

Cofnod y Trafodion The Record of Proceedings

[Y Pwyllgor Cyllid](#)

[The Finance Committee](#)

07/10/2015

[Trawsgrifiadau'r Pwyllgor](#)
[Committee Transcripts](#)



Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales

Cynnwys Contents

- 4 Cyflwyniadau, Ymddiheuriadau a Dirprwyon
Introductions, Apologies and Substitutions
- 5 Papurau i'w Nodi
Papers to Note
- 5 Ombwdsmon Gwasanaethau Cyhoeddus Cymru: Amcangyfrif o Incwm
a Threuliau ar gyfer 2016–17: Sesiwn Dystiolaeth 1
Public Services Ombudsman for Wales: Estimate of Income and
Expenses 2016–17: Evidence Session 1
- 27 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
- 27 Y Bil Casglu a Rheoli Trethi (Cymru): Sesiwn Dystiolaeth 6
Tax Collection and Management (Wales) Bill: Evidence Session 6
- 50 Y Bil Casglu a Rheoli Trethi (Cymru): Sesiwn Dystiolaeth 7
Tax Collection and Management (Wales) Bill: Evidence Session 7
- 66 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

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

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

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

Peter Black	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Christine Chapman	Llafur Labour
Jocelyn Davies	Plaid Cymru (Cadeirydd y Pwyllgor) The Party of Wales (Committee Chair)
Mike Hedges	Llafur Labour
Alun Ffred Jones	Plaid Cymru The Party of Wales
Julie Morgan	Llafur Labour
Nick Ramsay	Ceidwadwyr Cymreig Welsh Conservatives

Eraill yn bresennol
Others in attendance

Richard Beech	Partner, Glamorgan Law LLP Partner, Glamorgan Law LLP
Nick Bennett	Ombwdsmon Gwasanaethau Cyhoeddus Cymru Public Services Ombudsman for Wales
Susan Hudson	Rheolwr Polisi a Chyfathrebu, Ombwdsmon Gwasanaethau Cyhoeddus Cymru Policy and Communications Manager, Public Services Ombudsman for Wales
David Meaden	Cyfrifydd Ariannol, Ombwdsmon Gwasanaethau Cyhoeddus Cymru Financial Accountant, Public Services Ombudsman for Wales
Jason Piper	Uwch Reolwr—Cyfraith Trethi a Busnes, Cymdeithas y Cyfrifwyr Ardystiedig Siartredig (ACCA) Senior Manager—Tax and Business Law, The Association of Chartered Certified Accountants (ACCA)
Kay Powell	Cynghorwr Polisi, Cymdeithas y Cyfreithwyr Policy Adviser, The Law Society

Martin Warren Cyfarwyddwr Cymru, Sefydliad Cyfrifwyr Siartredig
Cymru a Lloegr
Director for Wales, Institute of Chartered
Accountants in England and Wales

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

Richard Bettley	Y Gwasanaeth Ymchwil Research Service
Leanne Hatcher	Clerc Clerk
Lakshmi Narain	Cynghorwr Technegol Technical Adviser
Helen Jones	Y Gwasanaeth Ymchwil Research Service
Georgina Owen	Dirprwy Glerc Deputy Clerk
Tanwen Summers	Dirprwy Glerc Deputy Clerk
Joanest Varney- Jackson	Uwch-gynghorydd Cyfreithiol Senior Legal Adviser

Dechreuodd rhan gyhoeddus y cyfarfod am 09:00.
The public part of the meeting began at 09:00.

Cyflwyniadau, Ymddiheuriadau a Dirprwyon
Introductions, Apologies and Substitutions

[1] **Jocelyn Davies:** Welcome, everybody, to a meeting of the Assembly's Finance Committee. Can I just remind you, if you've got mobile devices, if they could be put onto silent? That would be very helpful—no need to switch them off, though. Do we have any declarations of interest? None—

[2] **Peter Black:** We're not going to touch on it, but I should maybe mention that I'm a councillor on Swansea city council.

[3] **Jocelyn Davies:** Oh right, okay.

[4] **Peter Black:** Just in case.

- [5] **Jocelyn Davies:** Yes. Okay.
- [6] **Alun Ffred Jones:** Still? [*Laughter.*]
- [7] **Peter Black:** Apparently, yes. [*Laughter.*]
- [8] **Mike Hedges:** Only till the next election.
- [9] **Peter Black:** Maybe.
- [10] **Jocelyn Davies:** I think Peter's got the prize for being the first to mention Swansea in this meeting.
- [11] **Peter Black:** Mike is indicating I'll lose my seat—[*Inaudible.*] [*Laughter.*]
- [12] **Jocelyn Davies:** We've had one apology for absence. Ann Jones is unable to be with us today, and there is no substitute.

09:01

Papurau i'w Nodi
Papers to Note

- [13] **Jocelyn Davies:** We've got two papers to note. Everybody happy with that?

**Ombwdsmon Gwasanaethau Cyhoeddus Cymru: Amcangyfrif o Incwm
a Threuliau ar gyfer 2016–17: Sesiwn Dystiolaeth 1**
**Public Services Ombudsman for Wales: Estimate of Income and
Expenses 2016–17: Evidence Session 1**

- [14] **Jocelyn Davies:** So, we'll move to first substantive item on the agenda, which is the Public Services Ombudsman for Wales, estimate of income and expenses for 2016–17. This is our evidence session 1, not that I'm expecting to have further sessions on this. Would you like to introduce yourself and your officials for the record, and then we'll go straight into questions, if that's okay.
- [15] **Mr Bennett:** Great. Thank you, Chair. My name is Nick Bennett. I'm the Public Services Ombudsman for Wales. I'm joined by two colleagues today,

Dave Meadon, who's in charge of finance, and my colleague Susan Hudson for policy and communications.

[16] **Jocelyn Davies:** Lovely. Thank you. Would you mind summarising the internal framework that you use to plan your strategy and resource requirements?

[17] **Mr Bennett:** Well, our strategy is based upon our analysis of the internal and external factors that are going to affect us over the next year. Historically, I think this committee will be aware that we've seen an annual year-on-year increase in the number of complaints that we receive. In terms of our internal resource, our staff—our investigators and caseworkers—are the most important resource that we have. We devote 75% of the resources that we receive directly to complaint and casework handling, and the other 25 per cent is mostly devoted to ensuring that we try and have some influence on bodies in jurisdiction so that we can see an improvement in complaint handling and in the quality of public services delivered in Wales.

[18] **Jocelyn Davies:** So that proportion going to cases and to influencing others—has that changed over time or has that always been approximately split in that way?

[19] **Mr Bennett:** I think we're going to see a greater emphasis, certainly moving forward, on trying to improve the performance of bodies in jurisdiction. I think it's a theme that will come through as this session proceeds.

[20] **Jocelyn Davies:** Okay. Chris, shall we come to your questions?

[21] **Christine Chapman:** Okay. Specifically, your estimate for 2016–17 shows an increase in total managed expenditure of 0.7 per cent on that for 2015–16. Could you just tell me why you think this additional funding is needed?

[22] **Mr Bennett:** Yes. It's a very precise question in terms of 0.7 per cent. That additional 0.7 per cent can be divided: 0.3 per cent is to pay for £13,000-worth of pension deficit payment increase; £12,000—a further 0.3 per cent—is for an increase in capital costs to fund new investment in technology; and there is an increased provision there for depreciation of £5,000, which accounts for another 0.1 per cent.

[23] **Christine Chapman:** Okay. Thank you. If the Welsh Government gained further devolved powers, would you be able to maintain your budget as a percentage of the Welsh block?

[24] **Mr Bennett:** Yes. I would certainly hope, if we were to see additional functions come to the Assembly, that funds would follow those functions—that the block would grow if there were to be substantial functional additions to the block. If we were to, therefore, maintain 0.03 per cent, we'd be well placed to be able to cope with that expansion.

[25] **Christine Chapman:** You've touched on this, Nick—you talked about the number of enquiries. Can you just outline what are the main reasons for the increased number of enquiries and complaints received by your office?

[26] **Mr Bennett:** Well, this year we've seen some increases. Overall, we're up 7 per cent. On the number of health complaints, it's too early to say, but I hope we're reaching some plateau with them. Historically, certainly over the last 10 years, health complaints have more than doubled as a proportion of the complaints that we receive. But over the past year they went up from 759 to 769. So, a 1 per cent increase there. Local authority complaints are up 5 per cent, and housing complaints are up now from a low base of 165, but they have jumped up by almost 50 to 213. So, those are the main sectors. In terms of reasons behind that, well, I think there are a number of factors in terms of the quality of services that are available, and perhaps also people's expectation. I think it's important that we remember now that the people who were born in 1945, when the welfare state was introduced, have reached 70. You've got a cohort of the population there who don't remember what it was like pre the welfare state. Therefore, I think that their expectations in terms of consumerism and service will be a lot higher than those of the people who perhaps remember what services were like in the 1930s.

[27] **Christine Chapman:** Can I just add something? I'll finish on this point, then. I'm aware that, obviously, complaints that—. You actually don't uphold some complaints. I know that there are instances where those people will then make a complaint about you and your office. How much additional resource do you have to put into that if that happens?

[28] **Mr Bennett:** Well, we haven't put a significant amount of additional resource into dealing with complaints about us, but I think, unfortunately, the nature of complaint handling is that you cannot please all of the people all of the time. We are impartial. If we uphold a complaint there is good

reason for us to do so, and if we cannot do so, well, I'm afraid, again, that there will be good reason. We have to hold that line. It has meant that there's been a small increase in the number of complaints about us, but nothing so significant to affect the estimates that we've brought for you today.

[29] **Christine Chapman:** Okay.

[30] **Jocelyn Davies:** Peter, you had a supplementary.

[31] **Peter Black:** Yes. I just wondered about this increase in housing complaints. [*Inaudible.*]—housing association or local authority. Can we have a breakdown of where that—

[32] **Mr Bennett:** All of those figures that I have given you are housing association.

[33] **Peter Black:** All housing association. Right. Okay. And how many of those would be stock transfer associations?

[34] **Mr Bennett:** From the figures that I've analysed so far, there seems to be a significant issue for some stock transfers, but I must emphasise that that is some stock transfers, not all stock transfers. Certainly, for the community associations, they tend to have a much lower level. They are smaller organisations after all. So, I think we could provide you with a further breakdown, if you're interested, in terms of those figures.

[35] **Peter Black:** Okay. Thanks for that.

[36] **Jocelyn Davies:** Yes, we would be interested, and to know the types of complaints that are being made. If it's about repairs or—

[37] **Mr Bennett:** Some of it seems to be about complaint handling. Some of it is about older persons' services. Perhaps some of it might be related to the roll-out of the Welsh housing quality standard as well.

[38] **Jocelyn Davies:** Right. Okay. That will be very useful. Julie, shall we come to your question?

[39] **Julie Morgan:** Yes, thank you very much. Good morning.

[40] **Mr Bennett:** Good morning.

[41] **Julie Morgan:** What actions are you taking to ensure that as many complaints as possible are dealt with locally and stop you having complaints that don't have to come to you?

[42] **Mr Bennett:** Well, I think that's an important issue for us to contend with, given that the number of complaints has more than doubled over the past 10 years. We've seen some really effective action here in terms of local resolution when it came to code of conduct complaints. That's the only area where complaints have actually been reducing over the last few years. So, that's been a real success. My worry going forward is that we see this ever-growing number of complaints when it comes to public service provision in Wales. So, we've had a discussion and also some re-organisation internally in the office because we've got some very, very experienced investigators there. We're also aware that we simply cannot cope with ever-increasing numbers. It's important that we have an impact on bodies in jurisdiction. Now, we have contacts with the public, between enquiries and complaints, of over 5,000. I think it's 5,700 this year. Five or six public bodies in Wales are responsible for 25 per cent of those complaints. So, we've had this re-organisation and we've appointed six investigators who will also act as improvement officers. Their role will be to work with certain bodies in jurisdiction to try and ensure that they are adopting best practice when it comes to the way in which they handle complaints, the way in which they empower front-line staff, the way in which they have mechanisms to ensure good governance and the fact that there is challenge and reform around these issues. Also, some of them will have some thematic issues, so, you know, the number of planning complaints is significant, so we have someone who can deal specifically with planning. We now have somebody who will have a specific responsibility for the area of housing, as well, and health would obviously be another critical issue, given that 40 per cent of our complaints are health related. So, I'm hoping that that new approach will do a lot more not just to reduce the number of complaints that come to us, but to really improve the capacity of those bodies in jurisdiction to up their game and to be a bit more effective in the way in which they deal with complaints.

[43] **Julie Morgan:** You are investing some of your budget in—how much?

[44] **Mr Bennett:** Well, the proportion of budget that we'll devote to human resources, to staffing, will be exactly the same as in previous years, but what we've tried to do is be more efficient through trying to reorganise. So, that reorganisation has involved zero redundancies, given that we've had more

and more pressure. We're not looking to reduce staff, or staffing levels, but certainly, to make working conditions as effective as possible, and also, may I say, perhaps as positive as possible for staff, as well? So, there'll be more scope there for personal development and career progression with that structure, which does include greater opportunities for people to work on improvement issues.

[45] **Julie Morgan:** Thank you. Going on to your efforts to become a paperless office, could you detail the main efficiencies that were made, following the innovation project?

[46] **Mr Bennett:** Yes, I'll try. Obviously, quantifying this at this juncture is a bit of a challenge, but when I came into the office, I did feel that it was important—. You know, I'm the accounting officer, I have an accountability to you for the budget that I receive, so I have had to satisfy myself that we were as efficient as possible, but also that we weren't missing any tricks and that we were exercising leadership. Now, the message that we preach to bodies in jurisdiction is that if you're going to be effective when it comes to complaint handling, you empower the front line. So, the innovation project was very much about us internally empowering the front line; giving the opportunity to our case workers, investigators and all staff, to go through all the processes that we currently have and to identify any efficiencies and savings that we could make. So, going paperless was one of the key of the 30 recommendations that we made, but there are other things there as well, in terms of Skype and video-conferencing.

[47] There are also issues around better compliance, making sure that there's less scope for people to repeat the mistakes that they've made in the past, and also, perhaps, a desire from some for us to be much clearer in terms of when we decide to discontinue certain complaints. You know, perhaps, sometimes, we need to be clear that a fast 'no' is better than a long, drawn out 'maybe'. Again, that can mean that you're less popular and you have more complaints against you, but if something is definitely outside of jurisdiction and shouldn't be considered, I think it's better to be upfront and honest with people as soon as possible. That was another message that came back to us from the innovation project.

