



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

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

Dydd Llun, 9 Chwefror 2015
Monday, 9 February 2015

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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

Alun Davies	Llafur Labour
David Melding	Y Dirprwy Lywydd a Chadeirydd y Pwyllgor The Deputy Presiding Officer and Committee Chair
William Powell	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Simon Thomas	Plaid Cymru The Party of Wales

Eraill yn bresennol
Others in attendance

Meri Huws	Comisiynydd y Gymraeg Welsh Language Commissioner
John Sheridan	Pennaeth Gwasanaethau Deddfwriaeth, Argraffydd y Frenhines Head of Legislation Services, Queen's Printer
Dyfan Sion	Cyfarwyddwr Polisi ac Ymchwil, Swyddfa Comisiynydd y Gymraeg Director of Policy and Research, Welsh Language Commissioner's Office
Malcolm Todd	Pennaeth Polisi Gwybodaeth, Argraffydd y Frenhines Head of Information Policy, Queen's Printer
Carol Tullo	Cyfarwyddwr, Polisi a Gwasanaethau Gwybodaeth, Argraffydd y Frenhines Director, Information Policy and Services, Queen's Printer

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 14:33.
The meeting began at 14:33.

Cyflwyniad, Ymddiheuriadau, Dirprwyon a Datgan Buddiannau
Introduction, Apologies, Substitutions and Declarations of Interest

[1] **David Melding:** Good afternoon, everyone, and welcome to this meeting of the Constitutional and Legislative Affairs Committee. I have received apologies from Suzy Davies. I'll just start with the usual housekeeping announcements. We do not have any routine fire alarm planned, so should we hear the bell, please follow the instructions of the ushers, who will help us leave the building safely. Please switch all electronic equipment to silent mode. These proceedings will be conducted in Welsh and English. When Welsh is

spoken, there is a translation available on channel 1. Channel 0 will amplify our proceedings, should you require that service.

14:34

**Tystiolaeth Mewn Perthynas â'r Ymchwiliad i Ddeddfu yn y Pedwerydd
Cynulliad**

Evidence in Relation to the Inquiry into Making Laws in the Fourth Assembly

[2] **David Melding:** We now move to item 2, which is evidence in relation to our inquiry into making laws in the fourth Assembly. I'm delighted to welcome Carol Tullo, the Queen's Printer and director of information, policy and services at the National Archives, as well as her colleagues. Carol, perhaps you'd like to introduce your team.

[3] **Ms Tullo:** I will do, indeed. Thank you, Chair. On my left is John Sheridan. John is head of legislation services at the National Archives. He is responsible for the 23-person expert team who handle legislation, and will, obviously, be able to answer some of the more process and technical questions around some of our thinking and strategy for Wales. On my right is Malcolm Todd. Malcolm is piggybacking a little, because we've used the day very effectively. So, we met the Counsel General this morning, and we've met a number of clerks and colleagues from the National Library of Wales and from the National Assembly, advising on some of the more record storage-side of legislation. So, I'm expecting, really, for John and me to do most of the talking in this session.

[4] **David Melding:** And indeed I'll let you orchestrate who answers what. Obviously, we're just after the evidence, it doesn't particularly matter which witness speaks. We are very grateful to you for giving of your time this afternoon. I'm very pleased to hear that there were other productive meetings here in Cardiff. Can I just start with a general question about the role of the Queen's Printer and the sort of things you co-operate with the Welsh Government on?

[5] **Ms Tullo:** Yes, indeed. Give me a minute just to give you a little bit of the history. The Queen's Printer of Acts of Parliament is a Letters Patent appointment, as I think you'll have seen in the written evidence. It dates back—it's got a wonderful historical legacy. Also, it's got obviously a very present role, but of course it's also about where we want to take a lot of the legislative and official publishing responsibilities in the future. The Letters Patent appoints the controller of Her Majesty's Stationery Office as Queen's Printer, and that's because Her Majesty's Stationery Office started out in the eighteenth century when there was lots of abuse of patronage and, literally, as its name suggests, it was where you got your quill pens and your ink; there had to be a central body. It's a little bit like what's happening nowadays, really, with centralising procurement. So that was in the eighteenth century—1786. It was in 1889 that Queen Victoria created the role of Queen's Printer to manage Crown copyright. And I suppose that really, if we just focus on what's important for Wales and legislation this afternoon, the fact is that legislation across the United Kingdom gets Royal Assent—it doesn't matter which jurisdictions there are. Of course, we've got a very complex and interesting constitutional process that's been evolving, particularly since about 1998, when devolution started. So the Crown copyright responsibilities relate to ensuring the provenance, the authenticity, the accuracy of the official record. And that's really where this role comes in for Wales and for legislation.

[6] There's a little bit of history around how the original responsibilities in my role were to produce the legislation so that the public knew what had been enacted, from its various Parliaments and Assemblies now. But the process around that meant: what did you do with the up-to-date legislation? And there were different processes and different responsibilities.

As it happened, the responsibility for Her Majesty's Stationery Office moved, for various reasons, from the Cabinet Office to the National Archives in 2006, and we then became part of what was the Ministry of Justice family. Within the Ministry of Justice, as you would expect, there was a big project that goes back to the 1960s—statutes in force, statute law database—and ultimately it made sense to bring it all together. So, that's why you've got www.legislation.gov.uk, which was launched in 2010. It was a massive procurement and sort of strategic exercise about how to create a platform for legislation that's robust and scalable, and that's led to being responsive, I suppose, to a lot of the developments that have happened, particularly with the Welsh language and the move in the National Assembly for Wales from Measures to Acts and all the other secondary legislation. So, that's a little bit about the role.

[7] We work very collaboratively and co-operatively with all the legislative counsel, parliamentary counsel, around the United Kingdom, because remember this is one Crown delivery of legislation, although it has to respect the distinctive nature of the different jurisdictions of the United Kingdom. And so, we meet regularly. I meet and chair a meeting with the four chief legislative counsel of England, Wales, Northern Ireland and Scotland. We met in Edinburgh just a couple of weeks ago and the next meeting is in Belfast, and we are sharing there the pressures, issues and demands because it's a very important professional grouping. We also work really closely with the Welsh Government and Welsh Government officials because, through the contractor that we operate for all legislation, we provide very distinctive, tailored services to Wales. We're responsive to what Wales needs. So, there is a lot we can tell you about that, but we can go into more detail if you would like that.

[8] **David Melding:** Alun, did you want to come in on this?

[9] **Alun Davies:** Yes, just to clarify that. I am very grateful to you, Ms Tullo. For my own mind, a Crown appointment that works for each one of the different administrations in the United Kingdom: do you provide similar services, or the same services, to each one of those administrations?

[10] **Ms Tullo:** Similar, I would say—

[11] **Alun Davies:** Or legislatures.

[12] **Ms Tullo:** Yes. I was appointed towards the end of 1997. I've got my Letters Patent in front of me. There are Crown database rights that also are significant—I was appointed to have a Letters Patent appointment to handle Crown database rights as well. That's, of course, for the Crown for Acts of Parliament and legislation. There is this evolving constitutional framework and history that we are living, as we speak—you are definitely living it. So, in 1998, when devolution was starting, there were lots of discussions about the new Scottish Parliament. I remember thinking that there were lots of thoughts about whether there should be a Queen's Printer for Scotland. Ultimately, it wasn't my decision, but they decided in the 1998 Act to create that. It's come up more recently, in the last year or so, about why there isn't a Queen's Printer for Wales—a perfectly valid question in my mind—just to show that, if you're publishing legislation and other matters, it is under the authority and the provenance of Wales, basically. I can only assume that it wasn't—. It was discussed a little bit, and you saw that in our written evidence, when the Government of Wales Act was going through in 2006; I think that the stages of going through Measures to Acts have probably meant that it's been something that's only really just arisen. But, yes, the same services are provided, because it's the Crown copyright of the legislation. In Scotland I do also provide—. I report to a Scottish Minister, I'm a Scottish office-holder, as Queen's Printer for Scotland, and I do produce an annual report that is laid before the Scottish Parliament. That's happened since I was appointed in 1998.

[13] **David Melding:** Finally, from me, just to have some sort of idea of the processes, the

sort of training and support that you've offered to Welsh lawyers in drafting Welsh statutory instruments and working bilingually, I think would be interesting to us.

[14] **Ms Tullo:** John, perhaps, can answer that one.

[15] **Mr Sheridan:** Certainly. Our role is twofold. It's partly to help with the publishing of new legislation, and then also managing revising legislation, showing how the law has changed over time. For new legislation, there are some things that we do directly in my team, which is principally about advising lawyers in the Welsh Government and those involved with obtaining the signature on made instruments around all aspects of the process of publishing—so, for example, the timelines, how to handle expedited or urgent publication. We maintain the index of statutory instrument headings, so if you want to make a new heading we can have a conversation around that. Also around the processes for corrections. We number all Welsh statutory instruments as well. So, around new legislation, it is essentially keeping the processes working smoothly and effectively, making sure that legislation is published correctly in the dual language format. We provide, under contract—well, our contractor provides—some services in terms of training and support in the use of the template that you use for drafting Welsh statutory instruments. Then, we also manage the conversion of the information from those documents into data that we make available for all of the commercial publishers to use in their own products and services. So, it's quite a range of things.

[16] **David Melding:** I'll now ask William Powell to take us through the next set of questions.

[17] **William Powell:** Apologies for my late arrival at the session. Good afternoon. Would you be able to tell us, please, a little more about the process of transposing the official print version of an Act onto its website?

[18] **Ms Tullo:** Yes. John.

14:45

[19] **Mr Sheridan:** The legislation is supplied by the National Assembly. We need to make two artefacts from the official version of the Act that the Assembly produces. One is, basically, a PDF file that can be printed, and one is a data-formatted document that we can both publish on the website and supply as data. The Policy and Legislation Committee Service will e-mail our contractor the file that they use with instructions to create a proof, our contractor will add the Welsh crest and the Act number, they will balance the pages so that the two languages match on each page, and they will send back a proof of the printed publication to the Assembly for checking. We'll then be notified by the Assembly when Royal Assent has been received, and we will publish the Act online within 24 hours, and in print, usually within three days. Alongside that, there's a process for taking the electronic file and creating the data format that we need for our internal editorial processes, and that all of the other legal publishers need to include in their own publications.

[20] **William Powell:** That's useful, thanks. Have there been any particular challenges that have been quite difficult to overcome in achieving the outcomes that are now possible, on that journey over the last few years?

[21] **Mr Sheridan:** There is quite a lot of manual work to create the data-formatted files, and that's mainly because the systems that the Government and the Assembly have in place, and that we have in place, don't fully inter-operate. Now, it doesn't cause a practical problem. We will cope, and do cope, with whatever format the Assembly and the Government choose to use. We need to manage that information in a common format. So, that's the only real issue

that we have. We have workflows that make sure that these processes, practically, are carried out very smoothly and efficiently.

[22] **William Powell:** Thank you very much. You referred to—

[23] **David Melding:** Sorry—you were going to add to that, Ms Tullo.

[24] **Ms Tullo:** I was just going to add that there is clearly a requirement to produce the dual-language versions, so once you've got that skill, and that translation required, even though it's gone through the processes in a dual way, it does add, with the going backwards and forwards a little bit, to the time—because we would normally publish instantaneously for material that doesn't require those processes. So, I wouldn't want you thinking that everything takes two to three days; it can take a matter of hours, because it's the same process that drives the officially approved, authentic text, whether it's online or whether remotely—there's not very much now—or whether it's in print. But there are some bespoke, tailored requirements that, quite rightly, we respond to for Wales.

[25] **William Powell:** Thank you very much. Mr Sheridan referred a few moments ago to the editorial role. I wonder whether you could expand a little on how that works in practice in the field of Welsh legislation.

