenge. So, to what extent is that a risk? I have seen very little evidence of whipping, and I think that that has come to light in scrutiny, but what is your feeling on that?

[64] **Dr Ashworth:** I agree with that. The evidence shows that there is not much whipping taking place, but that there are some persistent problems with it. This proposed Measure may therefore help to deal with that. The legacy in some authorities is still to conduct scrutiny in quite a traditional way, which is not that far removed from the committee system, so it may be more of a persistent issue there. It is a little like the issue of the allocation of chairs, if whipping is combined with a whole range of other conditions around scrutiny, such as ineffective support, then it can prove to be fatal.

[65] **Veronica German:** Whipping is discouraged now, but if you were to say that it is

banned, everyone will say, ‘They all voted together—they must have been whipped so we are going to challenge that decision’.

[66] **Dr Ashworth:** I am not sure about that. We had those sorts of fears around things like call-in, which did not really transpire, and there was a fear generally that scrutiny would become an opposition weapon and, in most cases, it has not.

[67] **David Lloyd:** There are a couple of supplementary questions. William has the first.

[68] **William Graham:** We have not had whipping in planning committee for a long time, and yet members of the majority party are encouraged at least to vote in accordance with the authority’s wishes and published intentions. Could the same not apply here?

[69] **Dr Ashworth:** I think that that is right, which is why, in my evidence, I said that party politics is a legitimate reality of local government. The key to this is to look beyond the ban and to other methods and techniques of doing scrutiny. So, members who have worked together in small groups across parties who come together around a set of evidence, which you must have experience of doing, enables them to work across those boundaries. So, in addition to the ban, those things will be important.

[70] **Helen Mary Jones:** My question is a slightly cruder version of what William just asked, which is: if you ban whipping, will you not just drive it underground? You cannot change the culture of an authority just by saying that it cannot do something any more.

[71] **Dr Ashworth:** In most cases, authorities would say that the whip does not apply, but in reality there is something going on. There are some persistent problematic authorities that have some difficult situations, and so perhaps this proposed Measure is needed for those cases. That is why the reality and the positive aspects of party politics are accepted and other ways of working are also developed, which reinforce groups, rather than just sitting around in committee.

[72] **Helen Mary Jones:** That is interesting.

[73] **Veronica German:** That takes me onto what you just mentioned about multi-party task and finish groups. Is there a place for that in the proposed Measure? Should there be something in there about multi-party task and finish groups or should there be a different way of offering encouragement?

[74] **Dr Ashworth:** I do not think that it is necessary to have that within the proposed Measure. It comes back again to capacity building and different ways of working.

[75] **Veronica German:** I now turn to the publication of the overview and scrutiny committee forward work plans—if I can get that out in one sentence. [*Laughter.*] Would you welcome a corresponding provision that strengthens the existing guidance that expects the executive to publish its forward plans? What would the benefit of that be?

[76] **Dr Ashworth:** There is already the expectation that the executive will produce a forward plan. It might be useful to have a reiteration of that alongside this new responsibility for scrutiny.

[77] **Veronica German:** Finally from me, Part 6 of the proposed Measure introduces community councillor calls for action, enabling local councillors and their electors to ensure the response from the council’s leadership on issues of local importance. How should this proposed Measure ensure that these provisions are effective and what should be included in any accompanying guidance to make that happen? That question is for both of you.

[78] **Dr Ashworth:** It is early days on the councillor call for action, so we do not have much evidence on how it is working. We have the crime and disorder pilot schemes, but we have not learned much from them yet. There is some evidence from the Centre for Public Scrutiny that there have been few councillor calls for action. I think that it has details of just five authorities in which that power has been used. There is a debate about how useful it is. Some authorities feel that members can already do this within the current scrutiny system—and that they do—while others think that it has been useful in helping some members to get to grips with difficult problems. There are some technical issues. Authorities spent a lot of time developing extensive protocols that they felt were overly bureaucratic and unnecessary. However, it is about the expectation of what this power can deliver. The view is that it can allow you to raise an issue, give it some prominence, raise its profile and have an initial meeting about it. It will not resolve that issue, but it will flag it up as work to be pursued in scrutiny. So, there is some value to it, but we may need to ensure that the surrounding process is not too bureaucratic.

