



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

19/09/2016

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

Michelle Brown Bywgraffiad Biography	UKIP Cymru UKIP Wales
Yr Arglwydd / Lord Dafydd Elis-Thomas Bywgraffiad Biography	Plaid Cymru The Party of Wales
Huw Irranca-Davies Bywgraffiad Biography	Llafur (Cadeirydd y Pwyllgor) Labour (Committee Chair)
David Melding Bywgraffiad Biography	Ceidwadwyr Cymreig Welsh Conservatives

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

Siân Giddins	Dirprwy Glerc Deputy Clerk
Gwyn Griffiths	Uwch-gynghorydd Cyfreithiol Senior Legal Adviser
Gareth Howells	Cynghorydd Cyfreithiol Legal Adviser
Naomi Stocks	Ail Glerc Second Clerk
Dr Alys Thomas	Y Gwasanaeth Ymchwil Research Service

Dechreuodd y cyfarfod am 14:30.

The meeting began at 14:30.

Cyflwyniad, Ymddiheuriadau, Dirprwyon a Datgan Buddiannau
Introduction, Apologies, Substitutions and Declarations of Interest

[1] **Huw Irranca-Davies:** Prynhawn da, good afternoon and welcome to

this Monday afternoon session on 19 September of the Constitutional and Legislative Affairs Committee. We have quite a busy agenda in front of us this afternoon. We have no apologies at the moment, but I'm expecting Michelle Brown to join us at any moment. We are expecting her, so we won't put apologies for the moment. There are no other apologies. Any other declarations of interest pertinent to today's business? None that I note that haven't been declared already.

14:30

**Offerynnau sy'n Cynnwys Materion i Gyflwyno Adroddiad arnynt o dan
Reol Sefydlog 21.2 neu 21.3
Instruments that Raise Reporting Issues under Standing Order 21.2 or
21.3**

[2] **Huw Irranca-Davies:** We can, then, move on to the first item on the agenda—item number 2, the first item of business on the agenda—instruments that raise reporting issues under Standing Order 21.2 or 21.3. I know committee members will have had the copious papers that accompanied the two packages here, the first being the negative resolution instrument on SL(5)008, the Smoke Control Areas (Authorised Fuels) (Wales) Regulations 2016, where we have paper 1, the report, followed by paper 2, regulations and paper 3, explanatory memorandum. Then, we also have SL(5)009, the Smoke Control Areas (Exempted Classes of Fireplace) (Wales) Order 2016, which is also quite extensive. Paper 4 is the report on that particular statutory instrument, followed by a paper on the regulations pertaining to it, and paper 6 is the explanatory memorandum. If committee members are content, I'm going to invite Gwyn, I think, just to comment on these statutory instruments before we open it up for any discussion. Gwyn, over to you.

[3] **Mr Griffiths:** Diolch, **Mr Griffiths:** Thank you, Chair. As Gadeirydd. Fel y gwelwch chi o'r ddau adroddiad, mae bron y cyfan o'r pwyntiau adrodd yn ymwneud ag anghysonderau rhwng y Gymraeg a'r Saesneg. Mae'r ddau orchymyn yn ymwneud â rhestr o wahanol gynhyrchion, manylion y cynhyrchwyr ac yn y blaen—pethau diflas dros ben i ni eu gwirio. Ond, fel y gwelwch chi, you'll see from both reports, almost all of the points to report on are to do with inconsistencies between the English and Welsh versions. Both orders are to do with a list of various products, the details of producers and so on—very boring things for us to check. But, as you see, we have noted several things that do need to

