



Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales

Cofnod y Trafodion The Record of Proceedings

[Y Pwyllgor Cyllid](#)

[The Finance Committee](#)

16/02/2017

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Motion under Standing Order 17.42 to Resolve to Exclude the Public from the Meeting on 1 March

Cofnodir y trafodion yn yr iaith y llefarwyd hwy ynnddi yn y pwyllgor. Yn ogystal, cynhwysir trawsgrifiad o'r cyfieithu ar y pryd. Lle y mae cyfranwyr wedi darparu cywiriadau i'w tystiolaeth, nodir y rheini yn y trawsgrifiad.

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. Where contributors have supplied corrections to their evidence, these are noted in the transcript.

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

Mike Hedges Bywgraffiad Biography	Llafur Labour
Steffan Lewis Bywgraffiad Biography	Plaid Cymru The Party of Wales
Eluned Morgan Bywgraffiad Biography	Llafur Labour
Nick Ramsay Bywgraffiad Biography	Ceidwadwyr Cymreig Welsh Conservatives
Mark Reckless Bywgraffiad Biography	UKIP Cymru UKIP Wales
David Rees Bywgraffiad Biography	Llafur Labour
Simon Thomas Bywgraffiad Biography	Plaid Cymru (Cadeirydd y Pwyllgor) The Party of Wales (Committee Chair)

Eraill yn bresennol
Others in attendance

Kathryn Bishop	Ymgeisydd a ffafrir ar gyfer swydd Cadeirydd Awdurdod Cyllid Cymru Preferred Candidate for Chair of Welsh Revenue Authority
Mark Drakeford Bywgraffiad Biography	Aelod Cynulliad, Llafur (Ysgrifennydd y Cabinet dros Gyllid a Llywodraeth Leol) Assembly Member, Labour (The Cabinet Secretary for Finance and Local Government)
Gawain Evans	Cyfarwyddwr Cyllid, Llywodraeth Cymru Director of Finance, Welsh Government

Andrew Hewitt	Swyddog Polisi, Llywodraeth Cymru Policy Official, Welsh Government
Matthew Denham Jones	Dirprwy Gyfarwyddwr, Rheoli Ariannol, Llywodraeth Cymru Deputy Director Financial Controls, Welsh Government
Gareth McMahon	Cyfreithiwr Llywodraeth, Llywodraeth Cymru Government Lawyer, Welsh Government

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

Bethan Davies	Clerc Clerk
Martin Jennings	Y Gwasanaeth Ymchwil The Research Service
Cath Hunt	Ail Glerc Second Clerk
Georgina Owen	Dirprwy Glerc Deputy Clerk
Gwyn Griffiths	Uwch-gynghorydd Cyfreithiol Senior Legal Adviser
Martin Jennings	Y Gwasanaeth Ymchwil Research Service
Gareth Pembridge	Cynghorydd Cyfreithiol Legal Adviser
Katie Wyatt	Cynghorydd Cyfreithiol Legal Adviser

Dechreuodd y cyfarfod am 09:18.
The meeting began at 09:18.

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

- [1] **Simon Thomas:** Bore da, bawb. Galwaf y Pwyllgor Cyllid i drefn. Pen-blwydd hapus i Eluned Morgan—diolch yn fawr am roi eich pen-blwydd chi i gynorthwyo'r pwyllgor heddiw ar ddiwrnod—. Byddwn ni'n treulio lot o amser gyda'r Gweinidog o dro i dro heddiw hefyd, so, diolch i'r Gweinidog hefyd am ddod atom ni. Yr eitem gyntaf yw craffu ar y gyllideb atodol. Yn gyntaf oll, os caf i atgoffa'r Aelodau i ddifodd unrhyw beirannau electronig, neu o leiaf eu tawelu. Ac, wrth gwrs, mae offer: cyfieithu ar sianel 1, a lefel y sain ar sianel 0.
- Simon Thomas:** Good morning, everyone. I call the Finance Committee to order. Happy birthday to Eluned Morgan—thank you very much for giving your birthday to help the committee on a day—. We'll be spending a lot of time with the Minister from time to time today, also, so, thank you to the Minister also for joining us today. The first item is scrutinising the second supplementary budget. First of all, could I remind Members to turn off any electronic devices, or at least put them on mute? And, of course, headsets are available, and interpretation is on 1 and amplification on 0.

09:19

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

- [2] **Simon Thomas:** Jest gofyn i'r Aelodau i nodi cofnodion y cyfarfod a gynhaliwyd ar 8 Chwefror—pawb yn hapus i nodi'r cofnodion? Grêt, diolch yn fawr iawn.
- Simon Thomas:** If I could ask Members to note the minutes of the meeting that was held on the 8 February—everyone happy to note those minutes? Great, thank you very much.

**Ail Gyllideb Atodol Llywodraeth Cymru ar gyfer 2016–17: Sesiwn
Dystiolaeth
Welsh Government Second Supplementary Budget 2016–17: Evidence
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- [3] **Simon Thomas:** I droi felly at **Simon Thomas:** We will turn therefore

ail gyllideb atodol Llywodraeth Cymru, yn nwylo Mark Drakeford, Ysgrifennydd y Cabinet dros Gyllid a Llywodraeth Leol. Croeso i chi a'r swyddogion. Os gwnewch chi jest gadarnhau enwau pawb ar gyfer y cofnod, os gwelwch yn fawr.

[4] **Ysgrifennydd y Cabinet dros Gyllid a Llywodraeth Leol (Mark Drakeford):** Diolch yn fawr, Gadeirydd. Gyda fi y bore yma mae Matt Denham Jones a Gawain Evans, sy'n gweithio yn yr adran gyllid.

The Cabinet Secretary for Finance and Local Government (Mark Drakeford): Thank you very much, Chair. So, with me this morning are Matt Denham Jones and Gawain Evans, who work in the finance department.

[5] **Simon Thomas:** Diolch yn fawr iawn. Gwnawn ni droi at y gyllideb. A gaf i ofyn yn gyntaf i chi: beth oedd eich canllawiau wrth ddyrannu'r arian a oedd wrth gefn, a oedd yn arian eithaf sylweddol, a dweud y gwir, yng nghyd-destun y blynyddoedd cynt, ac yn enwedig y ffordd rŷch chi wedi gwneud penderfyniadau ymysg y gofal cymdeithasol a'r gwasanaeth iechyd, yn benodol, wrth gwrs, y byrddau iechyd?

Simon Thomas: Thank you very much. We'll turn to the budget. First of all, could I ask you: what was your guidance in allocating the reserves, which were quite significant, to tell you the truth, in the context of previous years, and particularly the way that you've made decisions in terms of social care and the health service, specifically the health boards?

[6] **Mark Drakeford:** Diolch yn fawr, Gadeirydd. I think I should say that, even with a supplementary budget that is essentially about in-year management, the business of trying to align resource with priorities is still a relatively complex business. We are dealing with, at a minimum, four different sorts of expenditure: we've got conventional capital here, we've got financial transaction capital, we've got revenue, and we've got non-cash cover as well, so you've got four different sorts of expenditure. We've got, probably, five different sources of expenditure, because the supplementary budget deals with transfers within main expenditure groups, transfers between MEGs, allocations from reserves, changes to the Welsh Government's departmental expenditure limit as a consequence of UK Government decisions, and movements in annually managed expenditure as

well. So, four different sorts of expenditure, five different sources of expenditure, and six different major portfolio areas to try to attend to.

[7] So, I think the major way in which I've approached it is to try to look at the main needs that different portfolios have, and to try to match those needs with the sorts of expenditures that we have available to us. So, to give you an example, Chair, in the housing field, the major need was for conventional capital. We have a very ambitious target of 20,000 affordable homes during this Assembly term. The Cabinet Secretary for housing has emphasised to me from the very first weeks of this Assembly term that his ability to meet that target would be much assisted if we could make an early investment in that area. Therefore, we have used money from our capital reserve to try to accelerate our ability to get on with that.

[8] In the economy and—'E and I' budget; I've forgotten what the 'I' stands for, for a second—. Infrastructure, sorry. In the economy and infrastructure budget, I need to use financial transaction capital, so we've been able to provide that for the new international convention centre and for investment at Cardiff Airport.

[9] The education Cabinet Secretary had a need for non-cash cover to meet changes in the student loan book, and we've used a significant sum of non-cash cover to assist there. To come to your question about health and social care, well, the greatest need there was for revenue to meet the day-to-day demands of keeping our health and social care services operating effectively in Wales. So, that's the game plan, in a way, behind the supplementary budget: looking at the different sorts of needs there are at portfolio level, and trying to match those against the different sorts of resource that we're able to deploy in-year.

[10] **Simon Thomas:** A fyddai'n **Simon Thomas:** Would it be fair to deg, wedi dweud hynny, o edrych ar y say, in looking at the whole budget, gyllideb yn gyfan, bod y rhan fwyaf o that the majority of the transfers that drosglwyddo sydd wedi digwydd yn y have happened in this supplementary gyllideb atodol hon yn digwydd o budget are happening around gwmpas symud o arian wrth gefn, moving from reserves, capital and cyfalaf a refeniw, i mewn i revenue, into the priorities of the flaenoriaethau'r gwahanol adrannau? different departments? Is that fair? A ydy hynny'n deg i ddweud?

[11] **Mark Drakeford:** Well, in raw numbers—

[12] **Simon Thomas:** Nid oes llawer o fynd rhwng yr adrannau, nac oes?
Simon Thomas: There are not many interdepartmental changes, are there?

[13] **Mark Drakeford:** Na.
Mark Drakeford: No.

[14] In raw numbers, the greatest shifts you see are actually in non-cash, in AME; that's where the biggest numbers here fall. But, in the sense of the things that have the biggest effect, then the bulk of what you see here are moves from reserves and into MEGs.

[15] **Simon Thomas:** Tra ein bod ni dal ar y trosolwg, fel petai, ac yn edrych arno fe mewn ffordd strategol, ac yn derbyn bod hwn yn gyllideb atodol, byddwch yn cofio bod y pwyllgor hwn, wrth edrych ar y gyllideb o'r blaen, wedi sôn a thynnu eich sylw at y ffordd y gallech chi ddefnyddio Deddf Llesiant Cenedlaethau'r Dyfodol (Cymru) 2015 er mwyn cynllunio yn y modd yma. Nawr, rwy'n derbyn yn aml iawn mewn cyllideb atodol rydych chi'n ymateb i bwysau annisgwyl, neu rŷch chi yn ymateb i rhywbeth sydd wedi cynyddu yn ystod y flwyddyn—nid yw o reidrwydd yn paratoi'r ffordd at feddwl strategol yn yr ystyr yna. A oeddech chi'n gallu defnyddio egwyddorion y Ddeddf y tro yma ar gyfer y gyllideb atodol? Ymhle y gallwn ni olrhain hynny o gwbl?
Simon Thomas: While we're still on the overview, as it were, and looking at this in a strategic way, and accepting that this is a supplementary budget, you will remember that the committee, in looking at the previous budget, had mentioned and drawn your attention to the way in which you can use the Well-being of Future Generations (Wales) Act 2015 in order to plan in this way. Now, I accept that very often in a supplementary budget you're responding to unexpected pressure, or something that has increased during the year, and it doesn't necessarily prepare the way for strategic thinking in that sense. Could you use the principles of the Act for the supplementary budget? Where could we track or see that?

[16] **Mark Drakeford:** Chair, I agree with what you said. Inevitably, a supplementary budget is focused on dealing with in-year pressures and in-year opportunities and the big strategic alignments of budgets with the requirements of the Act are to be found in the main budget planning round. However, knowing that this committee would be interested in the way that the lens of the future generations Act can make a difference, even at the

supplementary budget stage, we've discussed internally the allocations through the lens of the Act, where we've been able to do so. So, if you think of the seven goals of the Act, I think you'll see a series of examples here where the ambition to create a more prosperous Wales is reflected in these allocations—£10 million for the A465, for example; an integral part of our attempt to bring economic prosperity to those parts of Wales—to create a healthier Wales, where there's £16 million in this supplementary budget for the new treatment fund, so that it could begin in the very first year of the Assembly, and a resilient Wales—we know that one of the things that we face is energy resilience, and you'll find in this budget an investment, through the invest-to-save budget, in a solar farm project in Monmouthshire. That is part of our attempt to make sure that we are energy-resilient for the future.

[17] In the five ways of working, the first of the five ways of working is that we should be trying to make decisions for the long term. There's £35 million in AME cover here in the health budget to meet a reassessment of the long-term liability for payments to Welsh citizens infected with contaminated blood in the 1970s and 1980s; the good news being that people are living longer than maybe originally expected with those conditions. We have to provide long-term cover for our ability to go on supporting those people into the future.

[18] There's collaboration, as one of the five ways of working, at the opposite end of the scale, in budget terms, from £35 million—there's £300,000 going out of the health budget into the communities budget to support the work of Disability Wales. That's a recognition, by the Cabinet Secretary for health of the work that Disability Wales does in the health and social care field. So, as I say, the big strategic decisions and alignments happen in the budget as a whole, but we have, nevertheless, used the lens of the well-being of future generations Act to look at the allocations that you will see in the supplementary budget as well.

[19] **Simon Thomas:** Mike Hedges.

[20] **Mike Hedges:** Can I talk about planned end-of-year reserves? It's your second supplementary budget and the last one of the year; you've got reserves planned to be carried forward to the next year. If I've got my figures right, and I'm sure you'll correct me if I haven't, it is very similar to the number you carried forward last year and very similar to the number you carried forward before. Do you recognise that? The question I've got is: how do you decide how much to carry forward into reserves year on year? I'm sure

you've got demands that could take up all of the reserves that you haven't allocated as of yet.

[21] **Mark Drakeford:** I'll make an attempt on one part of the answer and make sure that colleagues here keep me on the straight and narrow if I'm not remembering it correctly. My aim in relation to reserves is to use reserves in a way that protects public services in the future as well as in the here and now. As you know, budgets in this Assembly term go down every year, with a particularly difficult year in 2019–20, when there are £3.5 billion-worth of unallocated cuts still to be determined at the UK level.

[22] On Tuesday in Edinburgh, the finance Ministers of Scotland, Northern Ireland and I met the Chief Secretary to the Treasury, and, again, in a united way, pressed on him the case for abandoning those cuts, and for at least providing us with certainty about where they are likely to fall. Because, at the moment, if things went against us, we could be faced with up to £250 million-worth of revenue disappearing out of our budget in that year, and that would be a major hit for us. Scotland and Northern Ireland are in exactly the same position. We didn't make much headway with the Chief Secretary; he said that the UK Government is determined that those cuts will happen.

09:30

[23] So, I look at reserves and I think of the pressures that are to be faced further down the line, and I'm attempting to carry forward reserves of revenue at the top end of what we are able to carry forward. You're quite right, Mike: there are things we could have used that money for this year, but actually my view is that this year and next year are at the less difficult end of budgets that we will face during these five years, and therefore my ambition is to try and use reserves as a tool, an active tool, in managing pressures across the whole of the Assembly term.

[24] On capital reserves, the position is slightly different in this budget, because you will remember that we had anticipated providing a significant amount of help to Tata during this financial year when the crisis in the steel industry broke at the very beginning of the calendar year 2016. Now, in the event, that money has not been drawn down in the current year, and we have an agreement with the Treasury—which has been a constructive discussion with them, let me say; I've been critical of them a moment ago, but we had a constructive discussion with the Treasury about allowing us to carry forward a much higher level of capital carry-forward into next year than would

normally be the case. That is specifically in order to allow us to continue to provide help to the steel industry, which will now be drawn down next year rather than this year.

[25] **Simon Thomas:** Can I just bring in Nick Ramsay, just on this, I think?

[26] **Nick Ramsay:** Yes. Thanks, Chair. It's more of a hypothetical question, really, linked to this idea of the way you use reserves at the moment to bridge any gaps. Do you anticipate in the future, once the Welsh Government has borrowing powers, that that will be a tool that will mean that you won't have to rely totally on having that reserve at the level that you're keeping it at the moment?

[27] **Mark Drakeford:** Chair, I think the more significant change, rather than the capital borrowing, will be the single Welsh reserve. At the moment, as you know, we have to live within the Treasury rules about how much money we can carry forward every year, and those rules are very constraining. Under the fiscal framework, we will have a single Welsh reserve in future, in which both any money we have over and above our anticipated tax take will be allowed to be held in the reserve, and we will be able to carry forward money—

[28] **Nick Ramsay:** Like a savings account.

[29] **Mark Drakeford:** Well, it is a bit like a savings account in that way, but it will be more flexible—we won't have this annual discussion with the Treasury about carry-forward, and the finance Minister will have more flexibility to manage. I think that will be a more significant help in the way that we do this part of the business than the capital borrowing will be.

[30] **Nick Ramsay:** I just asked the question because, in your response to Mike Hedges, it just seemed that, at the moment, you are very dependent on keeping that reserve level at the right level to cover any contingencies, in the way that UK Government has multiple pots at its disposal, so it must be quite stressful, to put it mildly. [*Laughter.*]

[31] **Simon Thomas:** You're getting your sympathy in early.