[48] So, I hope that we will see longer term efficiencies from that work, but certainly, in the short term, it gave all members of staff an opportunity to identify changes that they thought we should make. It has led to reductions in our travel and subsistence budget, which is down significantly, and also on

things like photocopying; just simple things like trying to get people to send us electronic copies rather than paper copies. We've told bodies in jurisdiction, 'We will no longer require originals. If you send us scanned documents that is acceptable, but the quid pro quo is: can you send them faster?' so that we're turning around complaints more quickly and, hopefully, giving people satisfaction and good closure on their complaints issues on a faster basis.

[49] **Julie Morgan:** So, is it too soon to estimate how much you've saved, for example, by asking for electronic documents?

[50] **Mr Bennett:** I think we could cost it by the end of the year in terms of what that's saved us on photocopying. I think we could also provide a figure in terms of what we think we've saved in terms of travel and subsistence, but there will be bigger savings, I hope, longer term, which will be harder to quantify if we're doing a better job on compliance and making sure that we don't carry the cost of having to go back again to certain bodies in jurisdiction that might not have complied in the past.

09:15

[51] **Julie Morgan:** And have there been any problems in requesting electronic—in a shorter timescale from public bodies?

[52] **Mr Bennett:** Well, this is a cultural change, and cultural change can take some time. I wrote out to bodies in jurisdiction at the beginning of the year. Broadly, I think the vast majority welcome the change, and could see that there were savings for them as well, in terms of being more efficient, using electronic rather than paper or hard data. I'll be honest that there has been a little bit of pushback from one or two organisations, but I think it's the modern era, these were bodies with significant budgets, and I think we can work constructively to try and make sure that we're all a bit more ambitious about our timescales.

[53] **Julie Morgan:** Thank you.

[54] **Jocelyn Davies:** So, what does that mean for you in terms of archiving, because I know this has been an issue for you in the past? If you've got to keep, I imagine, case files, your case files will take up a considerable amount of space. So, if you go paperless, what does this mean? How will that be safely archived, and what's it going to save you? Do you have any idea in

terms of archive space?

[55] **Mr Bennett:** We did have further plans for archiving—it's when we come on to our property costs. We've had a very, very good deal: £9 per square foot, which I think is a very good price for a significant increase in the amount of floor space that we will have available for the next 10 years. So, we've futureproofed our floor space in terms of any physical archiving needs that we have, but certainly—

[56] **Jocelyn Davies:** So, this will have, a paperless office will—

[57] **Mr Bennett:** —this will mean that the pipeline will decrease. There will be a decrease in the physical archiving that we will require over the short to medium term.

[58] **Jocelyn Davies:** Can I ask you why you've all got paper copies in front of you now, then?

[59] **Mr Meaden:** I have an iPad.

[60] **Jocelyn Davies:** Yes, but you've still got paper. So, you're a paperless office and you come here with a paper file.

[61] **Mr Bennett:** If I was in my management team meeting, I wouldn't have a paper file. That's a very good point.

[62] **Jocelyn Davies:** Is it because you were coming to another building and you wanted to make sure that you did actually have those? You didn't trust the Wi-Fi in the National Assembly.

[63] **Mr Bennett:** I suppose I'm guilty, for once, of not practising what I preach, and I take that on the chin.

[64] **Jocelyn Davies:** Well, I'm not preaching as I'm the same. Anyway, we'll see what happens next year. It will be interesting to see what you come with next year. Nick, shall we come to your questions, then?

[65] **Nick Ramsay:** Thanks, Chair. Moving on from paper copies and files, good morning to all of you. Do you benchmark your running costs to similar public bodies?

[66] **Mr Bennett:** Yes, we do. We've done some calculations that do demonstrate our costs in terms of running the office. But in terms of unit costs, costs per complaint, or per contact with the public, that is a favourable one when we compare it to other jurisdictions. I think we also make sure—and my predecessor had also made sure—that we benchmark in terms of other non-financial issues, so, issues such as matters of jurisdiction. So, I know in terms of the inquiry you had into my powers earlier in the year, you've taken evidence there from Northern Ireland and from Scotland. I meet regularly with other bodies in jurisdiction on those types of issues. Currently, before the Northern Irish revised legislation is in place, I'm the temporary chair of their audit committee in Northern Ireland, so I get a front-line seat there in terms of seeing what the cost profile is like in a similar Celtic jurisdiction. So, that's providing me with a lot of insight, and tomorrow I'll be in Scotland, looking at the latest work that they're doing in terms of trying to improve public services through using complaints. So, there is regular benchmarking, almost a culture of benchmarking not just cost, but non-cost items as well.

[67] **Nick Ramsay:** Thanks. The estimate notes that the PSOW has introduced new and changed job roles during June 2015. What's the rationale behind the new jobs structures?

[68] **Mr Bennett:** I alluded to this earlier in terms of us having a restructure. Previously, we had two classes of investigator—senior investigators and investigators. I think, over time, the difference in terms of seniority had become blurred, if I'm frank. Also, I think we're confronted with this ongoing issue in terms of bodies in jurisdiction, and the need to see real improvement. So, that provides us with an opportunity to have competition-based reorganisation, where we've ensured that our talent is able to interact with bodies in jurisdiction and have a real influence, I hope, over the longer term, to see that reduction in the number of complaints that come to us, and see an improvement in complaint handling for those bodies.

[69] **Nick Ramsay:** Do you expect savings from the new job structures, or is that not part of the rationale?

[70] **Mr Bennett:** Again, as I think I alluded to earlier, no immediate financial savings. We were not looking for any job cuts or redundancies from this restructuring, but for the savings that I really do hope we will see from this over the next certainly two to three years, the acid test will be what's happening to bodies in jurisdiction. Can we turn the curve? That's what we

allude to, I think, in the paper here. It's the results-based accountability philosophy of Mark Friedman, I think—the American who introduced this. If we are to continue over the next 10 years, I won't be coming here talking about 5,700 contacts with the public; it'll be 11,000. Now, I'll have a choice in terms of dealing with 11,000: do I just come back and say, 'Can you keep on funding me more and more case workers?' and the bill just goes up and up and up, or do we try and do something strategic now so that we have an influence on those bodies in jurisdiction, which means that we don't have 11,000 for the future, perhaps we have 5,000 or 4,000, but certainly we can keep a lid on those increases, moving forward? So, that's the real efficiency that I'm looking for, so that I don't have to come back to this place seeking significant additional resource for the future.

[71] **Nick Ramsay:** You made an interesting point earlier—I think it might have been in answer to Mike or to Julie—in that there are fewer and fewer people now who remember the pre-welfare state, pre-1930s, days. Do you think that, increasingly, people today's expectations are too high, or do you think that they are where they should be, but there's just going to have to be extra capacity found to meet those expectations?

[72] **Mr Bennett:** I wouldn't say that people's expectations now are too high, but I think there was almost a gratitude for any level of service, particularly for that first cohort. We still live in a world where, in parts of the third world, you would not get essential services unless you could pay for them. There are some health services within the European Union that still charge in a way that would be completely alien to us from an NHS UK culture. So, I think there's been, perhaps, a deferment, a fear to complain, and there's still evidence that we have now in terms of the number of people who do not want to come forward to complain about NHS services, but I think that will decline over time, because people forget about that pre-NHS world.

[73] On the question as to whether or not people's expectations are too high or too low, I think, in Wales, the issue here is around the fact that we have a number of organisations that are not tested by the market. I'm not saying that the market solution is right, but if somebody is in a single-supplier position—as we are, as ombudsman services—then feedback is important. So, if you can capture that feedback, there is a very, very positive aspect to effective complaints handling. If you haven't got the force of the market, then how else do you know how users feel about the quality of services? So, I think the way in which that is captured and the way in which front-line staff are empowered to make sure that there's a human face and

an effective citizen service to people in Wales are really important.

[74] **Jocelyn Davies:** Mike, did you want to come in on this point?

[75] **Mike Hedges:** I want to make one point and ask one question. If I can make the point: you talk about the market as if it's a wonderfully run thing that works, but in markets, quite often, cartels start appearing, which is probably worse than having a single provider. That's the statement that I wanted to make.

[76] The question I wanted is: we have people who complain about everybody. I'm dealing with somebody at the moment; I've only dealt with this lady for two weeks, and she's managed to complain about social services in the local authority, education in the local authority, the school in the local authority, the health service, Barnardo's, and I expect her to complain about me shortly. [*Laughter.*] So, you have these people who are serial complainers, as if they believe there's one genuine conspiracy by the whole public sector against them. If only the public sector was so joined up that they could actually achieve such a thing. [*Laughter.*] I've got difficulty getting them to talk to each other when they ought to be. Obviously, you do get some of these who have complained about everybody, they've now reached you—. I know there's a lady who wants to give evidence to us who wants to complain about you as well, having, again, complained about everybody else.

[77] **Mr Bennett:** Well, I think, going back to your point about cartelism, I think apart from yourself and Barnardo's, every other organisation that you mentioned there is actually a monopoly. But my point is that I'm not pro or anti competition, but I am pro people being dealt with in a satisfactory way. We want to see a good level of service, so I think there is that broader issue of complaints having that effect. I know it can be difficult, particularly with serial complainants, but I think something that we have to constantly remind ourselves when we're dealing with the Welsh public is that perhaps you will have serial complainants, but what happens if complaint number five is actually a really legitimate or an important one that could affect somebody who is in a fragile condition, for example? So, we try and ensure that we are as sensitive as possible, but, you know, there are issues that we cannot help with. There will be also vexatious complaints and, as I was saying earlier, we have to be brave enough to deal with those and make sure that we're dealing with genuine cases.

[78] **Mike Hedges:** Talking about the health service, you say there's a

monopoly, but surely there's private healthcare available, so it's obviously not a monopoly situation. It's only a monopoly situation for those who use it.

[79] **Mr Bennett:** Exactly, and that's my point. So, if somebody doesn't have the power of the pocket, it's important that their voice is respected, and that we can use the power of that complaint to really improve performance for the future.

[80] **Jocelyn Davies:** Okay. Nick, have you finished with your questions? Yes. Ffred, shall we come to yours?

[81] **Alun Ffred Jones:** A gaf i ofyn ychydig o gwestiynau cyffredinol? Faint o staff a ydych chi'n eu cyflogi fel ombwdsmon, a lle maen nhw wedi eu lleoli?
Alun Ffred Jones: Could I ask you some general questions? How many members of staff do you employ as an ombudsman, and where are they located?

[82] **Mr Bennett:** Rwy'n cyflogi 56 ac maen nhw i gyd wedi eu lleoli ym Mhencoed.
Mr Bennett: I employ 56 and they are all located in Pencoed.

[83] **Alun Ffred Jones:** A gaf i jest droi hefyd at y ffigurau? Rydych yn sôn am ymholiadau ac wedyn cwynion, ac yn y blaen. O ran y ffigur yma am ymholiadau ym mlwyddyn 2014–15, sef 3,470, a ydy'r rheini ar wahân i'r ffigurau cwynion rydych wedi eu nodi wedyn, sydd yn 2,000 a rhywbeth, neu a ydy'r cwynion yn rhan o'r ymholiadau?
Alun Ffred Jones: Could I just turn to the figures? You talk about enquiries and complaints, and so forth. Is that figure for enquires in 2014–15, which is 3,470, separate to the complaints figure that you then note, which is 2,000 and something, or are the complaints part of those enquiries?

[84] **Mr Bennett:** Ydyn, maen nhw ar wahân.
Mr Bennett: Yes, they are separate.

[85] **Alun Ffred Jones:** Maen nhw ar wahân. Felly, mae'r ymholiadau yna yn ymholiadau cychwynnol yn unig sydd ddim wedi arwain at ymchwiliadau.
Alun Ffred Jones: They are separate. So, those enquiries are just initial enquiries that haven't led to investigations.

[86] **Mr Bennett:** Na, dydyn nhw ddim yn arwain at ymholiadau. **Mr Bennett:** No, they don't lead to enquiries.

[87] **Alun Ffred Jones:** Ymchwiliadau. **Alun Ffred Jones:** Investigations.

[88] **Mr Bennett:** Ymchwiliadau; mae'n ddrwg gen i. **Mr Bennett:** Investigations; I'm sorry.

[89] **Alun Ffred Jones:** Felly, a ydy'r rheini'n benderfyniadau gennych chi nad ydych chi'n symud ymlaen efo nhw, ynteu ymholiadau ydyn nhw sydd yn dal i— **Alun Ffred Jones:** So, are they decisions that you're not moving forward with those cases, or are they enquiries that are still going on—

[90] **Mr Bennett:** Wel, mae'n bosibl y gwnawn ni eu cyfeirio nhw at gyrff eraill os nad ydyn nhw yn dod o fewn ein hawdurdodaeth ni. **Mr Bennett:** Well, it's possible that we'll refer them to other bodies if they don't come under our jurisdiction.

[91] **Alun Ffred Jones:** Diolch yn fawr. Fe wnaif droi at y cwestiynau roeddwn yn fod i ofyn i chi am gyngor proffesiynol. Rydych chi wedi cyflogi cynghorwyr arbenigol ym maes iechyd, rwy'n credu, er mwyn eich cynghori chi a delio efo rhai achosion. Yr amcangyfrif ar gyfer y ffigur yma, rwy'n credu, oedd £310,000 ar gyfer y flwyddyn nesaf. A fydd gennych chi ddigon o adnoddau ar gyfer y nifer cynyddol o gwynion iechyd cymhleth sydd yn dod ger eich bron? **Alun Ffred Jones:** Thank you very much. I'll turn now to the questions I was supposed to ask you about professional advisers. You've employed clinical specialist advisers, I believe, to advise you on some cases. The estimate for that figure, I think, is £310,000 for next year. Will you have enough resources for the increasing number of complex health cases that will come before you?

[92] **Mr Bennett:** Ydw, rwy'n meddwl bod gennym ni ddigon o adnoddau. Ar hyn o bryd, mae dau draean o'r cynghorwyr yna yn dod o'r tu allan i Gymru, ac mae hynny'n bwysig er mwyn i ni sicrhau bod yna **Mr Bennett:** Yes, I do think that we have sufficient resources. At present, two thirds of those advisers come from outside of Wales, and that is important for us to be able to ensure that we have an independent voice

lais annibynnol o'r tu allan. Ond rydym wedi buddsoddi amser ac adnoddau i ddatblygu mwy o gynghorwyr mewnol yng Nghymru er mwyn i ni gadw costau i lawr.

coming from the outside. But we have invested time and resources to develop a larger number of internal advisers within Wales so that we can keep costs down.

