

Minutes – Business Committee

Meeting Venue:

Presiding Officer's office, 4th floor – Tŷ

Hywel

Meeting date: 17 April 2018

Meeting time: 08.30 – 08.52

Private

Attendance

Category	Names
Committee Members:	Elin Jones AM, Llywydd (Chair) Julie James AM Paul Davies AM Rhun ap Iorwerth AM Gareth Bennett AM
Committee Staff:	Aled Elwyn Jones (Clerk)
Others in attendance	Manon Antoniazzi, Chief Executive & Clerk of the Assembly Christopher Warner, Head of Policy and Legislation Committee Service Siân Wilkins, Head of Chamber and Committee Service Gwion Evans, Head of the Llywydd's Private Office Rhuanedd Richards, Policy Adviser to the Llywydd Matthew Richards, Head of the Legal Service Helen Carey, Welsh Government



1 Introductions, apologies and substitutions

The Deputy Presiding Officer sent her apologies.

2 Minutes of the previous meeting

The minutes for the meeting were agreed by the Committee for publication.

3 Organisation of Business

3.1 This Week's Business

This Week's Business

On the issue of the Welsh Conservatives' motion for debate on Wednesday on 'The Permanent Secretary's investigation report', the Leader of the House read out the following statement:

We are seeking to resolve a constitutional question as to the scope of the power set out in section 37 of the Government of Wales Act 2006. This provides the Assembly with the power to compel witnesses and evidence in relation to various matters relevant to the functions of the Welsh Ministers. Given the different positions adopted between the Assembly Commission and the Welsh Government, the First Minister has an obligation to act to clarify the law in this area.

The Welsh Government object to the Conservative Party motion for the following reasons:

- (a) *Firstly, because the motion is outside the scope of the Assembly's powers under section 37 and likewise any subsequent section 38 notice would also be ultra vires. This is because section 37 extends only to matters relevant to the exercise of Welsh Minister's functions, as distinct from functions exercisable only by the First Minister. The vast majority of functions relevant to the operation of devolved government in Wales are exercisable collectively by the First Minister and Welsh Ministers. However, the leak report was commissioned and undertaken in pursuance of functions exercisable solely by the First Minister.*

- (b) *Secondly, the motion brings into question the proper conduct of Assembly business. There is a longstanding practice of non-disclosure of leak investigation reports across all Governments in the UK, because of the risk of prejudicing the conduct and confidentiality of future investigations. As explained in the Permanent Secretary's letter of 16th March 2018, there is a standard framework for leak investigations. To provide specific detail of the framework would risk undermining the effectiveness of future investigations. There is also a clear risk that if reports into leak investigations were required to be disclosed to the Assembly, then in future individuals may not be willing to volunteer information or co-operate in subsequent investigations.*
- (c) *Given current ongoing investigations which involve sensitive and confidential information, it is vital that we seek clarity on the scope of this provision at this time.*

While this important legal and constitutional question is being resolved it would not be appropriate for the above motion to proceed.

The Llywydd said that she had received the letter yesterday evening, is taking advice, and that she will respond in due course. Business Committee may need to reconvene at some point. The Llywydd told Business Managers that she could not share the letter with them because it was marked as 'confidential'.

Paul Davies expressed his view that he believed the Conservative motion on "The Permanent Secretary's Investigation Report" to be in order, based on the legal advice the group had received and which he believed to be correct.

Tuesday

- Voting Time will take place after the last item of business.

Wednesday

- Voting Time will take place before the Short Debate.

3.2 Three Week Timetable of Government Business

Business Committee noted the 3 Week Timetable of Government Business.

3.3 Three Week Timetable of Assembly Business

Business Committee determined the organisation of Assembly business and agreed to schedule the following items of business:

Wednesday 25 April 2018 –

- Statement by the Chair of the Constitutional and Legislative Affairs Committee: The European Union (Withdrawal) Bill – the National Assembly’s decision in relation to subordinate legislation procedures (30 mins)
- ~~Time allocated to Plaid Cymru (60 mins)~~ – *postponed until 2 May*

Wednesday 2 May 2018 –

- Time allocated to Plaid Cymru (60 mins)
- Short Debate – Rhianon Passmore (Islwyn) (30 mins) – *postponed from 21 March*
- ~~Short Debate – Nick Ramsay (Monmouth)~~ – *postponed to 23 May*

Wednesday 9 May 2018 –

- Debate on the Economy, Infrastructure and Skills Committee report: Apprenticeships in Wales (60 mins)
- Time allocated to the Welsh Conservatives (60 mins)
- Time allocated to the Plaid Cymru (60 mins)

4 Plenary

4.1 Request to schedule a No Named Day Motion for debate

Business Managers agreed to not schedule the motion for debate, believing that it has been superseded by the Welsh Conservatives’ motion scheduled for Wednesday. The

Leader of the House noted that the Welsh Government had the same issues around this motion as she had set out regarding Wednesday's Welsh Conservatives motion.

5 Legislation

5.1 Letter from CLA: draft Legislation Bill

Business Managers noted the letter.

5.2 Letter from CYPE: Childcare Funding (Wales) Bill

Business Managers confirmed their in principle decision of 13 March to refer the Childcare Funding (Wales) Bill to the Children, Young People and Education Committee for Stage 1 consideration, and agreed the deadline for the Stage 1 Committee to report by as 6 July 2018 and the deadline for the completion of Stage 2 Committee proceedings as 12 October 2018.

6 Standing Orders

6.1 Letters from Finance and CLA: S116C Orders in Council

The Leader of the House stated that the Government did not want a standalone Standing Order and that the provisions should be included in Standing Order 27. Paul Davies stated that he believed a standalone Standing Order would be appropriate, as recommended by the committees.

The Secretariat confirmed that they will bring a paper to a future meeting containing both options.

7 Committees

7.1 Request from CLA to extend its meeting slot

Business Managers noted the issues raised and agreed to write to the Committee informing them that requests to meet outside their slot would be considered on a case by case basis.