



**Cynulliad Cenedlaethol Cymru  
Y Pwyllgor ar y Papur Gwyn—Trefn Lywodraethu  
Well i Gymru**

**The National Assembly for Wales  
The Committee on the Better Governance for Wales  
White Paper**

**Dydd Iau, 7 Gorffennaf 2005  
Thursday, 7 July 2005**

**Cynnwys**  
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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 o'r Cynulliad yn bresennol: Dafydd Elis-Thomas, y Llywydd (Cadeirydd), Leighton Andrews, Lorraine Barrett, Jocelyn Davies, Jane Hutt, David Melding, Kirsty Williams.*

*Tystion: Jeremy Colman, Archwilydd Cyffredinol Cymru; Christine Gwyther, Panel y Cadeiryddion; Phil Jarrold, Cyngor Gweithredu Gwirfoddol Cymru; Ian Summers, Swyddfa Archwilio Cymru.*

*Swyddogion yn bresennol: Paul Silk, Clerc y Cynulliad.*

*Gwasanaeth Pwyllgor: Siân Wilkins, Clerc.*

*Assembly Members in attendance: Dafydd Elis-Thomas, the Presiding Officer (Chair), Leighton Andrews, Lorraine Barrett, Jocelyn Davies, Jane Hutt, David Melding, Kirsty Williams.*

*Witnesses: Jeremy Colman, Auditor General for Wales; Christine Gwyther, Panel of Chairs; Phil Jarrold, Wales Council for Voluntary Action; Ian Summers, Wales Audit Office.*

*Officials in attendance: Paul Silk, Clerk to the Assembly.*

*Committee Service: Siân Wilkins, Clerk.*

*Dechreuodd y cyfarfod am 4.13 p.m.  
The meeting began at 4.13 p.m.*

## **Papur Gwyn—Trefn Lywodraethu Well i Gymru: Tystiolaeth The Better Governance for Wales White Paper: Evidence**

[267] **Y Llywydd:** Fy mhleser yw croesawu'r Archwilydd Cyffredinol, Jeremy Colman, a'r dirprwy archwilydd, Ian Summers.

[267] **The Presiding Officer:** It is my pleasure to welcome the Auditor General, Jeremy Colman, and the deputy auditor, Ian Summers.

Who would like to begin the questioning?

[268] **Lorraine Barrett:** I will. Thank you.

[269] **The Presiding Officer:** Sorry, I should have thanked Mr Colman for his paper.

[270] **Lorraine Barrett:** I have a rather simple question to start off with, though I do not know for how long my voice will hold out. Should the Assembly establish a finance committee to scrutinise its budget proposals?

**Mr Colman:** I do not have a view on whether you should or should not do that. There are precedents in other legislatures for such a committee. It has some advantages but you can manage in other ways. From the point of view of the legislation, it would be best if the Assembly were left free to decide from time to time what model suits. It is certainly not a bad model and I would not argue against it, but I suggest that the choice should be kept out of the legislation and be a matter for the Assembly from time to time.

[271] **Kirsty Williams:** Paragraph 2.18 of the White Paper sets out the procedure for how money will come to the Assembly, and how the Assembly will then be able to vote for resources. This could include the establishment of a consolidated fund, which I believe is the

model in Scotland. In the past, some people have been slightly critical of the scrutiny of the House Committee budget as it is currently constituted at the Assembly. What do you think should be the essential procedures available to monitor and to properly scrutinise this process of voting and allocating money to the legislature?

**Mr Colman:** I am not sure that I completely understand the question, so if my answer is off-beam, I have no doubt that you will say so.

[272] **Kirsty Williams:** Apparently, according to the First Minister, it is the funny way that I ask questions that is the problem. That is what I was told this week.

[273] **The Presiding Officer:** It is no problem at all as far as the Presiding Officer and Chair of this committee is concerned.

**Mr Colman:** Anyway, the concept of the consolidated fund in British parliamentary history is very old. It dates back to the seventeenth century. The idea then was that financial control would be greatly improved if all revenues were paid into a single fund, and all expenditure met out of that single fund. That basic principle is still true today. For my part, a consolidated fund model for Wales in the future is absolutely consistent with the thrust of the proposals—which I support—of separating the legislature from the Executive. Expenditure from a single fund is monitored and controlled as a single entity.

In my written evidence, I referred to an aspect of the management of a consolidated fund that probably very few people in the world know about, but I mention it for completeness. It is what is called the ‘comptroller function’. The principle is that, despite having a consolidated fund, the Assembly Government’s budget is divided into sub-heads and that it would be inappropriate for money to be paid from the single fund unless there is specific authority for that expenditure as part of the budget. So, the function of confirming that, literally day by day, drawings from the fund are within the authorised amounts and are being used for the authorised purposes is the comptroller function, which is an integral part of having a consolidated fund. This is why I recommend that that function be created. It would normally fall to the auditor general to perform it.

On the question of the House Committee, I am not sure. Maybe Ian Summers can speak on this.

**Mr Summers:** I will just elaborate on that. With the separation of the Executive and the legislature, the Government will be required to prepare a budget and to submit it to the Assembly membership for approval and a proper scrutiny process will need to be put in place. That may be a finance committee or some other model, but the end result will be the Government putting forward a budget and the membership approving it. That budget will include amounts that will need to be drawn from the consolidated fund to meet the payments that will be due in the forthcoming financial year. As the Auditor General for Wales said, he will effectively act as the gatekeeper for that consolidated fund. When the Government wants to use the money, he will satisfy himself that it is in line with the lawful budget resolutions and release the money.

As regards the remainder of the patch, the Assembly will presumably need a corporate body to manage its day-to-day affairs. That corporate body will need to prepare a budget, which will consist of the salaries of the Members and their support staff, the costs of accommodation and so on. I would argue that, as a public body, that budget should be subjected to no less scrutiny than the Government’s budget, even though it is not subject to ministerial control. It will still need to be met from public funds—the Welsh consolidated fund—and for money to be drawn from it. So, a budget scrutiny process should be put in place for both elements.

4.20 p.m.

[274] **Leighton Andrews:** May I ask about the suggestion in your paper that the Auditor General should be the comptroller function? Would it bring the Assembly into line with Scotland, Northern Ireland and Westminster?

**Mr Colman:** Yes, it would. It is a logical consequence—if you have a consolidated fund, it makes sense to have a comptroller function as a day-by-day control on the moneys going out of the fund. Without it, there is a risk that money will be drawn from the fund beyond the limit for individual items, although contained within the total. That is a diversion of funds, even if it is within the total, that has not been approved by law. So, that is the purpose of the comptroller function—to ensure, day by day, that the funds are drawn only for the purpose for which they were originally approved.

[275] **Leighton Andrews:** What would be the implications for your office in terms of staff and so on? Is it likely to require additional staff?

**Mr Colman:** Hardly. It would possibly require one person on average over the year, so I would not be wanting to demand a lot more money for that function.

[276] **Leighton Andrews:** Are there alternative operations elsewhere in the UK in respect of this kind of function?

**Mr Colman:** I am not aware of any, unless Ian is?

**Mr Summers:** No, there are none. In Westminster, Scotland and Northern Ireland, there are separate consolidated funds. For the person who works for the Auditor General operating this comptroller function, it is a very small part of his or her job. I do not think it costs hardly any extra money.

I would add to the answer already given that the Auditor General, acting in the comptroller function, is there to look after the interests of the Assembly Members who approved the budget. He will ensure that the money is drawn as and when needed to meet the budget. It is a job that is done on behalf of the Assembly Members, if I can put it that way. The consolidated fund is an account that will, presumably, be held with the Paymaster. It will be looked after by the Assembly Government's finance group, which will have to account for it. However, Members' interests are looked after by the independent Auditor General with this comptroller function.

