

# Cofnod y Trafodion The Record of Proceedings

[Y Pwyllgor Cyllid](#)

[The Finance Committee](#)

21/10/2015

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Cynulliad  
Cenedlaethol  
Cymru

National  
Assembly for  
Wales

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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**

Mick Antoniw	Llafur (yn dirprwyo ar ran Ann Jones) Labour (substitute for Ann Jones)
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**

Jeff Andrews	Cynghorydd Polisi Arbenigol â Chyfrifoldeb am Gyllid a Materion Ewropeaidd Specialist Policy Adviser Responsible for Finance and European matters
Richard Clarke	Rheolwr Prosiect Gweinyddu Trethi, Llywodraeth Cymru Tax Administration Project Manager, Welsh Government
Emma Cordingley	Cyfreithwraig, Llywodraeth Cymru Lawyer, Welsh Government
Jane Hutt	Aelod Cynulliad, Llafur (Gweinidog Cyllid a Busnes y Llywodraeth) Assembly Member, Labour (Minister for Finance and Government Business)

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

Richard Bettley	Gwasanaeth Ymchwil Research Service
Leanne Hatcher	Ail Glerc Second Clerk
Lakshmi Narain	Cynghorydd Adviser
Tanwen Summers	Dirprwy Glerc Deputy Clerk
Joanest Varney– Jackson	Uwch-gynghorydd Cyfreithiol Senior Legal Adviser

*Dechreuodd y cyfarfod am 09:01.  
The meeting began at 09:01.*

### **Cyflwyniadau, Ymddiheuriadau a Dirprwyon Introductions, Apologies and Substitutions**

[1] **Jocelyn Davies:** Good morning, everyone, and welcome to a meeting of the Assembly's Finance Committee. Can I just remind you that, if you have a mobile device with you, if you'd put it on silent, we'd be very grateful? I've had apologies from Ann Jones, and Mick Antoniw is substituting for her. Minister, I understand that Jeff Andrews is on his way and he may very well be joining us later.

09:02

### **Papurau i'w Nodi Papers to Note**

[2] **Jocelyn Davies:** We've got a couple of papers to note. We've got a letter from the Public Services Ombudsman for Wales, who promised to send us more information about the complaints on housing. We've got a letter from Revenue Scotland outlining the operating costs, and we've got additional information from the Low Incomes Tax Reform Group. Can we note those?

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

[4] **Jocelyn Davies:** Lovely, thank you.

**Bil Casglu a Rheoli Trethi (Cymru): Sesiwn Dystiolaeth 10**  
**Tax Collection and Management (Wales) Bill: Evidence Session 10**

[5] **Jocelyn Davies:** We move to our first substantive item, then, which is item 3, which is the Tax Collection and Management (Wales) Bill. This is our tenth evidence session. I'm delighted that the Minister's able to join us this morning. Would you like to introduce yourself and your officials for the record? Then, if it's okay with you, we'll go straight to questions.

[6] **The Minister for Finance and Government Business (Jane Hutt):** Thank you very much, Chair. I am very pleased to welcome Richard Clarke, who is our tax administration policy manager, and Emma Cordingley, who's a lawyer for the Welsh Government.

[7] **Jocelyn Davies:** And, as I say, Jeff Andrews may very well be joining us later. Minister, we've heard that most stakeholders feel they've been fully consulted by the Welsh Government and that many of their views have been incorporated into the draft Bill. Do you think that, maybe, when you're developing the charter, it will make reference to involving stakeholders?

[8] **Jane Hutt:** Yes. It's very good to have that feedback that they feel that they've had a full engagement with the development of the legislation through scrutiny. Clearly, there is a duty to consult on the charter of standards and values—the taxpayers charter, as we are calling it. Many of those experts are from my tax advisory group, so they have been helping me all the way and certainly will engage in the consultation on the development of the charter.

[9] **Jocelyn Davies:** Okay, thank you. In relation to tax experts and professionals, we've heard that they should be included as non-executive members of the Welsh revenue authority board. How do you feel about that?

[10] **Jane Hutt:** I'm sure that many of them will want to apply to be non-executive. I can't presume that, but we will obviously make our appointments through the usual public appointments process, according to the Nolan principles. I've been trying to encourage, through speaking at various events, particularly recently to the Association of Taxation Technicians and the Chartered Institute of Taxation, and experts, that they should be looking to apply. We're particularly wanting to get some diversity—to get women on the board et cetera. But I think we have to progress this through our usual Nolan

public appointments process.

[11] **Jocelyn Davies:** Okay, thank you. In relation to the Welsh revenue authority's processes remaining objective during the implementation period, how are you going to ensure that that happens when the staff, obviously, will be part of the Welsh Government?

[12] **Jane Hutt:** Well, this is about making sure that all the preparations are under way and that we're in a state of readiness before the WRA is established. Then, of course, the WRA will approve—. They'll be responsible for approving and receiving the preparatory work that's being undertaken on the systems, and taking ownership of them. So, the work has to progress in terms of preparation, but the WRA will be able to then decide whether they want to implement them.

[13] **Jocelyn Davies:** So, it is a matter that you've given some thought to?

[14] **Jane Hutt:** Absolutely, and I think this also relates to the issues about when the WRA board is appointed, and the timeline then for them before the taxes go live. I think we've learned from Scotland that they had a very short period—three months—whereas they're advising us that we should have a longer period. So, that's why we're looking more to a six-month period, from the WRA board appointments to taxes going live. But even before that, we do have to undertake that preparation and we will have a chief operating officer, which is what they did in Scotland as well, who will be the chief—the chief operating officer—to take the lead on the preparation. Do you want to say something, Richard, on that?

[15] **Mr Clarke:** Yes, I think it's obviously important. There's a lot of work to be done before 1 April 2018, and to ensure a smooth transition to that point. Some of that work, obviously, will be initially done by the Welsh Government. But, ultimately, there are procedures, the guidance and the charter; these are all things that will need to be signed off by the WRA. As the Minister has said, the intention is perhaps to put the board in place some six months before going live. It will then have time as well to consider that work that's already been done, and refine it, if necessary, before it's then brought in place on 1 April.

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

[17] **Mike Hedges:** Well, the first one has been answered. Yes, they are going to create a shadow board. I think that's what you said then, wasn't it? You are going to create a shadow board during the period of getting ready for implementation.

[18] **Jane Hutt:** Well, no; in fact, we will appoint the board six months before the taxes go live.

[19] **Mike Hedges:** What's it going to do?

[20] **Jane Hutt:** Well, the board will take responsibility and have to approve, of course, as we've just said, all the work that the chief operating officer has done in terms of preparation. As I said, we have learned from Scotland: that they only had a three-month period of board to going live. It will be up to the Welsh revenue authority in terms of how and when they come on board, and how they manage it, but whether we need a shadow board or not, I think our current thinking is that we wouldn't need one because we're going to do six months rather than three months and have this pre-chief operating officer role.

[21] **Mike Hedges:** Okay. Given the scale of implementation work required by HM Revenue and Customs and Natural Resources Wales, a final decision will need to be made soon on whether to delegate some of the WRA's functions to them. Do you know when you will make that decision and when you'll agree a budget and running costs with them for doing it?

[22] **Jane Hutt:** Well, we are, obviously, having close discussions with HMRC and NRW. They're still at early stages. So, we've got much work to do in terms of seeing what requirements we have for delegation, and also the costings. It will be, of course, for the next Welsh Government to prescribe in regulations who the WRA does formally delegate it to, but at this stage it is about clarifying their roles, what they can do in terms of preparation, and also just looking at the initial requirements that we will have for any such delegations.

[23] **Mike Hedges:** Okay. Yes.