[79] There was a concern, a bit like we had with call-in, that there would be hundreds of these, but that did not happen with call-in and the evidence so far does not show that it has happened with the councillor call for action. Symbolically, it may be important for members to have that power explicitly.

[80] **Professor Woods:** I would echo those sentiments. Where this has been implemented, there is little evidence that it has been used to date. I suspect that a lot of this is about the culture of individual councils. In some councils, the culture is such that it is effectively unnecessary. In others, it will strengthen those councillors who feel that they are being limited by their council's present culture, and who wish to be able to draw attention to matters of local interest. There is probably a value in having this in legislation in order to increase the armoury of local councillors. However, as Dr Ashworth said, I suspect that it would not be widely used.

[81] **David Lloyd:** Mae'r gyfres nesaf o gwestiynau yn dychwelyd at gynghorau cymuned ond mewn mwy o fanylder. Felly, bydd cyfle i'r Athro Woods serennu am ychydig.

David Lloyd: The next series of questions bring us back to community councils, but in greater detail. So, there will be an opportunity for Professor Woods to shine for a while.

[82] **Joyce Watson:** Professor Woods, your research recommends that the role of community councils should be enhanced so that they can take on additional responsibilities if they want. Does the proposed Measure do that, in your opinion?

[83] **Professor Woods:** 'Yes, it does' is the simple answer. As I mentioned earlier, it does that as part of the wider platform of changes that have occurred since 2003. The majority of recommendations that we made did not require legislation, so this, in a sense, fills some of the gaps where legislation was needed in order to take those recommendations forward. I am sure that we will come back to some of the detail later, but I would emphasise five examples of how it does that. First, introducing a power for the Assembly Government to make charters a requirement gives weight to that process and strengthens the role of charters and the ability of councils to use them to enhance their role. Secondly, introducing an accreditation scheme allows us to recognise and encourage high standards of practice in the community and town council sector, as well as allowing accredited councils to take an enhanced role ahead of the overall direction of travel of the sector. Thirdly, promoting and facilitating the grouping of smaller councils will give smaller councils a capacity to act. Fourthly, although I am a little sceptical about the power of wellbeing, and I am sure that we will come back to it, there is an argument that that will increase the scope of councils' activities. Finally, enabling the Assembly Government to make direct grants to community and town councils will, again,

introduce a mechanism for targeted initiatives to enhance specific roles and functions to be taken forward.

[84] **Joyce Watson:** You have answered some further questions, but not this one: in responses to our consultation, some community councils expressed concern about taking on additional powers, while others welcomed it. Why is it necessary to have flexibility in the proposed Measure so that not all community councils are required to take on more powers?

1.40 p.m.

[85] **Professor Woods:** This is important, and was a clear message that we got when we were undertaking the work, and when we held public consultation meetings as part of that study. There is a tremendous diversity of community and town councils in Wales, covering populations ranging from 150 to 45,000, and with budgets ranging from under £2,000 to over £0.5 million. To expect all of those councils to be able to move at the same speed is unrealistic, and we therefore require flexibility. There is no one-size-fits-all solution here, and it would be inappropriate to increase and enhance responsibilities in a blanket way. It is important that this proposed Measure reflects that. Using charters, for example, means that they can be negotiated locally, and can reflect local circumstances, based on the principle of setting out a menu of additional functions that individual councils could take on after negotiations with the principal authority, rather than legislating in a blanket way to increase the functions and responsibilities of all councils.

[86] Secondly, the accreditation scheme allows you to differentiate between councils in a way that is open and inclusive, so that any council may apply for that scheme, and councils that achieve accreditation on the basis of high standards could take an enhanced role that is not available to the sector as a whole. On that point, I would re-emphasise something that we mentioned when you wrote your initial report: we would shy away from using a term like 'quality scheme', or 'quality councils', as is the case in England. We deliberately used the terminology 'accreditation' and 'accreditation scheme', because there are good reasons why some councils would not wish to put themselves forward for accreditation, and would not wish to take on enhanced roles, and that does not mean that they are poor quality. I therefore urge that, if this scheme is adopted in Wales, we use a different title and do not follow the English use of the term 'quality scheme'.