[277] **Leighton Andrews:** In that comptroller function, do the equivalents in Westminster, Scotland and Northern Ireland report back to the equivalent of the Assembly's Audit Committee as a public accounts committee, or whatever? I understand that it is the way you do it in your auditor role, but is that the way it would be done in your comptroller role?

**Mr Colman:** Technically, that is correct—they do. As Ian has explained, the function is performed for the benefit of Assembly Members. Most of the time, in most centuries—if I can put it in those terms—there is absolutely nothing to report, because the existence of that control means that funds are only demanded for approved purposes. I would not want to make too much of this—it is important, but not large, if I can make that distinction.

**Mr Summers:** I will elaborate a little more, if I may. The account of the consolidated fund has to be prepared every year. I would strongly recommend that the legislation requires an annual account of the consolidated fund to be prepared, in terms of the amounts coming in and drawn out, and that the account is submitted and laid before the membership here, and published.

[278] **Jane Hutt:** I want to follow up the points you made about the Audit Committee, and the important role it has played in terms of holding the public sector to account, and, indeed, Ministers to account, via reports that have come out through the Wales Audit Office and the Auditor General, which helps to improve the scrutiny of how we do government in Wales in relation to public services. I appreciate that you have only been in the post for a relatively short time, but over the last six years it has played an important role.

You suggest in your paper that the timescale in our Standing Orders is appropriate for getting the Government to respond to that. We are also interested in this particular role because we see that some of our committees might be more engaged in legislative responsibilities. Perhaps scrutiny may not take such a front-row role, although there will be a balance to be struck, and we are discussing that at the moment. I just wanted to explore that with you. Also, we see the role that we should be taking as being set out in Standing Orders as much as possible, with just the principles being taken through the White Paper and into the Bill and the Act. Would you agree with that?

**Mr Colman:** I agree with that, with the slight gloss, if I may—and it does not contradict what I said earlier about giving the Assembly flexibility to modify its arrangements as and when necessary—that I support the idea that the existence of an audit committee should be stipulated in the legislation. It should be a requirement that there is an audit committee. A committee that operates as the current Audit Committee does, on cross-party lines, is, in my view, an absolutely essential part of holding the Executive to account. The new arrangements for Wales would be weaker, in my view, if there were not a requirement for such a committee to be constituted. Although I have only been in post for a little over three months, I have seen enough of the Audit Committee to know that it does an excellent job. That is particularly because it operates on cross-party lines and does not divide on party-political lines, which other committees have been known to do from time to time. It is quite appropriate that they should do so, but the Audit Committee should not and does not, which is a great strength.

[279] **The Presiding Officer:** One of the interests of our committee is that we are charged to look at the implications of the White Paper in terms of increased scrutiny. Therefore, I was very interested in the sections of your paper devoted to the issue of resource accounting in relation to the way in which budgets are prepared and the lack of transparency, perhaps, that may exist at present, and in particular by the following sentence—I do not want to quote your own paper back at you, but I happen to have it in front of me—in which you recommend that:

‘the legislation creating a legally separate Ministerial executive authority for Wales should require Ministers to prepare an annual budget on a resource basis for approval by the Assembly Membership.’

Could you expand on that, and in particular, highlight how it would improve the budgetary scrutiny process by Assembly Members?

**Mr Colman:** The basic point here is that the expenditure against the budget approved by the Assembly should be capable of being checked against the original budget by looking at the accounts. At present, it is quite impossible. This is a considerable defect that the Assembly approves a budget, some time later, accounts are produced and audited by me and I regret to say that those accounts will throw very little light on whether or not the budget is being complied with. Therefore, the proposals in my paper are simply that that situation should be remedied and that a budget in apples should be monitored by reference to accounts in apples, rather than pears and oranges as is the current situation. I do not know whether Ian has anything more to add to that.

**Mr Summers:** I think that what is needed is a combination of a change in the way that the

budget is currently compiled and presented to the Assembly membership, and, underpinning that, a statutory framework. With the separation, I think that the Government will need to prepare a budget. One of the important roles of the Assembly membership will be to scrutinise and eventually approve that budget. In doing that latter role, which should be a statutory requirement, in my view, they should be able to see a budget which will eventually be matched by the accounts, as the Auditor General said. I think that we need an underpinning statutory framework, and also some changes to the way in which the budget is currently presented.

4.30 p.m.

[280] **The Presiding Officer:** Does this compare with the current situation in the UK Parliament, the Scottish Parliament and the Northern Ireland Assembly?

**Mr Summers:** The Scottish Parliament operates along the lines that I have just suggested. Obviously, the resources that it is allowed to consume are derived in part from the Treasury through the comprehensive spending review. However, in taking that resource allocation, which is given to the Scottish devolved authorities, the Scottish Executive will be required to convert that into a form that says what the Executive will consume in the year and the amounts of money that will be drawn from the Scottish consolidated fund. It is presented in that way so that there is a resource control and a cash control, which is approved by the Scottish Parliament.

The Northern Ireland Assembly is currently suspended, but, nevertheless, the budget that it was approving is now approved by the Westminster authorities and a similar approach is followed.

[281] **The Presiding Officer:** You do not have to answer this if it is an embarrassing question, but you have been around the NAO function in relation to the National Assembly and the previous structure for a long time. Ian, why do you think that it never happened here that there was resource accounting in terms of how the budget was structured?

**Mr Summers:** Resource accounting was introduced around the same time that the Assembly came into being. I remember auditing the very first Welsh resource account, which happened to also be the first account for the National Assembly. Resource budgeting in the UK context came in two years later, in 2001. The Government Resources and Accounts Act 2000, which introduced resource budgets in UK Government departments, did not specifically apply to Wales, because the devolution settlement gave the National Assembly the freedom to adopt its own budget-setting processes, and the processes that were adopted by the corporate body model here, if I can put it that way, chose to sub-divide the comprehensive spending review. The Westminster-Whitehall authorities do not do that; they do the conversion process so that there is a resource control and a cash control for parliamentary approval. We do not yet have a part-Westminster, Whitehall-type structure here, so, for what I think are perfectly reasonable reasons, the comprehensive spending review settlement was sub-divided and presented to Members here for approval.

[282] **The Presiding Officer:** So, what you are telling us is that we now have an opportunity to get this right.

**Mr Summers:** Yes. I think that the legislation requiring the budget-setting processes, together with a bit of administrative work, is an ideal opportunity to get this in a way that will help Members to understand what they are being asked to approve far better and also in terms of accountability, in comparing budget against audited outturn.

[283] **Jocelyn Davies:** We could do that best with a finance committee, could we not?

**Mr Summers:** I am not sure that a finance committee is the only model. What is right is to have a budget that is presented in a form that is comparable with how the Assembly is required to account. Resource accounting is the norm in the UK and in many other countries now, and I am quite sure that that will continue for some time, if not indefinitely. Therefore, it is right that the budget should be presented in a way that is comparable to the accounts. How that budget is scrutinised, as the Auditor General said earlier, ought to be a matter for the Assembly to decide for itself, and having a finance committee, as the Scottish Parliament does, is one way of doing it. Westminster used to have an expenditure committee, but more recently, the departmental select committees have been looking at departmental budgets. So, there is more than one way of skinning that cat.

[284] **Jocelyn Davies:** Even though the White Paper says that there should be an Audit Committee in the legislation—and you have confirmed that that would be your preference—would you advocate any changes to its functions?