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

[25] **Peter Black:** Thank you, Chair. Minister, the committee's heard evidence that local authorities could collect landfill disposals tax efficiently,

and could provide a plan to do so relatively quickly. Although you've confirmed that WRA and Natural Resources Wales will work together on collecting landfill tax, have you still got an open mind in terms of local authorities doing so in the future?

[26] **Jane Hutt:** Yes and I think—. I'm sure, actually, at an earlier time I did circulate, and I will forward to the Chair again, the letter that I had from the Welsh Local Government Association about management and collection of devolved taxes. Councillor Aaron Shotton sits on the tax advisory group; he's the lead finance spokesperson for the WLGA. We also agreed that we'd set up a joint working group with local government and, you know, this is a very close working relationship, as you know. I've also said we've got to review who collects the taxes on behalf of WRA. So, it's very open.

[27] **Peter Black:** Okay, thank you for that.

[28] **Jocelyn Davies:** I think there are a number of Members who want to come in on this. Ffred and then Mike.

[29] **Alun Ffred Jones:** Bore da.                      **Alun Ffred Jones:** Good morning.

[30] **Jane Hutt:** Bore da.                              **Jane Hutt:** Good morning.

[31] **Alun Ffred Jones:** O ran dewis pwysu sy'n casglu'r trethi, ai dewis y Llywodraeth ydy hynny, ai cyfrifoldeb awdurdod cyllid Cymru?                      **Alun Ffred Jones:** In terms of choosing who collect these taxes, is that the Government's choice, or the responsibility of the WRA?

[32] **Jane Hutt:** Well, it will be the responsibility of WRA to decide who they finally delegate to. I mean, obviously, we've got to pave the way for them to make that decision. They'll make the final decision on who to delegate that function to.

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

[34] **Jocelyn Davies:** Mike.

[35] **Mike Hedges:** In some local authorities, the local authority is the main landfill owner, and they actually collect the tax themselves. So, you've got people collecting tax off local authorities. You're adding an extra layer. I don't know how many local authorities run their own disposal, but I



understand that Cardiff, RCT and Swansea, which are the three biggest, which is about a quarter of Wales, do that. So, do you see any financial advantages in those who are already collecting it just sending it on, rather than collecting it and then passing it on to a collection agency?

[36] **Jane Hutt:** Well, I think we've got a look at this from an all-Wales perspective, haven't we? This is not local authority by local authority. I think that, also, you could say: could there be a question of—? When local authorities actually also own the landfill sites themselves, that could be a question of whether there is a conflict there in terms of collection. But, obviously, we want to simplify this as much as possible, but I think that, really, we were very open to local government, as you know, at a very early stage to saying, 'Not only shall we discuss this and engage with you, but will you take it on?' And then, when they looked at it as a whole, they decided they weren't ready. You have to look at this from a whole-Wales, whole-local-government perspective, I think, but that doesn't rule out future prospects in terms of the landfill operators' collection of tax. So, I would say that, also, of course, we're talking about Welsh revenue authority undertaking this function principally, with NRW playing much more of a role in terms of compliance, which is what they're already very much engaged in with landfill operators. So, obviously, it's further discussions with NRW and this working group that I'm setting up with local government. It is about how we share information. Their tax expertise is considerable, and we've been discussing this in terms of the ways in which we can engage them to work with us. But I believe that this isn't a kind of issue; it's not controversial. It's actually practical at this stage, but very much engaged with local government, that they might have a much closer role in terms of tax collection in the future.

[37] **Jocelyn Davies:** Do you have a question on this point?

[38] **Christine Chapman:** It's on that. Obviously, I know, Minister, that when you made the announcements that their initial reaction was to not get involved. I'm pleased that, obviously, there are further discussions, but I do get the impression from evidence that, you know, obviously, they're having time to reconsider, and I think my concern might be that, if you set up one system and then you have to change it, it does seem logical that local authorities should be involved. I'm just concerned that, you know, there could be some sort of wastage there if it's not done properly from the start. So, I just wonder: are these the sorts of discussions you're having with local authorities at the moment on this, bearing in mind that they seem to have

changed their stance on this slightly?

09:15

[39] **Jane Hutt:** Certainly, this letter was at the end of March, when they wrote to me and formally listed five points on why they couldn't get involved. And, you know, finally saying, 'It's my understanding you intend to review the arrangements, in terms of collection and management, after some three to five years of operation'—which is true—'which would be a more opportune time for local Government to put forward a firm proposal.' We asked them for a proposal—they couldn't bring one forward. Certainly, they haven't come back to me and said, 'We've changed our minds'. I think it's really helpful that you had that evidence from the people, if you like, at the sharp end of collecting taxes—the officers. But this has to be a whole local government proposal and response at this stage.

[40] **Jocelyn Davies:** Peter, shall we come back to you?

[41] **Peter Black:** Yes, thank you. Minister, during the course of this scrutiny, the one thing that's become apparent is that the content of the agreement with HMRC and how they operate as agents of the Welsh Government and the WRA is more important to stakeholders in terms of service levels than many aspects of the Bill. How is the content of that agreement going to be scrutinised by stakeholders and by the Assembly?

[42] **Jane Hutt:** That is, as you say, extremely important, in terms of that relationship, for that kind of scrutiny. Of course, the Bill does provide for that in section 13. Section 13, of course, requires the WRA to publish information about delegations and the related directions that they are given. There's also the annual report, of course, and that has to be laid before the Assembly—that's the WRA annual report. The WRA will receive, obviously, in terms of monitoring, regular reports from HMRC regarding performance.

[43] **Peter Black:** We heard from Revenue Scotland that they first developed ways of working with partner organisations, then later wrote a memorandum of understanding. Are you seeking to develop contracts with service providers first, or will these develop later?

[44] **Jane Hutt:** Officials have already developed a memorandum of understanding between Welsh Government and HMRC. That was at very early stages. I said this may be something that the committee might like to have

sight of. It is very much a working document, in terms of operational procedures and issues like sharing information and good practice. After 2018, we will have clear partnership agreements to scrutinise, and section 13 provides that opportunity for scrutiny.

[45] **Peter Black:** Another area of concern in terms of how HMRC operates is how they will prioritise, particularly stamp duty, when they come to negotiate with various taxpayers' organisations, in terms of what they have underpaid or are being back-taxed. For example, if someone owes the HMRC money from stamp duty and also, say, income tax, often they do deals and write off one part of the tax against another tax. I think there's some concern that the stamp duty part of that is going to be the poor relation and will end up losing out as they do deals over income tax. Is that a concern of yours and how will that be tackled?

[46] **Jane Hutt:** Again, they are well aware—and obviously they've appeared before you—about what we would expect of them in terms of the working relationships in terms of the memorandum of understanding. We have also learnt from Scotland in terms of the way that they operate. Revenue Scotland and HMRC are working together on their Spotlight initiative, for example, which is about tax avoidance issues and policies. We're also discussing data sharing arrangements. Do you want to say something more about that?

[47] **Mr Clarke:** Yes, perhaps I could say a few things. I suppose the important thing is that the responsibility for the delivery of the taxes will always reside with the Welsh revenue authority. Though they might select the HMRC to undertake that function on their behalf, it doesn't change the responsibility. It is very much with them. So, there won't be a direct relationship between HMRC and, say, the Welsh Government or the Assembly. I wouldn't expect that, because the day-to-day oversight very much resides with the WRA. So, that's the actual position.

[48] The discussions to date, I think, with HMRC have been very constructive and the talk has been around a specific unit dealing with Welsh tax that won't be mixed or confused with other functions that HMRC does in its day-to-day business. This is something that's different and will be separate from those arrangements.

[49] **Peter Black:** Nevertheless, HMRC manages a number of taxes and it may well be that a company or corporation or individual owes them money on several taxes, and they do tend to strike these deals to get the most

money that they can out of them. Sometimes, the lesser tax loses out. Are you saying that any deal of that sort, which would result in a less than 100 per cent collection rate for stamp duty, will be scrutinised and reported to the WRA in every instance?

