Y Pwyllgor Cyllid

Lleoliad:
Ystafell Bwyllgora 4 – Tŷ Hywel

Dyddiad:
Dydd Mercher, 29 Ebrill 2015

Amser:
08.30

Cynulliad Cenedlaethol Cymru
National Assembly for Wales

I gael rhagor o wybodaeth, cysylltwch â:
Bethan Davies
Clerc y Pwyllgor
0300 200 6565
SeneddCyllid@Cynulliad.Cymru

Agenda

(Fel y cytunwyd yn y cyfarfod ddydd Iau 23 Ebrill ac yn unol â Rheol Sefydlog 17.42, penderfynodd y Pwyllgor gyfarfod yn breifat ar gyfer eitem 1)

1 Ystyried pwerau: Ombwdsmon Gwasanaethau Cyhoeddus Cymru: Ystyried yr Adroddiad Drafft (08:30–09:00) (Tudalennau 1 – 81)

2 Cyflwyniad, ymddiheuriadau a dirprwyon (09:00)

3 Papurau i'w nodi (09:00–09:05) (Tudalennau 82 – 88)

4 Casglu a Rheoli Trethi Datganoledig yng Nghymru: Sesiwn Dystiolaeth 3 (09:05–10:00) (Tudalennau 89 – 114)
Eleanor Emberson, Prif Weithredwr, Cyllid yr Alban
Dr Keith Nicholson, Cadeirydd, Cyllid yr Alban

5 Casglu a Rheoli Trethi Datganoledig yng Nghymru: Sesiwn dystiolaeth 4 (10:00–11:00) (Tudalennau 115 – 127)

Kay Powell, Cynghorwr Polisi, Cymdeithas y Cyfreithwyr
Mark Evans, Partner, Allington Hughes

6 Casglu a Rheoli Trethi Datganoledig yng Nghymru: Sesiwn dystiolaeth 5 (11:00-12:00) (Tudalennau 128 - 135)

Gerald Holtham

7 Cynnig o dan Reol Sefydlog 17.42 i benderfynu gwahardd y cyhoedd o'r cyfarfod ar gyfer y busnes canlynol: (12:00)

Eitemau 8, 9 a 10.

8 Casglu a Rheoli Trethi Datganoledig yng Nghymru: Trafod y dystiolaeth (12:00-12:15)

9 Craffu ar Ail Gyllideb Atodol Llywodraeth Cymru ar gyfer 2014-15: Trafod ymateb Llywodraeth Cymru (12:15-12:20) (Tudalennau 136 - 138)

10 Ariannu yn y dyfodol: Dull o Gynnal y Gwaith Craffu (12:20-12:30)

(Tudalennau 139 - 145)

Mae cyfyngiadau ar y ddogfen hon

Gwasanaeth Llysoedd a Thribiwnlysoedd EM

HM Courts & Tribunals Service

Swyddfa Llys Gweinyddol Cymru
Canolfan Llysoedd Sifil Caerdydd
2 Stryd y Parc
Caerdydd CF10 1ET

Administrative Court Office for Wales
Cardiff Civil Justice Centre
2 Park Street
Cardiff CF10 1ET

T 029 2037 6460
F 029 2037 6461
E administrativecourtoffice.cardiff@hmcts.x.gsi.gov.uk

www.justice.gov.uk

The Finance Committee
National Assembly for Wales
Cardiff Bay
Cardiff
CF99 1NA

15th April 2015

Administrative Court Office for Wales Reply
Inquiry into the Consideration of Powers: Public Services Ombudsman for Wales

By way of a letter dated the 19th March 2015 I have been asked by the Finance Committee of the National Assembly for Wales to answer specific questions relating to the *Inquiry into the Consideration of Powers: Public Services Ombudsman for Wales*. I write this letter to provide assistance to the committee and to answer those questions to the extent that I am able. Before I turn to those questions it may be of assistance to provide some background information as to the Administrative Court for Wales and the nature of my role to provide context and the limits it places on the answers I may give to the committee.

Background Information – The Administrative Court Office for Wales

The Administrative Court (part of the Queen's Bench Division of the High Court) hears the majority of applications for judicial review[1] and some appeals and applications that arise directly out of a statutory power to challenge a public body's act or omission (commonly referred to as statutory appeals and applications). It is by way of both judicial reviews and statutory appeals and applications that a person may challenge the act or omission of a public body. Judicial review, the mainstay work of the Administrative Court, derives from the ancient prerogative writs whereby citizens directly petitioned the Monarch for relief against the acts done in the Monarch's name. Such applications had been the preserve of the Queen's Bench Division based in London for hundreds of years, although prior to 1974 they were not contained within the unified judicial review process but by a number of writs (such as the writ of certiorari).

Since 1999, in line with the act of bringing a devolved Government to Wales, an Administrative Court case could be brought in the Administrative Court in Wales in any case where the claim involved a devolution issue or an issue concerning a Welsh public body, the latter whether or not it involved a devolution issue. Practically, the claims

[1] The Upper Tribunal also has a limited judicial review jurisdiction.

were still generally managed and often heard in London.

The position changed on the 21st April 2009 following the implementation of Civil Procedure Rule Practice Direction 54D.[2] Now, the vast majority of judicial reviews and statutory appeals and applications in the Administrative Court may be lodged and administratively handled in the Administrative Court Office for Wales in Cardiff Civil Justice Centre (there are still some exceptions[3]). Those claims can be heard all over Wales. To date the Administrative Court for Wales has held hearings in Caernarfon, Cardiff, Carmarthen, Mold, Newport, Port Talbot, Rhyl, Swansea, Welshpool and Wrexham. This is not to say that matters involving Welsh public bodies *must* be heard in the Administrative Court for Wales. CPR PD 54D allows a litigant to bring his claim in any of the Administrative Courts in England and Wales, and thus a claim against a Welsh public body could be heard in London, Birmingham, Manchester or Leeds. This said, there is a general expectation, following cases such as *R. (Condron) v The National Assembly for Wales,*[4] *R. (Deepdock) v The Welsh Ministers,*[5] and *R (Condron) v Merthyr Tydfil County Borough Council,*[6] that challenges to devolved bodies "*should be heard in Wales unless there are good reasons for their being heard elsewhere.*"[7] Further, under CPR PD 54D, decisions of any public bodies in England and Wales, including those based in England, can be brought in the Administrative Court for Wales.

As noted above, the mainstay of the work before the Administrative Court, including the Administrative Court for Wales, is judicial review. There are, however, a number of statutory appeals and applications that are considered in the Administrative Court for Wales. Some of these statutory appeals and applications specifically relate to devolved matters in Wales. Examples are:

- An appeal against the decision of the Adjudication Panel for Wales, which determines disciplinary proceedings against local authority councillors brought by the Public Services Ombudsman for Wales under s79(15) Local Government Act 2000;[8]
- An appeal against a decision of the General Teaching Council for Wales to make a disciplinary order under r.24 General Teaching Council for Wales (Disciplinary Functions) Regulations 2001;[9]
- Determination of a devolution issue after a reference from a Magistrates' Court under part 2 of schedule 9 of the Government of Wales Act 2006.

This is a short background on the Administrative Court for Wales. For further information see Gardner, D., *Public Law Challenges in Wales: the Past and the Present,* [Jan 2013], P.L. Vol 1, p1.

---

[2] Following the recommendations of the 2007 working group report *Justice Outside London.*

[3] See Civil Procedure Rules Practice Direction 54D paragraph 3.1

[4] [2007] 2 P. & C.R. 4.

[5] [2007] EWHC 3347 (Admin)

[6] [2009] EWHC 1621 (Admin)

[7] HHJ Hickinbottom (as he the was) in *R. (Deepdock) v The Welsh Ministers* [2009] EWHC 1621 (Admin) at paragraph 20.

[8] When the procedure for disciplining local authority councillors changed in England under the Local Government and Public Involvement in Health Act 2007 and the Localism Act 2011 the changes did not affect Wales as the powers and duties of local authorities and their members is a devolved subject.

[9] The General Teaching Council was abolished in England by the Education Act 2011 and its functions were transferred to the Teaching Agency, an executive agency of the Department of Education. However, this change did not affect proceedings in Wales and the General Teaching Council for Wales as Education is a devolved subject.

Background Information – The Administrative Court Office Lawyer for Wales

As the Administrative Court Office Lawyer for Wales my role is essentially three fold. Firstly, I provide procedural advice for the Administrative Court Office staff, parties to proceedings in the Administrative Court, and Judges of the Administrative Court. Secondly, I provide legal research assistance for Judges of the Administrative Court. Thirdly, I have limited judicial powers that relate to case management of proceedings in the Administrative Court.[10] My role is not a judicial post or any other form of office holder, I am employed as a Civil Servant by Her Majesty's Courts and Tribunals Service ("HMCTS"), an Executive Agency of the Ministry of Justice ("MOJ"). Finally, I should note that whilst I am employed to act as the primary Administrative Court Office Lawyer for Wales, my role is not restricted to Wales. The other Administrative Court Office Lawyers (one in Birmingham, one in Manchester, one in Leeds, and eight in London) and the two Senior Legal Managers for the Administrative Court Office are able to perform the role in Wales, just as I may be called upon to perform the role in any of the Administrative Court Offices in England.

The result of this background information is that I am required to stress that the content of this letter merely sets out information about current Administrative Court practice and procedure as I understand it. The position may be interpreted differently by the Courts and this letter cannot be considered to be advice or precedent, binding or otherwise. It would be contrary to the Civil Service Code if I was to express any political opinion and I do not seek to do so. Finally, whilst I am a Civil Servant in Government employ, this response should not be taken to express the opinion of the Government or any other person in HMCTS or the MOJ.

With this information and these provisos in mind, I now turn to the specific questions on procedure that I have been asked in the letter of the 19th March 2015.

Does the Court currently have power to stay proceedings to await an Ombudsman's decision?

The Administrative Court does hold a discretionary power to stay any proceedings before it. The power to stay arises out of the Court's inherent jurisdiction to control its own proceedings[11] and thus the Administrative Court may order proceedings be stayed at any stage of the proceedings. This inherent power to stay proceedings is expressly noted in Civil Procedure Rule ("CPR") 3.1(2)(f). Thus, were the Court minded to exercise its discretion, it could stay proceedings to await an Ombudsman's decision.