**Mr Colman:** No, I do not think that I would. I think that the functions of the Audit Committee, as presently constituted, are just fine. It has very wide powers to summon witnesses, and I have very wide powers to report, as and when I see fit, on more or less anything that I want to report on. So, it is a very flexible arrangement, as long as it sticks, as I emphasised, to operating on cross-party lines. If there is a change that I would recommend, it is not to the functions of the Audit Committee but to its name. Its name is not the best possible choice because, these days, every central Government body and every Assembly sponsored public body has an audit committee. The corporate body which is likely to be formed to look after the affairs of the Assembly, will have an audit committee, which may or may not be called an audit committee. The name ‘audit committee’ is probably not the best choice these days. I would very rarely recommend to anyone here that something be copied simply because it happens in Westminster, but the Westminster Public Accounts Committee is quite a good name and less confusing than ‘audit committee’.

**Mr Summers:** The audit committees that ASPBs and many public limited companies are required to have, and most UK Government departments now have, are an essential part of the governance of the organisations; they are there to assist with that governance and that is their role. The Audit Committee of Members here is in no way meant to assist with the governance of the organisation; it is there to hold organisations to account. I would add that as a good reason for a name change, although far be it for me to tell a committee what to call itself.

I would add one other thought in terms of the role and the powers of the Audit Committee. If there is any thought around whether the Assembly’s current powers of summons should be changed—I am not sure whether that is part of this White Paper or the forthcoming legislation—the Audit Committee has on occasion invited people who it is not able to summons to give evidence, and they have usually come willingly. However, there have been one or two areas of friction, if I can put it mildly. If there are any changes that are being made to the Assembly’s powers of summons, we might want to look carefully at the Audit Committee’s interest there.

[285] **Jocelyn Davies:** Yes, sure. The other thing that I wanted to mention to you is that we have learned from our contact with the Scottish Parliament that the auditor general there can produce reports to subject committees, not just to its equivalent of the Audit Committee. How do you feel about that?

**Mr Colman:** I have no problem at all in producing reports. My reports are actually addressed to the Assembly as a whole, and it is a matter for the Assembly to decide how those reports are then handled. I would expect them, predominantly, to be taken by the Audit Committee,

but I would feel completely at home with those reports being taken by other committees. Indeed, in my first week in office, I gave evidence to a subject committee, and I was very pleased to do so, on the basis of two reports that predecessor organisations had produced. That is something that I am completely comfortable with.

[286] **Leighton Andrews:** I wish to take you back to this question of having a finance committee. Regardless of whether the Audit Committee is called that or the public accounts committee, do you think that there might be a danger, if we had a finance committee, of there being confusion between the roles of that finance committee and your audit/public accounts committee?

**Mr Colman:** I will think about that, if I may think aloud. I can recall the days of the expenditure committee in Westminster, and the functions that it performed were completely different from those of the Public Accounts Committee. If there is anything wrong with the name 'Public Accounts Committee', it is that it implies that that committee spends its time looking at accounts. In my experience, the Public Accounts Committee only rarely, and then unwillingly, actually looks at accounts—it is happy to receive reports from the Comptroller and Auditor General and look at those—whereas the expenditure committee did look at accounts.

4.40 p.m.

The disadvantage of the current arrangement in Westminster, where budgets are scrutinised by departmental select committees, is that those committees vary very much in their interest in the scrutiny of expenditure. Some of them are very interested in policy and not very interested in expenditure, others are very interested in expenditure but not very interested in policy. The advantage of having a finance committee is that you have a consistent approach for the Assembly's scrutiny of the budget. The risk of confusion with the Audit Committee, or whatever it is called, is theoretically there; in practice, that was not a problem in Westminster.

[287] **Leighton Andrews:** It would be possible, would it not, to address the issue of the lack of interest by the committees by inserting within their remits a specific obligation to review the expenditure of the departments that they are monitoring?

**Mr Colman:** My point about the departmental committees in Westminster is not that there was doubt about their function but that there were varying degrees of interest in the intensity with which they performed the function. I do not think that anything that I have said should be decisive one way or the other in whether the Assembly should have a finance committee or not. I can see arguments for it and against it. The argument for putting scrutiny of the budgets in the hands of the departmental committees is that, by hypothesis and in truth, those committees know about the work of the relevant departments, so the defence committee is full of people who are interested in and know about defence, and, therefore, potentially bring a greater forensic mind to examining the budget of the Ministry of Defence. That is the argument for a departmental approach. I am quite indifferent between one and the other.

[288] **The Presiding Officer:** Do colleagues have any other questions? In relation to the Audit Committee title—Pwyllgor Archwilio—I believe that it was another onerous burden that we had to bear when the original Government of Wales Act 1998 became our constitution. Do you have any creative names for titles apart from public accounts, which seems to be slightly jaded from having been used for a long time in Westminster? If you have any ideas between now and when we write the report, we would certainly be grateful.

**Mr Colman:** I will let you know of any thoughts that we have.

[289] **The Presiding Officer:** One further question before we finish. You mentioned that you

would be prepared to present reports to other committees; do you see yourselves in the new Wales Audit Office as another arm for Members in pursuing their scrutiny?

**Mr Colman:** Yes, I do. Perhaps it would be helpful if I explained that, generally, the approach that I take to the operation of the Wales Audit Office is to identify what the office is there to do. I have made it clear that it has, broadly, two functions: one is to promote improvement in public services in Wales, and the other is to hold to account those people who are in charge of public services, whether central Government, local government or the NHS. In pursuit of those high-level aims, I have at my disposal a wide range of tools; some of them are statutory tools—the right to report to the Assembly, whether as part of a programme of work or on the basis of immediate reports on matters that have come to my attention.

I also have non-statutory tools, which include organising conferences, seminars, teach-ins, and, in particular, responding to correspondence. Any letter that I receive will be treated very seriously, and will get a considered reply. Any letter, particularly any letter from Assembly Members, will be treated fully. In responding to those letters—and we are happy to have conversations; communications do not have to be in writing—our aim is to support Assembly Members in carrying out their functions of scrutiny. That is an important part of my work. I expect, and in fact it has already happened, that matters raised in correspondence will provoke published reports by me, rather than simply a reply to the letter. I consider that to be a useful way of discovering things that require investigation. I am more than ready to respond to ad hoc requests, and to use the WAO's resources in establishing the facts of any matter relating to economy, efficiency and effectiveness in public services. There have been cases in the past, and there are likely to be cases in the future, where an ad hoc report by me can help resolve a dispute very effectively. I would certainly want to do that.

That is a long, complicated answer to a question that I could have answered by saying 'yes'.

[290] **The Presiding Officer:** I am glad that you did not say 'yes', because it set out very clearly for us your relation to what we do. We are very grateful to you—diolch yn fawr.

Croesawaf Gweithredu rhwi tystiolaeth inni.	gynrychiolydd Cymru, a fydd yn	Cyngor Action evidence.	I welcome the Wales Council for Voluntary representative, who will give us
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[291] **Jane Hutt:** Welcome, Phil, and thank you for your written evidence in the paper for this afternoon's session.

Rightly, and I think in your evidence to the Richard commission, you highlighted the importance of the voluntary sector scheme and how it has been recognised internationally. I remember being engaged myself in the voluntary sector in the lead up to the Government of Wales Act 1998. We need to be clear, I am sure, through this afternoon's evidence-giving discussion, that the White Paper makes it clear that Welsh Assembly Government Ministers must make provision for a voluntary sector scheme, and I know that you are seeking that recognition and endorsement that would be the duty for us to have a voluntary sector scheme. Many of the achievements that you have outlined over the last six years relate to how you influence Government. Therefore, although separation will have an impact, clearly, in terms of your relationship with Government, and with the legislature, these are the areas that we need to tease out this afternoon.