[93] **Alun Ffred Jones:** Dyna oedd fy nghwestiwn nesaf, mewn gwirionedd. Hynny ydy, a ydych chi wedi edrych felly am ffyrdd o leihau eich dibyniaeth sylweddol ar y cynghorwyr allanol yma?

Alun Ffred Jones: That was my next question, to be honest. So, have you looked, therefore, for ways to reduce your significant reliance on external advisers?

[94] **Mr Bennett:** Ydym, ond mae'n amhosibl cael gwared ar y ddibyniaeth yna oherwydd natur y cwynion, ac os oes yna rywbeth wedi mynd o'i le sydd yn arbenigol iawn, er enghraifft.

Ms Bennett: Yes, we have, but it's impossible to entirely remove that reliance because of the nature of the complaints, and if there's something that has gone wrong that is very specialised, for instance.

[95] **Alun Ffred Jones:** Felly, a ydych chi'n cyflogi rhai cynghorwyr arbenigol llawn amser o fewn eich gwasanaeth?

Alun Ffred Jones: So, do you employ some specialist advisers full time in your service?

[96] **Mr Bennett:** Na, neb yn llawn amser.

Mr Bennett: No, nobody full time.

[97] **Alun Ffred Jones:** Diolch.

Alun Ffred Jones: Thank you.

[98] **Jocelyn Davies:** Okay. Peter, shall we come to your questions?

[99] **Peter Black:** Thank you, Chair. The estimate includes indicative figures through to 2017–18 for the repayment of the local government pension scheme deficit. Can you confirm what action you've taken to ensure that this deficit will be fully repaid by 2017–18? Are you envisaging it being fully repaid by then?

[100] **Mr Bennett:** We are currently—. We can give, you know, no absolute cast iron guarantee, because 80 per cent of that is equity based. But I'll turn to Dave here perhaps to handle that question.

[101] **Mr Meaden:** Perhaps I can go back just to set the background to this so that we all perhaps know where we're coming from. Back in 2010, the deficit was identified to be £1.6 million. This is part of the Cardiff and Vale pension scheme, which has a total deficit of £120 million. For want of better words, a payment plan was put in place, agreed through a supplementary; a payment plan was devised with the Welsh Government so that we would have six years of deficit payments, as well as the payments we are making for our existing employees who are still in the fund. So, that £1.6 million back in 2010 has reduced to just under £0.5 million last year. So, it is well on track for that deficit to be nil, but, as Nick said, with 80 per cent of the fund's investment in equities, I can't guarantee that. But we have a statement from the pension manager of the fund, who basically says that we are on track for a nil deficit by February 2018.

09:30

[102] **Peter Black:** So, do you have a presence on this pension board? Do you have any influence over the investment policies?

[103] **Mr Meaden:** No, not at all. I meet annually with the pension fund manager and I'm invited to participate in their meetings. But I have no influence over their funding strategy.

[104] **Peter Black:** But you have concerns about their investment policies.

[105] **Mr Meaden:** I don't; I think what I'm saying is that with 80 per cent of anything invested in equities, 6 per cent in property, the rest then in cash and bonds and things like that, there's a certain risk based on that. So, it would be wrong for Nick or me to come here and say, 'I guarantee you that there will be no deficit in February 2018', but all the indications are that there will not be a deficit.

[106] **Peter Black:** Okay; thank you. I'll ask—

[107] **Jocelyn Davies:** I think we ought to say that three of us around this table are pension trustees for the National Assembly, and if we had somebody managing our funds who could guarantee us anything, I think we'd probably be switching. [*Laughter.*]

[108] **Peter Black:** Well, exactly.

[109] **Jocelyn Davies:** Anyway, Peter, back to you, and I know Mike wants to come in.

[110] **Peter Black:** I know, and Mike knows far more about pensions than I do, so I'm sure he's got more detailed questions on this. Just the other question I've got, which I'm quite intrigued by, is the increase in costs associated with pensions of former ombudsmen. How will those costs be managed?

[111] **Mr Meaden:** Again, the background to this is that when—. Are you okay for me to answer that?

[112] **Mr Bennett:** Please do, yes.

[113] **Mr Meaden:** The background is that we inherited any liabilities in 2006 of the prior organisations, and, as part of that, three local government commissioners were paid pensions by their organisations rather than via the pension scheme. So, in other words, we had to fund it ourselves. So, with those three local government commissioners, we continually have a liability for life to pay their pensions. We're more reactive on this than anything because, having that liability, there's only a couple of things we can do. One, we have to increase the pensions each year in line with the pensions increase review order, which is a statutory instrument, and it's gone up 1.2 per cent from this year, and we also need to make sure that we've got sufficient provisions in our accounts to cover that liability. So, every year, we review the provision required based on life expectancy tables, discount factors, inflationary factors and things like that, and those figures are audited annually by our external auditors, to be sure that we have sufficient provision in place. So, the payments that we actually make to the pensioners are not a charge to resource departmental expenditure limit, to revenue DEL, in the Welsh Government accounts; they're a charge against the provision that's already sat there. So, there is no actual charge in the accounts to resource DEL, but there's a cash payment that actually takes place.

[114] **Peter Black:** Are these three pensions outliers? Are future ombudsmen dealt with in a different way?

[115] **Mr Meaden:** Sorry?

[116] **Peter Black:** Are these outliers? Are future ombudsmen being dealt

with in a different way?

[117] **Mr Meaden:** No, not at all. This is something that was inherited back in 2006.

[118] **Peter Black:** Yes, but in terms that their successors' pensions would not be treated in the same way.

[119] **Mr Meaden:** No, it's part of the civil service pension scheme. This is just something we've inherited. There is a liability for life.

[120] **Peter Black:** It's not likely to be repeated on other ombudsmen.

[121] **Mr Meaden:** Not at all, no.

[122] **Jocelyn Davies:** And it's because those pensions were paid from within the budget rather than from a pension scheme.

[123] **Mr Meaden:** That's right.

[124] **Jocelyn Davies:** And you've inherited the liabilities of all the organisations that came together to form the current—. Mike, did you have a question on pensions?

[125] **Mike Hedges:** I have two questions on pensions before I move on to my other questions. The first one is: when is the next actuarial valuation of the Cardiff and Vale pension fund?

[126] **Mr Meaden:** That will be every three years. We ask for a valuation every year, so we have an interim valuation every year, and that valuation at the end of March, again, saw another reduction. A full valuation is for 2016.

[127] **Mike Hedges:** The valuation—when the actuaries come and valuate, don't they, they're not going to date how much the pension fund has got to, but its future liability. The future liability is based on their expectation of the future life expectancies, and future life expectancies have been increasing, as at least two other Members here know, all of whom expect to live over 90, and one of whom expects to live to be 94.

[128] **Jocelyn Davies:** That's me; that's me, because I'm a woman.

[129] **Mr Meaden:** And if I can say that that is exactly what I'm doing with the three former ombudsmen. The actuary for the Cardiff and Vale fund is doing it in a much more complicated way.

[130] **Mike Hedges:** Right. If I move on, then, to—

[131] **Jocelyn Davies:** Not that we want to encourage unhealthy lifestyles in our ombudsman, in order to reduce the pension liability. [*Laughter.*]

[132] **Mr Bennett:** I had a personal best in the Cardiff 10k this year. [*Laughter.*]

[133] **Jocelyn Davies:** Of course. Do you want to take your questions now, Mike?

[134] **Mike Hedges:** Have you considered sharing accommodation and technology and support arrangements with any other public bodies, and, in terms of technology, possibly with other ombudsmen services?

[135] **Mr Bennett:** Well, not just technology, actually. We are open to collaboration, where we can. Clearly, there are statutory provisions that would prevent us from sharing certain costs with the Welsh Government; clearly, we have to be very much at arm's length there. But, currently, we're exploring a shared arrangement on internal audit with the Children's Commissioner for Wales, the Commissioner for Older People in Wales and the Welsh Language Commissioner. So, I hope that we'll have some progress there very shortly.

[136] We have in place a service level agreement for HR support with the Wales Audit Office. So, again, that's much cheaper than us retaining an internal HR function. And the previous question I received, from Alun Ffred, in terms of the independent professional advisers, well, those are procured for us by the English Parliamentary and Health Service Ombudsman. So, there are benefits for us not just in looking for appropriate collaboration within Wales with other corporations sole, but also across the UK, where we can have the benefits of their greater scale.

[137] **Mike Hedges:** What about ICT?

[138] **Mr Bennett:** I think, we're not closed to that issue, but, in terms of the other issues that you referred to, including accommodation, I think it's

important that we have a stand-alone presence—people expect us to be impartial and independent. And the new deal that we have for the next 10 years is an excellent one, and I'm very grateful to Dave and colleagues for ensuring that we've got £9 a square foot in Pencoed. I think it would be very difficult for you to find that level of lease in other business locations in south Wales, including the bay.

[139] **Mike Hedges:** ICT, particularly, I was talking about, and the sharing of ICT, possibly with other ombudsmen. You all do, virtually, the same thing—I know there are variations between what happens in England and Scotland and Northern Ireland—but, basically, you do the same things. Are there any advantages of sharing some ICT services?

[140] **Mr Bennett:** Well, certainly, we're not closed to that. If there was a return there that matched the effort, then, definitely, the answer is 'yes'. But I would remind you that our back-office costs are 4.5 per cent of our budget; where we can find savings there, we will always be open and keen to do so. But, I think, within that 4.5 per cent, the actual proportion that we spend on ICT would be very low.

[141] **Jocelyn Davies:** Because you're not a large organisation, I guess.

[142] **Mr Meaden:** It's 3 per cent of our budget, ICT.

[143] **Jocelyn Davies:** Okay. Mike.

[144] **Mike Hedges:** But if you could shave 0.1 per cent off, it would still be certain sums of money.

[145] **Mr Bennett:** Yes, absolutely.

[146] **Mike Hedges:** Carrying on from that, you've talked about this 10-year lease, and £9 per square foot, which is, from my understanding, very, very good, but you also talked earlier about getting everything coming in electronically. Why can't you store your records electronically, rather than having to print them out, to store them on paper? Electronically stored records—and there are organisations that do that—or even microfiche-stored records, if you wanted to go in that direction, would take up substantially less space.

[147] **Mr Bennett:** Sure. Well, clearly, in terms of futureproofing, we are not

going to be under the same level of physical pressure as we were previously, in terms of archiving. The scope for us to do more electronically will be significant, but that doesn't mean that we don't need more space, and the deal that we've been offered in terms of the additional floor space for the next 10 years is one that offers very, very good value for money for us and for the taxpayer, and, of course, there might be other issues, other additional staffing requirements that we have, during the course of that lease, which mean that that additional space is necessary. I don't know if David would like to add anything to that.

[148] **Mr Meaden:** We mentioned archiving as one item, but we'll need to set up new scanning equipment to scan documents that we don't receive electronically but we want to turn into electronic documents; we need to have a site where we can do that. The archiving space isn't just records, like medical records; it's library books, it's our library of information, which we can move into one particular area, allowing us to be a bit more effective with, let's say, our operational office space. So, we can move all our non-day-to-day operational items into one space.

[149] **Jocelyn Davies:** How long do you keep records for? These paper files that you've got, how old are they?

[150] **Mr Meaden:** About 18 months.

[151] **Jocelyn Davies:** Eighteen months and then they're shredded.

[152] **Mike Hedges:** Of course, if they were electronic, you'd just have to overwrite them, which would certainly save you some space. The other question I have on this is: you talk about futureproofing technology needs, now, as someone who's spent some time in technology, what we have are long periods of things that are very similar, and then huge jumps. How are you sure that you're futureproofed for what may be a huge jump, which I know nothing about, taking place in the next 10 years?

[153] **Mr Bennett:** Well, I think if I had that level of ability to look into the future of IT, particularly during a global information age, I wouldn't be employed as the ombudsman; I would be doing something in California, and, you know, that would be lovely, but it's great to have the opportunity to serve the good people of Wales and to come here to see you today.

[154] **Mike Hedges:** You did talk about futureproofing over 10 years—.

[155] **Mr Bennett:** Yes. I think we need to be more ambitious there. Certainly, we're trying to do more. One of the things that we are looking to address, in terms of our communications, is the way in which we're prepared for the information age. That's in terms of IT, also, actually, in terms of the use of our social media, Facebook, Twitter and so forth—the level of expectation that people have in terms of their use of, simply, the iPhone, these days, rather than, perhaps, the more traditional expectations of written correspondence. Some of this touches on other issues that we've discussed with you before in terms of people's access to the office. But, I think, our ability to look 10 years in advance, in terms of futureproofing, would be limited, but there is certainly a desire there to keep on top of things and to make sure that we're as forward-looking as we can be.

[156] **Jocelyn Davies:** Okay, Mike.

[157] **Mike Hedges:** Yes. I'd like to move on, then. If the Act that we've done some work on and which we would hope a future Welsh Government would bring in or accept after the next election comes in—there are a lot of 'ifs' in there, I know—

[158] **Jocelyn Davies:** We should be finalising it next week, 16 October, so it'll be out for publication—well, if we can agree it—next week, after that.

[159] **Mike Hedges:** So, if all these 'ifs' actually take place, would you be able to, with sufficient resources, support the transition phase of the new Act, and how would you balance the increasing case load with the potential additional duties contained in the Act? You've got increasing case load and additional duties—how are you going to balance that within what is a fixed sum?

[160] **Mr Bennett:** Well, one of the reasons why we're keen to make sure that we can absorb as much transition as possible is that I would feel uneasy in terms of requesting resources for an Act that has not yet passed. As you said yourself, Mike, there are a lot of 'ifs' in there. So, I don't want to jump the gun in terms of us overestimating our future needs. In terms of the balance, I think there will be a transitional issue, but I think that that's something that I'm confident we could handle. If we see—

[161] **Jocelyn Davies:** How have you estimated those costs?

[162] **Mr Bennett:** If you remember, we've done some work in terms of looking at some of the issues around an explanatory memorandum. We've looked at what they do in Scotland, what they do in Northern Ireland and other jurisdictions. So, specifically, own initiative, we know the work that was done there in terms of Northern Ireland, their legislation that should come into play at Easter. We've seen the costs that were incurred in terms of having a Complaints Standards Authority in Scotland. So, it's not difficult to transpose those costs into a Welsh context.

