



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

Y Pwyllgor Cyfrifon Cyhoeddus **The Public Accounts Committee**

Dydd Llun, 28 Ionawr 2013
Monday, 28 January 2013

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Cynnig o dan Reol Sefydlog Rhif 17.42 i Benderfynu Gwahardd y Cyhoedd o Weddill y Cyfarfod

Motion under Standing Order No. 17.42 to Resolve to Exclude the Public from the Remainder of the Meeting

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

The proceedings are recorded 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

Mohammad Asghar	Ceidwadwyr Cymreig Welsh Conservatives
Jocelyn Davies	Plaid Cymru The Party of Wales
Mike Hedges	Llafur Labour
Darren Millar	Ceidwadwyr Cymreig (Cadeirydd y Pwyllgor) Welsh Conservatives (Committee Chair)
Julie Morgan	Llafur Labour
Gwyn R. Price	Llafur Labour

Jenny Rathbone	Llafur Labour
Aled Roberts	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats

Eraill yn bresennol
Others in attendance

Paul Brown	Llywodraeth Cymru Welsh Government
Nicola Charles	Llywodraeth Cymru Welsh Government
Jane Hutt	Aelod Cynulliad, Llafur (Y Gweinidog Cyllid ac Arweinydd y Tŷ) Assembly Member, Labour (Minister for Finance and Leader of the House)

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

Sarah Sargent	Dirprwy Glerc Deputy Clerk
Sarah Beasley	Clerc Clerk
Joanest Jackson	Uwch-gynghorydd Cyfreithiol Senior Legal Adviser

Dechreuodd y cyfarfod am 2.01 p.m.
The meeting began at 2.01 p.m.

Cyflwyniad, Ymddiheuriadau a Dirprwyon
Introduction, Apologies and Substitutions

[1] **Darren Millar:** Good afternoon, everyone, and welcome to today's meeting of the Public Accounts Committee. I welcome Members, officials and everyone else who is sat around the table to today's meeting. I remind everyone that headsets are available for translation and sound amplification, and any Member should feel free to contribute to the course of our discussions in English or Welsh as they see fit. I encourage everyone to switch off mobile phones, BlackBerrys and pagers as these can interfere with the broadcasting and other equipment. In the event of an emergency, an alarm will sound and we should follow the instructions of the ushers.

2.02 p.m.

Bil Archwilio Cyhoeddus (Cymru): Cyfnod 2—Ystyried Gwelliannau
Public Audit (Wales) Bill: Stage 2—Consideration of Amendments

[2] **Darren Millar:** I welcome Jane Hutt, the Minister for Finance and Leader of the House, to the table, and Paul Brown, the Minister's adviser. We are going to be commencing and completing Stage 2 of the Public Audit (Wales) Bill today, hopefully. All Members should have in front of them a marshalled list of amendments and the groupings of the amendments for the debates that will follow. I remind everyone that the marshalled list of amendments is the list of all amendments tabled marshalled into the order in which the sections and Schedules appear in the Bill. For our meeting, the order in which we will

consider the amendments will be sections 1 to 37, Schedules 1 to 4 and the long title.

[3] You will see from the groupings list that the amendments have been grouped to facilitate debate, but the order in which they will be called and moved for a decision is dictated by the marshalled list. Members will need to follow the two papers as we go through the proceedings, but I will advise Members when I call them as to whether they are being called to speak in the debate or to move the amendments for a decision.

[4] There will be one debate on each group of amendments, and Members who do not have an amendment in the group but who wish to speak should indicate to me in the usual way. I will call the Minister to speak on each group, and, for the record, in accordance with the convention agreed by the Business Committee, as Chair, I will move the amendments in the name of the Minister. For expediency, I will assume that the Minister wishes me to move all her amendments, and I will do so at the appropriate place in the marshalled list. Minister, I remind you that, if you do not want to move any amendments at any point, you should indicate to me and I will make sure that they are not moved at that relevant point in the proceedings.

[5] Where there are a number of amendments of a very similar nature that have already been debated and appear together in the marshalled list, I propose to dispose of those amendments en bloc. Members will have the opportunity to object to this at the relevant point in proceedings.

[6] In line with the practice established in the third Assembly, legal advisers to the committee and the Minister are not expected to provide advice on the record. If Members need to seek legal advice during proceedings, they should do so by passing a note to the legal advisers.

[7] In line with the deadline set by the Assembly committee, we must conclude proceedings by 1 February, which is soon to be upon us. As such, we must dispose of all amendments during this afternoon's scheduled meeting. So, off we go.

**Grŵp 1: Arfer Swyddogaethau'r Archwilydd Cyffredinol—Pwerau Atodol
(Gwelliant 37)**

Group 1: Exercise of AG's Functions—Supplementary Powers (Amendment 37)

[8] **Darren Millar:** The first group of amendments relates to supplementary powers for the Auditor General for Wales in exercising the functions of his office, and the only amendment in this particular group is amendment 37 in the name of Aled Roberts. I call on Aled Roberts to move and speak to his amendment.

[9] **Aled Roberts:** I move amendment 37 in my name.

[10] This amendment takes up the committee's recommendation 8 to remove section 9(2). I appreciate that this has diminished in importance since the Government put forward its own amendment 25, which establishes a code of practice. However, it is worth reiterating that we felt that sub-section (2) in section 9 was somewhat restrictive, and based on discussions that we have had at committee, it was our view that there was little or no possibility of the auditor general setting up a rival office, to all intents and purposes, because the Auditor General for Wales is a creature of statute rather than common law. It was also drawn to our attention that there is no such restriction on the National Audit Office under the Budget Responsibility and National Audit Act 2011 in England.

[11] I am quite content at this stage. It will very much depend on what comes out in the code of practice and the wording within it. However, I would like to ask the Minister to

consider a further paragraph (d) to amendment 25 in due course, perhaps at Stage 3, which would make clear your thinking on the Wales Audit Office arrangements under section 19 and how they are restricted. I am content at this stage that the code is sufficient, and that reference to the code will be sufficient. I will wait to see what the Minister says before deciding whether to ask that the amendment be put to a vote.

[12] **Darren Millar:** There are no other speakers, so I call the Minister to reply.

[13] **The Minister for Finance and Leader of the House (Jane Hutt):** I thank Aled Roberts for explaining why this amendment was put forward following the committee's report. As he said, it was in response to concerns raised during Stage 1 regarding section 9(2), namely that it could impede the AGW's ability to comply with international professional standards of auditing. The provision is not intended to be a barrier to compliance with those or any other professional standards. Its purpose is to ensure that there is no confusion or ambiguity in the Bill about where the lines of responsibility between the AGW and the WAO lie. Section 21 provides that the WAO is responsible for providing resources to the AGW, and for employing staff and securing services from external contractors. If section 9(2) were to be removed the AGW could potentially exercise the functions of section 21 in his or her own right, and it could therefore undermine the WAO's role. I believe there are already sufficient safeguards in the Bill to ensure that the AGW can exercise some control of the quality of staff who are exercising functions on his or her behalf, so that he or she can comply with the professional standards required in section 8(3)(b). That is important, of course.

[14] Turning to section 10, you refer to concerns about the AGW issuing the code of audit practice. The code of practice must include what the AGW views as best professional practice with respect to standards, procedures and techniques to be adopted in carrying out his or her functions. Any person who is exercising functions on behalf of the AGW, whether a member of the staff or an external contractor, is required to meet the standards set by the code. This should ensure that the AGW and persons exercising functions on his or her behalf will meet the standard required in section 8(3)(b).

