



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

**Pwyllgor Deddfwriaeth Rhif 3
Legislation Committee No. 3**

**Dydd Mercher, 14 Ionawr 2009
Wednesday, 14 January 2009**

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National Assembly for Wales (Legislative Competence) (Social Welfare) Order 2009

Cofnodiad y trafodion hyn yn yr iaith y llefarwyd hwy ynddi yn y pwylgor. Yn ogystal, cynhwysir cyfieithiad Saesneg o gyfraniadau yn y Gymraeg.

These proceedings are reported in the language in which they were spoken in the committee.
In addition, an English translation of Welsh speeches is included.

Aelodau'r pwylgor yn bresennol
Committee members in attendance

Peter Black	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Alun Cairns	Ceidwadwyr Cymreig Welsh Conservatives
Christine Chapman	Llafur Labour
Janice Gregory	Llafur Labour
Helen Mary Jones	Plaid Cymru The Party of Wales
David Lloyd	Plaid Cymru (Cadeirydd y Pwyllgor) The Party of Wales (Committee Chair)

Swyddogion Gwasanaeth Seneddol y Cynulliad yn bresennol
Assembly Parliamentary Service officials in attendance

Fay Bowen	Clerc Clerk
Ruth Hatton	Dirprwy Glerc Deputy Clerk
Joanest Jackson	Cynghorydd Cyfreithiol Legal Adviser
Gareth Williams	Clerc Clerk

*Dechreuodd y cyfarfod am 10.14 a.m.
The meeting began at 10.14 a.m.*

Ethol Cadeirydd
Election of Chair

[1] **Ms Bowen:** Good morning, everyone, and welcome to the first meeting of Legislation Committee No. 3, currently considering the Proposed National Assembly for Wales (Legislative Competence) (Social Welfare) Order 2009, relating to carers. The first item on today's agenda is the election of Chair, and therefore, under Standing Order No. 10.18, I call for nominations.

[2] **Peter Black:** I nominate Dai Lloyd.

[3] **Ms Bowen:** Thank you. Are there any other nominations? I see that there are not, and I therefore declare that Dr Dai Lloyd has been elected Chair of this committee.

[4] **David Lloyd:** Diolch yn fawr i'r **David Lloyd:** I thank the clerk and also my clerc a diolch hefyd i'm cyd-Aelodau am eu fellow Members for their confidence in me as hyder ynof fel Cadeirydd. Chair.

10.15 a.m.

Cyflwyniad, Ymddiheuriadau a Dirprwyon
Introduction, Apologies and Substitutions

[5] **David Lloyd:** Gwelaf nad oes angen unrhyw ymddiheuriadau, gan fod pawb sydd i fod yn bresennol yma. Wrth ddechrau, yr wyf am gofnodi mai dyma'r trydydd pwylgor deddfwriaeth parhaol i'w sefydlu gan y Cynulliad. Prif swyddogaeth y pwylgor hwn yw ystyried deddfwriaeth a gyflwynir gan Lywodraeth y Cynulliad yn bennaf, a chyflwyno adroddiadau ar ddeddfwriaeth o'r fath. Fel yr ydym wedi clywed eisoes, yr LCO newydd ar ofalwyr fydd maes cyntaf y pwylgor hwn.

[6] Yr wyf hefyd am gyhoeddi materion cyffredinol. Os bydd larwm Tân, dylai Aelodau adael yr ystafell drwy'r allanfeydd Tân penodol, gan ddilyn cyfarwyddiadau'r tywyswyr a'r staff. Nid ydym yn disgwyl prawf heddiw. Dylai pawb ddiffodd eu ffonau symudol, eu galwyr a'u 'mwyar duon' yn llwyr, gan eu bod yn amharu ar yr offer darlledu. Mae Cynulliad Cenedlaethol Cymru yn gweithredu'n ddwyieithog. Mae clustffonau ar gael ar gyfer derbyn cyfieithiad ar y pryd a gellir eu defnyddio i addasu lefel y sain os ydych yn drwm eich clyw. Mae'r cyfieithiad ar y pryd ar gael ar sianel 1 ar y clustffonau a'r darlleidiad gair am air i glywed y sain yn well ar sianel 0.