09:45

[163] But I should also remind the committee that there is an efficiency here. If we have a complaints standards authority that is effective, then it should lead to better complaint-handling by bodies in jurisdiction. So, it's the legislative version of what we're trying to do with improvement officers. So, that should actually reduce some caseload longer term and lead to better services for people locally. Certainly, in terms of own initiative, this is not just about additional work. Those organisations that have own initiative use it sparingly. Also, we currently have inefficiencies through not having own initiative. For example, I have complaints coming in about GP services. We investigate. They're not being generated simply by the GP. It's a systemic issue in the health board. We currently have to go back to the complainant and ask them to give us another complaint—issue another complaint—about the health board instead of the GP on the same issue. Now, that does not look very efficient from the Welsh taxpayer or the citizen's perspective. So, there will be efficiencies through this legislation. It's not all about additional cost.

[164] **Jocelyn Davies:** Okay, Mike?

[165] **Mike Hedges:** Yes.

[166] **Jocelyn Davies:** Are there any other questions? Well, thank you very much for attending today. As normal, we'll send you a transcript. If you spot any errors in it, if you'd let us know we'd be very grateful indeed.

[167] **Mr Bennett:** Okay. Thank you very much.

09:46

**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**

Cynnig:

Motion:

*bod y pwyllgor yn penderfynu that the committee resolves to
gwahardd y cyhoedd o'r cyfarfod yn unol â Rheol Sefydlog 17.42(vi).*

*exclude the public from the meeting
in accordance with Standing Order
17.42(vi).*

Cynigiwyd y cynnig.

Motion moved.

[168] **Jocelyn Davies:** I suggest we go into private session now, under Standing Order 17.42. Everybody content with that? Thank you.

Derbyniwyd y cynnig.

Motion agreed.

Daeth rhan gyhoeddus y cyfarfod i ben am 09:46.

The public part of the meeting ended at 09:46.

Ailymgynullodd y pwyllgor yn gyhoeddus am 10:15.

The committee reconvened in public at 10:15.

**Y Bil Casglu a Rheoli Trethi (Cymru): Sesiwn Dystiolaeth 6
Tax Collection and Management (Wales) Bill: Evidence Session 6**

[169] **Jocelyn Davies:** Welcome back to this meeting of the Assembly's Finance Committee. We're now on agenda item 7, which is the Tax Collection and Management (Wales) Bill. This is the sixth evidence session. We've had papers in—they've been circulated to you—from the Institute of Chartered Accountants in England and Wales and the Association of Chartered Certified Accountants. I'm very pleased that you're able to be with us today to answer our questions. Would you like to just introduce yourselves for the record? Then we'll go straight into questions. Shall I start with you, Jason? You don't need to press that; that'll come on.

[170] **Mr Piper:** I'm Jason Piper, I'm a senior manager in tax and business law, working for the ACCA in the external affairs technical advisory team.

[171] **Jocelyn Davies:** Lovely. Thank you. Martin?

[172] **Mr Warren:** Bore da. My name's Martin Warren. I'm the director for Wales of the ICAEW.

[173] **Jocelyn Davies:** Lovely. Thanks. What principles should be considered when designing a tax system and, in general, how well have these been reflected in the Bill that we've got in front of us? Martin, shall I start with you?

[174] **Mr Warren:** Yes. That's fine. Thank you, Chair. In our submission, we've set out 10 principles that we think are important in setting up a system. I think the process that's been applied so far has actually been a very good one. I'm on the tax advisory group, and the consultation and thinking behind the Bill has been very good, in our view. There's been a lot of work looking at simplicity for the taxpayer as well as for the activity itself. Certainty is really important within the Bill, and we're looking, certainly in the tax advisory group, to ensure that every opportunity is taken to make the laws simpler. There is a great opportunity for the Welsh Government to look afresh—. And, obviously, tax bills are something that, over the years, in the UK, have been created by amendment and adjustment, and there are a lot of rules and regulations that, potentially, don't need to apply or are no longer applicable. There are many ways in which the processes can be simplified and improved, and I think the process so far has taken that into account and is planning to achieve something that will be much easier to use and applied by the general public.

[175] **Jocelyn Davies:** Okay. Thank you. Jason, do you have anything to add to that?

[176] **Mr Piper:** No, I think I'd agree with what—

[177] **Jocelyn Davies:** And you'd agree with that?

[178] **Mr Piper:** —Martin said, yes.

[179] **Jocelyn Davies:** So, you feel that the Bill, then, strikes the right balance.

[180] **Mr Warren:** I think it does. We've made a couple of comments within it. I think one of the things within the Bill that we'll probably come onto later about the way in which the Welsh revenue authority works needs to be adjusted, but, in principle, I think the right approach has been taken.

[181] **Jocelyn Davies:** Okay. So, what about public awareness, then? What actions do you feel would be necessary in order that there would be better public awareness of what's happening? Jason, I'll start with you, if you like.

[182] **Mr Piper:** I think one of the aspects where, obviously as accountancy bodies, we feel we can help is that members of the public and businesses are going to, very often, hear about this for the first time when they are actually dealing with an accountant; so, it's ensuring that there is a sufficient awareness in the profession, and they will be able to act as channels to pass information on to the taxpayers more generally. There is a lot that can probably be done there around awareness with professions—not just accountants, but all the other business support groups.

[183] **Jocelyn Davies:** Martin, do you agree with that or do you have something to add?

[184] **Mr Warren:** I do, but I think success for this will actually be that we don't need to make too much of this. The danger with tax devolution is that it's overcomplicated or that we try and do too much with it. So, for me, public awareness only needs to be raised where there is a change or where there's something fundamentally different that we're trying to apply. If Wales generally follows the same principles and the same approach, then the best way for the public is not actually to be aware that the changes happen but simply to be paying the taxes and for those taxes to be collected.

[185] **Jocelyn Davies:** Okay. Thank you. What about compliance? Do you think that there will be significant additional compliance burdens?

[186] **Mr Warren:** Well, 'There shouldn't be' is the answer to that. Again, as I said at the beginning, I think the opportunity to make things simpler, and therefore relieve the system of compliance issues, needs to be taken. So, if areas of difficulty in terms of compliance exist, then we should be looking at those and seeing if we can actually change the way in which the system works or the process is applied to remove some of those compliance problems.

[187] **Jocelyn Davies:** Jason?

[188] **Mr Piper:** I think we'd definitely agree with that. The trend, globally, among business is to try and unify things and have a streamlined process. We look at all the papers that have come out of the Organisation for Economic Co-operation and Development looking at trying to cut down on the differences between different national tax systems. Success for the Welsh system will be when it's seen as a better—or an evolution of the existing UK system with, as Martin says, any change made for improvement. Change for the sake of change for a third party looking to try and invest in Wales, for example, isn't necessarily going to be helpful, but if we can point to a system that is being developed from an existing well-known process, and any changes for the better, and to make things more streamlined, then that has to be a success.

[189] **Jocelyn Davies:** In your evidence you recommend that the revenue authority measures the impact of tax policies, and we did speak last week to Her Majesty's Revenue & Customs about the tax information and impact note—the TIINs. Do you think that that needs to be in the Bill or not? If you think that needs to be in the Bill, why?

[190] **Mr Warren:** I think it would be very difficult to put it in the Bill. At the end of the day, we haven't set those tax policies, so there is an issue relating to that. I think it's more important to capture in the Bill the relationship between the Welsh revenue authority and the Welsh Government. Every time policy is set, there should be an objective to that tax policy, and the WRA should be able to measure the performance of that policy and report back to the Welsh Government so that you can measure whether the policy has succeeded. So, I think it's really important that any tax policies that are set are clearly laid out by the Welsh Government as to what is trying to be achieved, and what benefit there is to change the system or the rates, and then the WRA collect that information and report back to the Welsh Government on that performance.

[191] **Jocelyn Davies:** Do you agree, Jason? And do you think that it's the revenue authority itself that should be doing that, or somebody else?

[192] **Mr Piper:** The revenue authority will have many of the skills and the information immediately to hand. There's a question, or potentially people might raise the question, of independence or being able to take a step back and look at the wider policy implications. The question is whether an

individual measure is being assessed as a policy in itself, or whether it's the tax implementation of the policy that we're concerned about. So, for example, trying to moderate consumption of alcohol is a policy aim and it's implemented by a tax that, at the moment, is based on the percentage of alcohol within whatever you're buying. There could be other ways to try and implement that tax system, and it's at what level you put the analysis in to check that the policy is being implemented properly, and to the extent that it's analysing the actual tax implementation—the best way to use the tax system. That probably sits best with the tax authority. But, hopefully, the thought process will have been addressed beforehand—is tax really the best way to encourage this to happen?

[193] **Mr Warren:** I agree with that, but I think if it's clearly laid out at the beginning what activities are supposed to come, or what benefits and changes should come, then the WRA should be independent enough to provide objective information back from their side of the activity and provide that to Government. Obviously, it's Government that must make a judgment about that information, but they're in the best position to collect independently and give an objective view back of what has happened.

[194] **Jocelyn Davies:** Okay. Mike, shall we come to your questions?

[195] **Mike Hedges:** Yes. You've talked about how taxes should be different; can I move on to tax collection? To what degree should there be a consistent approach to tax collection in Wales relative to England, and what are the opportunities to have new approaches, if any?

[196] **Mr Warren:** Well, as I said at the beginning, I think if we change too much then we will confuse and find life difficult, so I think it's really important that we seek to change as little as possible from the perception of the taxpayer, or, indeed, the tax collector. So, any change should be either to simplify or to improve. Already, decisions have been made to utilise the HMRC for one of the two taxes that are being devolved. I think that's been made on the basis that there'll be as little disruption as possible, but there will be a point at which, potentially, our collection will differ, and, at that point, we have to be very careful about how we apply that and how we inform. But I think variation is the danger here without purpose. So, variation should only be applied if there is real purpose—benefit either in cost, in simplification, or, indeed, in behaviour, as the Welsh Government see fit.

[197] **Mike Hedges:** Do you think there should be a general anti-abuse rule

in the first Bill? The Welsh Government have said they will bring it in in the future land transaction tax Bill, but do you think we should start off with a general anti-abuse rule, so that people know exactly where they stand on it?

[198] **Mr Piper:** The difficulty that we've found with anti-abuse rules and anti-avoidance rules is framing them in such a way that people do think they know where they stand with it. That said, setting down a basis of—you know, principles-based legislation, and at least putting forward that grounding for the way that the WRA is going to work within its framework; the earlier people are aware that's going to happen, the better. But, as always, the difficulty is in the specific drafting.

[199] **Mr Warren:** Yes. I think the general anti-abuse rule, as applied at the moment, is aimed at individual taxpayers' income tax and corporation tax—areas that are not yet in the devolution arena. So, I'm not sure that there would be any benefit at this stage for the Welsh Government to be looking at that that couldn't be done through other methods.

[200] **Mike Hedges:** Won't there be abuse possibilities—I will only use the word 'possibilities'—within land transaction tax if land transactions are undertaken by large companies with multi-national locations?

[201] **Mr Warren:** Again, it's a very important point that the cross-border activity potentially here needs to be properly policed and looked at. So, this will depend on the regulations and the rules that are laid down for land transaction tax. Personally, I don't see how it's beneficial to try and deal with this in the Bill; I think it's really important to deal with it in the procedures and the processes at the time.

[202] **Jocelyn Davies:** Okay. Peter.

[203] **Peter Black:** Yes, thank you. Your evidence notes that the Bill refers to the functions of the WRA, but not to providing a quality service that is suitable for all taxpayers. Could that be better reflected in the Bill or are we going to have to rely on the way the Bill is implemented?

[204] **Mr Warren:** Well, that's certainly a point that we made very strongly. There's a big concentration in the Bill on regulation abuse and penalties and so forth, and all that is heavily built in, but there seems to be almost a void in this area. Certainly, we feel that there should actually be something very specific laid down for the Welsh revenue authority to provide a quality service

as a broad collection and management process. So, we think that is actually absent from the Bill at the moment. It doesn't need to be significant, but it needs to be a very clear objective of the WRA.

[205] **Peter Black:** Are there examples in other Bills that we might want to look at for that that you're aware of?

[206] **Mr Warren:** I can't answer that one. I just identified the void rather than—.

[207] **Peter Black:** I suspect it's not in the legislation setting up the HMRC in the first place.

[208] **Mr Warren:** That's quite possible. The opportunity for Wales is huge here—

[209] **Peter Black:** I agree.

[210] **Mr Warren:** —to write something that is up to date and specific for Wales, and, naturally, everybody goes to what already exists and replicates many of those things. So, I suspect that you're absolutely right: this is probably absent from other people's Bills, but it would be a great addition and should be there for the Welsh Government.

10:30

[211] **Peter Black:** The ICAEW also recommends that the functions of the WRA in the Bill should ensure that information provided to taxpayers is appropriate and sufficient. Would that be the sort of clause you're looking at in terms of something saying what they should be doing for their customers?

[212] **Mr Warren:** Again, I think we would agree with that entirely. It's helpful to be very clear about what the WRA is about, and, although certain things are very clear in the Bill, both these two things that you've just raised are not clear and high enough among the objectives of the authority. Yet, if the authority is going to act well and if it's going to be governed, then those objectives need to be absolutely clear. So, if you're going to set up an independent board to look after the WRA, which is proposed, they need to understand that those are high objectives for the WRA to achieve.

[213] **Peter Black:** So, it's the duties we give to that board.

[214] **Mr Warren:** Absolutely.

[215] **Peter Black:** I was going to move on to the charter, but Nick's going to deal with that later on, because I think that's an opportunity there, but I'm sure Nick will come back to that.

[216] **Nick Ramsay:** Feel free.

[217] **Peter Black:** No, carry on; I've got other matters. [*Laughter.*]

[218] In terms of the delegation of functions to other bodies, that's obviously available to the WRA. Can we balance that delegation with accountability? Is that an appropriate balance in the Bill already for that?

[219] **Mr Piper:** I think there are aspects of—obviously, the delegation power is there and needs to be there. Retaining accountability is crucial and that needs to be explicit in the Bill. One of the points that we raised was that the charter, for example, is not specifically applied to delegated authorities, and we feel it should be. The charter is one of the themes that runs through and moves towards what Martin is saying about ensuring there's a quality service. There needs to be an accountability and a chain that links that through all the activities that are either carried out by the authority or on its behalf.