[87] **Joyce Watson:** Wise words, I am sure. How will the provisions in Chapter 1, Part 7 of the proposed Measure encourage greater engagement of community councils with their communities, and why is it necessary to legislate for that? Do the provisions go far enough?

[88] **Professor Woods:** The provisions here are appropriate. While many councils have good relationships and engagement with communities, there are places where there is suspicion of the council and a feeling that it is not engaged, and we need to promote better practice to encourage better engagement. One of the advantages of community councils is that they have powers to call meetings, hold polls and so on, and those kinds of mechanisms are also important ways of holding councils to account. Often, community members are not aware that those provisions exist. We have found that, while about half of town and community councils have held meetings, attendance was often low, so we have made recommendations about the promotion and advertisement of such initiatives, about clarifying rules about how these meetings may be called, and about stipulating what should happen in response to those kind of engagement activities. Some of that has been taken forward already through guidance and training activities, but this is an area that is heavily regulated by the terms of the Local Government Act 1972, so legislation is required to tidy up and modernise those provisions.

[89] **David Lloyd:** Mae'r cwestiwn nesaf **David Lloyd:** William Graham has the next

o dan ofal William Graham.

question.

[90] **William Graham:** Your submission states that the provisions in sections 103 to 118 will help to improve the fitness for purpose of community and town councils. How do you think that that will be brought about?

[91] **Professor Woods:** One of the issues that we are trying to get at here takes us back to what we mentioned before about concerns about some councils taking on an advanced role. There are some councils that are doing a very good job, and which are accepted and supported by their communities, working in a fairly low-key way. Other councils are probably performing below the level at which they could, and need to be encouraged to take on a greater role. We also came across frustration from councils about not having a greater role, and the way in which their engagement with principal authorities and other actors was happening.

[92] The solution was partly in their own hands, in that it was about looking at their own procedures and structures. There is a limitation in that regard. The provisions that you mentioned are particularly around powers of grouping councils and so on. That is important when we look at some very small councils, as they may have limited resources at present—probably only a voluntary clerk and a limited income—so there is probably only so much that they can do, even if they aspire to do more. Joining with neighbouring councils has the benefit of increasing their resources, increasing their capacity to act and of saving on administration costs by pooling minutes and sharing a clerk, which may allow expenditure on other, more community-facing, activities. So, there are great benefits to grouping as a mechanism.

[93] There are very few grouped councils in Wales. When we did our survey, there were only eight; by comparison, over 10 per cent of all parish councils in England were grouped.

[94] **William Graham:** What about the need for a higher threshold?

[95] **Professor Woods:** That is for the dissolution of councils. The interesting thing is that it is unique to Wales to dissolve a community council in this way. It has not been used that often—Dunvant in Swansea was one of the most recent examples. Some councils have faced repeated attempts to dissolve them. That creates considerable uncertainty for those councils that have experienced that process, as it limits their ability to plan effectively and to budget ahead, and it undermines their legitimacy in the community and their ability to lead it; it is very destabilising. That will become more significant if councils take on an enhanced role. If they take on agreements with principal authorities to deliver delegated functions, they need to have a certainty that they can do so. If they are entering into partnerships with other organisations or employing more staff, there is a need for stability. Therefore, we wanted to remove the uncertainty posed by the threat of dissolution, which is often used for political purposes rather than in the legitimate interest of the community.

[96] Our recommendation was to remove and repeal this provision altogether. Following consultation, this was amended to the provision in the proposed Measure to increase the threshold. That will probably help as it makes it more difficult to abolish a council than to establish a new council, which is not the case at present. An appeal mechanism in the proposed Measure would have the greatest benefit to the sector.

[97] **Christine Chapman:** My questions are addressed to Professor Woods and are around the issue of co-optation of members of community councils and the appointment of community youth representatives. Why is it important to provide increased openness in the process of co-opting members of community councils? What are the shortcomings of the existing procedures?