The Court also has the power to stay the proceedings to which the Administrative Court case relates pending the decision of the Administrative Court.[12] In judicial review proceedings this power is expressly noted at the stage of proceedings where the Court is

[10] See Civil Procedure Rule 54.1A

[11] The Administrative Court, as part of the High Court, is a Superior Court of Record. No matter is deemed to be beyond the jurisdiction of a Superior Court unless it is expressly shown to be so. For more information see the discussion of the differences between inferior and superior Courts *in R v Chancellor of St. Edmundsbury and Ipswich Diocese. Ex Parte White* [1948] 1 K.B. 195.

[12] This power is discussed in *R. v Secretary of State for Education and Science Ex p. Avon CC* [1991] 1 Q.B. 558

considering whether to grant permission to apply for judicial review[13] in CPR 54.10(2), although this is not to say that the Court cannot exercise its inherent jurisdiction to stay those proceedings at any other stage in the Administrative Court proceedings. Thus, were it minded to do so, the Administrative Court could also stay an Ombudsman's decision pending resolution of Administrative Court proceedings.

Notwithstanding the provisions set out in section 9 of the Public Services Ombudsman (Wales) Act 2005, can the Court refuse an application for judicial review if it considers that a more appropriate course of action would be an investigation by the Ombudsman?

To my knowledge there have been no reported decisions on whether the availability of judicial review, or any other proceedings in the Administrative Court, would invoke the bar in s9(1)(c) of the 2005 Act and in what circumstances the Ombudsman should exercise his discretion under s9(2) of the 2005 Act. However, s26(6) Local Government Act 1974 is an analogous provision relating to Commissioners for Local Administration in England. The power of a Local Commissioner to investigate a public body's decision where judicial review is available and/or after that decision had been subject to judicial review proceedings was discussed in *R v Commissioner for Local Administration, ex parte Croydon London Borough Council*[14] and *R. (Umo) v Commissioner for Local Administration in England*.[15] The Court held that the Ombudsman should refuse in his discretion to investigate a complaint where he was satisfied that the Courts were the appropriate forum. The Committee's question does not ask me to discuss s9 of the 2005 Act in detail, and so I go no further than to mention the discretion the Ombudsman has not to investigate. Instead, the question addresses the more general point of whether the Administrative Court may refuse permission to apply for judicial review or a substantive application for judicial review where it considers that a more appropriate course of action would be an investigation by the Ombudsman.

Judicial review is often said to be a remedy of last resort. If there are other methods of challenge available to the claimant, and any of those methods of challenge provide an adequate remedy, the alternative remedy should be exhausted before applying for judicial review. This is a longstanding principle in judicial review and permission to apply for judicial review will generally be refused if the Court considers that there is an adequate alternative remedy.[16]

The question as to whether an adequate alternative remedy may exist in a complaint to an Ombudsman has been discussed in a number of cases, most notably *R. v Lambeth London Borough Council Ex parte Crookes*[17] and *R. (Umo) v Commissioner for Local Administration in England*.[18] Those cases suggest that a complaint to an Ombudsman can be but will not always be an adequate alternative remedy, it will depend on the circumstances of the case. However, as Mr. Justice Coulson noted in *R. (Gifford) v Governor of Bure Prison*;[19] "*For many reasons, and in many cases, the… ombudsman would be the more effective and more efficient remedy than an application for judicial review*."

[13] Under s31(3) Senior Courts Act 1981 the permission of the Court is required before a Claimant may bring a substantive judicial review.
[14] [1989] 1 All ER 1033
[15] [2004] E.L.R. 265
[16] As outlined in *R. v Epping and Harlow General Commissioners Ex p. Goldstraw* [1983] 3 All E.R. 257
[17] (1997) 29 H.L.R. 28 at 38-39
[18] [2004] E.L.R. 265 at paragraph 17
[19] [2014] EWHC 911 (Admin) at paragraph 38

Therefore, the Court may refuse permission to apply for judicial review or dismiss a substantive application for judicial review if it considers that an investigation by the Ombudsman would represent an adequate alternative remedy.

[Do] the current Rules of Court allow for... a reference [by the Ombudsman on a point of law] to be made [to the Administrative Court], or would the rules require amendment?

I am not aware of any provisions that allow for the Ombudsman to make a reference to the Administrative Court.

There are analogous provisions where a point of law is referred to Administrative Court for the opinion of the Court. Two examples are:

- Determination of a devolution issue after a reference from a Magistrates' Court under part 2 of schedule 9 of the Government of Wales Act 2006;
- An appeal by way of case stated from a Magistrates' Court under s111 Magistrates' Courts Act 1980 or the Crown Court under s28 Senior Courts Act 1981.

There has never been a reference under schedule 9 of the Government of Wales Act 2006 and, as such, I am unable to illustrate how a reference procedure to the Administrative Court for Wales would practically work. To my knowledge a reference under schedule 9 of the Government of Wales Act 2006 is the only existing reference procedure in the Administrative Court that relates solely to devolved matters as they affect Wales.

The case stated procedure is a fairly frequently used procedure and it is analogous as it allows the Magistrates' Court or Crown Court to 'state a case', that is to say refer a question on a point of law to the Administrative Court, which the Administrative Court will determine. The procedure applies across England and Wales.

It would appear to me that to create a procedure allowing for the Ombudsman to make a reference to the Administrative Court a simple change of the relevant rules of Court (the CPR) would not be sufficient. The new procedure would require primary legislation, as was the case with the above analogous procedures, and the new procedure would be a statutory application.

Assuming that no reference can be made, can the Ombudsman receive advice or guidance from the Court in any way other than by way of judicial review of a decision he has made?

There is no method by which the Ombudsman, or indeed any public body, can receive guidance from the Administrative Court without bringing proceedings in the Court. This will generally be by way of judicial review, but there are other statutory appeals and application in which proceedings can be brought and guidance can be given.

For the Ombudsman, there are, two potential sources; a judgment of the Administrative Court when considering a judicial review, or a judgment of the Administrative Court when considering an appeal against the decision of the Adjudication Panel for Wales.

which determines disciplinary proceedings against local authority councillors brought by the Ombudsman under s79(15) Local Government Act 2000. Since the establishment of the current Administrative Court for Wales in 2009 there have been two such cases:

- *R (Calver) v Adjudication Panel for Wales* [2012] EWHC 1172 (Admin); and
- *Heesom v Public Services Ombudsman for Wales* [2014] EWHC 1504 (Admin).

It should be noted that when the Court is dealing with judicial review proceedings or an appeal under s79(15) Local Government Act 2000, the Court is not obliged to give guidance. The Court will deal with the application / appeal in question and the extent to which the Court gives guidance is entirely within the discretion of the Court.

Does the Court hold any statistics relating to the cost of a judicial review hearing?

The Administrative Court Office does not keep statistics relating to costs awards by the Court or costs charged by legal representatives in judicial review proceedings.

Views on the EU Directive Alternative Dispute Resolution

I am unable to give any opinions on this subject.

I hope this advice has been of assistance to the committee. I would be happy to clarify or expand upon any of the above as required.

Yours faithfully

Mr David C. Gardner
Administrative Court Office Lawyer (Wales and the Western Circuit)

Eich Cyf Your ref:

Ein Cyf /Our Ref:

Dyddiad/Date:

☎ Direct line/Rhif llinell union:

Email:

PERSONAL

Dear

Dear *[Insert patient's name or third party name]*

Re: *[Insert patient's name if third party and summarise your understanding of the concern as outlined in acknowledgement letter]*

I am writing further to XXXXX letter of XXXXX to provide you with a full response to your concern.

Give details of investigation, outcome and actions taken such as:

- *Summarise nature and substance of the concern/s*
- *Describe the investigation undertaken*
- *Include copies of expert opinions (if received during investigation)*
- *Include copies of any relevant medical records*
- *Where appropriate, include an apology*
- *Identify what action, if any, will be taken, including where services have been improved as a result of the concern*
- *Offer the opportunity to discuss the content of the response*
- *If no liability, give reasons for decision as to why & offer option of free legal advice in accordance with Regulations*
- *THE PERSON RAISING THE CONCERN SHOULD BE ADVISED THAT THEY HAVE 6 MONTHS TO RESPOND TO THE OFFER / DECISION NOT TO MAKE AN OFFER*

On behalf of the Health Board I would like to thank you for raising your concern with us. The Health Board is committed to learning from concerns and considers each to be invaluable in improving our service and ensuring excellent outcomes and patient experience. When you have read the investigation report you may want to discuss these matters in more detail with a senior member of staff and *[Insert contact name/role, telephone contact number]* would be delighted to assist in this.

If we have not addressed your concern to your satisfaction, we would much prefer to resolve this locally, either by further discussion or by meeting with you. If you would like to be assisted in resolving your concerns or supported in a meeting with us, the Community Health Council is able to offer confidential support through their Patient Advocacy Service. However, if you remain unhappy you do have the right to contact the Public Service Ombudsman for Wales who will review the matter. Contact details are in the leaflet we previously sent to you entitled 'Putting Things Right – Raising a concern about the NHS from 1 April 2011'.

Yours sincerely

DEPARTMENT / DIRECTORATE / LOCALITY

Enclosures:
Investigation Report

Cynulliad Cenedlaethol Cymru
Y Pwyllgor Cyllid

National Assembly for Wales
Finance Committee

David Melding AC
Cadeirydd
Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

16 Ebrill 2015

Annwyl David,

Ymchwiliad: Deddfu yn y Pedwerydd Cynulliad

Diolch am eich llythyr dyddiedig 26 Mawrth. Yn anffodus, nid wyf mewn sefyllfa i roi rhagor o fanylion am unrhyw newidiadau i'r rheolau sefydlog ar hyn o bryd.