[32] **Mark Drakeford:** Yes, and exhausting it early, I'm sure. [*Laughter.*] Nick, I think the point is that it's always an area with a bit of rub in it as far as the relationship between the UK Government and the Welsh Government is

concerned, because we are always wanting to probably do a bit more than they would ideally like us to do. Although, as I say, in the specific instance of Tata, where's there's a very significant amount we're carrying forward that we wouldn't normally be able to do, there's been a very co-operative set of discussions with the Treasury about allowing us to do that.

[33] **Simon Thomas:** Back to Mike now.

[34] **Mike Hedges:** Can we move on to health boards? You have in the supplementary budget £75.9 million additional funding to help to address overspends, and £68.4 million of this was announced in November for Betsi Cadwaladr and Hywel Dda university health boards, and you've got a further £7.5 million allocated in January. Is this funding going to be put into their base budgets or do you expect them to pay it back over a period of time? My understanding—again, I'm open to correction—is that, because the health boards are effectively wholly-owned subsidiaries of the Welsh Government in financial terms, their accounts have to go into the Welsh Government consolidated account. Are you certain—perhaps 'certain' would be the wrong word—are you confident, though, that this money will mean that there will not be any end-of-year overspends across health boards in general?

[35] **Mark Drakeford:** Well, first, Chair, just to be clear, the money has not gone to Betsi Cadwaladr or to Hywel Dda health boards. The money has gone to the MEG that is managed by the Cabinet Secretary for health, and my understanding is that he intends to maintain the policy adopted by his predecessor in not handing that money on to health boards directly to make it look as though they had lived within their means. He will use the money to make sure that, in the MEG level that he has to manage, he lives within his means as a totality. The money isn't being handed to them, so it isn't there for them to repay, because it hasn't gone to them in the first place.

[36] In your second question as to whether we are confident that the health MEG will live within its means, and that, therefore, the Welsh Government will live within the means available to us at a DEL level, then the answer to that is 'yes'.

[37] **Mike Hedges:** Can we get back to that? You've got that £75.9 million and the £7.5 million. Will it, in actuality, be spent on covering overspends in Betsi Cadwaladr and Hywel Dda, i.e., ensure that, when their accounts are produced, within the MEG, the MEG breaks even?

[38] **Mark Drakeford:** So, I'll just again make sure that I'm getting this exactly accurate for you, Chair. The way it works, in my understanding, is that the accounts of the health boards will show that they have not lived within the means made available to them at the start of the year, but that that will be covered by the MEG itself, so that the MEG itself will live within its means.

[39] **Mike Hedges:** So, really, just to finish, on that last point, of course, that means it will not be put into their base budgets for next year—the health boards.

[40] **Mr Evans:** For this year, no, as the Minister said, the money will be held and not allocated out to the boards. So, this year, no, it wouldn't go into the baseline. But, as you say, in terms of the overall MEG, the money is there to ensure that the MEG lives within its means.

[41] **Mike Hedges:** Okay. Thanks.

[42] **Simon Thomas:** David Rees.

[43] **David Rees:** Thanks, Chair. Just on this particular point, you've identified £79 million—odd to cover the overspend within the MEG, and, as you quite rightly pointed out, you came to us many times in the health committee, telling us that you'd lived within the MEG. But I looked at the figures for December, and it seems that the overspend was about £150 million at that point. Do I therefore assume that the MEG had sufficient coverage within it to have that whole overspend protected within the MEG, so that, in a sense, we won't have a problem, because your £79 million comes in, but there's another £60 million shortage?

[44] **Mark Drakeford:** Well, the way I imagine that the Cabinet Secretary is managing it will be in a number of different ways. He will be looking to see what other sources he is able to use within his MEG to cover some of those overspends, and he will be bearing down on all the central budgets that he has to provide some additional flexibility in that way. And I've no doubt at all that his officials will be working with health boards to make sure that they, too, are doing everything they can to reduce the level of overspend that they would have been declaring. And anybody who has followed this over the years, as you, David Rees, certainly will have done, will know that there are patterns in the way that health boards manage their own affairs over the year, and that the figure that they declare in December is not likely to be the

figure that they will end up with at the end of March.

[45] **David Rees:** And can I clarify that there is also an extra £50 million for winter pressures, which is separate from the overspend?

[46] **Mark Drakeford:** It is.

[47] **David Rees:** And, in your experience, in your previous role, is, therefore, that £50 million and the £79 million basically maybe covering the same kind of costs, because budgets in health boards sometimes are overspent because of the winter pressures?

[48] **Mark Drakeford:** Well, Chair, winter pressures in the health service in Wales this year have been very real and sustained, and they haven't gone away; we're still in the winter, very much, as far as the health service is concerned. What the £50 million for winter pressures will allow the health service to do this year is what the Welsh health service managed to do last year, which is: despite the real pressures that are there in emergency care, the health service in Wales last year reduced waiting times for elective care at 26 and 36 weeks, and reduced waiting times in relation to diagnostics, so that, at the end of March 2016, those waits were down considerably between then and the beginning of the year. And the £50 million that we have provided this year, we believe, will mean that at the end of March, waiting times for elective care will be the lowest since March 2014, and waiting times for diagnostics are likely to be the best since March 2011 or 2012. And that's what that winter pressure money has allowed the health service to do. It's allowed the health service to manage the very, very difficult emergency pressures that come through the door in the winter period, while going on reducing elective waiting times and diagnostic waiting times. I don't have those figures in front of me, but I would be surprised if you would find that replicated in many other places in the United Kingdom.

[49] **Simon Thomas:** Mark Reckless.

[50] **Mark Reckless:** We've had, I think, for the last three years, winter pressure money added to the supplementary budget. Why isn't that predictable spending, it would seem, included in the original budget?

[51] **Mark Drakeford:** Well, it is a matter of managing the circumstances that you find at the time that you find them. I think that's the way we've tried to approach it. Winters do certainly always bring pressures, and the fact that

we provide extra money, or have in the last three years, does not mean at all that health boards don't plan for the pressures that they know they will face. There is a relatively sophisticated set of arrangements for planning for the winter, but where we have been able to, what we have tried to do in the last three years is to provide funding over and above what the health service needs to manage those pressures, in order for it to make further progress in reducing its elective waiting times in the way that I've just described. Now, there will be years when our budgets wouldn't have allowed us to have provided that extra investment, and those gains would not have been possible. But while finance Ministers here have been able to make that extra investment to sustain that progress, we've been pleased to do so.

[52] **Mark Reckless:** Can I just clarify the situation with the overspend? An overspend has developed within the health MEG, driven to a significant degree by an overspend at Betsi Cadwaladr. But why are you allocating money to the MEG so that the health Secretary can say, 'There hasn't been an overspend in the MEG', but not allocating money to the Betsi Cadwaladr health board? What is the distinction in principle between the health department and the health board that justifies that?

[53] **Mark Drakeford:** I think that's a very interesting question and shows a bit of a light on a debate that we are needing to have. So, we have a formula that distributes the money that goes into the MEG, and then out to health boards. And that formula has been built up over many years, kept under review, and the aim of the formula is to match health need with expenditure. Betsi Cadwaladr and Hywel Dda have some of the best health in Wales, yet we already spend more per head of the population in those parts of Wales than anywhere else in Wales. So their health needs are lowest, you could say, and yet, expenditure per head is greatest. One answer to the question would be to say, 'Well, the formula must be wrong.' If there are health boards that consistently can't live within their means, that must mean you're distributing the money wrongly and you should change the formula and give those places more money. But that does fly in the face of the attempt to match health need with resource when health need is lowest in those places. You'd be taking money from the Gwent Valleys, where the health need is greater, but where expenditure per head of the population is already lower than it is in the west and the north of Wales.

09:45

[54] So, the discussion that I have had with the Cabinet Secretary—which

we will want to continue, because we're not concluded in terms of the best policy levers here—reflects what happened in Powys over the last couple of years. Powys consistently ran a deficit of about £20 million but, when I was the health Secretary, I came to the conclusion that that was a structural level of deficit over which the health board had almost no influence at all. It was just sort of inbuilt into the way that that health board's business ran, largely because it doesn't provide its own secondary care and has to commission it from outside.

[55] So, we decided that what we would do is we would recognise that structural deficit and then say to the health board, 'Now, you must live within your means for the things that are under your control', and ever since, Powys has managed to do that because it's been able to focus on the things that it can manage and make a difference to, without having to try and grapple with things that, essentially, it didn't have much influence over.

[56] Now, the conversation with the Cabinet Secretary for health is whether there are things that are built into the way that health services are provided. In Hywel Dda, for example, the fact that—

[57] **Simon Thomas:** Inherited structural deficit, for example, in Hywel Dda.

[58] **Mark Drakeford:** Yes, inherited deficits, the fact that it has four DGHs, which politically—. Can you imagine going before the Assembly here and saying that that wasn't going to continue? You know, politicians would prevent—. There are certain parameters that politicians require that health board to operate within that it has no influence over. Equally, the further west you go in Wales, we know that recruitment becomes more difficult, reliance on locums becomes greater, and locums are a lot more expensive than mainstream permanent staff.

[59] So, the debate with the Cabinet Secretary is, or the discussion with him is: are there things that face those health boards that they can't do anything about that we ought to recognise and fund in order to allow them to focus on the things where we say, 'You do have an influence over those and you've got to manage those things within the resources that are made available to you'?

[60] **Mark Reckless:** But, as the Cabinet Secretary for finance, you're struck that, with Hywel Dda and with Betsi, there is, even before the overspend—at least with Betsi Cadwaladr—there is a higher degree of health allocation than

a strict assessment of needs would imply, relative to, in particular, the example you gave there, which was the Gwent Valleys.

[61] **Mark Drakeford:** Well, the Townsend formula—. When Professor Peter Townsend was here all those years ago, I used to go around with him to the various meetings that he held to carry out the Townsend review. If you wanted to summarise his report in a sentence, it would be: 'If you wanted to match money with need, then money in Wales had to move from north to south and from west to east.' During the times that budgets were growing, health Ministers of the time attempted to implement Townsend through differential distribution of growth. So, when there was more money to hand out, a greater proportion of that money went to the south-east of Wales, compared to the growth that was available elsewhere. In an era of shrinking budgets rather than growing budgets, that strategy is much, much more difficult to implement.

[62] **Mark Reckless:** But is it fair to concentrate reductions on those that are already getting less than their need relative to others? Doesn't that actually constrain budgets? Doesn't that make it even more important to recognise those inequalities you were talking about?

[63] **Mark Drakeford:** Well, what I was trying to do in my very first answer, Chair, was to say that one answer to the question that was originally asked would be to say you ought to give more money permanently, formulaically, to Betsi and to Hywel Dda. I've tried to explain that one of the reasons I've not been tempted to do that is that it would fly in the face of our efforts to align budgets with need. But I think that one of my main responsibilities in this supplementary budget, working with the Cabinet Secretary, is to make sure that services in all parts of Wales go on being provided to Welsh citizens. So, I didn't say it earlier on, but I could have said it. I've had a couple of questions that say to me, 'So, this money is going into deficits.' Actually, this money is going into patient care; that's what the money is for. The money isn't to—. The money isn't there for an accounting purpose; it's because unless we were to provide this money, then vital services in the west and north of Wales would really struggle to be maintained. I think of it as my responsibility, primarily, to make sure that vital health services in all parts of Wales continue to be made available to citizens in all parts of Wales.

[64] **Mark Reckless:** Thank you for that very interesting set of answers.

[65] **Simon Thomas:** David Rees first.

[66] **David Rees:** Just a quick one: are you therefore confident—? Obviously, the supplementary budget is a consequence of the discussions you've had with the Cabinet Secretary for health and well-being. Are you therefore confident that perhaps the analysis and consideration of the patient care aspects we talked about is being undertaken by that department so that in future years, you may have a greater confidence that some of the budget allocations you identify initially will properly meet the needs?

[67] **Mark Drakeford:** Well, Chair, I do know that those things are being very actively looked at within that department and that those discussions are being held with the health boards themselves. It's in everybody's interests if we can get to a point where we are recognising the cost that health boards have to meet and over which they have no direct—you know, it's very hard for them influence—so that we can focus with them on the things that their own actions and their own ability to manage the system ought to be helping them to live within the means that the National Assembly's able to provide to them.

[68] **Simon Thomas:** Is there a hint in what you're saying, therefore, that a future budget—not a supplementary budget, but a future Welsh Government budget—in relation to these two health boards, at least, might contain an element of central spending that relates to the health boards but is now in the control of the Cabinet Secretary for health, rather than allocated to the health boards themselves?

[69] **Mark Drakeford:** Well, I don't think that the conversation has got quite to that level of detail, Chair. In the case of Powys, that is not how we did it. We gave the money to the health board itself—

[70] **Simon Thomas:** To address the structural deficit.

[71] **Mark Drakeford:** Yes. In the health board itself rather than holding it centrally.

[72] **Simon Thomas:** But that was comparatively small figure, compared to these kind of deficits.

[73] **Mark Drakeford:** It is, comparatively, and in some ways easier to identify what the structural issues were. So, these are more complex and more difficult discussions, but I just wanted to share with the committee

some of the thinking that is going on in order to try and address some of the issues that you see in these figures.

[74] **Simon Thomas:** I think that explains, to a certain extent, what looks on the face of it to be a bit of a slight of hand in allocating to the MEG and not to the health boards. There's clearly a policy development going on behind that and I think it's useful for the committee to understand that and to keep an eye on that for future budgets. Nick Ramsay.

[75] **Nick Ramsay:** Can I just concur with that, Chair, and with Mark Reckless's question? That really did shed a light on why that decision had been taken. I had not heard that before.

[76] A lot of this has been covered, Chair, but still on the issue of transparency in the health budget, how does this supplementary budget change the balance of funding between primary care, secondary care, social care, the integration of services and the balance of preventative spend in general? A light question.

[77] **Mark Drakeford:** Well, I think probably the shorter answer would be 'not much', in the sense that the measures contained in the supplementary budget are non-recurrent in nature; they apply only for 2016-17. And in the grander scheme of things, in relation to those budgets as a whole, they don't have a material impact on the balance of funding between sectors.

[78] **Nick Ramsay:** Okay, thanks. What consideration did you give to providing more funding from reserves for social care through local authorities?

[79] **Mark Drakeford:** Well, Chair, technically it is more difficult, in the sense that we don't open the RSG during the year. So, once the RSG is made, it's sealed for the year. Our focus in relation to social care has been on trying to make sure that, at that main budget making, we provide as much as we can for social care. We did that in this financial year with the intermediate care fund and the additional money identified for social services in the RSG. I've continued that policy for next year by sustaining the intermediate care fund at its full value next year. Another sum of money in the RSG is identified for social services and, additionally, next year, two further sums of money: a sum of money into social care to begin the process of raising the capital limit in residential care, and £10 million, announced in the final budget, to bring about a sort of tripartite solution to the real pressures that are there in terms

of the so-called 'living wage' in social care. So, we've made the provision for social care in the main budget allocations, and they don't feature that much in the supplementary budget.

[80] **Nick Ramsay:** Why is the RSG closed once it's closed? Is that part of the way that the local government settlement works?

[81] **Mark Drakeford:** I think it's a series of legal—. Local authorities have legal obligations themselves. They have legal timetables they have to meet in setting budgets, and once it's done, it's done. Mike will tell you more than me.

[82] **Nick Ramsay:** We'll have that chat later on. And what assurance can you provide the committee that it will be possible to track changes in funding, such as supporting mental health policies and legislation, as £15.7 million of funding has been transferred into the £6.2 billion core funding action?

[83] **Mark Drakeford:** It has been transferred into the core action, but within the core action it has been transferred into the mental health ring fence, so it hasn't just gone into the budget as a whole. As you know, we have a ring-fenced budget for mental health services in Wales, and the £15.7 million has all gone into the ring fence. Health boards publish figures on the mental health ring fence every year. I can certainly supply the committee with the link to where you can find those figures reported. So, I believe that it will be possible to go on tracking the way in which that £15.7 million will continue to be applied for mental health purposes.

[84] **Nick Ramsay:** So, it's misleading to say that it's simply gone into the NHS core funding. It's gone in, but with that protection.

[85] **Mark Drakeford:** It's gone into the core funding, but within the core funding it is within the mental health ring fence.

[86] **Simon Thomas:** So, that's the decision of the Cabinet Secretary, basically.

[87] **Mark Drakeford:** Yes it is, yes.

[88] **Simon Thomas:** Mike Hedges.

[89] **Mike Hedges:** Whilst the RSG can't be changed, you can give specific grants in year, if you so desire, to cover things such as community care. But my question is: did you consider giving additional money to help improve health, rather than dealing with ill health, because that seems to be the major movement in that we spend lots and lots of money dealing with ill health, and whether we could actually make greater savings by actually using some of the money to try and improve health?

[90] **Mark Drakeford:** Well, in some ways, Chair, that is the holy grail of health policy, and has been for many years: how do you move funding upstream to try and invest in public and preventative health services so that people don't become ill and then need the rescue, the use of the ambulance service of the NHS? The struggle to do it is that the demands of the here and now—the burden of ill health that the health service faces every day, in terms of an aging population and an explosion in chronic conditions such as diabetes—mean that it is very, very difficult to squeeze money out of the here and now in order to invest upstream. I think, myself, that the efforts that were started in the last Assembly term, and which have been continued firmly in this Assembly term, to invest in primary care services, is part of that effort. So, the policy that Mike Hedges sets out is exactly one that the Government would sign up to. The doing of it—the squeezing of money from the here and now to prevention—is much harder to do.

