

Senedd Cymru

Y Pwyllgor Cyfrifon Cyhoeddus a
Gweinyddiaeth Gyhoeddus

Craffu ar weinyddiaeth gyhoeddus

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Ymateb gan Yr Athro Leighton Andrews,
Prifysgol Caerdydd

Welsh Parliament

Public Accounts and Public Administration
Committee

Scrutinising public administration

Evidence from Professor Leighton Andrews,
Cardiff University

Scrutinising Public Administration.

A submission to the Public Accounts and Public Administration Committee from Leighton Andrews, Professor of Practice in Public Service Leadership and Innovation, Cardiff University, former member of the National Assembly for Wales and former Welsh Minister.

Introduction.

1. I welcome the remit of the new committee. In November 2017 I publicly called for the creation of a committee with a public administration remit. I am pleased that the committee has called for evidence on its role. Democratic devolution in Wales has now existed for over twenty years and it is right that thought and scrutiny is now given to the processes of public administration, including the conventions and assumptions underpinning them, which have developed over that time. The publication this year of 1997 UK Cabinet Committee papers remind us how far Welsh Government has developed from the original very limited ideas for a National Assembly and Welsh Executive¹.
2. The committee gives an early indication of the areas which it expects to cover in its Consultation Letter, such as matters relating to the machinery of government, including the quality and standards of administration provided by the Welsh Government civil service and Welsh Government Sponsored Bodies. My submission

¹ See Leighton Andrews (2021) Performing Welsh Government 1999–2016: how insider narratives illuminate the hidden wiring and emergent cultural practices, in *Contemporary British History* <https://doi.org/10.1080/13619462.2021.1996235>

will cover the areas of interest outlined in the committee's Consultation Letter, including:

- a. principles and best practice for scrutiny of public administration;
 - b. what information and evidence the committee will need in order to maintain effective oversight of public administration; and
 - c. priority issues the committee may wish to consider.
3. My submission principally addresses two broad areas and draws on my published and unpublished research, and my teaching, as well as my experience as a member of the former National Assembly for Wales and as a Welsh Minister over the periods 2007-2013 and 2014-16. First, I briefly describe the work of the House of Commons Public Administration and Constitutional Affairs Committee (under various titles) over the last twenty years, as a potential model. Second, I outline a number of areas which the committee might wish to consider worthy of examination.

The scrutiny of Public Administration in the U.K.

4. The Committee has asked what principles and what best practice should guide the committee in its enquiries. I would like to suggest some operating principles:
- a. To promote good governance in and for Wales by the Welsh Government, local government, and public bodies, in inter-governmental relations, and where relevant, by the U.K. Government and non-devolved bodies
 - b. To promote high standards of conduct in public life in line with the Nolan principles
 - c. To scrutinise, and make recommendations for improvement in, the conduct, governance and delivery of services delivered to the people of Wales by the Welsh Government, local government, devolved public bodies and, where relevant, the UK Government and non-devolved public bodies
5. In terms of best practice, the obvious starting point for consideration of the scrutiny of public administration by the committee is the work of the House of Commons Public Administration and Constitutional Affairs Committee (PACAC) under various titles, over the last 25 years. Former First Minister, the late Rhodri Morgan, devotes a short part of his posthumous autobiography to his role as chair of the committee from 1997-9².

² Rhodri Morgan (2017), *Rhodri – A political life in Wales and Westminster*, UWP, pp 114-116.