Yn dilyn pasio Deddf Cymru bydd angen i'r Cynulliad a Llywodraeth Cymru ystyried y gweithdrefnau sydd eu hangen i graffu ar y pwerau newydd i fenthyca arian ac i godi trethi, a fydd yn cynnwys Biliau cyllid a'r posibilrwydd o gyflwyno Bil cyllideb blynyddol.

Fel y gwyddoch, mae'r Pwyllgor Cyllid wedi cyhoeddi dau adroddiad ar 'Arferion Gorau o ran y Gyllideb'. Yn yr adroddiadau hyn, mae'r Pwyllgor wedi ymatal rhag rhagnodi unrhyw broses benodol y credwn y dylid eu mabwysiadu. Rydym wedi cynnig rhai awgrymiadau ond, fel Pwyllgor, teimlwn mai'r Llywodraeth a'r Cynulliad ddylai benderfynu ar fanylion y newidiadau, gan sicrhau bod cytundeb trawsbleidiol a bod anghenion y weithrediaeth a'r ddeddfwrfa'n cael eu diwallu.

Wedi dweud hynny, mae'n amlwg y bydd angen newid y rheolau sefydlog, yn enwedig y rhai sy'n ymwneud â'r gyllideb. Er enghraifft, mae'r Pwyllgor wedi awgrymu y dylid cael Bil cyllideb blynyddol, ac mae'n debygol y byddai angen paratoi set benodol o reolau sefydlog ar gyfer Bil o'r natur hwn. Efallai y byddai'n

Cynulliad Cenedlaethol Cymru
Bae Caerdydd, Caerdydd, CF99 1NA
SeneddCyllid@cynulliad.cymru
www.cynulliad.cymru/SeneddCyllid
0300 200 6565

National Assembly for Wales
Cardiff Bay, Cardiff, CF99 1NA
SeneddFinance@assembly.wales
www.assembly.wales/SeneddFinance
0300 200 6565

ddefnyddiol ichi ddarllen y braslun a awgrymodd y Pwyllgor ar gyfer proses gyllidebu (atodiad A - mae copi ynghlwm er gwybodaeth) ac a gyhoeddwyd fel rhan o'n hadroddiad. Fe sylwch fod hyn yn awgrymu y gallai'r rheolau sefydlog ddarparu ar gyfer proses garlam yng nghyfnod 1.

O ran Biliau trethiant, ar hyn o bryd, nid wyf yn rhagweld y bydd unrhyw newidiadau ac y defnyddir y weithdrefn 4 cam arferol ar gyfer pasio'r Biliau trethiant hyn. Os bydd y Llywodraeth yn awgrymu newid y rheolau sefydlog ar gyfer Biliau cyllid, mae hynny'n rhywbeth y byddai angen ei ystyried yn ôl rhinweddau'r awgrymiadau hynny ar y pryd.

Rwy'n siŵr eich bod yn sylweddoli mai dyddiau cynnar yw hi o ran datganoli pwerau cyllidol newydd ac, oherwydd hynny, mae'n anodd manylu ar unrhyw newidiadau y bydd angen eu gwneud i'r rheolau sefydlog.

Gobeithio y bydd y wybodaeth a roddais o gymorth i'ch ymchwiliad.

Yn gywir,

Jocelyn Davies AC
Cadeirydd

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol
Constitutional and Legislative Affairs Committee

Cynulliad Cenedlaethol Cymru
National Assembly for Wales

Jocelyn Davies AC
Cadeirydd
Y Pwyllgor Cyllid
Bae Caerdydd
Caerdydd CF99 1NA

26 Mawrth 2015

Annwyl Jocelyn

Ymchwiliad: Deddfu yn y Pedwerydd Cynulliad

Clywsom dystiolaeth gan y Gweinidog Cyllid a Busnes y Llywodraeth mewn cysylltiad â'r ymchwiliad uchod ar 16 Mawrth 2015.

Roedd un o'r materion a godwyd gennym yn ymwneud â'r sylwadau canlynol, a wnaed yn nhystiolaeth ysgrifenedig Llywodraeth Cymru:

> "24. Wrth edrych i'r dyfodol, mae'r Llywodraeth yn rhagweld y gall fod yn briodol ymdrin hefyd â rhai materion ariannol neu refeniw treth drwy broses graffu amgen..."

Pan ofynnwyd i'r Gweinidog am y gwahanol brosesau craffu a allai fod yn briodol ar gyfer biliau cyllid neu filiau ar drethi, cyfeiriodd at waith a wnaed gan eich pwyllgor sy'n ymwneud ag arferion gorau o ran y gyllideb.

Byddem yn ddiolchgar o gael rhagor o wybodaeth am y gwaith hwn, a sut y mae'n berthnasol i newidiadau i reolau sefydlog a allai fod yn angenrheidiol i ddarparu ar gyfer gwaith craffu deddfwriaethol ar filiau cyllid, cyllidebol neu

Bae Caerdydd
Caerdydd
CF99 1NA

Bae Caerdydd
Cardiff
CF99 1NA

Ffôn / Tel: 0300 200 6362
E-bost / Email: gareth.williams@assembly.wales

filiau ar drethi. Byddai hefyd yn ddefnyddiol cael manylion am yr amserlen bosibl rydych yn ei rhagweld o ran gweithredu'r newidiadau hyn.

Byddwn yn ddiolchgar o gael eich ymateb erbyn 23 Ebrill 2015.

Yn gywir

David Melding AC
Cadeirydd

Jane Hutt AC / AM
Y Gweinidog Cyllid a Busnes y Llywodraeth
Minister for Finance and Government Business

Llywodraeth Cymru
Welsh Government

Jocelyn Davies AM
Chair, Finance Committee
National Assembly for Wales
Cardiff
CF99 1NA

25 March 2015

Dear Jocelyn,

UK March Budget 2015 - Consequentials to the Wales DEL

The Welsh Government has agreed to provide the Finance Committee with details of the impact of consequentials on the Wales DEL following UK Government fiscal events.

In line with this, and following the UK Government's March Budget 2015 announced on 18 March, please find attached at Annex A, a detailed list of all consequentials, along with aggregated totals for each classification of expenditure. The Welsh Government has discretion over how it uses these additional resources and allocations will be determined by the Cabinet after full consideration.

I hope that this information is useful to the Committee.

Best wishes,
Jane

Jane Hutt AC / AM
Y Gweinidog Cyllid a Busnes y Llywodraeth
Minister for Finance and Government Business

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1NA

English Enquiry Line 0845 010 3300
Llinell Ymholiadau Cymraeg 0845 010 4400
Correspondence.Jane.Hutt@wales.gsi.gov.uk

Annex A – Impact of the UK Government March Budget 2015 on the Wales DEL

Table 1. Barnett Consequentials Aggregates

	£000s[1]
	2015-16
Resource DEL	17,210
Capital DEL	932
Total DEL	**18,142**

Table 2. Consequentials

		£000s
	Expenditure Classification[2]	**2015-16**
Health		
Health North	RDEL	286
Advanced Wellbeing Research Centre	CDEL	286
Mental Health		
CAMHS – Increase access by 110,000	RDEL	2,688
CAMHS – Children's talking therapies	RDEL	1,830
Perinatal mental health services	RDEL	858
Non-recurrent funding for CAMHS	RDEL	8,923
Co-location of IAPT in Jobcentres	RDEL	25
Early access to online CBT	RDEL	193
Veterans – supported accommodation	RDEL	97
Education		
Universal Infant Free School Meals	RDEL	572
Universal Infant Free School Meals	CDEL	572
BIS		
Tech Nation – entrepreneur hubs	RDEL	629
DCMS		
Free wifi in libraries	RDEL	423
Tour de Yorkshire – marketing	RDEL	17
Yorkshire Festival	RDEL	29
Closed Road Circuits	CDEL	17

[1] Figures are subject to HM Treasury roundings.
[2] Resource DEL (RDEL), Capital DEL (CDEL) (traditional)

Welcome to Yorkshire – marketing	RDEL	29
Turner Prize – Hull	RDEL	29
Turner Prize – Hull	CDEL	57
Muni Theatre – Colne	RDEL	3
Energy & Environment		
Waste Crime	RDEL	240
Housing		
Northstowe	RDEL	172
Croydon Growth Zone	RDEL	80
London Land Commission	RDEL	57
Business Rates Discount EZs	RDEL	11
Transport		
Norway to Newcastle ferry - marketing	RDEL	17

Eitem 4

Eleanor Emberson
Chief Executive
Revenue Scotland
PO BOX 24068, Victoria Quay
Edinburgh, EH6 9BR
info@revenue.scot
www.revenue.scot

Ms B Davies
Clerk to the Finance Committee
National Assembly for Wales
Cardiff Bay
Cardiff
CF99 1NA
SenneddFinance@Assembly.Wales

17 April 2015

Dear Ms Davies

REVENUE SCOTLAND: IMPLEMENTATION OF THE DEVOLVED TAXES

I am pleased to give evidence to the Finance Committee's inquiry into the collection of devolved taxes in Wales.

As the then Head of Revenue Scotland within the Scottish Government and, since 1 January 2015, as the Chief Executive of Revenue Scotland, I have submitted six-monthly progress reports to the Scottish Parliament's Finance Committee on the preparations for the implementation of the devolved taxes in Scotland.

I attach for the Committee's information the last of these reports which was submitted to both the Scottish Parliament's Finance and Public Audit Committees in February 2015 and the amended Table of Costs (Annex B) that I provided to them in March.

On 1 April, as anticipated in the report, Revenue Scotland became fully operational and started collecting the Land and Buildings Transaction Tax (LBTT) which replaced the UK Stamp Duty Land Tax in Scotland on that date. Users had been able to sign up to our electronic tax system since 16 February. Over 2800 users have now done so and between 1 April and 16 April, 3478 LBTT returns have been submitted, of which just over one per cent have been submitted on paper.

Further development of our systems and processes continues in collaboration with stakeholders and includes the facility for the electronic submission of the first returns for the Scottish Landfill Tax (SLfT) this summer. [26 landfill operators have registered for SLfT since registration opened on 16 February.]