[26] **Mr Sheridan:** So, we revise legislation, and what that means is that we take in amendments that are made to existing legislation so that people who use our service can see—perfection is—the law as it stands today. To do that, we—and, by 'we', I mean my team plus people who we're working with, including the Welsh Government, including colleagues in other UK Government departments, collaboratively to curate and manage the UK statute book—read every piece of legislation and we identify all of the amendments. We create an initial edit version that shows, for each Act, which parts of the Act are in force on the date of enactment, and which are not in force, which we mark as prospective on legislation.gov.uk, and we grey out in the background. We then read all of the commencement Orders, and we work out where the legislation is being brought into force, and when. We take particular care to do this for all four jurisdictions so that we capture where the legislation is being brought into force for Wales, separately for England, separately for Scotland, and separately for Northern Ireland. We create and manage that editorial activity.

[27] **William Powell:** Thanks.

[28] **David Melding:** Alun.

[29] **Alun Davies:** Can I come in on that final point, Mr Sheridan? The committee saw, some weeks ago now, an analysis of the Localism Act 2011, which outlined where different clauses and subsections were applicable. Now, some of those were UK, some of them were England, some of them were Wales, some of them were Scotland, some of them were England and Wales, and some of them were Wales, England and Scotland. Now, I read that and, frankly, I'd couldn't make head nor tail of it, and I'm quite sure that I wouldn't be alone in that. So, how would you, from your perspective, make that intelligible to the user?

[30] **Mr Sheridan:** We try to give you a little bit of an indication of how we do this. If you look at, for example, figure 7 in the evidence we provided, we give users of legislation.gov.uk a view of the legislation, and we have a panel on the left-hand side, and one of the options is that you can show the geographical extent. Now, I've chosen for the evidence here a piece of legislation that only extends to Wales, and you get, for each portion of the document in purple a little 'W'. If it was England and Wales it would be 'E+W'; if it was UK-wide, it would be 'E+W+S+N.I.'. Where a piece of legislation has been amended in one way for Wales and in a different way for England, we call that a concurrent version, and

we show both versions together with the jurisdiction indicator, so that you can see there's a 'W' for the Wales version of the text and an 'E' for the England version of the text. It's hard to do, and we put a lot of effort into our platform to make sure that we have the capability to always give a Wales version of the text. It's very important to us.

[31] **Alun Davies:** So, if we were looking at the statute book in that field of legislation, we would need to click through on different versions of the legislation as provided on the website in order to understand the geographical application of individual clauses, and then potentially click through again to find out how that is applied in different territories or different component parts of the UK.

[32] **Ms Tullo:** I—

[33] **David Melding:** Sorry, I should have said that the microphones operate automatically. You don't need to touch it at all. I should've told you at the start.

[34] **Ms Tullo:** Thank you. That makes it sound like quite a time-consuming interaction—

[35] **Alun Davies:** It wasn't meant to be pejorative.

[36] **Ms Tullo:** No, no—with the database. Really, I think it's always difficult to get across just how complex our wonderful legislative system has been. If you think, in this year, of Magna Carta, you know, Magna Carta is still in force. It's quite funny to look up Magna Carta and see it online in the legislation setting. The complexity comes from this evolving process, where we've built on the legislation. We are often asked that: 'Why can't you just pull out all the bits that relate to Wales or all the bits that relate to Scotland?' Of course, some amendments and some changes are literally cut-and-paste—you know, 'delete' and 'substitute'—and, of course, a lot of the work that's happened more recently with Welsh Acts is to try and do an element of consolidation, where it works: recreate, bring it out and make it something, put a frame around it so it is very clear that it's important and this is legislation for Wales. The complexity comes, though, because there are lots of layers. If any of you ever use legislation, you will know that, sometimes, amendments are made for particular purposes—'in this case, read a section as if it were...'—and we've got the same with different extents and jurisdictions as well. So, the aim, visually, is that nobody, when they're going into a piece of legislation should be all at sea. They will know where the extent is and, from the drop-down menu, they can look at different versions or the different language versions—I think, just to get that point clear. But the complexity does require us to move between different extents in the same piece of legislation at the moment. One day, it may all be neatly consolidated and simple, but that's a little way away. So, these are the devices that we use to help, ultimately, the user. We've tested it and this is what we've developed for the users.

[37] **Mr Sheridan:** Just to briefly add to that, we work quite hard to make the first version you see the best version, based on what people are expecting to see, and in no case do we, if you like, hide the Wales version. If it's part of a current version, then you will see it and you will immediately find it.

[38] **Alun Davies:** I wouldn't suggest—. I'm grateful for that. Complexity isn't good in law, is it? Clarity would be better.

[39] **Ms Tullo:** Clarity comes, initially, from the policy thinking behind the legislation, the skill of the drafter, and the interpretation that you need to place on the legislation within the corpus of the whole statute book. If we were starting in 2015 from scratch, one would probably do it slightly differently. We're not a codified nation. It's not as simple as in France or in Germany or even in some of the other states in the former Commonwealth countries. You know, we've got a real complexity to build in. But it does require us to build on what's

gone before, until you can pull it out, or until it's something that's completely new.

[40] An example that we've talked about quite recently, particularly with the distinctive nature of Welsh legislation but particularly since 2011, is that there is no Welsh interpretation Act, for example. It strikes us that that's a prime candidate for restating exactly what the definitions are for Wales, rather than always having to go back to an Interpretation Act, which will link Welsh legislation for ever in that history. So, there are tools and devices and strategies that can be followed, but really they're in your control.

[41] **Alun Davies:** I presume, just through the reality of the settlement, that the complexity is greater between Wales and other parts of the UK than it is between, say, Scotland and other parts of the UK.

[42] **Ms Tullo:** No, I wouldn't say it was, particularly. Would you, John? I think there's the language, which is part of the process, so rule that out—

[43] **Alun Davies:** Putting language aside, I mean devolution.

[44] **Ms Tullo:** I mean, Scotland has been legislating more independently, shall we say, since 1998, but even that's required quite a lot of change and evolution. You know, it wasn't all perfect from the start.

[45] **Alun Davies:** No, I presumed that, but you've got a clearer settlement there, haven't you?

[46] **Ms Tullo:** I wouldn't—. Well, I think there is now much more clarity with Welsh Acts and Welsh SIs. There always has been with Welsh SIs. The Measures did complicate matters a little, so there is more clarity now, yes.

[47] **Mr Sheridan:** I mean, it may be interesting just to say something about some of the work we've done to try and bring the drafters of legislation closer to the users, and we regularly conduct exercises to measure how best we can present legislation in a way that helps, typically lay people, make sense of the law that they're reading. Some of the difficulty is, as you say, different legislation applying in different parts of the country, but that isn't the only thing that people find difficult. Even with ideas around the naming of the component parts of the document—for example, 'subject to subsection 3' or 'Schedule 2 may provide'—people think, 'Well, where's Schedule 2? How do I find it? How do I even know that it's there?' There is this sense that many people who read legislation have that it's almost as if—and we've had people say in our user testing that they feel like this, sometimes—they're trying to be caught out.

[48] Now, there are many opportunities with online presentation that aren't available in print for tackling some of those things and for providing the user with a real frame so they can make sense of the legislation that they're reading. We have a high degree of confidence that we are well placed with the work we've done to be able to bring to bear some of those strategies and some of those approaches. It is something that people can understand if you can provide the right context, but providing the right context is really the key.

[49] **David Melding:** And it is an interesting point that new technology in this area does create a lot of opportunities. I mean, it's still tough, but it would've been mission impossible if it was all in hard copy, wouldn't it, unless you had that time to invest in a legal library? Did you want to follow up on anything at all, William? Have we covered it?

[50] **William Powell:** That concludes the questions that I wanted to pursue. Thank you very much.

[51] **David Melding:** Are there further points, Alun?

[52] **Alun Davies:** In your evidence, you describe the situation as it is in terms of, I think you call it the ‘debt of unapplied amendments and an operating “deficit”’.

15:00

[53] You also state that you expect to bring that up to date by the end of this calendar year. Are you confident that you’re going to be able to do that?

[54] **Ms Tullo:** Yes. Remember that little bit of history I gave you? There was a reason. It wasn’t just to give you lots of dates.

[55] **Alun Davies:** Yes, I appreciate that.

[56] **Ms Tullo:** It was that, traditionally, Her Majesty’s Stationery Office Queen’s Printer’s responsibility was for the Queen’s Printer authentic version of legislation as enacted. We took on this statutory publications office, and the skilled people there, in 2009. We launched legislation.gov.uk in 2010, and nobody, in the space of what is actually barely five years, has been able to deliver anything in the decades since 1967, when they had hard-copy amended legislation. So, I think it’s frustrating for a lot of people: ‘Why isn’t it up to date? Why don’t you bring this bit up to date, because this is the bit we want? Why are you doing it in this logical order?’, and, you know, I share that frustration, in a way, but we’ve got to produce something that is scalable and robust. Once it is up to date at the end of this year, then we will—because it’s never up to date, is it? It will be up to date with everything that hasn’t been enacted. But, once it’s there, it means that the complexities of the legislation—. We’ll just be able to move forward then, and there will be amendment.

[57] The one I’m always getting, and the Counsel General gave me this morning, is, you know, the relevant Schedules to the Government of Wales Act. We talked him through why. What used to happen, when they were struggling in the 1990s with this thing called the statute law database, before they had the four jurisdictions—what used to happen is that whoever shouted loudest got their Act. So, for example, if there was a particular piece of housing legislation going through, then that was updated, but it was imperfect, because you then had to go through all the editorial—and remember, these are skilled processes. We automate a lot. If we can automate it, it’s done, and the new processes, and the platform that sits underneath what used to be on the legislation site, can do a lot more for us. But if it requires skill and judgment—those amendments that say, ‘In these particular circumstances, if it’s raining or snowing in Cardiff on that February day, you will apply these principles; if not, it’s these’—you can’t automate that. It requires skill. So, it’s the logic of building it up, and I described it this morning as like ten-pin bowling. What we’ve done, increasingly, over the last couple of years—and we’ve accelerated, and we can go into more detail on the expert participation that we’ve done—is that we’ve gone through in a shamelessly logical way, exploring all the commencement Orders and all the amendments, so we’ve captured them all. The issue for us is, when we’ve done all that work, when the ninth pin is bowled, they’ll all start falling because we can then automatically apply them. But unless you do it in a logical order, you’re always looking at a subset of the legislation. You’re not making it truly scalable, so we’re just building in problems for ourselves in a year or two years’ time. That’s what happened way back in the 1960s, 1970s, 1980s and 1990s. Really, it was only when we took on what actually was a bit of a—you know, not the best challenge in the world—. We just said, ‘Yes, if anyone can bring the statute book up to date, we can, because we’ve got the technology and the skills to do it’. So, that’s the difference, I would say.

[58] **Alun Davies:** Okay, thank you for that. You referred to your meeting with the

Counsel General this morning, and you've spoken about your relationship with different Governments across the United Kingdom. Do you have a similar, parallel relationship with the legislatures?

[59] **Ms Tullo:** Yes, indeed. The relationship's different in all the different jurisdictions. So, being an office holder, obviously I have a direct relationship with a Scottish Minister, in Scotland, but colleagues—. That community that John talked about is very important, because we're not deciding this about the legislation; we're here to interpret what each jurisdiction needs. So, when you needed dual language, we delivered that. There's more we can do there, and we would want to do that, but our priority at the moment is bringing it up to date. So we work very closely with the drafters, the legislative counsel and all the Government departments that produce secondary legislation, and all their needs are slightly different, which is why—. You asked the question about training: very important, because it's in all our interests to have a streamlined, efficient, effective system. It is nobody's interests to recreate that wheel. That what used to happen, as quick fixes. Bear with us, but, by the end of this year, it will have taken us five years, but we will have brought the statute book up to date.

[60] **David Melding:** Simon.

[61] **Simon Thomas:** Diolch, Gadeirydd. Gwnaf i siarad yn Gymraeg. Un o'r pethau yr ydych newydd gyfeirio ato yw'r ffaith eich bod wedi cael cymorth arbenigol. Rwy'n gwybod, drwy gwestiynu'r Cwnsler Cyffredinol yn y fan hyn, eich bod wedi cael staff wedi'u secondio, rwy'n meddwl, o swyddfa'r Cwnsler Cyffredinol neu swyddfa'r Llywodraeth yma i'ch helpu chi gyda deddfwriaeth Gymreig. A fedrwch chi esbonio ychydig yn fwy ynglŷn â beth y mae'r aelodau staff yna wedi bod yn ei wneud, yn enwedig o gofio eich bod wedi gosod allan bod hynny'n broses rhesymegol. Felly, a ydy Cymru wedi achub y blaen ar y broses hon drwy fynd â phobl i'ch helpu chi fanna?