Perhaps you could just highlight what you feel are the challenges, if you like, and the opportunities and threats in relation to the separation. If there is a duty on Ministers to have a partnership scheme, we may be looking at more of a sort of compact kind of relationship. There has been a great deal of benefit from the working of the partnership council, and bringing in backbenchers from across the parties as well as the voluntary sector around the

table for taking forward discussions and holding the Government to account. Therefore, do you want to elaborate on what you feel are the issues for the voluntary sector?

[292] **Mr Jarrold:** First, may I extend apologies from Graham Benfield, who would have been here today. I deputise for Graham on the partnership council, so you have me today.

4.50 p.m.

I suppose that what we have tried to highlight in the paper was what we see as the strengths of the current arrangements, and, in particular, the fact that the partnership council brings together the three arms: the Government, Assembly Members and the voluntary sector. We have perceived many strengths from that three-way dialogue. The Government's engagement is critical, and we have seen, over the Assembly's lifetime, a commitment by Government to addressing the issues debated at the partnership council and the issues that the sector has raised. That has been followed through by positive action, which has been very well received. The partnership council also has a scrutiny role. One of the big issues that came out of the independent commission's review of the voluntary sector scheme after the first term was the need for its consistent application across Government and all those acting on behalf of Government. Our judgment is that having both the Government and Assembly Members, together with the voluntary sector, as part of the partnership council, exercises that scrutiny role as to how consistently the scheme is being implemented.

Since the independent commission's report, one of the developments has been the creation of a compliance sub-committee of the partnership council, which demonstrated the intention of the partnership council to take seriously that recommendation about consistent application. That involves Assembly Members and voluntary sector representatives, and its role is to look at how consistently the Government is implementing the scheme, and to consider cases of potential non-compliance that voluntary organisations want to bring to that committee. We feel that that is important. One of the independent commission's findings is about the need to communicate the scheme and its benefits to the widest possible sector. We suspect that, for many organisations, knowing that there is some sort of scrutiny arrangement within the partnership council is an important way of communicating, because people then know that there is a route to raise issues. That is a powerful way of getting people interested.

I suppose that those are the strengths that we see. I am conscious that the paper that we have produced, while raising questions, does not set out answers, and, to be honest, I do not think that we are sure what those answers might be. However, the exploration that we hope we might make relates to whether there are ways, under the new arrangements, that would keep alive that three-way dialogue.

[293] **Jane Hutt:** I think that it was very innovative, but it is not in the Government of Wales Act 1998 that there should be a partnership council. Only the scheme is laid down in that Act. It is also possible to look at other vehicles or to learn from the partnership council, and, as you said, the relationship with Government is key in terms of the statutory obligation, which would be vested in the Bill, and it is in the White Paper. Therefore, it is important that we do not lose those opportunities for cross-party partnership and scrutiny involvement in the council. I am sure that others will want to raise questions or take that forward.

[294] **David Melding:** Mr Jarrold, in terms of deciding whether or not to continue with the partnership council—I do not think that there is any argument that it has not been a great innovation—given that the obligation to have a scheme would fall on the Government rather than on the body corporate technically, as it is now, do you think that this tripartite system could survive, since it would have to straddle Government, policy making and the legislative side? Are we not going to have to come up with a model that respects the fact that we are going back to the roots of the British parliamentary tradition, which separates the executive

and legislative powers?

**Mr Jarrold:** In some ways, the past six years have shown that it has worked. We have been able to maintain that dialogue with Assembly Members and with Government. Some issues have not been clear under the current settlement. In general, the new proposals are about addressing those issues. The past six or seven years have shown that a system is capable of working. Whether the new regulations would force that to come to an end, or whether there are ways of building into new arrangements a role for the legislature as well as Government, I do not know. At this stage, we are aware of some of the questions that the White Paper poses. I am not a constitutional lawyer, so I am not sure what the precise answer to that would be.

[295] **The Presiding Officer:** I do not think that many do. We have found some disagreement even between constitutional lawyers.

[296] **David Melding:** The influence that you have had on the policy-making process has been materially increased with the scheme and the partnership. You could trace the influence—perhaps someone is writing a PhD thesis on it at this very moment. However, to be frank—and this is not your fault or the sector’s fault; it is simply what has happened in the partnership between the legislative and Executive arms—it has produced next to no impact on the legislative work of the Assembly, has it not?

**Mr Jarrold:** Do you mean in terms of voluntary organisations using the legislative machine?

[297] **David Melding:** I do not just mean using, but influencing the way in which legislation has been scrutinised, adapted and changed.

**Mr Jarrold:** The sector is on its own learning curve.

[298] **David Melding:** I am not being critical of the sector; this is just what has happened. If there is any blame, all partners are equally to blame.

**Mr Jarrold:** I take that point, but, within voluntary organisations, people need to be more aware of how the system works and where the opportunities are. Going back to the review of the scheme, comments were made by some Assembly Members that there were opportunities for a sort of ballot to bring forward proposals that voluntary organisations could take more advantage of. There is probably a role for WCVA there in working with the Assembly to raise awareness of those opportunities and of how people can use them. Some organisations have done that very effectively. I do not want to generalise, but that has not been done by a larger number.

[299] **David Melding:** It is a perfectly reasonable point that the possibilities open to the voluntary sector have been transformed with the arrival of the Assembly, but that you do not instantly get the capacity to be able to draft suggested subordinate instruments and so on. It is not particularly easy to do, even if you have the wherewithal. Would the new arrangements allow the sector to examine ways in which this side of the work could really be enhanced and developed? Would some form of partnership, just with the legislative arm, not be welcome? Could it not also involve looking at the enhanced legislation and whatever mechanism is going to be used for the Orders in Council, which may be analogous to the passage of a Bill in Parliament?

One witness—I cannot remember who—suggested that if the Assembly is to be able to carry out its legislative scrutiny effectively, it will need much wider expertise than is available among the 48 or so backbenchers. The witness suggested that one way to do that would be to bring in experts and people from other sectors as members—non-voting presumably—of Bill committees who would have the right to participate and even suggest amendments. Could

such a model be reasonably explored, and is it not one that would focus on a more exclusive relationship with the legislative side, rather than the successful relationship that has been developed with the Government side?

5.00 p.m.

**Mr Jarrold:** The sector will always want it both ways, or different bits of the sector will.

[300] **David Melding:** I am certainly not suggesting that it would not be, but I think that there would be a separation in the mechanism—it would not be the same body that did it, perhaps.

**Mr Jarrold:** Yes, and I think there would be scope to explore that. The Committee on Equality of Opportunity has gone some way down that road, has it not, with standing advisers to it? Certainly, with other subject committees, it would be possible to identify quite considerable expertise within the sector that could help. Some of those organisations are actively involved in the Assembly Government's mechanisms. I am thinking of the mental health developments for example, where you have significant involvement from voluntary organisations in steering the implementation of mental health policy. That same expertise could, and should, be available to subject committees in their scrutiny role.

[301] **The Presiding Officer:** Before we move on, I am sure that you are aware, from the White Paper, that, of necessity, there would only be one statutory committee, which would be audit, and, therefore, we could be facing an opportunity to transform our whole committee structure. That will no doubt re-emerge in our next session, with the representative from the Panel of Chairs. Are there any aspects of committee scrutiny that you would recommend us to continue with, given your experience over the last six years? What is valuable from the old model for committees to be taken on, if possible, to a new one?