Copies of my previous reports of March and October 2014, and letters to the Committees following my appearances in December 2014 and March 2015, can be found on the Scottish Parliament's website at:

- http://www.scottish.parliament.uk/S4_FinanceCommittee/General%20Documents/March_2014(1).pdf
- http://www.scottish.parliament.uk/S4_PublicAuditCommittee/General%20Documents/17_October_2014.pdf
- http://www.scottish.parliament.uk/S4_FinanceCommittee/General%20Documents/Update_from_Revenue_Scotland_to_the_Finance_Committee_dated_8_January_2015.pdf
- http://www.scottish.parliament.uk/S4_FinanceCommittee/General%20Documents/Revenue_Scotland_to_the_Finance_Committee.pdf

I hope this information is helpful to the Committee. Dr Keith Nicholson, the Chair of Revenue Scotland, and I are due to appear before the Committee at their evidence session on 29 April 2015 when we will be happy to answer any questions the Committee may have.

Yours sincerely

ELEANOR EMBERSON

Enclosures:

Update Report on the Implementation of Devolved Taxes (incl. Annexes A, C and D), 270214
Annex B to the Update Report, as amended, 090315

Eleanor Emberson
Chief Executive
Revenue Scotland
Victoria Quay
Edinburgh, EH6 6QQ
info@revenue.scot
www.revenue.scot

Mr J Johnston
Clerk to the Finance Committee
Room T3.60
The Scottish Parliament
Edinburgh
EH99 1SP

Finance.committee@scottish.parliament.uk

Ms J Williams
Clerk to the Public Audit Committee
Room T3.60
The Scottish Parliament
Edinburgh
EH99 1SP

pa.committee@scottish.parliament.uk

27 February 2015

Dear Clerks

IMPLEMENTATION OF THE DEVOLVED TAXES – JOINT UPDATE FROM REVENUE SCOTLAND, REGISTERS OF SCOTLAND AND THE SCOTTISH ENVIRONMENT PROTECTION AGENCY

1. This letter provides the joint 6 monthly update from Revenue Scotland (RS), Registers of Scotland (RoS) and the Scottish Environment Protection Agency (SEPA) on progress on the implementation of the devolved taxes. It also addresses the issues raised by your respective Committees following my oral evidence sessions on 17 December 2014.

Policy Development, Consultation and Legislation

2. The Scottish Government and UK Government agreed that the arrangements for the disapplication of the two UK taxes would be set out in an exchange of Ministerial letters. You received a copy of the Deputy First Minister's letter to the Financial Secretary to the Treasury on 27 January confirming Revenue Scotland's readiness to collect and manage the two devolved taxes from 1 April 2015. You will also have received a copy of Mr Gauke's reply dated 9 February to confirm that HMRC has made the necessary arrangements to disapply Stamp Duty Land Tax (SDLT) and UK Landfill Tax in Scotland from 1 April, and that the Treasury Orders to disapply the UK taxes will be laid in good time before the dissolution of the UK Parliament in the spring. The Treasury Orders will pave the way for the laying of commencement orders to bring the devolved taxes legislation into force on 1 April.

3. Following public consultation, the Scottish Government has brought forward a package of secondary legislation which in total will comprise over 40 Scottish Statutory Instruments (SSI) to implement the Land and Buildings Transaction Tax (Scotland) Act 2013, the Landfill Tax (Scotland) Act 2014 and the Revenue Scotland and Tax Powers Act 2014.

4. Almost all of the SSIs have already been laid before Parliament. Subject to Parliamentary approval, all 3 Acts - together with the associated secondary legislation - will be commenced in full on 1 April 2015. The tables set out at **Annex A** provide links to each of the SSIs which have been laid before Parliament, together with the accompanying explanatory and policy notes and proposed laying dates for the final instruments.

Revenue Scotland Board and Statutory Positions

5. The appointment of the 5 Board members, including the Chair, of Revenue Scotland concluded in December 2014.

6. Revenue Scotland itself was brought into being as a body corporate and an office-holder in the Scottish Administration on 1 January 2015, on which date its Chair, Chief Executive and members took up post. Under section paragraph 8(3) of schedule 1 to the Revenue Scotland and Tax Powers Act, I was appointed by the Scottish Ministers as the first Chief Executive of Revenue Scotland. I have also been appointed as Accountable Officer. After this initial, transitional arrangement, the responsibility for appointing the Chief Executive will rest with the Revenue Scotland Board (the Board).

7. The Board completed their initial induction training in January and have met on two further occasions in January and February. Dates for further meetings throughout 2015 are agreed and the Board has taken steps to put in place key elements of governance, including reviewing a draft Framework Document to be submitted to Scottish Ministers, approving Standing Orders and agreeing the terms of reference for its Audit and Risk Committee.

Tax Administration Programme

8. The Tax Administration Programme is at an advanced stage of delivery. The programme comprises three major projects – Organisational Functions, Tax Processes, and IT Implementation – and three smaller projects – RoS's Land and Buildings Transaction Tax Project, SEPA's Scottish Landfill Tax Project, and the establishment of the Scottish Landfill Communities Fund. Communications activity underpins all of these projects.

9. 16 February 2015 was a major milestone for the Programme, with the opening of registration for SLfT and sign-up to the Scottish Electronic Tax System (SETS) for both SLfT and LBTT. This coincided with the publication of a significant volume of guidance – covering all

three pieces of primary legislation relating to the devolved taxes, as well as guidance on signing up to SETS. The Revenue Scotland support desk also opened on the same day.

Governance and Scrutiny

10. The Tax Administration Programme continues to follow approved programme and project methodology, and an integrated assurance plan sets out the range of quality management and assurance measures in place at product, project and programme level.

11. The Programme underwent a third Gateway Review in November 2014. The delivery confidence assessment was Amber/Green. Recommendations focused on maintaining progress toward the transition to live operations and are being followed up.

12. The Committees are aware that Audit Scotland published a report in December 2014 on preparations for the implementation of the Scotland Act 2012. This found that clear structures had been established for managing the set-up of Revenue Scotland, and that there were well-developed project plans in place for implementing the devolved taxes. Audit Scotland, however, considered that there was a risk that the IT system would not be fully operational by 1 April 2015, and that Revenue Scotland may not have the expertise to manage the devolved taxes effectively from 1 April 2015.

13. As I discussed with both Committees in December, our project plans set out clearly how we would ensure that both the IT and operational staffing would be in place. I can confirm that work has progressed as planned and I am confident that we will deliver the IT system, operational staffing and all the other elements that need to be in place for the collection and management of the two taxes for 1 April.

14. The Board has reviewed the Programme and is satisfied with its progress and the assurance processes in place.

IT Implementation

15. Following a Gateway Review of the Project in summer 2014, the IT Implementation project focused first on the development of the internal case management system, the online form and the necessary links with the Scottish Government accounting system (SEAS). The next step was the development of the online portal for external users. The external portal was opened on 16 February to allow registration for Scottish Landfill Tax (SLfT) and sign up for use of SETS for both SLfT and Land and Buildings Transaction Tax (LBTT).

16. The opening of registration and sign-up was a major milestone for the IT Implementation Project. This allows external users – principally solicitors and landfill site operators – to set up accounts on SETS so that, from 1 April, they will be able to submit tax returns online. External user feedback during testing and since the portal opened has been overwhelmingly positive.

17. Now that the external portal is available, all of the main elements of SETS required for 1 April are now in place, and the registration and sign up elements are currently live. As with any IT implementation project, the focus in the remaining time is on testing and sign-off of the end-to-end system. Since January, external users have been involved in the testing of the system and they will continue to have a key role in this last stage. We will also be continuing to refine the case management system to ensure that it supports the internal work of Revenue Scotland, RoS and SEPA as effectively as possible. In mid-March, the system will be opened for external users to practice carrying out electronic transactions in order to become familiar with the system functionality. This early access may reveal additional bugs or issues. Resolution of any such issues will be prioritised and factored into the regular cycle of maintenance for the system, and some may be resolved post go-live. There are some additional elements of SETS required for collection of SLfT from the end of June 2015. These are on track to be completed and tested in good time.

Contingency Planning

18. As with any major change programme, we of course have contingency plans in place to cover possible risks to delivery. The main contingency plan discussed with the Committees in December covered the possibility of using paper returns if our online tax collection system (SETS) was not ready on time. I can confirm to the Committees that our IT system will be delivered as planned and it has not, therefore, been necessary to invoke the contingency plan.

Revenue Scotland Staffing

19. In addition to the appointment of the Chief Executive, the detailed planning and preparation for the recruitment of the other 40 staff required for the first year of operation for Revenue Scotland has been completed. The first phase of recruitment has been concluded and the second main phase is drawing to a close. Following this intense period of recruitment activity, 31 of the 40 posts have now been filled. Recruitment is well advanced for the remaining posts, not all of which are required for 1 April.

20. Essential posts for the senior management team, tax specialists, legal, finance, IT and corporate services have been filled which means that Revenue Scotland will go fully live on 1 April with the required breadth of expertise and experience to collect and manage the devolved taxes.

21. We have also developed a training programme for all staff which is being delivered as operational staff are recruited in preparation for the administration of LBTT and SLfT.

Roles and responsibilities of RS, RoS and SEPA

22. We have continued to work well with RoS and SEPA to define the relative roles and responsibilities of each organisation in light of delegation of functions and have set out the detail of these relationships in Memoranda of Understanding (MoUs). This includes making it clear that Revenue Scotland remains statutorily responsible for all the functions delegated to RoS and SEPA.

23. The MoUs have been developed by RS, RoS and SEPA officials and were reviewed by the Board at their meeting on 25 February 2015. These will shortly be submitted to RoS and SEPA for their agreement and the final versions will then be shared with the Finance Committee.

24. The MoUs are living documents, and Revenue Scotland will of course continue to work with RoS and SEPA to ensure that they reflect roles and responsibilities accurately. We are planning a formal review of each MoU after three months of operation but it will be open to Revenue Scotland, RoS and SEPA to review the MoUs at any stage, if necessary.

25. The delegation of statutory duties from Revenue Scotland to RoS and SEPA will formally be given effect by Schedules of Delegation. These will be laid in Parliament prior to 31 March 2015. The Memoranda of Understanding set out the approach to carrying out the delegated functions and the way the relationship between Revenue Scotland and RoS or SEPA will be managed on a day-to-day basis.