6. In terms of evidence, the committee will require evidence from the Welsh Government, including Ministers and civil servants, from Welsh public bodies, and where relevant, from the U.K. Government and non-devolved bodies, as well as from academic experts, former officials and ministers.
7. The House of Commons Committee describes its role as being 'to examine: constitutional issues; the quality and standards of administration provided by Civil Service departments; and the reports of the Parliamentary and Health Service Ombudsman (PHSO).' This somewhat understated and dry description masks a variety of work which has been carried out by it and its predecessor committees on a wide range of subjects.
8. PACAC and its predecessors have examined areas which *could* be relevant to the Senedd Public Accounts and Public Administration Committee such as (and this is not exhaustive)
 - a. Brexit-related governance issues
 - b. Election administration
 - c. Management of Freedom of Information laws by Government
 - d. Constitutional issues, including devolution and inter-governmental relationships within the UK
 - e. Standards in Public Life, including the Ministerial Code and business appointments
 - f. Public Appointments issues
 - g. UK Statistics
 - h. Ministers and what they do, accountability and questions
 - i. The work of the Cabinet Office, of the Cabinet Secretary, and of the Prime Minister's Office
 - j. Civil Service effectiveness and leadership, and relations with Ministers
 - k. Special Advisers (SpAds) and the SpAd Code
 - l. Government Communications
 - m. Lobbying
 - n. Strategic thinking in government
 - o. Public Services: Outsourcing, targets, delivery,
 - p. The role of Parliament in the UK Constitution
 - q. The conduct of referendums
 - r. The House of Lords
 - s. The Fixed Term Parliaments Act
 - t. Relationships with Arm's Length Bodies/Quangos
 - u. The Ombudsman service, citizen complaints, users of public services
 - v. The Census
 - w. Procurement

- x. IT in Government
 - y. The Honours System, political honours and appointments to the House of Lords, patronage
 - z. Memoirs by former Ministers and Senior Civil Servants
9. The length of this list, which relates to a variety of inquiries undertaken over two decades or so, indicates that the Senedd Public Accounts and Public Administration Committee would be prudent in setting out a limited but clear forward work-plan on the issues it believes would be priorities. Clearly some of the subjects considered by UK PACAC and its predecessors may be more appropriately covered by the remits of other Senedd Committees, such as the Legislation, Justice and Constitution Committee, the Special Purpose Committee on Senedd Reform, the Llywydd's Committee and the Standards of Conduct Committee. How the Committees manage the boundaries of these issues obviously needs to be carefully judged.
10. The UK Committee has also held pre-appointment hearings for a number of public roles including the Chair of the Committee on Standards in Public Life, the Chair of the Advisory Committee on Business Appointments (ACOBA), the Commissioner for Public Appointments, and the Independent Advisor on Ministerial Interests.
11. The Scottish Parliament has a Finance and Public Administration Committee with a remit summarised as covering Scotland's public finances, public service reform, Scotland's National Performance Framework, and public administration in government. It also has a separate Standards, Procedures and Public Appointments Committee, with a remit covering the Parliament's procedures rules for MSPs' behaviour and conduct, rules on lobbying, and elections and referendums. Clearly in the Senedd, some of this is covered by the Standards of Conduct Committee.

Potential areas for the Senedd Public Accounts and Public Administration Committee to examine

12. There is no shortage of subjects for the Committee to consider, but I would like to highlight some which I feel might have immediate relevance. I have tried to limit these on the basis of examining the remits of other Senedd Committees, and having reflected on issues which have been under-examined during the development of democratic devolution over the past 20 years. These are:
- a. The Dunlop Review and Inter-Governmental relations in the UK (post Brexit, post Covid?)

- b. Standards in Public Life, Public Appointments, the Welsh Ministerial Code and the Independent Advisor on the Ministerial Code
- c. Special Advisers
- d. Cabinet and Cabinet Committees
- e. Civil Service Effectiveness, including the senior civil service
- f. Public Service Delivery
- g. Use of data and digital services in government
- h. One Welsh Public Service

13. I will comment briefly on each of these issues.

1. The Dunlop Review and Inter-Governmental relations in the UK

14. Earlier this year the UK Government published Lord Dunlop's review of intergovernmental relationships which made a number of recommendations for change. Not all of these have been accepted by the UK Government. It is clear that there have been significant changes in inter-governmental relations post-Brexit and post-Covid. How do the Dunlop recommendations deliver for Wales and what should be the next steps?