[50] **Mr Clarke:** Well, I don't think we can confuse the different taxes that that department is responsible for, and therefore the work that they undertake on behalf of the WRA would be that work alone. Although there are opportunities, I think, for you having the benefit of the wider experience of HMRC, we're not putting all the taxes in one pot here, and negotiating at that wider level.

[51] The Minister referred earlier to opportunities around tax avoidance and sharing knowledge, and I think that's an important area where other taxes, and people's behaviour towards those taxes, is of relevance and worth sharing, specifically for the devolved tax, but we're not looking to confuse taxes between the different departments that would exist.

[52] **Peter Black:** Shall I put it another way? Any write-off or any less-than-100-per-cent collection of a Welsh tax would be reported to the WRA in each individual instance, so they would be aware of that? Is that the case?

[53] **Mr Clarke:** That's the intention, yes.

[54] **Jane Hutt:** It would be, yes, for those taxes we're responsible for and they're responsible for.

[55] **Peter Black:** And we could scrutinise that as part of the scrutiny of the WRA.

[56] **Jane Hutt:** Well, I don't know to what extent, in terms of data and confidentiality in sharing, but that's something that we would have to look at very carefully.

[57] **Jocelyn Davies:** I think it's worth saying that we were given a different impression from HMRC than you appear to have. Perhaps you'd review the Record, the verbatim record of what they said to us. Obviously this is something that we'll have to clarify, perhaps, in correspondence.

[58] **Jane Hutt:** So, you were concerned about what they were implying.

[59] **Peter Black:** HMRC gave us that impression, and I think we need some clarity, I think, on what the Welsh Government position is, and how the WRA would treat that, and what recording and reporting process is in place if that happens.

[60] **Jane Hutt:** We'll be very happy to do that, Chair.

[61] **Jocelyn Davies:** Okay. Peter, have you finished your questions? Before I call Nick in, coming back to the landfill disposals tax and local authorities, I don't know if you were able to review the Record for the evidence that they gave us, but we certainly had the impression that they had changed their mind about whether they were able to do this, and they said that they'd had a very short period in which to put a proposal to you—six weeks, I think they told us. That was an influence on them. First of all, will you review the record of what they told us? Is it too late for them to change their mind? And did you get a proposal from Natural Resources Wales along these lines?

[62] **Jane Hutt:** Yes, well, certainly I had a tax advisory group meeting on Thursday, and Councillor Aaron Shotton was there. There have been no representations whatsoever made to me formally by the Welsh Local Government Association acting on behalf of local government in Wales to update or to bring in any proposal. Certainly nothing has come to officials.

[63] **Jocelyn Davies:** So is it too late for them to change their minds about putting a proposal to you? Do you have a proposal along similar lines from Natural Resources Wales? This would have been in March.

[64] **Mr Clarke:** We have a proposal from Natural Resources Wales.

[65] **Jane Hutt:** And from HMRC.

[66] **Mr Clarke:** And HMRC. Work is continuing on both of those—

[67] **Jocelyn Davies:** It seemed to us, from taking our evidence from Natural Resources Wales—I wouldn't say that they were enthusiastic about this. In fact, they told us they have no experience and no systems and, I would say they probably, maybe, would change their minds, too.

[68] **Mr Clarke:** My understanding of what was said was that they don't have any experience of tax collection. What they do have, of course, is work associated with compliance. That's where there is some scope for economies

of scale. Yes, there is more work to be done as to how that relates to the tax environment rather than the purely environmental functions that they undertake currently. But there are synergies there, which we are exploring. They have brought forward sort of three different options to us, which we are considering as to the extent of the role that they might perform. That's where the discussions have currently—

[69] **Jane Hutt:** I think what we need to do, clearly, is go back and review what—. I am very much aware, as I said earlier on, I think, in response to Christine, that officers came and spoke about their—. Because they're the ones who are at the coalface of collecting the taxes. It's very welcome, isn't it, that they want to engage. We certainly were very open to it at the earlier stages when we were discussing this and asking for proposals. But, clearly, as a Government, we've also got to be responsible. If we don't get a proposal, and we get a full letter of this kind, then we have to move on and also look to making sure that they're fully engaged and preparing perhaps to take on those tax collection management—

[70] **Nick Ramsay:** They certainly weren't preparing when we saw them.

[71] **Jocelyn Davies:** Natural Resources Wales, you mean?

[72] **Jane Hutt:** No, I'm talking about local government.

[73] **Jocelyn Davies:** Oh, the local authorities.

[74] **Jane Hutt:** But, again, I think that Natural Resources Wales—. I think the point about that is that we're looking to the Welsh revenue authority to have more of a role to play, and NRW to come in on the compliance side. You know, if we look in Scotland, Revenue Scotland is collecting the taxes, but they also have a management agreement in terms of delegation with their environmental body as well. It's a very similar kind of development that we're going to develop in Wales. Obviously, the question, I think, from Mike earlier on, was: where are we with getting these arrangements in terms of costing and in terms of what we can then recommend, or what the preparatory work will then be for the Welsh revenue authority to decide whether they adopt it and take it forward.

[75] **Jocelyn Davies:** Okay, Nick, did you have a question on this point? Then you can follow on with your own questions.

[76] **Nick Ramsay:** Yes. I'm just still trying to get my head around the synergies that you're talking about for Natural Resources Wales between collecting tax or compliance with tax issues, and compliance with getting someone to, I don't know, clean a river up or something. Is there really that much similarity with compliance?

[77] **Mr Clarke:** Well, they already have the involvement with licensing of the sites, and then also regulating those sites. So, that's where the synergies lie.

[78] **Nick Ramsay:** Licensing and regulation. Great. Okay. Thanks. Good morning, Minister.

[79] **Jane Hutt:** Good morning.

[80] **Nick Ramsay:** You might be aware that the committee is very excited at the prospect of a tax charter.

[81] **Jocelyn Davies:** Well, some Members are. [*Laughter.*]

[82] **Nick Ramsay:** All right; I'm excited at the prospect of a tax charter, as I think everyone has gathered. It will clearly be a very important means of raising awareness of the new tax system and therefore should be made available as early as possible. Can you tell us what the timescale is for producing a charter?

[83] **Jane Hutt:** Well, I'm going to start consulting on what a charter could look like; it is a charter of standards and values. In fact, I'm looking to start that consultation in the new year. But it's going to be about, really, trying to raise awareness and engage the public, not just the experts that we've had, who were very engaged, on the wider relationship between taxpayers and devolved taxes. So, it's going to be an open consultation document, and trying to engage people in—. In fact, we've just been talking about how we can do that. I think people took a great interest when, a year or so ago, we said, 'These will be the first Welsh taxes for 800 years'. You can keep saying that, but how do you spark an interest in this whole subject? You've got to go beyond the devolved taxes and look at it as Welsh taxes, I believe, as a whole.

[84] So, the consultation will start—our consultation, which is pre-WRA—. Of course, finally, it will be for the Welsh revenue authority to produce the

charter, but we can pave the way for that.

[85] **Nick Ramsay:** It'll have to be drafted objectively, won't it—the charter?

[86] **Jane Hutt:** Absolutely. The consultation—and that's something that I'm sure that the committee will want to be aware of and engaged with—that I'm going to instigate will start after Christmas. It will be objective. It is going to be about how we can encourage responsible tax-compliance and engagement. It will help in terms of the run-up to 2018.

09:30

[87] **Nick Ramsay:** Okay. It is *Back to the Future Day*, so imagine we're in a future position where all this is set up and running along smoothly or whatever and we've got the charter in place. If a taxpayer thinks that they've been treated badly by the WRA, or not in accordance with the charter, how do you see the mechanism working where they can get redress?