System Sign-up and SLfT Registration

26. Following the opening of the external portal on 16 February, the numbers signed up for use of SETS and SLfT registration as of 26 February are as follows:

Number of users signed up to use SETS	483 from 116 firms
Number of users in the process of signing up for SETS	52
Landfill operators registration underway	8

27. We will continue to work with landfill operators to get them all registered and to promote to solicitors the need to sign up for our online system in good time ahead of 1 April. The Law Society of Scotland, the Chartered Institute of Taxation and other professional bodies have continued to support us and are helping us ensure that the appropriate messages reach their members.

Taxpayer Contact

28. Alongside the opening of the external portal, Monday 16 February also saw the opening of the Revenue Scotland support desk, with a telephony system in place to ensure that calls are routed correctly. To ensure that taxpayers and agents have access to the support they require, we have trained a pool of staff to work on the support desk which we can scale up or down as demand requires. Support desk staff are trained to answer questions about the registration and sign-up process, and to pass on more complicated system queries to dedicated IT staff. Dedicated mailboxes for technical queries about tax guidance have also been set up. Up to 26 February, the support desk has been handling an average of 33 calls per day, with steady progress in sign-up numbers. We will continue to monitor call volumes closely and will scale up the support desk as required, particularly around the end of March and early April.

Business Continuity Planning

29. As with all public services, a key element of maintaining consistent performance for Revenue Scotland is robust business continuity planning. The Board will be reviewing Revenue Scotland's Business Continuity Plan at its March meeting.

Costs

30. Cost estimates for LBTT and SLfT have since 2012 been prepared on the basis of the cost of set-up plus five years of operation, and have been compared to the original estimate given by HMRC for the cost of setting up and operating for five years two devolved taxes on a like-for-like basis with Stamp Duty Land Tax and UK Landfill Tax. The HMRC estimate was £22.3m in 2012. On that basis, my current estimate of the costs for LBTT and SLfT is £21.2m, which is unchanged from the estimate I reported to the Finance Committee in October 2014. Individual items within that estimate have changed, however, so I attach at **Annex B** a table showing the latest estimates broken down by the same categories as I previously reported to the Finance Committee. The change to the costs of IT procurement and maintenance is due to clarification that VAT will not be recoverable rather than an increase in the cost of the contracts. As noted in SEPA's progress report at **Annex D**, Revenue Scotland is also still in discussion with SEPA about costs associated with holding and managing Scottish Landfill Tax intelligence.

31. As the Committee will be aware, there are limitations with this approach to estimating the costs and the comparison with the original HMRC estimate is becoming increasingly strained for several reasons:

- The HMRC estimate was based on 2012 prices and so made no allowance for pay increases or inflation. My estimate above is based on current prices, but we will at some point need to take into account pay and general inflation for future years.
- The HMRC estimate was based on taxes designed on a like-for-like basis with their UK equivalents. LBTT and SLfT legislation has established features of these taxes to suit circumstances in Scotland, which have introduced some changes in scope to the implementation work. It is not clear how equivalent scope changes would have changed HMRC's costs.
- The estimates have focused on cash budgets and so omit the non-cash depreciation charge.
- Focusing entirely on the cost of collection does not allow the Committee to take into account the relationship between the amount spent on compliance work and the amount of revenue raised.

32. The Board is considering these issues and seeking to establish a way of presenting Revenue Scotland costs for scrutiny that will be more meaningful. One option would be to monitor operating costs as a percentage of revenue raised, averaged over a number of years to allow for changing economic circumstances. This option could usefully support the Finance Committee in considering Revenue Scotland's budget in future years. It could also allow for international benchmarking, as figures are published on a similar basis for other jurisdictions, and form a part of a set of indicators to provide a full and transparent view of Revenue Scotland's performance as discussed below.

Performance Measures and Indicators

33. We are grateful for the performance measure questions from the Public Audit Committee and the recommendation from the Finance Committee in its report on the Draft Budget 2015-6 which have helped inform the development of our performance framework.

34. We are designing the framework of performance indicators and data around the four principles of a good taxation system articulated by Adam Smith in The Wealth of Nations: certainty, convenience, efficiency and proportionality to the ability to pay. We have reflected on the areas that the Committees asked about and we will attempt to cover all of these, although in order to give information on the outcome that we believe is of interest we may have to do so using a slightly different metric.

35. There are some points worth noting:

- As these are self-assessed taxes, we can measure our collection rate of the amounts that taxpayers have self-assessed but that is likely to be high and it may be of rather less interest than the amount of tax that we eventually take in after further compliance work.

- Compliance activity itself will have both direct and indirect consequences, so we need to look not only at assessments and determinations made by Revenue Scotland and enquiries carried out but also taxpayer amendments which may be prompted by changes in attitude or understanding.

- Another important aspect of compliance is how successfully we create a culture where people expect to pay and where it is easy for them to get their tax return right first time. The legislation passed by Parliament is clear on the principles and Revenue Scotland is designing it systems and communications to make payment as easy as possible. These factors should reduce the amount of tax that has to be collected later through direct compliance activity.

- As a small organisation, Revenue Scotland's primary focus will be on administering the devolved taxes. As such, staff will be working in a broad range of areas across both taxes so any costs for collection of each tax or each area of work can only be based on estimates of staff time. The one exception will be the activity of the three specialist 'additional compliance staff', which will be tracked so that we can provide an accurate view of the amount of additional tax collected or in process of being pursued through the work of that group.

36. The Board considered some proposals for Key Performance Indicators (KPIs) and data for publication at its meeting on 25 February. There is more work to be completed and the Board will consider further proposals again at their meeting next month. Subsequently, these proposals will be shared with the Committees and the KPIs will eventually form part of our Corporate Plan which has to be agreed with the Scottish Ministers.

37. The Committees may also wish to note that we plan to make key information about tax yield available on the Revenue Scotland website monthly for Land and Buildings Transaction Tax and quarterly for Scottish Landfill Tax. These regular within-year publications will report the number of tax returns received, the value of liabilities reported, and the value of associated receipts.

Stakeholder engagement and communications

38. Since the last update to the committee on 17 October, there has been an increase in the intensity of our engagement with key stakeholders and communication activities in general. An important milestone for the programme as a whole came with the launch of the website, www.revenue.scot in November, which includes tax calculators, FAQs and the recently published guidance for the taxes.

39. Activities and messages continue to be coordinated across the communication teams of Revenue Scotland, Scottish Government, HMRC, RoS and SEPA to try to make changes as simple as possible for taxpayers and their agents. Our Devolved Tax Collaborative met again in mid-November, and there was a clear message from attendees that Revenue Scotland should continue to provide such a forum for engagement beyond the launch of the taxes on 1 April. We are currently considering the creation of two subgroups, one for LBTT and one for SLfT, which would focus on detailed issues on the operation of each tax and keep technical guidance under review.

40. We have received particularly strong feedback for our engagement with end users in the previewing and testing of our IT portal. The Committees may be aware that Isobel D'Inverno, Chair of the Law Society's Tax Committee, commented publicly in January on a demonstration of the system:

'*The LBTT online system is user friendly and intuitive, with a very modern look and feel, and the returns themselves are much shorter, and do not require so much of the non-tax related information which has to be included in SDLT returns'.*

41. End users have also played an important part in the review process for our draft technical guidance for the devolved taxes, which has included bilateral discussions as well as, for example, a workshop for Landfill Operators. We ran a series of LBTT roadshow events across Scotland in February, designed to give key information to solicitors and those in their offices who will be involved in submitting tax returns, and a demonstration of completing the online form. These events were attended by over 600 solicitors and tax professionals and a live online seminar was held this week for the benefit of those who had been unable to attend.

42. Following a preliminary consultation with stakeholders such as The Law Society of Scotland, ICAS, CIOT and environmental membership groups, a draft Charter of Standards and Values has been drafted and a public consultation on this was launched at the end of January, running until 6 March.

43. I would like to take the opportunity of this report to thank publicly all of the end users who have given us their time to comment on guidance, to carry out system testing and to support our communications. Revenue Scotland has benefitted substantially from their

experience and expertise, and the result will be tax collection systems that are practical and minimise administrative burdens.

Registers of Scotland progress

44. RoS have provided a supplementary progress report on Land and Buildings Transaction Tax implementation for the Committees at **Annex C**.

SEPA progress

45. SEPA have provided a supplementary progress report on Landfill Tax implementation for the Committees at **Annex D**.

Conclusion

I hope that this update is useful to the Committee and I would be happy to answer any further questions.