[15] I could continue to section 18, but I will move on to your point about amendment 25 in group 6 in terms of the code of practice. I can reassure you and the committee again that if the AGW and the WAO, once it has been established, consider that further action is needed to clarify or strengthen the AGW's quality assurance role, my expectation would be that the WAO's code of practice would include arrangements in relation to the AGW's quality assurance role and training for staff. So, I hope that that assurance, in terms of the opportunities through the code of practice, the existing safeguards in the Bill and the fact that the code of practice can cover quality assurance matters, will enable you to withdraw amendment 37. It is important that, when you look at Government amendment 25, you will see that it makes provision for the review and revision of the code by the AGW and the WAO, and for the code to be approved by the Assembly. It is clear to me that we can have the opportunity to strengthen that quality assurance role.

[16] **Darren Millar:** I call on Aled Roberts to reply to the debate.

[17] **Aled Roberts:** I am quite content, given the assurance. Under the 'content' heading in amendment 25, it may be worthwhile looking at adding a paragraph (d) under sub-section (1), which would make explicit provisions about how Wales Audit Office arrangements under section 19 are to be made. However, I accept that that is not for today and, under the circumstances, I am content to withdraw amendment 37.

[18] **Darren Millar:** Are Members content with that? I see that there are no objections.

Tynnwyd gwelliant 37 yn ôl drwy ganiatâd y pwyllgor.

Amendment 37 withdrawn by leave of the committee.

Grŵp 2: Cynllun Dirprwyo (Gwelliannau 1, 2 a 3)
Group 2: Scheme of Delegation (Amendments 1, 2 and 3)

[19] **Darren Millar:** The second group of amendments relates to the scheme of delegation for the functions of the Auditor General for Wales. The lead amendment in this group is amendment 1 in the name of the Minister. I move amendment 1 in the name of the Minister and call on the Minister to speak to that amendment and the other amendments in the group.

[20] **Jane Hutt:** Thank you, Chair. These three amendments relate to section 18, the delegation and joint exercise of functions of the auditor general, which currently requires the WAO to approve the scheme of delegation prepared by the AGW and any revision of it. The amendments specifically address recommendation 2 of the committee's report at Stage 1 scrutiny. The committee was concerned that giving the WAO the power to approve the AGW's scheme of delegation might limit the AGW's independence. The thinking behind this requirement for the WAO to approve the scheme was that it is the budget holder and responsible for employing the staff who will be acting under the AGW's delegation. We felt that the WAO should have some oversight over delegation arrangements, although it was still for the AGW to decide who could act under his or her delegation.

[21] However, I have taken on board the committee's concerns and have brought forward amendments 1 and 2, which remove the WAO's power to approve the AGW's scheme of delegation or a revision of the scheme. This change would leave the preparation of the scheme and any revision to it solely in the hands of the AGW, subject to consultation with the WAO.

[22] Amendment 3 requires the AGW to consult with the WAO in preparing or revising a scheme. This is necessary because the WAO is the budget holder and employer of the staff who will be acting under the AGW's delegation. The views of the WAO must be taken into account in the scheme's development, but the final arrangements will still be within the AGW's discretion.

[23] I believe, Chair, that these amendments fulfil the Public Accounts Committee's recommendation 2. The AGW has freedom and the WAO retains a close interest, and I would hope that Members are able and willing to accept these three amendments.

[24] **Darren Millar:** Does anybody wish to speak to the amendments in this group? I see that nobody does. In that case, Minister, do you wish to proceed to vote on amendment 1?

[25] **Jane Hutt:** I do.

[26] **Darren Millar:** The question is that amendment 1 be agreed to. Does any Member object? I see that nobody does. In accordance with Standing Order No. 17.34, I therefore declare amendment 1 agreed.

Derbyniwyd gwelliant 1.
Amendment 1 agreed.

[27] **Darren Millar:** We will now move to dispose of amendments 2 and 3 in the name of the Minister. I move amendment 2 in the name of the Minister. The question is that amendment 2 be agreed to. Does any Member object? I see that nobody does. In accordance with Standing Order No. 17.34, I therefore declare amendment 2 agreed.

Derbyniwyd gwelliant 2.

Amendment 2 agreed.

2.15 p.m.

[28] **Darren Millar:** I move amendment 3 in the name of the Minister. The question is that amendment 3 be agreed to. Does any Member object? I see that nobody does. In accordance with Standing Order No. 17.34, I therefore declare amendment 3 agreed.

*Derbyniwyd gwelliant 3.
Amendment 3 agreed.*

**Grŵp 3: Darparu Gwasanaethau (Gwelliannau 4, 44 a 5)
Group 3: Provision of Services (Amendments 4, 44 and 5)**

[29] **Darren Millar:** The third group relates to the provision of services and the lead amendment in this group is amendment 4 in the name of the Minister. I move amendment 4 in the name of the Minister and call on the Minister to speak to that amendment and to the other amendments in the group.

[30] **Jane Hutt:** The Government amendments place a duty on the WAO to consult with the AGW before entering into arrangements and to take account of the Public Accounts Committee's concerns about the quality assurance of those who will be exercising functions on the AGW's behalf. We believe that amendment 44 is loosely drafted and very wide in scope, and we do not believe therefore that amendment 44 is required, because there are already sufficient safeguards in the Bill and in the Government amendments now brought forward. These safeguards are as follows. The AGW sets the professional standards of audit and the code of audit practice and any person exercising functions on the AGW's behalf must comply with the code. A person may only exercise a function on behalf of the AGW if the AGW has authorised the delegation of that function under section 18. The AGW has complete discretion as to whom his or her functions may be delegated and can withdraw unauthorised delegation at any time.

[31] These amendments relate to section 19 of the Bill and it is about the WAO's arrangements for the provision of services to and from the WAO and the AGW. The effect of section 19 is to enable the WAO to make arrangements with public authorities for the functions of an authority to be exercised by the AGW, for the public authority to provide administrative professional technical services to the AGW, and for the AGW to provide administrative, professional and technical services to the public authority. I hope that that clarifies the point.

[32] I understand the reason for tabling amendment 44 because I understand that the committee considers that the WAO's powers to make arrangements might have the potential to compromise the AGW's obligation in section 8(3)(b) to comply with professional standards and principles. However, amendments 4 and 5 ensure that where the arrangements relate to the AGW, he or she must be consulted on them before they are made. These amendments not only take on board the committee's concerns about quality assurance, but also more generally give the AGW a say in the arrangements made by the WAO, where the AGW is providing or receiving services. So, I would ask Members to support our two amendments.

[33] Also, in terms of the committee's concerns about quality assurance, I agree that it is very important, but I have concerns about amendment 44. I think that the people applying this legislation would have difficulty in understanding it and the circumstances in which the AGW would have power to veto arrangements made by the WAO. So, I would hope that, again, the committee would accept these assurances and recognise that the safeguard in section 10

provides the AGW with the opportunity, through the code of audit practice, and that must include what the AGW views as best professional practice in respect of standards, procedures and techniques to be adopted in carrying out his or her functions.

[34] Finally, the effect of agreeing the Government amendments to section 18 in group 2 is that a person cannot now exercise functions on behalf of the AGW unless that function is authorised and delegated by the AGW. It will be the AGW who decides who may exercise functions on his or her behalf, and the AGW who now has the power to remove, as a result of those amendments, an authorised delegation at any time. So, the matter of quality assurance is even more in the hands of the AGW than it was before the group 2 amendments were agreed.