Simon Thomas: Thank you, Chair. I will be making my contribution in Welsh. One of the things that you've just referred to is the fact that you have been given expert assistance. I know, from questioning the Counsel General here, that you've had staff seconded, I think, from the Counsel General's or the Government's offices here to assist you with Welsh legislation. Can you explain a little more about what those members of staff have been doing, particularly bearing in mind that you have set out that that is a rational process? So, is Wales ahead in those terms, by actually seconding people to help you in that sense?

[62] **Mr Sheridan:** Very much yes. As part of our—. Again, a little bit of context: to achieve our 2015 target has involved us figuring out how we times by 10 our productivity. The Welsh Government are hugely important partners, and the two members of staff employed by the Office of the Welsh Legislative Counsel have made a really important contribution to that. We do, using our long-term expert editors, the most complex tasks around identifying the amendments. Things that are hard will be non-textual amendments—so, if you're modifying the law without amending the text—and also managing some of the commencement information. The aim of our tools is to create some tasks that people can be trained to do much more easily, which is the final update: essentially, putting the right words in the right place. The staff from the OWLC have been working on the Welsh Government's priorities and updating the text. From the end of March this year the portion of legislation that will be available for them to update will be pretty much everything that there is on the statute book. We've been working since the beginning of December on that very final stage of update, and progress is extremely rapid: 1,700 amendments have been applied to the Welsh Government's priorities in the last couple of months. We're very confident about the pace of progress, and it's a really important contribution that the Welsh Government is making. It's something that neither of us could really be doing on our own: so, truly the benefits of collaboration, matching the right type of people with the right type of task, allowing the

Welsh Government to progress its priorities for Wales legislation. We think that it's going very well, and we are very grateful to the Welsh Government for making that commitment.

[63] **Simon Thomas:** Mae'n amlwg eich bod chi'n hyderus, felly, y bydd popeth yn gyfredol erbyn diwedd y flwyddyn hon. Beth fydd y broses wedyn i wneud yn siŵr bod deddfwriaeth o Gymru yn cael ei diweddarau ac yn cael ei chadw yn gyfredol drwy'r amser?

Simon Thomas: You're clearly confident, therefore, that everything will be up to date by the end of this year. What will the process then be for making sure that Welsh legislation is properly updated and can be kept up to date all of the time?

[64] **Mr Sheridan:** That's a good question. We are working through—. Because we've optimised our processes for dealing with a debt, we are going to have to tackle how we manage ongoing updating in a slightly different way from this fixation on solving the most immediate need. A lot of it comes down to how we handle the commencement information. We are looking to include more of the processes in our initial publishing of the legislation. In particular, we want to integrate our initial edit with the first time that we see a piece of legislation and the first time that we publish it, increasing the pace of identifying the amendments so that even if there isn't a version of the text with the amendment displaying, we can indicate very clearly to the reader that there is something to be aware of. In order to make sure that we do that efficiently, we're looking at a process where we will aim to have anything that is commenced in the previous quarter up to date by the end of that quarter. That's mainly to try and counter for—. Sometimes commencement can bring something into force previous to something that's been—a commencement Order that was earlier but, actually, bringing something into force later. So, we're really focusing very hard to make sure that we have an ongoing position that's sustainable, with the level of resources that we have, and that gives a fit-for-purpose end-user presentation.

[65] **Simon Thomas:** Mae hanes deddfu yn y lle yma wedi cynyddu, byddwn i'n meddwl, yn syfrdanol ers Deddf ddiwethaf Cymru a'r refferendwm a'r deddfu llawn sy'n digwydd nawr. Mae'r mater yma o ddarpariaethau i gychwyn deddfwriaeth yn mynd i fod yn fwyfwy pwysig wrth fwrw ymlaen. Nawr, un o'r problemau sydd gennym ni fel Aelodau Cynulliad yw nad ydym ni'n gwybod, weithiau, fod y Llywodraeth wedi rhoi cychwyn ar ddarn o ddeddfwriaeth, er taw ni oedd wedi pasio'r ddeddfwriaeth yn y lle cyntaf. Mae'r cychwyn yn nwylo'r Llywodraeth, a nhw sy'n pennu'r dyddiad a nhw sy'n pennu ym mha drefn mae hyn yn digwydd. Yn aml iawn, mae modd pasio deddfwriaeth fan hyn nad yw'n mynd i weithio o gwbl oni bai bod y Llywodraeth yn cychwyn rhyw ddarn ohoni, os mae'n dibynnu ar god statudol, canllawiau neu rywbeth fel hynny. Ym mha ffordd ydych chi'n mynd i gael y wybodaeth gan y Llywodraeth ynglŷn â'r materion hynny? Os ydych chi'n ei wneud e fesul chwarter, a ydy hynny'n golygu bod legislation.gov.uk neu deddfwriaeth.gov.uk yn mynd i fod yn ddigon, eto, cyfredol i'r

Simon Thomas: The history of making legislation in this place has accelerated a great deal, I would think, since the last Wales Act and the referendum and the full legislative powers that we currently have. This issue of commencement provisions is going to become more and more important as we move forward. Now, one of the problems that we have as Assembly Members is that we don't know, on occasion, that the Government has commenced a piece of legislation, although we passed that legislation in the first place. The commencement is in the Government's hands, and they decide on the date and what procedure is used. Very often, it is possible to pass legislation in this place that will never come into force unless the Government commences a certain section, if it depends on a statutory code, guidance or whatever. How are you going to get the information from Government on those issues? If you do it on a quarterly basis, does that mean that legislation.gov.uk is, once again, going to be sufficiently up-to-date for the layperson, as it were, to understand what's happening and what legislation is actually in force in Wales?

person lleyg, fel petai, i ddeall beth sy'n digwydd a deall pa ddeddfwriaeth sydd mewn grym yng Nghymru?

[66] **Mr Sheridan:** So, we're able to do the commencement sooner than creating the version of the text, and making sure that we keep on top of commencement—in fact, on top of any amendment—is really important for us. We'll be looking at a window of between one and two weeks for us to identify any amendment or—we call them 'effects' internally—any effect, which includes any commencement effect, and then that will be displayed on the website with the piece of legislation. So, even if the commencement has the impact of modifying the text, you'll be able to see, as soon as the commencement has been made, that there has been a commencement that impacts that piece of legislation; even if the change hasn't been incorporated in the text, it will indicate that very clearly. Where everything is up to date, then we'll indicate it, and, indeed, do, with the green bar. We think, in future, once we have all of the legislation up to date, there are some other things that we can do, and we've been experimenting in our user testing with bringing the text of the commencement alongside the text of the provision, so that, particularly in cases where there are multiple commencements for a single section, users can get a really clear sense of where commencement has been for specified purposes, which, in extremis, can be, sometimes, dozens of commencement Orders or commencement regulations that bring into force even one provision. So, I think we have a pretty good handle on what we need to do to make it explicable to users, and the world gets much better once we've got the essential material up to date and we're into sustaining a high-quality service.

[67] **Ms Tullo:** May I just add that it's not just Assembly Members who have this particular problem? Even the drafters, and the parliamentary and legislative counsel, tell us that there are times when they're not even sure whether something's been commenced or not, and sometimes we're the only authority, because we've just done this dogged work to get through it. Once we've done that, the whole game changes, doesn't it, because the expertise is then diverted into currency. Remember, it's not the legacy deficit that we've inherited and are solving, it's not just current, it's also then being able to look at, as John says, some of the other clever ideas that are coming out—obviously within resources, but what we've tried to do is just accelerate this all the time. But please don't go away with the idea that it's always going to be three months out of date, because, you know, we may get to a perfect world where, once something is enacted, it stays unamended for a while, because we'll have just got it better and we will not be trying to correct errors that might have crept in by the very complexity of the way the legislation has been commenced.

[68] **Simon Thomas:** Jest ar y pwynt yna, yn symud tuag at fyd mwy perffaith, i ba raddau ydych chi'n gweld cyfuno yn digwydd yn y cyd-destun Cymreig? Hynny yw, heddiw, fe gyhoeddwyd Bil ynglŷn â rhentu tai sy'n seiliedig ar waith Comisiwn y Gyfraith, ac mae hynny'n amlwg yn cyfuno nifer o ddarnau o ddeddfwriaeth sy'n ymwneud â thai yng Nghymru ac yn dod â nhw ynghyd yn un lle. A ydy hwn yn rhywbeth rydych yn rhan ohono o gwbl, yn y broses, oherwydd mae'n amlwg bod hwn yn mynd i hwyluso pethau o ran deddfwriaeth?

Simon Thomas: Just on that point, and moving towards a more perfect world, to what extent do you see consolidation happening in the Welsh context? That is, today, we have seen the publication of a Bill on renting homes that is based on Law Commission work, and that obviously consolidates a number of pieces of legislation relating to housing in Wales and brings them together in one place. Is that something that you're involved with at all, because clearly that is going to facilitate things in terms of legislation?

15:15

[69] Hefyd, i gau pen y mwdwl ar un Also, just to conclude on a question related to

cwestiwn sy'n perthyn i hwnnw, ym mha ffordd rydych chi'n cael gwybod gan y Llywodraeth ynglŷn â phryd mae popeth yn dod i rym, ai peidio? A oes protocol fan hyn, neu ddyletswydd statudol ar Weinidogion Cymru i ddweud wrthyhych chi fel y swyddfa? Ym mha ffordd y mae hynny'n gweithio? Felly, mae dau gwestiwn, a'r ddau yn trio ateb o ran sut i symleiddio pethau, rwy'n gobeithio.

that, how are you informed by Government on when things are commenced, or otherwise? Is there a protocol here, or is there a statutory duty on Welsh Ministers to inform you or your office? How does that actually work? So, there are two questions there, but both are trying to offer a response regarding how we can simplify this process, I hope.

[70] **Ms Tullo:** If I may start with the consolidation point—and we touched on that earlier, in fact—there have been a number of examples of Welsh Acts that have done exactly this, and it does start with that clean frame around a provision. So it is, on one level, excellent. It's a really good way to go. I think, though, that there are few and far between pieces of legislation where that will be the solution, because of this wonderfully complex arrangement that we have. But, the more like that, the more simple—and you talked about making it understandable to the user—it will be. So, if you Google a piece of legislation or go through Bing, whatever search engine, the way we've developed our platform means that it's invariably the legislation.gov.uk legislation that's first—whether it's the Welsh, or Scottish, or whichever piece of legislation you use. So, that means that people go to that because it's the first thing—on data protection, housing, Welsh rented accommodation, whatever it may be. But, of course, then it gets to be very dense, because you've got to really understand your way around it.

[71] Now, we can do various things with it, some of the tools and devices that you can see, but it's still quite a sophisticated audience that's looking. You'll know from our statistics and our evidence that it's not all legally qualified people who are looking at this stuff; it's sometimes the first port of call. So, some of the things that we can do in future, as well as consolidation and encouraging that, are to look at other ways of thinking, 'Well, do we take the official statute book and do we editorialise and add links?' And there's lots of discussion about that coming through as well. Consolidation on its own is a very simple tool, because it gets rid of all that legacy knowledge around it, but it's not always going to be appropriate for everything. That's about the ability of the drafter to deal with that and do that. Is there anything you want to add on that, John?

[72] **Mr Sheridan:** Just a couple of things. There are some things that we can help with that are not our responsibility because we are curating and managing the database. For example, around trying to help understand the level of modularity that there is in the existing statute book—computing that, putting some measure against that is the kind of question that you want to pose against a legislation database to help all of those with an interest understand that. Now, these things are quite hard to do, but it's an area where, not on our own, but with others, we think we can make a contribution.

[73] The other area where we can make a contribution, again, is, for want of a better phrase, virtual consolidation, which is the combination of revising legislation and then introducing a degree of organisation in terms of how that legislation is presented on the website. And, we've developed some capabilities that make those things—again, not on our own, but with others—possible, tractable.