David Lloyd: I see that there are no apologies, because everybody who should be present is present. I have some introductory remarks for the record. This is the third permanent legislation committee to be established by the Assembly. The primary aim of the committee is mainly to consider and report upon legislation introduced by the Assembly Government. As we have already heard, the new LCO on carers will be the first focus of the committee's work.

I have a few housekeeping matters. If the fire alarm sounds, Members should leave the room through the specified fire exits, following the instructions of the ushers and staff. We do not expect a drill today. Everyone should switch off their mobile phones, pagers and BlackBerrys completely, as they interfere with the broadcasting equipment. The National Assembly for Wales operates bilingually. Headsets are available if you require simultaneous interpretation, and they can be used to amplify the sound if you are hard of hearing. The simultaneous interpretation is available through channel 1 on your headsets and the verbatim feed can be heard, if you require amplification, on channel 0.

10.16 a.m.

Gorchymyn Cynulliad Cenedlaethol Cymru (Cymhwysedd Deddfwriaethol) (Lles Cymdeithasol) 2009

National Assembly for Wales (Legislative Competence) (Social Welfare) Order 2009

[7] **David Lloyd:** Symudwn ymlaen at eitem 3 a phrif bwrpas y cyfarfod hwn, sef craffu ar y Gorchymyn Arfaethedig Cynulliad Cenedlaethol Cymru (Cymhwysedd Deddfwriaethol) (Lles Cymdeithasol) 2009, i roi'r teitl yn llawn. Bydd Aelodau wedi darllen y papurau cefndirol, ond fel mater o gofnod, cadarnhaf mai diben y cyfarfod heddiw yw cytuno ar gwmpas a dull y pwylgor hwn o graffu ar Orchymyn Arfaethedig Cynulliad Cenedlaethol Cymru (Cymhwysedd Deddfwriaethol) (Lles Cymdeithasol) 2009 mewn perthynas â gofalwyr. Nod y Gorchymyn arfaethedig, a gyflwynwyd gerbron y Cynulliad gan y Dirprwy Weinidog

David Lloyd: We move on to item 3 and the main reason for this meeting, namely to scrutinise the Proposed National Assembly for Wales (Legislative Competence) (Social Welfare) Order 2009, to give it its full title. Members will have read the background papers, but for the record, I confirm that the aim of today's meeting is to agree the scope and approach of the committee's scrutiny of the proposed National Assembly for Wales (Legislative Competence) (Social Welfare) Order 2009 relating to carers. The aim of the proposed Order, which was laid before the Assembly by the Deputy Minister for Social Services on 8 December 2008, is to confer legislative competence on the Assembly in

dros Wasanaethau Cymdeithasol ar 8 Rhagfyr 2008, yw trosglwyddo cymhwysedd deddfwriaethol ym maes gofal cymdeithasol i'r Cynulliad—hynny yw, a ddylai'r Cynulliad gael y pŵer i ddeddfu a chreu Mesurau ym maes gofalwyr. Egwyddor benodol a diben y Gorchymyn arfaethedig hwn yw cefnogi darpariaeth gofal gan ofalwyr a hyrwyddo eu lles. Rôl y pwylgor hwn yw ystyried y Gorchymyn arfaethedig a chyflwyno adroddiad arno. Rhaid i'r pwylgor hwn gwblhau ei waith a chyflwyno adroddiad gerbron y Cynulliad erbyn 3 Ebrill 2009, yn unol â'r dyddiad cau a nodwyd gan y Pwyllgor Busnes.

[8] Yr ydym wedi cael trafodaeth anffurfiol eisoes y bore yma ynghylch dull y pwylgor hwn o graffu ar y Gorchymyn arfaethedig ar gefnogi gofalwyr. Penderfynwyd mai cwmpas gwaith craffu'r pwylgor fydd ystyried egwyddorion cyffredinol y Gorchymyn arfaethedig ac a ddylid rhoi cymhwysedd deddfwriaethol i'r Cynulliad yn y maes a nodir ym mater 15.9, ac ystyried telerau'r Gorchymyn arfaethedig, ac, yn benodol, a ydynt wedi eu diffinio'n rhy eang neu'n rhy gul.