[35] **Darren Millar:** I call on Aled Roberts to speak to the amendments in this group.

[36] **Aled Roberts:** Amendment 44 is based on committee recommendation 3 that, as the Minister has outlined, actually expresses concern regarding the balance, if you like, between the WAO and the auditor general. There is still a difference between what the Government has put forward and what the feelings of the committee were during Stage 1. I accept that there has been discussion over the course of the last few days, and I accept that some of the wording in amendment 44 may be in need of tightening. However, I still think that there is an issue regarding the Government's view that amendment 44, in effect, gives the auditor general too much power. Our view is that the Wales Audit Office, under the current provisions, could enter into an arrangement that could place the auditor general in an awkward position, if nothing else, with regard to the discussions that took place. At this stage, I would still want a vote on amendment 44; although I give notice that the likelihood is that if there is no movement on the part of the Government, I will be tightening that up in discussions before Stage 3.

[37] **Darren Millar:** Minister, would you like to reply to the debate?

[38] **Jane Hutt:** I recognise your concerns. There have been very valuable discussions, and that has been the hallmark, I think, of developing and getting this Bill right. I would like to ask Aled to consider not moving amendment 44 on the understanding that the Government will bring forward an amendment at Stage 3 to include further safeguards. As you have acknowledged, it is an opportunity to tighten this up and to get it right.

[39] Again, as I said, staff would have to comply with the AGW's code of audit practice. One option would be to make it explicit in section 10 that persons acting on behalf of the AGW must comply with the code. Again, that is an assurance that I would give in terms of coming forward with an appropriate amendment to reflect the committee's concerns and my will and wish to respect those.

[40] **Aled Roberts:** On the basis of that assurance, I am quite content because, obviously, if we are dissatisfied, there is provision for us to come back again. In the spirit of good faith—as the Minister has outlined, there have been very constructive discussions—I am quite happy that we do not take the vote on amendment 44.

[41] **Darren Millar:** Minister, do you wish to proceed to a vote on amendment 4?

[42] **Jane Hutt:** Yes.

[43] **Darren Millar:** The question is that amendment 4 be agreed to. Does any Member object? I see that there are no objections. In accordance with Standing Order No. 17.34, I therefore declare amendment 4 agreed.

Derbyniwyd gwelliant 4.

Amendment 4 agreed.

[44] **Darren Millar:** Aled, may I confirm that you do not wish to move amendment 44?

[45] **Aled Roberts:** I do not wish to move the amendment.

[46] **Darren Millar:** Does any other Member wish to move amendment 44? I see that no-one does.

*Ni chynigiwyd gwelliant 44.
Amendment 44 not moved.*

[47] **Darren Millar:** In that case, I move amendment 5 in the name of the Minister.

[48] The question is that amendment 5 be agreed to. Does any Member object? I see that there are no objections. In accordance with Standing Order No. 17.34, I therefore declare amendment 5 agreed.

*Derbyniwyd gwelliant 5.
Amendment 5 agreed.*

Grŵp 4: Cynllun Blynyddol (Gwelliannau 6 a 7) Group 4: Annual Plan (Amendments 6 and 7)

[49] **Darren Millar:** The fourth group of amendments relates to the Auditor General for Wales and the Wales Audit Office's annual plan. The lead amendment in the group is amendment 6, tabled in the name of the Minister. I move amendment 6 and call on the Minister to speak to that amendment and the other amendment in the group.

[50] **Jane Hutt:** The amendment in this group addresses both recommendations 4 and 5 of the committee Stage 1 final report in respect of the annual plan. The amendments require that the AGW and WAO jointly prepare the annual plan, and remove the power given to the WAO under section 26 to reject the AGW's proposed work programme. So, the annual plan is to be drawn up before each financial year, setting out the work programme, the resources and the use of these resources for the coming year. In the Stage 1 report the committee outlined its thoughts on the need to distinguish in the plan between matters relating only to the auditor general and those matters relating to both the AGW and WAO. In order to prepare an annual plan that clearly identifies the separate work programmes of the two offices, that is operational in respect of resources and resource allocation, the AGW and WAO should work together to prepare the independent elements of the plan that must then be laid before and agreed by the Assembly. The removal of section 26 will help to embed this joint working approach and remove any concerns about the fettering of the AGW's independence in respect of the setting of his or her work programme.

[51] **Darren Millar:** Do any other Members wish to speak to this group? I see that they do not. In that case, Minister, do you wish to proceed to a vote on amendment 6?

[52] **Jane Hutt:** Yes, I do.

[53] **Darren Millar:** The question is that amendment 6 be agreed to. Does any Member object? I see that there are no objections. In accordance with Standing Order No. 17.34, I therefore declare amendment 6 agreed.

*Derbyniwyd gwelliant 6.
Amendment 6 agreed.*

[54] **Darren Millar:** I move amendment 7 in the name of the Minister.

[55] The question is that amendment 7 be agreed to. Does any Member object? I see that there are no objections. In accordance with Standing Order No. 17.34, I therefore declare amendment 7 agreed.

*Derbyniwyd gwelliant 7.
Amendment 7 agreed.*

**Grŵp 5: Cynulliad Cenedlaethol Cymru (Gwelliannau 8, 23 a 34)
Group 5: National Assembly for Wales (Amendments 8, 23 and 34)**

[56] **Darren Millar:** The fifth group of amendments relates to the National Assembly for Wales. The lead amendment in this group is amendment 8, in the name of the Minister. I move amendment 8 in the name of the Minister and call on the Minister to speak to that amendment and the other amendments in the group.

[57] **Jane Hutt:** The amendments in this group relate to the oversight arrangements of the WAO and the AGW. You will recall that, following consultation on the Bill, changes to the Bill were made to reflect more closely the wishes of the Presiding Officer, the Assembly, and the committee—most notably, the placing of the oversight arrangements relating to the AGW, and the corporate WAO, in the hands of the Assembly to determine, rather than the PAC. Therefore, the amendments in this group are consequential in nature and bring consistency throughout the Bill to the oversight arrangements for the AGW and the corporate WAO, ensuring that these rest within the Assembly to determine.

[58] **Darren Millar:** Does any other Member wish to speak to the amendments in this group? I see that no-one does. Therefore, Minister, do you wish to proceed to a vote on amendment 8?

[59] **Jane Hutt:** Yes, I do.

[60] **Darren Millar:** The question is that amendment 8 be agreed to. Does any Member object? I see that there are no objections. In accordance with Standing Order No. 17.34, I therefore declare amendment 8 agreed.

*Derbyniwyd gwelliant 8.
Amendment 8 agreed.*

**Grŵp 6: Cyfansoddiad SAC (Gwelliannau 9, 9A, 10, 10A, 11, 12, 46, 13, 14, 15, 16,
17, 18, 20, 21 ac 22)
Group 6: Composition of WAO (Amendments 9, 9A, 10, 10A, 11, 12, 46, 13, 14, 15,
16, 17, 18, 20, 21 and 22)**

[61] **Darren Millar:** The sixth group of amendments relates to the composition of the Wales Audit Office. The lead amendment in this group is amendment 9, in the name of the Minister. I move amendment 9 in the name of the Minister and call on the Minister to speak to that amendment and the other amendments in the group.