[220] **Peter Black:** Okay. The ACCA paper talks about restricting delegation powers to prevent using payment 'by results' and to limit delegation 'to competent authorities'.

[221] **Mr Piper:** Yes.

[222] **Peter Black:** Can you expand on those issues? Are they the most important aspects of that here?

[223] **Mr Piper:** I think, in terms of setting a limit, the concern we'd had is that there have been examples where powers have been delegated by other authorities, not so much in the collection and management of the taxes themselves, but in areas like debt collection, and there can be concerns about who is being appointed to do that and how they're going to carry out the business. That's more where we had a concern about ensuring—

[224] **Peter Black:** I think we've all had experience of that as caseworkers in

terms of local councils, yes.

[225] **Mr Piper:** So, making sure that the right people are being used to carry out those functions—.

[226] **Mr Warren:** I think our view is that delegation should only happen where it can be better done by another organisation. The decisions to utilise organisations at this stage have been on that basis. But that delegation needs to be done in a formal way between the WRA and those organisations, and that means—in common parlance, that’s a service-level-agreement approach, and all the responsibilities of the WRA that they need to delegate need to be within that agreement, and so the accountability flows between the organisations. That’s the normal way in which to set up a delegation, and it needs to follow. I’m not sure it needs to be reflected in the Bill, because it is a natural thing for any organisation to do when passing responsibility down. I wouldn’t say it’s particularly that there are issues within the Bill at this point in time, but it needs to be understood that’s how it would operate.

[227] **Peter Black:** Maybe a formal scheme of delegation, setting out principles that could be then scrutinised by the board and whichever committee of the Assembly oversees that.

[228] **Mr Warren:** Indeed.

[229] **Peter Black:** Great. The Minister’s also stated that HMRC are likely to be the preferred provider to collect devolved taxes. We had the HMRC in front of us last week, and I had some concerns about how they were going to be able to tailor that service to Wales. I don’t know if you feel that there are issues with having such a large, established organisation—whether they understand what providing a specific Welsh service actually means.

[230] **Mr Warren:** That’s a particularly Welsh question, I think.

[231] **Peter Black:** Well, we’re a Welsh body.

[232] **Jocelyn Davies:** Did you see the session that we had last week or have you been able to—.

[233] **Mr Warren:** No, I’m afraid I didn’t, but certainly I have an understanding of HMRC. There are certainly risks in utilising HMRC, and those risks need to be protected against, and that’s how I would look at this.

I think it's the right decision to utilise the HMRC for the purpose, at the moment, that the Welsh Government has chosen to do, but there is a real danger that there won't be a Welsh bespoke service, that the service will be added on and perhaps not given the priority that we'd want. So, there must be some form of agreement with HMRC that recognises that we need a bespoke service.

[234] There are issues, of course, around cost and resources. HMRC itself is already struggling in resource terms, and ICAEW are not happy with many of the HMRC performances at this point in time. So, you're right to identify a risk there, and it's going to be really important that it's well set out and well set up and well monitored. So, going back to the service-level agreement effect and the delegated powers process, there needs to be very strong monitoring by the WRA of the process.

[235] **Peter Black:** Is there a danger, if HMRC don't get it right, that that will reflect on the whole process of devolved taxes and on the Welsh Assembly?

[236] **Mr Warren:** Yes, and, of course, the more we vary from the way it happens in England, the more risk there is of that, so you need to bear both of those things—take those into account.

[237] **Peter Black:** Okay, thanks.

[238] **Jocelyn Davies:** Nick.

[239] **Nick Ramsay:** Thanks. Morning. Section 14 of the Act—the infamous section 14—allows Welsh Ministers to give the revenue authority directions of a general nature. What should be the limits of these directions, and do you think there should be a clearer limit set in the Bill?

[240] **Mr Warren:** This is quite a difficult one to get underneath. It should be very clear that the Welsh Government are setting policy and the WRA are applying the system and the management. It's a bit like a board of governors and the executive—there needs to be a very clear line between them, and that needs to be monitored. Obviously, if the WRA have an independent board then they should be very clear on where those lines are. At the moment, the Bill is not silent on this, but it—. It suggests that, I suppose. But it is very difficult to put rules and lines in regulations. I—

[241] **Nick Ramsay:** It's that balance, isn't it, between having it at arm's

length, but also not allowing it completely free rein.

[242] **Mr Warren:** If the objectives are properly set, then it's very clear what the WRA is deemed to do. They must have to apply what the Welsh Government asks them to apply in terms of policy and what they need to collect. So, it is the interference in the management of the system that should not occur. I don't think the Bill is a problem in that, but there will always be interpretation around that, however well you write such a divide. I would suggest that it doesn't need to fundamentally change. I think it is applicable, but there aren't any easy ways of writing this, and I don't think there are many examples out there of people trying to do it, to be honest.

[243] **Jocelyn Davies:** Jason, did you have something to add to that?

[244] **Mr Piper:** Certainly. It's a problem that all Executives and legislatures wrestle with, trying to get the balance right, and we've seen examples of countries where they haven't got the balance right and there have been big concerns. If you think of the tax system as breaking down into three phases—making the legislation, and then setting up a mechanism for people to tell the tax authority about their position and what tax they owe under the legislation, and then finally you've got the payment process as the third leg—of course the first element, setting the legislation, is the job of the Assembly, the legislature. The second element, actually operating the process for complying with that legislation—so, designing the return forms, organising the compliance process—is more of an administrative function, and therefore should be sitting with the revenue authority and, as we've said elsewhere in our submission, it's going to be important to have people who know from all sides the aspect of how to comply with a tax system, whether operating it or being a taxpayer under it, in order to get that system working as well as possible. That's the area where, perhaps, you reach the difficulty of at what level can the legislature sensibly and usefully try to impose directions on the WRA. But writing it down in an Act is—

[245] **Jocelyn Davies:** But this would be the Welsh Government, not the legislature, so the Minister could just do it.

[246] **Mr Piper:** Yes.

[247] **Jocelyn Davies:** Under what circumstances would directions normally be issued of this nature? Have you any idea? Have you been aware of the Minister in Westminster giving directions?

[248] **Mr Warren:** I haven't got any examples.

[249] **Mr Piper:** Not in a formal sense under a power like this. There will be statements of policy intent and, inevitably, there's always the funding issue, and money will be earmarked—'This is for funding a certain aspect of your operations'—but in terms of a direction formally given, I'm not sure there is a—.

[250] **Mr Warren:** I concur with that.

[251] **Jocelyn Davies:** So, this would be wholly exceptional, would it?

[252] **Mr Warren:** Well, I think there needs to be a relationship between the Minister and the WRA board in the sense that there's some form of accountability, performance and, obviously, funding. So, in that sense, there will be feedback and a feed through, but there will always have to be something relating to the performance of the WRA. If that performance is not up to the needs of the Welsh Government, then there needs to be a process. But that should be by exception, obviously, and there are many examples of a way in which independent bodies operate under Welsh Government that have that process, and I would suggest those need to be applied in a similar way.

[253] **Jocelyn Davies:** So, do you think there should be caveats attached to this, in terms of 'in exceptional circumstances', or—?

[254] **Mr Warren:** I don't think there's a limitation within the Bill that prevents that from happening. I don't think there's anything that needs to be added in, from what I can see, that would aid or abet that situation. I think the accountability is there.

[255] **Jocelyn Davies:** Okay. Nick, shall we come to you?

[256] **Nick Ramsay:** Section 25 of the Bill—my favourite section; I always seem to be asking about this—requires the Welsh revenue authority to produce a charter of standards and values to summarise how it will interact with taxpayers. Neither the Bill nor the explanatory memorandum prescribe the content of the charter; should it be more prescriptive?

[257] **Mr Warren:** Well, again, I think the fact that it's mentioned the charter

and it requires the WRA to put that charter out there is the important thing. It would be really difficult for the Bill to go into detail underneath that. Standards and values are quite clearly understood, as to what that means. If, within the Bill, we reflected the requirement for a quality service, which we mentioned earlier on, I think that would underline the need for that charter of standards and values, but to try and further define what's meant under that, you'll get into a repetitive process, I would suggest, that would never come to the end of a list. So, the important thing is to actually have that very clearly there as a requirement for the WRA to produce and to apply.

[258] **Mr Piper:** I think the commitment to having the charter is the important thing. I wasn't able to find anywhere where there's anything beyond having to have a charter. There doesn't seem to be any accountability if there are concerns that, perhaps, the charter doesn't do the job it should, or some kind of review or acceptance. But, in terms of trying to set out in more detail the content in the Bill, I agree with what Martin said—(a) you will end up repeating yourself, and (b) the charter itself may well change with time. There may be aspects that need enhancing, areas that, perhaps, become obsolete with time, depending on exactly how the operations work—

[259] **Nick Ramsay:** Sorry, I don't think HMRC's charter is underpinned by legislation at all—not specifically.

[260] **Mr Piper:** No, and it's had a bit of a chequered history of coming and going as well, partly because it's not underpinned by legislation. It's a voluntary exercise on their part.

[261] **Jocelyn Davies:** Does it work?

[262] **Mr Piper:** At times.

[263] **Nick Ramsay:** They think it does.

[264] **Mr Warren:** HMRC think it does, yes.

[265] **Nick Ramsay:** They were very fond of it. I'm not sure what their customers think.

[266] **Mr Piper:** Not every taxpayer believes it works properly in every case.

10:45

[267] **Mr Warren:** HMRC have an arrangement with their chartered accountants, the Local Working Together process, and that is deemed to be part of the performance of the charter, and I would say that our experience of that is very chequered. The objective is obviously right, but the performance will be variable. And so, again, I think it's something that the WRA can potentially make a difference with, focusing for Wales on the charter for Welsh taxpayers.

[268] **Nick Ramsay:** So, you think the charter is broadly a positive thing that will make it better rather than worse?

[269] **Mr Warren:** It can't do any harm, and it is something that should be aimed for.

[270] **Nick Ramsay:** Should the charter be subject to a regular performance appraisal? The Bill currently says 'from time to time', but that could be every couple of centuries or so, so we need to tighten that up.

[271] **Mr Piper:** Setting limits on it then runs the risk of turning it into a tick-the-box process of, 'Oh, it's an odd-number year—we must review the charter'. So—

[272] **Jocelyn Davies:** Come on; look, you two—you come here and say, 'It's a very good idea to have a charter; we know of a charter, it's not very good.' So, come on, you can't have it both ways. Now, do you think—? I mean, who's going to say, 'We shouldn't have a charter'? We've got a charter that's not in statute that already exists for HMRC and you're telling us it doesn't work all that well and it's not implemented very well. You've got an opportunity here to make things a little bit better so, come on now, get your act together—tell us exactly what you think about how the charter should operate in Wales. Jason, I'm starting with you to give you an opportunity to think about it. [*Laughter.*]

[273] **Mr Piper:** I think part of the issue with HMRC's charter is that it was imposed after the body had been set up, and HMRC is a huge organisation with quite a wide range of different cultures within it.

[274] **Jocelyn Davies:** So, here's our chance to start off on the right foot.

[275] **Mr Piper:** So, we're starting afresh and we've said elsewhere in

evidence that getting the right people into the WRA will be crucial to making it work properly and effectively. And having this charter set up from the beginning so that the people who come in and work in WRA will sign up to the charter.

[276] **Jocelyn Davies:** Even though it's just the word 'aspire'. I'll a look in the legislation there. It's section 25, isn't it, Nick? You know this off by heart, Nick, I guess, because you always ask about it. So, is this going to be good enough:

[277] 'standards of behaviour and values to which WRA will aspire'?

[278] **Mr Piper:** I think it's very hard to get any other word in that would cover what the aim of the charter is. If you make it an absolute obligation to maintain those standards, then, again, it runs the risk of becoming a tick-box exercise.

[279] **Mr Warren:** I think the point is very well made that the WRA that the Bill is setting things up in a particular way—. We've made points about how that should be structured, the type of people that should be on it, the way the committees should work—all of that is a real opportunity for Wales to cement things that should work into the process. The charter is an essential part of that, I would suggest, and should be very clearly something that is built into a quality service, as I said earlier. So, I really think that it is absolutely right to have the charter identified in the Bill as something that should be achieved by the WRA, and monitored and its performance understood. The point is absolutely right that the HMRC haven't got that at the top of their list and at the top of their objectives of their accountability in a way that can be achieved by the Welsh Government through this Bill.

[280] **Jocelyn Davies:** Would you like to see the word 'quality' in the Bill?

[281] **Mr Warren:** Absolutely.

[282] **Jocelyn Davies:** Right, okay. Somewhere in the Bill—if it's not here about the charter, somewhere else in the Bill. You'd like to see that in statute.

[283] **Mr Warren:** A quality service to the taxpayer and to the Welsh Government.

[284] **Jocelyn Davies:** Right, okay. Nick, back to you, then.

[285] **Nick Ramsay:** That's fine.

[286] **Jocelyn Davies:** That's you finished. Okay. Julie, shall we come to yours?

[287] **Julie Morgan:** Yes, thanks very much. I wanted to ask you about HMRC's Time To Pay arrangements, because a number of the responses to this committee said that something along these lines should happen in Wales—that the WRA should be able to postpone the collection of taxes. So, I wanted to know what your views were, how you see these arrangements as they are at the moment, and whether you think there should be something in the Bill about them.

[288] **Jocelyn Davies:** Okay. Jason?

[289] **Mr Piper:** There are two sides. At a fundamental philosophical level, yes, there should be Time To Pay arrangements and they need to be allowed for somewhere in the Bill—that the WRA has the discretion to enter into an agreement of that sort with the taxpayer. If tax is there for the benefit of society, then it shouldn't be making paupers of the taxpayers if they have some genuine reason for not being able to pay on time. That having been said, HMRC's practical experience, I think, is that Time To Pay can be very time-consuming on their part, and we've seen quite a shift, or certainly taxpayers have reported quite a shift in the way it seems to be operated. Sometimes, it will seem very lenient, very easy to get into and to flow through with; at other times, it can seem virtually impossible to actually get HMRC to agree to a Time To Pay arrangement, no matter what the circumstances are. So, the practicalities of how to operate it so that it doesn't become such a drain on the WRA's resources will need careful consideration, and there wouldn't be space for all that in the Bill as it stands. But the authority to have that discretion I think has to be there.