[98] **Professor Woods:** First, we need to recognise that a very large number of community and town councillors in Wales are co-opted. Around about a third of councils need to co-opt members because of vacancies following regular elections. We also need to recognise that when casual vacancies occur, there is a considerable financial disincentive to councils to hold by-elections. When we did this research in 2003, we were quoted a figure of £3.65 per elector as the cost of holding an election; I suspect that it is higher than that now. That can be a very significant cost for councils with small budgets. Therefore, given that disincentive to use the democratic procedure, co-options are being used.

[99] We also found that councils often did not advertise co-options publicly, and that it was not easy for individuals who might be interested to find out about the opportunity or how to go about putting themselves forward. Therefore, co-options tended to focus on people who were already known to existing councillors, which reinforced the perception—rightly or wrongly—of community councils acting as a closed shop or as old boys’ networks. It is interesting that we had a discussion earlier about co-opted members of scrutiny committees and the democratic legitimacy of allowing them to vote. Here, we have a large number of co-opted members who are voting members of community and town councils. The same issues of democratic accountability arise. You are not going to remove co-opted councillors overnight, and therefore we need to increase the transparency of the process. That will improve democratic accountability. We hope that it will also work to attract a wider range of candidates, which may help to address the underrepresentation of key groups. Again, if it is an issue, the proposed Measure may help to directly target some of the groups that are underrepresented by promoting opportunities for co-option.

1.50 p.m.

[100] **Christine Chapman:** My second question was going to be about improving the diversity of representation. Do you think that that would be enough? If, for example, you have a community council that looks as though it is made up of only one sector of the community and you say that you want different types of people to join, do you think that you will attract people? Does more need to be done to get that diversity than just saying that we want it?

[101] **Professor Woods:** Yes, it is not enough in itself, but to go back to the point I made earlier, this is part of a much wider range of activities that have been taken forward since 2003. There are many activities promoting the work of community councils and making people better aware of what they are and what they can do. There is work to be done, particularly on promoting that among groups that are underrepresented. There is a need to look at the practice of councils, such as when they meet. There are issues to do with childcare availability, for example. There are all sorts of things to do with the practice of councils that disadvantage certain groups, such as the way in which they engage with the community. Are they holding public meetings so that they are reaching out to people? If they are holding public meetings, where are they holding them? Are they doing it in places that are accessible to all members of the community and at different times of day? However, action on many of those matters does not require legislation, and that is why they are not included. Legislation is required to address one particular aspect, which is the co-option procedure, but that should be seen as part and parcel of a much wider range of actions that need to be taken.

[102] **Christine Chapman:** So that needs to be strengthened in your opinion.

[103] **Professor Woods:** It needs to be strengthened across the board. The proposed Measure is addressing that particular point so, although this could be recognised in the legislation, the proposed Measure is addressing the issue on which legislation is required. Many of the other actions do not require legislation, and some of those actions have already started.

[104] **Christine Chapman:** Thank you for that. My next question is to do with the provisions in sections 121 to 124, which enable a community council to appoint a community youth representative. You supported these provisions in your paper. Why should this be an enabling power rather than a requirement?

[105] **Professor Woods:** That is an interesting question. This is one of the genuinely radical proposals in the proposed Measure. I think it would mark Wales out as a leader in encouraging better political engagement of younger people. It follows our observation that fewer than one in 100 councillors are aged under 25, when a great deal of what town and community councils do is either directly targeted at young people or primarily benefits young people. Think about public spaces, recreational facilities, community halls, skateboard parks, grant-funded youth clubs and so on. So, we want to increase that voice. To some extent, with people over the age of 18 there is no reason why normal co-option could not be used to get younger people on board. However, that is not available to councils where all seats have been filled through elections.

[106] There are some councils to which young people are getting elected through the electoral process. My council in Aberystwyth has had a number of people in their early 20s serving on it, and it has at present. So, in some cases, it may not be necessary to undertake this particular action. However, we felt that it was something that we wanted to make available to councils and to encourage. So, it is an enabling power rather than a requirement probably because there may be some councils that do not need to do this because they are able to engage young people through the existing procedures. However, it is something that I would like to see implemented as widely as possible, and we wish to encourage councils to do that.

[107] **Christine Chapman:** You talked about councils that are not doing that, although there are good examples of some that are. To what extent do you think that this provision would be adopted by community councils, particularly the ones that are not doing it at the moment?