[91] **Mike Hedges:** But surely if you reduced obesity, you would reduce type 2 diabetes?

[92] **Mark Drakeford:** Absolutely. You would. But when you have a growth in type 2 diabetes every year coming through your door, with no additional resource to deal with it, trying to deal with that extra volume and then find money to squeeze out of that to spend on preventative services, well, it's a struggle. That's all I'm saying. The policy is absolutely the right one; executing it in a time of austerity is not straightforward.

[93] **Simon Thomas:** We certainly addressed this in our report on the main budget, and I'm sure we'll come back to it as a committee in the future as well. Steffan Lewis.

[94] **Steffan Lewis:** Yes. On the point of the mental health funding ring fence, is there a commitment in the department to improve data? I've looked at the link that you mentioned, and I've actually FOI'd every health board in Wales to ask specific questions on the delivery of mental health services. Two

health boards, on one specific element of mental health provision, told me that they don't record the data routinely and therefore could not give me any information. This was to do with perinatal mental health services—something that was a Welsh Government commitment back in 2013, to provide it in the community. And one of those health boards was a big health board as well, where, I would assume, there are large numbers of mothers with mental health needs that are just not being recorded. So, how can we actually scrutinise how that ring fence is being used and whether it's being used effectively?

10:00

[95] Secondly, of the health boards where I was able to get data for mental health community spending, because you change your emphasis as much as you can from in-patient delivery of care to community delivery—. Of course, when you are doing more at a community level, face to face with patients, you usually identify a greater demand than you previously anticipated. So, is there room for manoeuvre in terms of, if the demand is there for this ring fence to be expanded, is that something that health boards will be actively encouraged by your department to come and have a discussion about, to meet the demand that's there? As we know, mental health is the underreported health issue of our age.

[96] **Simon Thomas:** As quick as you can, but I appreciate it's quite a detailed—

[97] **Mark Drakeford:** As quick as I can, yes. Three very brief answers. It's probably not for me to advise the committee, but in a scrutiny sense, if I was starting, I would start with the PricewaterhouseCoopers review of the mental health ring fence, which is only about 18 months old. We had a series of recommendations as to how data might be better captured and recorded. It's important to recall that the PwC report said that every health board but one consistently invested more money in mental health services than the ring fence would have suggested.

[98] On perinatal mental health, there was a specific allocation in the final year of the last Assembly term to improve perinatal mental health, so there should be good data to see how that has been—. There should be central data, because the money was not handed to health boards; it was a central grant through the Welsh Government in the first instance. So, there should be central data to show how that money has been deployed, and hopefully,

the difference that it's making.

[99] And, just to agree with the final point that was made, it is one of the paradoxes of social welfare, isn't it, that every time you supply a need, the fact of supplying the need tends to uncover further unmet need that you didn't know was there, and the Cabinet Secretary responsible will be having to grapple with the consequences of that.

[100] **Simon Thomas:** Before we leave health completely—and it's quite right that we've spent a lot of time on health; it's the main allocation within the supplementary budget as well as in the main budget—where does some of the discussion we've had today leave your view of NHS finances, going forward? Obviously, this committee, in the past, has dealt with the National Health Service Finance (Wales) Act 2014 and the move to three-year planning, which has been patchy and not what the committee, at the time, expected to happen. So, we've discussed today the ongoing winter pressure extra allocation and the fact that that's actually increased, year on year as well, and the fact that you've made allocations to the MEG, but when you did make those allocations, you specifically said that they were to cover the overspending in Hywel Dda and Betsi. So, we understand now why you've done it that way, but nevertheless, it was because of underspending there. Does this mean that you're taking a more long-term view about how you might want to look at the NHS finance Act, or NHS finance more widely, because it doesn't seem to be delivering the kind of rigour in financial planning that my recollection of our debates on that Bill and Act suggested would happen?

[101] **Mark Drakeford:** Chair, I suppose my approach to health service funding is slightly broader than that. At a policy level, the Government is committed to meeting the Nuffield funding gap and to operating within the report that the health commission—I always get the name of the body wrong, I'm afraid—but the follow-up report to the Nuffield report that was published earlier this year says broadly that the health service itself has to make efficiency gains, and there will be a gap that Government has to cover, which is around £200 million a year. As a Government, we are committed to providing that additional funding and we'll aim to do that throughout this Assembly term. It is then for health boards themselves to try and deliver their side of that bargain, which, to a large extent, we know that they have. Over and above that, we continue—I was hard at it in Edinburgh on Tuesday—to say to the UK Government that they need to use the opportunity of the March budget to invest in health and social care across the United Kingdom,

because the pressures in the system are very real and are not being matched by the spending decisions that are made at UK level.

[102] **Simon Thomas:** Diolch am hynny. Fe wnawn ni droi at y pynciau eraill nawr. Eluned Morgan.

Simon Thomas: Thank you for that. Now, we'll turn to other subjects. Eluned Morgan.

[103] **Eluned Morgan:** Un bach arall ar hynny, jest i fod yn glir: £200 miliwn y flwyddyn oedd y gap, ie?

Eluned Morgan: Another one on that issue, just to be clear: £200 million a year, that's the gap, yes?

[104] **Mark Drakeford:** Dyna beth mae'r adroddiad Nuffield yn ei ddweud. Ar ôl y pethau mae'r byrddau iechyd lleol yn gallu eu gwneud, bydd bwch yna; mae'r bwch tua £200 miliwn bob blwyddyn, a dyna beth rŷm ni'n trio ei ffeindio mas o gyllid y Llywodraeth i gyd.

Mark Drakeford: That's what the Nuffield report said. After the things that the local health boards can do, there will be a gap of about £200 million per year, and that's what we're trying to find out of the Welsh Government's entire finances.

[105] **Eluned Morgan:** Ocê. Sori, roeddwn i jest eisiau eglurhad ar hynny. Rwyf eisiau symud ymlaen i addysg nawr a'r £20 miliwn yma rŷch chi wedi'i roi i HEFCW i ddelio ag argymhellion Diamond. Rwyf eisiau gwybod os ydych chi'n gallu dweud rhywbeth pellach ynglŷn â beth yw pwrpas yr arian yna a sut y bydd yn cael ei wario.

Eluned Morgan: Yes, I just wanted clarity on that. I just want to move on to education and this £20 million that you've given to HEFCW to deal with the Diamond review recommendations. I just wanted to know whether you could tell us a little bit more about the intention of that money and how that will be spent.

[106] **Mark Drakeford:** Wel, mae'r arian i addysg uwch sy'n mynd trwy HEFCW yno i helpu'r cyngor gyda nifer o bethau i ddelio â'r *pressures* maen nhw'n eu hwynebu ar hyn o bryd ac yn y dyfodol pan fyddwn ni'n symud at argymhellion adroddiad Diamond. Ysgrifennodd y *Cabinet Secretary* at HEFCW, fel arfer, gyda

Mark Drakeford: Well, the money for higher education that is going to HEFCW is there to help the council with a number of things to deal with the pressures that they face at present and in the future when we will be moving to the recommendations in the Diamond report. The Cabinet Secretary wrote

remit letter, neu beth bynnag rŷch to HEFCW, as usual, with a remit chi'n ei alw, ac roedd hi'n setio mas letter, as we call it, and she set out pedwar o flaenoriaethau i'r cyngor ar four priorities for the council to use ddefnyddio'r arian. Yn Saesneg maen that money. They're in English, so, nhw, so, beth roedd y llythyr yna yn what the letter said was that that ei ddweud oedd bod yr arian yna— money—

[107] The £20 million is there to support a review of estate rationalisation, and that's always with a view to squeezing out revenue by better use of the estate; to pursue the Welsh Government's agenda in the development of higher level apprenticeships; to do more in fostering links between universities and industry through some incubator facilities; and then to allow HEFCW a small strategic development fund to reshape some sector capability, again, in an effort to make the sector sustainable and able to live within its means in the future.

[108] **Eluned Morgan:** Can you just expand a bit on estate rationalisation? Give me an example of what that might mean.

[109] **Mark Drakeford:** Well, we know that all our public bodies own land and buildings where the use of the land and buildings is not at optimum. So, you have two buildings, both of which are half empty, whereas if you had one building that was full, you would be able to make better, different use of the land that you'd released and so on. So, it's that sort of effort.

[110] **Eluned Morgan:** Okay. Can I move on now to ask about forecasts to do with the loans for students? Could you just explain a bit about why that's happened now and whether that's sustainable for the future, do you think?

[111] **Mark Drakeford:** Thank you. Well, Chair, this is a formidably technical area in which I will definitely ask Matt or Gawain to explain the detail to you. What happens every year is that the Office for Budget Responsibility produces new forecasts for assumptions that underpin the student loan book. We then have to respond to those assumptions and recast all the figures, and the figures, particularly the annually managed expenditure figures that you see, are a result of the way that OBR forecasts feed into the student funding model. Gawain.

[112] **Mr Evans:** Yes. I'll try and be brief. As the Cabinet Secretary said, both the annually managed expenditure and the non-fiscal resource are driven by the variables in the model. So, the annually managed expenditure is actually

the money that we pay out for student loans and the money that we recover. Annually managed expenditure, by its nature, is accepted by Treasury to be very, very difficult to forecast. So, where there are changes to the model in the year, we're actually able to go back to Treasury and ask for increases or reductions in the budget to cover any changes in that AME cover for student loans.

[113] The non-fiscal resource is actually to do with the valuation of the loan book. It's an asset on the books of the Welsh Government and, as such, we have to account for it through the annual accounts. Again, changes in some of the assumptions and discount rates within the model will drive changes to the valuation of the student loan book, again either up or down. We do our best to forecast some of these changes in assumptions, but in some cases we do get some information through quite late, and that will mean that we obviously change the forecast, and therefore we look to change the budget to align with that. I guess it's another volatile area, this, but because it's not actually physical cash that we pay out or receive, it's actually managed through the non-cash element of the budget.

[114] **Eluned Morgan:** Sorry, I'm not very familiar with how it works in practice. This is a UK loan system, is it, or is it a Welsh loan system? Are we a kind of subset of the UK?

[115] **Mr Evans:** The model itself is based on the model that's used across the UK, but we look at it in terms of the Welsh Government perspective, and the auditors actually review it on that basis. But the loan model reflects the one that they use in the UK and in Scotland.

[116] **Eluned Morgan:** Okay.

[117] **Simon Thomas:** I think Mike Hedges has got a supplementary.

[118] **Mike Hedges:** Do you have to save the money towards 2035-36 budget when the 25-year loan write-offs will start occurring? That is, twenty-five years after people graduated, it gets written off. Now, that's going to mean that there's likely to be a big call on that. Do you have to save money in your non-fiscal towards that, or are you just hoping, or are you expecting Treasury to help?

[119] **Mark Drakeford:** I'm expecting Matthew to help. [*Laughter.*]

[120] **Mr Jones:** I wouldn't have said 'hoping'. Actually, the two charges that Gawain referred to, one being the non-cash element that writes down the value, already takes account of the likely—

[121] **Simon Thomas:** It's discounted, is it?

[122] **Mr Jones:** Exactly. Then the actual returns that we, I guess, wouldn't be getting in those years are covered by the annually managed expenditure budget, which is covered by Treasury.

[123] **Mark Drakeford:** Given the complexity of this, if committee would find it helpful to have a note just on the way the mechanics of it work, and what we have to do every year, we'll be happy to set it out in that way.

[124] **Simon Thomas:** And in particular what changes happened that mean that a supplementary budget has to address this rather than—because I think that's what we could particularly focus on. That would be helpful. Okay.

[125] **Eluned Morgan:** Yes, as you say, it's very complicated, and I'd like to understand it a lot better.

[126] **Mark Drakeford:** By all means.

[127] **Eluned Morgan:** What percentage do you assume should be written off, in the same spirit? It is something we need to see.

[128] **Mark Drakeford:** I'm very happy to set the system out in the info.

[129] **Simon Thomas:** Diolch am hynny. Steffan Lewis. **Simon Thomas:** Thank you for that. Steffan Lewis.

[130] **Steffan Lewis:** Diolch, Gadeirydd. Yn troi at yr economi ac isadeiledd, mae'r sector 'Action' yn gweld cynnydd o £30.8 miliwn gyda disgrifiad ond ar gyfer £6.1 miliwn ar gyfer benthyciad i'r ganolfan gongfensiwn rhyngwladol. A oes mwy o wybodaeth gyda chi ynglŷn â thargeddu gweddill y cynnydd?

Steffan Lewis: Thank you, Chair. We'll turn to the economy and infrastructure, and the 'Action' sector sees an increase of £30.8 million with a description that's only for £6.1 million for the loan to the international convention centre. So, do you have further information about the details and the targeting for the rest of the increase?

[131] **Mark Drakeford:** Wel, mae'r arian yn mynd i mewn i gyllid Ysgrifennydd y Cabinet i helpu i ddatblygu'r economi yma yng Nghymru, i helpu i dyfu busnesau sydd yma nawr, ac i helpu i dynnu pobl i mewn i Gymru i ddatblygu'r economi am y dyfodol.

Mark Drakeford: Well, the money is going into the funding for the Cabinet Secretary to develop the economy and to help to grow businesses that are here now, and to help to attract people to Wales to develop the economy for the future.

[132] **Steffan Lewis:** Diolch am hynny. A ydy e'n cynnwys y £2.8 miliwn sydd wedi cael ei gyhoeddi ar gyfer y diwydiant dur? A ydy hynny yna?

Steffan Lewis: Thank you for that. Does it include the £2.8 million that was announced for the steel industry? Is that part of it?

[133] **Mark Drakeford:** Nac ydy. Mae hynny mas o gyllid blwyddyn nesaf, ac mae'n rhan o'r arian sydd ar gael i Ysgrifennydd y Cabinet am y flwyddyn ariannol nesaf.

Mark Drakeford: No, that's from next year's budget, and it's part of the money available to the Cabinet Secretary for the next financial year.

[134] **Steffan Lewis:** So, jest i gadarnhau, nid yw gweddill y cynnydd wedi'i 'allocate-o' yn benodol gan yr Ysgrifennydd Cabinet eto. Mae jest yn gronfa gyffredinol ar gyfer busnes yr adran?

Steffan Lewis: So, just to clarify, the rest of the increase has not been specifically allocated by the Cabinet Secretary yet. It's just a sort of general fund for the work of his department, is it?

[135] **Mark Drakeford:** Undoubtedly, the Cabinet Secretary will be deploying the money for some particular purposes. There are constraints on me answering the question slightly, Chair, but in this area there are genuinely commercial and confidential discussions that he has, which I'm not privy to myself. So while I'm sure there will be very particular purposes that the money's being used for, they're conducted by that Cabinet Secretary as part of that general effort to help businesses to grow and then to draw inward investment into Wales.

[136] **Steffan Lewis:** Okay, thank you for that. What work is being carried out this financial year with the additional £22 million towards the M4 route development?

10:15

[137] **Mark Drakeford:** Well, the money that's set aside in this year, Chair, is largely around the public local inquiry, the project team that was established to support that work, stakeholder liaison, technical review of objections, preparation of proof of evidence, administration of the PLI, expert witness provision, a higher level of objections than was originally anticipated—so, provision has had to be made to cover the additional work that's involved in responding to those—ground investigation work, value engineering, and a relatively small sum set aside for land acquisition where owners of land are able to demonstrate that their land is blighted as a result of the potential M4.

[138] **Steffan Lewis:** How small is that?

[139] **Mark Drakeford:** I think, of the 22 million, I think about £2 million has been set aside for that aspect of the work. But it is, essentially, capitalised money to underpin the preparation for the—

[140] **Simon Thomas:** Yes, that's what I was going to ask because a lot of what you've described sounds like revenue, but this is capital money, isn't it?

[141] **Mark Drakeford:** Well, I asked the same question because I thought, 'Surely, this is revenue', but what I'm told is that it's all capitalised as part of the public inquiry costs.

[142] **Steffan Lewis:** Oh, right.

[143] **Simon Thomas:** Okay. But that does explain that at least.

[144] **Mike Hedges:** Well, actually they are using capital because they've got more of it than they've got revenue.

[145] **Simon Thomas:** Okay.

[146] **Steffan Lewis:** Diolch yn fawr. Does the £7 million transfer from sectors action to road, rail, air and seas services and investment action in respect of 'activities relating to Cardiff Airport' relate to a repayable loan, and what outputs is this targeting?

[147] **Mark Drakeford:** The money is repayable loan money, so it's a

financial transaction. As I recall, it's obviously used to develop the future of the airport and the three main strands that are generally identified in that—our infrastructure, investment, improving the patient experience.

[148] **Simon Thomas:** The patient experience.

[149] **Mark Drakeford:** That patient experience—you see how shocked I am by my own past. [*Laughter.*]

[150] **Steffan Lewis:** [*Inaudible.*]—a nice holiday. [*Laughter.*]

[151] **Mark Drakeford:** The passenger experience—apologies—and attracting new routes into the airport

[152] **Steffan Lewis:** Out of interest—and you may not be able to answer this specific point—but my understanding is that, because of the numbers of passengers going through Cardiff Airport, new UK Government expectations on their passport checking system means that they have to bear a greater burden for upgrading their passport checks. Is that something that is accommodated within this? Or is that something that you could—?