Yours sincerely

ELEANOR EMBERSON

ANNEX A: Devolved Taxes Secondary Legislation (As at 240215)

LBTT Legislation

Instruments		Procedure	No of pages / laying date
1.	**LAND AND BUILDINGS TRANSACTION TAX (SCOTLAND) ACT 2013**		133
2.	**LBTT:** The Land and Buildings Transaction Tax (Scotland) Act 2013 (Commencement No. 1) Order 2014	None	4
3.	**LBTT:** The Land and Buildings Transaction Tax (Definition of Charity) (Relevant Territories) (Scotland) Regulations 2014	Negative	2
4.	**LBTT:** The Land and Buildings Transaction Tax (Prescribed Proportions) (Scotland) Order 2014	Negative	2
5.	**LBTT:** The Land and Buildings Transaction Tax (Qualifying Public or Educational Bodies) (Scotland) Amendment Order 2014	Negative	2
6.	**LBTT:** The Land and Buildings Transaction Tax (Addition and Modification of Reliefs) (Scotland) Order 2015	Affirmative	8
7.	**LBTT:** The Land and Buildings Transaction Tax (Administration) (Scotland) Regulations 2014	Negative	8
8.	**LBTT:** The Land and Buildings Transaction Tax (Ancillary Provision) (Scotland) Order 2014	Negative	2
9.	**LBTT:** The Land and Buildings Transaction Tax (Transitional Provisions) (Scotland) Order 2014	Negative	8
10.	**LBTT:** The Land and Buildings Transaction Tax (Sub-sale Development Relief and Multiple Dwellings Relief) (Scotland) Order 2015	Affirmative	8
11.	**LBTT:** The Land and Buildings Transaction Tax (Tax rates and bands) (Scotland) Order 2015	Affirmative	4
12.	**LBTT:** The Land and Buildings Transaction Tax (Transitional Provisions) (Amendment) (Scotland) Order 2015	Negative	3 March
13.	**LBTT:** The Land and Buildings Transaction Tax (Scotland) Act 2013 (Commencement No. 2) Order 2015	None	20 March 2015

Total pages (items 1-11): 181

Scottish Landfill Tax Legislation

Instruments		Procedure	No of pages / laying date
1.	**LANDFILL TAX (SCOTLAND) ACT 2014**		32
2.	**SLfT:** The Landfill Tax (Scotland) Act 2014 (Commencement No. 1) Order 2014	None	4
3.	**SLfT:** The Scottish Landfill Tax (Prescribed Landfill Site Activities) Order 2014	Provisional Affirmative	4
4.	**SLfT:** The Scottish Landfill Tax (Administration) Regulations 2015	Negative	28
5.	**SLfT:** The Landfill Tax (Scotland) Act 2014 (Commencement No. 2) Order 2015	None	3
6.	**SLfT:** The Scottish Landfill Tax (Qualifying Material) Order 2015	Provisional Affirmative	5
7.	**SLfT:** The Scottish Landfill Tax (Standard Rate and Lower Rate) Order 2015	Affirmative	2
8.	**SLfT:** The Scottish Landfill Tax (Administration) (Amendment) Regulations 2015	Affirmative	11 February
9.	**SLfT:** The Scottish Landfill Tax (Exemptions Certificates) Order 2015	Affirmative	24 February
10.	**SLfT:** The Landfill Tax (Scotland) Act 2014 (Commencement No. 3) Order 2015	None	20 March

Total pages (items 1-7): 78

RSTPA Legislation

Instruments		Procedure	No of pages / laying date
1.	**REVENUE SCOTLAND AND TAX POWERS ACT 2014**		154
2.	**The Public Appointments and Public Bodies etc. (Scotland) Act 2003:** (Treatment of Revenue Scotland as a Specified Authority) Order 2014	Affirmative	2
3.	**RSTPA:** The Revenue Scotland and Tax Powers Act 2014 (Commencement No. 1) Order 2014	None	4
4.	**RSTPA:** The Scottish Tax Tribunals (Eligibility for Appointment) Regulations 2014	Negative	4
5.	**RSTPA:** The Revenue Scotland and Tax Powers Act 2014 (Commencement No. 2) Order 2014	None	8
6.	**RSTPA:** The Revenue Scotland and Tax Powers Act 2014 (Commencement No. 3) Order 2015	None	8
7.	**RSTPA**: The Revenue Scotland (First Planning Period) Order 2015	Negative	2
8.	**RSTPA:** The Revenue Scotland and Tax Powers Act (Fees for Payment) Regulations 2015	Negative	4
9.	**RSTPA:** The Revenue Scotland and Tax Powers Act (Involved Third Party) Order 2015	Negative	2
10.	**RSTPA:** The Revenue Scotland and Tax Powers Act (Postponement of Tax Pending a Review or Appeal) Regulations 2015	Affirmative	4
11.	**RSTPA:** The Revenue Scotland and Tax Powers Act (Privileged Communications) Regulations 2015	Negative	8
12.	**RSTPA:** The Scottish Tax Tribunals (Voting and Offences etc.) Regulations 2015	Affirmative	4
13.	**RSTPA: The Proceeds of Crime Act 2002** (Disclosure of Information to and by Lord Advocate and Scottish Ministers) Amendment Order 2015	Affirmative	4
14.	**RSTPA:** The Revenue Scotland and Tax Powers Act (Interest on Unpaid Tax and Interest Rates in General) Regulations 2015	Affirmative	18 February
15.	**RSTPA:** The Revenue Scotland and Tax Powers Act (Reimbursement Arrangements) Regulations 2015	Affirmative	18 February
16.	**RSTPA:** The Revenue Scotland and Tax Powers Act (Record Keeping) Regulations 2015	Affirmative	18 February
17.	**RSTPA:** The Scottish Tax Tribunals (time limits and rules of procedure) Regulations 2015	Negative	30 March
18.	**RSTPA:** The Scottish Tax Tribunals (Conduct and Fitness) Rules 2015	None	30 March
19.	**RSTPA:** The Revenue Scotland and Tax Powers Act 2014 (Commencement No. 4) Order 2015	None	20 March

Total pages (items 1-6): 224

Annex C: Progress report: Registers of Scotland

ros.gov.uk

Registers of Scotland: Progress Report on Land and Buildings Transaction Tax Implementation

1. RoS continues to work closely with colleagues from Revenue Scotland, HMRC and SEPA in implementing Scotland's new tax collection system. RoS has its own internal LBTT Project and is represented on the Tax Admin Programme Board, the Revenue Scotland IT Implementation Project and the Revenue Scotland Tax. The overall Tax Administration Programme Board is reporting a status of green for launch of the new tax on 1 April. The RoS LBTT Project is similarly reporting green.

Roles and responsibilities

2. RoS is clear as to statutory and delegated roles and responsibilities. There are 4 principal aspects to this:

(i) We will check upon receipt of an application for registration that it complies with section 43 of the LBTT (Scotland) Act 2013; namely that a land transaction return has been made in relation to the transaction. Operational guidance for RoS staff is being drafted and appropriate training will be provided prior to the launch of LBTT.

(ii) Acting under delegated authority, we will receive and process any paper LBTT returns and any associated payment. RoS staff will enter the information on the LBTT return directly in to the Revenue Scotland system. We have developed resource modelling assumptions around this based on a range of scenarios for rates of paper submission.

(iii) We will support Revenue Scotland's compliance activities by providing a regular data feed of all relevant applications registered in the Land Register and the Books of Council and Session. RoS already supplies such data to HMRC.

(iv) We will have a role to play in the event that system contingency has to be invoked.

IT readiness

3. In terms of IT we have delivered the technology to support access to our authentication server. This enables taxpayer representatives to use their pre-existing registration with RoS as a means of authenticating who they are for purposes of registration with Revenue Scotland. This was delivered to support the launch of registration on 16 February.

4. The other IT deliverable for RoS concerns desk-top access for our staff to information supplied by Revenue Scotland to enable the s43 check. This has been developed and will be available to support staff training in early March.

5. In the event that the on-line submission system cannot be deployed on 1 April we have developed, in tandem with Revenue Scotland, well developed, costed and resourced contingency plans. In essence all paper returns which accompany an application for registration will be submitted direct to RoS. The operational impact has been scoped and planned for to ensure contingency does not adversely impact on our legal obligations under the various registration statutes.

Operational readiness

6. Resource, security and process requirements have been established for both the statutory s43 role and the delegated role of processing paper returns. Training for both activities will be delivered in early March; to ensure consistency between Revenue Scotland and RoS operational tasks the training for both bodies is being delivered by a RoS trainer. Preparations are in hand to ensure that those RoS staff with delegated authority sign a declaration of confidentiality. The mechanisms for delivering information between Revenue Scotland and RoS have been agreed as has the content of that information.

Customer readiness

7. The overall customer messaging is being led by Revenue Scotland. They are currently in the midst of a series of roadshows to which we are providing input. Specific registration related guidance will be issued by RoS. As part of the implementation of the Land Registration etc. (Scotland) Act 2012 in late 2014 the standard registration application form was updated to include questions around LBTT.

Costs

8. The anticipated set-up costs for RoS, as previously reported to the Finance Committee, were estimated at £335,000. It is anticipated that the actual spend will be less than this. Final costs are being collated and will be available by the committee appearance date.

Registers of Scotland
16 February 2014

Annex D: Progress report: Scottish Environment Protection Agency

SEPA: Progress Report on Scottish Landfill Tax Implementation

1. The Scottish Landfill Tax Project in SEPA continues to make good progress. Open and productive working relationships are maintained with the now established Revenue Scotland.

Roles and responsibilities

2. SEPA is clear as regards its roles and responsibilities in supporting Revenue Scotland in the administration of Scottish Landfill Tax and regulating the Scottish landfill communities fund.

3. SEPA staff are liaising closely with their Revenue Scotland counterparts on the detail of working relationships post April 2015.

4. Revenue Scotland has requested that SEPA hold and manage Scottish Landfill Tax Intelligence on their behalf. SEPA and Revenue Scotland is looking at the operational and security requirements and costs of this.

IT Readiness

5. A data feed has been created and will transfer waste data SEPA received from landfill sites to Revenue Scotland. In addition, there is an agreed, and approved route for SEPA to interact with Revenue Scotland's case management system.

6. Decisions have also been made with respect to SEPA's landfill tax staff working within SEPA's secure network.

Operational readiness

7. SEPA's capability to undertake SLfT compliance on behalf of Revenue Scotland has progressed with recruitment of key staff within SEPA. A Unit Manager and Specialist have been recruited and are now in post and SLfT Compliance Officers and Specialists are currently being recruited as planned. Decisions have also been made with respect to the location these staff.

8. General awareness training for SEPA has been undertaken with more than 100 staff from all over Scotland attending 'webinars'. In addition, Revenue Scotland and SEPA are to provide training opportunities for each other as well as for their own employees.

10. An Equalities Impact Assessment of these new roles has been completed and a Privacy Impact Assessment is being undertaken by SEPA.

Customer readiness

10. As highlighted earlier, there has been an increase in intensity of engagement with key stakeholders. An Earnst and Young Scottish Landfill Tax seminar was attended by SEPA in Edinburgh on 16 February 2015, which offered a key opportunity to communicate to a good number of landfill operators. This was also an important day for the new tax with the opening of Revenue Scotland SLfT Registration and the release of the legislation guidance.

Costs

11. SEPA setup costs were reviewed from £620k to £380k (on the back of the revised IS model). Project spend for setup costs is projected to be within this revised budget.