[290] **Julie Morgan:** Are the resources needed to determine to whom they would give Time To Pay? Is that where the resources are going?

[291] **Mr Piper:** It's partly that, but also, I think, just the attitude to actually allowing Time To Pay, so the application of the conditions and tightening them up. So, for example, a policy of not allowing repeat applications by one taxpayer; the expectation is that, okay, if you've had a problem and you've

been late in one year with your taxes, fair enough, but by the following year, you should have tightened things up and made sure you'd got the cash set aside. Some taxpayers, for whatever reason, find that difficult, whether genuine or otherwise. But it then involves another round of, 'How do we exercise the discretion?'

[292] **Julie Morgan:** So, you think it should be that the WRA should do this policy, but you don't think it should be in the Bill necessarily, because it's too complicated to put in the Bill.

[293] **Mr Piper:** Yes.

[294] **Mr Warren:** I think that it's a fundamental tool for the WRA to collect taxes, and at the end of the day, their responsibility is to maximise that collection of tax. So, this is about an understanding of the taxpayer and recognising whether that will be collected or not and whether Time To Pay is the way to collect it or to achieve that collection in the best possible way. And, of course, if you don't give Time To Pay, then you may end up with prosecution and penalty and all of those things. So, the tool is an essential, I would suggest, for the WRA to be able to utilise. The skills of the WRA, or the delegated authority, will be how they apply that. So, it's essential that it's a tool, but the application is down to the WRA maximising tax collection.

[295] **Jocelyn Davies:** Jason, are you suggesting that sometimes two different taxpayers are dealt with differently—that the use of this discretion isn't always uniform, so that one taxpayer might be able to get a repeat and another one wouldn't? Are you suggesting that sometimes you're aware that there's a possibility that—?

[296] **Mr Piper:** I couldn't quote a specific example, but I'm sure that there have been examples, and that's certainly—

[297] **Jocelyn Davies:** So, two taxpayers in almost identical situations and one could get Time To Pay and another one couldn't.

[298] **Mr Piper:** Yes. With different areas and different offices—. I know HMRC are trying to get a more unified approach to this sort of thing, and as they're centralising their functions, they recognise that that's a significant problem if there are inconsistencies in approach around the country, based just on an accident of geography.

[299] **Mr Warren:** It is the nature of discretion. If you give a discretionary power, that will happen, particularly if different people are applying that discretion, so there's always that risk. But the risk is counterbalanced by the actual collection of tax, and so there needs to be some scope on behalf of the officers in charge of that collection, as I say, to maximise tax. It is really difficult to make that uniform and fair and even everywhere if you're going to have a discretionary process. But, having said that, the discretionary process does get applied and does collect that tax, and that, after all, is the objective.

[300] **Jocelyn Davies:** Okay. Julie.

[301] **Julie Morgan:** Your evidence refers to the digital-by-default approach and the fact that it has some weaknesses. How do you think the Welsh revenue authority can make provision for the needs of all taxpayers, while also having a cost-effective service?

[302] **Mr Piper:** It's going to be a significant challenge. The advantage of digital by default is that, potentially, it is cheapest and most effective way for the tax authority to do what it wants to do, what it needs to do. The difficulty is that, for many taxpayers, they can't, either for technical reasons or personal reasons—don't feel comfortable—or are unable to use the digital-by-default route. Until you have guaranteed fast broadband and everybody is happy using a computer, then pushing digital by default for every tax isn't going to be the best way forward. That said, the specific taxes which are in scope, at least in the short term, are—landfill tax is going to be a business tax, and businesses we can generally expect to be a little but more proactive in embracing technology, especially incorporated businesses. There is an argument that if you've gone to the trouble of incorporating then, you know, we can set further conditions on how you do your tax filing. It's quid pro quo for the limited liability. For land transaction tax, there will almost invariably be a solicitor involved anyway by the nature of the transactions. So, digital exclusion shouldn't be such an issue in the short term and one of the key points about digital by default is that in time it will become default. Probably, in 50 years' time people will wonder, you know, 'How on earth did they ever get by with bags of cash at the tax office and people writing stuff out on paper?' But, in the interim, there is the difficulty that measures have to be put in place, somehow, for those who can't or won't use the digital channels.

[303] **Mr Warren:** I absolutely concur with that. I think these two taxes are very unlikely to cause a problem, but, clearly, this is a problem when you're talking about individual taxpayers. We're not at that point, really.

[304] **Julie Morgan:** In the longer term it's likely to be a significant issue and allowances will have to be made for that.

[305] **Mr Warren:** Indeed, yes.

[306] **Alun Ffred Jones:** Byddaf yn gofyn fy nghwestiynau yn Gymraeg. Dau gwestiwn sydd gennyf ynglŷn â chyllido awdurdod cyllid Cymru a chostau'r Bil. Mae tystiolaeth yr ACCA yn sôn am gost casglu a'r rheol gyffredinol na ddylai cost casglu treth fod yn fwy na'r arian sy'n cael ei gasglu, sydd yn amlwg yn beth synhwyrol. Nid yw'r asesiad effaith rheoleiddiol yn cynnwys amcangyfrif o'r gost o sefydlu awdurdod cyllid Cymru, mae e ond cyfeirio at gostau cyfatebol Cyllid yr Alban. A ydych yn credu bod hyn yn achos pryder?

Alun Ffred Jones: I will be asking my questions in Welsh. I have just two questions regarding the funding of the WRA and the costs of the Bill. Evidence from the ACCA talks about the costs of tax collection and the general rule that the costs of collecting tax shouldn't be greater than the tax take, which sounds sensible. The regulatory impact assessment does not include an estimate of the cost of establishing the WRA, it only refers to the equivalent costs of Revenue Scotland. Do you think this is a cause for concern?

[307] **Mr Warren:** It is a cause for concern, in the sense that the Welsh Government is entering into an area of unknown. The WRA we believe is essential for this process. So, this is about ensuring that it is set up in the most efficient and appropriate way. It mustn't be under-resourced, but at the end of the day, as we're delegating the actual collecting activities then there should be some certainty about the management and collection through that delegation. But that's a discussion with HMRC and Natural Resources Wales. The core sort of financial area that will support and inform the Government is an area that's being developed and has to be developed to take these and future taxes. So, yes, it's unfortunate and difficult to estimate the costs, but it's the way in which it's set up that needs to be controlled to limit those costs in an efficient and appropriate way, and I think that is all that, at this stage, can be done.

[308] **Alun Ffred Jones:** Mae gennyf un cwestiwn arall. Rydych newydd gyfeirio at y ffaith na ddylid tangyllido awdurdod cyllid Cymru. A

Alun Ffred Jones: I have one more question. You have just referred to the fact that we shouldn't underfund the WRA. Are there any examples

oes yna enghreifftiau o'ch profiad chi from your experience where
 ble mae problemau wedi codi o problems have arisen as a
 ganlyniad i ddiffyg cyllid, er consequence of a lack of funding, for
 enghraifft, o fewn HMRC? instance, within HMRC?

11:00

[309] **Mr Warren:** Well, I think there are problems in HMRC now in terms of the funding and resourcing of a number of areas. So, as we mentioned earlier, there is a risk about delegation to HMRC—that needs to be controlled and understood. This is a really difficult area in the current climate. So, it is something that the Welsh Government needs to be very careful about, and really think through what's required. It's very useful that the Scottish Government are setting something up in advance. We can look at that and examine what is happening up there, and not replicate it, but look at it in a way that suits ourselves. Obviously, there is a different degree of devolution of tax in Scotland, so there's a different requirement. So, I think it is about slowly, but surely, ensuring that the WRA is set up in a way that is required for Wales, as opposed to trying to replicate other things, and controlling the costs of any delegated organisations.

[310] **Jocelyn Davies:** Okay. Have you finished, Ffred? Chris, shall we come to you?

[311] **Christine Chapman:** Further to Alun Ffred's questions, do you believe that there should be a limit set for the proportion of the revenue raised by devolved taxes which would be taken up by collection costs?

[312] **Mr Piper:** No. There are examples—I've not been able to track down specific evidence, but anecdotally, capital gains tax in the UK, initially, cost more to collect than it did actually raise, but the point was it acted as a safety valve to prevent all sorts of other tax avoidance, and there would be similar examples elsewhere. So, I think it would be quite dangerous to try and set an arbitrary monetary level. Obviously, that's a completely different situation to something like landfill tax or a land transaction tax, which is simply designed to raise revenue, and if that's been delegated and the delegated authority is costing more to run it than it's collecting, then that's an issue and will need to be dealt with through governance there.

[313] **Christine Chapman:** Okay, thank you. Martin?

[314] **Mike Hedges:** Can I—

[315] **Jocelyn Davies:** Let Martin finish and then we'll come to you.

[316] **Mr Warren:** I'd agree with that, except that I would suggest that landfill tax, actually, has another objective. Therefore, to try and relate tax collection costs to the tax collected is artificial, at the end of the day. We should be much more concerned about the Welsh Government setting policy for what they're trying to achieve from the tax, and then the WRA applying that and managing that in the most efficient and cost-effective way. As I said earlier on, I think if they do that and report back, then the policy and the required benefits can be assessed from that tax applied.

[317] **Mr Piper:** Can I—?

[318] **Jocelyn Davies:** Yes, Jason. Mike, I think, was going to probably be agreeing with Martin.

[319] **Mike Hedges:** I was going to ask a question, but Martin just answered it.

[320] **Jocelyn Davies:** Right, okay. Jason, did you have something to add to that?

[321] **Mr Piper:** Martin's made a very good point that, yes, not all tax is there just to raise revenue, and if it's dealing with some kind of other externality, like the environmental taxes, then, yes, the cost of raising it has to be balanced against the wider costs of collection. That plays back to what we were saying earlier about, you know, 'is tax the best way to implement a policy?' Often, it can be, if there's no other lever available to the Government or society.

[322] **Christine Chapman:** I see. Okay, thank you. Moving on, then. Obviously, you'll have the running costs of the WRA, how could the Welsh Government assess whether there are any additional costs to taxpayers?

[323] **Mr Warren:** Well, again, the objective of the WRA should be to ensure that there are not, I would suggest. So, that's about simplification and efficiency and the best process. We've got a semi-greenfield site that really needs to be exploited; I think that is the point here. With a new authority being set up, with very clear objectives for equality and an efficient system,

then those things should be limited, and clearly limited. There is a real chance to make it easier for the taxpayer with these new devolved taxes, and that should be a very clear objective.

[324] **Christine Chapman:** Jason, do you agree?

[325] **Mr Piper:** Yes, definitely, I agree with that.

[326] **Christine Chapman:** Right. Okay, thanks. I just want to move on now to ask you a question about the powers of investigation and enforcement. In the explanatory memorandum of the Bill, it says that most of the Bill's provisions for investigatory powers and enforcement are

[327] 'consistent with those currently imposed by HMRC'.

[328] To what degree should the Bill consider alternative powers to those given to HMRC? I know we've discussed that, obviously, there will be overlaps, but any thoughts on—?

[329] **Mr Piper:** HMRC's investigatory powers are, themselves, a blend of what the Inland Revenue had and what HM Customs and Excise previously had, and they're still working through the process of making sure the right bits of HMRC have the right powers at the right time. So, to simply try and import that wholesale for the different set-up wouldn't make sense; it needs a review. As to the detail of that, it will be a case of considering long-term which taxes will be devolved and how they will be operated. Historically, the difference between the two sets of powers that HM Customs and Excise and the Revenue had were between the paper chase and the physical chasing down of excisable goods. If the latter half isn't going to be such an issue for the powers of the WRA, then the powers that relate to that won't really be relevant.

[330] **Christine Chapman:** So, you're looking at not, sort of, adding things on but, actually, more of a radical approach to, you know, a new system, maybe, for the Welsh part.

[331] **Mr Piper:** I think it would be a nice opportunity to try to take, but it would involve a wholesale review of exactly what role the tax authority plays in society, the balance of rights between the authority and the taxpayer to investigate, and the authority must have the power to force people who are deliberately trying to evade their responsibility to society to actually face up

to it.

[332] **Christine Chapman:** Okay. Thank you. Martin.

[333] **Mr Warren:** I think, as I said before, the Bill concentrates a lot on reviews and appeals and all that process, and I think there are plenty of powers within there to develop areas where there needs to be investigation. I'd be very reticent at this stage to be adding to those powers. They appear to replicate what is required and is used currently, so I would anticipate not adding to that. But, at the end of the day, we are setting up something new, and the Welsh Government will, no doubt, want to review the performance of the WRA, and things will come out from that if there are shortfalls in investigatory powers. So, I think there needs to be some recognition, perhaps after three years of operation, that there is a review that could identify things that need to be added or amended in a legal sense.

[334] **Christine Chapman:** If there are changes in the future with, you know, changes to legislation governing HMRC, is it likely that the WRA will need to look at itself again to see where it needs to mirror those, possibly?

[335] **Mr Warren:** I think, certainly, they should be reviewed, but, obviously, there is an opportunity to pre-empt that now and to get that right, and that's what we should be aiming to do.

[336] **Christine Chapman:** Jason. Yes?

[337] **Mr Piper:** Yes. Certainly, the WRA shouldn't do something just because HMRC has done it.

[338] **Christine Chapman:** Okay. Thank you very much.

[339] **Jocelyn Davies:** Okay. Right. Thank you. I think that's been a very useful session with you. We'll produce a transcript; we'll send it to you. We'd be very grateful if you'd let us know if there are any errors in it. I think we can go to our next witnesses. So, thank you very much for your attendance this morning.

11:09

Y Bil Casglu a Rheoli Trethi (Cymru): Sesiwn Dystiolaeth 7
Tax Collection and Management (Wales) Bill: Evidence Session 7

[340] **Jocelyn Davies:** Welcome to the Finance Committee. As you know, you've volunteered to help us with our enquiry into the Tax Collection and Management (Wales) Bill. I believe you are representing the Law Society today. You've sent us a paper. Would you like to introduce yourselves for the record? And then I'll go straight into questions.

[341] **Ms Powell:** Kay Powell, Wales policy adviser for the Law Society.

[342] **Mr Beech:** I'm Richard Beech, a partner at Glamorgan Law solicitors.

[343] **Jocelyn Davies:** Lovely. Thank you. Some of the people that have responded to our consultation recommend that the tax legislation should be principle-based rather than including detailed provisions. So, what's your view on this balance of setting principles and prescribing rules? Kay, shall I start with you?

