



Cynulliad  
Cenedlaethol  
Cymru

National  
Assembly for  
Wales

# Cofnod y Trafodion The Record of Proceedings

## Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

### The Constitutional and Legislative Affairs Committee

26/09/2016

Agenda'r Cyfarfod

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Cofnodir y trafodion yn yr iaith y llefarwyd hwy ynnddi yn y pwyllgor. Yn ogystal, cynhwysir trawsgrifiad o'r cyfieithu ar y pryd. Lle y mae cyfranwyr wedi darparu cywiriadau i'w tystiolaeth, nodir y rheini yn y trawsgrifiad.

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. Where contributors have supplied corrections to their evidence, these are noted in the transcript.

**Aelodau'r pwyllgor yn bresennol**  
**Committee members in attendance**

Yr Arglwydd / Lord Dafydd Elis-Thomas <a href="#">Bywgraffiad</a>   <a href="#">Biography</a>	Plaid Cymru The Party of Wales
Huw Irranca-Davies <a href="#">Bywgraffiad</a>   <a href="#">Biography</a>	Llafur (Cadeirydd y Pwyllgor) Labour (Committee Chair)
David Melding <a href="#">Bywgraffiad</a>   <a href="#">Biography</a>	Ceidwadwyr Cymreig Welsh Conservatives

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

Siân Giddins	Dirprwy Clerc Deputy Clerk
Gwyn Griffiths	Uwch-gynghorydd Cyfreithiol Senior Legal Adviser
Gareth Howells	Cynghorydd Cyfreithiol Legal Adviser
Dr Alys Thomas	Y Gwasanaeth Ymchwil Research Service
Gareth Williams	Clerc Clerk

*Dechreuodd y cyfarfod am 14:30.*  
*The meeting began at 14:30.*

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

[1] **Huw Irranca-Davies:** I welcome everybody to this afternoon's session of the Constitutional and Legislative Affairs Committee. We are in open session at the moment. Welcome to committee members and to our support team. We have brief apologies, at least for the start of this meeting, from our

new member, Mr Nathan Gill, who is joining us and replacing Michelle Brown. He's on his way to the committee but has been delayed with transport issues. We hope he'll be joining us fairly shortly. I just want to put on record my and the committee's thanks to Michelle Brown for her taking part in the deliberations of this committee, and our best wishes to her as she moves on to other tasks.

[2] We do have quite a busy agenda this afternoon. So, if it's the will of the committee, we'll move rapidly into the business ahead of us.

14:31

**Offerynnau nad ydynt yn Cynnwys Unrhyw Faterion i'w Codi o dan Reol Sefydlog 21.2 neu 21.3**  
**Instruments that Raise No Reporting Issues Under Standing Order 21.2 or 21.3**

[3] **Huw Irranca-Davies:** The first item, beyond any normal declarations of interest—and I'm sure there aren't any ones that are beyond those that are on record at the moment—is item 2, instruments that raise no reporting issues under Standing Order 21.2 or 21.3. We have one item there, which is an affirmative resolution instrument: the Government of Wales Act 1998 (Local Democracy and Boundary Commission for Wales) (Amendment) Order 2016. You have in your papers the report, the Order and the explanatory memorandum. It would be worth saying—I'm just looking round at our support team—that there are no particular issues to raise on that. No. Are we happy that we note that and move on? Thank you very much.

14:31

**Offerynnau sy'n Cynnwys Unrhyw Faterion i'w Codi o dan Reol Sefydlog 21.7(i) a 21.7(v)**  
**Instruments that Raise Reporting Issues Under Standing Order 21.7(i) and 21.7(v)**

[4] **Huw Irranca-Davies:** We move on to item 3, which is instruments that do raise reporting issues under Standing Order 21.7, and there is one item: SL(5)014—'Charging Guidance to Ofwat (the economic regulator of the water sector) 2016'. Again, we have the report, the regulations and the explanatory memorandum in our papers. Gareth, you might want to say a few words on

this and why we've got this in front of us.

[5] **Mr Howells:** Diolch. Yes, just a few words to explain why this guidance is before the committee. This is statutory guidance made by the Welsh Ministers under primary legislation. It has an Assembly procedure that has similarities to the negative procedure. The water industry must have regard to this guidance and it will ultimately impact on consumers' water bills. So, given all of those things, we thought it to have sufficient legislative character to report under Standing Order 21.7.

[6] **Huw Irranca-Davies:** Lovely. Are we happy to note that—the guidance? Thank you very much. Thank you, Gareth.

14:32

### **Papurau i'w Nodi Papers to Note**

[7] **Huw Irranca-Davies:** We'll move on to item 4, papers to note, of which we have one, paper No. 7—a call for evidence from the House of Lords Constitution Committee on the legislative process. It's quite interesting that the House of Lords Constitution Committee is looking at this issue now. It's good that they've focused on it, and, in some ways, it's quite timely as well, as, of course, we are hoping to head up very shortly to discuss our inquiry on the Wales Bill with the House of Lords Constitution Committee. We might well want to take that opportunity to discuss with them the legislative process as it relates to constitutional Bills, of which we have a model, one way or the other, in front of us right at this moment. For the moment, we have the paper in front of us, but are there any particular remarks committee members would like to make? David.

