



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

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol **The Constitutional and Legislative Affairs Committee**

Dydd Llun, 21 Ionawr 2013
Monday, 21 January 2013

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Cofnodir y trafodion yn yr iaith y llefarwyd hwy ynddi yn y pwyllgor. Yn ogystal, cynhwysir
trawsgripiad o'r cyfieithu ar y pryd.

The proceedings are reported in the language in which they were spoken in the committee. In
addition, a transcription of the simultaneous interpretation is included.

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

Mick Antoniw	Llafur (yn dirprwyo ar ran Julie James) Labour (substitute for Julie James)
Suzy Davies	Ceidwadwyr Cymreig Welsh Conservatives
Eluned Parrott	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Simon Thomas	Plaid Cymru The Party of Wales

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

Gwyn Griffiths	Uwch-gynghorydd Cyfreithiol Senior Legal Adviser
Ruth Hatton	Dirprwy Glerc Deputy Clerk
Owain Roberts	Gwasanaeth Ymchwil Research Service
Siân Richards	Gwasanaeth Ymchwil Research Service
Lisa Salkeld	Cynghorydd Cyfreithiol Legal Adviser
Gareth Williams	Clerc Clerk

Dechreuodd y cyfarfod am 2.00 p.m.
The meeting began at 2.00 p.m.

Ethol Cadeirydd Dros Dro
Election of Temporary Chair

[1] **Mr Williams:** Good afternoon. The committee Chair, David Melding has submitted apologies for today's meeting. Therefore, the first item of business is the election of a temporary Chair. I therefore invite nominations from committee members for a temporary Chair to be elected under Standing Order No. 17.22.

[2] **Eluned Parrott:** I nominate Simon Thomas.

[3] **Mr Williams:** I see that there are no other nominations. Therefore, I declare Simon Thomas elected Chair for today's meeting.

Cyflwyniad, Ymddiheuriadau, Dirprwyon a Datganiadau o Fuddiant
Introduction, Apologies, Substitutions and Declarations of Interest

[4] **Simon Thomas:** Diolch yn fawr. Fe wnawn ni fwrw ymlaen, felly, â'r eitem gyntaf ar yr agenda. Fel rydym newydd glywed, mae David Melding wedi ymddiheuro, a hefyd Julie James, a **Simon Thomas:** Thank you very much. We will proceed then, with the first item on the agenda. As you have just heard, David Melding has submitted apologies, as has Julie James, and we welcome Mick Antoniw as her

chroesawn Mick Antoniwn yn ei lle ar gyfer y cyfarfod heddiw. Croeso, Mick. Nid oes newidiadau eraill i aelodaeth y pwyllgor heddiw. I'ch atgoffa am drefn y pwyllgor, nid ydym yn disgwyl larwm tân, felly os clywch y larwm, dilynwch gyfarwyddiadau'r tywyswyr i adael yr adeilad. Gofynnwn i bawb ddiffodd eu ffonau poced a BlackBerrys gan eu bod yn amharu ar yr offer darlledu. Rydym, wrth gwrs, yn gweithredu yn y Gymraeg a Saesneg ac mae cyfieithiad ar y pryd ar gael ar sianel 1 ar y clustffonau, ac, ar sianel 0, gallwch glywed y cyfarfod yn uwch. Gweithredir y meicroffonau'n awtomatig tra bod y cyfarfod yn cwrdd yn gyhoeddus.

2.02 p.m.

Offerynnau sy'n Cynnwys Materion i Gyflwyno Adroddiad Arnynt i'r Cynulliad o dan Reol Sefydlog Rhifau 21.2 neu 21.3
Instruments that Raise Issues to be Reported to the Assembly under Standing Order Nos. 21.2 or 21.3

[5] **Simon Thomas:** Mae tri offeryn gennym i'w trafod heddiw; rhai trwchus iawn, pob un ohonynt. Fel y gwelwch, mae dros 500 o dudalennau gennym fan hyn. Mae'r offeryn cyntaf o dan y weithdrefn penderfyniad negyddol, sef CLA201, Rheoliadau Addysg (Cymorth i Fyfyrwyr) (Cymru) 2012. Mae ychydig o faterion technegol yn benodol i'w hadrodd ar yr offeryn hwn, felly gofynnaf i'r cynghorydd cyfreithiol, Gwyn Griffiths, i wneud hynny.