[153] **Mark Drakeford:** I don't think any of us are familiar enough to know the specifics, but we can pursue it for you, of course.

[154] **Steffan Lewis:** Diolch yn fawr. Thank you. What is the total loan financing provided to Cardiff Airport by the Welsh Government, and what is the sum outstanding?

[155] **Mark Drakeford:** There are £23 million, which is the current balance of Welsh Government investment in the airport. The balances are audited at the end of the year, and set out in the audited accounts. All repayments are agreed on normal commercial terms for each loan to the airport.

[156] **Steffan Lewis:** Diolch. And can you provide a brief description of the changes to the road valuation model, please, and whether the £407 million non-cash reduction will have an impact on budgets going forward?

[157] **Mark Drakeford:** I don't know how good I will be at even a brief description of the road valuation model. Then, if you want more, I have people here who can provide that. But I think the key thing here is that—. This is £407 million that we had previously allocated because of the

anticipated depreciation in the road network, where the model now says that we overprovided that. So, it's not extra money we're having to provide. It's actually non-cash coming back. Now, non-cash coming back is not money you can use. So, to be truthful, it's not a matter for putting out the flags, really; but it's not extra money, extra cover, we're having to provide.

[158] **Simon Thomas:** No. You need less cover than you expected.

[159] **Mark Drakeford:** We need less cover than we were expecting, and that's as a result of the way that the valuation model, which turns the handle every year and comes up with a figure—. Well, it said, 'Actually, you needed less cover than we thought'.

[160] **Steffan Lewis:** Thank you for that. Sorry, did—?

[161] **Simon Thomas:** Sorry, David.

[162] **David Rees:** Just on that point, that's quite a large figure. Do you have confidence, therefore, that the model is the right model, in the sense that, will we see a different figure again next year?

[163] **Mark Drakeford:** Well, the model, Chair, is a very technical model, which is in the hands of a relatively small group of UK-wide experts who devise it. Broadly all three mainland administrations—I don't know about Northern Ireland in this regard, but Scotland, England and Wales, basically work to the same model, which a relatively small group of people, who are specialists in this field, devise, and we are following their advice.

[164] **David Rees:** I appreciate that.

[165] **Mark Drakeford:** I don't know how volatile it is, David.

[166] **David Rees:** For a supplementary budget to drop it by £400 million—. That's quite a large drop, and I just wondered—.

[167] **Mark Drakeford:** It is the single largest figure. I don't know whether colleagues know whether it's been this volatile in the past.

[168] **Mr Jones:** There is a degree of volatility. I think the thing to point out is that this drop is in relation to quite a number of financial years at once, where we're taking a revaluation because the model now tells us we charged

too much depreciation against the road network in a number of years. So, I wouldn't expect to see this kind of thing replicated; it's a one-off.

[169] **David Rees:** So, this will be the figure of some overcharging.

[170] **Mr Jones:** Yes. Usually, the charge is in the region of £100 million.

[171] **David Rees:** Okay.

[172] **Steffan Lewis:** Just finally on a general question on the explanatory note in relation to the economy and infrastructure budget in particular. Do you think that it provides the public, and us as scrutinisers, with sufficient information in relation to the decision making that has informed the budget allocation changes in the supplementary budget?

[173] **Mark Drakeford:** Well, Chair, there is always a balance you're trying to strike here, I guess, between providing documentation that is readable and accessible, and could be read by an interested member of the public, without providing such a level of detail in it that it becomes impenetrable and someone wouldn't be able to see the wood for the trees. The explanatory note is only one part of the documentation that's provided, so you can read it alongside the supplementary budget motion and the supporting tables that go with it. Other than in areas where there is genuine commercial confidentiality, I think we do our best to provide a level of detail that would allow someone with a layperson's interest in the way that budgets at the Assembly are deployed to be able to gain that insight, but it's a matter of judgment, and the committee will no doubt have its own view as to whether the balance was properly struck this year.

[174] **Steffan Lewis:** Diolch.

[175] **Simon Thomas:** Okay. David Rees.

[176] **David Rees:** Thanks, Chair. Cabinet Secretary, in your opening remarks, you highlighted the £30 million capital to the communities and children portfolio. It's the largest actual change to that portfolio, and you highlighted that it was based upon the Cabinet Secretary's request for an upfront payment towards the housing agenda. In that sense, what do you expect to get for that £30 million this year in the supplementary budget, and are you confident that there will be a reduction in years to come, or is this £30 million the first of several £30 million?

[177] **Mark Drakeford:** Well, there will be further investments, undoubtedly, over the lifetime of this Assembly, and some of those were set out in the four-year capital budget that the committee will have seen at the end of last year. So, my understanding is that the Cabinet Secretary has a range of different ways in which he is trying to make sure that we reach that ambitious target, but that this £30 million will be deployed through social housing grant to local authorities. It will allow them to bring forward schemes that can start on site this year. It will bring forward land acquisitions, so that we are better able to meet the target in future years, and it will allow local authorities to reprofile some grant payments to free up funding in future years. We expect that £30 million directly to support up to 460 new homes and 630 new jobs.

[178] **David Rees:** So, effectively—it's not a pun—it's putting the groundwork into place for the achievement of the 20,000.

[179] **Mark Drakeford:** Well, that was the case that the Cabinet Secretary responsible made to me. As I've made it from very early on, any help that we were able to give him this year would allow him to make an early start and get progress under way, and that would make a material difference in the latter stages of this Assembly term in reaching that target.

[180] **David Rees:** So, in a sense, we should see the benefit of that probably about two years down the line, as we see development made here. Okay. Moving on to, perhaps, rural affairs and environment, just one point: the invest-to-save you've increased there to Natural Resources Wales is £3.4 million. They previously had invest-to-save of £6 million in regard to some of the schemes they've run. Are you confident that the use of the invest-to-save in those schemes has demonstrated that the £3.4 million you've allocated will be also equally useful?

[181] **Mark Drakeford:** We believe so, Chair. It is part of the ongoing work in NRW to structure itself. It was a complex organisation—three independent organisations being brought into one—it continues to review its model to make sure that its management structure and its other activities are carried out in the most efficient and effective way. This investment of £3.39 million will allow them to carry on doing that. Their figures demonstrate that the money will be repaid over a four-year period. Our invest-to-save system has a very, very secure record of money being repaid to it, and we believe that this investment will both allow NRW to do what it wants to do, and that the

money will circulate back into the fund for future purposes.

[182] **David Rees:** Seeing that NRW have been there for a few years now, are you confident that this may be the last time you need to invest to save for restructuring within NRW?

[183] **Mark Drakeford:** NRW will no doubt face new challenges in the future, as well. It's pivotal to the implementation of the future generations Act, for example; it is caught up, as Members here will know, in new duties in relation to landfill disposal tax. So, I wouldn't want to say in a straightforward way that it's reached a steady state, because there will be new obligations and responsibilities that it will have to adjust to and adapt its staffing structures to take account of those responsibilities.

[184] **David Rees:** Okay. Can we move on to the EU structural funds? Clearly, we're all aware of the challenges facing Welsh Government when we leave the EU, and, as a consequence, the structural funds, and there's a lot of importance now to look at what allocations we've got; the 60 per cent target you've talked about before. How far have you gone in actually achieving that, and does the supplementary budget actually address the attempt to hit that 60 per cent target?

[185] **Mark Drakeford:** Not directly, I don't think, Chair. I said, I think the last time I was here, that we'd set a 60 per cent commitment target for the end of November. The actual figure was 61 per cent. At the current intervention rate that we are using, that had risen to 68 per cent by the end of the calendar year, and we've set a new, internal ambition for ourselves of an 80 per cent commitment rate by the end of this calendar year.

[186] **David Rees:** You've had £3.8 million, I understand, consequential from the UK Government to manage structural funds. It appears that, in the supplementary budget, you've actually only allocated £1.7 million of that to manage the structural funds, and £2.1 million to other priority areas. Can you explain the other priority areas, and how that's come around?

[187] **Mark Drakeford:** All of the £2.1 million additional is in the targeted match funding line. So, it is all still firmly within the structural funds ambit. I remember answering questions here last time, I think, Chair, about how confident we were that we would be able to provide match funding, given the decline in the value of sterling, and we've deployed £2.1 million of that £3.8 million to make sure that we are able to do just that.

[188] **David Rees:** So, is that a consequence of the drop in the value of sterling?

[189] **Mark Drakeford:** Well, obviously there is a direct connection between the conversion rate that we have with the Commission, and the value of sterling, and, when sterling goes down, we have to provide some more match funding to make sure that we are able to use all of the European funding. But there are other calls on match funding, as well as depreciation of sterling, but it is playing its part.

[190] **David Rees:** So, it's part of the £2.1 million, in a sense. It's not the sole reason for that £2.1 million.

[191] **Mark Drakeford:** It's not the sole reason, but it is one of the factors we have to take into account. We have, in effect, more European funding as a result of sterling's depreciation. And, if you've got more European funding, you have to have more match funding in order to be able to use it.

10:30

[192] **Simon Thomas:** Jest un cwestiwn sy'n ymwneud, mewn ffordd, â'r rôl arall sydd gyda chi fel Ysgrifennydd Cabinet Cyllid a Llywodraeth Leol. Wrth inni drafod y gyllideb atodol gyntaf, roedd yna swm penodol fanna—tua £7 miliwn rydw i'n meddwl—yn glŷn â chostau etholiadol. Byddwch chi'n cofio i ni'n trafod sut mae modd moderneiddio'r system etholiadol, ac roeddech chi'n edrych ymlaen at Fil Cymru a'r gallu i wneud hynny yn cael ei drosglwyddo. Wrth gwrs, mae'r broses ar y gweill, mae'n debyg, ac mae'r Llywydd wedi sefydlu comisiwn i edrych ar y materion hyn hefyd. A oes unrhyw beth y medrwch chi ei ddweud wrth y pwyllgor am y ffordd rŷch chi wedi ymateb i'r costau hynny, ac a ydy'r

Simon Thomas: Just one question that relates, in a way, to your other role as Cabinet Secretary for Finance and Local Government. When we discussed the first supplementary budget, there was a sum of about £7 million, I believe, for election costs. You'll recall we discussed how to modernise that electoral system, and you were looking ahead to the Wales Bill and the ability to do that being transferred. Of course, that process is ongoing, it seems, and the Llywydd has established a commission to look at these issues as well. So, is there anything that you can tell the committee about the way that you have responded to those costs, and is that work ongoing?

gwaith yna yn mynd yn ei flaen?

[193] **Mark Drakeford:** On the first point, Chair, the accounts are not yet finally closed on the budget. We had £7.7 million set aside. I promised I would report in this supplementary budget if spending looked like it was going to go above that. Although the accounts are not closed, the latest forecast is for an underspend of about £0.5 million against that budget. So, I didn't need to report additional spend here.

[194] On the wider issue of conduct of elections in the future and whether we'll be able to do it more efficiently as far as the budget is concerned, I think I said to you back in June we were hoping to hold an event in the autumn, which we did. I enjoyed it very much in a geeky sort of way because it was full of people who are experts in the way that elections are run and different election systems and different possibilities that we would have here in Wales. So, we collected a very decent menu of ideas that day. It's interesting to say that, even amongst those experts, there's a lot of different views about the most effective ways of recasting elections in order to maximise participation.

[195] Some of them are more expensive in the sense that you might have to invest upfront to create new systems, but almost always with a promise that they would make the system over the longer run—in terms of running it, it would be less expensive. So, with the Wales Bill now an Act, we will be carrying on that work, and I am very keen both to work with the Llywydd where there's some overlap between these efforts and to come back to the Assembly for further discussions about ways in which we could drag the way that elections are conducted from the nineteenth to the twenty-first century here in Wales.

[196] **Simon Thomas:** On that very hopeful note, we will conclude.

<p>[197] Diolch am fawr iawn am y dystiolaeth. Wrth gwrs, bydd yna drawsgrifiad o'r dystiolaeth, jest i'w gywiro. Diolch i chi a'ch swyddogion am y bore yma. Fe wnawn edrych ymlaen at eich gweld chi brynhawn yma ar faterion eraill.</p>	<p>Thank you very much for the evidence. Of course, there will be a transcript of the evidence for you to check for accuracy. Thank you to you and your officials for this morning. We look forward to seeing you this afternoon on other issues.</p>
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10:33

**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 ar exclude the public from the meeting
gyfer eitemau 5, 6 ac 8, yn unol â for items 5, 6 and 8, in accordance
Rheol Sefydlog 17.42(vi). with Standing Order 17.42(vi).*

Cynigiwyd y cynnig.

Motion moved.

[198] **Simon Thomas:** A ydy'r **Simon Thomas:** Is the committee
pwyllgor yn fodlon mynd i sesiwn happy to go into a private session
breifat o dan Reol Sefydlog 17.42 ar under Standing Order 17.42 for items
gyfer eitemau 5, 6 ac 8, rydw i'n 5, 6 and 8, I think—? Yes, 5, 6 and 8.
meddwl—? Ie, 5, 6 ac 8. Pawb yn Everyone happy about that? Thank
hapus? Diolch yn fawr iawn. you very much.

Derbyniwyd y cynnig.

Motion agreed.

Daeth rhan gyhoeddus y cyfarfod i ben am 10:33.

The public part of the meeting ended at 10:33.

Ailymgynullodd y pwyllgor yn gyhoeddus am 11:34.

The committee reconvened in public at 11:34.

Gwrandawriad Cyn Penodi—Cadeirydd Awdurdod Cyllid Cymru
Pre Appointment Hearing—Welsh Revenue Authority Chair

[199] **Simon Thomas:** Galwaf y **Simon Thomas:** I call the Finance
Pwyllgor Cyllid nôl i drefn. A gaf i Committee back to order. May I
atgoffa pawb bod offer cyfieithu i remind everyone that translation
gael, a'r cyfieithu ar sianel 1, a hefyd equipment is available, and the
atgoffa Aelodau i dawelu unrhyw interpretation can be heard on

ddyfeisiau electronig? A gaf i groesawu Kathryn Bishop, sydd wedi cael ei henwebu i fod yn gadeirydd Awdurdod Cyllid Cymru gan Lywodraeth Cymru, i'r gwrandawriad cyn-benodi cyntaf erioed y mae Cynulliad Cymru wedi ei gynnal? Ac felly rŷm ni'n falch o fod yn rhan o hanes. Rydym ni'n gweld hwn fel rhan o ddatblygiad y Cynulliad yn Senedd go iawn, rydw i'n meddwl, ac yn gweld hwn fel cyfle, hefyd, i gael mwy o atebolrwydd a thryloywder ynglŷn â phenodiadau gan Lywodraeth Cymru, a phenodiad sydd yn dra phwysig, hefyd, i ddatblygiad y Cynulliad yn ogystal, wrth i ni ennill pwerau dros drethi a threth incwm, yn y pen draw, hefyd.

[200] Felly, croeso mawr i chi, a gobeithio y byddech chi'n canfod y profiad yma yn flas ar y cychwyn o'r profiad, yn y cyd-destun o fod yn gyfrifol am Awdurdod Cyllid Cymru hefyd. Os ydych chi'n hapus—. Mae'r Aelodau wedi gweld crynodeb o'ch cv, ac yn gwybod am y broses, felly, os ydych chi'n hapus, fe wnawn ni fwrw ymlaen gyda'r cwestiynau a'r gwrandawriad, gyda hynny. Diolch yn fawr.

[201] A gaf i ddechrau, felly, jest drwy ofyn—? Fe godwyd cwestiwn, a ddweud y gwir, gan Nick Ramsay, aelod o'r pwyllgor, i'r Ysgrifennydd Cabinet dros Gyllid a Llywodraeth Leol yn y Cynulliad ddoe, ynglŷn â'r

channel 1? May I also remind Members to put any electronic devices on mute, please? May I welcome Kathryn Bishop, who has been nominated to be the chair of the Welsh Revenue Authority by the Welsh Government, to the first pre-appointment hearing that the National Assembly for Wales has held? So, we're glad to be part of history. We see this as part of the development of the Assembly as a real Parliament, and we also see it as an opportunity to get greater accountability and transparency surrounding appointments by the Welsh Government. This is an extremely important appointment to the development of the Assembly in addition, as we gain taxation powers and, eventually, income tax powers.

So, a warm welcome to you, and I hope that you will find this experience to be a taster of the future experience of being responsible for the WRA. So, if you're happy to continue—. The Members have seen a summary of your cv, and also know about the process, so, if you're happy, we will continue with our questions and the hearing, with those words. Thank you very much.

May I begin, therefore, just by asking—? A question was raised by Nick Ramsay, a member of the committee, to the Cabinet Secretary for Finance and Local Government at the Assembly yesterday, about the

sgiliau a oedd eu hangen ar gyfer y rôl yma—y sgiliau oedd eu hangen ar gyfer cadeirydd cyntaf Awdurdod Cyllid Cymru. Roedd yr Ysgrifennydd Cabinet yn awgrymu bod angen sgiliau penodol iawn ar gyfer sefydlu'r corff, efallai yn sgiliau gwahanol i'r rhai bydd eu hangen ar gyfer cynnal y corff yn y pen draw. Beth sydd wedi'ch denu chi i deimlo bod y sgiliau o sefydlu corff yn rhywbeth y byddech chi eisiau cyfrannu ar gyfer yr awdurdod?

skills that were required for this role—the skills that were needed for the first chair of the Welsh Revenue Authority. The Cabinet Secretary suggested that very specific skills were needed for the establishment of the body—those skills, then, being perhaps different from the skills that would be needed to maintain the WRA. So, can you tell us what attracted you to feel that the skills of establishing the body would be something that you would like to contribute to the WRA?