[8] **David Melding:** Chair, we have an excellent report of our own on making laws in the fourth Assembly, so I think that's a useful document to feed in. I think we should feed in separately as well as they develop each strand. I think it's excellent that the actual way we make legislation is getting this level of attention, so I think we should help them in every way we can.

[9] **Huw Irranca-Davies:** That's an excellent suggestion, and we note that they're breaking down their investigation into four parts. Whilst I understand that some people might say, 'What interest is it of this place that we try and input into the legislative process there?', but, of course, as we know very

clearly here, it has significant constitutional interest here, and I think the House of Lords committee would be interested in our previous paper and also, perhaps, what we've learnt from the process of the current Wales Bill.

[10] **Yr Arglwydd Dafydd Elis-Thomas:** Yn naturiol, nid ydw i'n siŵr a ydw i i fod i ddatgan diddordeb; mae'n amlwg bod gen i ddiddordeb fel Aelod, ar hyn o bryd beth bynnag, yn y Cynulliad ac yn yr ail Dŷ yn San Steffan. Rwy'n meddwl ei bod hi'n bwysig ein bod ni'n manteisio ar unrhyw gyfle fel hyn i drafod ein syniadau ynglŷn â chyd-ddeddfu gyda San Steffan ar faterion sydd yn berthnasol i ni ac iddyn nhw. Rwy'n meddwl bod yna gyfle wedi'i golli yn yr holl drafodaeth ar ddatganoli—os caf i fynd mor gyffredinol â hynny, Gadeirydd—yn adnabod y cyfle, yn hytrach na bod pethau'n cael eu rhannu yn faterion sydd yn gyfrifoldeb San Steffan a Llywodraeth y Deyrnas Unedig, neu'n gyfrifoldeb y Senedd hon a Chynulliad Cenedlaethol Cymru a Llywodraeth Cymru, a'n bod ni'n chwilio am ffyrdd o gydweithio deddfwriaethol. Rwy'n credu y byddai—o adnabod aelodau'r pwyllgor yma yn yr ail Dŷ—y bydden nhw â diddordeb yn y syniad yna. Byddai hynny'n dda—rhywbeth i ni ei hyrwyddo. Diolch.

**Lord Dafydd Elis-Thomas:** Well, I don't know whether I should declare an interest here because it's clear that I do have an interest as a Member, at present, at the Assembly and the second House in Westminster. I think it's important that we do take any opportunity and every opportunity to discuss our ideas about co-legislating with Westminster on matters that are relevant to us and to them. I think there's an opportunity that's been missed in all of the discussion on devolution—if I can put it as generally as that, Chair—in recognising and acknowledging the opportunities, not just things that are separated as the responsibility of Westminster or the United Kingdom Government's responsibility, or the responsibility of this Senedd and the National Assembly for Wales and the Welsh Government, and that we seek opportunities to collaborate on a legislative basis. From knowing the Members of this committee in the second House, I think that they would have an interest in that particular idea and it would be something for us to promote.

[11] **Huw Irranca-Davies:** Well, those were very welcome comments. In light of those comments, even though it's a very short timescale that they're looking for on receiving any submissions, perhaps through our good channels—the good back channels that we have—we can arrange to submit something in writing and also to take the opportunity when we are up there

in front of them as well to discuss this. I think it does show—. I agree with the comments that have been made; it's excellent that they're looking at this now and I think there is a tremendous amount of goodwill from this committee to engage with them fully and look at that issue of co-operation on the legislative process. There's much more, I think, that can be done and this committee has highlighted that before. So, thank you for that. We note those papers and some actions that arise from them.

14:37

**Cynnig o dan Reol Sefydlog 17.42 i Benderfynu Gwahardd y Cyhoedd  
o'r Cyfarfod**  
**Motion under Standing Order 17.42 to Resolve to Exclude the Public  
from the Meeting**

*Cynnig:*

*Motion:*

*bod y pwyllgor yn penderfynu that the committee resolves to  
gwahardd y cyhoedd o weddill y exclude the public from the  
cyfarfod yn unol â Rheol Sefydlog remainder of the meeting in  
17.42(iv).*

*accordance with Standing Order  
17.42(iv).*

*Cynigiwyd y cynnig.*

*Motion moved.*

[12] **Huw Irranca-Davies:** We will now move to item 5, which is the private session we are now going to move into in order to discuss further progress that we're making on our deliberations with the scrutiny of the Wales Bill. So, if I could ask any of the members of the public who are in the gallery to remove themselves and we will move into private session in accordance with Standing Order 17.42(iv). In fact, I should invite the committee to resolve to exclude the public from the remainder of the meeting. Nobody's objecting. Good. Thank you.

*Derbyniwyd y cynnig.*

*Motion agreed.*

*Daeth rhan gyhoeddus y cyfarfod i ben am 14:37.*

*The public part of the meeting ended at 14:37.*