



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

## **Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol** **The Constitutional and Legislative Affairs Committee**

**Dydd Llun, 29 Ebrill 2013**  
**Monday, 29 April 2013**

### **Cynnwys** **Contents**

Cyflwyniad, Ymddiheuriadau, Dirprwyon a Datganiadau o Fuddiant  
Introduction, Apologies, Substitutions and Declarations of Interest

Offerynnau nad ydynt yn Cynnwys Materion i Gyflwyno Adroddiad arnynt o dan Reolau  
Sefydlog Rhif 21.2 neu 21.3  
Instruments that Raise No Reporting Issues under Standing Order Nos. 21.2 or 21.3

Offerynnau sy'n Cynnwys Materion i Gyflwyno Adroddiad arnynt i'r Cynulliad o dan Reolau  
Sefydlog Rhif 21.2 neu 21.3  
Instruments that Raise Issues to be Reported to the Assembly under Standing Order Nos. 21.2  
or 21.3

Cynnig o dan Reol Sefydlog Rhif 17.42 i Benderfynu Gwahardd y Cyhoedd o'r Cyfarfod  
Motion under Standing Order No. 17.42 to Resolve to Exclude the Public from the Meeting

Cofnodir y trafodion yn yr iaith y llefarwyd hwy ynndi yn y pwyllgor. Yn ogystal, cynhwysir  
trawsgrifad o'r cyfieithu ar y pryd.

The proceedings are reported in the language in which they were spoken in the committee. In  
addition, a transcription of the simultaneous interpretation is included.

**Aelodau'r pwyllgor yn bresennol**  
**Committee members in attendance**

Mick Antoniw	Llafur (yn dirprwyo ar ran Julie James) Labour (substitute for Julie James)
Suzy Davies	Ceidwadwyr Cymreig Welsh Conservatives
David Melding	Y Dirprwy Lywydd a Chadeirydd y Pwyllgor The Deputy Presiding Officer and Committee Chair
Eluned Parrott	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Simon Thomas	Plaid Cymru The Party of Wales

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

Gwyn Griffiths	Uwch-gynghorydd Cyfreithiol Senior Legal Adviser
Ruth Hatton	Dirprwy Glerc Deputy Clerk
Owain Roberts	Gwasanaeth Ymchwil Research Service
Dr Alys Thomas	Gwasanaeth Ymchwil Research Service
Gareth Williams	Clerc Clerk

*Dechreuodd y cyfarfod am 2.00 p.m.*  
*The meeting began at 2.00 p.m.*

**Cyflwyniad, Ymddiheuriadau, Dirprwyon a Datganiadau o Fuddiant**  
**Introduction, Apologies, Substitutions and Declarations of Interest**

**David Melding:** Good afternoon and welcome to this meeting of the Constitutional and Legislative Affairs Committee. I have received apologies from Julie James, and I am delighted to welcome Mick Antoniw as her substitute. Mick has often substituted in the past, and we appreciate his contributions. I will make the usual housekeeping announcements. We do not expect a routine fire drill, so, if we hear the fire alarm sound, please follow the instructions of the ushers. Please switch off all mobile phones completely. These proceedings will be conducted in Welsh and English, and, when Welsh is spoken, you can get a translation on channel 1 of the headsets. If you need to amplify our proceedings, you can do that on channel 0.

2.01 p.m.

**Offerynnau nad ydynt yn Cynnwys Materion i Gyflwyno Adroddiad arnynt o dan Reolau Sefydlog Rhif 21.2 neu 21.3**  
**Instruments that Raise No Reporting Issues under Standing Order Nos. 21.2 or 21.3**

**David Melding:** These are listed for us. Are there any comments? I see that there are none.

**Offerynnau sy'n Cynnwys Materion i Gyflwyno Adroddiad arnynt i'r Cynulliad  
o dan Reolau Sefydlog Rhif 21.2 neu 21.3  
Instruments that Raise Issues to be Reported to the Assembly under Standing  
Order Nos. 21.2 or 21.3**

**David Melding:** Again, these are listed. Both of them are negative in this case. Are there any comments?

**Suzy Davies:** I have one question. As it is the negative procedure, I can guess what the answer is. Are there any implications with regard to employment law? Is there a possible competence issue on that? It is such a wholesale consolidation—. Are we looking at the same one?