[202] **Ms Bishop:** Thank you. Good morning. I was attracted to apply for this because I think it's a unique opportunity to create, to be involved and help with the creation of, a new institution for the administration of tax in Wales. As my cv shows, I have, over the last decade or so, worked either in, or for, Wales, and I have a great affinity for, and enthusiasm for, the approach you take to the delivery of public services in Wales. Your question was about my experience and skills and their relevance to the requirements of this role, and I think I might say five things, initially.

[203] Again, as my cv shows, I have spent a good portion of my career either leading, or working on, or managing, programmes of transformation and change—many of them multi-year and multimillion pounds. And a good portion of the work that's being done now in the WRA is in a project form; I know you had a report last week from the implementation director.

[204] In the latter part of my career, I've also undertaken a number of non-executive roles, as chairman of boards and committees, and as a non-exec in various organisations. And that's given me experience of, and, indeed, an interest in, governance and oversight: appropriate levels of scrutiny that are constructive, and that don't get in the way of the executives doing what they're there to do.

[205] I also bring organisation design experience. Many of those transformation projects were about constructing new organisations, or new departments, or new businesses, out of existing organisations. I have latterly used some of that practical experience in the teaching I do at Oxford

University at the Saïd Business School, where I teach, amongst other things, organisation design.

[206] I also have plenty of experience in working with boards, in setting up processes that allow them to collaborate properly, allow them to do their work of scrutiny and oversight correctly, bringing in peer appraisal and performance appraisal processes for members of the board, so that we all understand the various skills that we bring. I think those are the things I would pick up. I could give specific examples of each of those, if you wish, but I think, if I may, I can just conclude with one thing, which is: I am particularly keen to undertake this role. I recognise its importance, and the opportunity to contribute to Wales, as an extension of the work that I have been doing in other roles, is one that I would relish.

[207] **Simon Thomas:** Diolch am hynny, ac mae'n amlwg rydych chi wedi amlinellu nifer o sgiliau a phrofiad helaeth i sefydlu corff newydd, i fod yn rhan o weithredu corff newydd. Mae'r corff ei hunain, wrth gwrs, fel awdurdod cyllid, yn unigryw i Gymru, achos dyma'r tro cyntaf erioed i ni gael corff sydd yn delio â refeniw, â chodi trethi, ac ag atebolrwydd i'r trethdalwr uniongyrchol, nad yw wedi bodoli yng Nghymru cyn nawr. Ble byddech chi yn teimlo y bydd gyda chi rywbeth i'w gyfrannu o safbwynt cyllid a threthi? Nid yw hynny'n amlwg yn y cv sydd gyda chi, ond, wrth gwrs, fel cadeirydd, fedrwch chi fod yn rhan o benodi aelodau eraill y bwrdd i gyfoethogi'r profiad sydd ar gael. Ai dyna beth yw eich bwriad chi fel y darpar gadeirydd?

Simon Thomas: Thank you for that, and it's evident that you've outlined many of the skills and the vast experience to establish a new body, to be part of the operation of a new body. Now, this body, as a revenue authority, is unique to Wales, because this is the first time ever that we will have an organisation that deals with revenue, with tax raising, and accountability to the individual taxpayer, which has not existed in Wales previously. Where do you feel that you would have something to contribute in terms of taxation and finance? Because that's not clear from the cv that you've presented, but, of course, as chair, you will be part of appointing the other board members to enrich the experience that is available. Is that your intention as the nominated chair?

[208] **Ms Bishop:** The criteria for the appointment of the chair—the post that was advertised and for which I applied—listed a whole collection of areas of expertise that the organisation will need, chief and obvious amongst them being expertise in taxation. That is something that the board as a whole

must bring, but it need not necessarily be in the person of the chair. Indeed, my experience of working with boards and chairs suggests that one of the primary things the chair needs to do is organise the board so that the expertise of other people around the table, whether it be in taxation or digital expertise—whatever it be—is appropriately used.

[209] **Simon Thomas:** What's your feeling, as the chair appointee, would be your responsibility to the Welsh taxpayer as opposed to the Welsh Government? How do you see your wider responsibility as a chair in that context?

[210] **Ms Bishop:** I think the WRA is a body, which, on day one of its operation, must do what it has been set to do by Welsh Ministers effectively and efficiently, in a way that elicits the trust of taxpayers. I think it quite likely, and I'm sure that you do too, that its remit will change and develop over time. So, those initial levels of trust are very important. I think probably what the Welsh taxpayer wants is a taxation system that is simple and clear, that feels fair and is fair, and that contributes to the Welsh Government's economic and national ambitions for growth and stability. I think that's the kind of overarching principle that the board will need to bear in mind as it takes decisions, small and large.

[211] **Simon Thomas:** Do you feel, in that role, that you'd be, to a certain extent, a public face of this new tax revenue authority—not a popular role, possibly, to be in charge of tax-raising policy in Wales, but do you see it as part of your role to explain to the Welsh public how this new authority will be working and its accountability?

[212] **Ms Bishop:** I think it's certainly important that the organisation finds appropriate ways to explain to the tax-paying population what is being done and why and how. Whether that is something that I—. I would be very surprised if I was the only person doing that. I think there are a range of communication methods that an organisation like that will have to use. Some of that will involve face-to-face conversations with stakeholder groups; I'm very accustomed to doing that in different circumstances, so, I'll be part of what I know the organisation already has, which is an engagement strategy. I know they already have it and I'm sure they'll be developing it further.

[213] **Simon Thomas:** Okay. David Rees.

[214] **David Rees:** Thank you, Chair. There, you've highlighted, perhaps,

some of your experience in relation to the role and how you see it. To our committee Chair, you've indicated also where you think there's a public face element. I disagree with the Chair in the sense that it's not policy for you—you're there to implement policy; it's for the Government to address the policy issues.

[215] Now, I suppose what I want to ask is: we are in a process of setting up the WRA, but you'll have to look very carefully at both the initial tax areas, but also future tax areas that the WRA may be looking into, depending on what tax comes to the Welsh Assembly and what the Welsh Assembly wishes to implement. Where do you feel the strengths will be in the WRA to actually deliver the initial support for the Welsh people? Because I believe that one of those will be to ensure that the public face of the tax-collecting system is the friendly, sympathetic, clear and understandable face that people will need, but also, at the same time, having a real, full understanding of how that fits into HMRC aspects, plus future opportunities within Wales.

[216] **Ms Bishop:** I think it's important that the work that is already within the scope of the WRA is done well. I said that at the outset. I think that's got to be a clear focus in the short term, but all my experience in programmes and projects of this kind elsewhere, in very different contexts, suggests that typically, new requirements arise.

11:45

[217] This organisation is one of those that is going to have to be particularly adaptable. I don't think you can have a conversation like this without, for example, mentioning Brexit as a shorthand for the kinds of turbulence that surround public bodies. So, the organisation is going to have to do what it's required to do by Welsh Ministers to implement ministerial policy, but it's also going to have to be ready, possibly to take on other functions as further devolution perhaps arises, or to alter the ways in which it does what it does because, for example, of changes in England, in English taxation and the cross-border issues that I'm beginning to be familiar with.

[218] As part of the preparation I did for my interview for this post, I talked to people in HMRC, and it's clear that things are going to change there, too. So, that sense of being adaptable is going to be very important for the organisation and, frankly, for the board, too, as it must look out, and up, and around at what's happening, as well as scrutinising what has already been done inside the organisation.

[219] **David Rees:** And, obviously, can I ask on that particular point—? Adaptability is important, but transparency in the public sector is also critically important, and your experience is probably mainly with change organisations within the private sector. How do you feel that you will address the issues as a chair to ensure transparency within the public sector organisation while at the same time making sure you've got a smooth-running body?

[220] **Ms Bishop:** I think I might give you an example of when I had to do that. I was a non-executive director at the UK Border Agency, where issues of transparency in a highly politically sensitive, and, indeed, complex, area were very much central to the board's work. And I think that's about the board understanding the specific work that's being done, having a perspective on stakeholder reactions, being attentive to and continuing to be attentive to, particular issues, reporting, clearly, basic matters—progress against budget, and so on and so forth—but actually also receiving analysis about things that are going to change in the environment, so that the board is clear what is currently in scope and what might be in scope in the next few months or years.

[221] **David Rees:** I'll leave other Members to ask their questions first, Chair.

[222] **Simon Thomas:** Okay. Mark Reckless.

[223] **Mark Reckless:** Can I ask you about some of your current roles and the time commitments involved in those? So, you're a civil service commissioner—I'm not sure quite how long that lasts—an associate fellow at Saïd Business School, also on the executive board of the business school, director of Naughton Consulting, which you've been doing since 1999, and also chairman of the board of trustees of the Dean Close Foundation. How much of your time do those roles take up, and what adjustments, if any, would you be making if your appointment's confirmed here?

[224] **Ms Bishop:** All those roles are part-time. The last one that you mentioned is entirely voluntary. I am a civil service commissioner until the end of March, and then, under the regulations, I have to stand down; I have served five years, and it's a non-renewable post. Over the summer, when I was interim first civil service commissioner, that took about two days a week. Currently, it's taking between four and five days a month, which is precisely the time requirement that this role is currently advertised at. So, I do have

time. I definitely have time.

[225] **Mark Reckless:** You mentioned your role at the UK Border Agency as a non-executive director, and I myself had some experience of scrutinising that organisation as a member of the Home Affairs Select Committee at that time. I just wondered what role you'd had in terms of the governance of that organisation, and what, perhaps, you've learnt from it. One example I remember very strongly is the role of Brodie Clark and him being suspended, and, certainly, it took us some while to understand, if we ever fully did, who made that decision, what was the role of the board, what was the Home Secretary doing, and I think there was a time when he was offered sort of voluntary retirement during that period of suspension. What was your role as a non-executive in those issues, and what lessons, if any, did you learn around governance?

[226] **Ms Bishop:** As a non-executive on that board, and, indeed, on the other boards I've served on, including Welsh Government, there were four or five non-execs. We brought individual areas of expertise and a collective sense of the need for oversight. The lessons I've learnt from that role, and indeed from my other roles, are the importance of asking the right question, the importance of asking the follow-up question, the importance of diving into detail on some matters, but also the ability then to stand well back and look at the broader scope of what is happening, of what the organisation is doing that may be affected by something outside, and the need to ensure that the information that the board is given is complete, clear and accurate.

[227] **Mark Reckless:** What level of responsibility and ownership does the board take in that sort of scenario? You're chairing the WRA setting up as a new organisation. There will be, clearly, links with the Cabinet Secretary we've just had in, with this committee and with HMRC, and with a broader range of stakeholders. Just in the political context, the responsibilities of a board and the fiduciary duties of non-executives, it's not always clear whether that board is driving the governance or actually Ministers or others are coming in and doing things in what's ostensibly an autonomous organisation. And I just wonder, in that area in particular, whether you think anything was done wrongly from a governance perspective when you had that role for two years—the organisation was, I think, ended the year following—and what that might teach you in terms of approaching your role as chairman of the WRA, if that's confirmed?

[228] **Simon Thomas:** If I can say focusing on what you might have learnt

from processes in the past to bring particularly to this non-executive role; I understand that we can't scrutinise you—we're not the Home Affairs Select Committee.

[229] **Ms Bishop:** I think the lessons that I've learnt are about the importance of a very varied set of scrutiny processes that descend into the detail, and that look at the broader strategic landscape as well. That includes making sure you have strong and clear relationships with stakeholders—a very wide range of stakeholders—but it also seems that the board is absolutely clear that the WRA, for example, is an organisation set up to implement ministerial policy. It has a degree of operational independence, which is perfectly normal, I think, for tax administration functions in Governments across the world, but it has a duty to Ministers to implement ministerial policy. It will clearly account to the National Assembly, at least annually, if not more often, in terms of the annual report that is before the Assembly, and I would expect that members of the board, and, indeed, the executive team, will come and you will want to ask questions of them. And I think that kind of active and vigorous scrutiny process is quite right.

[230] The WRA will also have relationships with a number of stakeholder bodies in Wales, and I mentioned earlier on the importance of establishing a sense of trust. And I think good stakeholder relationships, recognising that stakeholders sometimes have different interests and different understanding, is also the right kind of thing that the board should be focusing on.

[231] **Mark Reckless:** If the Cabinet Secretary for finance were to go on *Good Morning Wales* and announce the suspension of a member of your executive team and then come to you as chairman of the WRA and ask if a pay-off in relation to voluntary retirement could be arranged for that individual, how would you respond?

[232] **Simon Thomas:** It's rather hypothetical, Mr Reckless.

[233] **Mark Reckless:** It is a hypothetical question, but I think it's very relevant to the governance of this body and how relations can—

[234] **Simon Thomas:** Can you reframe the question in terms of how the potential chair would enact the correct governance arrangements for the WRA? I think that would be an appropriate question.

[235] **Mark Reckless:** No, I don't think I will, Chair. I asked the question I

wanted. If you don't think it's a valid question, then I will accept that ruling.

[236] **Simon Thomas:** I think it's a little beyond the investigation—well, not investigation—the hearing that we're holding at the moment. I think you're trying to uncover something from the past that isn't relevant to this committee.

[237] **Mark Reckless:** No, I'm not. I'm only giving it as a hypothetical example within this area, but I think, frankly, within a Welsh context, some of these arm's-length bodies, the extent to which they're autonomous or the extent to which they're independent, the extent to which a chair of that organisation stands up to Ministers or otherwise, is, I think, very unclear. This is a new organisation with particular issues for the confidentiality of taxpayers, and particular reasons you wouldn't want Ministers coming in and running that organisation without it being clear when it's meant to be arm's length. That's why I give you that as an example to try and clear up those issues.

[238] **Simon Thomas:** I think that's a particular question to the Minister rather than the potential chair of the body that is being established not only by the Minister, but, of course, established through legislation through the National Assembly. So, the relationship between the chair of the Welsh Revenue Authority and the Minister is clearly set out in the legislation. That's not a decision that the chair herself could influence in this context.

[239] **Mark Reckless:** Can I just ask a—?

[240] **Simon Thomas:** No, I think you've made your point, which I think is fair enough, but I think that we'll—. In terms of that—. Unless you've got a separate and different question, which of course you can ask.

[241] **Mark Reckless:** I will ask a separate question then, about tax devolution in Wales. Do you expect, if you're appointed to this post that you would see the devolution of further taxes and an increase in responsibility and perhaps staffing for the organisation? How would you feel about that?

[242] **Ms Bishop:** I think the organisation has to be ready to respond to the possibility of further devolution. That's certainly what is happening in Scotland. The turbulence that we spoke of earlier about public service delivery in an environment post referendum suggests that there will be changes, either in what we do or how we do it, and we have to be ready to do

that.

[243] **Mark Reckless:** Do you think the legislation is sufficiently clear and that the organisation has sufficient capacity to determine who is, and who is not, a Welsh taxpayer, particularly in reference to the variable rates of income tax?

[244] **Ms Bishop:** This is a pre-appointment hearing, and I haven't taken up this post yet. The documents that I have used to prepare for my interview and for this conversation have been entirely publicly available. I have not been privy to more detailed documents that would allow me to give you a proper answer to that question. So, I'm going to defer my answer until such a time—were I to be appointed—that I would have the information to give you a sensible and appropriate answer.

[245] **Mark Reckless:** Thank you.

[246] **Simon Thomas:** Thank you for that. We'll turn to Nick Ramsay, please.

[247] **Nick Ramsay:** Thanks, Chair. Good morning. You touched on the board's engagement with the public earlier, so can I ask you about internal engagement? How do you plan to engage with other board members?

[248] **Ms Bishop:** I think that engagement may come right at the outset, because the recruitment process for other board members is—. The advertisement has just closed and the process is getting under way. I understand that the chair will have a role in that. I have always believed, in all of the recruitment work I've done, that the recruitment process is part of the induction, and the opportunity to meet with candidates and potential candidates will start right from the beginning.

[249] I'm a firm believer in proper induction for even non-executives, and a firm believer in the fact that that should involve some understanding of what the organisation is actually doing. There is a window of opportunity at the beginning of a non-executive's role to understand something of the detail—detail that they may subsequently not interfere with, because their role is non-executive, but to be able to understand how the organisation is set up, who does what, who the people are, I think, is very important for the chair and for all non-execs. I would expect the induction process to address those kinds of things. Then, I think, secondly, in answer to your question, there's an opportunity for the non-execs and the chair together to ensure that we

have devised a set of processes that discharge our proper responsibilities for scrutiny, but actually also allow us to bring into the conversation the range of expertise that those people will undoubtedly have, whether that is tax, digital, data analysis or whatever it may be.

[250] **Nick Ramsay:** And how do you envision your relationship with the chief executive, and other senior managers?