[62] **Jane Hutt:** The amendments in this group relate to the composition of the WAO board, and address recommendations 9 and 10 of the committee's Stage 1 report. Many of the amendments are of a consequential nature. I note that, while I have tabled amendment 9 in respect of increasing the size of the WAO board to eight members, Oscar has tabled amendment 9A, which amends my amendment, proposing a board of nine members. I am

content with this, and with the proposition that, of the nine members, three will be employee members, to be appointed by the non-executive members: one through nomination by the AGW and two through staff ballot, conducted by the WAO. I am content with the policy intention of the amendments, but may bring forward amendments at Stage 3 in respect of drafting, subject to any legal advice that I receive from my legal team in respect of the suitability of the amendment to achieve the policy aim. My team has already identified a minor amendment in respect of amendment 21, should amendment 46 be agreed, and further consideration will be given to consequential amendments at Stage 3.

[63] **Darren Millar:** Thank you, Minister. I call on Mohammad Asghar to speak.

[64] **Mohammad Asghar:** I am speaking in support of amendments 9A, 10A, and 46, which have been tabled in my name. Amendments 9A and 10A seek to amend Government amendments 9 and 10, thereby increasing the total number of WAO board members from seven, as provided in the Bill, to nine members, rather than eight, as proposed in the two Government amendments. The two additional board members would be WAO staff members. My amendments seek to give effect to the recommendation in the PAC report at Stage 1, which calls for a board size of nine, while still ensuring that there is a majority of non-executive members.

[65] In further support of these amendments, I would like to make the following points. First, an odd number of board members would help to minimise the need for the chair to wield a casting vote. Secondly, in relation to the UK National Audit Office, which also has a board of nine members, including five non-executive members, the House of Commons Public Accounts Commission decided that the board should have a narrow majority of non-executive members. Finally, the UK Comptroller and Auditor General, when giving evidence to the committee, also suggested that the board should contain a good number of executive members, as they would be able to provide the non-executive members with information on the organisation's day-to-day operations. He added that best practice suggests that the balance of executive members and non-executive members should be as close to even as you can get while giving the non-executive members a majority.

2.30 p.m.

[66] If amendments 9A and 10A are accepted by the committee, I will move amendment 46 in substitution of the Government's amendment 12. That amendment provides for one of the executive members to be nominated by the auditor general as provided in the original Bill. However, crucially, if the nomination is rejected by the non-executive members, the auditor general will be required to submit a fresh nomination. That provision would be in line with that in place for the UK's National Audit Office and was also recommended by this committee in its Stage 1 report. It ensures that both the auditor general and the non-executive members must agree on who is appointed. Amendment 46 would also ensure that the two additional staff members would be chosen by a ballot of staff. This committee's Stage 1 report and my original amendment 39, now withdrawn, would have provided for only one staff member to be elected. Notwithstanding the auditor general's reservations, I suggest that if the board size is increased to nine, plus the additional safeguard regarding the appointed member, then ensuring that the final ninth board member is also elected would be a reasonable compromise.

[67] Finally, the Government's amendment 21 would require the WAO's procedural rules to include provision for the conduct of ballots, so that that could be used to ensure that both senior and more junior ranks are represented.

[68] **Julie Morgan:** I would like to speak in support of what Oscar said and of the Minister's amendments. I think that it makes more sense to have a board of nine and it would

be a good thing to have two elected staff representatives. It is a good idea that two of them represent the workforce via an election. So, these are very positive amendments and I would like to add my voice in support of them.

[69] **Jenny Rathbone:** I note the correspondence that we have had from the auditor general expressing his concern at the election of two board members, but I am not convinced by the argument because if we are not appointing independent-minded individuals to the Wales Audit Office, then we must have our recruitment processes wrong. We need independent-minded people to do that audit work and, therefore, I am not at all convinced that they would not be selecting the best person to represent the staff on the board, and that could include the most senior member of staff or someone of a more junior rank. However, as long as they were asking the right probing questions on the board, I think that we can be confident that staff will elect candidates who have convinced them that they will do the job properly.

[70] **Darren Millar:** Thank you, Jenny. Are there any other contributions? I see that there are none. Minister, please reply to the debate.

[71] **Jane Hutt:** The debate sums up my approval of not only Oscar's amendment, but the fact that there will be strength in having three employee members of the board. The contributions made by Julie Morgan and Jenny Rathbone express clearly how that can strengthen the representation of staff, which of course, is very important. The consultation has resulted in improvement and the Government has responded.

[72] **Darren Millar:** As there is an amendment to amendment 9, we will dispose of that first. So, Oscar, do you want to move amendment 9A?

[73] **Mohammad Asghar:** I move amendment 9A in my name.

[74] **Darren Millar:** The question is that amendment 9A be agreed to. Does any Member object? I see that there are no objections. In accordance with Standing Order No. 17.34, I therefore declare amendment 9A agreed.

*Derbyniwyd gwelliant 9A.
Amendment 9A agreed.*

[75] **Darren Millar:** The question, therefore, is that amendment 9, as amended, be agreed to. Does any Member object? I see that there are no objections. In accordance with Standing Order No. 17.34, I therefore declare amendment 9, as amended, agreed.

*Derbyniwyd gwelliant 9 fel y'i diwygiwyd.
Amendment 9, as amended, agreed.*

[76] **Darren Millar:** I move amendment 10 in the name of the Minister. However, as there is an amendment to amendment 10, we will dispose of that first. So, Mohammad Asghar, would you like to move amendment 10A in your name?

[77] **Mohammad Asghar:** I move amendment 10A in my name.

[78] **Darren Millar:** The question is that amendment 10A be agreed to. Does any Member object? I see that there are no objections. Therefore, in accordance with Standing Order No. 17.34, amendment 10A is agreed.

*Derbyniwyd gwelliant 10A.
Amendment 10A agreed.*

[79] **Darren Millar:** The question is that amendment 10, as amended, be agreed to. Does any Member object? I see that there are no objections. Therefore, in accordance with Standing Order No. 17.34, amendment 10, as amended, is agreed.

*Derbyniwyd gwelliant 10 fel y'i diwygiwyd.
Amendment 10, as amended, agreed.*

[80] **Darren Millar:** We will now dispose of amendments 11 and 12. I move amendment 11, in the name of the Minister. The question is that amendment 11 be agreed to. Does any Member object? I see that there are no objections. Therefore, in accordance with Standing Order No. 17.34, amendment 11 is agreed.

*Derbyniwyd gwelliant 11.
Amendment 11 agreed.*

[81] **Darren Millar:** As amendments 9A, 9, as amended, 10A and 10, as amended, were agreed, amendment 12 falls.

*Methodd gwelliant 12.
Amendment 12 fell.*

[82] **Darren Millar:** We will now proceed to dispose of amendment 46. Oscar, would you like to move amendment 46?

[83] **Mohammad Asghar:** I move amendment 46 in my name.

[84] **Darren Millar:** The question is that amendment 46 be agreed to. Does any Member object? I see that there are no objections. Therefore, in accordance with Standing Order No. 17.34, amendment 46 is agreed.

*Derbyniwyd gwelliant 46.
Amendment 46 agreed.*

[85] **Darren Millar:** We now move to dispose of amendments 13 to 18, which appear consecutively in the marshalled list. These amendments have already been debated as part of group 6.