[344] **Ms Powell:** In terms of the Bill itself, obviously, it's an enactment of current legislation across the UK. It's drawn, obviously, from provisions in relation to HMRC and also to Revenue Scotland, where we've seen—. They've gone ahead of us, so we've been able to see the structure come into place and the provisions set there. It is important that there is a clear legislative framework for a new tax system, and we're content that the Bill, as it stands, provides that. I think, if you start to take away too many of the specific provisions around such a technical subject, then you will start to lose what's necessary to be seen on the face of primary legislation.

[345] **Jocelyn Davies:** So, Richard, do you agree with that?

[346] **Mr Beech:** Yes.

[347] **Jocelyn Davies:** Yes; you agree with that. So, you are saying that the Bill does strike the right balance, then. In your view, it strikes the right balance.

[348] **Ms Powell:** It does.

[349] **Jocelyn Davies:** The Bill will see changes for some taxpayers. Do you think we need to increase public awareness about the devolution of taxes to

Wales?

[350] **Ms Powell:** I think that there are two views, really, in terms of taxation. Obviously, it's a further step in terms of devolution in Wales. It's a major change that there are tax-raising powers coming to Wales and the Minister has already put out press releases and has drawn attention to those taxes coming. In terms of the actual operation of the tax, that's another factor—another issue. The two that we're looking at currently, the proposed land transaction tax and the landfill tax for Wales, are very closely aligned with the industries. So, in terms of the land transaction tax, many individuals will have representatives; they will have solicitors acting for them. So, it's very necessary that our members are aware, obviously, of the changes and are fully operative when they come into force. In terms of public awareness then, I'm not sure that everyone is so concerned that the taxation is being drawn in Wales or in England. It's more necessary that that actual part of their conveyance is facilitated and they move on.

[351] **Jocelyn Davies:** So, from your point of view, and from the lawyers' point of view, do you think that there'll be additional compliance burdens due to the Bill?

[352] **Ms Powell:** With the way that it's written, and the proposals that we've seen to date, they shouldn't be additional as in variable compliance. What we're starting to see is that there would be something similar to what we have already. I think Richard could add as well. In terms of sort of operating that system, then we would really want to see something that is similar and is accessible to practitioners.

[353] **Mr Beech:** Yes, because obviously we've experienced stamp duty land tax since 2003, and the early years of the implementation of that tax were quite tricky for practitioners because the system had to bed down in terms of moving from a paper-based exercise to primarily a web-based exercise. We wouldn't really want to see any change from that existing system because I think, after these 12 years of experience, we've found that the system has bedded down very well, and we'd like to see this change brought about with as little difference as possible, really, from the practitioners—

[354] **Jocelyn Davies:** Because it's very efficient, it's easy to operate and people understand it very well—the practitioners understand it.

[355] **Mr Beech:** Yes. I think that the last 10 years has seen a revolution in

legal services, in conveyancing, in particular. We are now, basically, a web-based exercise for the vast majority of transactions, and we wouldn't want to see any move away from that. In particular, the relatively seamless experience that we have with HMRC in terms of payments and downloading certificates, and then interacting with the Land Registry—the process is very efficient at the moment. Whilst we have a number of stakeholders to consider—our clients and the lenders that we tend to act for—our main concern would be that the system remains more or less the same as it is in terms of our experience.

[356] **Jocelyn Davies:** Okay. You have highlighted in your written evidence the problems that could arise if HMRC is providing services to the same taxpayer under different legislation. Would you like to expand on that to explain that to us?

[357] **Ms Powell:** Well, it's a practical concern, really. If we have practitioners, as we do, both sides of the border, dealing with conveyances either side of the border, and moving forward, the Finance Minister, through the revenue authority, appoints HMRC as the collector, it's how that then is managed, so that it's clear to people working with HMRC, but also internally to HMRC, what they're dealing with—so, are they dealing with a property in Wales or in England—and it's been clear that there is a demarcation, in the same fold, as it's going to be a similar taxation. We are concerned that it's patently obvious that they're dealing with one or the other.

11:15

[358] **Jocelyn Davies:** Okay. Mike, shall we come to your questions?

[359] **Mike Hedges:** Well, it leads very much on from your last question. To what degree should there be a consistent approach to tax collection in Wales relative to England, and are there opportunities for new approaches?

[360] **Mr Beech:** As I said earlier, I think the system, wherever possible, should be the same, because, as practitioners, we do find it relatively easy to use at present. As to innovating, I can't think of any obvious innovations or changes that could be brought about.

[361] **Ms Powell:** In relation to land transaction taxes, as would be coming forward, as we're alluding to, practitioners have changed in terms of their approach and the practice of conveyancing has changed quite drastically

recently. There are so many elements now to that, including the way that there's panel membership, as well, of conveyancing firms, and so a lot of it is online already, so there might be concerns around a change in that consistency, really.

[362] **Mike Hedges:** Thank you. And what's your view on a general anti-abuse rule? Should there be one and should it be in this Bill?

[363] **Ms Powell:** The Bill itself obviously doesn't include a general anti-abuse provision. It is preferable that it isn't in the Bill; it is preferable that, drawing on an anti-abuse approach, that is actually attached to individual taxes. So, in the course of legislating for Wales, we agree that it isn't in this Bill, but we may then see one that comes forward in relation to land transaction tax.

[364] **Mike Hedges:** What's the advantage of having it in the land transaction tax Bill rather than having it in the overall Bill?

[365] **Ms Powell:** Because you would be defining it in relation to an individual tax; you wouldn't just to be defining it in relation to general operation. It could apply more broadly, because what's going in place in the Bill is a tax system that will then incorporate other taxes that are devolved to Wales, it's not just looking at the two that we have currently.

[366] **Mike Hedges:** So, it would have to be in every tax that comes in, or it could be.

[367] **Ms Powell:** Or not, yes.

[368] **Jocelyn Davies:** Why is it called a 'general' anti-abuse thing, then, if we don't want it as a general thing? Is that a stupid question? [*Laughter.*] Perhaps it is a stupid question. Why is it called a 'general' anti-abuse rule if you don't want it to generally—

[369] **Ms Powell:** I should probably defer to taxation specialists on that one.

[370] **Jocelyn Davies:** Ah, right.

[371] **Ms Powell:** I could give you my own version, but—. [*Laughter.*]

[372] **Jocelyn Davies:** Your evidence is consistent with what we've heard

from everybody else, I have to say. Mike, have you finished?

[373] **Mike Hedges:** Yes, I've finished.

[374] **Jocelyn Davies:** Peter, shall we come to your questions?

[375] **Peter Black:** I just think perhaps that's a collective name for all abuse rules.

[376] **Jocelyn Davies:** Yes. [*Laughter.*]

[377] **Peter Black:** Does the Bill provide an appropriate balance for the Welsh revenue authority to delegate functions to other bodies, whilst retaining accountability for tax collection?

[378] **Ms Powell:** The provision in terms of agency, obviously, is broad. There's an open power, effectively, to appoint an agent to all of its functions. There would be a concern if that included policy functions as opposed to simple collection functions, but, on the face of the Bill, there aren't any concerns around the way that the legislation itself is crafted. But we would expect, moving forward, that that agency would be akin to a service-level agreement in terms of collection.

[379] **Peter Black:** So, you think that how that agency is accountable for the work that's been delegated to it is adequately covered by the Bill.

[380] **Ms Powell:** Yes. It's something that would be a duty of the revenue authority itself to ensure that it has a robust arrangement, because, obviously, the responsibility will lie with the revenue authority.

[381] **Peter Black:** Okay. The Minister's already said that HMRC are likely to be the preferred provider to collect devolved taxes, and you obviously agree with that from what you've said already. How can we ensure that that is a genuinely tailored service for Wales, when we have a Wales devolved tax, and HMRC has, so far, been used to collecting on a UK basis? How can we tailor that service better for Wales?

[382] **Mr Beech:** I assume it can be done by appropriate IT implementation and making it clear on the IT platforms that you're dealing with a distinctly Welsh tax, but I can see there are challenges there and I can see scope for confusion unless there's very clear guidance, and it's made really clear to all

practitioners what tax they are actually dealing with—the Welsh tax or the English tax.

[383] **Peter Black:** The issue that stands out, and which HMRC didn't really adequately address last week when they gave evidence, is the Welsh language in terms of ensuring that enquiries can be dealt with in the appropriate language and ensuring that the ICT is bilingual as well. Is that going to require significant investment or are we halfway there? I haven't done much conveyancing myself.

[384] **Mr Beech:** I can see issues, because—with stamp duty land tax, for example, a lot of the queries are quite technical and very specific. I can see there being an issue in actually resourcing an office to deal with guidance and deal with queries that is going to be at an appropriate cost, because we have to be conscious, I think, of the number of transactions in Wales as compared with England, and, presumably, HMRC, generally, can absorb that cost more easily than a distinct Welsh tax can. I can see there being issues on both those heads, really, in terms of the technical issues and, obviously, responding in the Welsh language as well.

[385] **Peter Black:** It's not an impossible. The Land Registry has a bilingual website; you can deal with the Land Registry through the medium of Welsh. It isn't an impossible task. The Land Registry have offices in Wales. HMRC has a small office up in north Wales, but most of it is dealt with from Birmingham, so, they are going to have to adjust, really, aren't they?

[386] **Mr Beech:** Yes.

[387] **Peter Black:** Okay. Thanks.

[388] **Ms Powell:** It's that agency agreement that is going to be key. If the Welsh revenue authority is relinquishing its own operation then it's down to the revenue authority to ensure that, in Wales, it's within the law and so will include provision through the medium of Welsh.

[389] **Peter Black:** Are there any typical problems that you or your members have encountered when dealing with HMRC that we need to be aware of in terms of setting up this new system?

[390] **Mr Beech:** Most of the problems that we experienced were in the early years of the implementation of SDLT, and, as I say, the system has improved.

There is still, sometimes, a sort of overwhelming bureaucracy, with the issue of penalty notices when there can just be administrative mistakes, for example when perhaps a payment hasn't been married up to a tax return and the client receives a penalty notice for £200 and, obviously, responds to the solicitor by saying, 'Why haven't you paid my stamp duty?' Those sorts of issues can get quite difficult and, very often, they are just on the level of an administrative issue, rather than a default in terms of paying tax. So, sometimes, those sorts of situations can escalate out of control, so we'd like to see perhaps a lighter touch, I think, in that regard.

[391] **Ms Powell:** With regard to stamp duty land tax, as we say, when it was first introduced, there were a number of issues and concerns. HMRC did set up the Working Together steering group. This is continuing to meet; it meets about five or six times a year. There don't seem to be so many public concerns raised with regard to HMRC, because they're dealt with within this group. It's meeting often enough for individual issues to be raised, but it's also something that's keeping all stakeholders abreast of issues. Just to point out, as well, that that grouping is live to what we're speaking about; they have been told that there's a switch-off of SDLT in Wales and so they are alive to the issue and engaging, and, hopefully, that also will start to raise more profile, as well, across England and Wales, because there'll be practitioners in England, as well as based in Wales, dealing with transactions that are happening here.

[392] **Peter Black:** Okay. Thanks.

[393] **Jocelyn Davies:** Are there any issues in relation to properties that might not be either side of the border, but actually straddle the border, that you've had?

[394] **Mr Beech:** I can see practical issues. Obviously, we're talking about a relatively small number, I imagine in the—. I think there has been an analysis of the numbers concerned. I think there would have to be an apportionment of the value of the transaction to split the tax between the Welsh side of the border and the English side of the border. So, I can see a practical issue there as far as practitioners are concerned, but we're probably talking about a relatively rare occurrence, I would suspect.

[395] **Jocelyn Davies:** You mentioned earlier the penalties—you're concerned about that. How will HMRC's approach then to penalties, when there's this move to the digital services—. Are you expecting that to worsen, that

situation in relation to penalties?

[396] **Mr Beech:** Stamp duty land tax in particular has a 30-day time limit, as you are probably aware, to settle stamp duty land tax from the date of the transaction. So, the system of penalties is well established. All that I was trying to get over is that, sometimes, where there's an administrative issue, then the penalties are triggered when it's not always justified. But I think every practitioner is fully aware of the 30-day time limit and, for that reason, very conscious that they have to make the returns and the payments within that time

[397] **Jocelyn Davies:** Peter, have you finished?

[398] **Peter Black:** Yes.

[399] **Jocelyn Davies:** Nick, shall we come to yours?

[400] **Nick Ramsay:** Thanks, Chair. It won't have escaped the committee's notice that I'm interested in the charter of standards and values, section 25, and all relevant subsections. That section requires the Welsh revenue authority to produce a charter of standards and values. Neither the Bill nor the explanatory memorandum prescribe the content of the charter. Is that fine as it is, or should there be more detail in there?

[401] **Ms Powell:** It's difficult, moving forward, to decide what other legislation you would have there. Obviously, having the charter requirement on the face of the Bill is what's necessary, because, otherwise, it might be approached in a different way. There are charters in relation to taxation for HMRC and also for Revenue Scotland. Obviously, they're examples too of what's necessary for the charter. Besides general descriptions of, you know, taking into account the taxpayer, and taking into account the WRA's responsibilities, then, at this stage, there isn't an awful lot more that you would put in there before you would start to get to the detail that you would want to consult on. So, in terms of the broader picture, and this being the framework legislation, then we're content.

[402] **Nick Ramsay:** So, what's in there is about right in terms of the content.

[403] **Ms Powell:** Yes.

[404] **Jocelyn Davies:** Are you okay with that word 'aspire'? You're a lawyer.

[405] **Nick Ramsay:** It bothers you, that word, doesn't it?

[406] **Jocelyn Davies:** Well, I just wonder what it means. I haven't seen it before in legislation. Is it often in legislation?

[407] **Ms Powell:** It has been and it hasn't been. I think there have been discussions around whether it should be aspirational or should be a duty. The inclusion of the word 'aspire' doesn't mean that nothing happens. It does mean that there is still a duty there, and so there is action available in relation to that duty. I know, in terms of what happened in Scotland, that there were discussions around whether that should be aspiration or actual. In terms of the broader legislation, it's not a huge concern because, again, the fact that it's there is necessary, and we're moving forward in a fairly slow fashion, so the aspiration, I think, at this stage is acceptable.

[408] **Jocelyn Davies:** And there is a legal certainty about what it means, 'aspirational'.

[409] **Ms Powell:** I would agree with you; not necessarily. In terms of interpretation, this isn't a clause that we've taken particular issue with. We've taken no issue with it, and taking account of other similar legislation, we were content.