**Mr Jarrold:** Again, I think, from the voluntary sector point of view, I know that a number of organisations have been quite successful in briefing committee members on issues. I am thinking of some of the housing organisations and some of the environmental organisations, and I suppose that relates partly to David's question about identifying where expertise lies and exploiting that. Certainly, there are organisations that would bring quite a clear perspective and quite an evidence-based perspective from their own work to committees' proceedings.

[302] **Jane Hutt:** Just to follow up on that, we have also had a lot of valuable evidence presented to subject committees' policy reviews, for example, and we draw on the voluntary sector, as well as partners in the public sector, for policy reviews across all subject areas. This goes back to the Presiding Officer's point about the policy development side of our committee system and whether that has been a valuable vehicle for the voluntary sector to raise its voice and influence policy development. The follow through of that is how much those committee policy reviews have then influenced Government, which I believe we can demonstrate they have.

**Mr Jarrold:** Again, there are two recent reviews that we have had some involvement with. One is the Economic Development and Transport Committee's review of economic inactivity, where there has been a lot of interaction between the committee and voluntary organisations. The committee has visited some of the sector's schemes around economic inactivity, and I suppose the fruits of that are seen in its reports. There is also the current Social Justice and Regeneration Committee's review of substance misuse services. The substance misuse organisations across Wales have been working together—I suppose only recently, in the last nine months—but, through doing that, they have been able to put together some quite powerful evidence, and, again, I suppose that that is an area where voluntary sector substance misuse organisations are really at the coalface in terms of dealing with people. They are

providing most of the services and, in some areas, the only services available to people. So, those are two examples where the sector has put forward compelling evidence, and we await the social justice report. Certainly, the Economic Development and Transport Committee's report reflected, I think, some of the expertise within the sector, both in the analysis of the issues and in some of the practical ways of addressing the problem of economic inactivity.

[303] **Lorraine Barrett:** While it was very interesting, David Melding had about five bites at the cherry and covered one particular area that I wanted to ask you about, namely how you see the WCVA or the partnership council working with the legislature as opposed to the Government?

I will play devil's advocate for a moment. We all agree that the partnership council broke new ground; we hit the ground running when the Assembly was set up with all the partnership councils. The voluntary sector partnership council was very innovative, and I was a member of it for some time though I got a feeling after a while that it had become rather unwieldy—you would need a room at least the length of this one to accommodate everyone, the papers were extremely thick and I sometimes felt that the voluntary sector on the ground was not having its say or did not know enough about how the whole thing worked. However, it was new and exciting, and I think that it set a good platform for us to start from, with regard to working with the voluntary sector. I hope that the strength of that partnership working continues, albeit in another guise.

David has covered a lot of what I wanted to try to get out of you today, but I would like to know how you see yourselves, either the WCVA or the partnership council, working with the legislature, but also continuing that important work with the Ministers? I presume that that work still happens. I think that Jane was instrumental in setting it up, so that each sector within the voluntary sector has regular meetings with the relevant Minister. I presume that you would want that to continue and that it would probably be part of a new scheme. Do you see it as an opportunity to work more closely with us, as individual Assembly Members, the legislature, and committees—whatever form the committees may take? As the Presiding Officer has said, we do not yet know quite how they will work. Do you feel that you are geared up, or gearing up, to be able to take on these new ways of working? Do you think that the sector is open and ready enough to take on those changes and challenges?

**Mr Jarrold:** As I said earlier, we need to work with both. However the new formal arrangements pan out, it seems to me that organisations will want to work with the legislature and the Executive. The ministerial meetings have been a significant development. I think that how they are working is being looked at elsewhere in the UK. In fact, I went over to Northern Ireland with Sanjiv recently to talk about that experience. The importance of the meetings with the Ministers concerns what is conducted in the meeting, but also what it represents in terms of the variety of ways in which Government is working with the sector.

The meeting itself involves a small deputation from the sector, and the issues that you raised about how well that deputation reflects a wider range of organisations, particularly more local ones, are important. One of the things that we are currently looking at is how local networks feed directly into that process. The meeting itself is important, but what is also important is the Ministers' report to the meetings, setting out how they have engaged with the sector. Of course, the real engagement is often not with the people around the table at the formal meeting; it takes place in all forms involving specialist organisations around specialist areas of activity. The meetings give direct interaction with the Minister, but also an important overview of how wide the contact is between the Assembly Government and the sector in all sorts of ways. So, we would want to continue with that, and we are actively working on proposals to enable local networks to feed in more effectively to that process.

In terms of working with the legislature, as I said in reply to an earlier question, I think that

the sector is still learning how to do that better. Some of the bigger organisations that perhaps have experience of working through Parliament, and have a longer track record there and know how to use the system perhaps more effectively than other organisations. We have done some work recently on providing training for organisations on how to influence, how to lobby and how to use the systems that exist. We would want that to continue. The more that we can work with Assembly Members to find ways of doing that, the more effective that will be because, clearly, the sector needs to hear your take on it—what is working and what is helpful and unhelpful for you.

5.10 p.m.

[304] **The Presiding Officer:** To wind this section up, could that work continue whatever committee structure we had, or however Members operated in a new legislative/select committee/scrutiny model?

**Mr Jarrold:** Yes. For us, the voluntary sector scheme was always about adding more formal and institutionalised ways of working with the Assembly. From our perspective, it was never meant to undermine or replace the kind of interaction that will always go on. The more interaction that goes on at different levels, the better.

[305] **The Presiding Officer:** One area in which we have not been successful is that of promoting, under Standing Order No. 31, the equivalent of private Members' legislation at Westminster. Various members of your organisations have been approaching Assembly Members with various possibilities that have not always been successful. If we were in a position to do more legislation, however we get agreement to do that in relation to Westminster and how that is carried through, it may be that there are greater opportunities for a vibrant relationship with Members as legislators, rather than what we have now.

**Mr Jarrold:** We would hope so.

[306] **The Presiding Officer:** Thank you. No-one is indicating that they want to ask another question. I am grateful to you for representing the partnerships at our inquiry. As you know, we are hoping to produce a report rapidly on account of various timescales, but if you have any further ideas following our discussion or any further information you would like to produce for us, we would be very happy to receive it.

**Mr Jarrold:** I would welcome that opportunity. As I said, we are trying to understand these implications—

[307] **Lorraine Barrett:** Are not we all?

**Mr Jarrold:** And we may well have further thoughts.

[308] **The Presiding Officer:** I think that Members would concur: are not we all? Thank you very much.

I am very relieved to see our senior member of the Panel of Chairs return safely from the European and External Affairs Committee meeting. We are still in public session, unless Members would like to break for a quick coffee to revive themselves. I see that you do not; we will, therefore, continue. I defer to Members' needs.

Who would like to begin? I am looking to our colleague on the Panel of Chairs—colleague Melding. I cannot call you 'Chair', as there is another Chair sitting here.

**Christine Gwyther:** Comrade Melding, please.

[309] **The Presiding Officer:** Okay, comrade Melding or comrade Chair.

[310] **David Melding:** I am quite happy to be called comrade, though I understand that another member of my group does not like it.

[311] **The Presiding Officer:** What about comrade and friend?

[312] **David Melding:** I have certainly been called worse things here. [*Laughter.*]

[313] **Lorraine Barrett:** Careful, there will be a verbatim record of this.

[314] **David Melding:** There we are; I think that I have been in enough trouble this week anyway.

With the legislative work increasing—and we do not quite know how the model will operate, but it seems obvious that it will be enhanced quite significantly, perhaps quite fundamentally in terms of the work that Orders in Council may generate—how do you think that the committee structure, as it is presently constituted, could cope? Could it cope?