[88] **Jane Hutt:** We would see that charter, again, as signposting people to complaints procedures. The WRA will have to have a complaints procedure. In fact, those are exactly the sorts of questions that we would want to make very clear in the consultation about how we can help taxpayers if they feel they have been badly treated or they have a complaint—how they can manage that. But, also, it will be not just a complaints procedure that they would have access to but, ultimately, the public services ombudsman. The Bill provides for the WRA to fall inside the ombudsman's jurisdiction—

[89] **Nick Ramsay:** So, you don't want them calling your office and asking to speak to you? [*Laughter.*]

[90] **Jane Hutt:** This must be a matter for the WRA. This is independent. It must be a matter for the WRA, and, obviously, lessons will be learnt at every stage.

[91] **Nick Ramsay:** When we heard evidence from HMRC, they thought that their charter was wonderful, but evidence we took from other quarters didn't think it was quite so good. So, are you confident that you can ensure that the charter will not just sit on a shelf and not actually work in practice—that it will be a proper charter with teeth, in other words?

[92] **Jane Hutt:** Obviously, Nick, you very much support the idea of a



charter, a taxpayers charter—*[Laughter.]*—

[93] **Nick Ramsay:** Obsessed, I would say. Obsessed with a charter.

[94] **Jane Hutt:** But we should—. You know, let's try and make it a charter in Wales that actually does fit the bill for the Welsh taxpayer in terms of these new taxes. That's where I think the consultation and your engagement in it as a committee will be very valuable in the new year. Clearly, we've got a short period of time for us to do this as a Welsh Government before the end of this administration, but I think it's a real opportunity.

[95] **Jocelyn Davies:** Minister, we've had evidence about the word 'aspire' in relation to the charter and that using that word 'aspire' is weaker than it could have been. Why did you choose 'aspire' rather than the Scottish example of 'adhere' and having to adhere to the charter, rather than aspire to the charter? Why have you chosen the weaker of the two words?

[96] **Jane Hutt:** I think it's perhaps a question of debate whether it would be regarded as weaker. 'Aspire' is consistent with HMRC legislation. I think, in terms of the word 'adhere', which is used in Scottish legislation, the status of the charter there, which they're using, tends to be really the same as the HMRC charter. So, I don't think it is an issue that we—. Well, hopefully, there isn't concern about—

[97] **Jocelyn Davies:** Well, you had the choice of two words, because you had two examples in front of you: the Scottish example and the UK example—'aspire' or 'adhere'—and you chose 'aspire'. So, why did you choose that word rather than the more modern 'adhere', as used in Scotland?

[98] **Jane Hutt:** I think it's very much following HMRC practice and legislation—

[99] **Mr Clarke:** It's consistent, very much—

[100] **Jane Hutt:** It's consistent.

[101] **Mr Clarke:** —with HMRC, and that's what we looked at. We obviously noticed that, in fact, there were different words—that 'adhere' was used in Scotland. We noted that. I think ultimately—

[102] **Jocelyn Davies:** Well, you noted it and rejected it, preferring instead to

use 'aspire'.

[103] **Jane Hutt:** Well—

[104] **Jocelyn Davies:** You were aware of it, obviously. So, why choose 'aspire'? Why is that better for the Welsh context than 'adhere', when the charter's going to be so important?

[105] **Jane Hutt:** Well, as far as I'm concerned, as Minister, with advice from my officials, obviously, in terms of consistency, this is something that I am happy to consider the views of the committee on.

[106] **Nick Ramsay:** You're going to aspire to it. [*Laughter.*] Or adhere.

[107] **Jane Hutt:** If you feel 'adhere' is better than 'aspire' then let's discuss—

[108] **Nick Ramsay:** Mick is thinking, 'What have I walked into?' [*Laughter.*]

[109] **Jane Hutt:** —and set a question for discussion: 'adhere or aspire?' I think we'll have to go back and have an academic—

[110] **Jocelyn Davies:** Well, you—

[111] **Jane Hutt:** I'm open to your views.

[112] **Jocelyn Davies:** You'd obviously decided one over the other, and we wondered what your reasons were, but it was to be consistent—

[113] **Jane Hutt:** With HMRC—

[114] **Jocelyn Davies:** —with HMRC; no other reason.

[115] **Jane Hutt:** But, as I said, I'm happy to consider this further in light of your views.

[116] **Jocelyn Davies:** Okay. Nick, have you finished?

[117] **Nick Ramsay:** I've just got one more.

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

[119] **Nick Ramsay:** The committee's heard that organisations such as HMRC play a key role in attempting to identify the impact of tax policies alongside each Treasury budget announcement. Should the Welsh revenue authority be required to produce a statement of the likely impact of each tax policy, to measure the impact of any changes and to seek feedback from stakeholders on how realistic those assessments are?

[120] **Jane Hutt:** Yes, this is good practice. It's vital that we look at the potential impact of tax policy very carefully. Obviously, we've discussed the benefits of consultation and engagement with stakeholders, but tax policy is very much the domain of the Welsh Government, and, where there's any new tax legislation, we would obviously have to have specific impact assessments, and that would be looking at the impact on third sector businesses, small businesses, equality, protecting groups and human rights—you know, all the impact assessments that we undertake. That would be the case for both the new laws in terms of land transaction tax and landfill disposals tax, and, in fact, any other taxes that could be devolved to Wales. But it is a WRA function, as a result of this Bill, to provide information, assistance and advice to the Welsh Ministers, and that's going to be set out in a memorandum of understanding.

[121] **Nick Ramsay:** Thank you.

[122] **Jocelyn Davies:** Julie.

[123] **Julie Morgan:** Yes. Thank you. Going on with the equality issues, a lot of witnesses have said to us that they feel that the digital by default way of dealing with things does discriminate against certain groups. So, I wondered, first of all, what your views are of that.

[124] **Jane Hutt:** Well, the WRA will be subject to the public sector equality duty. It's very clear that we have to look at the impact, for example, as you say, in terms of the digital agenda. It's very much part of HMRC's strategy at the moment in terms of improving services. It's going to be very important for the WRA that, over time, they become digital as a default. We have got to recognise, as we know in Wales, that there is digital exclusion. That's something where we would be very clear that we've got to address this for those who can't access the internet. I think this is where the charter consultation might be very helpful in terms of access for taxpayers. We have to look very carefully at how we can enable people to access the information

if they're not digitally engaged.

[125] **Julie Morgan:** Have you got any ideas about how that could be done at the moment?

[126] **Jane Hutt:** Well, I think it could be expressed in terms of service standards in the charter and, of course, we're going to start the consultation on that after Christmas. I think we can learn from what we've already done through initiatives in Wales, such as the Communities 2.0 initiatives that we're doing in terms of trying to improve digital inclusion. Obviously, this is something that is moving at pace in terms of Government delivery—the Department for Work and Pensions and digital by default in terms of universal credit.

[127] So, I think it's a key area for consultation in terms of the relationship between the taxpayer and the WRA, which I would want to focus on, and look at also, perhaps, that this is where local government can be helpful as well. Because they've got the experience as well in terms of moving towards the digital by default. So, I think it's something that it's very helpful to have the committee's views on.

[128] **Julie Morgan:** The WRA, would that be covered by existing equality legislation, or would you have to put something in the Bill setting out the WRA?

[129] **Jane Hutt:** Well, as I said, it'll be subject to the public sector equality duty, and it'll be added to the list of entities and public bodies in Part 2 of Schedule 19 to the Equality Act 2010. So, we'll add it to the Equality Act via a section 151 Order made under that Act, and we'll do that before April 2018. I think it's important that that is on the record today. It's very helpful to have that question, because we need to ensure that the WRA, clearly, takes responsibility for their equality duties.