[108] **Professor Woods:** It is difficult to anticipate that; my suspicion is that we will find that some of the more proactive councils will wish to adopt it. Most councils already have strong community engagement—for example, some are working with youth councils, and I imagine that some of those will take it up. However, some of the less active councils may not be inclined to do so. That may need to be reviewed, and we may need to think about how we promote this and encourage councils to adopt it, and how we introduce the provisions of the proposed Measure to them. It is going to be an experiment, and it will be interesting to see how it works.

[109] **Helen Mary Jones:** I want to look at the reviews of community areas and electoral arrangements. What issues need to be addressed with regard to community areas and electoral arrangements, and to what extent does the proposed Measure enable that to happen?

[110] **Professor Woods:** From my perspective, the key issue is addressing the shortage of candidates that we have at elections, which is undermining the democratic legitimacy of much of this sector. That can be addressed in many ways, such as by encouraging more candidates to stand. However, in some cases, the structure and size of the council itself is an issue. Some councils, for example, may, for historical reasons, have 12 to 15 members for a community area with fewer than 5,000 or 2,000 electors. Some of these councils have very high ratios of councillors to candidates; this is particularly the case with some warded councils, where there are very small wards—again, for historical reasons—with one or two council positions available to each one, even though there may be fewer than 100 electors in each ward. It is unsurprising, therefore, that some of those wards find it difficult to attract candidates. One

way to address this issue is through the provisions that are in the proposed Measure, which would encourage those electoral arrangements to be re-examined to ensure that the size of the council is proportionate to the community concerned. That may involve amalgamating some smaller wards, and I think that that would increase the proportion of contested elections and would, therefore, increase the democratic vitality of community and town councils.

[111] **Helen Mary Jones:** I turn to the power of wellbeing; it sounds to me like something out of *Star Wars*, which I find faintly disturbing. You have already expressed a bit of scepticism about this, but you are not entirely dismissive of it. Can you tell us more about your views of what it might enable to happen? The parish councils of England have such a thing, do they not? Do they know what it means and have they done anything with it?

[112] **Professor Woods:** I do not object to there being a power of wellbeing—it could well be used effectively by some councils—but I suspect that it will not make a great deal of difference. This originated as an idea for principal councils, and was introduced in the Local Government Act 2000. It was extended to parish and town councils in England in 2007 as a way of rewarding councils that have participated in the quality parish and town councils scheme.

[113] **Helen Mary Jones:** This gets more like *Star Wars* by the minute, does it not? They are saying, ‘We will convey upon you the power of wellbeing’. [*Laughter.*]

[114] **Professor Woods:** There is an element of that. In England, it is restricted to councils that have quality status, and that is different from what is being proposed in Wales. We were reviewing the quality scheme at the time when this was being discussed, partly because some of the councils that had gone through that procedure felt that they were not getting the kind of benefits of having quality status that they had been expecting. The Government in Westminster saw this as a way of rewarding those councils. We should remember that since the Local Government Act 1972, community and town councils have had powers under section 137 that permit the spending of funds on any purpose that, in their opinion, is of direct benefit to their areas and inhabitants. That sounds very much like a power of wellbeing. That is restricted to a total expenditure of what I think is currently £6.15 per elector. Our research has found that the majority of councils in Wales were spending less than 10 per cent of their permitted spend under that section.

2.00 p.m.

[115] As I see it, there is no evidence that there is a need for this power because councils are being restricted under existing powers from doing things that they want to do. When we spoke to councillors in England about this in respect of their introduction of this updated provision, we found a lot of enthusiasm from councils and the local council sector that they wanted this power, but very little detail in terms of examples of things that they wanted to do and could not do. This is why I am fairly sceptical about whether it will make a great deal of difference. The main argument for introducing it and including it in this proposed Measure is one of consistency across the local government sector. If this is now a power that exists across virtually every other part of local government in England and Wales, for consistency it should perhaps also be extended to town and community councils in Wales. It will do no harm, but I am not sure whether it will be widely used or enable councils to do a great deal more than they are currently doing.