Scottish Landfill Communities Fund

12. A second, but closely aligned project is also established to develop the ability for SEPA to regulate the Scottish Landfill Communities Fund. Various forms and documents have been drafted to enable bodies who distribute funds in Scotland to register with SEPA. A resourcing model has been developed and it is hoped that staff will be recruited to undertake this role over the coming weeks.

SEPA

17 February 2015

Tax Administration Programme Budget and Costs

February 2015

£ thousand

	Actual 2013/14	Forecast 2014/15	Estimate 2015/16	Estimate 2016/17	Estimate 2017/18	Estimate 2018/19	Estimate 2019/20	Revised Total	Budget in RSTPB	*Inc/(Dec) vs RSTPB*
Revenue Scotland										
Staff Set Up	580	1,717	770	0	0	0	0	3,067	1,405	*1,662*
Non-Staff Set Up	31	634	10	0	0	0	0	675	455	*220*
Total Set Up	611	2,351	780	0	0	0	0	3,742	1,860	*1,882*
Staff Running Costs	0	472	1,573	1,498	1,498	1,498	1,498	8,037	6,955	*1,082*
RS non-staff running costs	0	31	668	663	663	663	663	3,351	3,700	*-349*
Transfer in from HMRC - operational savings			-275	-275	-275	-275	-275	-1,375	0	*-1,375*
Total Running Costs	0	503	1,966	1,886	1,886	1,886	1,886	10,013	10,655	*-642*
IT Investment - procurement & maintenance(1)	0	749	419	188	188	188	188	1,920	1,500	*420*
IT Investment - additional staff	0	253	93	0	0	0	0	346	0	*346*
Total IT Investment	0	1,002	512	188	188	188	188	2,266	1,500	*766*
Total Revenue Scotland	**611**	**3,856**	**3,258**	**2,074**	**2,074**	**2,074**	**2,074**	**16,021**	**14,015**	***2,006***
Registers of Scotland										
Set Up	79	249	0	0	0	0	0	328	335	*-7*
Staff Running Costs	0	0	240	240	240	240	240	1,200	1,200	*0*
RoS non-staff running costs	0	0	85	85	85	85	85	425	425	*0*
Total Registers of Scotland	**79**	**249**	**325**	**325**	**325**	**325**	**325**	**1,953**	**1,960**	***-7***
Scottish Environment Protection Agency										
SEPA set-up	131	269	0	0	0	0	0	400	625	*-225*
SEPA running costs	0	0	298	306	306	306	306	1,522	1,600	*-78*
Collection of SLfT on Illegal Dumping	0	0	204	210	210	210	210	1,044	1,050	*-6*
Total SEPA	**131**	**269**	**502**	**516**	**516**	**516**	**516**	**2,966**	**3,275**	***-309***
Additional Compliance Activity 2015-16 only			**259**					**259**	**230**	***29***
GRAND TOTAL(2)	**821**	**4,374**	**4,344**	**2,915**	**2,915**	**2,915**	**2,915**	**21,199**	**19,480**	***1,719***

Notes:
(1) IT procurement costs appear higher to reflect non-recoverable VAT. No change to the cost of the contract.
(2) Set up costs for Registers of Scotland and SEPA have been reviewed to ensure consistent treatment with regard to non-recoverable VAT. Net costs for both are below initial budgets
(3) Non-cash (not included above)

Depreciation	*0*	*0*	*93*	*93*	*93*	*93*	*93*

Mae cyfyngiadau ar y ddogfen hon

Y Pwyllgor Cyllid / Finance Committee
FIN(4)-09-15 P5

Cymdeithas y Cyfreithwyr
The Law Society

Collection and management of devolved taxes in Wales

December 2014

Introduction

1. The Law Society of England and Wales ("the Law Society") is the representative body for more than 166,000 solicitors in England and Wales. The Law Society negotiates on behalf of the profession, and lobbies regulators, government and others.

2. The Law Society plays an active role in law reform, the effective operation of legal institutions and access to justice in England and Wales. The Tax Law Committee is a specialist committee of the Law Society comprising 15 expert tax practitioners.

3. The Law Society Wales Office delivers the Law Society's aims in Wales, working with Welsh institutions; influencing and responding to the devolution of law-making; and promoting and supporting the legal community in Wales.

Overview

4. The Society welcomes this opportunity to respond to the White Paper. We see this as an important opportunity for the Welsh Government to take account of developments, positive and negative, in the UK tax system over the last few years.

5. It needs to be recognised that there are clear tensions in designing an effective tax system and yet manage to develop high quality administrative services that support tax collection. Despite a lot of adverse comment in newspapers, the UK benefits from a very high rate of voluntary compliance, perhaps encouraged by sanctions, but in general the level of compliance has not markedly increased as a result of additional penalties, etc.

6. There will be some taxpayers who do not agree with the judgement of a Welsh Revenue Authority (“the Authority”) as to whether tax is due or the extent of their liability and it is important that they have an opportunity to test whether a liability exists and the amount of any liability before Tribunals or the Courts, as appropriate.

7. Further, it needs to be recognised that when there is a dispute, then until the final Tribunal or Court decision has occurred, or the parties have agreed on a settlement, it is not clear that the liability *is* owed to the Authority. Accordingly if it is thought appropriate that in these circumstances tax is collected before a matter in dispute is heard by the Tribunal or Court, the Authority needs to be adequately staffed and funded so that disputes can rapidly reach the Tribunals or Courts in order to establish whether, and if so how much, liability to tax actually exists. This is a particularly unfortunate aspect of the current taxation system in the UK that inadequate numbers of well-trained staff are available to process disputes efficiently.

Response to Questions

8. Our comments below follow the questions posed in the consultation. The question number appears following the comment. Where there is no settled opinion the question has been omitted and no response is recorded.

9. While there have been some concerns whether as a Non-ministerial Department, HM Revenue & Customs ("HMRC") is adequately accountable to Parliament whilst maintaining taxpayer confidentiality, we suspect that there would have been more difficulties faced by HMRC had it been a Ministerial Department with a Minister responsible for it and answerable before Parliament. (Question 1)

10. If fully delivered the core set of duties for the Authority would be a good starting point then, after a period of operation by the Authority, say five years, a review of the duties could be carried out. (Question 2)

11. We think that it is important that a Taxpayer's Charter is regarded as having some operational significance. So, for example, it is perceived by some UK taxpayers that, despite comments in the Charter operating in the UK, where they conduct particular lines of business they are assumed to be "dodging taxes" rather than assumed to be compliant with their obligations until demonstrated otherwise. It would certainly be helpful if non-compliance with the Charter had an adverse impact on continued employment by the Authority rather than just being seen to be aspirational.

12. We think it is very important that consultation occurs between groups representing both assisted and unassisted taxpayers (e.g. the Low Income Tax group in the UK as well as appropriate representative bodies) to consider whether the Charter's principles are being followed. (Question 4)

13. From the perspective of taxpayers, the most important factor is balancing efficiencies of the low cost of collection, without having low levels of performance (e.g. insufficient staff to respond to telephone enquiries promptly) and the perception of the Authority being distant, remote or unthinkingly "heavy-handed". We suspect that the net cost of collection will be increased if there is a variable local approach rather than a single body for Wales. (Question 5)

14. We would only add that to accompany powers and duties of the type that could be expected, in order to enable taxpayers to self-assess tax, they need to have access to an adequately staffed Authority enabling them to resolve areas of uncertainty promptly where published (presumably online) guidance does not adequately deal with these questions. (Question 8)

15. One feature that the Authority could test would be whether a *ruling system*, with an appropriate cost being born by business taxpayers seeking rulings (in appropriate circumstances), should be instituted. This would enable the taxpayer who wishes to obtain certainty by reference to a particular set of facts to provide relevant material to the Authority and obtain a ruling which would be binding on the Authority unless there is a development in law (whether in Wales or in the EU) which would render the ruling inconsistent with the law as it has been determined. In appropriate circumstances it would be necessary to provide for an adequate transitional period in which the ruling remains valid whilst the taxpayer reorganises their affairs. One of the perceptions that is widely held in relation to HMRC is that the enquiry service is inadequately staffed and funded and that HMRC seeks to "trip up" taxpayers by levying penalties where as a result of not being able to obtain binding rulings (and not being able to resolve the questions out of its own resources or with professional advisors) HMRC take a different view than that taken by the taxpayer required to pay the penalties. (Question 10)

16. Provided that there is adequate time for consultation a power to levy penalties should be provided. However, the level of penalties should not be set such as to, in practice, "encourage" a taxpayer to concede a case where there is a good argument but the risk of the level of penalties makes it impracticable to consider an appeal. (Question 11)

17. It needs to be recognised that there is currently a consultation underway about extending the data regime in the UK in a manner which is thought by some bodies to be inappropriate. Therefore if there is modelling of the data for Wales on the regime currently operating in the rest of the UK, this should start from the current scheme. (Question 12)

18. One of the reasons it is perceived that there is a significant level of avoidance is the complexity and amount of reliefs in the UK tax regime. Specific reliefs targeted at particular sectors have in practice led to significant levels of litigation (e.g. reliefs targeted on films and other forms of incentive encouraged by ministers of the day.) A further cause of avoidance is rather rushed and prescriptive legislation in response to a particular problem, opening up another opportunity to mitigate tax, arising from a particularly prescriptive form of legislation adopted by Parliamentary Draftsmen. The Authority should have the opportunity to consider the fundamentals of the taxes for which it has authority and by revisiting principles underlying them, may reduce the scope of avoidance.