[6] **Mr Griffiths:** Diolch, Gadeirydd. Mae'r rheoliadau hyn yn cael eu gwneud yn flynyddol bellach, er bod y teitl wedi newid, fel y gwelwch o'r nodyn esboniadol. Maent felly'n cydgrynhoi llawer o'r defnydd a oedd yn rheoliadau'r llynedd, gyda newidiadau penodol o ran y symiau sy'n daladwy. Ar ôl darllen dros 200 o dudalennau, rwyf wedi nodi, fel y gwelwch yn yr adroddiad drafft, amryw o fân anghysondebau rhwng y testunau Cymraeg a Saesneg. Rwyf wedi siarad â chyfreithwyr y Llywodraeth ac maent wedi cytuno i gywiro'r rhain wrth gyhoeddi'r rheoliadau. Nid oes unrhyw fater pellach wedi codi ohonynt.

[7] **Simon Thomas:** Mae adroddiad drafft yn nodi'r pwyntiau hynny. A oes gan

substitute for today's meeting. Welcome, Mick. There are no other changes to the committee's membership today. To remind you of the committee's procedures, we do not expect a routine fire drill, so if you hear the alarm, follow the ushers' instructions in leaving the building. Please switch off all mobile phones and BlackBerrys, as they interfere with the broadcasting equipment. Of course, we will conduct the meeting in Welsh and English and simultaneous translation is available on channel 1 on the headsets, and channel 0 will amplify our proceedings. The microphones will operate automatically while the meeting is in public session.

Simon Thomas: We have three instruments to discuss today; each of them very substantial. As you can see, we have over 500 pages here. The first instrument is under negative procedure; it is CLA201, The Education (Student Support) (Wales) Regulations 2012. There are a few specific technical matters to report on this instrument, so I ask the legal adviser, Gwyn Griffiths, to do so.

Mr Griffiths: Thank you, Chair. These regulations are now made annually, although the title has changed, as you will see from the explanatory note. They consolidate much of the material contained in last year's regulations, with specific changes in terms of the sums payable. Having read more than 200 pages, I have noted as you will see in the draft report, several minor inconsistencies between the Welsh and English texts. I have spoken with the Government's lawyers and they have agreed to correct these on publication. No other matters have arisen from the regulations.

Simon Thomas: There is a draft report noting those points. Do members have any

aelodau gwestiynau ynglŷn â'r pwyntiau questions regarding these matters?
hynny?

[8] **Suzy Davies:** You are quite right; there are 200 pages here and, again, there is no table of derivations. I wonder, when we are going to be dealing with such substantial secondary legislation, whether we could make a plea for a table of derivations. I noticed in the explanatory memorandum that it said that

[9] 'these regulations consolidate (with some changes) and replace the existing'.

[10] So, we are really unaware about whether there is anything new here, unless it is drawn to our attention.

[11] **Mr Griffiths:** Er bod y rhain yn cael eu disgrifio fel 'cydgrynhoi', y cwbl y maent yn ei wneud yw diweddarau rheoliadau'r llynedd, yn hytrach na thynnu at ei gilydd amryw o wahanol reoliadau. Bûm yn ffodus o gael fersiwn ac ynnddi reoliadau wedi'u tracio ar gyfer eu gwirio. Roedd hynny'n help mawr wrth imi wneud y gwaith. Gallwn ofyn i'r Llywodraeth a yw'n barod i roi fersiwn wedi ei dracio i ni yn y dyfodol, pe bai hynny o ddefnydd i'r pwyllgor.

Mr Griffiths: Although these are described as 'consolidating', all they do is update last year's regulations, rather than bringing together a number of different regulations. I was fortunate to have a tracked version for checking. That was of great assistance to me as I did the work. I could ask the Government whether it would be willing to provide us with a tracked version in the future, if that would be of use to the committee.

