



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

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

**Dydd Llun, 19 Mai 2014
Monday, 19 May 2014**

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Cofnodir y trafodion yn yr iaith y llefarwyd hwy ynnddi yn y pwyllgor. Yn ogystal, cynhwysir
trawsgrifiad 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

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

Dechreuodd y cyfarfod am 13:31.
The meeting began at 13:31.

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

[1] **David Melding:** Good afternoon and welcome to this meeting of the Constitutional and Legislative Affairs Committee. Apologies have been received from Julie James, and Mick Antoniw will be joining us later. I will make the usual housekeeping announcements. There is no routine fire drill, so, if you hear the alarm, please follow the instructions of the ushers. Please switch off all mobile phones and other electronic equipment as they will interfere with our broadcasting equipment, even if on 'silent'. These proceedings will be conducted in Welsh and English. When Welsh is spoken, there is a translation available on channel 1, and channel 0 will amplify our proceedings.

Offerynnau nad ydynt yn Cynnwys Materion i Gyflwyno Adroddiad arnynt o dan Reol Sefydlog 21.2 na 21.3
Instruments that Raise no Reporting Issues under Standing Order 21.2 or 21.3

[2] **David Melding:** The items are listed there for us. Are Members content? I see that you are.

Deddfwriaeth Arall Other Legislation

[3] **David Melding:** We have the Public Bodies (Abolition of Food from Britain) Order 2014 and other matters. Are there any issues? I see that Gwyn wishes to raise a point.

[4] **Mr Griffiths:** Diolch, Gadeirydd. Fel y gwelwch, nid oes nodyn briffio ar wahân ar gyfer yr eitem hon. Y rheswm am hynny, wedi i mi gymryd golwg ar y memorandwm ac ar y Gorchymyn, yw nad oedd dim y gallwn ei ychwanegu at yr hyn sydd ynddynt a fyddai o ddefnydd i'r pwyllgor. Mae'n amlwg yn gwneud synnwyr i ddileu fframwaith corff nad ydyw wedi gweithredu er pum mlynedd. Nid oes dim y gallaf ei ychwanegu at hynny, oni bai eich bod am i mi ateb cwestiwn.

Mr Griffiths: Thank you, Chair. As you see, there is no separate briefing note for this item. The reason for that is that, once I had taken a look at the memorandum and the Order, there was nothing that I could add to them that would be of use to the committee. It is clearly sensible to abolish the framework of a body that has not operated for five years. There is nothing that I can add to that, unless you wish me to answer any questions.

[5] **Simon Thomas:** A gaf i ofyn cwestiwn? Beth fyddai'r camau nesaf o ran trefn? Mae hwn yn gydsyniad ar gyfer offeryn statudol. A yw hwn yn nwylo Gweinidogion yn llwyr, neu a oes rôl i'r Cynulliad fel y cyfryw?

Simon Thomas: May I ask a question? What would the next steps be in terms of the order? This is consent for a statutory instrument. Is that entirely in the hands of Ministers, or is there a role for the Assembly as it were?

[6] **Mr Griffiths:** Oes, mae hwn yn femorandwm cydsyniad a fydd yn dod gerbron y Cynulliad.

Mr Griffiths: Yes, this is a consent memorandum that will come before the Assembly.

[7] **Simon Thomas:** A fydd yn dod gerbron y Cynulliad yn y ffurf y mae o'm mlaen i yn awr?

Simon Thomas: Will it come before the Assembly in the form in which it currently stands?

[8] **Mr Griffiths:** Bydd. Wedyn, bydd y Senedd yn San Steffan yn gorfod cydsynio hefyd. Wedyn, bydd y Gweinidog yn gwneud y Gorchymyn i drosglwyddo yr hyn sydd ar ôl o'r corff hwn i DEFRA, a bydd yn dod i ben.

Mr Griffiths: Yes. Then, the Parliament in Westminster will also have to give its consent. The Minister will then make the Order to transfer what remains of this body to the Department for Environment, Food and Rural Affairs, and then it will be concluded.

[9] **David Melding:** Are Members content? I see that you are.