[410] **Jocelyn Davies:** Okay. Nick, sorry—back to you.

[411] **Nick Ramsay:** How do you expect your members to use the charter? What positive benefits will it have for them, or their clients?

[412] **Mr Beech:** It's not something that any of my clients have ever really asked me to focus on, in all honesty.

[413] **Nick Ramsay:** That's a first today—fair enough. [*Laughter.*] Your written evidence suggests that non-compliance with the charter by the Welsh revenue authority could lead to some sort of penalty. Can you clarify how non-compliance could be dealt with?

[414] **Ms Powell:** There would have to be a provision, moving forward, to decide how that would be meted out. In terms of HMRC, there are concerns around the charter, and the fact that although there are provisions around how the service is going to be provided, what the values are, how they're

going to view taxpayers, and so on, the actual application of that charter obviously isn't always upheld. There are concerns around response to the Public Affairs Committee as well in terms of HMRC, and there have been discussions around the charter, and where people are falling short of the charter there have been discussions about how that could be taken forward.

[415] **Nick Ramsay:** What sort of penalties apply with other charters, such as with HMRC? Are there any penalties at the moment?

[416] **Ms Powell:** There aren't specific penalties that have been attached to the charter, and that's why it's important to view this as something that's an ongoing relationship, but also there needs to be some provision, through responsibility to the Assembly, that you would see—. Sorry, I'm muddling my head with another issue.

11:30

[417] In terms of the charter itself, the authority would be responsible for delivering that charter, and so, when they come to account, then that charter should be looked at. It's part of their service and their provision. I wouldn't say that there would be specific individual penalties against it, but they would have to be held to account. But the charter cuts to the service delivery, and so you would see the non-delivery of that charter through the actual service provision to the taxpayer.

[418] **Nick Ramsay:** What we're trying to avoid, or hoping the legislation can avoid, is it just being a paper exercise that gets put on a shelf and doesn't really deliver anything on the ground.

[419] **Ms Powell:** It's something that's obviously developing with HMRC now, and they're consulting again on the charter. So, in terms of application, it is possible that, at that stage then, there are more robust provisions put in place in order to enforce the charter.

[420] **Nick Ramsay:** Richard, did you want to comment on that?

[421] **Mr Beech:** I can't really add anything more that can help the committee. Sorry.

[422] **Nick Ramsay:** That's great. Some of the committee's written evidence refers to the potential weaknesses of a digital-by-default approach to tax

collection. How do you believe the Welsh revenue authority can make provision for the needs of all taxpayers while still providing a cost-effective service? That's quite a big question, isn't it?

[423] **Jocelyn Davies:** Richard, do you want to ask your lawyer before you answer the question? [*Laughter.*]

[424] **Mr Beech:** Before I commit myself.

[425] **Jocelyn Davies:** Have you got a view on this particular issue?

[426] **Ms Powell:** Well—

[427] **Nick Ramsay:** Digital by default is clearly a cheaper approach, but the question is: can you have that without then causing problems?

[428] **Ms Powell:** Well, absolutely, and obviously there are issues in terms of rural connectivity in Wales. We still have members who either don't use IT or, where they do have that IT, the connectivity isn't sufficient that they could rely on it every minute of every day. The nature, obviously, if we're talking about land transaction tax—

[429] **Jocelyn Davies:** So, you've got members, lawyers, who would still be doing conveyancing, and so on, but not digitally.

[430] **Mr Beech:** Yes, with paper returns.

[431] **Jocelyn Davies:** You still have people doing paper returns.

[432] **Mr Beech:** Yes.

[433] **Jocelyn Davies:** Right, okay.

[434] **Mr Beech:** So, whilst it's—

[435] **Jocelyn Davies:** It's probably quite a small proportion, but there are still—. And that's not out of choice—is it out of choice, or is it the fact that they don't have access, or both?

[436] **Mr Beech:** Sometimes it can be choice, sometimes it can be just because they don't have the connectivity to actually operate digitally. But we

have firms within Wales that don't use e-mail. So, I assume those sorts of firms are not going to be pursuing web-based activities.

[437] **Nick Ramsay:** So, is a digital-by-default approach not viable, then? Is that a simple approach to take?

[438] **Mr Beech:** I don't know if—

[439] **Jocelyn Davies:** Or there have to be exceptions.

[440] **Ms Powell:** Absolutely.

[441] **Mr Beech:** I think there have to be exceptions, yes.

[442] **Ms Powell:** And, even in terms of digital by default, there needs to be a net, effectively, to ensure that there is availability to deal with it, other than via the portal that's chosen.

[443] **Mr Beech:** For a large proportion of SDLT returns, so I understand, they still make the payment by cheque, rather than electronically by BACS. Is it 40 per cent?

[444] **Ms Powell:** Well, the latest figures I've been given are that 97 per cent of returns are made electronically, but only 60 per cent of payments follow the electronic filing.

[445] **Jocelyn Davies:** So, somebody is writing a cheque and sending it off.

[446] **Mr Beech:** Yes.

[447] **Nick Ramsay:** Is there any bartering still going on? [*Laughter.*]

[448] **Jocelyn Davies:** Right, okay. It's interesting to have those statistics. Nick, back to you, then.

[449] **Nick Ramsay:** I think that's me done.

[450] **Jocelyn Davies:** You're happy.

[451] **Nick Ramsay:** Yes.

[452] **Jocelyn Davies:** Ffred, shall we come to yours?

[453] **Alun Ffred Jones:** Iawn, diolch yn fawr. Byddaf yn gofyn yn Gymraeg. Yn eich tystiolaeth, rydych chi'n dweud y dylai awdurdod cyllid Cymru gael ei sgrwtineiddio gan y Cynulliad trwy broses ffurfiol. Beth fyddai'r broses ffurfiol yna?

Alun Ffred Jones: Okay, thank you very much. I'll be asking my questions in Welsh. In your evidence, you state that the Welsh revenue authority should be scrutinised by the Assembly through a formal process. What would that formal process be?

[454] **Ms Powell:** Fe wnaf i droi i'r Saesneg, oherwydd hoffwn gyfeirio at dermau'r pwyllgor yma.

Ms Powell: I'll answer in English, because I would like to refer to the terms of this committee.

[455] When I gave evidence during pre-legislative scrutiny, I drew attention to the arrangements for accountability of the Welsh revenue authority to the National Assembly. HMRC, obviously, are accountable to the Public Accounts Committee, and there are certain issues around that relationship and how that's operating, but, if we're looking at how we can take this forward in Wales, there was concern that if the Welsh revenue authority simply lays a document, there isn't a set process around that. I was told at the time that that system would work because then it would be up to the National Assembly itself to decide how to deal with that document, with those accounts and annual reports, and so on. There is a concern that if it isn't cited with an individual committee, that there wouldn't be the relationship then between the authority and the scrutiniser.

[456] Also, in preparation, I looked at the Standing Order for this committee, which probably doesn't cover the revenue authority and what it would be reporting on, and so, I think, in terms of that link between the people of Wales and the authority, then we would suggest that there is a robust process set up. It would also mean that where there are issues and concerns, stakeholders and members of the public would know then who, within the Assembly, and which part of it is actually dealing with it. Obviously, there would be debates in Plenary and so on, but it's in terms of that closer scrutinising role.

[457] **Jocelyn Davies:** Do you think that should be in the Bill—not naming a committee, but to say 'accountability to the National Assembly' rather than to the Welsh Government?

[458] **Ms Powell:** I couldn't be drawn either way, effectively, but I think, in terms of the process, something needs to be added to that section of scrutiny rather than to leave it open, because having a set procedure would encourage engagement, where there are issues and concerns. Obviously, moving forward, the revenue authority will be delegating authority for collection and so on, and there will be some undertaken internally. There are lots of issues around bedding in that would lead to other people wanting to have some sort of engagement as well from the Assembly side, and not just through Ministers.

[459] **Jocelyn Davies:** Okay.

[460] **Alun Ffred Jones:** Felly, ai awgrymu rydych chi y dylai'r Cynulliad ei hun ddod i benderfyniad ar pwy ddylai fod yn sgrwtineiddio, ie?

Alun Ffred Jones: So, are you suggesting that the Assembly itself should come to a decision as to who should be scrutinising, yes?

[461] **Ms Powell:** Ie. A bod hynny'n gyhoeddus hefyd.

Ms Powell: Yes. And that that is public as well.

[462] **Alun Ffred Jones:** A bod hynny'n gyhoeddus, ie, wrth gwrs. A chwestiwn arall: a ddylai'r Bil ei gwneud hi'n ofynnol i awdurdod cyllid Cymru gynnwys gweithwyr treth proffesiynol yn ei strwythur llywodraethu mewn rhyw ffordd neu'i gilydd?

Alun Ffred Jones: And that that is public, yes, of course. And another question: should the Bill itself require the Welsh revenue authority to include tax professionals within its governance structure in some way?

[463] **Ms Powell:** This is a difficult question, in terms of whether it should be stated that the board would include those professionals, because, when you come to describe and define who those professionals would be, would they be representatives or would they be individual specialists? In terms of directing appointments to the board as well, it would be very difficult in primary legislation to direct those appointments. In terms of the specifics, the Law Society doesn't have a view on whether it would be better in the Bill or better not in the Bill, but, of course, we would support having a stakeholder, effectively—a stakeholder member within the board.

[464] **Alun Ffred Jones:** Diolch. **Alun Ffred Jones:** Thank you.

[465] **Jocelyn Davies:** Okay. Julie, shall we come to your questions?

[466] **Julie Morgan:** Thanks very much. I was going to ask you about the finances and the costs of the Bill. The regulatory impact assessment doesn't have an estimate of the cost of establishing the WRA, but it does say what the equivalent costs are in Scotland. Do you have any concern about the costs of establishing the WRA?

[467] **Ms Powell:** Well, obviously, as you say, it's not set out; it's not available to us. With the move to establishing the Welsh revenue authority, there will obviously be costs, but we're not in a position to have a view and to direct, effectively, the Welsh Ministers in terms of those costs, and we would hope that they would be taken into careful consideration. The approach of considering HMRC as a collecting authority is useful in the round, as, of course, they're already established; they already have the set-ups with individual solicitors and so on, and the whole collection process is already established, including all the IT systems. That's something that wouldn't have to be replicated and would keep down costs.

[468] **Julie Morgan:** So, you're not really in a position to comment on the costs, apart from that.

[469] **Mr Beech:** Sorry, no.

[470] **Julie Morgan:** Fine. Apart from the running costs of the Welsh revenue authority, how would it be possible to assess whether there'd be any additional costs to taxpayers?

[471] **Ms Powell:** In terms of the land transaction tax—

[472] **Julie Morgan:** Well, I think if you did it on—. Obviously, we've got the two taxes that are definitely coming in, but future, longer term taxes may be devolved.

[473] **Ms Powell:** Well, the costs in terms of proportionate costs will, obviously, be very different in Wales from an England-and-Wales perspective. Again, we don't have a set or certain view in terms of those costs. We don't see specific costs other than the establishment of the Welsh

revenue authority.

[474] **Julie Morgan:** Right, okay; that's fine. Thank you.

[475] **Jocelyn Davies:** Okay, Chris?

[476] **Christine Chapman:** It's okay, thanks. In the Bill, the explanatory memorandum states that most of the Bill's provisions for investigatory powers and enforcement are consistent with those currently imposed by HMRC. To what degree do you think the Bill should consider alternative powers to those given to HMRC?

[477] **Ms Powell:** What we've seen, as you say, is that the Bill seeks to replicate existing powers across England and Wales. So, we have no strong feeling in terms of additional powers and also there will be a bedding-in period, both in relation to these two new taxes, which will be following on very quickly now from this legislation, and also looking ahead. Really it's learning from the round. So, as matters progress within England and Wales and in the UK as a whole, it's about whether any additional investigatory powers are necessary.

[478] **Christine Chapman:** Okay. In your evidence you refer to potential changes in HMRC's approach to penalties due to its move towards digital services. Could you explain what these proposals are and whether these may, eventually, require changes in your tax Bill?

[479] **Ms Powell:** The move towards penalties, again, it's in terms of digitalisation. It's sort of a speedier response, as it were. So, where there's a move away from individual case worker and a relationships approach to the tax collection, then triggering penalties and so on is occurring more often, and so it's ensuring that that doesn't come into play when we're talking about the new provision that HMRC may provide for Wales.

[480] **Christine Chapman:** Right, okay; thank you.

[481] **Jocelyn Davies:** Okay. Thank you. We've run out of questions for you. We're very grateful for your assistance and your presence here this morning. We'll be producing a verbatim record. Did you notice that I used a bit of Latin then because you're a lawyer? [*Laughter.*] I usually say 'transcript'. We'll sent it to you. If you check it just to make sure that there are no errors in it. There never are, but it is worth checking anyway.

[482] **Ms Powell:** Could I just add, in terms of establishing a new taxation system and also bringing in new taxes, that the Welsh Government has really approached this in a very holistic way? We've been engaged very closely from a very early stage. I sit on the tax advisory group and also the Welsh Ministers have conducted seminars. The project team has engaged through workshops. There's an ongoing forum and I think, really, they've done a brilliant job in making sure that people who are working currently within those taxes are aware of what's going on. They're also taking people forward with them and I'd like to thank them for that.

[483] **Jocelyn Davies:** Okay. We'll pass your gratitude on to the Minister, when we see her. [*Laughter.*] We're also grateful to you for your contribution. We note that you've obviously got a stake in this because you've been involved with the Welsh Government in developing it. Okay, thanks very much.

[484] **Alun Ffred Jones:** Do you have any more Latin?

[485] **Jocelyn Davies:** No, I haven't. But I think you can put another couple of quid on the Bill, if you're a lawyer and you use a bit of Latin.

11:44

**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**

Cynnig:

Motion:

bod y pwyllgor yn penderfynu that the committee resolves to gwahardd y cyhoedd o weddill y exclude the public from the cyfarfod yn unol â Rheol Sefydlog remainder of the meeting in 17.42(vi).

accordance with Standing Order 17.42(vi).

Cynigiwyd y cynnig.

Motion moved.

[486] **Jocelyn Davies:** Standing Order 17.42, shall we go into private session?

[487] **Nick Ramsay:** Yes.

Derbyniwyd y cynnig.

Motion agreed.

Daeth rhan gyhoeddus y cyfarfod i ben am 11:44.

The public part of the meeting ended at 11:44.