[12] **Suzy Davies:** The important thing for us is that you have had that, so that is some comfort.

[13] **Simon Thomas:** Er ein bod yn neidio i'r trydydd offeryn yn trafod hyn, mae pwynt Suzy'n wir am hynny hefyd, onid yw? Mae llawer o darddiadau a ffynonellau yn y fan honno sydd heb gael eu hesbonio.

Simon Thomas: Although we are jumping to the third instrument by discussing this, Suzy's point is also true about that, is it not? There are a lot of derivations and sources there that have not been explained.

[14] **Mr Griffiths:** Oes, ond mae'r rhain yn wahanol oherwydd eu bod yn delio â pheth wmbreth o reoliadau a Deddfau seneddol, ac yn yr achos hwnnw mai dim ond diweddarau un set ydynt.

Mr Griffiths: Yes, but these are different, because they deal with all sorts of regulations and parliamentary Acts, and in that case they are just are updating one set.

[15] **Simon Thomas:** Mae'r pwynt yn cael ei ategu nes ymlaen yn yr agenda, credaf. Diolch am hynny. A oes unrhyw bwyntiau eraill? A ydych yn derbyn yr adroddiad, felly? Gwelaf fod pawb yn hapus gyda'r adroddiad sydd gennym.

Simon Thomas: The point is reiterated later in the agenda, I believe. Thank you for that. Are there any further points? Do you accept the report, therefore? I see that everyone is content with the report that we have.

[16] Awn at yr ail offeryn, sy'n offeryn y penderfyniad negyddol cyfansawdd: CLA205, Rheoliadau Trwyddedu Amgylcheddol (Cymru a Lloegr) (Diwygio) 2013. Rwy'n meddwl bod y rheoliadau hyn yn diwygio rheoliadau sydd eisoes yn bodoli hefyd. Mae ychydig yn fwy i adrodd am y rhain. Yn ogystal â nodyn technegol, mae

We will move on to the second instrument, which is a composite negative resolution instrument: CLA205, the Environmental Permitting (England and Wales) (Amendment) Regulations 2013. I think that these regulations also amend already existing regulations. There is a little more to report about these. In addition to a technical note,

materion o ddiddordeb arbennig. Gofynnaf eto i Gwyn i roi adroddiad ar lafar.

[17] **Mr Griffiths:** Fel y gwelwch, mae pwynt rhinweddau yn codi o ran y ffaith bod y rhain yn dod i rym wedi'r dyddiad a bennwyd yn y gyfarwyddeb Ewropeaidd. Dim ond oedi o ryw dair wythnos sydd, ac rwy'n tybio bod hynny yn dibynnu ar bryd mae'r rheoliadau yn cael eu drafftio, yn yr achos hwn gan Adran yr Amgylchedd, Bwyd a Materion Gwledig, ac wedyn eu haddasu a'u gwirio gan gyfreithwyr y Llywodraeth yn y fan hon. Credaf ei bod yn werth i'r Cynulliad nodi bod hyn yn digwydd, ond nid oes perygl yn yr achos hwn y bydd y Comisiwn Ewropeaidd yn poeni rhyw lawer, gan mai dim ond rhyw dair wythnos o oedi sydd. Eto, rydym yn meddwl ei fod yn iawn fod y Cynulliad yn cael gwybod pan fo hyn yn digwydd.

[18] **Simon Thomas:** A ydym yn cytuno gyda hynny? A oes unrhyw bwyntiau eraill mae Aelodau eisiau eu codi? Mae'n werth nodi hyn, er efallai nad Llywodraeth Cymru sy'n gyfrifol am yr oedi yn y cyd-destun hwn.

[19] Mae gennyf un cwestiwn. Mae'r rheoliadau hyn yn cael eu disgrifio fel rhai sydd yn dod o dan y weithdrefn negyddol cyfansawdd. A yw hynny'n weithdrefn negyddol arbennig neu ai ymwneud â natur y rheoliadau ydyw?