rydym wedi nodi amryw o bethau sydd angen eu cywiro. O'r rheini, y peth pwysicaf ydy'r cyntaf mewn perthynas â'r gorchymyn llefydd tân. Fel y gwelwch chi, mae dyddiad nad ydym wedi ei gyrraedd eto yn y gorchymyn hwnnw. Fe fyddai hynny yn gwbl amhriodol oherwydd mi fyddai hynny yn trosglwyddo'r pwerau mewn cysylltiad â'r rhain i gorff allanol. Rwy'n tybio mai camgymeriad a *typo* ydy o ac y dylai gyfeirio at flwyddyn arall. Ond, heb ymateb gan y Llywodraeth, nid ydym yn gwybod a yw hynny'n gywir ai peidio. Mae'r pwyllgor, fel arfer, yn annog cydgrynhoi is-ddeddfwriaeth, sy'n golygu dileu gorchymyn a'i ail-wneud o. Rwyf wedi edrych drwy'r rhain a buaswn i'n argymhell nad ydym yn mynnu hynny yn yr achos yma. Mi fyddai gorchymyn ychydig byrrach na 200-a-rhywbeth o dudalennau yn lot haws i'w wirio ac efallai yn galluogi i'r Llywodraeth osgoi gwallau o'r math yma.

be corrected. Of those, the most important is the first in relation to the fireplace order. As you see, there is a date that we haven't reached in that order. That would be entirely inappropriate because that would transfer the powers with regards to these to an external body. I assume that was a mistake and a typo and that it should refer to another year. But, without a response from the Government, we don't know whether that's correct or not. The Committee, usually, encourages the consolidation of subordinate legislation, which means the deletion of an order and restating it. I've looked through these and I would recommend that we don't demand that in this instance. A slightly shorter order than 200 pages or thereabouts would be much easier to check and would, perhaps, allow the Government to avoid these kinds of mistakes.

[4] **Huw Irranca-Davies:** Thank you very much, Gwyn. It is a copious amount of paperwork, Gwyn, albeit with the corrections that you've rightly identified very helpfully there. The length of these SIs is quite something when you are adding several new companies or products to them, but it's as we are presented with. We can't do anything about that. Do Members have any comments on these two SIs or are we happy to note then? There we are, thank you. In that case, the committee is content with this. Members are content with these SIs and we will report to the Assembly in line with papers 1 and 4, which takes us on to the next item on the agenda.

14:34

Papurau i'w Nodi
Papers to Note

[5] **Huw Irranca–Davies:** We have one significant paper to note, albeit in passing at the moment. It's the Land Transaction Tax and Anti–avoidance of Devolved Taxes (Wales) Bill—the correspondence from the Cabinet Secretary for Finance and Local Government. It's worth mentioning to members of the committee that we will, shortly, have sent to us hard copies of the actual Bill, the explanatory memorandum and the statement very shortly, and, of course, we'll be taking evidence from the Cabinet Secretary for Finance and Local Government on 3 October on the Bill. But, as we have this in front of us today, I would simply invite Members to note it and to take it away for their own reading until we have the full weight of the Bill and everything else in front of us. Are we content to note? Yes. There we are. Thank you very much.

14:35

Adroddiad gan Ganolfan Llywodraethiant Cymru: 'Cyfiawnder yng Nghymru'

Report by the Wales Governance Centre: 'Justice in Wales'

[6] **Huw Irranca–Davies:** That takes us on to the next item, the report by the Wales Governance Centre, 'Justice in Wales', and the press notice about the publication of the Wales Governance Centre report on justice in Wales. In effect, we have this in front of us simply to note and it's been circulated to Members for them to absorb. But, I just wondered what Members' thoughts were on having a meeting, separate from a formal meeting or any such like. It does seem that it's quite interesting in terms of the recommendations: a Welsh centre of expertise; a standing commission on justice in Wales; a High Court in Wales; Welsh representation on the existing High Court and data and performance indicators on the administration of justice in Wales. I wonder whether there's an appetite for us just to meet informally with them and to talk this through and to see what their ideas are, but not as part of an inquiry, simply because I think it's an area that may be of interest to us, as well. David.

[7] **David Melding:** Yes, Chair, I think it's an excellent idea to meet with them. I just wonder whether, at some point, when we're looking at our forward work plan, we might just want to revisit some of the major recommendations of the reports issued in the fourth Assembly. Of course,

there was a report on a single jurisdiction—I can't remember what it was called, but it looked at that basically—and it might be possible to just do a little bit of work around where we are now and pointing out to a growing consensus, or taking evidence to establish that. It might be worth doing a session on this at some point in a year or so when things settle down, and just keep previous work, which is still relevant in terms of the time we're in. So, I think all the Members who served on the committee in the fourth Assembly would find it very encouraging that this type of study is going on at the moment. And there's a lot of relevance and, in fact, I think we've hinted at many of these recommendations ourselves.