Standards in Public Life, Public Appointments, the Welsh Ministerial Code and the

2. Independent Advisor on the Ministerial Code

15. The Public Standards scene in Wales is a confusing one and has never been considered in an integrated fashion. The remit of the Committee on Standards in Public Life (CSPL) does not cover the devolved governments and devolved Parliaments, unless it is requested to become involved by them. The Welsh Government Ministerial Code relies on principles established by the CSPL (the Nolan principles) and on leaving office Ministers are subject to the supervision of the Advisory Committee on Business Appointments (ACOBA), an advisory nondepartmental public body sponsored by the UK Cabinet Office. Members of the Senedd are also expected to abide by the Nolan principles. The Commissioner for Public Appointments has an oversight role in respect of public appointments in England and Wales. An Independent Adviser was announced in 2017 to examine breaches of the Welsh Ministerial Code by Ministers. The existence of an

Independent Adviser role has been reaffirmed in the latest addition of the Welsh Ministerial Code. The initiative for involving the Independent Adviser lies with the First Minister. That may well be the right thing – though at a UK level there have been suggestions that the Independent Adviser should have the right to initiate investigations, but there has been little structured discussion in Wales on that role. The same could be said of the penalties or sanctions for breaching the Ministerial Code, which have not necessarily been consistently applied, the effectiveness of sanctions against breaches by former ministers after they leave office, or the notion of a graduated scale of penalties suggested at a UK level by former Cabinet Secretary Lord O’Donnell, who has suggested that not all breaches of the Code are as serious as each other. In Wales, the current First Minister has rightly been innovative in respect of the Ministerial Code, in relation to the sections of the code referring to Ministerial removal from office, following the Inquest into the death of Carl Sargeant. This whole area might benefit from scrutiny by the committee.

3. Special Advisers

Special Advisers (SpAds) have from time to time been controversial appointments at UK government level. On the whole, this has not been the case in Wales. Special Advisers are appointed by the First Minister, unlike in Westminster where they are usually appointed by Cabinet Ministers (with a recent attempt to centralise oversight by the former chief adviser to the Prime Minister). Rhodri Morgan advertised the role of Special Advisers when he became First Minister. Mark Drakeford also advertised for Special Advisers in early 2019 following his election as First Minister, and a candidate brief and job description were issued, along with the SpAd and Civil Service codes of practice. This seems like exceptionally good practice, but it has not always been the norm. Should it become the norm? Are further safeguards needed in relation to Special Adviser relationships with civil servants and Ministers? These issues have never been publicly aired in Wales in a structured discussion.

4. Cabinet, Welsh Ministers and Cabinet Committees

17. The UK Government has had a Cabinet Manual in Place since 2010 – is there a role for such a document in Wales, and might it absorb some of what is currently in the Ministerial Code, such as commentary on collective responsibility? Why, for example, are Welsh Ministers not classified as Ministers of the Crown? From Rhodri Morgan’s time as First Minister, Cabinet Minutes have been published about six

weeks after Cabinet meetings. The Minutes of the Cabinets held during Alun Michael's time as First Secretary have not been published, though this has been promised for some years. Minutes of Cabinet Committees have on the whole been published and certainly from since 2016, though not all prior to that have been. Welsh Government Cabinet Minutes prior to 2016, which have been transferred to the National Archives for holding, are not always easily discoverable, with html links often broken. This is part of the historical record of Wales and these records should be better preserved and made more easily accessible. Wales has led in Open Government – and the Welsh Government should be commended for this - with the publication of Cabinet Minutes, and their archive management should be enhanced. There are also more general issues about the operation of Cabinet Committees. Are there principles guiding their establishment, and their membership? Why are some subjects chosen for Cabinet sub-committees and others for working groups of Ministers?

5. Civil Service Effectiveness, including the senior civil service

18. On the whole, I felt well-supported by the civil service as a minister. However, there are areas such as the balance between policy and delivery which have recently been raised in significant reports by the Commission for Smart Government and by Policy Exchange, which have also been raised in Wales, including in evidence to one of your predecessor committees³. It is more than five years since I was a Welsh Minister, and the challenges faced by civil servants post-Brexit and post-Covid are very different. However, the general issue of civil service effectiveness is a reasonable one for the committee to explore, including issues such as performance management, incentivisation, leadership development, and so on. With a new Permanent Secretary now in post, it might be timely to explore these issues. The relationship of the Welsh Civil Service to the Home Civil Service overall might also be a major area for consideration.