[74] Finally, on your question of Welsh statutory instruments and commencement, we just read the SIs, and that's how we know. We read every one and we record, for every commencement, at the most amazingly granular level. If you pass a commencement Order and you modify five previous commencement Orders, then we capture all of that, too. If you commence something, however many times, for however many purposes, for whatever it is,

we capture that and, painstakingly, we record it. It's one of the most specialist tasks in my team, and part of our strategy for revising the legislation has been to have people who are very good at that concentrate on that so that we can have some of the easier-to-do tasks done by a wider group of people. But, we just read it.

[75] We note that we've built some very nice tools for managing it along the way and, again, we would like to explore—and it's not our immediate priority—with our colleagues in Government whether some of those tools might be helpful for drafters of commencements, too, because we've obviously had to put a lot of work into how we capture that information. We might have something that could help the people who are creating it.

[76] **Simon Thomas:** Efallai fod modd, nes ymlaen, drwy rannu'r arfau hynny, mewn ffordd, i rywun fan hyn, yn Llywodraeth Cymru, bwsio'r botwm sy'n cychwyn ar y broses, a byddech chi wedyn yn golygu ac yn sicrhau ac yn dilysu, ond heb fod yn gyfrifol amdano. Diolch am hynny.

Simon Thomas: Perhaps by sharing those tools it may be possible for someone here in the Welsh Government to actually push a button that will start that process, and you would then verify and validate, but not necessarily be responsible for it. Thank you for that.

[77] Rwyf jest eisiau holi ynglŷn â deddfwriaeth yn yr iaith Gymraeg. Fel ych chi'n gwybod, mae'r lle yma'n deddfu yn y ddwy iaith bellach, ac yn fwyfwy rydym ni'n pwysu bod y deddfu yn digwydd yn y ddwy iaith. Hynny yw, nid mater cyfieithu rydym ni'n sôn amdano ond deddfu yn y ddwy iaith—mae trafodion y pwyllgor yn Gymraeg, a'r ffordd rydym ni'n mynd drwy ddeddfwriaeth yn digwydd yn yr iaith honno. Ym mha ffordd ych chi'n delio â'r iaith, felly, ar ddeddfwriaeth.gov? Rwy'n gweld yn y dystiolaeth nad ydych chi am roi'r fersiwn Gymraeg oni bai ei bod hi wedi cael ei gwneud yn Gymraeg yn y lle cyntaf. Rwy'n credu mod i'n deall beth sydd gennych chi fanna, ond a wnewch chi jyst egluro beth yw'r camau rŷch chi'n eu cymryd tuag at Fesurau a Deddfau, a nawr rheoliadau statudol hefyd, yn yr iaith Gymraeg?

I just want to ask on Welsh-language legislation. As you know, this place legislates in both languages, and more and more we are pressing for the legislation to be made in both languages concurrently. We're not talking about translation, but legislating in two languages—the committee proceedings are in Welsh, and the way we consider legislation happens in that language. How do you deal with the Welsh language on legislation.gov? I saw from your evidence that you don't give a Welsh-language version unless it's been made in Welsh in the first place. I think I understand what you're referring to in your evidence, but could you just clarify what steps you take in terms of Measures, Acts and statutory regulations too, now, in the Welsh language?

[78] **Mr Sheridan:** So, we devised an approach that we tested with the help and collaboration of the Welsh Government, with Welsh speakers here in Cardiff, and the aim is for the whole of the legislation.gov.uk website to be available in Welsh. Indeed, it is, and, where the legislation has been made in Welsh—enacted or made in Welsh—then you will see on the left-hand side there is the option, regardless of whether you're in the Welsh-language version of legislation.gov.uk or the English-language version of legislation.gov.uk, to toggle between the language versions of the legislation itself. So, that's where we are now.

[79] There are some things that we know people would like and, if you like, we have some stretch goals that we know the Welsh Government is very keen for us to make some headway on. One is to achieve with the online presentation the kind of dual-column view that you can currently only have by viewing the PDF. The other, which is a stretch goal that we have thought about in terms of how we're approaching revising legislation, is how we help and work with the Welsh Government to potentially produce revised versions of legislation in the Welsh language, and by the way in which we've managed the data, and the way in which our

new editorial systems work, we've done that in such a way as to mean that the amount of duplication of effort that you would need to do to create revised versions of legislation in Welsh is the minimum possible. In other words, you wouldn't have to go and revisit all of the commencement and amendment research; it's just putting the words in the text. That's how our approach has worked. We've had that as, again, not a 2015 objective, but we've been very mindful of needing to have an answer about how that gets done as we've been going through this process. It's about being very mindful of, and understanding the importance of, Welsh as a language of law in Wales. We need to have good solutions today and to keep on making progress with the Welsh-language service that we provide.

[80] **Ms Tullio:** May I add two small points? One is that, looking at it through your eyes, when the invitation came to attend today—I look at the site all the time, but I was just flicking through, looking at it, and there are simple things that just make you think, 'My goodness, the licence under which all this is wonderfully open is in English', because it's the open government licence. So, the first thing I thought was, 'Well, why don't we have a Welsh version?', So, there are little things that we get wrong. No-one has picked us up on it, but we're looking at it all the time.

[81] The other thing is the user research that we did—this was with the Welsh Language (Wales) Measure 2011, when we were about to go into Welsh because it had the status you referred to. All that research was with about 17 or 20 speakers here—lots of intensive user research and trying different versions out with them. But, of course, all of that happened before your language commissioner, who I know is giving evidence also, was in post. So, reaching out and talking to her about what is required now is obviously something that we would do. So, this is another example of this staged evolution, and we're getting to be something that's really tractable and brilliant, but we're not there yet.

[82] We're very open, as I hope you can hear, and John talked about those stretch targets. If we had more resources, would we do more? The Counsel General asked me that this morning, and I thought, 'Well, yes, of course, you can do more if you've got more people', but it still requires us to quality control it and to assure it, because, remember, this is the authentic version. It's the stuff that, as John was reminding me, has to be evidence in court. A comma, a footnote, a full point can make all the difference. So, we don't want to lose that, because, to us, having made the data completely available—and anyone can use it and take it in different formats—it's open for anyone to come up with their little application programme interface or app to pull off bits of Welsh legislation. It hasn't happened yet. We'd love it to happen. It hasn't happened in a lot of places, but we do see on Twitter now bits of legislation being incorporated because it's so easy. We're at a very early stage, and what we've done is create that platform that anyone can build on. We will revisit as we are going through, particularly now, what we've been doing since 2011-12, and there's a lot more that we can do, particularly to respect the importance of the Welsh language.

[83] **Simon Thomas:** Jest ar y pwynt hwnnw, fel cwestiwn olaf gen i, roeddwn i'n gweld yn y dystiolaeth eich bod yn sôn am greu *avatars* neu'r personau yma sy'n gymeriadau rhithiol i ymwneud â'ch gwasanaethau, fel petai. A ydych chi wedi creu siaradwyr Cymraeg yn y cyd-destun hynny, neu a ydych chi am greu rhai sy'n defnyddio'r Gymraeg? **Simon Thomas:** Just on that point, and it's my final question, I saw in your evidence that you mentioned creating avatars or personas, which are virtual characters explaining your services. Have you actually created any Welsh-speaking avatars in that context, or do you intend to create some that will speak Welsh?

[84] **Mr Sheridan:** We have three personas, who encapsulate the needs and motivations of the different kind of skill levels that people have when they're working with legislation. When we did the user testing for the Welsh-language version, we identified Welsh speakers in

each of those three categories, and my gut instinct is that I think—. If you're a reader or user of legislation, our evidence is that you probably fall into one of those three groups, regardless of whether you speak Welsh or you speak English. The real challenges for us about how we provide the right context are not a function of the language you choose to use, but a function of how much of a mental model you have for how the statute book works, and the things you're going to be struggling with and therefore the things that we need to design services for to address are going to be about presenting the right context. So, I think I'd be loath—. I mean, we mapped Welsh speakers to our existing personas for the testing and, having been through that exercise, that felt like the right thing to do.

[85] **Ms Trullo:** Perhaps we'll work with the language commissioner when we repeat it, to do it, because there's a lot more coming up. It's a good point.

[86] **Simon Thomas:** Ocê. Diolch yn **Simon Thomas:** Okay. Thank you very fawr. much.

[87] **David Melding:** I just want to ask a final question. I think we were all astonished by the number of hits to the website. I mean, it's colossal, frankly. I mean, the order of magnitude completely surprised me. Does this show the system's working, or are people having to go back all the time because they don't understand it? Or, does it demonstrate what you can achieve with new technology: simply that it does permit much more access, frankly, than any system before, when we just had hard copies?

[88] **Ms Trullo:** I think we would agree the latter. One of the earlier questions was also around the fact that there is more legislation coming through; it's not just in Wales, it's everywhere. One of the interesting things for us—we hadn't been asked to do it before, but we thought we would do it—was pulling out the statistics we gave you about the top 10 Welsh Acts. I mean, you may have come up with those yourself, and they may have been the ones you thought were of interest, but, looking across the board, we can see where the popular material is. If you've got something that's really in the newspapers, I can remember when there was the hunting Bill or the hunting Act, and that, for some reason, suddenly went right to the top of the most used bit of legislation. But it doesn't endure, because it's just topical. So, I'm sure there's something around the topicality of legislation. There's also something around whether something is complex and they need to go in and out.

15:30

[89] Data protection always hits the top of the list. Now, it's not because if you're told in a store that they can't give you some details because of the data protection Act, you go and Google it and you get this legislation, it's not going to help you at all. So, there may be something around the fact that people have little phrases and they look them up. Freedom of information is never up there, which just convinces us that the people who use FOI legislation are quite technically competent—you know, the journalists, the specialists in there. So, there is a range. But it has been going up, and the big jump, which we just were amazed about, was when we did go online with a fully working service. Remember, it replaced a number of services that were online, in the sense of them being screen versions of the print, but suddenly we were in the millions, and it has just grown up. So, I'm sure that it's a mix of all those things. Just looking at the statistics, I am intrigued to see that December was just bigger than November, and was bigger than October. We will now try to start to keep these statistics for you because I think they're really interesting.

[90] **David Melding:** I think that we'll be very interested in these statistics because there's quite a lot that you can infer from them, really, in terms of the application of law, its interest to the public and those bodies affected.

[91] **Ms Tullo:** One of the things that I would suggest—if you haven't looked at it, it might help for the clerk to look at it—is to look at a Queen's Printer for Scotland report, and look at the schedules and the statistics. These are what we obviously collect, and I report on the ones that I am asked to report on. We try to give a flavour. Remember, it's also about official publishing, copyright and other matters. There, you literally will know the length, the size, the time it took to produce the legislation. That might just give you a little feel about some things that might help you as a committee as well. We're very keen to explore that.

[92] **David Melding:** Well, thank you very much. I think that I speak for everyone. It was a fascinating session, and it has brought a really important area of the law-making process—or accessing what's been made law, anyway—to our attention, and some really pertinent issues have been brought to our attention. So, thank you very much for making the time to come and give evidence to us directly this afternoon.

[93] **Ms Tullo:** Delighted. Thank you.

[94] **David Melding:** Have a safe journey back home.

[95] **Ms Tullo:** Thank you.

15:32

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

[96] **David Melding:** We move now to item 3, which are instruments that raise no reporting issues under our Standing Orders. They are listed there. Are we content? I see that we are.

15:36

**Tystiolaeth mewn Perthynas â'r Ymchwiliad i Ddeddfu yn y Pedwerydd
Cynulliad**

Evidence in Relation to the Inquiry into Making Laws in the Fourth Assembly

[97] **David Melding:** Croeso. **David Melding:** Welcome.

[98] **Ms Huws:** Prynhawn da. **Ms Huws:** Good afternoon.

[99] **David Melding:** As you get settled, can I just remind you that you don't need to touch the microphones. You know, but—[*Laughter.*]

[100] **Ms Huws:** I promise we won't.