[116] **Helen Mary Jones:** That answers my question. Jedi knights come to mind. [*Laughter.*]

[117] **Joyce Watson:** We come back to the real world of money now. Do you believe that it is appropriate to include a provision, which you did talk about earlier, that enables Ministers

to pay grants to community councils, particularly in a time of increasing pressure on the public purse? If so, what evidence is there to demonstrate that legislation is necessary? Also, should there be greater prescription on the face of the proposed Measure regarding the way that these powers should be used?

[118] **Professor Woods:** I do think that it is appropriate to include this provision within the proposed Measure. This is a facilitating provision, and I suspect that it will not immediately lead to direct grants being given to community and town councils in the current climate. However, it is important that the Assembly Government acquires this power. This relates to two specific recommendations that we made in our report, which would require this legislation in order to put them into practice. The first of those was a suggestion that a local democracy fund be introduced. This was to address the point that I made earlier about a financial disincentive to councils to hold elections and particularly to hold by-elections for casual vacancies. We are proposing that there be a central fund to which councils could apply to cover the cost of those by-elections in order to take the pressure off smaller councils. Again, that would be a direct grant, which requires legislation.

[119] The second suggestion that we made was for a business and community grant scheme to address a specific issue about some of the activities supported by town councils in particular that are largely of benefit to local businesses rather than local residents—one might think, for example, of CCTV schemes, promotion materials and activities and so on. Of course, community and town councils do not receive any part of the business rates and this is a source of discontent for many smaller town councils. We investigated the option of giving community and town councils direct access to a proportion of business rates, and we judged that to be both impractical and undesirable for a number of reasons. Instead, we proposed that there would be a competitive scheme for councils to apply for direct grants for initiatives of this type, which are of particular benefit to local businesses, which could, for example, be funded by the top-slicing of business rates at a national level. Again, in order for that suggestion to be taken forward, it would require a direct grant. This is why this power is in here; it is enabling the Assembly Government to bring forward such schemes. As to whether it should be prescriptive, I suspect that it probably should not, because there may well be other cases that we have not thought of or other needs that will arise in future. Being too prescriptive about it at this time would not be helpful.

[120] **William Graham:** Sections 133 and 134 introduce provisions that will enable Welsh Ministers to require reluctant local authorities and community councils to work together. What is the extent of the problem that this provision is seeking to address?

[121] **Professor Woods:** I cannot necessarily say at the moment how this will work. To put this into some context, the Welsh Assembly Government initially decided to try to take this forward through voluntary means, which was quite appropriate in many ways. It issued guidance and model charters on this in 2007. I understand that, in many places, charters are being negotiated, but I do not know enough about precisely what is happening in all parts of Wales to know the state of those negotiations or the extent to which there is a problem or reluctance.

[122] Going back to the work that we were doing in 2003, from talking to community councillors, community courts, and principal councils, I know that there was a degree of tension in some places and suspicion and misunderstanding on both sides. In the long term, charters can help to address some of those problems, but I suspect that they will progress more quickly in those areas where there has historically been a good relationship. However, there may well be areas in which there is a reluctance to engage seriously with this process. That would have an impact if we were to get to a situation in which charters were in place in the majority of Wales and community councils in the majority of areas were able to take advantage of the opportunities that they offered, but charters had not been agreed in one, two

or three local authorities because of the attitude of the principal councils or the community councils—and it could be on either side. In those circumstances, it would be beneficial for the Welsh Assembly Government to have the ability to intervene and require charters to be implemented, to ensure that that provision existed for all local councils across Wales.

[123] **William Graham:** Would you care to illustrate any of the benefits that you think could be brought about?

[124] **Professor Woods:** Do you mean the benefits of the charters or the ability to require them?

[125] **Williams Graham:** The charters.

