



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

17/7/2017

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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 Bywgraffiad Biography	Annibynnol Independent
Nathan Gill Bywgraffiad Biography	Annibynnol Independent
Huw Irranca-Davies Bywgraffiad Biography	Llafur (Cadeirydd y Pwyllgor) Labour (Committee Chair)
Dai Lloyd Bywgraffiad Biography	Plaid Cymru The Party of Wales
David Melding Bywgraffiad Biography	Ceidwadwyr Cymreig Welsh Conservatives

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

Ruth Hatton	Dirprwy Glerc Deputy Clerk
Gareth Howells	Cynghorydd Cyfreithiol Legal Adviser
Tanwen Summers	Ail Glerc Second Clerk
Dr Alys Thomas	Y Gwasanaeth Ymchwil Research Service
Gareth Williams	Clerc Clerk

Dechreuodd y cyfarfod am 11:00.
The meeting began at 11:00.

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

[1] **Huw Irranca-Davies:** Good morning, bore da, and welcome to today's session of the Constitutional and Legislative Affairs Committee. As per normal, some housekeeping remarks. We're not expecting a fire alarm, but, if there is a fire alarm, please follow the stewards and ushers and the clerks directing us towards the fire exits. There are bilingual translation facilities here. No buttons need to be pressed. Channel 1 is the translation, where the interpretation is available. Can you make sure all your mobile devices are switched to silent mode? And, with that, we have no apologies today, a full complement of committee members—all very welcome.

11:01

**Offerynnau Nad Ydynt yn Cynnwys Materion i Gyflwyno Adroddiad
arnynt o dan Reol Sefydlog 21.2 na 21.3
Instruments that Raise No Reporting Issues under Standing Order 21.2
or 21.3**

[2] **Huw Irranca-Davies:** With your consent, I will move to item No. 2, instruments that raise no reporting issues under Standing Order 21.2 or 21.3. They are in your paper 1 in your papers, committee members. Statutory instruments with clear reports—we have three negative resolution instruments. Do we have any comments or observations on these clear report instruments or are we happy to note?

[3] **David Melding:** Content.

[4] **Huw Irranca-Davies:** Content. Content. Thank you very much. So, we'll note those instruments and a report on those will be laid before the Assembly.

**Offerynnau nad ydynt yn Cynnwys Materion i Gyflwyno Adroddiad
Arnynt o dan Reol Sefydlog 21.2 na 21.3 ond sydd â Goblygiadau o
Ganlyniad i'r DU yn Gadael yr UE
Instruments that Raise No Reporting Issues under Standing Order 21.2
or 21.3 but have Implications as a Result of the UK Exiting the EU**

[5] **Huw Irranca-Davies:** Item No. 3—instruments that raise no reporting

issues under Standing Order 21.2 or 21.3 but have implications as a result of the UK exiting the EU. Committee members will recall that this is the new procedure that we've introduced very recently indeed, and our thanks to our team for suggesting this to us, where we actually highlight any issues for the benefit of the Assembly that may raise European implications.

[6] We have within these, under negative instruments, one relating to the Education (Postgraduate Master's Degree Loans) (Wales) (Amendment) Regulations 2017 and one relating to the School Milk (Wales) Regulations 2017. They are papers 2 and 3 within your documents.

[7] Just a short couple of words—to reiterate, these instruments actually have clear reports, but they both of them, however, relate in some way to EU law. So, as a result, the committee is reporting to the Assembly separately on these instruments, highlighting the issues that may have implications arising from the UK exiting the EU. It's for information only and to help with the understanding of how such law may need to change in the future.

[8] So, in relation to the first instrument listed, the Education (Postgraduate Master's Degree Loans) (Wales) (Amendment) Regulations 2017, the report highlights, and it's in your papers, that it is unclear what financial support will be available to students who are EU nationals after the UK exits the EU. But, as I stated before, it's for information purposes only.

[9] On the second instrument listed, the School Milk (Wales) Regulations 2017, the report notes that the regulations are made under the European Communities Act 1972. So, it notes uncertainty about how measures under such policy will be exercisable when the UK exits the European Union. And, again, this is for information—and it may relate to subsequent discussions in the private section then as well on the EU withdrawal Bill as well.

[10] The report also highlights, at the present time—. The second one, sorry—the second instrument. The report also highlights, at the present time, a failure to introduce legislation within Wales that reflects the immediate changes to EU legislation. To facilitate the enforcement of the school milk scheme could result in infraction proceedings as we currently stand. Hence why we need to flag these issues up.

[11] Do Members have any comments or are we happy to note those reports and put them in front of the Assembly? Happy to note.

[12] **David Melding:** I think it's an excellent form of procedure, and very clear as well, the indications under these headings of why we need to consider these issues, or at least be informed about them.

[13] **Huw Irranca-Davies:** Yes, indeed. Well, thank you for that. And thanks to the Clerk for the work on it. Can I, picking up on David's point, mention the way they're presented to the committee within the papers as well? I think it's very clear and succinct. It's very helpful indeed. And then, with that being noted and we're happy to put them in front of the Assembly, we move to the next item, which is item No. 4, isn't it, not five?

[14] **Mr Williams:** Yes.