[101] **David Melding:** Item 4 is a further evidence session in relation to the inquiry into law making in the fourth Assembly. I'm delighted to welcome Meri Huws, the Welsh Language Commissioner, and Dyfan Sion from the office of the commissioner. *Croeso*; we're very grateful for your attendance. I just want to start, really, commissioner, with your observation that the Welsh Government has not yet succeeded, perhaps, in making the Welsh language a central consideration in the legislative process, by which I think you mean in relation to general legislation, rather than specifically legislation about the Welsh language. I think that's an interesting comment. Would you like to expand on that?

[102] **Ms Huws:** Iawn. Diolch yn fawr iawn i chi a diolch am y cyfle yma i fod yn rhan o'r drafodaeth aruthrol o bwysig yma, rwy'n credu, ynglŷn â deddfu yng Nghymru, a deddfu ynglŷn â'r Gymraeg yng Nghymru.

[103] Mi roedd sicrhau bod y Gymraeg yn rhan o ystyriaethau deddfwriaethol a chyfreithiol Cymru yn bwysig i ni o ddechrau sefydlu'r comisiynydd. Nid oeddwn yn teimlo bod Mesur y Gymraeg (Cymru) 2011 yn ateb i bopeth ynddo'i hunan. Roedd yn dal i fod yn eithriadol o bwysig, wrth fod gwahanol ddarnau o ddeddfwriaeth yn cael eu drafftio—a'u cynllunio a'u hystyried yn y lle cyntaf—fod y cwestiwn sylfaenol yn cael ei ofyn ar bob achlysur, a'r cwestiwn yn y man cychwyn yw: a oes yna ystyriaethau o ran y Gymraeg yn y ddeddfwriaeth hon, yn y Mesur potensial yma, ac yn y maes yma? Roeddwn yn teimlo'n gryf fel comisiynydd fod yna dystiolaeth gadarn nad oedd hynny'n digwydd.

[104] A gaf i gyfeirio yn benodol at ddarn o ddeddfwriaeth y buom ni'n weithgar iawn yn ceisio dylanwadu arni, sef beth sydd nawr yn ddeddfwriaeth ynglŷn â gofal cymdeithasol a llesiant? Mi oedd hon yn ddeddfwriaeth a oedd yn cael ei hystyried yn ystod 2013-14. Gwnaethom fwydo i mewn i'r broses yna ar bob pwynt ffurfiol a cheisio dylanwadu. Roeddwn yn siomedig—ac mi wnaif i ddefnyddio'r gair 'siomedig'—nad oedd y dystiolaeth yna i weld yn cael effaith wrth fod y ddeddfwriaeth yn dod trwy'r broses. I ddweud y gwir, cymerodd argymhelliad neu gynnig gan Aelod ar lawr y Cynulliad, ar lawr y Senedd, ar ddiwedd y daith yna i'r Gymraeg gael ei gosod o fewn ddeddfwriaeth lle buasech yn meddwl bod y Gymraeg yn gwestiwn sylfaenol, sef gofal cymdeithasol, asesu unigolion, asesu eu hanghenion.

[105] Felly, rwy'n teimlo bod angen, yn y man cyntaf, inni sicrhau bod y cwestiwn sylfaenol yna'n cael ei ofyn: a ddylid ystyried y Gymraeg yn y ddeddfwriaeth yma? Nid wyf yn dadlau bod angen rhoi ystyriaeth o'r Gymraeg ym mhob Mesur, ym mhob darn o ddeddfwriaeth, ond mae angen gofyn y cwestiwn o ran pob darn o ddeddfwriaeth. Mae 14 o Fesurau wedi mynd trwy'r Cynulliad hyd heddiw, dau ohonyn nhw sy'n

Ms Huws: Yes. Thank you very much and thank you for the opportunity to be a part of this very important discussion, I think, about legislating in Wales, and legislating on the Welsh language in Wales.

Ensuring that the Welsh language was a part of the legislative and legal considerations in Wales was important for us from the outset of the establishment of the commissioner's office. I didn't feel that the Welsh Language (Wales) Measure 2011 was a solution to everything in itself. It was still very important, as different pieces of legislation were being drafted—and planned and considered in the first place—that the fundamental question was asked on every occasion, and that question at the outset was: are there considerations in terms of the Welsh language in this legislation, in this potential Bill and in this area? I did feel very strongly as a commissioner that there is strong evidence that that wasn't happening.

May I refer specifically to a piece of legislation that we had a lot of engagement with in trying to influence it, namely what is now legislation on social care and wellbeing? That was legislation that was considered in 2013-14. We fed into that process at every formal stage and tried to influence it. I was disappointed—and I will use the word 'disappointed'—that that evidence didn't seem to be having an impact as the legislation went through that process. To tell you the truth, it took a recommendation or a proposal by a Member on the floor of the Assembly, on the floor of the Senedd, at the end of that journey for the Welsh language to be placed within legislation where you would think that the Welsh language would be a fundamental question, namely social services, assessing individuals and their needs.

Therefore, I feel that there is a need, at the outset, for us to ensure that that basic question is asked: should the Welsh language be considered in this legislation? I am not arguing that you need to give the Welsh language consideration in every Bill, in every piece of legislation, but we need to ask the question with regard to every piece of legislation. There are 14 Bills that have gone through the Assembly so far, two of which

cyfeirio'n benodol at y Gymraeg. Nid oes gen i dystiolaeth fod y cwestiwn wedi cael ei ofyn yn briodol gyda'r gweddill. Pe bai'r cwestiwn wedi cael ei ofyn, mae'n ddigon posibl mai 'na' fyddai'r ateb; nid oes ystyriaeth fan hyn. Felly, mae angen ffordd hollol, hollol gyson o ofyn y cwestiwn yna ar y dechrau, a chael dystiolaeth bod y cwestiwn yna yn cael ei ofyn a'i ateb, ac mai nid jest tic mewn bocs yw hynny, ond wrth fod y broses graffu yn symud yn ei blaen, fod y Gymraeg, lle mae hynny'n briodol, yn cael ei gweld fel ystyriaeth. Nid yw Mesur y Gymraeg (Cymru) 2011 yn ei hunan yn delio â'r holl sefyllfaoedd lle y gellid ystyried y Gymraeg.

refer specifically to the Welsh language. I don't have evidence that the question has been asked appropriately with the remainder. If the question had been asked, it's possible the answer would have been 'no'; there's no consideration here. So, we need an entirely consistent way of asking that question at the outset, and to have evidence that that question's been asked and answered, and that it's not just a box-ticking exercise, but that as the scrutiny process moves forward, that the Welsh language, where appropriate, is seen as a consideration. The Welsh Language (Wales) Measure 2011 in itself doesn't deal with all of the situations where the Welsh language could be considered.

[106] **David Melding:** Thank you for that. I think that gives us a substantial issue immediately to think about, and I appreciate the examples you've given as well. I shan't bother with my second question—I think that's been entirely covered. So, Alun, would you take us forward, please?

[107] **Alun Davies:** Diolch i chi. Rwyf wedi darllen y dystiolaeth, a'r llythyr rydych wedi ei ysgrifennu at y pwyllgor. Wrth ddarllen drwy hynny, roeddech yn mynd dipyn bach yn bellach nag yr ydych newydd ei wneud wrth ateb cwestiwn cyntaf y Cadeirydd. Roeddech hefyd yn dweud bod y broses o graffu ar ddeddfwriaeth ddim yn cynnig lle priodol i'r Gymraeg, os rwy'n cofio'r geiriau. Rydych yn dweud bod y system pwyllgor sydd gyda ni ddim yn creu lle penodol i'r Gymraeg. A oes modd i chi ehangu ar hynny, plîs?

Alun Davies: Thank you. I've read your evidence, and the letter that you've written to the committee. In reading through that, you went a little further than you've just done in answering the first question from the Chair. You also said that the process of scrutinising legislation didn't provide an appropriate place for the Welsh language, if I remember your wording correctly. You said that the committee system that we have doesn't create a specific space for the Welsh language. Could you expand on that, please?

[108] **Ms Huws:** Oes. Diolch yn fawr. Ysgrifennwyd yr ymateb i'r ymgynghoriad ym Mehefin 2014, ac roedd hynny ar sail profiadau gweithredu am ddwy flynedd fel Comisiynydd y Gymraeg, ac mi oedd yn seiliedig ar y profiad yna. Rwyf wedi cyfeirio'n barod at y Bil gofal cymdeithasol a rhwystredigaeth ynglŷn â'r ffaith bod y dystiolaeth ddim i'w gweld yn cael effaith wrth i'r drafftio ddiwydd.

Ms Huws: Yes. Thank you very much. The response to the consultation was written in June 2014, and that was on the basis of having been operating for two years as Welsh Language Commissioner, and was based on that experience. I've already referred to the social care Bill and the frustration that the evidence didn't seem to be having an impact as the drafting was taking place.

[109] Mi wnaf i gydnabod, ers mis Mehefin, fod yna lygedyn o obaith a gwelliant wedi digwydd. Mae yna esiamplau: er enghraifft, dyma'r pumed tro i fi ymddangos ers haf diwethaf o flaen pwyllgor craffu. Rwy'n croesawu hynny. Ac nid jest y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol; mae'r comisiynydd wedi

Now, I will acknowledge that, since June, there is a glimmer of hope, and there has been some improvement. There are examples: for example, this is the fifth time that I've appeared before a scrutiny committee since last summer, and I welcome that. And it's not just the Communities, Equality and Local Government Committee;

cael cyfle i ymddangos o flaen y Pwyllgor Iechyd a Gofal Cymdeithasol, y Pwyllgor Amgylchedd a Chynaliadwyedd, y Pwyllgor Cyfrifon Cyhoeddus, ac heddiw. Felly, mae tystiolaeth bod yna fwy o gyfleoedd i fwydo mewn.

[110] Serch hynny, llygedyn bach o obaith yw hynny. Mi wnaf i ofyn i Dyfan mewn munud i sôn am Fil Cynllunio (Cymru), a, hefyd, a gaf i gyfeirio at ddau ymgynghoriad yn benodol? Rwyf eisiau cyfeirio at ddau ymgynghoriad lle rwy'n teimlo bod yna ddim tystiolaeth bod craffu wedi digwydd ar unrhyw bwynt cyn cyhoeddi rhywbeth. Fe wnaf i gyfeirio atynt yn benodol.

[111] Mae yna ymgynghoriad wedi bod ar safonau iechyd. Roedd yr ymgynghoriad yna wedi cau ym mis Ionawr. Nid oedd sylw yn unman at y Gymraeg. Mewn gwlad lle mae yna ddwy iaith, a lle rydych yn sôn am safonau o ran iechyd—delio â materion iechyd—buasech yn disgwyl y byddai cyfeiriad. Yr ail fater yw cynllunio gweithlu'r blynyddoedd cynnar a gofal plant. Roedd yr ymgynghoriad yna wedi cau yn Rhagfyr y llynedd—rhyw chwech wythnos yn ôl. Eto, gyda maes sylfaenol o ran gofal plant a'r blynyddoedd cynnar, nid oedd cyfeiriad at y Gymraeg yn y broses yna.

[112] Felly, mae rhywbeth yn mynd ar goll; mae'n anghyson a mae'r broses graffu dal yn denau. Gellid dadlau bod yna ormod o bwysau ar y pwyllgor sydd yn delio â'r Gymraeg, sef y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol. Efallai mai dyna sy'n digwydd: o fewn portffolio eang iawn, nid ydynt yn gallu gwireddu'r hyn sydd ei angen o ran edrych ar draws portffolio'r Llywodraeth ar y Gymraeg.

[113] **Alun Davies:** Felly, pan rydych yn sôn am y ffaith bod yna ddim sôn aboutu, neu bod dim lle i'r Gymraeg yn ystod y prosesau yma, rydych yn sôn aboutu'r broses ddeddfu. Nid ydych yn sôn am *input* y Llywodraeth—rydych yn sôn aboutu beth sy'n digwydd fan hyn, yn y Cynulliad.

the commissioner has had an opportunity to appear before the Health and Social Care Committee, the Environment and Sustainability Committee, the Public Accounts Committee, and today. So, there is evidence that there are greater opportunities to feed into the process.