[9] Dyna ddigon gennyf i am y tro. Bydd Aelodau wedi darllen y papurau cefndir ynghylch cwmpas gwaith craffu'r pwylgor hwn. A oes gennych unrhyw sylw cyn inni gytuno ar y ffordd ymlaen? Yr ydym yn edrych yn benodol ar baragraffau 6 a 7 ein papur. A oes unrhyw sylw ar gwmpas y gwaith?

10.20 a.m.

[10] **Helen Mary Jones:** A gaf i awgrymu, Gadeirydd, gan fod cryn draffodaeth gyhoeddus, a thrafodaeth yn y Cynulliad, wedi bod ar y materion hyn, ein bod yn ceisio cwblhau'r gwaith cyn gynted ag y gallwn tra'n sicrhau, wrth gwrs, ein bod yn craffu'n ddigon manwl ar gynnwys uniongyrchol yr LCO? Cafwyd llawer o oedi, ac er nad oes bai ar unrhyw un, mae angen inni symud yr agenda yn ei blaen cyn gynted ag y gallwn. Mawr obeithiaf y gallwn gwblhau'r gwaith o fewn yr amserlen a osodwyd gan y Pwyllgor Busnes.

[11] **David Lloyd:** Diolch, Helen Mary.

the field of social care—namely, whether the Assembly should have the power to legislate and make Measures relating to carers. The specific principle and purpose of the proposed Order is to support the provision of care by carers and to promote their welfare. The role of this committee is to consider the proposed Order and to report upon it. The committee must complete its work and report to the Assembly by 3 April 2009, in accordance with the deadline that has been set by the Business Committee.

We have already had an informal discussion this morning on the committee's approach to scrutinising the proposed Order on supporting carers. On the scope of the committee's scrutiny, it was decided to consider the general principles of the proposed Order and whether legislative competence in the area identified in matter 15.9 should be conferred on the Assembly, and to consider the terms of the proposed Order, and, specifically, whether they are too broadly or narrowly defined.

That is enough from me for now. Members will have read the background papers about the scope of the committee's scrutiny. Are there any comments before we agree on the way forward? We are looking specifically at paragraphs 6 and 7 of our paper. Are there any comments on the scope of the work?

Helen Mary Jones: May I suggest, Chair, since there has been significant public debate, and debate within the Assembly, on these particular issues that we try to complete the work as soon as possible while ensuring, of course, that we scrutinise in sufficient detail the specific content of the LCO? There has been some delay and, although no-one is to blame, we need to progress the agenda as soon as possible. I very much hope that we can complete the work within the time frame set by the Business Committee.

David Lloyd: Thank you, Helen Mary. Are

A oes unrhyw sylw arall? Gwelaf nad oes. Yr wyf i'n cytuno â'r gosodiad hwnnw gan Helen Mary Jones. Yn naturiol, yr ydym yn ymwybodol o waith Helen Mary yn y maes hwn, o gofio'r Gorchymyn arfaethedig yn ei henw ym maes gofalwyr. Mae'r cymhwysedd deddfwriaethol hwn sydd ger ein bron bellach, yn enw'r Llywodraeth, yn troedio'r un math o dir. Credaf fod pob un ohonom yn ymwybodol bod cryn dipyn o waith wedi'i gyflawni eisoes yn y maes hwn, yn enwedig gan wahanol gyrrff a mudiadau ar lawr gwlad i hyrwyddo'r mater hwn. Yr wyf yn ymwybodol iawn o'r ffaith y dylem, yn naturiol, weithio cyn gyflymed ag y gallwn, a chraffu'n ddigonol i sicrhau ein bod, yn y pen draw, yn cytuno ar bwyntiau cyfreithiol cryf a phenodol ar y ffordd ymlaen.