[20] **Mr Griffiths:** Maent yn rheoliadau sydd yn gyfansawdd rhwng Cymru a Lloegr ac felly maent yn ddarostyngedig i'r broses negyddol yma ac yn San Steffan. Pe bai'r Cynulliad yn pleidleisio yn eu herbyn, byddent yn cael eu dileu ar ran Cymru ac ar ran Lloegr, a byddai'r un fath pe baent yn gwneud hynny yn San Steffan.

[21] **Simon Thomas:** Felly, mae'r ddwy weithdrefn yn gyfwerth?

[22] **Mr Griffiths:** Ydynt.

[23] **Simon Thomas:** Symudwn ymlaen at y trydydd offeryn, sydd hefyd yn swmp neu drwch o waith, sef CLA189, Gorchymyn Corff Adnoddau Naturiol Cymru (Swyddogaethau) 2012. Byddwch yn cofio

there are also matters of particular interest. I ask Gwyn again to give an oral report.

Mr Griffiths: As you can see, a merits point arises from the fact that these come into force after the transposition deadline for implementing the European directive. It is a delay of around three weeks only, and I assume that that is dependent on when the regulations are drafted, in this case by the Department for Environment, Food and Rural Affairs, and then adapted and checked by Government lawyers here. It is worth the Assembly noting that this is occurring, but there is no risk in this case that the European Commission will be overly concerned, because it is a delay of around three weeks only. However, we think that it is appropriate that the Assembly should be informed when this occurs.

Simon Thomas: Do we agree with that? Are there any other points that Members wish to raise? It is worth noting this, although I do not think that the Welsh Government is responsible for the delay in this context.

I have one question. These resolutions are described as coming under the composite negative resolution. Is that a special negative resolution or does it relate to the nature of the regulations?

Mr Griffiths: They are composite England-and-Wales regulations, so they are subject to the negative procedure here and at Westminster. Were the Assembly to vote against them, they would be rescinded in Wales and in England, and the same would be true were they to do so at Westminster.

Simon Thomas: So, the two procedures are equivalent?

Mr Griffiths: Yes, they are.

Simon Thomas: We will move on to the third instrument, which is another substantial piece of work, namely CLA189, the Natural Resources Body for Wales (Functions) Order 2012. You will remember as a committee that

fel pwyllgor ein bod eisoes wedi trin un Gorchymyn yn ymwneud â chorff adnoddau naturiol Cymru, sef yr offeryn a sefydlodd y corff, ac roedd cryn dipyn o drafod ar yr offeryn hwnnw yn y Cynulliad. Dyma'r ail offeryn, sydd yn awr yn dynodi swyddogaethau'r corff. Mae gennych lawer o bapurau: y Gorchymyn, y memorandwm, adroddiad y cyfreithwyr—gofynnaf am hynny yn y man. Rydym hefyd wedi derbyn tystiolaeth gan RSPB Cymru a Cyswllt Amgylchedd Cymru, a dylech hefyd fod wedi derbyn ar bapur dros y Sul lythyr pellach at Gadeirydd y pwyllgor gan Ymddiriedolaethau Natur Cymru. Maent i gyd yn ymwneud â'r un math o bryderon ynglŷn â'r Gorchymyn a natur y swyddogaethau sydd yn cael eu rhoi i'r corff newydd. Mae hwn hefyd o dan weithdrefn arbennig, sef gweithdrefn y penderfyniad uwchgadarnhaol sydd yn rhoi mwy o amser i'r pwyllgor a'r Cynulliad ei ystyried. Mae tipyn i'w drafod yn y fan hon, felly gofynnaf yn gyntaf am adroddiad gan y cyfreithwyr, sydd wedi mynd drwy'r offeryn hynod ddyrys hwn.

we have already dealt with one Order relating to the natural resources body for Wales, which was the instrument that established the body, and there was a great deal of discussion of that instrument in the Assembly. This is the second instrument, which now denotes the functions of the body. You have a great deal of papers before you: the Order, the memorandum, the report of the lawyers—I will ask about that in a moment. We have also received evidence from RSPB Wales and Wales Environment Link, and you should have also have received on paper on Sunday a further letter to the Chair of the committee from Wildlife Trusts Wales. They all relate to the same kinds of concerns about the Order and the nature of the functions that are being given to the new body. This also comes under a special procedure, namely the superaffirmative resolution procedure, which gives the committee and the Assembly a greater amount of time to consider it. There are a great many things to discuss here, so I will ask first for a report from the lawyers, who have gone through this very complex instrument.