Looking at Scotland, committees meet more than once a week for several hours to look at legislation. I suspect that my committee, the Health and Social Services Committee, would be at one end and your committee, Economic Development and Transport Committee, would be at the other. It would possibly be lightly affected and would have a lot of time to do the excellent policy work that it does and hold inquiries. So how sustainable do you think the current structure will be?

**Christine Gwyther:** I will just set my reply in the context of a discussion that we had in the Panel of Chairs this week on Tuesday evening, when we spent about 30 minutes on the possible ramifications of the new arrangements. We were all of the same mind: the present arrangement is not sustainable for various reasons. One reason was, as you outlined David, that different committees look at different things and have vastly differing responsibilities.

One thing that came through very clearly was that the committees as they stand are too large to operate in the new system that will be created. Would you like me to amplify and talk around the subject?

[315] **The Presiding Officer:** Yes, please. It would be very useful.

[316] **David Melding:** I think that committee size is an important point, so if you want to develop that, you should.

**Christine Gwyther:** We even got as far as tying it down to having maybe between six and seven members per committee on average. However, we were also aware that some committees might need to be larger than others, depending on the amount of work that they did and the nature of the portfolio that they were following. We talked about the idea of Members sitting on Subject Committees for policy review work and scrutiny and then sitting on different, ad hoc Standing Committees for line-by-line legislation scrutiny. We decided that that would be very difficult, because people develop useful skills and competences and we did not want to lose them when examining the legislative part of the work.

For instance, as a Chair, I sit on the Legislation Committee, and I have noticed over the last year or so that Members often pick up fine detail in legislation because of their previous experience. It is not because they are particularly good at fine detail, but because they understand that subject very well, so they pick up things much better. That has helped to form

my opinion that we should retain Subject Committees in some shape or form and that Members should be allowed to develop expertise in those subjects. When they are asked to sit on committees for legislation, they should somehow be attached to that subject.

[317] **David Melding:** I suspect that a colleague will ask about how party balance may be affected if there were seven or so members of a committee, or certainly fewer than 10. Perhaps we could just ignore that for the moment and pursue this point of having committees constituted of something within the range of six to eight members. Would this allow for more committees? For instance, if the present Subject Committee system survived, you would have to divide the Health and Social Services Committee at the very least and perhaps the Environment, Planning and Countryside Committee too. It seems to me that some of those committees could not survive. If there were seven-ish members on a committee, would that be enough to accommodate extra committees, or would you still hope to have a model with a backbench Member only being a member of one Subject Committee and not doubling up? Would that then release the capacity that would be needed to do the line-by-line scrutiny of legislation? Could you flesh that out, if you can, though I do not know whether you got that far?

**Christine Gwyther:** We did not go into that sort of detail, but I have thought about it. Again, it will depend on what committees you happen to be a member of. For instance, if you were on one committee that had a huge burden of legislation, you could also sit on another committee that did not. There could be some sort of cross-play in that way.

5.20 p.m.

I will answer your point on party balance, because it may affect some of the other questions that come through. We are in favour of the Scottish model, where there is overall party balance on the committees, but not necessarily on every single committee. While that may not find favour with every party at every time, it seems the fairest way, if you must have different sizes of committees. Again, there would have to be some kind of horse-trading between the party business managers as to where the party balance was perhaps more favourable on whichever committee. It is not issue for the Panel of Chairs to get into, but if there was an overall party balance on the membership of the committees, there could be a different party balance on each committee.

I think that I may have strayed from your question, I am sorry.

[318] **David Melding:** There are so many facets that can be followed up—we have started in a very strong and robust fashion. I do not want to ask anything else.

[319] **Kirsty Williams:** Christine, do you or your fellow Chairs see a danger that some committees could just become a legislative committee, responding to the work coming from the Executive, and have very little time to do anything else, or dictate their own agendas, and be constantly having to respond to the Government's request to look at legislation? Did you discuss how that might be balanced in some way, and how committees could, if they so wished, look at a broader cross-section of work? The Economic Development and Transport Committee will have plenty of time to go off to do its policy reviews. As we were told in Scotland, there is much angst that the economic development committee is always off on foreign trips and has plenty of time to do wonderful reports, and that it never does any legislation. Therefore, do you foresee that the Economic Development and Transport Committee could promote its own legislation, as the committees are able to do in Scotland? Should a mechanism be found for the committees to look to request Orders in Council to allow them to pursue a particular legislative opportunity that they felt was desirable?

**Christine Gwyther:** There is no reason why they should not. We did not discuss the issue in

the Panel of Chairs, but I do not see why they should not. It will be up to the members and Chair of the committee, because in this new world there will be many opportunities. The Panel of Chairs was clear that we would not want to see the Act closing down any opportunities for us. So, for instance, we were quite comfortable that Ministers and Deputy Ministers would not have to be members of the committee. In terms of the Economic Development and Transport Committee, some of the best evidence and policy-making sessions have been held when the Minister was not present—and other Members may want to back me up on that—simply because debate is more robust and less personal.

[320] **Leighton Andrews:** And less adversarial.

**Christine Gwyther:** Yes, less adversarial. So, the Panel of Chairs was very comfortable with the idea of not having Ministers and Deputy Ministers present. However, we were clear that we did not want to see a plethora of ad-hoc or standing committees being established to look at specific legislation. We do not want to see that in any Bill, so that then gives the committees more latitude to look at their own programme of work. I think that fits in with your question, Kirsty.

An issue that did not come up, but which I have thought about since, is that every Member, if he or she is not a member of the Government, should be required to sit on at least one committee. It means that the work is shared equally. As we go down the years, it has already become a bit of an issue, and I do not want to see it develop. I would prefer it to be in our Standing Orders, at least, that every Member should sit on at least one committee and share the burden with the rest of the Members.

[321] **The Presiding Officer:** Should they be required to turn up? That has been the issue, has it not?

**Christine Gwyther:** If you recall, Chair, we have changed our Standing Orders to say that Members do not even have to give a reason for their non-attendance.

[322] **The Presiding Officer:** I know—it is because the Presiding Officer found it very difficult to determine the validity of reasons.

[323] **Lorraine Barrett:** I disagree with the Presiding Officer on that, but there you go—we usually agree on many things, but we do not on that. You have hit on something that I was going to ask, Chris.

**Christine Gwyther:** I think that I have hit a raw nerve.

[324] **Lorraine Barrett:** Not mine. I was going to ask whether we should look at a Standing Order that every Member must sit on at least one committee. When the Culture, Welsh Language and Sport Committee visited Scotland recently, we found out that the committees can cover a couple of portfolios. The committee that covered economic development, culture and tourism also covered, I think, a part of education or training. There seemed to be a whole range. You have said yourself that the Chairs felt that this is an opportunity for some imaginative thinking. I suppose that we would need to look at everything imaginatively.

You said something that I had not thought about, that you felt, as a panel, that Ministers and Deputy Ministers—who will probably have a different status to that they currently have—should not sit on committees. That cuts the numbers down, so I presume that your thinking is that the committee should be smaller. None of us know the legislative workload that this will bring post-2007. Do you think that, with 60 Members, we can cope with all of this, even with longer working hours and more working days here, as opposed to in our constituencies?

There is another issue that people have raised. I do not know whether you have discussed this as a panel, but what do you think about bringing in outside experts to sit on different committees at different times, depending on what the committee might be discussing, whether they have voting rights or not?