[130] **Jocelyn Davies:** Before we move on, HMRC are not well known for abiding by equalities. We've had evidence that they don't answer the phone, they don't answer letters and they can be very dismissive. I mean, I don't think we would give them a glowing reference from the evidence we've heard. They are renowned for this, aren't they? Have you taken that into account in relation to equalities?

[131] **Jane Hutt:** Well, they're certainly aware that they will come in under

our public sector equality duty, aren't they, Richard?

[132] **Mr Clarke:** Yes. The key thing here is that they are, effectively, the WRA and it's the WRA's reputation that's on the line. So, it's key that that relationship is properly founded. I mentioned—

[133] **Jocelyn Davies:** I hope they don't reply to you, Mr Clarke, and say they're aspiring to answer the telephone—at some point. [*Laughter.*]

[134] **Jane Hutt:** Maybe 'adhere' will put them in their place.

[135] **Mr Clarke:** Yes, indeed. Thank you.

[136] **Jocelyn Davies:** Julie, shall we come back to your questions?

[137] **Julie Morgan:** Yes, I'm going to move on to anti-avoidance. I wondered whether you could confirm that the intention is for anti-avoidance rules to be defined for each devolved tax, rather than to have a single general anti-avoidance rule that will cover all taxes.

[138] **Jane Hutt:** Well, we've consulted a great deal, as you know, about this, because tackling tax avoidance is a top priority and we've got to have robust anti-avoidance arrangements. So, questions on a Welsh tax avoidance rule have been included in the consultations on both Welsh land transaction tax and landfill disposals tax. I did confirm this in my statement only a few weeks ago on the development of the Welsh tax avoidance rule. I think whether there should be a single rule or one for each tax will be for the next Government to develop in tax-specific legislation. I do anticipate there'll be an overarching measure. I think there has to be an overarching measure, but it's got to be very clearly applied and relevantly applied to both the devolved taxes. So, the legislation for those devolved taxes will include specific proposals targeting areas where tax avoidance is identified in existing UK taxes.

[139] **Julie Morgan:** Would HMRC be required to provide information on transactions where the aim is to avoid UK-wide taxes but they could have an impact on devolved taxes? Would they be required to provide information on those transactions?

[140] **Jane Hutt:** Well, that does pick up a bit on earlier questions as well from Peter about this interaction. I'm not aware that there's a legal obligation

for HMRC to provide this information, but we've got to be very clear. I think the point Richard has made on two occasions is that it isn't HMRC out there doing this for us; it is that HMRC is doing what we want of them in terms of our agreement with them—well, the Welsh revenue authority's agreement with them. So, we've got to be very clear about what we expect from them in terms of the sharing of that kind of information. There are a lot of issues about data sharing, and that's part of the memorandum of understanding that has already been developed.

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

[142] **Jocelyn Davies:** Mick, did you want a supplementary on this?

[143] **Mick Antoniw:** Just a very quick point on the HMRC and the actual confidence we have in their capacity to actually do all this. At this very moment, they are being told they've got to take greater enforcement actions, for example, on the national minimum wage. They're also having transferred to them the responsibility in respect of monitoring Child Support Agency incomes for the new body that's being set up, and, at the same time, we're doing this, and, at the same time, their resources are being cut. How confident are you that they actually not only will be focused on this but have the capacity to actually deal with it?

09:45

[144] **Jane Hutt:** As you may be aware, Mick, they're not involved in Scotland. The Scottish Government decided not to involve them in Revenue Scotland in terms of tax collection and management of taxes. They are very interested in being involved in Wales. For them, it's a new opportunity, but, I mean, it's a prescribed opportunity, and they will have to deliver on it. As we build the competence of the Welsh revenue authority, then, you know, things in the future might change, but that's why it has to be very clear what the delegation and accountability of HMRC will be.

[145] **Mick Antoniw:** I understand that emphasis on the differences between 'aspire' and 'adhere' now then. [*Laughter.*]

[146] **Jocelyn Davies:** Thank you, lawyer. [*Laughter.*] Nick, did you want a supplementary on this point as well?

[147] **Nick Ramsay:** Yes. I just wondered to what extent you, as the Minister,

will continue to liaise with HMRC—or how much of it is just going to be left totally to the WRA?

[148] **Jane Hutt:** The Welsh revenue authority has to be—and this goes back to early discussions we had about arm’s-length independence as a Welsh non-ministerial department—. They are, operationally, responsible for the collection and management of our Welsh taxes. Welsh Ministers will be responsible for Welsh tax policy, but I think the whole arrangements around accountability and scrutiny and performance management—of course, the Welsh Government will be held to account, as well, and directly.

[149] **Nick Ramsay:** I’m just wondering how smooth this relationship between WRA and HMRC will be and whether it would be required for you to step in.

[150] **Jane Hutt:** Well, it does go back to that point that, if you like, they’ll be contracted to do the work. It’s not going to be, you know, equals sitting—. They’ll have a contractual relationship to deliver in terms of the management agreement that they’ve been awarded, really. So, I mean, this memorandum of understanding we’ve got at this point with HMRC—it’s very important to lay that out, isn’t it?

[151] **Mr Clarke:** Yes, the initial memorandum of understanding is obviously at official level, so there’s clarity as to sharing of information. When we actually get to the partnership agreement, as we’re calling it, which will be between the WRA and HMRC, that will, obviously, be quite a different instrument that will set out what’s expected. So, that will clarify such things as service level expectations, and what have you, that are required and then, of course, that feeds in to the WRA’s monitoring arrangements with HMRC as to the services that they’re providing on their behalf. So, that should be then monitored regularly and progress against it then assessed and, as appropriate, details fed back to Ministers as to what that progress is, obviously, because, ultimately, WRA are delivering Ministers’ tax priorities.

[152] **Ms Cordingley:** The WRA does have a direction power in relation to people that it delegates to.

[153] **Jocelyn Davies:** So, it’s contracting, but you’re calling it a partnership.

[154] **Jane Hutt:** A partnership agreement.

[155] **Jocelyn Davies:** A partnership agreement, but, actually, it's a contract.

[156] **Mr Clarke:** Well, I'm not going to touch on the, sort of, legality—

[157] **Jocelyn Davies:** You see, there are Members around this table that like the nuances of what words mean and especially when you're dealing with legislation. Minister, will the revenue authority have resources that will enable it to monitor the delegation properly?

[158] **Jane Hutt:** Well, certainly, that's where we have to take into account the costings when we come to our recommendations about the delegation. I don't know if Emma wants to comment on that point or whether we should leave it on the table, in terms of the partnership agreement or contract, but—

[159] **Ms Cordingley:** I think the detail remains to be worked through, in any event, because all this Bill is doing is giving Welsh Ministers the power to set out, in regulations, who a delegation agreement could be between. It will then be for WRA to decide whether or not it uses that power in the regulations to enter into a delegation with somebody else and the nature of that delegation. So, that would be for WRA and the body with which it's delegating those to—

[160] **Jocelyn Davies:** Yes, but you're asking us to agree the legislation, so we do want to know what's going to happen afterwards, or what you envisage is going to happen. Peter, did you want to come back on a point?

[161] **Peter Black:** Yes. It's interesting, because in this, effectively, you as Minister have appointed HMRC to collect this tax, before the WRA has been set up. WRA have responsibility for the collection of tax and the relationship with HMRC will be between HMRC and WRA, as opposed to between HMRC and the Minister. If the WRA is dissatisfied with the performance of HMRC, do they have discretion to terminate that contract and take on a new provider or does that have to be decided by Ministers?

[162] **Ms Cordingley:** WRA have the discretion to vary or revoke a delegation at any time, but they would only be able to delegate to somebody named in the regulations made by the Welsh Ministers. So, they would either, then, take the functions on themselves or delegate to somebody else named in those regulations.