[251] **Ms Bishop:** I think the relationship between the chair and the chief executive in any organisation is very important. It's not very easy, it's not very simple to describe because it is one that must be characterised by a degree of challenge—the chair is often holding the chief executive to account for things—but must also be accompanied by a degree of support, so that the chief executive has the opportunity to speak freely—not necessarily in board meetings, but outside—about risks, about concerns, about issues that may be arising, so that there is a degree of honest communication between the non-executive chair and the chief executive. The organisation is a relatively small one at the moment. It will not grow to be very large and I would expect to be able to get to know members of the senior management team, not just around a board room table, but outside too. I have found in my non-executive roles elsewhere that it's not just about the meetings.

[252] **Nick Ramsay:** One more?

[253] **Simon Thomas:** Go on, yes.

[254] **Nick Ramsay:** As the Chair said, I sort of pre-empted this pre-emptive meeting yesterday by asking the Minister about the nature of the relationship between the chair and the chief executive, and which one of those will have—well, first and foremost—the higher media presence.

12:00

[255] In some organisations, the chair will defer to the chief exec to do media interviews, for instance. In other instances, that doesn't happen. How do you—I appreciate this is before you are appointed—envisage that happening? Do you think you're going to be a very hands-on chair, or will you be happy to defer to the chief exec, particularly for operational matters?

[256] **Ms Bishop:** I think we'll construct a working arrangement together with the chief executive and the senior members of the management team

that best uses people's skills. The implementation director is a fluent Welsh speaker; I am not. There will be circumstances under which it's much more appropriate for him—and we will construct that as part of a proper engagement strategy.

[257] **Nick Ramsay:** Thanks.

[258] **Simon Thomas:** Well, of course, accepting this is a pre-appointment hearing, from what you've seen so far—as the putative chair you'll be very key to the appointment of the rest of the members of the board—in terms of the process, are you content that the timetabling for that appointment—obviously you'll be looking for the different skill sets, and that's a separate issue, but just in terms of the process—are you content that you will be taking over an organisation that's ready to make those appointments and ready to fill those other places, so that the organisation's up and ready in time for the implementation side, which clearly is in the hands of a separate executive structure?

[259] **Ms Bishop:** I've had a brief conversation this morning about the timetable for the appointment of other members of the board, and been assured that the opportunity for me to be involved is there. Again, we'll construct a process that allows that to happen effectively. I understand the importance of acquiring the right skills for the organisation. I have a certain amount of experience in recruitment and organisation design from elsewhere to bring to that, and I would expect and indeed hope to be able to contribute, to add value to that process even in a non-executive role.

[260] **Simon Thomas:** Okay; thank you. Mike Hedges.

[261] **Mike Hedges:** What aspirations do you have for the WRA, and how will you set about achieving them?

[262] **Ms Bishop:** I think I would describe my aspirations in two categories. One is in the short term and one in the slightly longer term. In the short term, the organisation must do what it has been set up to do on 1 April next year—it must collect the money. It must do so in a way that is appropriate for its user base, so that we generate a sense of trust between taxpayers, their intermediaries and the organisation. It has to be effective and efficient in doing that. Simultaneously, it also has to be ready to respond to what may be the further devolution of taxes, to—as I've said earlier—change in the environment around it, and perhaps to changes in the roles of partner

organisations with whom with the WRA will have to work.

[263] So, I would set out those two sets of aspirations: the short term and visible, tangible things that we know we're going to have to deliver, and the need for constant adaptability and flexibility, which is easy to say, but hard to do.

[264] **Mike Hedges:** Thank you.

[265] **Simon Thomas:** Steffan.

[266] **Steffan Lewis:** Thank you, Chair. Following on from Mike Hedges's question on aspirations, one of the issues that this committee has considered is the importance of developing the skill sets within Wales that we require for the future development of our revenue authority, and indeed keeping those skills within the country once they've been developed. Is that something that you see as a priority, especially as the organisation presumably will grow in the future?

[267] **Ms Bishop:** I do see that as important. It's going to be, initially, a small organisation with a great deal of expertise. The importance of attracting the right expertise to the organisation and to Wales is obviously something that, I know, you talked about last week with Dyfed, and I do have a certain amount of recruitment experience and I absolutely understand the need to attract the right kind of people. I think this is a very attractive opportunity. The uniqueness of the opportunity, I think, is going to be much more attractive than perhaps we fear.

[268] I think, secondly, I would also hope to draw on some experience of working with consulting organisations. Where you have to bring in short-term expertise, one of the onuses that you put on such an organisation is to help with skills transfer. If you are buying in temporary skills, you want some degree of skills transfer to permanent members of staff, and everybody asks for that, and it's not always done. I have a certain amount of experience of where it's been done well, and I think there are some lessons that we can learn from that, too.

[269] **Steffan Lewis:** Excellent. One of the things we heard about last week was how the WRA will attempt to be innovative in terms of its digital capacity. Can you elaborate a bit further in terms of if there are examples of innovation in tax authorities having a digital existence?

[270] **Ms Bishop:** I know that one of the decisions to be made in the short term, in the next few weeks, is the selection of the digital partner to work with the WRA. I think that is a particularly important decision, and it's one that will have a particular focus, often on front-end communication with users. In Government, we typically tend to talk about IT and digital as if they were separate things: IT often relates to back-office transaction processing, the efficient and effective collection of the money and the administration of transactions; digital conversations tend to focus on the front-end relationship with the users. Of course, users are becoming increasingly sophisticated there and wanting a degree of expertise in the front-end access to information, in the way they can ask questions and be guided to information. Of course, it's very good to say 'digital by default', but one has to remember that, in parts of every community, there are users for whom that's not appropriate. So, the WRA will have to have a range of communication methods that work for different users.

[271] **Steffan Lewis:** Thank you. Diolch.

[272] **Simon Thomas:** Can I just ask—? Sorry, I'll go to David Rees first.

[273] **David Rees:** Just one particular point. You identified in the comment there that, very shortly, a decision will be made on IT. Do you hope to be in a position to be involved in that decision making?

[274] **Ms Bishop:** Yes, I do.

[275] **David Rees:** Because if it's going to be such an important—

[276] **Ms Bishop:** Indeed.

[277] **David Rees:** My view is that the chair should be there to get involved in decisions, because you have to carry the responsibility afterwards.

[278] **Ms Bishop:** Indeed. I agree.

[279] **Simon Thomas:** That was certainly one of the questions that I was going to ask. [*Laughter.*] The other question I'd like to ask, related to staff, is: you're probably aware that the decision to locate the headquarters in Treforest, as you might expect, because all parts of Wales fight for such a prestigious headquarters—. That's not your decision; that's the decision of

the Cabinet Secretary, so I don't expect you to comment on that. I would like to ask you how you will ensure that the organisation is seen to be available throughout Wales, and not just digitally—remembering that not all parts of Wales even have broadband at the moment, and all of us are fighting for villages and towns that don't have proper digital access. So, how would you ensure that the organisation does have that reach throughout Wales and is seen to be a genuine organisation for all parts of Wales—all taxpayers in Wales—and not something that is perceived as being, in effect, in the capital city?

[280] **Ms Bishop:** I think, last week, the implementation director reported to you that one of the intentions is to have a presence in Aberystwyth and Llandudno. I think that presence is an important manifestation of precisely the point you make: that this is an organisation for the whole of Wales. I think the other thing I might say is that my conversations with members of the executive team have indicated that the intention is that this is a genuinely bilingual organisation right from the outset. I have worked in Wales for the last decade, as I've said. I have enormous respect for and support for the Welsh language, and I think that intention is very laudable and one that the board will pay attention to, too. That's a tangential answer to your question, but I think it's relevant.

[281] **Simon Thomas:** Okay. Eluned Morgan.

[282] **Eluned Morgan:** There's not much time, really, before all of this really needs to be set up. So, that transitional phase is quite important. So, digital, as you've highlighted, is one aspect, but you will need to prioritise. Is there anything else that you would see as a priority during that transition phase?

[283] **Ms Bishop:** For me, as a new chair, I think the opportunity to build some stakeholder relationships is quite important. At the beginning of a new role, one always has a window of opportunity to do that to find out what the concerns are and what people's issues are. So, that's one thing. The Wales Audit Office report indicates a number of other things that need to be done in the short term, including the preparation and scrutiny of more detailed plans. High-level plans are often in place, but there's something to be done there too. I think the rapid formation of a board that can work effectively, flexibly and fast is quite important because I do agree that the timescale is relatively short for what needs to be accomplished.

[284] **Eluned Morgan:** Can I ask you about gender issues on the board and in

the organisation as a whole? How do you balance skills against the need to have a good gender balance? It's always a difficult question.

[285] **Ms Bishop:** I am a strong supporter of diversity in all its forms. As a civil service commissioner, we work extremely hard to make sure that we have varied and diverse applicant pools from which to select. I think the organisation will benefit from a range of skills and styles, because when I talk about my support for diversity, I'm also talking about a degree of psychological diversity, so that there are people around the table who bring different experiences and perspectives. That requires the board to use those respectfully and efficiently, so that you get the benefit of people's different approaches to problems, but I think that kind of thing is very important, particularly for a new institution like this.

[286] **Eluned Morgan:** Thank you. Can I just ask you, just practically, the commitment is four days per month—can I assume that you would see those four days per month being in Cardiff and not being done remotely, or somewhere in Wales rather than being done remotely from elsewhere in the country?

[287] **Ms Bishop:** Oh, absolutely.

[288] **Eluned Morgan:** Okay.

[289] **Ms Bishop:** Definitely.

[290] **Simon Thomas:** Mike Hedges.

[291] **Mike Hedges:** I've served on a number of public bodies, and the number of days they say it should be and the number of days you actually end up doing can, quite often, be substantially different, and it's rarely fewer. Would you have any problem if the commitment actually turns out to be nearer two days a week than one?

[292] **Ms Bishop:** My experience is the same as yours, and when I applied for this job, I prepared myself for that. As the interim civil service first commissioner over the summer, I was working two days a week in that role. So, the answer to your question is 'yes'. I am prepared for it.

[293] **Mike Hedges:** Thank you.

[294] **Simon Thomas:** And particularly, I suppose, this role might be frontloaded at the early stage of the establishment of the authority.

[295] **Ms Bishop:** Yes, that would be my expectation too.

[296] **Simon Thomas:** Mr Ramsay.

[297] **Nick Ramsay:** You said earlier that this obviously is a very important role in the future of Welsh public life. This is the first time we've collected taxes in so many hundred years, and your position is a unique one. I must admit I think if I was in your position, I would probably be terrified at the prospect of 1 April, I think it is, 2018, when the taxes start coming through. If it doesn't work, then the consequences are catastrophic for the Assembly, because there'll clearly be a massive funding gap. So, the responsibility is enormous. So, looking on the bleak side for a moment, I'm assuming—hoping—that everything will go smoothly, but if things do start to slip even by a small amount, in the run-up to that 2018 date, are you 100 per cent confident that you will know how to put things back on track from all the experience you've had in the past?

[298] **Ms Bishop:** I've worked on a number of major programmes and projects, where, either for reasons of timescale change or scope change, we've found ourselves in situations where what we originally planned to deliver can't be delivered in the form originally planned. So, I have plenty of experience of dealing adaptively with those kinds of sudden issues. One of the things that's taught me is the importance of good scenario planning at the outset, so you plan for a number of contingent possibilities—if this works, if this doesn't work, if this falls over—and I would expect those plans to be in place. The due diligence that I have personally done as part of preparing for the application for this post suggests that there are some very good people in post, with some very good and relevant experience, and I would expect that we would use all of that to avoid such a situation, because they and I recognise the importance of it.

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

[300] **Simon Thomas:** A gaf ofyn i **Simon Thomas:** Could I just ask you, chi, yn y cyd-destun yna, pan fydd y in that context, when this board is bwrdd yma wedi'i sefydlu yn llawn, fully established, there will be a mix bydd cymysgedd o aelodau of non-executive members and anweithredol ac aelodau gweithredol, executive members, including a

gan gynnwys aelod o'r bwrdd sydd wedi'i ethol gan y staff eu hunain? In what way would you be able to ensure that there is accountability for executive decisions, particularly if things go wrong, and that that's dealt with appropriately at board level, when the board shares that responsibility for what happens within the authority?

Ym mha ffordd y byddech chi'n gallu sicrhau bod atebolrwydd am benderfyniadau gweithredol, yn enwedig os yw pethau'n mynd o'i le, a bod hynny'n cael ei ddelio ag e yn briodol ar lefel y bwrdd, pan mae'r bwrdd, ar yr olwg gyntaf, yn rhannu'r cyfrifoldeb am yr hyn sy'n digwydd y tu mewn i'r awdurdod?

12:15

[301] **Ms Bishop:** If I've understood your question correctly, I think I would return to a comment I made earlier, which is that board level scrutiny is not just about the meeting, it's about ensuring that there are good, clear, open lines of communication outside the formal scrutiny processes of audit and risk of formal board meetings. And that's about both formal and informal communication, it's about a deftness on the part of every single non-executive member of the board, and it's about ensuring that those conversations are taking place in ways that are constructive and are not just consuming enormous amounts of executive time when they have plenty of other things to do. So, I'm very experienced—I have quite a lot of experience in addressing that kind of issue.

[302] **Simon Thomas:** Diolch am hynny. Dyna oedd y cwestiwn. Ond y camau rydych yn meddwl eu bod yn bwysig tu mewn i'r math o fwrdd sydd gydag Awdurdod Cyllid Cymru, i sicrhau bod pobl fel chi, sy'n gyfrifol, yn anweithredol, am y craffu yna, yn cadw rhywfaint o bellter mewn ffordd fel eich bod chi'n cadw atebolrwydd mewnol yn y bwrdd, i beidio cael eich llusgo i mewn, eich sugno i mewn i benderfyniadau bob dydd neu weithredu bob dydd—. Ydych, rydych chi yno i helpu i ateb y problemau, ond hefyd os oes rhywbeth yn mynd

Simon Thomas: Thank you for that. That was the question. But the steps that you think are important within the kind of board that the WRA has, to ensure that people like you who are responsible, in a non-executive way, for that scrutiny, keep some kind of distance so that you keep internal accountability in the board, and not be dragged into or sucked into everyday decisions or executive decisions—. Yes, you're there to answer the problems, but if something does go wrong, when do you know when to press the button—

o chwith, pryd ydych chi'n gwybod maybe not a button, but when do you pryd i bwyso'r botwm—nid botwm fel know when to act to make it clear y cyfryw, ond pryd ydych chi'n that the accountability has to reside gwybod pryd i weithredu i wneud yn either with the executive side, or with glir bod yr atebolrwydd yn gorfod the non-executive side of the board, gorwedd naill ai gyda'r ochr or possibility with the Minister, of weithredu neu gydag ochr course? anweithredol y bwrdd neu, o bosibl, gyda'r Gweinidog, wrth gwrs?

[303] **Ms Bishop:** I think the first thing to say is that early conversations about levels of responsibility—who is directly responsible for what—formally around a boardroom table, are quite important. So, my first answer to your question is: at the planning stage.

[304] I think the second comment I would make is it's very important for all non-execs to understand that they are non-executive, but that they are required to scrutinise appropriately. The Minister will also want to be clear about areas that he himself is directly responsible for, and the whole board will have to understand that. One of the things I have learnt in the past is that it is quite useful to understand individual non-executive directors who bring a particular area of expertise, and to allow them to offer help to parts of the organisation that could best use that area of expertise. But I phrase that quite carefully, because that is about offering expertise, not interfering in the right and proper work that an executive manager or an executive team is doing, and that's something that all members of the board must be aware of, and actually have conversations about 'Are we doing this properly?' It's been my experience in almost every board I've worked with that we would do a degree of peer review at an appropriate point. And as we are forming as a new board, we could very usefully do that some three to six months in, just to check how we are all working together, and, indeed, asking the executive colleagues whether they're getting the appropriate levels of challenge and support.

[305] **Simon Thomas:** Just as an example to build on David Rees's question to you earlier, as an organisation that seeks to be digital first, as we were told last week by Dyfed Alsop, if the board did not have a non-executive director who at least had the experience of holding digital organisations to account, if you like, then that would be a weakness, wouldn't it?

[306] **Ms Bishop:** I would hope that the board will have in its non-executive

ranks someone with digital experience because I think that is particularly important, and users are going to see it as important. Yes, so that's a hope. I understand the field of applicants for the non-executive posts is quite large and quite strong.

[307] **Simon Thomas:** So, you'd hope to make that appointment?

[308] **Ms Bishop:** Indeed.

[309] **Simon Thomas:** Can I just clarify one thing from the point of view of your appointment, or your proposed appointment? We've noticed as a committee it was advertised for up to 10 years, however being appointed for, as I understand it, an initial three-year period with a possibility of renewal for up to five years. As we understand under the Taxes Management Act 1970 in Wales, actually it's an eight-year maximum. Are you clear about the terms of the appointment, and what the possible length of this appointment is?

[310] **Ms Bishop:** Like you, I've read the advertisement. I don't have a letter of appointment because that is dependent on the outcome of this hearing, of course. I think for the purposes of the—. My experience of working with organisations is that you often need a particular kind of leader for particular kinds of phases and stages of the organisation. I bring some experience that's particularly relevant to the creation and set-up of this organisation, and I would hope that the non-executives will also bring some relevant experience. There's a case for refreshing boards. For most non-executive positions in other parts of Government, there's a maximum limit of nine years, but typically between five and seven years people start to feel, 'I have delivered what this organisation will find most useful; it's perhaps time to bring someone else in.' I think that's an important conversation for the organisation as a whole to have to ensure that it delivers, and continues to deliver, appropriately.