[86] I move amendments 13, 14, 15, 16, 17 and 18 in the name of the Minister. I propose that we dispose of these amendments together. Does any Member object to that proposal? I see that no-one does. In that case, the question is that amendments 13 to 18 be agreed to. Does any Member object? I see that there are no objections. Therefore, in accordance with Standing Order No. 17.34, amendments 13 to 18 are agreed.

*Derbyniwyd gwelliannau 13, 14, 15, 16, 17 ac 18.
Amendments 13, 14, 15, 16, 17 and 18 agreed.*

**Grŵp 7: Cyflogi Staff SAC (Gwelliant 19)
Group 7: Employment of WAO Staff (Amendment 19)**

[87] **Darren Millar:** The only amendment in this group is amendment 19, in the name of the Minister. I move amendment 19, and I call on the Minister to speak to her amendment.

[88] **Jane Hutt:** This amendment addresses recommendation 14 of the committee's Stage 1 report. It removes the requirement in the Bill for the WAO to bring the recruitment and selection procedures and the terms of employment of WAO staff broadly in line with those of

the Welsh Government. I noted in the general principles debate on 4 December that I would be looking to bring forward an amendment at this stage, and amendment 19 achieves this commitment. While it is the Welsh Government's aspiration to try to draw all the Welsh public sector's terms and conditions in line with those of the Welsh Government in order to ensure consistency across the public sector, I recognise that each case must be dealt with individually. I also recognise the difficulty in achieving this provision and the potential for it to conflict with provision under Schedule 3, Part 3 in relation to staff transfers. As such, the amendment looks to remove paragraph 20(5) of Schedule 1, ensuring that the WAO is free to employ staff on such terms as it so determines.

[89] **Darren Millar:** Does anyone else wish to speak to this amendment? I see that no-one does. In that case, Minister, do you wish to proceed to a vote on amendment 19?

[90] **Jane Hutt:** I do.

[91] **Darren Millar:** The question is that amendment 19 be agreed to. Does any Member object? I see that there are no objections. Therefore, in accordance with Standing Order No. 17.34, amendment 19 is agreed.

*Derbyniwyd gwelliant 19.
Amendment 19 agreed.*

[92] **Darren Millar:** We now move to dispose of amendments 20, 21 and 22, which appear consecutively on the marshalled list. These amendments have already been debated as part of group 6.

[93] I move amendments 20, 21 and 22 in the name of the Minister. I propose that these amendments be disposed of together. Does any Member object to this proposal? I see that no-one does. In that case, the question is that amendments 20, 21 and 22 be agreed to. Does any Member object? I see that there are no objections. Therefore, in accordance with Standing Order No. 17.34, amendments 20 to 22 are agreed.

*Derbyniwyd gwelliant 20, 21 a 22.
Amendment 20, 21 and 22 agreed.*

[94] **Darren Millar:** We will now dispose of amendment 23. I move amendment 23 in the name of the Minister. The question is that amendment 23 be agreed to. Does any Member object? I see that there are no objections. Therefore, in accordance with Standing Order No. 17.34, amendment 23 is agreed.

*Derbyniwyd gwelliant 23.
Amendment 23 agreed.*

**Grŵp 8: Archwilio SAC (Safonau) (Gwelliant 24)
Group 8: Audit of WAO (Standards) (Amendment 24)**

[95] **Darren Millar:** The only amendment in the group is amendment 24, in the name of the Minister. I move amendment 24 in the name of the Minister, and I call on the Minister to speak to that amendment.

[96] **Jane Hutt:** This amendment relates to the audit of the WAO, and the standards to which the external auditor must adhere. The amendment will help to ensure that the external audit of the WAO is done to a proper professional standard, as it would remove the discretion of the WAO's auditor to pick and choose the professional standards with which it complies.

[97] I therefore ask Members to support amendment 24.

[98] **Darren Millar:** Does any other Member wish to speak? I see that no-one does. In that case, Minister, do you wish to proceed to a vote on amendment 24?

[99] **Jane Hutt:** I do.

[100] **Darren Millar:** The question is that amendment 24 be agreed to. Does any Member object? There are no objections. Therefore, in accordance with Standing Order No. 17.34, amendment 24 is agreed.

*Derbyniwyd gwelliant 24.
Amendment 24 agreed.*

**Grŵp 9: Cod Ymarfer (Gwelliant 25)
Group 9: Code of Practice (Amendment 25)**

[101] **Darren Millar:** The only amendment in the group is amendment 25, in the name of the Minister. I move amendment 25 in the name of the Minister and I call on the Minister to speak to her amendment.

[102] **Jane Hutt:** The amendment in this group relates to recommendations 6 and 7 of the committee's Stage 1 report and addresses the need for a code of practice to be drawn up between the WAO and the AGW to manage the operation of their relationship. As with recommendation 7 of the report, the amendment places responsibility with the Assembly for approving the code and any revisions to the code. The amendment places a duty on the WAO and the auditor general to jointly prepare a code that deals with their relationship. The provisions require that the code take account of the discretion given to the AGW in respect of the operation of his or her functions, while clarifying how the WAO will monitor the auditor general's functions, and how advice is to be given to the auditor general by the WAO.

[103] The part, as drafted, provides and outlines the key principles of the code and the key elements of the relationship that must be defined. However, it gives extensive flexibility to the WAO and AGW as to what they feel should be included in the code, allowing for the code to include provision about any other matter relevant to their relationship that they so wish to include.

[104] **Darren Millar:** Does any other Member wish to speak on this group? I see that no-one does. In that case, Minister, do you wish to proceed to a vote on amendment 25?

[105] **Jane Hutt:** I do.

[106] **Darren Millar:** The question is that amendment 25 be agreed to. Does any Member object? There are no objections. Therefore, in accordance with Standing Order No. 17.34, amendment 25 is agreed.

*Derbyniwyd gwelliant 25.
Amendment 25 agreed.*

**Grŵp 10: Paratoi Adroddiadau Interim (Gwelliannau 40 a 41)
Group 10: Preparation of Interim Reports (Amendments 40 and 41)**

[107] **Darren Millar:** The lead amendment in this group is amendment 40 in the name of Jocelyn Davies. I invite Jocelyn Davies to move amendment 40 and to speak to that amendment and the other amendment in the group.

[108] **Jocelyn Davies:** I move amendment 40 in my name.

[109] I will also speak to amendment 41. I was wondering what the reasoning is for the requirement to produce two interim reports in addition to the annual report, and, of course, for the Assembly committee to report on those reports. It seemed to me that this was a new concept. I could not think of any other area where interim reporting was laid out in legislation. I suppose that the question for me, Minister, is what benefit you think might occur from having this in the legislation, or, perhaps, what mischief you are trying to prevent or rectify. I am concerned that perhaps the focus should be on the work of the auditor general and the audit office, rather than on preparing and publishing interim reports, although I do accept that, in the past, there may have been activity that was missed. So, I am seeking your reasoning behind the requirement for two interim reports in addition to the annual report.

[110] **Jane Hutt:** Thank you for that. The requirement to prepare two interim reports does give the Assembly the opportunity to monitor the AGW and the WAO's in-year adherence to, and progress against, their joint annual plan. In terms of reasoning, given past problems—you mentioned that—and the core purposes of the Bill, this could be an important provision so that the Assembly could monitor progress regularly during the year. In fact, in consultation, I think that we called for quarterly reports, and we pulled that back as a result of the responses to the consultation and committee review. This provision enables the Assembly to spot any matters of concern sooner, rather than waiting until the production of the annual report. Also, we are talking about joint reporting, and the annual report is after the financial year has ended. It is not unusual for corporate bodies to be required to prepare interim reports, because we are talking about an annual budget of circa £22 million, and the AGW programme covers a wide range of topics. So, that is the reasoning behind reducing it to two. If the committee was so minded, I could bring forward an amendment at Stage 3 to say that the Assembly should receive at least one interim report a year. However, at present, we are suggesting two. I would be glad to hear any other views on this point in respect of the amendment as it is.