[126] **Professor Woods:** Charters can be quite broad ranging in what they cover. A lot of the emphasis gets put on the provisions that are included for delegating certain responsibilities to community and town councils. What normally happens is that a menu is set out of the services that the principal authority is willing to allow community and town councils to take over, and community and town councils then apply to take on some of those services. Procedures are then outlined in the charter agreement for how that transfer and funding should operate, and so on. A charter can also cover the communications between the principal authority and community councils, it can set out good practice for the speed of response of principal councils to requests, it can set out a requirement for community councils to have an officer responsible who is a clear contact for community councils, it can set out issues about the expectations of community councils in providing information to principal councils, and it can set out agreements on how community and town councils might participate in a planning process. It can cover any area of the relationship between the principal authority and community and town councils. These have now become fairly commonplace in England, but one of the first places to adopt one was in Wales, in Caerphilly. That was in place when we conducted this research and, having looked at that, we can say that it was working very well. It just takes away some of the suspicion and misunderstanding between the two tiers of government. A lot of this is down to misunderstanding and the right results not being achieved at the right time. I think that it helps to smooth that relationship.

[127] **David Lloyd:** Mae'r cwestiynau hyn i'r ddau ohonoch, a bydd Dr Ashworth yn falch o glywed hynny. Trown at Ran 9 o'r Mesur arfaethedig, sef canllawiau ar gydlafurio rhwng awdurdodau lleol. A ydych yn credu bod y gofyniad a osodwyd ar awdurdodau gwella Cymreig gan adran 12A, sydd newydd ei fewnosod ym Mesur Llywodraeth Leol (Cymru) 2009, yn ddigon cryf i hyrwyddo mecanwaith cydweithio rhwng awdurdodau lleol o dan Ran 9?

David Lloyd: These question are for you both, Dr Ashworth will be pleased to hear. We turn to Part 9 of the proposed Measure, on guidance on collaboration between local authorities. Do you consider the requirement imposed on Welsh improvement authorities by the newly inserted section 12A of the Local Government (Wales) Measure 2009 sufficiently robust to promote the mechanics of the collaborative process between local authorities under Part 9?

2.10 p.m.

[128] **Dr Ashworth:** I do not feel able to comment on that.

[129] **Professor Woods:** We do not have specific research on that, so I could not refer to evidence in relation to that. From my reading of it, I would welcome what is in it at present, as it will help. The elements of the part of the proposed Measure that mention community councils specifically and require engagement with those councils are to be welcomed, but I do not have the evidence to be able to say independently whether they go far enough. However, I certainly think that they will help.

[130] **David Lloyd:** A symud ymlaen at fater arall, sut y dylai'r Mesur arfaethedig ddelio â materion craffu a throsolwg yn y siroedd hynny lle mae cydweithio i gyflenwi gwasanaethau? Yr ydych eisoes wedi sôn am hynny o ran diogelu democratiaeth a chraffu yn y siroedd hynny. Mae hwnnw'n gwestiwn i'r ddau ohonoch.

David Lloyd: Moving on to another issue, how should the proposed Measure deal with matters relating to scrutiny and oversight in those counties where collaboration is already taking place in relation to service provision? You have already touched on that in relation to safeguarding democracy and scrutiny in those counties. It is a question for you both.

[131] **Dr Ashworth:** We discussed earlier the tensions of trying to scrutinise while working in a collaborative relationship. Challenging and holding to account is a key area of scrutiny that has struggled to develop all the way along, and it is more difficult in this environment. There are lessons to be learned from the research that is building up on health scrutiny in particular and how organisations in that field have tried to scrutinise collaboratively and build their experience of challenges. Often, it is a question of there being different ways of working, having the confidence to behave appropriately as critical friends in that scenario and having the necessary support to fulfil that role.

[132] **Professor Woods:** Specifically where there are collaborations involving principal authorities, community and town councils, and potentially other partners, I would say that this is an area in which charters could make a big difference. They can set out what the appropriate scrutiny procedures should be. That may involve joint scrutiny mechanisms, principal authority scrutiny committees in which there is co-opted representation from community councils, for example, or it may simply involve understanding the roles and the direction from which the authorities are coming to be able to scrutinise those joint relationships. Charters are a key element in that process.

[133] **David Lloyd:** Byddwch yn falch o glywed ein bod wedi cyrraedd y cwestiwn olaf, sydd i Dr Ashworth. Mae'n ymwneud â goblygiadau ariannol y Mesur arfaethedig. Yn eich papur, yr ydych yn codi cwestiynau am yr amcangyfrifon ariannol sydd yn y Mesur arfaethedig. Pa faterion ychwanegol y dylid eu cysidro gan yr asesiad rheoleiddio? Pa fanylion ychwanegol yr hoffech eu gweld i dawelu eich meddwl?