11:05

Papurau i'w Nodi Papers to Note

[15] **Huw Irranca-Davies:** Yes, item No. 4. We have quite a few papers to note under item No. 4. At this moment in time, I've a couple of comments, but many of these we'll return to later in private session, with the agreement of the committee. But, first of all, we have, under paper No. 4, a letter from Professor Jonathan Bradbury of Swansea University about studies in relation to devolution, and this is in relation to our 'A stronger voice for Wales' inquiry. His paper is within your pack there. Now, Members will recall that we wrote to Cardiff, Swansea, and Aberystwyth universities in response to evidence heard from witnesses about Whitehall civil servants' knowledge of devolution, or lack of knowledge, or sporadic knowledge, of devolution, and how this could be addressed. This paper, I think, is quite useful. It's quite a detailed paper, which we'll return to later, but if you're happy to note it for now—.

[16] **David Melding:** I'd like to put on record how helpful Jonathan is in the study of Welsh devolution, and he's made some very interesting suggestions, very practical as well. So, I was not surprised that it was such a helpful submission.

[17] **Huw Irranca-Davies:** Indeed. And could I just clarify whether the committee is still taking any further submissions, written submissions on this? [*Interruption.*] We are. So, that's helpful to note as well. So, if others want to—. But, David, I agree with you entirely. The paper seems to have

raised quite a number of issues, not just pertinent to the inquiry, but ones, in the level of detail in them, that we hadn't come across before. So, we'll come back to discuss that in private session. We also have, under paper No. 5, a letter from the Constitution Society, which is quite helpful again, and we'll come back to discuss that.

[18] Paper No. 6—we have a statement by the Cabinet Secretary for Economy and Infrastructure on the historic environment policy and legislation, and I'd invite Members to note the statement. And it notes within that statement that historic environment legislation is to be consolidated, which is of interest to us as a committee, following on from the Counsel General's commitment to do so, in evidence to this committee on 8 May. And, of course, our predecessor committee voiced concerns about the lack of consolidation in the Historic Environment (Wales) Bill introduced by the Welsh Government during the end of the fourth Assembly. So, are you happy to note that statement? Thank you.

[19] Then we have, under papers 7 and 8, letters to and from the Counsel General, which I'd simply ask—relating to the prosecution code, which, if you're content, we will note for now. Content, thank you. Then we move to paper No. 9—a very interesting paper here, 'Inter-Governmental Relations: Written Agreement between the Scottish Parliament and the Scottish Government'. This was fascinating reading. Again, at the moment, if I could invite Members to note the Scottish agreement in the context of our ongoing inquiry into 'A stronger voice for Wales', there are several areas within that that are of interest and may be quite pertinent to our inquiry, and we'll consider that during the private session as well. Are we happy to note? Thank you very much.

[20] Then, under paper No. 10, we have a written statement by the First Minister on the European Union (Withdrawal) Bill. And, just to clarify, this is the official title of the Bill. Even though it is headed elsewhere as a repeal Bill, this is the official title. We have the written statement. At the moment, it's simply to note, but, again, we'll come back to this at the private session. Then we have paper 11, a joint statement from the First Ministers of Wales and Scotland in reaction to the EU (Withdrawal) Bill. Again, happy to note at this point? Then we have paper 12, the memorandum concerning the delegated powers in the Bill for the Delegated Powers and Regulatory Reform Committee in respect of the European Union (Withdrawal) Bill. We're happy to note the summary of delegated powers. This was a fascinating pack of material this weekend we had to consider.

[21] **David Melding:** Exhausting.

[22] **Huw Irranca-Davies:** Exhausting as well. Indeed. [*Laughter.*] But some quite illuminating information.

[23] **Lord Elis-Thomas:** I think we'll cancel recess, Chair. There's no other way.

[24] **Huw Irranca-Davies:** Cancel recess—well, I'll be coming to that now in a moment. [*Laughter.*] And paper No. 13—we have a paper from the Department for Exiting the European Union, 'The Repeal Bill Factsheet 5: Devolution', and if you're happy to note that—

[25] **Dai Lloyd:** Well, we'll note it, but 'factsheet', really.

[26] **Huw Irranca-Davies:** Well, we'll return to it in private session.

[27] **David Melding:** I think what Dr Lloyd means is that he's happy to note it. [*Laughter.*]

[28] **Huw Irranca-Davies:** Thank you. If you're happy to note, committee members, we'll discuss in private subsequently.

11:10

Gohebiaeth ynghylch Gweithredu Deddf Cymru 2017

Correspondence relating to the Implementation of the Wales Act 2017

[29] **Huw Irranca-Davies:** And then we move on to item no. 5, namely correspondence, and we have correspondence relating to the implementation of the Wales Act 2017—under paper 14, a letter from the Llywydd on implementation of the Wales Act 2017, and, under paper 15, a letter from the Secretary of State for Wales on implementation of the Wales Act 2017. At this point again, I'd ask you to note those and we'll return to them in private session. It's going to be a busy private session here in a moment.

**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(vi).*

*accordance with Standing Order
17.42(vi).*

Cynigiwyd y cynnig.

Motion moved.

[30] **Huw Irranca-Davies:** We move on to item No. 6, a motion under Standing Order 17.42 to resolve to meet in private. Are we content to meet in private?

[31] **David Melding:** Content.

[32] **Huw Irranca-Davies:** Everyone's content. And we'll move to private session, please.

Derbyniwyd y cynnig.

Motion agreed.

Daeth rhan gyhoeddus y cyfarfod i ben am 11:10.

The public part of the meeting ended at 11:10.