2.45 p.m.

[111] **Darren Millar:** Does anybody else want to speak on this matter? I see that they do. I will call Jenny and then Mike.

[112] **Jenny Rathbone:** I understand what Jocelyn is saying, that we need to focus on the work of the auditor general and the WAO, but the Public Accounts Committee will see individual reports. The purpose of having at least one interim report is that the Assembly gets to see in the round the number of reports that have been done in that six-month period and whether it is in line with the budget allocation. If there is a report only once a year and things are going off course, it will be a little late by the time the annual report is published.

[113] **Mike Hedges:** I am thinking of termly reports. I am used to them in educational establishments, and I think that it is good practice to have termly reports, three times a year, in every organisation. We, effectively, run on a three-term basis, and it would be useful to know what the progress is during the year, through two interim reports and then a final report. I would see that as good practice and think that perhaps more organisations should be asked to do that.

[114] **Aled Roberts:** I think that we ought to be careful. I can understand the logic behind interim reports, but I think that reporting more often than every six months is overly burdensome. That is my opinion. If it was more than every six months, the reality is that we would be doing nothing other than considering interim reports as a committee. That is the danger. So, I have sympathy with both points of view and I think that, in Stage 3, consideration should perhaps be given to making it clear that there would be only one interim

report.

[115] **Darren Millar:** Does anybody else wish to speak?

[116] **Julie Morgan:** It may be helpful to have a degree of flexibility, because I can see why we might want a report in between the reports. So, I would just flag that up.

[117] **Darren Millar:** Okay, does anybody else want to contribute? I see that no-one does. In that case, I call on Jocelyn to respond.

[118] **Jocelyn Davies:** I agree with Aled and with Julie on having some flexibility perhaps, and having the number specified is not—. I am happy to withdraw my amendment, as the Minister has given a commitment that a little flexibility might come forward in Stage 3. All that I would say is that the antics that went on in the past might not have been prevented by having interim reports. I think that we can set too much store on interim reports, thinking that they solve everything, and, of course, you can have such regular reporting that you do not take any notice of the reports. So, as long as the scrutiny is appropriate, and I think the compromise that we have come to is that there will be an amendment to say ‘at least one’, I will be happy with that.

[119] **Darren Millar:** I therefore take it that you wish to withdraw amendment 40.

[120] **Jocelyn Davies:** Yes.

[121] **Darren Millar:** I see that there are no objections.

*Tynnwyd gwelliant 40 yn ôl drwy ganiatâd y pwyllgor.
Amendment 40 withdrawn by leave of the committee.*

[122] **Darren Millar:** Given that amendment 40 has been withdrawn, Jocelyn, do you wish not to move amendment 41 in your name?

[123] **Jocelyn Davies:** I do not wish to move amendment 41.

*Ni chynigiwyd gwelliant 41.
Amendment 41 not moved.*

**Grŵp 11: Rheolau Gweithdrefnol Interim SAC (Gwelliant 42)
Group 11: WAO’s Interim Procedural Rules (Amendment 42)**

[124] **Darren Millar:** The only amendment in the group is amendment 42. I ask Jocelyn to move and speak to her amendment.

[125] **Jocelyn Davies:** I move amendment 42 in my name.

[126] Again, I was wondering what the thinking behind this provision was. The initial rules left one single individual who will be a non-executive, so setting the scene, really, and the foundation for the way that the WAO undertakes its business. Again, I have not seen this anywhere else. If you have good reasons for it, I think that it is worthwhile putting them on the record today. I just wondered why, in the setting of these rules, there was no consultation with the Assembly or anyone else. So, I would just like clarification on the thinking regarding this provision.

[127] **Jane Hutt:** Thank you for the opportunity to clarify this. It is very much about transitional arrangements in paragraph 4 of Schedule 3, which apply before the first

procedural rules are made under paragraph 25 of Schedule 1. This enables the WAO chair to make the decisions that are necessary so that the WAO can become operational, and set out a procedure so that the first procedural rules can be made. An important point for the record is that paragraph 25 does not give the chair the power to make the procedural rules, it just sets out the procedure under which the procedural rules must be made. It is very transitional. Once the first procedural rules have been made, paragraph 4(2) of Schedule 3 becomes redundant and has no effect whatsoever.

[128] Amendment 42 would remove this function of the chair, so it is operational, transitional and procedural. The key point is that it does not give the chair the power to make procedural rules. There is an issue of timing because we have to get the procedural rules in place before the code of practice is made. Once the rules are made, paragraph 4 becomes redundant. It could not apply to the code of practice.

[129] **Darren Millar:** Does anybody else wish to speak on this group? I see that no-one does. Jocelyn, do you wish to proceed to a vote on your amendment?

[130] **Jocelyn Davies:** Now that we have clarification on the record, I am quite happy to withdraw amendment 42.

[131] **Darren Millar:** Are Members happy to see amendment 42 withdrawn? I see there are no objections, and therefore we move to group 12.

*Tynnwyd gwelliant 42 yn ôl drwy ganiatâd y pwyllgor.
Amendment 42 withdrawn by leave of the committee.*

**Grŵp 12: Trosglwyddo Staff i SAC (Gwelliannau 35, 45 a 36)
Group 12: Transfer of Staff to WAO (Amendments 35, 45 and 36)**

[132] **Darren Millar:** The twelfth group of amendments relates to arrangements for the transfer of staff to the WAO. The lead amendment in this group is amendment 35. I call upon Jocelyn Davies to move amendment 35 in her name and to speak to that amendment and other amendments in the group.

[133] **Jocelyn Davies:** I move amendment 35 in my name.

[134] We know from all of the correspondence that we have had and the advice that we have been given that the Transfer of Undertakings (Protection of Employment) Regulations 2006 do not apply to this particular staff transfer. The new WAO will not be under Welsh Government control or influence, so the Welsh Government cannot give any assurances at all about how the board will operate in terms of staffing matters. We have seen the Cabinet Office practice statements, and they clearly require transfers like this on staff issues to have a legislative backing, and the opportunity is here in terms of the legislation. We also need to acknowledge that, today, with the austerity measures and public sector uncertainty, staff and unions cannot be expected to cross their fingers and hope that it turns out all right on the night, and I can understand why. They want surety in terms of the legislation because today people are more frightened about their futures than perhaps they would have been in the past.

[135] We have repeatedly been told that this would be taken care of, because I think that there is full agreement around this table that it must be done. There are the reports by this committee, the communications that we have had from the auditor general, the unions and individuals, and the assurances on the record in committee and in Plenary on the Bill's general principles. The Stage 2 amendments from the Government are disappointing in that respect; and, of course, we changed the deadline as well. I do not think that the matter is entirely rectified. Staff are not asking for enhancements, just their entitlement. That needs to

be recognised in the legislation. There is a political willingness, but that has to be backed by the actual words on a piece of paper in front of us. You know that my amendment is taken from the 2007 Order that transferred staff from the civil service to the Assembly Commission, so it is perfectly adequate to cover all the concerns that have been raised with us by Gary Biggins of Prospect and Ben Robertson of the Public and Commercial Services Union. That is the basis for my amendments. I see that the Minister has an amendment down as well. I have no violent objection to that amendment, I just feel that this is a matter that we need to be dealing with in its entirety.