[163] **Peter Black:** So, if they came to the Minister and said, 'We are not happy with the way HMRC are performing and we want to give this contract to another body', the Minister would then have to make new regulations to make that happen, if they weren't already named in regulations.

[164] **Ms Cordingley:** If they weren't named in regulations, yes.

[165] **Peter Black:** Right. So, really, they're agents of the Minister, as opposed to an independent body, in that respect.

[166] **Ms Cordingley:** Well, there is definitely an accountability to Welsh Government. I don't think we've made a secret of that, in that there is definitely an accountability function because the responsibility for devolved Welsh tax policy remains with Welsh Ministers, and so—

[167] **Jocelyn Davies:** So, the discretion for contracting, or entering partnership agreements, is fettered by your decisions on which bodies you stipulate in the regulations.

[168] **Mr Clarke:** Yes, that's absolutely right.

[169] **Jocelyn Davies:** That's right. Okay.

[170] **Peter Black:** And when you come to do this reg, are you anticipating putting any other bodies in there, or are you just anticipating putting HMRC in there?

[171] **Jane Hutt:** Well, at this stage—and it's not going to happen yet, for some time, anyway—I've given my indication of preferred providers, and I'm going to be reporting back to you, certainly before we come to the first debate in December, the progress with that, in terms of the preferred providers.

[172] **Jane Hutt:** The main thing for us, I suppose, is that this Bill doesn't name anybody because it could change in the future and there's an ability for Welsh Ministers to issue regulations from time to time in order that bodies can be named for partnership or contracts.

[173] **Mr Clarke:** Yes. At this stage, obviously, the Minister has announced preferred partners. It will be for the next Government, then, through regulations, to prescribe those bodies that the WRA then can actually

delegate their functions to, and then it's for the WRA itself to decide what functions it might delegate and then review and manage that arrangement with the partner.

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

[175] **Alun Ffred Jones:** Mae fy nghwestiynau i hefyd ynglŷn ag atebolrwydd Awdurdod Cyllid Cymru, ac mae peth o'r tir yma wedi cael ei fraenaru ynghynt, ond gwnaf ofyn rhai o'r cwestiynau yma. Mi fydd hi'n bwysig i'r Cynulliad a'r cyhoedd wybod o'r dechrau yr hyn y bydd Llywodraeth Cymru, Awdurdod Cyllid Cymru a Chyllid a Thollau Ei Mawrhydi yn atebol amdano, ond, fel rydym wedi gweld, mae'n anodd deall hyn o'r Bil ar hyn o bryd. Pryd bydd manylion y swyddogaethau hyn yn cael eu penderfynu, a sut bydd y wybodaeth yn cael ei rhannu?

**Alun Ffred Jones:** My questions also relate to the accountability of the Welsh Revenue Authority, and some of these issues were explored earlier, but I will ask some of these questions. It will be important for the Assembly and the public to know at an early stage what the Welsh Government, the WRA and HMRC will each be accountable for. However, as we have seen, it's difficult to understand this from the Bill at this stage. When will the details of these roles be decided, and how will this information be communicated?

[176] **Jane Hutt:** At this stage—and we have covered some of this, I think—we have the memorandum of understanding, which is about sharing information and good practice. We've said that it'll be post-2018 that we'll have these partnership agreements established. Detailed discussions are under way. I've indicated my preferred providers at this stage, but I think it just goes back to the fact that, for WRA, their main role is to collect and manage devolved taxes, and they will be accountable for the particular functions as set out in section 11. They will have that legal responsibility for the exercise of the functions and the discretion over whether to delegate functions and to what extent and for how long. So, the delegation—and we've just been talking about delegations—doesn't affect the WRA's responsibility for the exercise of that function.

[177] **Alun Ffred Jones:** Rwy'n deall hynny, ond, o ran dealltwriaeth y bobl yn gyffredinol o'r hyn sy'n digwydd, mi fydd angen eglurder ynglŷn â hynny. Felly, pwy fydd yn

**Alun Ffred Jones:** I understand that, but, in terms of the public's understanding in general of what is happening, there will need to be clarity about that. Therefore, who will

gyfrifol am hyrwyddo'r wybodaeth be responsible for promoting that yna allan ymhlith y cyhoedd? Hynny information amongst the public? Will ydy, ai cyfrifoldeb y Llywodraeth fydd it be the responsibility of the o, a pryd fydd hynny'n digwydd? Government, and when will that happen?

[178] **Jane Hutt:** I think I referred earlier on to the consultation that I'm starting after Christmas, which is really going to start trying to engage the public—the taxpayer and not just the experts—in understanding who's going to be responsible for tax policy and legislation, who's going to actually operate the tax collection and management of that, and to be as transparent and open about what the options are and how we take this forward. And I think the scrutiny of the Bill is starting to help with that. But we have got to ensure that we develop that public understanding.

[179] **Alun Ffred Jones:** A derbyn mai **Alun Ffred Jones:** Accepting that Cyllid a Thollau Ei Mawrhydi fydd yn HMRC will be collecting the money, casglu'r arian, sut mae Llywodraeth how is the Welsh Government Cymru yn bwriadu asesu eu intending to assess its performance, perfformiad, neu ai swyddogaeth or will that be the role of the WRA? awdurdod cyllid Cymru fydd hynny?

[180] **Jane Hutt:** That is going to be very clear in terms of what we expect of the WRA in terms of the performance. If we look at HMRC, of course, they've got their record of delivery and, obviously, Mick's drawn attention to some of the pressures on HMRC. But what we will do is have to expect the performance that is laid down in our agreement. One of the things about HMRC and preferred provider at this stage is about consistency, a smooth transition, not taking too many risks and, clearly, that's going to be the same with WRA as well. So, we've got to make sure that there are clear reporting lines and that we can be very clear as well about how we review arrangements in due course in terms of the collection and management of taxes. I've already said, as you know, that that should happen after three to five years.

[181] **Alun Ffred Jones:** Mae adran **Alun Ffred Jones:** Section 14 allows 14 yn galluogi Gweinidogion Cymru i Welsh Ministers to issue directions to gyhoeddi cyfarwyddiadau i awdurdod WRA. The committee has heard that cyllid Cymru. Mae'r pwyllgor wedi there is no equivalent power in clywed nad ydy'r pŵer cyfatebol yn relation to Revenue Scotland. bodoli mewn perthynas â Revenue Therefore, does the Minister feel that

Scotland. Felly, a ydy'r Gweinidog yn teimlo y gellid diwygio adran 14 er mwyn cynnwys cyfyngiadau neu gamau diogelu ynglŷn â defnyddio'r cyfarwyddiadau sydd heb eu cyhoeddi?

[182] **Jane Hutt:** I wrote to the Finance Committee about this, after our previous appearance before you, in relation to general direction-making powers. At the moment, the Bill says that the Welsh Minister must publish any directions given, unless they consider that publication would prejudice the effective exercise of the functions of WRA. There was this issue about the caveat not to publish, and I've reflected on that, and I intend to bring forward an amendment at Stage 2 to delete the caveat, so we would remove the caveat not to publish.

[183] **Alun Ffred Jones:** Diolch yn fawr. A'r cwestiwn olaf, sy'n ymwneud eto â monitro, mae'n debyg, awdurdod cyllid Cymru, rydych wedi yn sôn yn barod bod yna ddogfennau penodol sy'n perthyn i awdurdod cyllid Cymru yn mynd i gael eu cyhoeddi er gwybodaeth, ac yn y blaen, ond nid oes yna ddim gofynion craffu eraill. A ydy'r Gweinidog yn credu y dylai'r Cynulliad graffu ar awdurdod cyllid Cymru ar wahân i'r craffu sy'n digwydd yn gyffredinol ar Lywodraeth Cymru?