**Christine Gwyther:** We did not discuss this as a panel, but I can give you my own view. I would certainly accept it. I am not sure at this stage whether I would welcome it. It happens in some county councils and can be problematic. However, if you need to bring in expertise to help you with a thorny issue, that route should be available to you. I am not totally against it, and we did not discuss it as a panel, therefore I do not want to be too dogmatic on that. I have seen it cause problems in county councils, so it would have to be handled very carefully.

An issue that we have not discussed is the timing of committee meetings. We discussed it in the Panel of Chairs and thought that there should be the freedom to hold committee meetings during Plenary. I do not know whether this strikes a chord with anyone at this table. It will cause problems in terms of voting; I am sure that, as a whip, Lorraine is already getting upset about it. Therefore, arrangements would have to be made for timed voting at the end of meetings, or in the middle of meetings or whatever. However, we were all of the same mind about having that freedom, especially if there is a rush on with some legislative work, when we might have to meet several times in one week. The only way to do that is to allow us to meet during Plenary.

[325] **The Presiding Officer:** In the new building there will only be 5m between a committee room and the main chamber, which might facilitate activity.

**Christine Gwyther:** Are you thinking of a scurrying-back-and-forth type of committee?

[326] **The Presiding Officer:** I was thinking of adjourning a committee, and then voting and having a cup of coffee.

[327] **Lorraine Barrett:** It fills me with horror. I cannot imagine any Members wanting to be away from the new Chamber once they get in. I cannot imagine them not wanting to sit there through the entire Plenary, because it will be such a lovely place to be, apart from the interesting issues that we will be discussing.

[328] **David Melding:** Dr Pangloss would love you.

[329] **Lorraine Barrett:** I am still concerned about that one, Chris, from the point of view of sheer numbers. If you take away Ministers and Deputy Ministers from speaking in Plenary in general debates, and those Members who might be in a committee meeting, and the few who might be having a cup of tea or stretching their legs, I am concerned about numbers. We are just 60 in total. Did you take that into account?

**Christine Gwyther:** We did, because Ministers and Deputy Ministers will be quite free throughout the entire Plenary, because they would not be sitting in an adjacent room, as we would, going line by line through legislation.

[330] **Lorraine Barrett:** Normally, Ministers, and I think, Deputy Ministers, when they have a more structured role, probably would not join in the general debate on issues—although there is nothing to stop them from doing so, I suppose. I am just throwing that in as a concern.

5.30 p.m.

**Christine Gwyther:** Clearly, it is a concern, but that is yet another reason to reinforce the idea of having smaller committees: you would only have six people out of the Chamber,

rather than 10 or 11.

[331] **Leighton Andrews:** Some of this assumes that there will be a heavy legislative burden on committees. Has the Panel of Chairs considered how much legislation each committee might have to deal with in any year?

**Christine Gwyther:** No, not to any great extent. That is probably a piece of work that needs to be done. We have looked at the list of what was in the latest Queen's Speech, and we are already allocating that to various committees. The work behind that, however, and following on from that, will be absolutely enormous and, as far as I am concerned, not quantifiable at this stage.

[332] **Leighton Andrews:** It is not necessarily analogous, either, is it? If Bills come to particular Assembly committees, it is not necessarily the same as discussing an Assembly measure or proposal for an Order in Council, is it?

**Christine Gwyther:** No.

[333] **Leighton Andrews:** Okay. If further work is to be done here, who should be doing that? Should that be the Panel of Chairs? One of the other questions that might need to be asked is whether, if we have these new legislative routes, if I can call them that, of Assembly measures and proposals for Orders in Council, it is possible that we might have less secondary legislation to consider, which might free up time.

**Christine Gwyther:** It is possible, and that may be something that the Chair of the Legislation Committee should be considering at the moment. I know that you have already received evidence from the Chair, and I do not know whether that point came up in that session.

[334] **The Presiding Officer:** Not in any great detail, but there have been subsequent discussions.

**Christine Gwyther:** Then that is possibly a role for that committee to take on at this stage—not that I am ducking the work or anything.

[335] **The Presiding Officer:** No. Going back to an earlier point, if legislative committees were meeting, Ministers and/or Deputy Ministers, I assume, would be involved in them. However, because the meetings will be in close proximity to the Chamber, that might not be a problem. I am assuming that we never do more than two Bills concurrently, but you never know.

[336] **Jane Hutt:** Thank you, Chris. You seem to have done a lot of work on Tuesday night in the Panel of Chairs discussion.

[337] **The Presiding Officer:** That is because the Chair of the panel was here. [*Laughter.*]

[338] **Jane Hutt:** Is that so? Well, it is very helpful because it addresses many of the issues and people are really getting in to what it could mean in reality. Obviously, what is emerging from what you are saying is very much the Scottish model of committees, where they combine policy review with legislative scrutiny but without a role for Ministers, who only appear when they have a statutory instrument. The scrutiny of Ministers is done in the Parliament.

To pick up on Leighton's point about the likely legislative workload of a committee post 2007, and how we prepare for it, there was one thing on which I agreed with John Osmond

from the Institute of Welsh Affairs this morning, which was about people asking, ‘Well, what about the opportunity for committees or the Assembly to be developing legislation?’, to which he said, ‘Well, look, one thing you have to recognise is that committees have to scrutinise the legislation that is coming from Government, from the Executive’. Of course, that is the crucial issue with regard to the workload and role of committees in relation to Orders in Council, and we will have more framework legislation. However, moving on from that, do you agree that we will not be able to do everything? We have mentioned committee size, and Lorraine has mentioned the size of the Assembly. In Scotland, committees still do not meet when Plenary is held, although that possibility is being considered at the moment. Do you agree that committees will have to prioritise what they do with regard to policy review and legislative issues, and that the crucial role for the convener/Chair of the committee, with the committee, will be to prioritise, and to remember that this is about quality and not quantity, and getting a job done for the purpose of policy development and scrutinising the Government and legislation?

**Christine Gwyther:** I think that we are already prioritising, and we are doing so more and more. In May 1999, the committees were presented, I suppose, with a sort of fait accompli work programme because the Government was getting going and there were things that had to be scrutinised there and then and policy that had to be looked at. Committees have had the opportunity since then to spread their wings, and, as a Chair, I would like to see that become the model for even greater freedom for committees to prioritise their own work.

[339] **Jocelyn Davies:** I would be very suspicious of attempting to scrutinise a lot of legislation that the Executive gives you, because I would be worried that they are trying to keep me busy with all this legislation so I do not notice all the other things that it is up to. Another point on which John Osmond and Jane Hutt probably agreed this morning was that a Government can do an awful lot without legislation, and you have to keep an eye on all of that as well.

We learnt from our Scottish trip that they had two identical committees with identical portfolios because of the burden of the legislation. Sometimes committees were dealing with two Bills at the same time in that they were finishing one off and starting another. So, some of them did nothing else. I think that we should be cautious about exactly how much legislation we want to take on. It is also the nature of governments to want to do things. It is for the Government to control that.

You mentioned earlier that you would welcome the opportunity for subject committees to initiate requests for Orders in Council, and that you certainly would not want to place any barriers in that regard. How might that happen, because it does imply that if a committee has an idea its needs to make that request? Currently, as we know, the White Paper suggests that there will be some sort of request from the Assembly to the Secretary of State for Wales, although I suppose, in effect, what will normally happen is that the Executive will make the request to the Secretary of State. However, if a committee wants to start that, it does imply some sort of direct access, either to the Secretary of State or to Parliament.

**Christine Gwyther:** I am not sure about direct access. At the moment, we have things such as backbench legislative opportunities. I do not see any reason—and we have not discussed this at length on the panel—why there should not be committee-generated opportunities of that kind. Whether the Welsh Assembly Government would have to be the conduit to pass them on, I do not know, but something could be written in our Standing Orders to legitimise that.