19. The consultation document recognises that it is important to provide certainty to business and other taxpayers and it seems unlikely that a General Anti-Avoidance Rule, unless accompanied by an adequately funded clearance / ruling process, would provide certainty. The whole reason that the UK General Anti-Abuse Rule has adopted the “double reasonableness” test is to provide as much certainty as can be provided to taxpayers, together with guidance from the Advisory Panel with a particular status, to minimise the uncertainty of taxpayers where there is no binding clearance service. (Question 17)

20. On that basis, if there was going to be a need for a restriction, we strongly recommend it should be a narrower “Abuse” provision. (Question 18)

21. In our view the assistance of an independent panel is particularly important and without the guidance produced by, and intended publication of decisions once they have been before, the Advisory Panel there would be an unacceptable level of uncertainty. The disadvantages of an independent panel will include the possibility that panel members may find themselves facing a conflict of interest or possibly, as a result, drawn from a relatively narrow sector of the population. (Question 19)

22. Given that a significant proportion of avoidance (as it is perceived by HMRC) has taken place in relation to stamp duty land tax, rather reflecting the shortcomings in UK legislation highlighted above, then, depending on the design of a Welsh land taxation regime, there will be less need for a GAAR affecting that particular tax. (Question 20)

23. We agree with the proposed approach to use the existing Ministry of Justice administered two-tier tax tribunal system as it is important that taxpayers have access to an effective form of appeal. There are concerns regarding the accommodation of Welsh law within the current courts and tribunals service including the training of judges which must be addressed. (Question 24)

24. Where the Authority has not set out an adequate reason as to why the liability, in its view has arisen and/or its quantum, then accommodation of incidences of hardship or making time to pay arrangements are relevant. (Question 25)

25. We should be pleased to provide further comments and expand on our replies if this would assist the consideration of our submission.

Please refer any questions regarding this response to:

Kay Powell LLM Solicitor / Cyfreithiwr
Policy Adviser / Ymgynghorydd Polisi
The Law Society / **Cymdeithas y Cyfreithwyr**
Capital Tower / Twr y Brifddinas
Greyfriars Road / Heol Y Brodyr Llwydion
Cardiff / Caerdydd
CF10 3 AG
T 029 2064 5254 **F** 029 2022 5944
email: kay.powell@lawsociety.org.uk

Mae cyfyngiadau ar y ddogfen hon

Evidence to the Finance Committee of the National Assembly for Wales on collection and management of devolved taxes.

My understanding is that it is legally necessary to have a body responsible for the collection of devolved taxes, hence the creation of a Welsh Revenue Authority.

However, given the very small amount of revenue involved with the currently devolved taxes, it seems inefficient for the WRA to create new mechanisms to collect taxes and so far as possible they should continue to be collected by existing organisations under contract to the WRA. There is no reason then why different taxes could not be collected by different organisations.

In dealing with HMRC I would suggest the WRA gets a tight contract with performance indicators and some element of payment by results. It is important that HMRC sets up a special unit concerned with Welsh taxes so WRA has a "one-stop shop".

At present the organisation of local authorities in Wales is in flux, as are, therefore, their tax collection agencies. It may be that if local authorities are consolidated, there could be an even greater consolidation of local authority tax collection. If there were a single or few local authority tax collection agencies, it or they might provide an alternative to HMRC for the collection of stamp duty on residential property transactions or landfill tax. That possibility would provide some potential competition for HMRC. However, that is not the case at present and it seems that HMRC is currently the best option for the minor taxes being devolved.

The existence of WRA means that contractual arrangements could be changed in future if circumstances change or new taxes are created or devolved. If income tax is devolved it would reinforce the need to get good terms from HMRC but provided these are obtained, the projected tax take would not justify creating an alternative collection agency. Many new taxes that have been proposed, such as a hotel or visitor tax or a tax on car-parking spaces are best seen as local taxes, which should be collected by a reformed local authority agency. It seems improbable that the WRA would need to expand its own tax collection capability in the foreseeable future.

Leaving tax collection agencies unchanged with clear terms of reference should enable service standards to be maintained or improved.

Gerald Holtham

20th April 2015

Mae cyfyngiadau ar y ddogfen hon

Eitem 9

Jane Hutt AC / AM
Y Gweinidog Cyllid a Busnes y Llywodraeth
Minister for Finance & Government Business

Llywodraeth Cymru
Welsh Government

Jocelyn Davies AC
Cadeirydd y Pwyllgor Cyllid,
Cynulliad Cenedlaethol Cymru
Bae Caerdydd
Caerdydd
CF99 1NA

30 Mawrth 2015

ADRODDIAD Y PWYLLGOR CYLLID: CRAFFU AR AIL GYLLIDEB ATODOL LLYWODRAETH CYMRU AR GYFER 2014-15

Diolch ichi am adroddiad y Pwyllgor Cyllid ar Ail Gyllideb Atodol Llywodraeth Cymru ar gyfer 2014-15.

Amgaeaf nodyn yn Atodiad A, sy'n ymateb i'r argymhellion yn adroddiad y Pwyllgor ar y gyllideb honno.

Jane

Jane Hutt AC / AM
Y Gweinidog Cyllid a Busnes y Llywodraeth
Minister for Finance & Government Business

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1NA

English Enquiry Line 0845 010 3300
Llinell Ymholiadau Cymraeg 0845 010 4400
Correspondence.Jane.Hutt@wales.gsi.gov.uk

Atodiad A - Ymateb i'r Argymhellion yn Adroddiad y Pwyllgor Cyllid

Ailflaenoriaethau a Gostyngiadau yn ystod y Flwyddyn

Argymhelliad 1. Mae'r Pwyllgor yn parhau i fod yn ansicr ynghylch y rhesymau y tu ôl i gyfraniadau cymharol y chwe phrif grŵp gwariant arall i'r cyllid ychwanegol a ddyrannwyd i'r prif grŵp gwariant Iechyd a Gwasanaethau Cymdeithasol, yn enwedig y rhesymau pam fod rhai prif grwpiau gwariant wedi cyfrannu mwy nag eraill. Mae'r Pwyllgor yn argymell bod y Gweinidog yn egluro'r broses hon o wneud y penderfyniad hwn.

Fel yr amlinellais i'r Pwyllgor, bu inni weithio ar draws y Llywodraeth gyda chymorth pob un o Weinidogion y Cabinet i nodi pa gronfeydd allai gael eu darparu gan bortffolios eraill i MEG Iechyd a Gwasanaethau Cymdeithasol i fynd i'r afael â'r bwlch ariannu a nodwyd gan adroddiad Ymddiriedolaeth Nuffield.

Mae'n anochel y bydd y sefyllfa ym mhob MEG yn ystod blwyddyn ariannol yn amrywio yn dibynnu ar y gwahanol risgiau a chyfleoedd ym mhortffolio pob Gweinidog a hefyd i ba raddau y mae cronfeydd eisoes wedi'u hymrwymo. Am y rhesymau hynny nid yw bob amser yn briodol bod pob MEG yn gwneud cyfraniad syml ar sail canran at bwysau o'r fath. Dyna paham yr oedd ein dull o ymdrin â'r mater hwn ar y cyd, a hynny ar draws y Llywodraeth, mor bwysig.

Wrth gyfarfod â phob Gweinidog yn ystod y flwyddyn i benderfynu ar eu gallu i gyfrannu at y pwysau a oedd yn ein hwynebu a faint y gallai ein cronfeydd wrth gefn ei gyfrannu bu modd inni gyhoeddi'r cyllid ychwanegol o £200 miliwn ochr yn ochr â'r Gyllideb Drafft.

Argymhelliad 2. Mae'r Pwyllgor yn pryderu bod cyllid ychwanegol wedi cael ei ddyrannu i sefydliadau'r GIG er mwyn helpu i leddfu'r pwysau ariannol, ond nid i lywodraeth leol a'r trydydd sector mewn perthynas â dyfarniadau llys diweddar yn y sector gofal cymdeithasol. Mae'r Gweinidog yn ymgymryd â gwaith i asesu goblygiadau posibl y costau ychwanegol sy'n wynebu'r sectorau hyn. Rydym hefyd yn argymell bod y Gweinidog yn ystyried darparu cymorth i lywodraeth leol a'r trydydd sector i helpu i liniaru'r costau ychwanegol hyn.

Fel rhan o'n gwaith ac wrth bennu a rheoli ein cyllidebau rwyf yn cyfarfod â'r Gweinidogion yn rheolaidd i drafod gwahanol faterion o fewn eu portffolios. Bydd pob Gweinidog hefyd yn adolygu pwysau yn eu cyllidebau eu hunain yn rheolaidd, ac nid yw'r mater hwn yn wahanol yn hynny o beth. Yn anffodus, nid yw bob amser yn bosibl nac yn briodol cynnig cymorth canolog er mwyn cydnabod pob mater posibl.

Mae ein canllawiau comisiynu i'r Awdurdodau Lleol, a gyhoeddwyd yn 2010, yn ei gwneud yn ofynnol i'r Awdurdodau Lleol ddeall costau gwasanaethau gofal a ddarperir yn uniongyrchol a gwasanaethau wedi'u contractio ac i weithredu mewn ffordd sy'n hybu cynaliadwyedd gwasanaethau. Byddai unrhyw gostau ychwanegol sy'n ymwneud â'r dyfarniadau hyn yn cael eu nodi gyntaf gan yr Awdurdodau Lleol trwy'r broses honno.

Fel Llywodraeth rydym yn parhau i gydnabod pwysigrwydd gwasanaethau cymdeithasol i'r gwasanaeth iechyd ac yn ein Cyllideb ar gyfer 2015-16 buddsoddwyd £10m yn ychwanegol i gydnabod y pwysau hynny.

Cronfeydd a'r System Cyfnewid Cyllidebau

Argymhelliad 3. Mae'r Pwyllgor yn croesawu'r hyblygrwydd ychwanegol a roddwyd i Lywodraeth Cymru ynghylch cario cyllid trafodiadau ariannol ymlaen, ac mae'n argymell bod y Gweinidog yn parhau gyda'i hymdrechion i gael mwy o hyblygrwydd o ran system gyfnewid y gyllideb.

Mae Llywodraeth Cymru wedi pwyso, a bydd yn parhau i bwyso am hyblygrwydd pellach yn ein trefniadau cyllidebol o fewn y Fframwaith Gwariant Cyhoeddus cynhwysfawr.

Mae'r system Cyfnewid Cyllidebau yn un elfen ar y fframwaith cynhwysfawr hwn ac yn elfen lle'r ydym yn croesawu cefnogaeth y Pwyllgor. Byddwn yn parhau i weithio i sicrhau hyblygrwydd pellach oddi wrth y Trysorlys.

Mae cyfyngiadau ar y ddogfen hon