**Alun Ffred Jones:** Thank you. And my final question, which relates again to monitoring, apparently, of the WRA, you have mentioned already that there are certain documents that relate to the WRA and they're going to be published for information, and so on, but there are no other scrutiny requirements. Does the Minister believe that the Assembly should scrutinise the WRA separately to the general scrutiny of the Welsh Government?

[184] **Jane Hutt:** Of course, as we know and we've said, there will be a charter of standards and values; that's what the Bill requires. There will be a corporate plan, and annual report, annual accounts and an annual tax statement. They'll all be laid before the Assembly for the Assembly to scrutinise if it so chooses. But the Bill isn't specifying how the Assembly should scrutinise the WRA.

[185] **Jocelyn Davies:** Okay. Chris.

[186] **Christine Chapman:** Minister, what assessment has been made of whether the Bill could or should impose Welsh language obligations on delegated tax collection bodies?

10:00

[187] **Jane Hutt:** The WRA will be required to comply with Welsh language standards. We don't actually have to have provision for this in the Bill, as the Welsh Language (Wales) Measure 2011 will automatically apply to the WRA.

[188] **Christine Chapman:** Okay, so automatically then. We did have a discussion, some time ago now, about the evidence, and whether HMRC would be able to deliver the Welsh language services if they used their existing stamp duty office in Birmingham. Have you thought about that, and do you have any concerns there?

[189] **Jane Hutt:** Well, I think Richard mentioned earlier the fact that there will be a unit. We wouldn't expect—. Basically, in terms of the Welsh language provision, it must meet agreed standards. That's one issue of concern that's been raised, and that's important in terms of access arrangements for the Welsh language. Of course, the WRA is going to be located in Wales, but there may be some HMRC specialist provision in England; that's going to be something where we will have to work very clearly with HMRC, on how they're going to support collection for the land transaction tax for the WRA. That's going to be very much a matter of review over the first few years of the delivery of the WRA.

[190] **Christine Chapman:** Okay. And—

[191] **Jocelyn Davies:** Hang on, Chris. Ffred, was it on this point that you wanted to come in?

<p>[192] <b>Alun Ffred Jones:</b> Ie. Mae Cyllid a Thollau ei Mawrhydi yn eithaf eglur eu bod nhw'n mynd i ddefnyddio'r uned arbenigol yma sydd ganddyn nhw i ddelio ag un o'r trethi. Ond mae'n anodd credu y byddai ganddyn nhw allu yn yr uned honno i ddelio ag unrhyw ymholiad yn Gymraeg. Byddwn i yn eich annog chi, ac annog</p>	<p><b>Alun Ffred Jones:</b> Yes. HMRC was quite clear that they are going to use this specialist unit that they have to deal with one of the taxes. But it's difficult to believe that they would have the capacity in that unit to deal with any inquiry in the Welsh language. I would encourage you, and encourage the authority, to</p>
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yr awdurdod, i ystyried o ddifri a oes modd cael arbenigedd dwyieithog yn yr adran sydd gan HMRC ym Mhorthmadog, sydd yn arfer delio â phobl fel fi, ac eraill sydd yn delio â nhw drwy gyfrwng y Gymraeg.

consider seriously whether it would be possible to have bilingual expertise in the department that HMRC has in Porthmadog, which is used to dealing with people like me, and others who deal with them through the medium of Welsh.

[193] **Jane Hutt:** Diolch yn fawr, Alun Ffred. Clearly, we don't just assume; we will expect the WRA to have its own Welsh language standards, and it will need to agree that with the Welsh Language Commissioner. Also, any standards that will be developed will have to be applied by those who are delegated any functions, such as HMRC and NRW. And, of course, I'm sure they will be drawing on the Porthmadog experience.

[194] **Jocelyn Davies:** Okay, Chris.

[195] **Christine Chapman:** Just finally, Minister, what consideration has been given as to whether the Bill will need to amend other legislation relating to equalities or the Welsh language?

[196] **Jane Hutt:** I think, as I've said, there's an automatic compliance with the Welsh Language (Wales) Measure 2011, and also we will have to bring it in line with the Equality Act 2010, section 151, and we will have to move that in regulation.

[197] **Jocelyn Davies:** Mick, shall we come to your questions?

[198] **Mick Antoniw:** Yes, just a couple of short governance questions on the proposed membership structure of WRA. There's a slight distinction between that membership structure and the membership structure of its equivalent under the Public Audit (Wales) Act 2013. Is there any reason for that? Would it not be a good idea for there to be greater compatibility between the two, or are there specific reasons for the variations?

[199] **Jane Hutt:** The WRA is the first ever Welsh non-ministerial department. It is a different body in terms of the provisions that came through the Public Audit (Wales) Act. And it's our first ever one; there are no precedents for the model. So, we have to recognise different governance provisions, and it's important that we look to what is needed for the WRA.

[200] **Mick Antoniw:** Non-executive membership is obviously going to be a vital part of this because you're bringing in a whole series of skills and expertise through that channel. What's going to be the mechanism for monitoring that—monitoring, I suppose, two things: one, the requirements that are needed, but, secondly, I suppose, the actual performance?

[201] **Jane Hutt:** Well, clearly we have already, in terms of non-executive Welsh Government board members, very clear performance assessment arrangements and annual performance appraisal feedback, also provided by other members of the board.

[202] **Mick Antoniw:** Can I ask you a little bit about the auditor general in respect of the suggestion that he's made that auditing the tax statement might require the payment of fees and so on? Is this something that needs to be incorporated into the legislation?

[203] **Jane Hutt:** As far as the auditor general's concerned, I do intend to bring forward an amendment, probably an insertion into section 23, giving the Wales Audit Office the power to charge a fee for the audit of the tax statement following the evidence given.

[204] **Mick Antoniw:** Okay. Thank you.

[205] **Jocelyn Davies:** There was something that he also mentioned about the non-executive members, which of course was the staff representatives; because I suppose he could think back to when staff representatives for his board were elected by the staff. Why isn't that stipulated here?

[206] **Jane Hutt:** Well, of course, many of us were involved in the development of the Public Audit (Wales) Act, and also of course there was a history to the development of the Wales Audit Office and the provisions of the public audit Act in terms of executive and non-executive, and that history, which we don't need to go into now, had a huge influence on how, if you recall discussions with trade unions—. It was existing bodies we were talking about at the time that wanted to make sure that they were futureproofed against the historical circumstances that they'd found themselves in, so it is a very different set of circumstances. As I said to Mick, this is our first ever Welsh non-ministerial department. Obviously I'm interested in the committee's views on this. One of the things I haven't mentioned is that there is provision for sub-committees of the board as well. For example, there could be a sub-committee of the WRA that has employee

membership and particularly considers issues raised by staff. So, I think this is important. I also think that it would be helpful to have more, following the point that Mick made, about how we can ensure that we do clearly assess the performance of non-executive members—this is going to be a very public body—and how we publicise that assessment to safeguard the whole body that is delivering, executive and non-executive.

[207] **Jocelyn Davies:** Mick, did you have another point?

[208] **Mick Antoniw:** Just a short point. In terms of sub-committees, it's an interesting point because, I mean, this is an embryonic Welsh treasury, and one of the things we'll obviously want to consider is potential future Welsh taxes on non-reserved areas—I have to get the terminology right now. Of course, that was considered in the command paper in 2014 and then in the Wales Act 2014, and of course may well feature in discussions over the Wales Bill. So, presumably one sub-committee might be a preparatory committee that would look at the potential other specific Welsh taxes and how they might be implemented.