Cynnig Cydsyniad Deddfwriaethol Atodol: Y Bil Dadreoleiddio Supplementary Legislative Consent Memorandum: Deregulation Bill

[10] **David Melding:** The memorandum is listed, together with the paper that provides the legal advice. Do you want to update us, Gwyn?

[11] **Mr Griffiths:** Nid oes llawer yn ychwanegol ynglŷn â hwn. Fel y gwelwch, mae'n ymwneud â gwneud i ffwrdd ag un system o ddelio â materion tenantiaeth ffermwyr, ac mae'n cymryd cam pellach yn y

Mr Griffiths: There is not a great deal to add on this. As you will see, it relates to abolishing one system of dealing with farmers' tenancy issues, and it takes a further step in the ongoing legislation in relation to

ddeddfwriaeth sy'n mynd ymlaen ac ymlaen ynglŷn â chŵn. Yr unig fater i'w nodi, rwy'n meddwl, yw y bydd y Gorchymyn i ddod â'r darpariaethau hyn i mewn yn nwylo'r Gweinidog yn San Steffan, tra bod ein Gweinidogion ni'n gyfrifol am y ddeddfwriaeth newydd. Felly, bydd angen iddynt gydweithio'n ofalus i wneud yn siŵr bod y peth yn digwydd ar yr un pryd.

[12] **Simon Thomas:** Gadeirydd, efallai y caiff hyn ei drafod yn fwy trwyadl mewn lle arall, sef yn y Cyfarfod Llawn. Fodd bynnag, rwyf am nodi, fel mae'r adroddiad yn ei ddweud, fod bwlch neu wagle a all godi yn y gyfraith os nad yw'r ddau Weinidog yn cydsynio ac yn gweithio ar yr un pryd. Wrth gwrs, mae etholiad ar y gorwel, ac fe ddaw etholiad San Steffan ar draws, efallai, yr un sy'n digwydd yn y fan hon. Mae'r ddeddfwriaeth yng Nghymru eisoes wedi'i gohirio rhyw naw mis—roeddem yn disgwyl y ddeddfwriaeth hon yn ôl ym mis Hydref. Yn sicr, mae nifer o bobl, fel y gellid disgwyl, yn fy rhanbarth i, lle mae lot o fridio cŵn yn digwydd, yn anhapus iawn bod yr oedi wedi digwydd. Efallai y bydd hyn yn codi mewn cyd-destun gwahanol, ond mae'r posibiliad o fwllch yn y ddau beth yn mynd i fod yn dipyn o siom iddynt. Nid yw'n fy nharo i fel ffordd ddelfrydol o ddeddfu; eich bod yn dibynnu ar rywbeth i ddigwydd mewn lle arall ac eich bod yn dod i ben â phwerau yng Nghymru cyn eich bod yn saff bod y pwerau newydd yn eu lle.

[13] **Suzy Davies:** Hefyd, wrth gwrs, mae'n bosibl cael y ddau ar yr un pryd—

[14] **Simon Thomas:** Ie, mae hynny hefyd yn broblem.

[15] **Mr Griffiths:** Byddai gwelliant syml iawn i'r Bil yn San Steffan i drosglwyddo'r pwerau cychwyn i Weinidogion Cymru yn datrys y broblem.

[16] **David Melding:** Okay. We are required to report on this by 19 June. Is that correct? Yes. I think that we have set aside our meeting on 9 June to discuss the draft report, but I think that the secretariat has heard your views on that and I am sure that that will be reflected.

dogs. The only matter to note, I believe, is that the Order to bring these provisions into force will be in the hands of the Westminster Minister, while it is our Ministers who will be responsible for the new legislation. So, they will have to co-operate very closely to ensure that both things happen at once.

Simon Thomas: Chair, perhaps this will be discussed more thoroughly in another place, namely in Plenary. However, I do wish to note, as the report states, that there is something of a vacuum that could arise in the law unless the two Ministers work simultaneously and together. Of course, there is an election in the pipeline, and the Westminster election may cut across what is happening in relation to these issues. The legislation in Wales has already been deferred by some nine months—we were expecting this back in October. Certainly, there are many people, as you might expect, in my region, where there is a great deal of dog breeding, who are very unhappy that there has been this delay. Perhaps this will arise in another context, but the possibility of some gap or gulf is going to be quite a disappointment to them. It does not strike me as an ideal way of legislating if truth be told; that you are reliant on something happening elsewhere and that you actually revoke powers in Wales before you can be sure that the new powers are in place.