[24] **Ms Salkeld:** The first point to note about the Order is that this is the first time that it is coming before the committee. There will be another chance to look at it. The committee has to report to the Government by 10 February, which is a Sunday, so it will actually be 8 February. It is under the procedure laid down in the Public Bodies Act 2011. What will happen then is that the Government has to have regard to any reports from committees within the Assembly, and also any representations that it has received. The Order will then be relaid, either as it is or with changes. If it is with changes, there will be a note or a statement setting out what those changes are, and the Order will come back again before the committee for it to produce a technical report, as we have done here. So, if any of these things are not picked up, the committee will be able to report on them again. It is sort of a strange procedure. It is because the Standing Orders require this committee to look at every draft statutory instrument that is laid that the committee has had to consider this, and will, effectively, do two reports, or two similar reports. However, it is useful, because the points that we are bringing up will be useful in informing the Government when it is laying the final Order.

[25] With the technical scrutiny, there are a number of points. The first, under Standing Order No. 21.2(i), is a vires issue. At present, the Secretary of State's consent and Ministers' consent is required before the Order can proceed. This is because there are a number of functions that are transferred to the Environment Agency, for which consent is needed, and various other issues. I have spoken with the drafting lawyer in the Government and they have confirmed that the Assembly will not be asked to vote on this Order before that is put in place. Again, this is a case where, if these things are still outstanding the second time we come to consider it, that would be a matter reported to the Assembly anyway. Under the Public Bodies Act, the Order could not proceed without the consent being obtained.

[26] On the other technical matters, the majority of them are again matters that we have discussed informally with the drafting lawyer. There has not been time to get a Government response as yet, but it has been agreed that the Government will amend these within the final

Order, save for a couple of examples that I will draw your attention to. So, there are very few of these technical points outstanding that have not been accepted.

[27] On page 3 of the report you have the first issue, which is to do with the Welsh Language (Wales) Measure 2011. The Government would like to put in a final response on this. This is a similar point to that which arises in connection with the Welsh Language Schemes (Public Bodies) Order 2012, and is in paragraph 72 on page 4. The Environment Agency has been removed from the need to make a Welsh language scheme and make new Welsh language standards, but, because of the way the Order has been done, it will still be involved in exercising some functions within Wales and so it should still be required to do either the Welsh language scheme as it is or the Welsh language standards. The Government would like a little more time to come back and respond on those two issues. They were the only ones that we were not able to confirm as having been accepted.

[28] There is also one on page 4, paragraph 317(2) on regional flooding coastal committees, that can be removed. That is no longer a reporting point. That issue has been settled, so that one can come out of the report.

[29] The other matters are merits issues. The committee will have seen the correspondence that has been received. Various issues are being raised as to whether there are vires issues with the Order, because it is removing necessary protections. The Ministers have confirmed, both within the preamble to the Order and within the explanatory memorandum, that they do not consider that it removes any necessary protection. It would be difficult for the committee to anticipate the practical effects of the slight change in wording without taking any further evidence. It would be open to the committee to take further evidence, either from the Minister and/or from the people who have raised objections, to come to a final view on this before we lay the final report.

[30] **Simon Thomas:** Diolch. A oes **Simon Thomas:** Thanks. Are there any unrhyw sylwadau neu gwestiynau? observations or questions?

2.15 p.m.