[209] **Jane Hutt:** Of course, tax policy will be the province of the Welsh Government and Welsh Ministers, but if Welsh Ministers said that they wanted to progress or pursue the option of a new Welsh tax, then indeed you would then want to engage the Welsh revenue authority with looking at the impact of that, and how they would introduce it. I think it's very important, when you say this is going to be the Welsh treasury: no. The Welsh treasury sits with the Welsh Government. This is about a tax collection and management body—an operational body that's going to operate on behalf of the Welsh treasury.

[210] **Mick Antoniw:** Yes.

[211] **Jocelyn Davies:** Peter, did you have a question?

[212] **Peter Black:** We've heard evidence in the past in terms of the board that oversees the Welsh auditor general, that they feel that there should be a change so that non-executive members should be a certain number, and non-executive members should be included in the quorum for meetings so as to ensure that we have proper scrutiny. Have you considered a similar sort of quorum provision in terms of this board, making sure that every meeting involves a certain number of non-executive members to ensure that you have that scrutiny involved in it?



[213] **Jane Hutt:** This is not for the face of the Bill, I wouldn't have thought. Do you want to comment, Richard?

[214] **Mr Clarke:** What the Bill does do—. If you count up the number of non-execs and execs, obviously, the idea of the board will always be top-heavy as far as non-execs are concerned. That's an important principle, which the Minister established early on. It doesn't go into that level of detail when it comes to the committees or sub-committees because that's within the gift of the WRA as to how they set their procedures, but—

[215] **Peter Black:** Does that set out a quorum of any sort?

[216] **Mr Clarke:** No, it doesn't, because it's within the gift of the WRA to decide how those procedures will be set out.

[217] **Peter Black:** Because I think, in terms of the Wales Audit Office, we'd need primary legislation to put that quorum in place. So, it may well be that we need to make sure that it's possible to do it by secondary legislation, if you're not going to put it on the face of the Bill.

[218] **Mr Clarke:** The point is, of course, it depends on what committees or sub-committees might be established. So, the way the policy was developed was very much around ensuring that the WRA had flexibility because, obviously, depending on the function of the individual committees that it establishes, there might be circumstances where perhaps a non-exec-led committee might not necessarily be appropriate. So, it provides maximum flexibility, and that's the way it's been drawn up.

[219] **Peter Black:** I'm not advocating 'non-exec-led', but I think it's important that non-execs are members on every sub-committee and committee and that there's a sufficient number of them as part of the quorum to ensure that that scrutiny is there. That's the point that I was making.

[220] **Jocelyn Davies:** Julie, did you have a point?

[221] **Julie Morgan:** I just wanted to ask—in your response to whether the staff person should be elected or non-elected—whether you said you were going to look at that again, or—

[222] **Jane Hutt:** We haven't said at this stage that this is appropriate for the board. Obviously, the comparison has been with the Public Audit (Wales) Act 2013 and the provisions that came forward for that. I've mentioned the possibility that there could be employee representation through a sub-committee, but I am open to welcoming the views of the committee on this governance.

[223] **Julie Morgan:** Certainly, in the audit Act, that came up, I think, from the public Accounts Committee—didn't it—the proposal that it should be an elected person.

[224] **Jane Hutt:** As I said, if you recall, this was very much based on the most unhappy arrangements that had preceded the Public Audit (Wales) Act in terms of the way that the Wales Audit Office had been managed in the past. We've got to reflect on that as being a new opportunity and a new way of doing things and whether it's relevant to this.

[225] **Jocelyn Davies:** I guess that was from an existing body, so election from staff is easy to do because they exist. But I guess that, as a matter of principle, you would expect staff representatives, or a person serving on a board who comes from the staff, to be chosen by the staff rather than by the chief executive, for example—as a principle.

[226] **Jane Hutt:** Again, this is our first Welsh Government non-ministerial body. You can look at all the other bodies. The Public Audit (Wales) Act broke new ground in that sense of having the representation through election of executive members. So, I think this is something that—. We haven't put it in the provisions of this Bill, but, as I said, I think I've opened the door to your views on this.

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

[228] **Peter Black:** I'm trying to clarify my understanding of the relationship between the WRA and the Assembly, as opposed to the Ministers. They'll obviously have an annual report. I'm just wondering what scope there is for a committee like this to scrutinise them. Is there going to be a formal reporting process?

[229] **Jane Hutt:** I think I did say that we haven't prescribed how the Assembly can engage and should engage. It's up to the Assembly. There are a number of ways and opportunities. On which committee would be most

appropriate, I think that would be for the Assembly to decide.

[230] **Peter Black:** But you did prescribe something along the lines of the Public Audit (Wales) Act, didn't you? Not mentioning the committee, but saying that it should be to 'a committee'.

[231] **Jane Hutt:** Yes. Again, we'd have to look at whether that was necessary. I think it is a question of whether we should look at everything in terms of the Public Audit (Wales) Act 2013 or whether we should see this as a new opportunity.

10:15

[232] **Peter Black:** If it works well, we should maybe replicate it in other models.

[233] **Jane Hutt:** I think what we want to make sure is that the Assembly feels that it's got every opportunity to, and the relationship and accountability should be very clear in terms of what the Assembly feels it needs to, and will want to, assess. One of the things that I think are interesting—and I'm not saying we should always look at Scotland, but these aren't provisions in the Scotland Act at all, so we are, in a sense, in Wales, coming under scrutiny, and that's absolutely right. You are coming in with things that we've developed in Wales. They certainly haven't been developed in Scotland, because they haven't perhaps—. It was very historical, what went wrong in terms of our audit office arrangement. Do you want to say anything, Richard?

[234] **Mr Clarke:** I was just going to illustrate a little more the opportunities, I suppose, that the Assembly actually does have for scrutiny, because, obviously, there is the annual report, there is the corporate plan, there's the charter, the accounts and the tax statement, and all those will be laid before the Assembly. And, of course, the accounting officer we'd expect to have a role as well, perhaps in front of the PAC in particular. Then, in the annual report, just to draw attention to that, one of the things identified in this Bill is that progress against the charter is one of the things that we identified that should also be reported on. So, lots of opportunities in there, and we deliberately did that so that the Assembly could take a—

[235] **Peter Black:** I understand that, and that's fine. The Public Accounts Committee will be able to pick up on that. I'm just thinking that we've got a

good relationship in terms of the Wales Audit Office, and I think it might be useful to have a look at where that relationship could be more formalised in this Bill as well. It's just a thought, Chair.

[236] **Jocelyn Davies:** I suppose, Minister, the appointment is by the Assembly—

[237] **Jane Hutt:** Yes, that's right.

[238] **Jocelyn Davies:** That might be slightly different. It's something that we may need to consider.

[239] Do you have any more questions for the Minister? Minister, we've run out of questions, so—. Were you going to send us a note on one or two things?

[240] **Jane Hutt:** Yes, I would. I was just going to say on that very point, I think we do need to. If I could write you again on opportunities for the Assembly in terms of section 37 of GOWA 2006, you know, enabling the Assembly to require a person to attend to give evidence, powers can be exercised by the audit committee or any other committee. I think it might be helpful if we wrote particularly on those points about the Assembly relationship and the difference, as you say, in being an appointment by the Assembly or the Welsh Government.

[241] **Peter Black:** And clarification on HMRC.

[242] **Jocelyn Davies:** HMRC, yes.

[243] **Jane Hutt:** HMRC and their responsibilities.

[244] **Jocelyn Davies:** Okay, thank you very much.

10:18

**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 accordance with Standing Order 17.42(vi).*

*Cynigiwyd y cynnig.  
Motion moved.*

[245] **Jocelyn Davies:** I propose, then, that we move into private session under 17.42. Everybody agreed?

*Derbyniwyd y cynnig.  
Motion agreed.*

*Daeth rhan gyhoeddus y cyfarfod i ben am 10:18.  
The public part of the meeting ended at 10:18.*