However, it is just a glimmer of hope. I will ask Dyfan in just a second to speak on the Planning (Wales) Bill, and may I also refer to two specific consultations? I want to refer to these consultations, where I do feel that there was no evidence that there had been scrutiny at any point before publication. I will refer to them specifically.

There has been a consultation on health standards. That closed in January. There was not a single mention made anywhere of the Welsh language. In a bilingual country, where you are talking about standards in terms of health—dealing with health issues—you would have expected there to have been a reference. The second issue is on the planning of the workforce in the early years and childcare. That consultation closed in December of last year—some six weeks ago. Again, this was fundamentally important in terms of early years and childcare, but there was no reference to the Welsh language in that process either.

So, there is something amiss; it is inconsistent and the scrutiny process is still not sufficient. One could argue that there is too much pressure on the committee dealing with the Welsh language, namely the Communities, Equality and Local Government Committee. Perhaps that's what happens: it's a very broad portfolio, and perhaps they can't actually look across Government portfolios on issues related to the Welsh language.

Alun Davies: So, when you mention the fact that there's no mention of, or nor room for, the Welsh language during these processes, you're talking about the legislative process. You're not talking about the input of the Government—you're talking about what's happening here, in the Assembly.

[114] **Ms Huws:** Rydym yn sôn am yr hyn sy'n digwydd gyda'r Llywodraeth. Roeddwn hefyd yn codi cwestiwn ynglŷn â chraffu, ac efallai ei bod yn ddefnyddiol fan hyn i sôn am y Bil cynllunio.

Ms Huws: We are talking about what's happening with Government. I was also raising the issue of scrutiny, and perhaps it might be pertinent to talk of the planning Bill now.

[115] **Mr Sion:** Rwy'n meddwl mai'r pryder ydy nad oes yna ystyriaeth yn cael ei rhoi i'r Gymraeg ar y cychwyn wrth i'r Llywodraeth ddatblygu'r ddeddfwriaeth yn y lle cyntaf. Mae'r Bil cynllunio yn amlwg yn enghraifft lle cawsom ni Bapur Gwyn tua'r adeg yma y llynedd. Gwnaethom ni, fel swyddfa comisiynydd, a sawl sefydliad arall roi tystiolaeth ynglŷn â'r angen i gynnwys cyfeiriad at y Gymraeg yn yr ymgynghoriad hwnnw. Mae lot o drafodaethau wedi digwydd ers hynny, yn amlwg—mae'r Bil drafft wedi cael ei gyflwyno i'r pwyllgor—ac, eto, mae lot o dystiolaeth o blaid cynnwys cyfeiriad at y Gymraeg gan lot fawr o randdeiliaid gwahanol; gan awdurdodau cynllunio lleol hefyd, er enghraifft. Hyd yma, rydym dal mewn sefyllfa lle nad oes unrhyw ystyriaeth i'r Gymraeg yn y Bil. Rydym yn cydnabod ac yn croesawu'r ffaith bod y pwyllgor amgylchedd wedi derbyn lot o'n hargymhellion ni, ac amser a ddengys rŵan yn amlwg a yw'r Llywodraeth yn ystyried hynny ai peidio.

Mr Sion: I think the concern is that no consideration is given to the Welsh language at the outset as the Government develops the legislation in the first place. The planning Bill is evidently an example where we had a White Paper this time last year. We, as a commissioner's office, and several other organisations gave evidence on the need to include a reference to the Welsh language in that consultation. There has been lots of discussion since then, obviously—a draft Bill has been presented to the committee—and, again, there is a lot of evidence in favour of including a reference to the Welsh language from many different stakeholders; from local planning authorities as well, for example. To date, we're still in a situation where there's no consideration for the Welsh language in the Bill. We recognise and welcome the fact that the environment committee has accepted a lot of our recommendations, and only time will tell as to whether the Government is considering those or not.

[116] Mae o'n bryder, rwy'n meddwl. Fel y dywedodd Meri efo'r Bil gwasanaethau cymdeithasol hefyd, os oes yna ystyriaeth yn cael ei rhoi i'r Gymraeg, ar y diwedd mae hynny'n dueddol o ddigwydd. Hynny ydy, nid oes tystiolaeth bod yna lot o ystyriaeth ar y cychwyn; mae'n cymryd dipyn o ymgrych a lot o ymatebion wedyn i berswadio efallai i gael cyfeiriadau at y Gymraeg yn y diwedd.

It is a concern, I think. As Meri said with the social services Bill as well, if consideration is given to the Welsh language, it tends to happen at the end. That is, there's no evidence of much consideration being given at the outset; it takes quite a lot of campaigning and lots of responses to persuade them to ultimately include reference to the Welsh language.

[117] **Alun Davies:** Beth rydych yn ddweud yn y fan yna, o beth rwy'n ddeall, yw bod gennych chi broblem gyda'r Bil ei hun, gyda'r polisi sydd tu ôl i'r Bil—polisi'r Llywodraeth—a bod yna ddim ystyriaeth i'r Gymraeg fel rhan o'r Mesur. Nid wyf *necessarily* yn anghytuno gyda chi, fel mae'n digwydd, ond pan mae'n dod i'r broses o ddeddfu a chraffu ar y ddeddfwriaeth mae'r Llywodraeth wedi ei chynnig, a ydych chi'n teimlo eich bod wedi cael y cyfle y byddech wedi disgwyl ei gael i siarad gyda'r pwyllgor a chymryd rhan yn y broses o graffu?

Alun Davies: From my understanding of what you're saying, you have a problem with the Bill itself, with the policy underpinning the Bill—Government policy—and that there's no mention of the Welsh language as part of the Bill. I don't necessarily disagree with you, as it happens, but when it comes to the legislative process and scrutinising legislation brought forward by the Government, do you feel that you had the opportunity you would have expected to speak to the committee and to participate in the process of scrutiny?

[118] **Mr Sion:** Yn achos y Bil cynllunio, do; yn sicr, rydym wedi cael y cyfle yna yn achos y Bil yna. Felly, dim problemau o ran hynny. Rwy'n meddwl bod yna bwynt mwy cyffredinol o ran craffu yn gyffredinol, ac mae yna bryder, oherwydd y ffaith bod yna lot o Filiau yn dod drwodd ar hyn o bryd a lot o waith gan rai pwyllgorau, efallai fod yna anghymesuredd hefyd o ran y gwaith deddfu a chraffu sydd gan rai pwyllgorau, ac nad ydy hynny'n caniatáu digon o amser wedyn i graffu ar bwnc fel y Gymraeg.

Mr Sion: In the case of the planning Bill, yes; certainly, we've had that opportunity with that Bill. So, no problems there. I think that there's a more general point to be made in terms of general scrutiny, and there is a concern, because of the fact that so many Bills are coming through at the moment, meaning a lot of work for some committees, that there may be a lack of proportionality in terms of the legislative and scrutiny work that some committees are doing, and that that then does not allow for adequate scrutiny of subjects such as the Welsh language.

[119] **Ms Huws:** A gaf i jest ategu hefyd, o'm rhan i, bod craffu wrth i ddeddfwriaeth gael ei chreu yn bwysig, ond mae yna graffu hefyd o ran gweithredu deddfwriaeth? Mae gan Gomisiynydd y Gymraeg rôl o ran hynny mewn rhai meysydd. Esiampl i chi: darn o ddeddfwriaeth sydd yn cyfeirio at y Gymraeg, sef y Ddeddf Safonau a Threfniadaeth Ysgolion (Cymru) 2013, sydd yn gosod dyletswydd statudol ar awdurdodau lleol i ysgrifennu ac i ddrafftio cynllun strategol addysg Gymraeg. Rydym ni wedi edrych ar hynny. A oes yna graffu wedi bod tu fewn i bwyllgorau'r Cynulliad ar weithredu deddfwriaeth? Rwy'n credu bod yna ail gwestiwn ynglŷn â'r pwerau craffu, neu'r cyfrifoldebau craffu, ehangach hynny, nid yn unig wrth ddechrau a chreu'r ddeddfwriaeth, ond wrth ei gweithredu. Ac rwy'n credu bod yr esiampl yna—. Nid oes gen i unrhyw dystiolaeth bod unrhyw bwyllgor o fewn y Cynulliad wedi edrych ar ddarn reit bwysig o gynllunio addysg cyfrwng Cymraeg.

Ms Huws: Can I also add, from my point of view, that scrutiny as legislation is drawn up is important, but there is also scrutiny in terms of the implementation of legislation? The Welsh Language Commissioner has a role in that sense in certain areas. An example for you: a piece of legislation that does make reference to the Welsh language is the School Standards and Organisation (Wales) Act 2013, which places a statutory duty on local authorities to draft a Welsh language strategic plan. We've looked at that. Has there been scrutiny within Assembly committees on the implementation of legislation? I think there's a second question on those wider scrutiny powers, or scrutiny responsibilities, not only in drawing up legislation, but also in implementing legislation. And I believe that that example—. I have no evidence that any committee within the Assembly has looked at what is a relatively important piece of legislation in terms of Welsh-medium education planning.

[120] **Simon Thomas:** Fel pwynt o wybodaeth ar hynny, ac nid yw'n hysbys—ond man a man iddo fe fod yn hysbys nawr—fe fydd y Pwyllgor Plant, Pobl Ifanc ac Addysg yn edrych ar yr ochr yna cyn yr haf. Dyna enghraifft o beth ddylai pwyllgorau wneud; rwy'n cytuno.

Simon Thomas: As a point of information on that, it's not known—but it might as well be made public—but the Children, Young People and Education Committee will look at that side of things before the summer. That is an example of what committees should do; I agree.

[121] **Alun Davies:** Ond yn eich dystiolaeth rydych hefyd yn sôn am—

Alun Davies: But in your evidence you also mention—

[122] **David Melding:** That feeds into the issue of post-legislative scrutiny. I'm sorry; I was just whispering to the clerk.

[123] **Alun Davies:** Rydych chi wedi bod **Alun Davies:** You've been talking about

yn sôn am graffu yn y broses ddeddfu, ac am graffu ar Fil drafft penodol. Ond rydych chi hefyd yn dweud bod y strwythur a'r prosesau sydd gennym fan hyn—y prosesau deddfu—yn rhwystro pobl rhag ystyried materion megis y Gymraeg, sy'n torri ar draws sawl pwnc yn y Cynulliad. Mae'r Gymraeg yn enghraifft dda o hynny, ac rydych chi'n dweud hynny yn eich tystiolaeth. Sut y byddech chi'n ymateb i hynny, a sut y byddech chi'n cynnig proses wahanol a fydd yn gwneud hynny?

[124] **Ms Huws:** Mae yna sawl ffordd y gellid eu hystyried fan hyn. Yn gyntaf, sicrhau cysondeb gyda'r ddeddfwriaeth i gyd; mewn ffordd, rydym yn ailddweud ein hunain. Os ydy'r cwestiynau sylfaenol yn cael eu gofyn ar ddechrau'r broses ddeddfu, a hynny'n cael ei fwydo trwy'r craffu sy'n digwydd, er gwaethaf pa bwyllgor sy'n craffu ar y ddeddfwriaeth, a bod yna gysondeb—achos anghysondeb rydym yn ei weld ar hyn o bryd; anghysondeb eithriadol ar hyn o bryd—. Os ydy hynny'n digwydd ac yn cael ei brif-ffrydio i weithredu pob un pwyllgor craffu, a bod pob pwyllgor craffu'n deall goblygiadau hynny, mae hynny'n un ffordd ymlaen.

[125] Mae yna ffyrdd eraill o graffu trawsbynciol, ac rydym wedi cyfeirio yn y dystiolaeth at y Cydbwyllgor Hawliau Dynol sydd yn bodoli yn San Steffan. Mae modd edrych ar fodel o'r teip yna, lle mae yna bwyllgorau ymbarél yn edrych ar draws portffolio, lle mae gan y Cadeirydd yr hawl i alw i mewn ddarnau o ddeddfwriaeth. Neu, fe allai rhywun ofyn y cwestiwn, a chymryd y model yna: a oes gan y pwyllgor yma rôl i chwarae gydag egwyddorion trawsbynciol, neu faterion trawsbynciol? Felly, nid creu pwyllgor arall, ond edrych a oes gan y pwyllgor yma gyfle a chyfrifoldeb i ddatblygu'r sgil yna ac i ddatblygu'r swyddogaeth yna.