[311] **Simon Thomas:** But is it your understanding that if this appointment were to go ahead, this is for a three-year period? Is that your—?

[312] **Ms Bishop:** It is.

[313] **Simon Thomas:** That's our understanding, it's yours as well.

[314] **Ms Bishop:** It is, yes.

[315] **Simon Thomas:** Okay. Do Members have any other questions on issues we have not asked questions on?

[316] **David Rees:** Can I just ask one?

[317] **Simon Thomas:** You may.

[318] **David Rees:** Thank you. I just want clarification: you've answered very much today as to where you see the WRA going, your vision for it and the strengths that you see it will have. But when I looked at your cv—it's a very impressive cv—I saw it mentions a non-executive director with the Welsh Assembly Government. It didn't say what role or where. I just wanted clarification as to what your previous involvement with the Welsh Government was.

[319] **Ms Bishop:** Certainly. I was one of the first two non-executive directors appointed to the board of the Welsh Government in 2003, and that was a role that encompassed all the activities of the Welsh Government. The board meetings were held monthly and drew together all the directors and directors general of every one of the portfolio areas. So, our scrutiny responsibilities extended over the full range.

[320] **Simon Thomas:** Could I thank Kathryn Bishop for coming to this pre-appointment hearing? It is the first time we've done this. It may have showed on occasions but, however, I think it's very important that we do do this. Whoever is confirmed as the chair of the Welsh Revenue Authority will need to be coming to the Assembly and answering questions from Assembly Members—this committee in particular, but other committees, I would imagine, would be interested in the activities of the authority as well, and I think it's very important that there was a public session that allowed these issues to be aired and explored. And I'd like to thank you for attending today and for being part of a little bit of history in Welsh devolution and Welsh constitutional arrangements. Diolch yn fawr iawn i chi.

[321] **Ms Bishop:** Thank you. Good morning.

[322] **Simon Thomas:** We return to private session.

*Daeth rhan gyhoeddus y cyfarfod i ben am 12:22.
The public part of the meeting ended at 12:22.*

Ailymgynullodd y pwyllgor yn gyhoeddus am 13:30
The committee reconvened in public at 13:30.

**Y Bil Treth Trafodiadau Tir a Gwrthweithio Osgoi Trethi Datganoledig
 (Cymru): Cyfnod 2—Trafod y Gwelliannau
 Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales)
 Bill: Stage 2—Consideration of Amendments**

[323] **Simon Thomas:** Prynhawn da. Rwy'n galw'r Pwyllgor Cyllid i drefn ar gyfer y prynhawn, pan rydym ni'n trafod y Bil Treth Trafodiadau Tir a Gwrthweithio Osgoi Trethi Datganoledig (Cymru)—Cyfnod 2 o'r Bil a nifer o welliannau i'r Bil. Mae yna 17 grŵp o welliannau gerbron y pwyllgor y prynhawn yma. Nid wyf yn siŵr a fyddwn ni'n gallu cael gwared ar y grwpiau i gyd y prynhawn yma. Nid wyf yn bwriadu mynd heibio i tua 5 o'r gloch heddiw, gan fod yna bwyllgor bore yfory gan nifer o Aelodau hefyd, wrth gwrs, yng Nghaerfyrddin, ac felly rhaid cofio hynny.

[324] Hoffwn i groesawu'r Gweinidog a'i swyddogion i gyfarfod y pwyllgor ac i'r sesiwn Cyfnod 2. Mae'r pwyllgor, wrth gwrs, yn cael ei ddarlledu. Mae yna offer cyfieithu. Fel arfer, a wnewch chi dawelu neu ddistewi unrhyw beiriannau electronig, os gwelwch yn dda? Nid oes dim ymddiheuriadau; mae pob aelod o'r pwyllgor yn bresennol. Felly, heb ragor o oedi, fe awn ni ymlaen i drafod y Bil.

Simon Thomas: Good afternoon. I call the Finance Committee to order for this afternoon's session, in which we will be discussing the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) at Stage 2, and we have a number of amendments to consider to the Bill. There are 17 groups of amendments before the committee in total. Now, I'm not sure whether we'll be able to dispose of all groups this afternoon. I don't intend to go past around 5 o'clock today, as many Members have a committee meeting tomorrow in Carmarthen, and we need to bear that in mind.

I'd like to welcome the Minister and his officials to the committee and this Stage 2 session. The committee is, of course, broadcast and interpretation equipment is available. As per usual, please turn any electronic devices to silent. We've received no apologies; all committee members are in attendance. So, without further ado, we will move on to discuss the Bill.

Grŵp 1: Cael Gwared ar Bwerau Gwneud Rheoliadau (Gwelliannau 44, 75, 45, 46, 78, 80, 76, 77, 49, 50, 51, 52, 53, 54, 55, 58, 59, 60, 62, 63, 64, 65, 66, 67, 68, 70, 71, 72, 73, 74)

Group 1: Removal of Regulation Making Powers (Amendments 44, 75, 45, 46, 78, 80, 76, 77, 49, 50, 51, 52, 53, 54, 55, 58, 59, 60, 62, 63, 64, 65, 66, 67, 68, 70, 71, 72, 73, 74)

[325] **Simon Thomas:** Mae'r grŵp cyntaf o welliannau yn ymwneud â chael gwared ar bwerau gwneud rheoliadau o dan y Bil. Y prif welliant yn y grŵp yw gwelliant 44 yn enw Nick Ramsay, ac felly rwy'n galw ar Nick Ramsay i gynnig gwelliant 44 a siarad am y gwelliant a gweddill y gwelliannau yn y grŵp hwn—Nick Ramsay.

Simon Thomas: The first group of amendments relates to the removal of regulation making powers under the Bill. The lead amendment in the group is amendment 44 in the name of Nick Ramsay, and I therefore call on Nick Ramsay to move amendment 44 and to speak to the amendments in this group—Nick Ramsay.

*Cynigiwyd gwelliant 44 (Nick Ramsay).
Amendment 44 (Nick Ramsay) moved.*

[326] **Nick Ramsay:** Diolch. Good afternoon, Minister. Welcome back. As the Chair has said, amendment 44 is the lead amendment in group 1, the removal of regulation making powers, which, on the face of it, may sound draconian. The reason for the tabling of this amendment was a response to concerns that there are so many pieces of secondary legislation involved with the delivery of this Bill, and much is left in regulations. Amendment 44 picks out the first part of the Bill that does cite the use of regulations.

[327] The rest of the group relates to—. Well, much of the group relates to section 77. There are 19 such statutory instruments, all of which must be approved by the National Assembly for Wales. So, whilst I recognise that this is an affirmative procedure, I do believe that some of the provisions may be better if they were placed on the face of the Bill. I think that this would achieve clarity, compared with what we have at the moment. So, that's my reason for tabling this initial amendment and for seeking to move this amendment, dependent, of course, on what you have to say in the debate.

[328] **Simon Thomas:** Unrhyw Aelod arall? **Simon Thomas:** Any other Member?

[329] Does any other Member wish to speak on this group of amendments?

[330] Dim Aelod arall. Felly, No other Member wishes to speak. Therefore, I'll ask the Cabinet Secretary to reply.

[331] **Mark Drakeford:** Diolch i chi, **Mark Drakeford:** Thank you, Chair. As this is my first contribution to today's proceedings, I'm grateful for the opportunity, as is traditional, to make a few general remarks.

[332] Wrth inni symud i gam y As we move into the detailed amendment stage, I'd like to record my thanks for the continued interest of stakeholders and Assembly Members in the development of this Bill. In particular, I would like to place on record my thanks to all the members of this committee for their scrutiny to date, including those Members who have tabled amendments to the Bill. I hope to demonstrate this morning that each amendment that has been tabled has been considered very carefully.

[333] That is certainly true of the first group here, and the debate is, indeed, as Nick Ramsay has said, essentially a debate between what is on the face of the Bill and what is then left to secondary legislation.

[334] Now, in the fourth Assembly, certainly, committees of the National Assembly tended to conclude that Government Bills left too much to secondary legislation and argued for more to be set out in primary legislation. Now, this Bill tries to do exactly that, partly in response to the views of committees, and partly because of the nature of the legislation and our wish to take this opportunity to bring together disparate parts of the law into one place and to make it as clear and as accessible as we were able. But there is an inevitable trade-off here—that the more you put on the face of the Bill, the more necessary it becomes in practical law making to have powers provided to amend those provisions through secondary legislation.

What this group of amendments would do would be to remove the powers that are in the Bill, as it currently stands, to allow those primary provisions to be amended to keep them up to date and to reflect changing circumstances in Wales and beyond. Without them, the Bill would be out of date on the day that it is confirmed. The only way that the Bill could be kept up to date would be by Ministers bringing fresh primary legislation to the floor of the Assembly in order to do so. We don't think that that is a sensible way to legislate or a sensible use of the Assembly's time.

[335] What we have done, as Nick Ramsay acknowledged, is, when we take these regulation-making powers, we make them, very largely, subject to the affirmative procedure. In fact, all the amendments in this group that would seek to delete regulation-making powers—all those regulation-making powers have the affirmative procedure attached to them. It was partly on that basis, I believe, that the Constitutional and Legislative Affairs Committee concluded in their Stage 1 report that they were content with the balance between primary and secondary legislative powers as set out in this Bill. I would ask this committee to accept the conclusion of that committee and, in doing so, to reject the amendments in group 1.

[336] **Simon Thomas:** Nick Ramsay, **Simon Thomas:** Nick Ramsay, would a ydych chi am ateb i'r ddadl? you like to reply to the debate?

[337] **Nick Ramsay:** Sorry?

[338] **Simon Thomas:** Do you want to respond?

[339] **Nick Ramsay:** Yes. I just wanted to make sure that I had got that right. Diolch, Chair. I said in my opening remarks that the removal of regulation-making powers clearly is a draconian measure and I appreciate what the Cabinet Secretary has said in terms of how, if this did go forward, it would require more primary legislation in the future to keep the Bill updated. I fully accept that. The reason for me putting forward this amendment and this group of amendments was to express concerns that the committee has had about that balance between the primary and secondary legislation and the reliance on regulations. I still believe that there was scope to have more information on the face of the Bill. However, I do accept, as again I said in my opening remarks, that changes will be subject to the affirmative procedure and that is welcome. I also welcome the fact that another Assembly committee has looked at this and has agreed that it's okay. So, on the basis of my original reason for presenting this amendment, which was to get the

Cabinet Secretary's explanation for that balance between primary and secondary legislation given to us today, and given the Cabinet Secretary's comments, I'm happy not to move this amendment.

[340] **Simon Thomas:** You have moved it, so you're seeking the permission of the committee to withdraw the amendment.

[341] **Nick Ramsay:** Yes. I am seeking the permission of the committee to withdraw it.

[342] **Simon Thomas:** A oes yna **Simon Thomas:** Is there any objection wrthwynebiad? Nid oes to that? There is no objection, gwrthwynebiad, felly nid yw'r therefore, the amendment is not gwelliant wedi ei gynnig. Diolch am moved. Thank you for that. hynny.

*Tynnwyd gwelliant 44 yn ôl gyda chaniatâd y pwyllgor.
Amendment 44 withdrawn by leave of the committee.*

Grŵp 2: Tir sy'n Rhannol yng Nghymru ac yn Rhannol yn Lloegr (Gwelliannau 89, 90, 91, 92, 98, 85)
Group 2: Land Partly in Wales and Partly in England (Amendments 89, 90, 91, 92, 98, 85)

[343] **Simon Thomas:** Symudwn at yr **Simon Thomas:** We'll move therefore ail grŵp o welliannau, felly: tir sydd to the second group of amendments: yn rhannol yng Nghymru ac yn land partly in Wales and partly in rhannol yn Lloegr. Y prif welliant yn y England. The lead amendment in this grŵp hwn yw gwelliant 89 yn enw group is amendment 89 in the name of Mark Reckless. Felly, galwaf ar Mark of Mark Reckless and I therefore call on Mark Reckless to speak to his a'r gwelliannau eraill yn y grŵp. amendment and the other amendments in this group.

[344] **Mark Reckless:** Diolch, Gadeirydd. Could I just clarify whether, to commence, I need to move amendment 89 and then speak to the group as a whole?

[345] **Simon Thomas:** Correct, which you do simply by speaking.

Cynigiwyd gwelliant 89 (Mark Reckless).

Amendment 89 (Mark Reckless) moved.

[346] **Mark Reckless:** Excellent. By speaking, I move amendment 89 and speak to my group. This deals with the issue of cross-border land, which was an area of concern. I think the committee spent quite a significant period of time considering this as we proceeded, partly because we got quite a range of estimates, which, if I recall correctly, started around 40, and in a number of moves or leaps went up to—I think the latest is an estimate of over 1,000 properties that cross the border. I think, given that number, that gives a greater degree of importance to what we consider to be the meaning of the term ‘just and reasonable’. That term is in the Government of Wales Act 2014, which gave authority for land transaction tax, as we’re calling it, to be devolved to Wales, and clearly we accept that primary definition and it’s not for this Assembly to alter that or to legislate in a way that’s inconsistent with it. However, it is, I think, properly for us to set down an understanding and applicability of that phrase ‘just and reasonable’ as it should be applied within this Bill. And the particular concern that prompts me to make these amendments is the lack of clarity for the owners of land and for their practitioners, be they solicitors or otherwise, as to what amount of revenue is payable and to whom. And I think there are two potential problems with that.

[347] Firstly, the scope, potentially, for avoidance and for gaming that system and making the split or the client’s own determination of what ‘just and reasonable’ is—that may be done in such a way as to minimise the tax payable. Secondly, even if that isn’t the case, just palming off onto the practitioner or landowner, ‘You’ll give us a just and reasonable apportionment and that’s up to you’, I think leaves a very considerable degree of uncertainty, and I’m not sure that there is any advantage to the revenue or otherwise for us leaving that uncertainty. So, in amendment 89, I propose that the apportionment required is to be considered just and reasonable when it’s on a 50/50 basis. Simply, that will mean that any land that straddled the border—whenever that would happen, the price of that land and the consideration for the transfer—you would halve that and then you would assess what tax was payable to HMRC in respect of the land in England, and what tax was payable in LTT to the Welsh Revenue Authority. And that would be a simple and easy way for taxpayers and for the Government to proceed.

[348] I see no reason why that would lead to a loss of revenue to the Welsh Revenue Authority and, in consequence, to this Assembly and to the Welsh Government, since there’s no reason to expect land to be distributed in such

a way that there's a tiny bit on the English side and a large amount on the Welsh side, since we would be losing out. I think it's likely that with some pieces of land that would be the case, and others it would be the other way. And when you have a large number of over 1,000, as we're now advised, then it is likely that those will approximately even out over time. So, why get into the detail of how to do the apportionment and complicated guidance or great difference of approach, or a lot of work for solicitors and others in deciding what that should be? So, that's my amendment 89.

[349] I also offer three other alternatives—90, 91 and 92—which I think, in line with 89, at least have the merit of greater simplicity over leaving it to the taxpayer in each individual case. In amendment 90, my proposal is that you should split the payment and consider it just and reasonable on the basis of what percentage of the land lies in Wales and what percentage lies in England. Amendment 91, on the basis that, for most pieces of land at least, the largest amount of value is in the buildings on that land, suggests it might be appropriate—and I'd be interested in other Members or the Minister's views on this—to say, 'Look at the building in the built-up area of that land and see what proportion of that is in England versus what proportion is in Wales and make a just and reasonable apportionment of the tax due on the basis of that percentage.'

[350] And then, my amendment 92: I leave it open to the taxpayer to decide, subject to it properly being just and reasonable, within those three options. While this does give a degree of option to the taxpayer, and therefore there is perhaps some scope for at least a degree of minimisation of tax liability, that, I submit, would be significantly less than if we don't have any of these amendments and simply leave it to the taxpayer to determine. I think that by limiting the options available (a) you reduce the scope for tax avoidance, and (b) you make the process, where land does straddle the border, more simple and easy to deal with, with less scope for dispute. So, that is the purpose of my amendments, and I'd be interested in what other Members or the Minister have to say in response.

13:45

[351] **Simon Thomas:** Diolch. Steffan Lewis, mae gyda chi welliant yn y grŵp yma. A ydych chi'n dymuno siarad?

Simon Thomas: Thank you. Steffan Lewis, you have an amendment in this group. Do you wish to speak to it?

[352] **Steffan Lewis:** Ie, os gwelwch yn dda. Diolch, Gadeirydd. Gwelliant 85, yn syml ac yn fyr iawn: mae'r cynnig yn rhoi is-adran newydd yn adran 79 i sicrhau bod yna ffin wedi ei ddiffinio cyn y gall *properties* ar y ffin gael eu herlyn am LTT.

Steffan Lewis: Yes. Thank you, Chair. It's amendment 85, which, very briefly, inserts a subsection into section 79 in order to ensure that the border is defined before properties on the border could be pursued for LTT.

[353] So, the amendment stipulates that the provisions of the Bill relating to LTT cannot be introduced without a definitive England–Wales border having been established and its availability in digital form. This something we had considerable evidence on, as a committee, during our deliberations. It's important to note that, as drafted, the amendment would postpone the application of LTT to transactions relating to cross–border properties only, so that it's quite clear. I believe that it's reasonable to ensure clarity regarding LTT liability to the owners of such properties before it applies to them, and, as we heard, there are a greater number of properties that can fall into that category than had been previously suggested.