[136] **Darren Millar:** Does any other Member wish to speak to this group?

[137] **Aled Roberts:** I would just like to support what Jocelyn said. There has been movement, but there needs to be further movement. Once again, as Jocelyn said, there is a political will and, at the end of the day, we are dissatisfied with what we currently have before us as a committee, but more importantly, the staff themselves must be dissatisfied. As Jocelyn also said, given the nature of the rejigging as far as this particular organisation is concerned, we as a committee have felt all along that that reassurance needs to be given.

[138] **Darren Millar:** Does any other Member wish to contribute?

[139] **Julie Morgan:** It is right to say that all members of the committee feel the same. We feel that there should be no less protection in any way for the staff, and I am sure that the Government feels the same. So, I hope that we will be able to get some reassurance today that this will actually happen at the third stage, as there are obviously more opportunities at that stage. We are all united that the staff should not be disadvantaged by this change.

[140] **Jane Hutt:** Thank you very much, Chair, all committee colleagues and all those who have been involved in what have been very important and wide-ranging constructive discussions about the arrangements for the transfer of staff from the auditor general to the corporate Wales Audit Office. I want to say very clearly that it has been the Welsh Government's policy that the transfer will be on no less favourable terms than staff currently enjoy and that the principles of the Transfer of Undertakings (Protection of Employment) Regulations 2006 will be applied. Jocelyn has already mentioned the Cabinet Office statement; that is in line with the Welsh Government's commitment to comply with the Cabinet Office statement of practice of staff transfers in the public sector. I take very seriously the concerns that have been raised on this matter by colleagues here, by Assembly Members and by the trade unions and the staff that they represent. We have had a number of discussions and there has been correspondence on the question of what level of protection is needed to protect AGW staff.

[141] This brings it down to four key issues and those are reflected in the correspondence representations. The key areas of continuing concern are: variation of employment contracts, protection from unfair dismissal, collective agreements and trade union recognition. We all agree that if provision is included in the Bill, covering these four matters, then this will give the necessary level of protection. That is quite clear from the Public Accounts Committee and, as Minister, I fully support you on this point. I confirmed my agreement that the Bill should include provision for those matters in the letter that I sent out on 18 January to you, Chair, all members of the committee and, indeed, to others who corresponded with me.

[142] I advised in my letter that a Government amendment to provide protection for unfair dismissal had been tabled, which is amendment 45. Also, I have given a commitment to bring forward three further Government amendments at Stage 3 of the Bill to cover each of the other areas of concern. Once again, I will repeat those for the record: they will cover variations in employment contracts, trade union recognition and preserving collective agreements. I reiterate that commitment in the Stage 2 proceedings in the Public Accounts

Committee today. I also highlight the fact that these Government amendments, which will be forthcoming, will put trade union recognition and preserving collective agreement in statute for the first time on the face of the Bill, which will be a major step forward in terms of assurance of the Government's commitment and your backing for this.

[143] It is interesting, and I hope you will note, that Government amendment 45 has been drafted so that it is slightly more favourable to staff transferring to the WAO than the equivalent TUPE provision. So, it is TUPE plus in terms of staff transfer. Under TUPE, an employee can be lawfully dismissed for reasons connected with the transfer not only on grounds of redundancy, but also for a substantial reason of the kind such as to justify dismissal. I do not feel that this additional defence should be available to the employer and, therefore, amendment 45 provides that an employee may be lawfully dismissed only on grounds of redundancy. So, it is a strengthened provision that we put into TUPE plus.

3.00 p.m.

[144] I am very grateful to Jocelyn. Your amendment 36 is helpful, but I ask you to consider withdrawing the amendment and supporting amendment 45 on the basis of the assurance that I have given that I will bring forward amendments to address the other two parts of amendment 36. I have addressed one part of it, and the other two parts relate to trade union recognition and collective agreement, for which I have given you my commitment that I will bring amendments forward.

[145] As far as amendment 35 is concerned, I have also given a commitment to table a Government amendment at Stage 3. It will provide exactly the same level of protection in respect of the variation of contracts, but it will be drafted to be compatible with the other provisions in paragraph 5 of Schedule 3 to the Bill. So, that would be the reason for me to bring forward an amendment on that basis, reflecting Jocelyn's amendment 35. Given those commitments and assurances, I ask Jocelyn to consider withdrawing amendment 35 so that I could bring forward a Government amendment compatible with other provisions in the Bill and to accept Government amendment 45, which, as I have already outlined, is more favourable. I would bring the other two parts of Jocelyn's amendment 36 into new Government amendments at Stage 3.

[146] **Jocelyn Davies:** As I have already said, I do not want to divide this committee on something that we are all united; that is very important. I recognise that your amendment 45 is superior, but you also recognise that it is incomplete, in as much as it covers one of the four points, and we want all four points covered. I am glad that you have made a promise again today.

[147] The amendments you will introduce will be very shiny, because they have been polished for a long time now, Minister, and it is about time we saw them. I am happy not to push my amendment to a vote, because I do not want to divide the committee on something as important as this, and you, as Minister, has made a genuine commitment to bring forward Government amendments that will cover all of the four areas that staff have been concerned about. So, I will wait and see. I always have the option of bringing it back, because, obviously, if we accept your amendment 45, my amendments are no longer suitable to complete the picture. So, we will need to do some more work, just in case yours do not come forward. However, if they do not come forward, you will be facing amendments on these other three points at Stage 3, and I would much rather see your amendments so that we can all be united on this matter.

[148] **Darren Millar:** May I just confirm, Jocelyn, that you want to withdraw amendment 35?

[149] **Jocelyn Davies:** I withdraw amendment 35, and I do not wish to move amendment 36.

[150] **Darren Millar:** Are Members content for amendment 35 to be withdrawn? I see that you are.

*Tynnwyd gwelliant 35 yn ôl drwy ganiatâd y pwyllgor.
Amendment 35 withdrawn by leave of the committee.*

[151] **Darren Millar:** We will now move to dispose of amendment 45 in the name of the Minister. I move amendment 45 in the name of the Minister. The question is that amendment 45 be agreed to. Does any Member object? I see that there are no objections. Therefore, amendment 45 is agreed in accordance with Standing Order No. 17.34.

*Derbyniwyd gwelliant 45.
Amendment 45 agreed.*

[152] **Darren Millar:** Jocelyn has indicated that she does not wish to move amendment 36. Does any other Member wish to move amendment 36? I see that no-one does.

*Ni chynigiwyd gwelliant 36.
Amendment 36 not moved.*

Grŵp 13: Dirprwyo (Gwelliant 26) Group 13: Delegations (Amendment 26)

[153] **Darren Millar:** The only amendment in this group is amendment 26 in the name of the Minister. I move amendment 26 in the name of the Minister, and I call on the Minister to speak to her amendment.

[154] **Jane Hutt:** This amendment updates the Government of Wales Act 1998 to ensure that, where it makes reference to a person acting on behalf of the auditor general, it will mean an individual given authority to act on behalf of the auditor general by virtue of section 18 of this Bill.

[155] **Darren Millar:** Does any Member wish to speak to the amendment in this group? I see that you do not. In that case, Minister, do you wish to proceed to a vote on amendment 26?