[126] **David Melding:** William.

[127] **William Powell:** Diolch, Gadeirydd. Firstly, if I could, as a member of the Environment and Sustainability Committee, thank you for the interactions that you've had with our committee, which, I think, have been influential in bringing forward the Stage 1 recommendations. I suppose I should declare an interest, Char, in being a co-sponsor of a statement of opinion that is relevant to that specific area around the Welsh language.

scrutiny in the legislative process, and about scrutinising a specific draft Bill. But you also say that the structure and the processes that we have here—the legislative process—prevent people from considering issues like the Welsh language, which are cross-cutting issues in the Assembly. The Welsh language is a good example of that, and you state that in your evidence. How would you respond to that, and how would you propose a different process that would do that?

Ms Huws: There are a number of approaches that could be considered here. First of all, ensuring consistency with all legislation; in a way, we're repeating ourselves. If the fundamental questions are asked at the start of the legislative process, if that is then fed through the scrutiny that happens, no matter which committee scrutinises the legislation, and if there is consistency—because it is very inconsistent at present; very inconsistent indeed—. If that happens and it is mainstreamed throughout all scrutiny committees, and all scrutiny committees understand the implications of that, then that is one way forward.

There are other ways of scrutinising cross-cutting issues, and we have referred in our evidence to the Joint Committee on Human Rights in Westminster. It is possible to look at a model such as that, where umbrella committees look across portfolios, where the Chair has the right to call in pieces of legislation. Or, one could ask the question, in assuming that model: does this committee have a role to play in terms of cross-cutting principles or cross-cutting issues? So, not creating another committee, but looking at whether this committee has an opportunity and a responsibility to develop that skill and to develop that function.

[128] If I could return to the issue of the potential for an umbrella committee to deal with issues of importance to the Welsh language, how would you see that operating in practice?

[129] **Ms Huws:** Wel, fel rwyf wedi sôn, rwy'n credu bod yna fodolau gwahanol i chi eu hystyried. Mae yna ddau beth y gellid eu gwneud: prif-ffrydio a chreu cysondeb o ran y pwyllgorau sy'n bodoli. Mae hynny'n golygu symud dealltwriaeth, efallai, ymhellach na jest y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol i'r pwyllgorau eraill. Mae hwnnw'n fodel posib. Rwy'n credu ein bod yn teimlo, gyda'r Bil cynllunio, fod hynny wedi gallu digwydd. Neu—ac fe wnaaf ailddweud fy hun, rwy'n credu—edrych ar greu swyddogaeth arall sydd yn edrych ar draws portffolio'r Llywodraeth ynglŷn â'r Gymraeg, a gofyn: lle mae'r cyfrifoldeb yma'n disgyn? A ydy e mewn pwyllgor arall? Rhaid cyfaddef hefyd bod creu pwyllgorau'n rhywbeth rydym yn dwlu ei wneud yng Nghymru ac efallai nad dyna'r ateb cywir. Ond, fe wnaaf ofyn eto: a oes yna le, efallai, i'r pwyllgor yma ystyried hynny yn un o'i swyddogaethau?

Ms Huws: Well, as I've mentioned, I think that there are different models for you to consider. There are two things that you could do: mainstream and create consistency in terms of the committees that exist. That means, perhaps, moving understanding further than just the Communities, Equality and Local Government Committee to other committees. That is a possible model. I do feel that with the planning Bill, that has happened. Or—and I will repeat myself, I believe—looking at creating another function that looks across Government portfolios in terms of the Welsh language, and ask: where does that responsibility fall? Is it for another committee? We know that creating committees is something that we love to do in Wales but that may not be the right answer. But, I will ask again: would it be possible, perhaps, for this committee to consider that as part of its function?

[130] **William Powell:** Thanks for that. Another aspect that would be interesting in the context of our sort of cross-cutting approach to the Welsh language would be to know if you have had a substantive response from the Welsh Affairs Committee and the Joint Committee on Human Rights in Westminster, considering the requirements of the Welsh Language Act 1993, and also the Welsh Language (Wales) Measure 2011, when looking at scrutinising UK legislation.

[131] **Ms Huws:** Fe wnaethom sefydlu cyswllt gyda Hywel Francis, fel cadeirydd y Cydbwyllgor Hawliau Dynol, yn dilyn cyhoeddi adroddiad ar siarter Ewrop ar ieithoedd lleiafrifol. Mae Llywodraeth San Steffan wedi arwyddo'r siarter yna, ac mi roedd yna adroddiad lle roedd yna gwestiynau o gonsŷrn yn cael eu codi ynglŷn â'r ffordd yr oedd Llywodraeth San Steffan yn gweithredu. Felly, fe wnaethom godi'r cwestiwn gyda'r cadeirydd a'r clerc. Mae yna gyswllt rheolaidd wedi bod wedyn gyda'r pwyllgor yna, trwy'r cadeirydd a'r clerc, sydd yn golygu hefyd ein bod wedi bwydo i mewn i ymgynghoriadau, ar faterion ieithyddol ymgynghoriadau, yn ymwneud â chymorth cyfreithiol, a hefyd o ran y gyfundrefn adolygiad barnwrol. Felly, mae'r drafodaeth yna wedi bod yn fuddiol.

Ms Huws: We established contact with Hywel Francis, as the chair of the Joint Committee on Human Rights, following the publication of the report on the European charter on minority languages. The Westminster Government has signed that charter, and there was a report where questions of concern were raised about the way in which the Westminster Government was operating. So, we raised the question with the chair and the clerk. There has been regular contact then with that committee, through the chair and the clerk, which does mean that we've been able to feed into consultations, on the linguistic issues of consultations, to do with legal advice, and also in terms of the judicial review system. So, that discussion has been very beneficial.

[132] O ran y cyswllt gyda'r Pwyllgor Materion Cymreig, eto mae'n gyswllt eithaf

In terms of links with the Welsh Affairs Committee, again, it's quite a live link. We as

byw. Fe fuom fel corff yn rhoi tystiolaeth o flaen y pwyllgor dethol yr wythnos diwethaf ar garchardai, a'r Gymraeg o fewn carchardai ym Mhrydain, felly mae yna berthynas rydym yn ei defnyddio. Hefyd, rwy'n credu bod gwerth inni sôn am ran 2 adroddiad Silk. Buom yn cynnig tystiolaeth ynglŷn â phroblemau a oedd yn deillio o Ddeddfau nad oedd yn cydnabod statws swyddogol y Gymraeg. Mae hwn yn rhywbeth, mae'n debyg, y byddwch chi wedi clywed amdano, o ran y problemau sy'n codi gyda chofrestru priodasau, ynglŷn â ffurflenni amlogfeydd ac yn y blaen, ac, eto, mae Silk wedi defnyddio'r dystiolaeth yna yn rhan 2 ei adroddiad, ac rydym yn gobeithio gweld hynny'n cael ei adlewyrchu wrth ein bod yn symud ymlaen gyda Silk. Mae yna berthynas o ddydd i ddydd fywiog a defnyddiol gyda phrosesau deddfu yn San Steffan.

[133] **William Powell:** Diolch yn fawr.

a body gave evidence to the select committee last week on prisons, and the Welsh language within prisons in the UK, so there is a relationship there that we are using. I think it's also worth us mentioning part 2 of the Silk report. We gave evidence on problems that stemmed from Acts that didn't recognise the official status of the Welsh language. This is probably something that you've heard about, in terms of the problems that have arisen with registering marriages, forms for crematoriums and so forth, and, again, Silk has used that evidence in part 2 of his report, and we do hope to see that being reflected as we move on with Silk. So, there is a lively and useful day-to-day relationship with those legislative processes in Westminster.

William Powell: Thank you very much.

[134] **David Melding:** Simon.

[135] **Simon Thomas:** Diolch, Gadeirydd. O droi at y broses ddeddfu yn y lle yma, a ydych chi'n gweld unrhyw dystiolaeth bellach fod deddfu yn digwydd yn y ddwy iaith, ynteu a ydych chi'n gweld ein bod yn deddfu yn Saesneg a chyfieithu i'r Gymraeg?

Simon Thomas: Thank you, Chair. Turing to the legislative process in this place, do you see any evidence now that we legislate in both languages, or do you see that you we legislate in English and then have it translated into Welsh?

[136] **Ms Huws:** Cwestiwn diddorol. Mae deddfwriaeth yn gosod allan yn glir iawn—. Mae'r darn o ddeddfwriaeth, Deddf Llywodraeth Cymru 2006, yn gosod allan yn glir, yn y lle cyntaf—ac mae'n rhaid inni gydnabod hyn—bod deddfwriaeth ac is-ddeddfwriaeth sy'n cael eu creu yn y fan hyn, yn y ddwy iaith, yn gyfartal o ran statws cyfreithiol a statws dehongli mewn llys. Mae hynny'n codi cwestiynau diddorol wrth symud ymlaen, oherwydd wrth herio geiriau, pwy sy'n gyfrifol am y geiriau yna? Ai'r drafftwyd, y bobl sydd yn deall y gyfraith, neu'r bobl sydd yn cyfieithu? I fod yn deg, nid oes gen i dystiolaeth gadarn naill ffordd neu'r llall, ac nid wy'n credu y bydd hynny'n digwydd nes bod heriau yn digwydd, ac mae'n siŵr y bydd hynny yn digwydd gyda Mesur y Gymraeg (Cymru) 2011 ei hunan. Mae yna heriau'n mynd i ddod. Ond, rydym yn gweld, ac rydym wedi gweld yn ddiweddar, gyda'r rheoliadau drafft ar safonau, bethau sydd ddim yn gyson rhwng y

Ms Huws: An interesting question. Legislation sets out very clearly—. The piece of legislation, the Government of Wales Act 2006, sets out clearly, in the first place—and we must acknowledge this—that legislation and subordinate legislation made in this place, in both languages, are equal in terms of legal status and the status of their interpretation in a court. That raises interesting questions, because in challenging the wording, who is responsible for the wording? Those drafting, who understand law, or those who translate law? To be fair, I have no robust evidence one way or another, and I don't think we will have that evidence until there is a challenge, and I'm sure that that will happen with the Welsh Language (Wales) Measure 2011. There will be challenges. But, we do see, and we have seen recently, with the draft regulations on standards, things that are not consistent between the Welsh and English. There is one minor example—I think in standard 23 and

Gymraeg a'r Saesneg. Mae un esiampl fechan iawn—rwy'n credu yn safon 23 a 25—lle, yn y Saesneg, mae sôn am 'translation services', ac yn y Gymraeg, mae sôn am ddarpariaeth 'cyfieithu ar y pryd', sef *interpretation services*. Mae'r ddau beth yn hollol, hollol wahanol. Mater bach yw hynny, ond, pe bai'n bennu lan mewn llys, maen nhw'n sylfaenol wahanol.

[137] Felly, mae'r cwestiwn yn sefyll. Ni wnaf roi fy llaw ar fy nghalon a dweud bod tystiolaeth gadarn mai cyfieithu'n unig sy'n digwydd, ond mae angen inni sicrhau nad cyfieithu'n unig sy'n digwydd, ond deddfu ochr yn ochr, gan bobl sydd yn deall goblygiadau cyfreithiol a deddfwriaethol geiriau.

[138] **Simon Thomas:** Yn y cyd-destun hwnnw, rwy'n meddwl mai chi sy'n gyfrifol am dermau, fel petai, yn y Gymraeg—datblygu termau, neu gael trosolwg o hynny, beth bynnag. A ydych chi wedi chwarae rôl yn y ffordd y mae'r Llywodraeth a'r Cynulliad yn dod i benderfyniad ynglŷn â pha dermau sy'n gymwys, er mwyn sicrhau bod y rhai Cymraeg yn cyfateb i'r rhai Saesneg, a hefyd yn ddealladwy yn y Gymraeg ei hunan?