[12] Os nad oes unrhyw sylwadau pellach ar gwmpas y gwaith, af ymlaen i fanylu ychydig. Y drefn arferol yn y math hwn o beth yw cyhoeddi galwad gyffredinol am dystiolaeth—hynny yw, dystiolaeth ysgrifenedig—a rhoi gwahoddiad i randdeiliaid allweddol yn y maes gofal cymdeithasol i roi dystiolaeth ar lafar yn ystod tymor y gwanwyn. Fel y dywedais eisoes, mae'n rhaid inni gyhoeddi adroddiad ar y pwyntiau hyn erbyn 3 Ebrill 2009 fan bellaf. Felly, bydd yr amserlen yn dynn ond os bydd digon o dystiolaeth gerbron, ac mae'n dibynnu ar sut y bydd y broses yn datblygu fel y bydd yr wythnosau yn mynd rhagddynt, gall mater trefniadol yr amserlen waith newid. Mae digon o hyblygrwydd i newid fel y bo angen.

[13] Os edrychwch ar ddiweddglo papur 2, sydd o'ch blaenau, ac o dan baragraff 12, 'Action for the Committee', fe welwch fod pedwar pwynt gweithredu i cytuno arnynt yn sylfaenol. Yr ydym eisoes wedi cytuno ar y cam cyntaf, sef cytuno ar gwmpas gwaith craffu'r pwylgor. Mae angen inni cytuno hefyd ar yr hyn a amlinellais ynglŷn â'r ffordd ymlaen o ran craffu, a chytuno ar y rhestr o dystion a'r rhestr o'r sawl y byddwn yn galw arnynt i roi dystiolaeth lafar gerbron.

[14] **Janice Gregory:** Could we please add an interest group called Shout, which takes forward the interests of the over 50s in Wales, as part of the list of consultees?

[15] **David Lloyd:** Diolch yn fawr, Janice. Gwnaf nodyn o hynny.

there any further comments? I see that there are none. I agree with the statement made by Helen Mary Jones. Naturally, we are aware of Helen Mary's work in this field, with the proposed Order in her name in terms of carers. This LCO before us now, in the name of the Government, covers the same kind of area. I think that we are all aware of the fact that a lot of work has already been achieved in this field, particularly by different bodies and organisations at grass-roots level to support this issue. I am quite aware of the fact that we should, naturally, be working as quickly as possible, and scrutinising to a sufficient level, to ensure that we can ultimately agree on strong and specific legislative points on the way forward.

If there are no further comments on the scope of the work, I will go on to provide a little more detail. The usual procedure in this type of work is to issue a general call for evidence—that is, written evidence—and to invite key stakeholders in social care to give oral evidence during the spring term. As I have already stated, we must publish a report on these points by 3 April 2009 at the very latest. Therefore, it will be a tight schedule but if we have enough evidence, and it depends on how the process develops over the forthcoming weeks, the organisation of the timetable could be subject to change. There is enough flexibility to make any necessary changes.

If you look at the conclusion of paper 2, which you have before you, and at paragraph 12, 'Action for the Committee', you will see that there are four action points to be agreed upon. We have already agreed on the first action point, which is to agree the scope of the committee's scrutiny. We also need to agree on what I have outlined in terms of the committee's initial approach to scrutiny, and agree the list of consultees and list of witnesses.

David Lloyd: Thank you, Janice. I will make a note of that.

[16] **Helen Mary Jones:** Ymhellach at y sawl y dylem ofyn am dystiolaeth ysgrifenedig ganddynt, cynigiaf ein bod yn ailedrych i sicrhau bod y prif elusennau plant gennym. Gwn, er enghraift, fod gan Action for Children, sef NCH gynt, brosiectau cynnal yn gweithio gyda gofalwyr ifanc. Mae'r un peth yn berthnasol i Achub y Plant. Efallai fod Achub y Plant yn y rhestr—dim ond yn gyflym y'i darllenais. Efallai y byddai'n well gan Achub y Plant gydweithio a rhoi dystiolaeth ar y cyd â'r sefydliad Plant yng Nghymru, ond credaf y dylem roi'r cyfle hwnnw i sefydliadau.