[31] **Mick Antoniw:** Taking the last point, because that was the point that most concerned me, I am really, I suppose, seeking advice on the implications, because, if we were to reduce the standard of protection, then effectively what we are doing is unlawful and challengeable. Is there any implication in respect of any EC directive from reducing standards? Quite a number of the EC directives have criteria that, when implementing and so on, do not allow you to reduce standards. So, I do not know whether there is a European dimension to it. Also, how clear is the Government's position in respect of the points made? I understand that it is one thing to say, 'No, we don't agree, we actually think that we're doing it', but, technically, are there concerns that we should be having with regard to whether this is, in fact, the case?

[32] **Ms Salkeld:** We have not received a formal response from the Government as yet, so it would be difficult to say what its position would be with regard to the matters that have been raised. We have highlighted it in the merits report and it will come back with a response to those points. With regard to the European directives, again, those would have to be considered on an individual basis with the individual wordings that are in issue. I guess that that is something that we could consider further if we were to take evidence.

[33] **Eluned Parrott:** I have a concern. One of the reasons why there is some difficulty in resolving whether this removes protections is the rather complex way in which it has been drafted and the fact that it is hundreds and hundreds of amendments to many different pieces of legislation. I am a member of the Committee for the Scrutiny of the First Minister, where the First Minister himself has said that the intention is to consolidate the law and make access

to it much easier and straightforward for organisations like the third sector bodies that have corresponded with this committee. Could we ask the Minister to comment on that? I think that this is something that the subject committee may not scrutinise in any detail, but it is of concern to me that we have a Minister who is a former Counsel General who is not really exemplifying the direction of travel outlined by the current Counsel General and the First Minister.

[34] **Suzy Davies:** May I just underpin Eluned's point? It is one that I raised a little bit earlier, really, and it is that, when you have this much information, it is virtually impossible to see the wood for the trees. Let us just take the simple one; we need Secretary of State and ministerial consent for this set of regulations, because the Environment Agency will be acquiring or retaining residual powers. Where are they in there? They are not easily signposted. Obviously, Lisa, you have been unfortunate enough to plough through it and find it, but, for the rest of us, particularly those with no legal background at all, that is going to be a tricky one to find. Of course, that has implications for the Welsh language scheme or standards, which started to cause us concern last week. So, that is a serious point, particularly as we are going to be getting many more pieces of secondary legislation. It just cannot be in this format if it is to make any sense to us.

[35] **Simon Thomas:** Rwy'n meddwl bod pryderon y pwyllgor yn troi o gwmpas tri pheth, os rwy'n deall hyn yn iawn. Un yw'r dynesiad a'r ffordd y mae wedi cael ei greu—hynny yw, y pwyntiau yr oeddech chi, Suzy, ac Eluned yn eu gwneud ynglŷn â'r ffordd mae'r offeryn wedi'i wneud. Yr ail yw'r pwynt ynglŷn â'r gyfraith Ewropeaidd ac a yw'r geiriad mewn rhyw ffordd yn glastwreiddio hynny. Rwy'n meddwl bod modd edrych ar hynny, yn sicr yn ystod yr wythnos nesaf. Mae'r trydydd pwynt yn ymwneud â'r iaith Gymraeg: rydych yn symud corff allan yn gyfan gwbl o oblygiadau'r Mesur iaith a basiwyd, ond mae'r corff hwnnw'n dal i wneud rhywfaint o waith yng Nghymru, y tu allan i waith y corff newydd. Dyna'r pwynt, rwy'n meddwl: mae Asiantaeth yr Amgylchedd yn parhau i wneud gwaith yng Nghymru.

Simon Thomas: I think that the committee's concerns revolve around three things, if I understand this correctly. One is the approach and the way it has been created—that is, the points that you, Suzy, and Eluned raised on how the instrument has been made. The second is the point about European law and whether the wording in some way dilutes it. I think that it would be possible to look at that, certainly in the coming week. The third point is about the Welsh language. You are moving a body entirely out of the obligations of the Welsh language Measure that has been passed, but that body is still doing some work in Wales, outside of the work of the new body. That is the point, I think; the Environment Agency will continue to do work in Wales.