[340] **Jocelyn Davies:** Yes, it is okay as long as what the committee or a backbencher wants to do is already within the powers, but if a request were needed for one of these Orders in Council, because it was more ambitious than that, then we would need a mechanism that

allowed the request to be made. It may be one of the issues that we need to think about, because you would not want a subject committee to be in the position of having to get the approval of the Executive before the request was made.

**Christine Gwyther:** Perhaps our Standing Orders should be such that approval would not be necessary, or that it would be the approval of the Assembly and not the Welsh Assembly Government that would be necessary. I do not know. We are going into uncharted territory here, and I am obviously not mandated by the rest of the panel to talk about this. However, if you are happy for me to talk about this, I am more than happy to do so.

[341] **The Presiding Officer:** Absolutely.

**Christine Gwyther:** I am very doubtful whether we could actually insist that that was in the Bill.

[342] **The Presiding Officer:** Or not in the Bill, which may be equally important. We could think of it in terms of our Standing Orders.

**Christine Gwyther:** Yes. As a committee Chair, I would be very interested in that because it clearly opens the way for innovative Welsh thinking, and I am all for that. The actual mechanism will have to be bottomed out.

5.40 p.m.

[343] **Jocelyn Davies:** We have asked many people who have been giving us evidence, should the request be between the Assembly Executive and the Secretary of State and so on. I do not think that anyone has given any thought to the precise detail. There is constant confusion of the Executive with the Assembly and the Secretary of State with the Parliament. The idea of direct access to certain requests ought, perhaps, to be considered by us to be more democratic and more appropriate.

**Christine Gwyther:** It could be more democratic but, as a pragmatist and realist, if I had spent three months or so working up a committee proposal, I would want it to receive an affirmative answer. Having some sort of intelligence, whether down here in Cardiff or in London, would be very useful. I think that that will involve the Welsh Assembly Government. That is my gut feeling.

[344] **The Presiding Officer:** This is all very fundamental, and if it is helpful, it is not just here; Parliament is now considering establishing a joint committee to try to work out what are the conventions that operate between the two Houses of Parliament. It is not as if we are immature on the block; it is an issue there as well.

[345] **Leighton Andrews:** I wanted to ask you about staffing resources for committees. I have heard the point of view expressed that one of the advantages of having to address new forms of legislation, such as Assembly measures or proposals for Orders in Council, would be to give a better focus to the work of the Assembly Parliamentary Service in terms of providing briefings. What is your take on that?

**Christine Gwyther:** At this stage, I do not have a defined take on that. There are already informal channels, if not formal ones, between our parliamentary service and the Westminster parliamentary service. I am sure that our staff are up to the job of taking on a more focused role. We will have to leave it to those channels to operate to get a clearer picture of how that would work.

[346] **Leighton Andrews:** My point, in a sense, was that Plenary debates are very often—

though amendments are tabled—on motions, not on detailed legislation. The briefing material that is supplied can, therefore, be rather general because it has to cover a broad subject area rather than a focus on a specific piece of legislation. From talking with colleagues, I know that some find that more useful than others. My thinking was that it might enable the staff to develop greater depth of expertise and to be able to focus more sharply on the issues that come to light in respect of specific measures.

**Christine Gwyther:** I am sure that you are right, because going through anything line by line will lead to you amassing a wealth of knowledge that will stay with you for some years, and you would be able to read around that subject far more effectively than if you were going to it cold; that is obvious. You are right to say that, certainly at the moment, the parliamentary service relies quite heavily on Welsh Assembly Government staff to give them the information that they need. We need to get away from that, so that we have a truly independent picture.

[347] **Lorraine Barrett:** Following on from that, Chris, thinking of these committees of the future and the amount of work that would have to be done by the clerks and the translation unit and so on, has the panel thought about the level of staffing that we might need? I know that none of us knows how it will pan out, but have you discussed that?

**Christine Gwyther:** We are aware that we will need more. I cannot remember if it was in the discussion on Tuesday night, or whether it is in the margins somewhere, but someone told me about a piece of legislative scrutiny that was done recently in Westminster, and the reports were very thick and were produced within a fortnight. Most of that work must have been done by the parliamentary service; it cannot have been done by Members.

Therefore, I am sure that we will need to have a greater number of people supporting us if we are to come up with that sort of detailed work in the sort of timeframe in which we will be required to do it.

[348] **Leighton Andrews:** Do you have any evidence of that? One may argue that the staff may be refocused in terms of their work. For example, a committee will no longer, on a monthly basis, be providing scrutiny of a Minister—almost certainly not, if we look at the experience in Scotland. That is an element of work that is no longer being done and, therefore, there is no need for the Assembly Parliamentary Service to provide briefing on the Minister's report, for example, which it sometimes does. Therefore, has any analysis been done about the number of staff needed per standing committee, or whatever else, in Westminster or in other institutions?

**Christine Gwyther:** Nothing that has been reported to the Panel of Chairs at this stage. However, you may know otherwise, Llywydd.

[349] **Jocelyn Davies:** May I make a point about statutory instruments? These will pass to the Ministers, but they will need to be scrutinised. However, I think that there has been some analysis of how much time is normally spent by committees on scrutinising statutory instruments, and passing that over to the Legislation Committee will not save an awful lot of time.

[350] **Kirsty Williams:** I do not suppose that not having to do a briefing on the Minister's annual report will save very much time for the poor research service either.

[351] **Leighton Andrews:** Hang on a minute, it was not the annual report, but the monthly report.

[352] **Kirsty Williams:** Yes, sorry, the monthly report.

[353] **Lorraine Barrett:** It was just an example.

[354] **Leighton Andrews:** My point on secondary legislation is that if we are—

[355] **The Presiding Officer:** Order. I am becoming authoritative now, late on.

[356] **Jocelyn Davies:** I think that there has been an analysis of how much time that that takes up.

[357] **Leighton Andrews:** I understand that. However, my point was that if we are heading towards more primary measures, some of the secondary legislation may get accommodated within the new kinds of measures that we have. That may well not absorb as much as time as possible. It is simply that this is analytical work that can be done. It appears that it has not, in total, been done, and it would be valuable to know that. That is my point.

[358] **The Presiding Officer:** I believe that the Richard commission and Karin Phillips from the Assembly Parliamentary Service have done work on this area, and no doubt more will be done. Do you have any final message for us, Christine?

**Christine Gwyther:** My final message is that this has been a really interesting half hour for me. It has thrown up that, even if we only do a desk study of grabbing all the statistics that Jocelyn and others have talked about, there are some serious decisions for us to make and we need to be geared up.

[359] **The Presiding Officer:** This has been very helpful to us, from our point of view, and it shows the value of the collective wisdom of the Panel of Chairs and the particular wisdom of someone who has been a Chair for a substantial time here and is, of course, a former Minister. I suppose that it points us in the direction that the important thing is to get as little as possible prescription on the Bill, but then our work starts in terms of getting the Standing Orders functioning and our committee structure. However, that again may be a flexible beast, as it were, but I could not possibly anticipate that in my role today.

**Christine Gwyther:** Absolutely.

[360] **Y Llywydd:** Diolch yn fawr, Christine.  
Dyna ddiwedd y sesiwn gyhoeddus.

[360] **The Presiding Officer:** Thank you very much, Christine. That brings the public session to a close.

*Daeth rhan gyhoeddus y cyfarfod i ben am 5.49 p.m.  
The public part of the meeting ended at 5.49 p.m.*