David Lloyd: You will be pleased to hear that we have reached the final question, which is for Dr Ashworth. It is on the financial implications of the proposed Measure. In your paper, you raise questions regarding the financial estimates in the proposed Measure. What additional matters should be considered by the regulatory assessment? What additional details would you like to see to give you peace of mind?

[134] **Dr Ashworth:** There are some concerns in the broader context about scrutiny budgets in general. The Welsh budgets are holding up pretty well at the moment, but the trend in England is showing some sharp falls in support for scrutiny, because the budgets are discretionary. So, they are subject to change. The proposed Measure goes a huge way towards strengthening scrutiny and giving it teeth, but it presents it with significant challenges. The financial estimates in the proposed Measure just address the structural changes, in that new committees would need to be established and people would need to be supported financially to interact with them, rather than considering the resource implications of developing and supporting, and of the capacity building that would go along with it. I could not see where that was factored into the proposed Measure.

[135] **David Lloyd:** Diolch yn fawr am hynny. Dyna ddiwedd y cwestiynu ffurfiol. A oes gan yr Aelodau unrhyw gwestiynau eraill? Na, gwelaf nad oes. Yr ydych wedi eu synnu i gyd. [*Chwerthin.*] A oes gennyich

David Lloyd: Thank you for that. That brings us to the end of the formal questioning. Do Members have any other questions? No, I see that they do not. You have amazed them all. [*Laughter.*] Do you

unrhyw eiriau i gloi neu a ydych yn hapus fel y mae pethau? Yr ydym yn berffaith hapus â'ch atebion. have any concluding remarks to make or are you happy with things as they stand? We are perfectly happy with your responses.

[136] **Professor Woods:** As I said at the beginning, the proposed Measure addresses specific areas that require legislation, and the recommendations that we make are part of that wider process. Thank you for the questioning on the matter, and we are pleased to have been of assistance. Diolch yn fawr.

[137] **Dr Ashworth:** There is a question of how the proposed Measure is reviewed, how it beds down and what provisions the Assembly Government has made for that, and reviewing progress against it.

[138] **David Lloyd:** Diolch yn fawr am eich cyfraniad heddiw ac am ateb yr holl gwestiynau mewn ffordd mor fendigedig. Bydd y clerch yn anfon trawsgrifiad o'r drafodaeth heddiw atoch, er mwyn i chi allu ei ddarllen a'i gywiro o ran manylder. Wrth gwrs, ni allwch wyrdroi hanes, ond os bydd angen gwella rhyw fanylyn, bydd modd gwneud hynny. **David Lloyd:** Thank you for your contribution today and for answering all the questions so wonderfully. The clerk will send you a transcript of today's discussion, so that you can read it and correct details. You cannot change the course of history, of course, but if you need to correct the odd detail, you will be able to do so.

[139] Gallaf ddatgan wrth fy nghyd-Aelodau y cynhelir cyfarfod nesaf Pwyllgor Deddfwriaeth Rhif 3 ddydd Iau nesaf, 14 Hydref, pan fydd y pwyllgor yn clywed tystiolaeth gan Gymdeithas Clercod Cynghorau Lleol, Cymdeithas Cynghorau Trefi a Chymdeithasau Mwyaf Gogledd Cymru, Un Llais Cymru, a Chymdeithas Cynghorau Lleol Sir Benfro. I can inform my fellow Members that the next meeting of Legislation Committee No. 3 will be held next Thursday, 14 October, when the committee will be hearing evidence from the Society of Local Council Clerks, the North Wales Association of Larger Town and Community Councils, One Voice Wales, and Pembrokeshire Association of Local Councils.

[140] Felly, gyda hynny o eiriau, diolch i chi i gyd am eich presenoldeb, diolch am y cyfieithu, a diolch am gefnogaeth y swyddogion. Yr wyf yn datgan bod y cyfarfod ar ben. Therefore, with those words, thank you all for your attendance, thank you to the interpreters, and thank you to the officials for their support. I declare the meeting closed.

*Daeth y cyfarfod i ben am 2.17 p.m.
The meeting ended at 2.17 p.m.*