**Mr Griffiths:** I am sorry, are you talking about the pharmaceutical—

**Suzy Davies:** Yes, the consolidation instrument. It refers to terms and conditions in there.

**Mr Griffiths:** They are not of employment; they are contractual between the NHS and those who provide the services.

**Suzy Davies:** I assumed that they had been going in some form for a long time, so I am sure that, had there been a competence issue, it would have come up before.

**Mr Griffiths:** It is a very welcome consolidation after 20 years of fiddling around with the amendments.

**Simon Thomas:** Rwyf eisiau gofyn cwestiwn. Rwy'n deall bod yr holl reoliadau sydd yn awr yn cael eu cyfuno yn rheoliadau negyddol, ond o'u rhoi i gyd at ei gilydd mae gennych rywbeth sydd yn eithaf sylweddol. Mae'n awgrymu i mi bod modd ystyried y weithdrefn gadarnhaol ar gyfer rhywbeth mor sylweddol â hyn, achos mae'n effeithio ar bwy sy'n dod i mewn i'r farchnad, pwy sy'n gallu darparu moddion a sut rydych yn trefnu hynny. Mae hynny'n ddigon teg ac mae i gyd yn edrych yn rhesymol iawn, ond os ydych yn rhoi llawer o bethau sydd o dan y weithdrefn negyddol at ei gilydd, gallech gael cyfansawdd y gallech ofyn a ddylai ddod o flaen y Cynulliad dan y weithdrefn gadarnhaol. Dyna a oedd yn fy nharo i ynglŷn â hwn. Nid wyf yn gwybod a yw hynny'n bosibl, neu a yw wedi cael ei godi yn ystod y paratoi.

**Simon Thomas:** I want to ask a question. I understand that all the regulations that are now being consolidated are negative instruments, but, in bringing them all together, you have something that is quite substantial. It suggests to me that the affirmative procedure could be considered for something as substantial as this, because it impacts upon who comes into the market, who is able to dispense medicines and how you make arrangements for that. That is fair enough and it all looks very reasonable, but if you are consolidating many things that are subject to the negative procedure, you could have a whole about which you could ask whether it should come before the Assembly under the affirmative procedure. That is what struck me about this. I do not know whether that is possible or whether it is something that has been raised during preparations.

**Mr Griffiths:** Nac ydy. Mae'r pŵer i wneud y rheoliadau hyn wedi ei gynnwys yn Neddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006, a oedd ei hun yn cydgrynhoi llawer o ddeddfwriaeth gynradd yn y maes hwn. Dyma'r broses sydd wedi ei nodi yn y Ddeddf honno. Pe bai'r Cynulliad yn ail-

**Mr Griffiths:** No. The power to make these regulations is included in the National Health Service Act (Wales) 2006, which itself consolidated much primary legislation in this area. This is the process that is set out in that Act. If the Assembly were to remake primary legislation relating to issues like this, the

wneud deddfwriaeth gynradd yn ymwneud â materion fel hyn, gallai'r Cynulliad wedyn ystyried y broses ar gyfer is-ddeddfwriaeth yn y dyfodol. Fodd bynnag, ar hyn o bryd, y broses negyddol sydd yn berthnasol.

Assembly could then consider the process for future subordinate legislation. However, at present, it is the negative procedure that applies.

**Simon Thomas:** Mae hynny'n esbonio pam, felly.

**Simon Thomas:** That explains why, therefore.

**David Melding:** It is an interesting point that you raise, Simon. Are there any other issues? I see that there are not, therefore, they are approved.

2.04 p.m.

**Cynnig o dan Reol Sefydlog Rhif 17.42 i Benderfynu Gwahardd y Cyhoedd o'r  
Cyfarfod**

**Motion under Standing Order No. 17.42 to Resolve to Exclude the Public from  
the Meeting**

**David Melding:** I move that

*the committee resolves to exclude the public from the remainder of the meeting in accordance with Standing Order No. 17.42(vi).*

Does any Member object? I see that no Member objects.

*Derbyniwyd y cynnig.  
Motion agreed.*

*Daeth rhan gyhoeddus y cyfarfod i ben am 2.04 p.m.  
The public part of the meeting ended at 2.04 p.m.*