Suzy Davies: Also, it is possible to have both at the same time—

Simon Thomas: Yes, that is also a problem.

Mr Griffiths: A very simple amendment to the Bill in Westminster to transfer the commencement powers to Welsh Ministers would solve the problem in its entirety.

**Cynnig Cydsyniad Deddfwriaethol Bil Cymru
Wales Bill Legislative Consent Memorandum**

[17] **David Melding:** The various documentation—the memorandum, the written statement and the legal advice note—has been provided by Gwyn. Do you wish to update us on this, Gwyn?

[18] **Mr Griffiths:** Nac ydw.

Mr Griffiths: No.

[19] **David Melding:** A draft report will be considered on 16 June, and our reporting deadline is 26 June. Are there any thoughts on this at this stage?

[20] **Simon Thomas:** Is it 1 July that it goes to—? Yes.

[21] Na, rwy'n hapus iawn. Diolch am y nodyn cyfreithiol, sy'n esbonio pethau'n glir iawn. Fodd bynnag, mae un pwynt ynglŷn â'r Rheolau Sefydlog, onid oes? Mae hwn yn ddiddorol gan nad yw materion cyllidol yr un peth â chymhwysedd, felly, er ein bod wedi argymhell gwella'r Rheolau Sefydlog yn un o'n hadroddiadau blaenorol, nid ydynt yn gwbl berffaith. Rwyf jest am nodi hwnnw, wrth basio. Fodd bynnag, mae o gymorth mawr i gael y nodyn hwn.

No, I am very content. Thank you for the legal note, which explained things very clearly. However, there is one point on the Standing Orders, is there not? This is very interesting, because financial matters are not the same as competency, so, although we have recommended improving the Standing Orders in one of our previous reports, we have not got it quite right. I just wanted to note that in passing. However, it has been of great assistance to have this note.

**Adroddiad Sybsidiaredd Medi 2013 i Ebrill 2014
Subsidiarity Report September 2013 to April 2014**

[22] **David Melding:** We were going to have a link up for this. Has that not been arranged? We will just have a slight pause while we tune in Gregg from Brussels. I will suspend the meeting until 1.45 p.m. while we set up the link, so if Members want to attend to anything, then I would be grateful if you were back by 1.45 p.m.

*Gohiriwyd y cyfarfod rhwng 13:39 ac 13:53.
The meeting adjourned between 13:39 and 13:53.*

**Adroddiad Sybsidiaredd Medi 2013 i Ebrill 2014
Subsidiarity Report September 2013 to April 2014**

[23] **David Melding:** Welcome back, everyone. We are once again in public session. We move to item 6, which is the subsidiarity report for the period of September to April. The report is there for us. As you note, there were 15 items identified by Assembly officials as being both legislative in nature and of interest to the Assembly. However, in the end, we have not raised any subsidiarity concerns. Members may wish for clarification, or are we content? I see that Members are content. Thank you very much for that.

13:54

**Papur i'w Nodi
Paper to Note**

[24] **David Melding:** Item 7 is a paper to note on the UK Government's review of the balance of competences. I think that we all agree that it is a helpful paper, particularly the

sections that set out the UK Government's understanding of subsidiarity and proportionality. Might I suggest that committee replies to this, and that we consider our reply in private session? I see that Members are content.

13:54

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

**Motion under Standing Order 17.42 to Resolve to Exclude the Public from the
Meeting**

[25] **David Melding:** I move that

the committee resolves to exclude the public from the remainder of the meeting in accordance with Standing Order 17.42(vi).

[26] **David Melding:** I see that no Member objects.

*Derbyniwyd y cynnig.
Motion agreed.*

*Daeth rhan gyhoeddus y cyfarfod i ben am 13:55.
The public part of the meeting ended at 13:55.*