16:00

[139] **Mr Sion:** Wel, do. Hynny ydy, swyddogaeth cydlynu sydd gennym yn y maes terminoleg. Rydym wedi gweinyddu pwyllgor cydgysylltu yn y maes ac mae'r pwyllgor hwnnw wedi cynnig adroddiad i'r Llywodraeth ynghylch y ffordd ymlaen. Mae yna fwriad, rwy'n credu, i gael cyfarfod efo'r Prif Weinidog yn fuan iawn i drafod argymhellion yr adroddiad yna.

[140] Rwy'n meddwl, o ran terminoleg, un peth pwysig iawn ydy, mae yna lu o wahanol gronfeydd terminoleg, os liciwch chi, mewn gwahanol feysydd. Maen nhw'n gronfeydd arbenigol iawn. Un o'r argymhellion, yn amlwg, ydy bod angen un gronfa ganolog ar gyfer terminoleg. Mae gan wasanaeth gyfieithu'r Llywodraeth gronfa o derminoleg, sef TermCymru, ar hyn o bryd, ac efallai mai adeiladu ar honno ydy'r ateb. Ond, yn sicr, mae angen un gronfa ar gyfer y derminoleg sy'n cael ei defnyddio. Mae hynny'n bwysig

25—where, in the English, there is mention of 'translation services, and in the Welsh, there is mention of the provision of interpretation services—*gwasanaeth cyfieithu ar y pryd*. Those are two entirely different things. That's a minor issues, but, if that were to end up before the courts, they are fundamentally different.

So, the question stands. I won't put my hand on my heart and say that there's robust evidence that legislation is merely translated, but we must ensure that that isn't the case, and that there is co-drafting of legislation, by people who understand the legal and legislative implications of words.

Simon Thomas: In that context, I think that you are responsible for Welsh terminology, as it were—the development of terminology, or to have an overview of it. Have you played a role in the way that the Government and the Assembly come to a decision regarding suitable terminology, in order to ensure that the Welsh terminology corresponds to the English, and is also understandable in the Welsh language itself?

Mr Sion: Well, yes. We have a co-ordination function in the area of terminology. We have established a committee and that has provided a report to Government on the way forward. I think there is an intention to have a meeting with the First Minister very soon to discuss the recommendations of that particular report.

I do think, in terms of terminology, one very important thing is that there are a whole host of different terminology databases. They're very expert sources. One of the recommendations is that we need one central database for terminology. The Government translation service does have a terminology database, TermCymru, at the moment, and perhaps building upon that is the solution. But, certainly, we do need one database for the terminology used. That is very important in legislative terms, clearly.

iawn wedyn o'r ochr ddeddfwriaeth, yn amlwg.

[141] **Simon Thomas:** Rydych chi'n sôn yn eich tystiolaeth am bryderon am yr ystod o gyfieithwyr, ac a oes yna ddigon o bobl i gael gyda'r capasiti yna a'r gallu yna. A ydy hwn yn rhywbeth hefyd rydych chi'n poeni yn ei gylch ynglŷn â deddfu yn ddwyieithog?

[142] **Ms Huws:** Mae hynny'n ddiddorol, achos nid jest y cyfieithwyr yr ydym angen eu meithrin. Rwy'n credu bod yna gyfle fan hyn i edrych ar sut rydym yn creu capasiti o ran pobl sydd yn gallu deddfu yn ddwyieithog a'r capasiti technegol, proffesiynol yna. Mae wedi bod yn ddifyr i ni, wrth i ni edrych ar y prosesau deddfu yng Nghymru, i droi at yr hyn sydd yn digwydd mewn llefydd eraill. Mae Canada yn gallu cynnig esiamplau i ni o'r math o gyfarwyddyd sydd angen rhoi yn ei le a'r cynllunio'r tymor canolig i dymor hir sydd ei angen. Mae yna ganllawiau clir yng Nghanada o ran deddfu mewn dwy iaith—Saesneg a Ffrangeg—bod yn rhaid bod yna gapasiti o fewn adrannau sydd yn cychwyn deddfwriaeth i sicrhau bod yr ystyr iawn yn cael ei weld yn y ddwy iaith. Mae hynny'n fwy na jest cyfieithu—a dylwn i ddim dweud 'jest cyfieithu', oherwydd mae cyfieithwyr yn gwneud gwaith bendigedig—ond deall goblygiadau technegol a chyfreithiol geiriau. Hynny, rwy'n credu, yw'r cyfle a'r sialens sydd gennym. A ydym yn poeni am hynny? Rydym yn gweld yr her, ac rwy'n credu bod yna le fanna i weithio gyda phrifysgolion a chyda cymdeithasau proffesiynol yn y maes yma i sicrhau bod hynny'n digwydd yn ystod y ddegawd nesaf yma.

[143] **Simon Thomas:** Rydych chi'n sôn am hynny yn eich tystiolaeth i'r pwyllgor, ac rydych yn sôn yn benodol am yr angen i fuddsoddi yn y broses yna, sydd, i bob pwrpas, wrth gwrs, yn datblygu'r gweithlu. Efallai ei fod yn haws i ddatblygu cyfreithwyr sy'n siarad Cymraeg i allu deddfu yn Gymraeg na thrio gwneud haenen arall o gyfieithu dros dop y broses yna.

[144] Mae safonau'r iaith Gymraeg, wrth gwrs, i fod i ddelio â datblygu'r gweithlu ac maen nhw'n gymwys i Lywodraeth Cymru ei hunain. Yn y cyd-destun arbennig yna, a

Simon Thomas: You mention in your evidence concerns about the range of translators, and whether there are enough people with that capacity and that ability. Is that something that you're concerned about in terms of bilingual legislation?

Ms Huws: Well, that's interesting, because it's not just the translators that we need to develop. I think there's an opportunity here to look at how we actually create capacity in terms of those who are able to legislate bilingually and that technical, professional capacity. It's been very interesting to us, as we look at legislative processes in Wales, to look at what happens elsewhere. Canada can provide us with examples of the kind of directives that need to be put in place and the medium to long-term planning that's required. There are very clear guidelines in Canada in terms of legislating in two languages—English and French in that case—that there must be capacity within the departments that initiate legislation to ensure that the correct meaning is reflected in both languages. That is more than just translation—and I shouldn't say 'just translation', because translators do excellent, wonderful work—but understanding the technical and legal implications of words. I think that is the opportunity and the challenge we have. Are we concerned about that? Well, we see it as a challenge, and I think there is scope there to work with universities and with professional associations in this area to ensure that that happens over the next decade.

Simon Thomas: You mention that in your evidence to the committee, and you mention specifically the need to invest in that process, which, to all intents and purposes, is developing the workforce. Maybe it's easier to develop Welsh-speaking lawyers so that they are able to legislate in Welsh than trying to put another layer of translation over the top of that process.

The Welsh language standards are supposed to deal with developing the workforce and they do apply to the Welsh Government itself. In that context, do the draft standards

ydy'r safonau drafft, fel y maen nhw, yn rhoi digon o gyfle i ddatblygu'r gweithlu deddfu dwyieithog yma yr ydych chi'n chwilio amdano?

[145] **Ms Huws:** Rwy'n credu ei fod e'n fwy na jest safonau; mae hefyd ynglŷn â phenderfyniadau'n ymwneud â siâp addysg uwch ac anghenion gweithlu y tu allan i'r hyn sydd yn cael ei gyflawni gan safonau. Mae hwn yn benderfyniad polisi a phenderfyniad gweithredu ehangach na safonau'n unig.

[146] **Simon Thomas:** A ydych chi'n trafod hynny gyda'r Cwnsler Cyffredinol, er enghraifft, o ran datblygu'r posibiladau hynny?

[147] **Ms Huws:** Mae datblygu'r gweithlu yn bwnc sydd wedi cael ei godi ac sydd yn cael ei godi yn amlach yng Nghymru nag y mae wedi'i wneud yn y blynyddoedd sydd wedi bod. Rydym yn gweld ymatebion gan brifysgolion hefyd, lle mae yna gyrsiau'n cael eu datblygu nawr i ateb yr anghenion yna wrth symud ymlaen. Felly, mae e'n drafodaeth sydd yn fyw yng Nghymru.

[148] **David Melding:** Diolch yn fawr. Sesiwn ddiddorol iawn, *I think*.

[149] Before we finish, is there anything that you want to add that we've not drawn out in our questions?

[150] **Ms Huws:** Nac oes. Rwy'n credu ein bod yn ddigon bodlon â hynny, ac yn falch iawn iawn fod y drafodaeth yn digwydd. Mae'n drafodaeth aruthrol o ddiddorol ac yn bwysig.

[151] **Alun Davies:** Gadeirydd, a gaf i jest—

[152] **David Melding:** Iawn.

[153] **Alun Davies:** —gael eglurhad o un peth? Roeddech yn sôn aboutu Canada, a phan oeddech yn dweud 'Canada', a oeddech yn sôn am Lywodraeth ffederal Canada, neu a oeddech chi'n sôn aboutu'r taleithiau gwahanol?

[154] **Ms Huws:** Y ffederal yn bennaf, ond mae gennym wybodaeth eithaf—. Mae Ontario yn ddiddorol, oherwydd bod ganddyn

provide for enough opportunity to develop the bilingual legislation workforce that you're looking for?

Ms Huws: I think it's more than just standards; it also relates to decisions taken on the shape of higher education and the workforce needs outwith what is actually achieved through standards. This is a policy decision and an executive decision that goes beyond standards alone.

Simon Thomas: Do you discuss that with the Counsel General, for example, in terms of developing those possibilities?

Ms Huws: Well, developing the workforce is an issue that has been raised and is raised here in Wales more often than has been the case in the past. We are seeing responses from universities too, where courses are being developed to meet those needs in moving to the future. So, it is a live discussion here in Wales.

David Melding: Thank you very much. That was a very interesting session, I think.

Ms Huws: No. I think we are very content, and we are pleased that this discussion is happening. It's an exceptionally interesting discussion and very important.

Alun Davies: Chair, could I just—

David Melding: Yes.

Alun Davies: —have clarification on one thing? You mentioned Canada, and when you said 'Canada', were you talking the federal Government of Canada, or were you talking about the different states?

Ms Huws: The federal mainly, but we do have information that's quite—. Ontario is interesting, because they have a similar

nhw yr un math o falans ieithyddol â ni yma yng Nghymru. Rwyf yn gweld budd—ac mae'n siŵr eich bod chi—yn edrych ar y canllawiau sy'n cael eu datblygu yn y wlad honno, a'r camau sy'n cael eu cymryd yn Ontario yn benodol i ateb yr anghenion yna, lle mae yna iaith leiafrifol, sef y Ffrangeg, ac iaith fwy. *So*, roeddwn yn sôn am y ffederal, ond mae yna ganllawiau yn y taleithiau eraill hefyd.

linguistic balance to us here in Wales. I see benefit—as I'm sure do you—in looking at the guidance that is being developed in that country, and the steps being taken in Ontario specifically to meet these needs, where there is a minority language, namely French, and a larger language. So, I was speaking mainly about the federal, but there is also guidance in the other states too.

[155] **David Melding:** We will conclude with that point. I say it again: thank you very much; we're very grateful. There's a lot of apposite material. You've left us with several things to think about, which I think is a sign of a good evidence session and quite a challenging one. *So, diolch yn fawr.*

[156] **Ms Huws:** Diolch yn fawr iawn i chi. **Ms Huws:** Thank you very much.

16:06

**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**

[157] **David Melding:** I now move the relevant Standing Order that we conduct the rest of our proceedings in private, unless any Member objects.

Cynnig:

Motion:

bod y pwyllgor yn penderfynu gwahardd y cyhoedd o weddill y cyfarfod yn unol â Rheol Sefydlog 17.42(vi).

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

*Cynigiwyd y cynnig.
Motion moved.*

[158] **David Melding:** I don't see a Member objecting. So, please switch off the broadcasting equipment and clear the public gallery.

*Derbyniwyd y cynnig.
Motion agreed.*

*Daeth rhan gyhoeddus y cyfarfod i ben am 16:06.
The public part of the meeting ended at 16:06.*