[36] Mae'n ymddangos i mi mai dim ond drwy holi'r Gweinidog y gellir cael ateb i'r un cyntaf. A ydych yn teimlo y dylid gwneud hynny? A fydddech fel pwyllgor am i'r Gweinidog a'r cyrff amgylcheddol ddod mewn i geisio cael ateb i'r cwestiwn hwn?

It seems to me that the only way to find an answer to the first one would be to question the Minister. Do you feel that we should do that? Would you as a committee like the Minister and the environmental bodies to come in in order to try to find an answer to this question?

[37] **Suzy Davies:** Y Gweinidog, yn bendant. Nid wyf yn gwybod faint o amser sydd gennym fel pwyllgor i edrych ar hyn.

Suzy Davies: The Minister, definitely. I do not know how much time we have as a committee to look at this.

[38] **Simon Thomas:** Rwy'n credu bod posibilad o ran dyddiad. Beth yw hynny, Gareth?

Simon Thomas: I think that there is a possible date. What is that, Gareth?

[39] **Mr Williams:** Yes, we have a slot available on 4 February. It depends how long you would like to bring the Minister in for. We probably have an hour slot, so you could split it into two half-hour sessions if you wanted to, or just have a full hour with the Minister.

[40] **Suzy Davies:** Personally, I would prefer the Minister, because the written evidence from the voluntary bodies shows that it is pretty clear where they stand, and we just need an answer from the Minister as to whether he thinks that they are right or wrong, because at the moment we have a contradiction in the explanatory memorandum. It is up to him to answer those concerns, rather than get the voluntary bodies in to just to repeat the concerns. That is my view, but I do not know how others members of the committee feel.

[41] **Simon Thomas:** A yw'r Aelodau yn cytuno? **Simon Thomas:** Do Members agree?

[42] **Eluned Parrott:** Pretty much. The critical thing is that we have an opportunity to put some of these concerns to the Minister and to ask him why he has taken the approach that he has.

[43] **Simon Thomas:** Mae gennym gyfle i wneud hynny ar 4 Chwefror, wedyn mae gennym amser i baratoi'r adroddiad cyntaf. I mi a'r pwyllgor fod yn glir, pryd mae ein hail gyfle? A yw'r Llywodraeth yn gallu gwella'r Gorchymyn a dod yn ôl gyda Gorchymyn arall? Ai dyna sy'n digwydd, neu sy'n gallu digwydd? **Simon Thomas:** We have an opportunity to do so on 4 February, and then we have time to prepare the first report. So that I and the committee are clear, when is our second opportunity? Can the Government improve the Order and come back with another one? Is that what happens, or what can happen?

[44] **Ms Salkeld:** The Government must have regard to the representations that were made, but it has already accepted a number of the technical matters in there and will be revising the Order to take those into consideration anyway. So, a revised Order will be relayed with a statement outlining any changes, and it will come back before the committee as a normal affirmative procedure Order.

[45] **Mick Antoniw:** That will be the third version, will it not?

[46] **Ms Salkeld:** Yes, we have had a draft as well. I have asked for a tracked change copy.

[47] **Mick Antoniw:** That will help, obviously.

[48] **Simon Thomas:** Mae'r siawns felly o weithredu pwynt Eluned, sef ailwneud hwn yn gyfangwbl, yn fach iawn, byddwn yn meddwl, ond o leiaf bydd gennym gyfle i ofyn i'r Gweinidog pam ei fod wedi dewis y ffordd hwn o wneud pethau. Bydd hynny'n helpu yn y broses o symud at ddeddfwriaeth bellach. Felly, mae'r pwyllgor yn gytûn: gwnawn holi'r Gweinidog i ddod i mewn am sesiwn fer er mwyn rhoi rhai o'r pwyntiau hyn yn uniongyrchol iddo. **Simon Thomas:** The chance, therefore, of implementing Eluned's point, which was that this should be redone completely, is very small, I would think, but at least we will have an opportunity to ask the Minister why he has taken this approach. That will assist with the process of moving towards further legislation. So, the committee is agreed: we will ask the Minister if he can come in for a brief session so that we can put some of these points directly to him.