[17] Awgrymaf hefyd, er nad wyf yn gwybod yn union sut i wneud hyn—efallai y byddai ymhliith y sefydliadau cyfleoedd cyfartal—ein bod yn cynnwys Cymorth i Fenywod Cymru. Weithiau, gall y pwysau a deimlir drwy ddarparu gofal effeithio ar berthynas o fewn y teulu, a gall pethau fynd o chwith. Bydd rhai menywod yn teimlo na allant ymadael gan eu bod yn gofalu am fam, ac er eu bod yn dioddef traoris yn y cartref ni allant adael y cartref lle mae'r traoris yn digwydd gan fod ganddynt y cyfrifoldeb o ofalu am rywun arall sy'n byw yn y ty. Ni wn a fydd gan Cymorth i Fenywod Cymru rywbed i'w gyfrannu ond credaf y dylem roi gwahodiad i'r sefydliad wneud hynny.

[18] **Peter Black:** Could we add Shelter Cymru, because it would presumably have a lot of casework relating to young carers? It might be worth including it for written consultation.

[19] **David Lloyd:** Iawn, diolch.

David Lloyd: Okay, thank you.

[20] **Alun Cairns:** A gaf i gynnig Crossroads?

Alun Cairns: May I propose Crossroads?

[21] **David Lloyd:** Mae yno o dan y pennawd 'Equal opportunities organisations'.

David Lloyd: It is there under the heading 'Equal opportunities organisations'.

[22] **Alun Cairns:** Iawn, diolch. Yr oeddwn yn meddwl efallai y dylai ddod o dan y pennawd 'Care organisations'.

Alun Cairns: Okay, thank you. I thought that perhaps it should come under the heading of 'Care organisations'.

[23] **Helen Mary Jones:** Mae rhai mudiadau yn ymddangos ddwywaith—mae Disability Wales yn ymddangos sawl gwaith.

Helen Mary Jones: Some organisations appear twice—Disability Wales appears numerous times.

[24] **David Lloyd:** Fel yr oeddech yn nodi, mae pedair tudalen o enwau, felly

David Lloyd: As you noted, there are four pages of names, so it is possible to include

mae'n bosibl ychwanegu rhai o'r mudiadau yr ydych wedi eu crybwyl eisoes at y rhestr weddol faith honno o dystion i gyflwyno tystiolaeth ysgrifenedig. Mae gennym hefyd restr o dystion i roi tystiolaeth ar lafar. A ydych yn hapus efo honno? Mae'r amserlen waith yno hefyd, sydd yn dangos sut yr ydym am weithio dros y ddau fis nesaf. A ydych yn hapus â honno?

[25] **Alun Cairns:** A allwn gadarnhau fod digon o amser i drefnu, os ydym yn cael tystiolaeth ysgrifenedig ddiddorol neu sy'n nodi argyfwng, i wahodd y rhai sy'n rhoi'r dystiolaeth honno i roi tystiolaeth i'r pwylgor mewn cyfarfod?

[26] **David Lloyd:** Fe wnawn sicrhau hynny, gan mai dyna un o'r rhesymau dros gael amserlen benodol.

[27] **Helen Mary Jones:** Mae hynny yn bwysig, gan fod rhai cyrff a mudiadau wedi cyfrannu'n sylweddol at y ddadl o amgylch y materion hyn yn barod, ond nid yw rhai ohonynt wedi lleisio barn, yn enwedig rhai o'r mudiadau sy'n gweithio gyda'r sector preifat. O ran y bobl sy'n rhoi tystiolaeth lafar, a oes angen gweld y ddau gomisiynydd? Gwn fod gwahaniaeth barn yn hynny o beth. Yr wyf yn awgrymu ein bod yn cynnig y cyfle iddynt a gofyn iddynt a oes ganddynt rywbeth i'w gyfrannu. Gwn fod mater technegol o ran Comisiynydd Plant Cymru, er enghraifft, sef ei fod yn cael ei restru gyda'r eithriadau. Efallai y bydd am roi tystiolaeth sy'n awgrymu na ddylai gael ei gynnwys, ond efallai y dylem gynnig y cyfle iddynt roi barn am hynny, yn hytrach na rhoi disgwyliad arnynt bod yn rhaid inni eu gweld.