[156] **Jane Hutt:** I do.

[157] **Darren Millar:** The question is that amendment 26 be agreed to. Does any Member object? I see that there are no objections. Therefore amendment 26 is agreed.

*Derbyniwyd gwelliant 26.
Amendment 26 agreed.*

Grŵp 14: Deddf Rhyddid Gwybodaeth a Datgelu Gwybodaeth (Gwelliant 43) Group 14: Freedom of Information Act (Amendment 43)

[158] **Darren Millar:** The penultimate group relates to the Freedom of Information Act. The only amendment in the group is amendment 43. I call on Jocelyn Davies to move and speak to amendment 43.

[159] **Jocelyn Davies:** I move amendment 43 in my name.

[160] This is about the qualified person under section 36 of the Freedom of Information Act 2000, which you, Minister, and Members, will know provides for exemptions that apply to certain information. For example, if disclosure would prejudice the free and frank exchange of advice and views, it is exempt. I know that this exemption has been used on occasion by the auditor general, but this Bill passes that responsibility to the WAO board. Could you give us an explanation for why you think the board is best placed to judge whether something should be exempt?

[161] We must remember that that opinion has to be reached within 20 working days of somebody submitting a freedom of information request. Do you envisage the board meeting more frequently than that so that these could be considered? Most public bodies have this responsibility vested in an individual to come to that view.

[162] I know that the information commissioner's reviews of the auditor general have not identified this as an issue in the past. There has been one tribunal appeal that found in favour of the auditor general in relation to this. So, it seems to me that the auditor general, in the main, has quite a good track record in this respect. So, why would you want to bring this change and invest this responsibility and function in the board?

[163] **Darren Millar:** I call on the Minister to reply to the debate.

[164] **Jane Hutt:** I thank Jocelyn Davies for putting forward this amendment, which I accept. However, to clarify the Government's position on this, section 36 of the Freedom of Information Act 2000 provides an exemption to the requirement on a public authority to disclose information if it is the reasonable opinion of that qualified person that disclosure would be likely to prejudice, among other things, the free and frank provision of advice and exchange of views.

[165] As it stands, the Bill amends section 36 in relation to information held either by the Auditor General for Wales or by the Wales Audit Office. The qualified person, as Jocelyn said, would be the WAO. Although section 21 of the Bill provides for the WAO to be responsible for holding information acquired by the AGW, I accept that the AGW should be the qualified person for the purpose of section 36 of the Freedom of Information Act. So, this has been a helpful amendment.

[166] **Jocelyn Davies:** I am delighted that we have been able to spot this. That is the point of scrutiny, is it not? I am delighted that we will not need to come back and change it in the future because it has become unworkable.

[167] **Darren Millar:** Would you therefore like to proceed to a vote on amendment 43?

[168] **Jocelyn Davies:** Yes.

[169] **Darren Millar:** The question is that amendment 43 be agreed to. Does any Member object? I see that there are no objections. Therefore, amendment 43 is agreed in accordance with Standing Order No. 17.34.

*Derbyniwyd gwelliant 43.
Amendment 43 agreed.*

**Grŵp 15: Paru Data (Gwelliannau 27, 28, 29, 30, 31, 32 a 33)
Group 15: Data Matching (Amendments 27, 28, 29, 30, 31, 32 and 33)**

[170] **Darren Millar:** The final group of amendments relates to data matching. The lead

amendment in this group is amendment 27.

[171] I move amendment 27 in the name of the Minister. I call on the Minister to speak to amendment 27 and the other amendments in the group.

[172] **Jane Hutt:** I brought forward these amendments following concerns raised by the committee that provisions in the Bill might impede the auditor general in carrying out a data matching exercise. The Bill, as introduced, removed references and data-matching provisions in the Public Audit (Wales) Act 2004, to persons acting on behalf of the AGW. It was our view that any person acting by virtue of a delegation under section 18 could exercise the AGW's powers in relation to data matching and that these words were unnecessary. However, the committee felt that this could raise doubt as to whether that person could exercise the same powers as the AGW, so we are tabling these amendments to remove any doubt. Therefore, I ask Members to support all amendments in this group in order to achieve that purpose.

[173] **Darren Millar:** Does any other Member wish to speak? I see that you do not. In that case, Minister, do you wish to proceed to a vote on amendment 27?

[174] **Jane Hutt:** I do.

[175] **Darren Millar:** The question is that amendment 27 be agreed to. Does any Member object? I see that there are no objections. Therefore, amendment 27 is agreed in accordance with Standing Order no. 17.34.

*Derbyniwyd gwelliant 27.
Amendment 27 agreed.*

[176] **Darren Millar:** We now come to dispose of amendments 28, 29, 30, 31, 32 and 33, which appear consecutively on the marshalled list. These amendments have already been debated as part of group 15, so I propose that we dispose of these amendments together. Does any Member object to that proposal? I see that no-one does.

[177] I move amendments 28, 29, 30, 31, 32 and 33 in the name of the Minister. The question is that these amendments be agreed to. Does any Member object? There are no objections, therefore amendments 28, 29, 30, 31, 32 and 33 are agreed in accordance with Standing Order No. 17.34.

*Derbyniwyd gwelliannau 28, 29, 30, 31, 32 a 33.
Amendments 28, 29, 30, 31, 32 and 33 agreed.*

[178] **Darren Millar:** Finally, we come to dispose of amendment 34 in the name of the Minister. I move amendment 34. The question is that amendment 34 be agreed to. Does any Member object? There are no objections, therefore amendment 34 is agreed in accordance with Standing Order No. 17.34.

*Derbyniwyd gwelliant 34.
Amendment 34 agreed.*

[179] **Darren Millar:** You will be pleased to know that that concludes Stage 2 proceedings of the Public Audit (Wales) Bill. All sections of and Schedules to the Bill have been deemed agreed. Stage 3 of the Bill officially starts tomorrow. We expect further amendments, of course, during Stage 3. The date for those proceedings will soon follow.

[180] Before we close this particular item on our agenda, I thank the Minister and her

officials for the constructive way that they have approached the dialogue between the committee and the Government. We have appreciated that approach; it is quite fresh, actually, for Members to have the opportunity to liaise in that way, and I have certainly appreciated it as Chair of the committee. I would also thank our legal adviser, our clerks and, in particular, our special adviser, Ian Summers, who is with us for the last time today, certainly at committee—I am sure that he will still be hanging around to see what happens at Stages 3 and 4, as the Bill proceeds. Thank you very much indeed.

[181] **Jocelyn Davies:** Chair, may I put on record my thanks to Ian for the support that he has given the committee since he has been here? I think that he has been fantastic.

[182] **Aled Roberts:** I second that.

[183] **David Rees:** I endorse it.

[184] **Darren Millar:** We are extremely grateful. I have to say that it has been a dry subject at times, but Ian has made it as lively as he possibly can. [*Laughter.*] He has doused it with as much water as possible to make it go down more easily. We appreciate it, Ian, very much. Thank you.

3.12 p.m.

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

[185] **Darren Millar:** I move that

the committee resolves to exclude the public from the remainder of the meeting in accordance with Standing Order No. 17.42.

[186] As there are no objections, we will clear the public gallery. Thank you.

*Derbyniwyd y cynnig.
Motion agreed.*

*Daeth rhan gyhoeddus y cyfarfod i ben am 3.12 p.m.
The public part of the meeting ended at 3.12 p.m.*