Public Service Delivery

19. Public Service delivery is very much linked to the previous issue. It has surfaced again as an issue at UK Government level, with Sir Michael Barber brought back to reinvent

³ PAC(3) 14-10 (p2& p2a) : 21 October 2010, Paper for Public Accounts Committee, 21st October 2010 by Andrew Davies AM; Andrew Davies, Tackling Welsh Sir Humphreys
<https://www.iwa.wales/agenda/2012/04/tackling-wales%E2%80%99-sir-humphreys/> ;

his previous Delivery Unit for a new time and a new government. Barber has also pioneered work for the UK Treasury on its Public Value Framework. The Delivery challenges post-Covid across public services in Wales, not least in Health and Education, have been well-rehearsed. Prior to Brexit, the Welsh Government was considering, in the light of the Williams Commission, whether and how the range of public service targets and their various performance management regimes and frameworks could be simplified. Brexit and Covid have of course materially changed things, but arguably the need for simplification of target-setting is even more acute.

6. Use of data and digital services in government

20. There has been significant growth in the use of data and in the development of digital services across government in Wales, particularly over the last five years, and this should be commended. There are some key successes, including management of the vaccine rollout. The creation of Digital Health and Care Wales is an important development. Digital services came into their own during the pandemic in Wales, not least in the first lockdown. What are the lessons from that in delivering more personcentred services for the future, and in enhancing delivery by and for those working in our public services?

7. One Welsh Public Service

21. The Welsh Government has had a long-term ambition to create a 'One Welsh Public Service' culture in Wales across the public services. This has been reinforced by the implementation of the Wellbeing of Future Generations Act and the creation of Public Service Boards, and underpinned by Public Service Leadership Summits held in 2015 and 2019 attended by the top 200 public service leaders in Wales in both devolved and non-devolved services. Public services in Wales, including the Welsh NHS, Local Authorities, schools and other services delivered well during the pandemic. A common approach to leadership development, values and behaviours has been rolled out by Academi Wales. The First Minister spoke clearly about the idea of a One Welsh Public Service culture at the Public Service Leadership Summit in 2019:

That sense that in a small country of the sort that we are, we have to think of those people who work in our public services and those who lead them as belonging, not to single strands where the primary loyalty is to the organisation to which you happen to belong at any moment in time, but a sense that those strands in public services, and those strands in Public Service Leadership, belong to a single idea of public service here in Wales,

and where the primary loyalty belongs to that wider sense of what we in this room are all about in trying to provide public services in the different places in which we operate - and the need therefore to create systems that allow a permeable sense of leadership, in which it is as easy as we can make it for people to spend time in different parts of the public service here in Wales. In which it is thought of as an asset for somebody to have spent sometime in the Welsh Government; to have spent some time in a delivery organisation; to have spent some time in one of our academic institutions, where that sense of the walls between the organisations that we belong to are as open and permeable as they can be, because people who work across boundaries, and people who are able to see the world from more than one perspective, bring a different sort of leadership strength to that sense of a single Welsh Public Service⁴.

22. Clearly that objective implies a holistic approach to public service leadership. How is that being taken forward, and how much more urgent is it post-pandemic?

8. Final word

23. The new remit for the committee is an important step, marking the maturing of Welsh democratic devolution and public administration. The remit is needed and the time is opportune. I make my suggestions here – and that is all they are, suggestions – in the spirit of seeking to promote good governance in and for Wales, based on high standards of public service.

24 November 2021

⁴ Rt. Hon Mark Drakeford AM, First Minister of Wales, Opening Address at the All Wales Public Service Leadership Summit, 10 October 2019, at the Liberty Stadium, Swansea.