[49] **Mr Griffiths:** I godi un pwynt ychwanegol, mae Rheol Sefydlog Rhif 21.2, **Mr Griffiths:** To raise an additional point, Standing Order No. 21.2, as Lisa noted,

fel y nododd Lisa, yn ei gwneud yn ofynnol i'r pwyllgor hwn graffu ar unrhyw offeryn sydd wedi ei wneud neu ar unrhyw ddrafft sy'n cael ei osod gerbron y Cynulliad. Roedd y rheolau sefydlog hynny wedi eu gwneud cyn i'r broses hon o dan y Ddeddf Cyrff Cyhoeddus 2011 gael ei phennu, sy'n golygu bod cyfle i'r pwyllgor graffu ar ddeddfwriaeth fwy nag unwaith. Felly, byddai'n ddefnyddiol ar ddiwedd y broses pe bai'r pwyllgor yn cadarnhau a yw'n fodlon gyda'r ffordd mae'r peth wedi ei ystyried, neu a yw am weld unrhyw newidiadau yn y rheolau sefydlog i adlewyrchu'r ffaith bod hon yn broses unigryw.

[50] **Simon Thomas:** A wnaethom sefydlu'r broses hon yn benodol yn sgîl y Deddf Cyrff Cyhoeddus?

[51] **Mr Griffiths:** Naddo; roedd y broses wedi ei sefydlu heb ystyried y byddai hynny yn gallu golygu craffu fwy nag unwaith ar yr un darn o ddeddfwriaeth.

[52] **Simon Thomas:** Fel pwynt gweithredu, a ydych yn hapus ein bod yn edrych ar hwn ar ddiwedd y broses hon? Gwelaf eich bod. Gallwn feddwl wedyn a oes gwersi i'w dysgu. Diolch yn fawr.

2.23 p.m.

Papur i'w Nodi Paper to Note

[53] **Simon Thomas:** Y papur i'w nodi yw cofnodion y cyfarfod blaenorol. Gwelaf fod pawb yn fodlon gyda hynny.

requires this committee to scrutinise any instrument made or on any draft that is laid before the Assembly. Those standing orders had been made before this process had been prescribed under the Public Bodies Act 2011, which means that the committee has an opportunity to scrutinise legislation more than once. It would therefore be useful, at the end of the process, if the committee would confirm whether it is content with the way in which this has been considered, or whether it wishes to see any changes in standing orders to reflect the fact that this is a unique process.

Simon Thomas: Did we specifically establish this process as a consequence of the Public Bodies Act?

Mr Griffiths: No; the process had been established without taking into account that that could mean scrutinising the same piece of legislation more than once.

Simon Thomas: As an action point, are you content that we look at this at the end of this process? I see that you are. We can then decide if there are any lessons to be learnt. Thank you.

Simon Thomas: The paper to note is the minutes of the previous meeting. I see that everyone is content with that.

Cynnig o dan Reol Sefydlog Rhif 17.42 i Benderfynu Gwahardd y Cyhoedd o'r Cyfarfod Motion under Standing Order No. 17.42 to Resolve to Exclude the Public from the Meeting

[54] **Simon Thomas:** Cynigiad

yn unol â Rheol Sefydlog Rhif 17.42(ix), fod y pwyllgor yn penderfynu cwrdd yn breifat am weddill y cyfarfod hwn ac o ddechrau'r cyfarfod nesaf.

Simon Thomas: I move that

in accordance with Standing Order No. 17.42(ix), the committee resolves to meet in private for the remainder of the meeting and from the beginning of the next meeting.

[55] A yw'r Aelodau i gyd yn fodlon â hynny? Gwelaf eich bod.

Are all Members content with that? I see that you are.

*Derbyniwyd y cynnig.
Motion agreed.*

*Daeth rhan gyhoeddus y cyfarfod i ben am 2.23 p.m.
The public part of the meeting ended at 2.23 p.m.*