[28] **Peter Black:** We should invite both commissioners, because it falls within their remit and it is worth hearing what they have to say. If they have nothing to contribute, that is a matter for them. It occurred to me, as we have seen with previous LCO scrutiny, that the Deputy Minister may have to come back for a second scrutiny session, so we are going to have to put that into our timetable.

[29] **David Lloyd:** Dylech nodi nad yw bob wythnos yn llawn, felly mae hyblygrwydd yn yr amserlen a gallwn ymateb yn ôl yr angen. I gadarnhau, pan fyddwn yn ysgrifennu at dystion i ofyn am dystiolaeth ysgrifenedig, byddwn yn ei gwneud yn glir bod angen ymateb gweddol brydlon. Os yw

some of the organisations that you have already mentioned to that relatively long list of witnesses to give written evidence. We also have a list of witnesses to give oral evidence. Are you content with that? The work schedule is also before us, showing how we will work over the next few months. Are you content with that?

Alun Cairns: Could we confirm that there is time, if we receive written evidence that is interesting or which identifies a crisis, to invite those who present that evidence to appear before the committee?

David Lloyd: We will ensure that that happens, because that is one of the reasons for having a specific timetable.

Helen Mary Jones: That is important, because some bodies and organisations have already made significant contributions to the debate around those issues, but some have not, especially some of the organisations that work with the private sector. In terms of those giving oral evidence, do we need to see both commissioners? I know that there is a difference of opinion in this regard. I suggest that we offer them the opportunity and ask them if they have anything to contribute. I know that there is a technical issue in terms of the Children's Commissioner for Wales, for example, in that he is listed among the exempt witnesses. Perhaps he will wish to give evidence which suggests that he should not be included, but perhaps we should offer them the opportunity to voice an opinion on that rather than expect that we must see them.

David Lloyd: You should note that not every week is full, so there is flexibility in the schedule and we can respond as the demand arises. To confirm, when we write to witnesses asking for written evidence, we will make it clear that we require a fairly prompt response. If people wish to give oral

pobl am roi tystiolaeth ar lafar yn dilyn hynny, bydd yr amserlen yn caniatáu hynny; fel yr ydym wedi crybwyl eisoes, mae'n rhaid i'r pwylgor hwn adrodd erbyn 3 Ebrill, felly ni allwn adael i bethau fynd ymlaen am wythnosau. Dylem wneud hynny'n glir yn y llythyr sy'n gofyn am dystiolaeth ysgrifenedig. Os bydd tystion o'r farn eu bod am roi tystiolaeth lafar yn ogystal, mae materion amserlennu i'w cadw mewn cof.

[30] A yw pawb yn hapus gyda'r ffordd ymlaen? Gwelaf eich bod. Cyhoeddaf felly y byddwn yn dechrau ar y broses o alw am dystiolaeth. Bydd y llythyrau ymgynghori yn cael eu hanfon ddiwedd yr wythnos hon—ar ddydd Gwener, 16 Ionawr.

[31] Mae'n debygol mai dydd Mercher, 28 Ionawr, y byddwn yn cynnal y cyfarfod nesaf, sef mewn pythefnos. Mae hynny yn dibynnu ar argaeledd y tystion. Bydd y clerc yn cadarnhau amser a dyddiad y cyfarfod nesaf maes o law, a chaiff y manylion eu cyhoeddi ar wefan y Cynulliad. Diolch i chi am eich presenoldeb, a diolch hefyd am y cyfieithu.

evidence subsequent to that, the schedule will allow for that; as we have mentioned already, this committee must report back by 3 April, so we should not let things go on for weeks. We should make that clear in the letter asking for written evidence. If witnesses believe that they also wish to give oral evidence, there are scheduling issues to be borne in mind.

Is everyone content with the way forward? I see that you are. I therefore announce that we will begin the process of requesting evidence. The consultation letters will be sent at the end of this week—on Friday, 16 January.

The next meeting will probably be held on Wednesday, 28 January—in a fortnight's time. That depends on the availability of the witnesses. The clerk will confirm the time and date of the next meeting in due course, and the details will be published on the Assembly's website. Thank you for your attendance, and thank you also for the interpretation.

*Daeth y cyfarfod i ben am 10.29 a.m.
The meeting ended at 10.29 a.m.*