[8] **Huw Irranca-Davies:** Thank you, David.

[9] **Yr Arglwydd Elis-Thomas:** **Lord Elis-Thomas:** Thank you, Chair. Diolch yn fawr, Gadeirydd. A gaf i Can I agree with David there? I was a gytuno efo David? Roeddwn i'n rhan member of the committee in the o'r pwyllgor yn y pedwerydd fourth Assembly, but not when all Cynulliad, ond nid pan oedd y gwaith this work that David has referred to i gyd yn cael ei wneud y mae David was done. I think the idea that this wedi cyfeirio ato fo. Rydw i'n meddwl committee takes a general look at the bod y syniad bod y pwyllgor yma yn legislative system in Wales in every bwrw golwg gyffredinol dros y Assembly is a very good one. gyfundrefn ddeddfu yng Nghymru ym Obviously, we can contribute also to mhob Cynulliad yn syniad da iawn. an enlightened discussion, or at least Mae'n amlwg ein bod ni'n gallu a wider discussion, on this matter. cyfrannu hefyd i drafodaeth—wel, ddim bob amser yn oleuedig— ehangach ar y mater yma.

[10] **Yr un peth y buaswn i'n ei** The only thing I'd say is that I'm not ddweud ydyw nad wyf yn siŵr pryd sure when the best time to begin this fyddai'r amser gorau i gychwyn ar work would be. I'm thinking about waith fel hynny. Rydw i'n meddwl am the substantial report on making yr adroddiad sylweddol ar ddeddfu laws in Wales that we are still using yng Nghymru, ac mae rhywun yn dal i now, as it's so comprehensive. So, droi ato fo, gan ei fod yn cwmpasu yes, I'd agree with David, and I think cymaint. Felly, rydw i'n eilio David, ac everyone's in agreement as far as I mae pawb yn cydweld, rwy'n meddwl, can see, as there is an empty seat hyd y gallaf ei weld, gan fod cadair here. wag fan hyn.

[11] **Huw Irranca–Davies:** Well, thank you, Lord Dafydd Elis. Perhaps, at this point, albeit we've got a slightly busy agenda with what we're doing on the Wales Bill going into October when the current Wales Bill goes into the Lords, I think we could explore meeting informally with the Wales Governance Centre just to discuss the report, because I think it is leading the way of conceptual and practical thinking, as well, on these issues. David's point and yours are well made, in that this committee, I think, would be doing the right thing if it were to revisit some of these areas that we previously have, because, I guess, reflecting on my time in Westminster, one of the classic failings there was to produce very good work that then disappeared and, actually, it was still pertinent and relevant, and I think this will certainly remain. So, when we do address these issues in looking at a forward programme, which may be very, very shortly indeed, I think this should be on the table as well.

[12] But meanwhile, perhaps if we've got agreement, if we could go back and explore whether we can find that informal opportunity just within Chatham House rules, to sit down with them, hear what their proposals are and talk this through with them.

[13] **Lord Elis–Thomas:** I think we call them Pierhead rules here.

[14] **Huw Irranca–Davies:** The what?

[15] **Lord Elis–Thomas:** 'Pierhead rules' we say.

[16] **Huw Irranca–Davies:** Pierhead rules?

[17] **Lord Elis–Thomas:** That's what we say here. [*Laughter.*]

[18] **Huw Irranca–Davies:** Fantastic. Under the Pierhead rules, then. Diolch. Thank you. [*Laughter.*]

[19] **Lord Elis–Thomas:** Sorry—I've had a good summer. [*Laughter.*]

[20] **Huw Irranca–Davies:** Very good.

14:40

**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.

[21] **Huw Irranca-Davies:** Well, in that case, we are now going to move into private session with the committee. So, I can ask if there is anybody in the gallery to please remove yourselves. We will now move into private session in accordance with Standing Order 17.42(iv).

Derbyniwyd y cynnig.

Motion agreed.

Daeth rhan gyhoeddus y cyfarfod i ben am 14:40.

The public part of the meeting ended at 14:40.