[354] **Simon Thomas:** Unrhyw Aelod arall? Mike Hedges.

Simon Thomas: Any other Member? Mike Hedges.

[355] **Mike Hedges:** It's a subject that I've talked about at great length over the last few months. I've got a couple of comments. I think that we desperately need a digital border held by the Land Registry, and that needs to be done as a matter of urgency. I hope that the Minister's going to say that he's going to get them to do that as a matter of urgency, because, if it's not done as a matter of urgency, all the other amendments that Mark Reckless has moved are fairly meaningless in the sense that people will be guessing where the border is. If you've seen borders on lines, if anybody is involved in house quarrels, the line is thicker than the area that's being argued over on occasions. That itself can lead to problems.

[356] I think we really need a period of caution, to wait until we get a proper border organised, to know exactly what the problem is, because it started at 30 and ended up at over 1,000. Now, that can't be a reasonable way of working something out, if people start off with one guess that is de minimis and meaningless, to it takes in such a large amount of land. I think it is important that we get the Land Registry to get a digital boundary first so that we could actually see what is being affected. I would think that if we did that, the Minister would, I would hope, look to bring in legislation—amendments

to this— to deal with what is the problem when we see it, as opposed to what we think it might be.

[357] **Simon Thomas:** Diolch. **Simon Thomas:** Thank you. Any other Unrhyw Aelod arall? Member?

[358] Any other Member?

[359] Os felly, galwaf ar yr If so, I'll call on the Cabinet Secretary Ysgrifennydd Cabinet i ymateb—sori, to reply—sorry, not to reply, but to nid i ymateb ond i siarad. speak.

[360] **Mark Drakeford:** Diolch yn **Mark Drakeford:** Thank you, Chair. fawr, Gadeirydd.

[361] So, let me just begin by saying that I regard all the amendments in this group as brought forward in a constructive spirit and in an attempt to address an issue that the committee has heard a lot about during the time that you have taken evidence. There's been a consistent interest, in the preparation of the Bill and during its passage, in what I've referred to as cross-border—more specifically, cross-title—transactions. The amendments in this group focus on the just and reasonable apportionment. It's an issue that I think it's right that we take seriously. I'm going to ask Members not to support the amendments brought forward by Mark Reckless because it seems to me that while, as Mr Reckless argued, in the round, the effect of his amendments might be that the Welsh Revenue Authority doesn't lose out, at the level of the individual, I think the one thing that every one of his amendments guarantees is that there will be some transactions that are neither just nor reasonable, and I don't think that that is an outcome that I would want us to build into the legislation.

[362] So, amendment 89, as you've heard, creates a rule that the just and reasonable apportionment required for cross-border transactions should be on a 50/50 basis. Now, as you heard, there will be some transactions where land does fall 50/50 on the side of the border, but there will be many, many others where that is not the case.

[363] You will have heard, I know, from HMRC that, if we make changes of this sort, they will apply on the Welsh side of the border but they have no intention of applying them on the English side of the border. In the absence of a similar change to SDLT legislation, it is clear that there would be some

unfair results from a 50/50 split. In some cases, it will give rise to double taxation, in others, it will give rise to a windfall for the taxpayer.

[364] To give you just one example, if 10 per cent of the land value is in Wales and 90 per cent is in England then, under the 50/50 rule, 50 per cent of the consideration given will be taxed in Wales but, in England, it would be 90 per cent taxed to SDLT. That would mean that 140 per cent of the money given for the property will need to be returned on in LTT and SDLT returns.

[365] **Mark Reckless:** Can I ask the Cabinet Secretary if he'll accept an intervention?

[366] **Mark Drakeford:** Am I—?

[367] **Simon Thomas:** Yes, if you're happy to accept, I will permit.

[368] **Mark Drakeford:** Yes, of course.

[369] **Mark Reckless:** Could I inquire on what basis you assess that 90 per cent of the tax would be due to HMRC for the proportion on the English side, if the taxpayer considered a different proportion to be just and reasonable in light of our legislation?

[370] **Mark Drakeford:** Well, I am just putting forward an example of where the taxpayer took a different view to that, where the taxpayer concluded that 10 per cent of the land value was in Wales and 90 per cent of the land value was in England. Then the result would not be just or reasonable, if they were confined to a 50/50 split. If the land was in the opposite direction, then only 60 per cent of the consideration given will be returned and taxed.

[371] I accept that some of the other amendments are less rigid than the 50/50 requirement but, even there, if you take amendment 90, which is less rigid, a cross-border transaction that involves a minority portion of land in Wales could still have a structure on the land that makes that minority part of the land more valuable than the majority portion of the land that happens to lie in England, because value and land are not identical here. A smaller amount of land may have a higher value depending on what is built on it, for example. Again, rule 90 guarantees that, in certain circumstances, the result is neither just nor reasonable. The other amendments provide a sort of combination of those different options. All of them are vulnerable, I believe, to the same objections.

[372] Steffan Lewis's amendment in this group, amendment 85, attempts to address the just and reasonable issue in a different way by underpinning it with a guarantee that there is a definitive map provided by the Land Registry so that apportionment can be on a secure basis. I am more attracted to this amendment, which I think meets a number of the points made to the committee during evidence taking, and was raised by Mike Hedges this afternoon. I can go, I hope, a slight step further than Mike hoped I would, because the latest information we have from the Land Registry is that they are now able to provide a digital map of the sort that this amendment seeks. I was particularly keen to secure that from them because I am unattracted to the part of the amendment that would delay the introduction of the tax for cross-border properties, because that sort of introduces a different unfairness. A property immediately adjacent that happens to be wholly on this side of the border would find themselves paying tax from day one, their immediate neighbour, who happens to have land that crosses across the border, would be exempt from the tax. That's a different sort of unfairness.

[373] Now, in amendment 85, Chair, we believe that there are some technical issues with it and we believe it refers to an incorrect power in the way that it is currently drafted. I would like to offer the Member who moved it an opportunity to see the information we have from the Land Registry to be confident that it does what he seeks to do in this amendment. We'd also be happy to work with him between now and Stage 3 to bring forward an amendment, which we believe we can draft to give effect to what he wants to see happen here in the way that he wants to see it happen, but which would be technically more secure than the amendment as currently drafted.

[374] **Simon Thomas:** Diolch i'r **Simon Thomas:** Thank you, Cabinet Ysgrifennydd Cabinet am hynny. Secretary. I now call on Mark Reckless Galwaf ar Mark Reckless i ymateb i'r to reply to the debate. ddadl.

[375] **Mark Reckless:** Thank you. I note the Cabinet Secretary's comments and his recognition that my amendments are meant in a constructive spirit. He came up with a number of reasons against them. I don't think there was a particular reason against amendment 91, which would look at the apportionment according to the area of the building that was on one side or other of the boundary. I was encouraged by his emphasis on protecting the taxpayer and not wanting to do anything that was unfair to that taxpayer. This is clearly an issue of greater significance to Wales and the Welsh

taxpayer and his department than it will be at the level of the UK Government for which, even if we are at 1,000 properties plus, the issue is probably de minimis. As far as I understand, the requirement from a UK perspective applicable to the law of England and Wales in England is that the apportionment should be just and reasonable. If we legislate with respect to the other side of the border, clarifying what 'just and reasonable' means, and setting out what that meaning is, I see no reason why the taxpayer shouldn't apply that meaning and, where appropriate, the adverse payment for the other side of the border.

[376] I think the Cabinet Secretary has given insufficient consideration to the implications of failing to make any of these amendments and, in particular, to the cost involved for the taxpayer and his or her professional advisers, in every single transaction ever done, on an individual basis, determining and likely documenting what is a just and reasonable apportionment and why that method has been adopted and the basis on which it's been calculated. Frankly, that is going to be quite a lot of work on each of those transactions, and work that I submit is to no useful benefit when, overall, any balance in taxation is likely to even out. So, for that reason, I do think that my amendments offer potential improvement to the Bill and cost savings to the taxpayer in simplicity of administration.

[377] In light of the Cabinet Secretary's comments and the focus on protecting the taxpayer, I would have thought that the balance of where my amendments lie—. I think I'm more attracted to 92, which gives the taxpayer a sensible menu of three options of either a 50/50 or an apportionment on the basis of the area of land or an apportionment on the basis of the building, all of which might be considered just and reasonable. I don't see it as attractive, instead of that, giving an infinite array of potential bases for determining just and reasonable to the taxpayer, let alone an expectation that those should be documented or set out or somehow justified on each and every transaction where the land crosses the border.

14:00

[378] **Simon Thomas:** Mae'r cynnig **Simon Thomas:** The amendment has wedi'i wneud, felly y cwestiwn yw: a ddylid derbyn gwelliant 89 yn enw is that amendment 89 in the name of Mark Reckless? A oes unrhyw Mark Reckless be agreed. Does any wrthwynebiad— Member object—

[379] **Mark Reckless:** Chair, may I just say in the light of my remarks just then, what I'd want to propose to do is ask the committee's permission to withdraw amendment 89, and instead to move amendment 92? Is that agreeable?

[380] **Simon Thomas:** In which case, well, the first question is: is the committee content to withdraw amendment 89? The committee is content. Therefore, amendment 89 is withdrawn.

*Tynnwyd gwelliant 89 yn ôl gyda chaniatâd y pwyllgor.
Amendment 89 withdrawn by leave of the committee.*

[381] **Simon Thomas:** We will take a vote in a few seconds on the amendment you wish to seek to move.

[382] Felly, Mark, a ydych chi am Mark, do you wish to move
gynnig gwelliant 90? amendment 90?

[383] **Mark Reckless:** No, I do not wish to move amendment 90.

[384] **Simon Thomas:** Not moved, okay.

*[385] Ni chynigiwyd gwelliant 90 (Mark Reckless).
Amendment 90 (Mark Reckless) not moved.*

[386] **Simon Thomas:** A ydych chi'n **Simon Thomas:** Do you wish to move
dymuno cynnig gwelliant 91? amendment 91?

[387] **Mark Reckless:** No, I do not wish to move amendment 91.

*Ni chynigiwyd gwelliant 91 (Mark Reckless).
Amendment 91 (Mark Reckless) not moved.*

[388] **Simon Thomas:** A ydych chi'n **Simon Thomas:** Do you wish to move
dymuno cynnig gwelliant 92? amendment 92?

*Cynigiwyd gwelliant 92 (Mark Reckless).
Amendment 92 (Mark Reckless) moved.*

[389] **Mark Reckless:** Yes, I wish to move amendment 92.

[390] **Simon Thomas:** Diolch. Felly, nawr, y cwestiwn yw: a ddylid derbyn gwelliant 92? A oes unrhyw wrthwynebiad? [Gwrthwynebiad.] Gwrthwynebiad. Gan fod gwrthwynebiad, fe gynhelir pleidlais. Gofynnaf ichi ddangos eich pleidlais drwy ddangos dwylo, yn glir, os gwelwch yn dda, i bawb. Y cwestiwn, felly, yw: a ddylid derbyn gwelliant 92? Y rhai o blaid gwelliant 92. Y rhai yn erbyn gwelliant 92. Neb yn ymatal. Felly, canlyniad y bleidlais yw, yng nghyd-destun gwelliant 92: dau o blaid y gwelliant, pump yn erbyn y gwelliant. Felly ni dderbynnir y gwelliant. Diolch yn fawr.

Simon Thomas: Thank you. The question now, therefore, is that amendment 92 be agreed. Does any Member object? [Objection.] Object. As there has been objection, I will move to a vote. I ask you to vote by show of hands, and do so clearly, please. The question is that amendment 92 be agreed. Those in favour of amendment 92, please indicate. Those against amendment 92. No abstentions, clearly. Therefore, the outcome of the vote, in the context of amendment 92, is two in favour, five against, and, therefore, amendment 92 is not agreed. Thank you.

*Gwelliant 92: O blaid 2, Yn erbyn 5, Ymatal 0.
Amendment 92: For 2, Against 5, Abstain 0.*

O blaid:	Yn erbyn:	Ymatal:
For:	Against:	Abstain:
Ramsay, Nick	Hedges, Mike	
Reckless, Mark	Morgan, Eluned	
	Rees, David	
	Lewis, Steffan	
	Thomas, Simon	

*Gwrthodwyd gwelliant 92.
Amendment 92 not agreed.*

[391] **Simon Thomas:** Rydym yn troi nawr at welliant 75. Nick Ramsay, a ydych chi'n dymuno cynnig gwelliant 75?

Simon Thomas: I now turn to amendment 75. Nick Ramsay, do you wish to move amendment 75?

[392] **Nick Ramsay:** I'll tell you now, once I get to the relevant page.

[393] **Simon Thomas:** That's fine. [Laughter.]

[394] **Mark Reckless:** I think it's a consequential to the—

[395] **Nick Ramsay:** A consequential, yes. It's one of the big group, isn't it?

[396] **Simon Thomas:** I think it's one of your group—

[397] **Nick Ramsay:** Yes, it's part of—

[398] **Simon Thomas:** Part of your group 1 amendments.

[399] **Nick Ramsay:** Part of group 1, yes. No, I don't wish to move it, and that's right, isn't it? I'm not withdrawing it; I'm not wishing to move it.

[400] **Simon Thomas:** You don't wish to move it. That's fine. Not moved.

Ni chynigiwyd gwelliant 75 (Nick Ramsay).

Amendment 75 (Nick Ramsay) not moved.

[401] **Simon Thomas:** A'r un **Simon Thomas:** And the same
cwestiwn eto. question again.

[402] The same question, Nick: do you wish to move amendment 45?

[403] **Nick Ramsay:** No, I don't wish to move it.

[404] **Simon Thomas:** Not moved.

[405] Diolch yn fawr. Thank you very much.

Ni chynigiwyd gwelliant 45 (Nick Ramsay).

Amendment 45 (Nick Ramsay) not moved.

**Grŵp 3: Cyfraddau Treth a Bandiau Treth (Gwelliannau 93, 94, 95, 81, 96,
97, 31, 32, 16)**

**Group 3: Tax Rates and Bands (Amendments 93, 94, 95, 81, 96, 97, 31, 32,
16)**

[406] **Simon Thomas:** Gwnawn ni **Simon Thomas:** We turn now,
droi, felly, at grŵp 3 o'r gwelliannau. therefore, to group 3 of the
Mae grŵp 3 yn ymwneud â amendments, which relates to tax
chyfraddau treth a bandiau treth. Y rates and bands. The lead

prif welliant yn y grŵp hwn yw amendment in this group is
 gwelliant 93 yn enw Mark Reckless, amendment 93 in the name of Mark
 ac felly gofynnaf i Mark Reckless i Reckless and, therefore, I call on
 gynnig y gwelliant a siarad am ei Mark Reckless to move the
 welliant a'r gwelliannau yn y grŵp. amendment and to speak to the
 Mark Reckless. amendment and the other
 amendments in the group. Mark
 Reckless.

*Cynigiwyd gwelliant 93 (Mark Reckless, gyda chefnogaeth Nick Ramsay).
 Amendment 93 (Mark Reckless, supported by Nick Ramsay) moved.*

[407] **Mark Reckless:** Thank you, Chair. Cabinet Secretary, you've said and I understand it is Welsh Government policy to seek to provide certainty, where possible, to taxpayers. We are, I think, in really a groundbreaking piece of legislation and privileged to have had the first vote on an amendment to tax-raising legislation for Wales, and I know it's important to the Chair and to others that this is groundbreaking in doing that. I think, in that scenario, I'm not convinced it's satisfactory to have an extensive Bill—we have the anti-avoidance measures, as well, yet we have this first tax, the land transactions tax, and I think the Minister has stated that it's his intention to have a through train, so to speak, from the previous SDLT legislation that's been applicable, at least in England and Wales, and that he intends, I believe, for the foreseeable future, to maintain the rates on the same basis that they were set by Parliament in Westminster to be applicable to England and Wales. Just for the record, I'm not aware of the situation as it applies or otherwise to Northern Ireland. I know Scotland has its own system.

[408] I think, in that scenario, it really isn't satisfactory for the Minister not to tell us or not to, as part of that primary legislation, say what tax will be payable. That's the key thing for the taxpayer. It's a pretty important thing for the professional advisers involved in preparing for this, and if we as an Assembly are for the first time to set a tax and require the people of Wales who transact in relevant land transactions to pay that tax to the Exchequer, under threat of criminal sanction were that not to happen, it is not unreasonable for the Assembly to set out what that tax is and what they will be required to pay.

[409] We have questioned the Cabinet Secretary at Stage 1 around this and we've taken evidence from a number of witnesses, and the committee has taken further advice as well. We don't have a finance Bill, we don't have an

annual process of changing tax rates that's been tried and tested over a long period, as we have at Westminster. Yet that of itself doesn't seem an objection for putting the rates on the face of the Bill for two important reasons: if that were the issue, then surely we could move to establish a finance Bill, if that was what was considered necessary to ensure that the Assembly as a whole was doing the important work of setting what tax the taxpayer should have to pay, rather than merely leaving it to Ministers to do by regulation. Second, we have a mechanism—I believe it's a new mechanism—where we have a special or modified positive resolution procedure that allows Ministers to change tax rates and for that to be applicable unless the Assembly votes them down. So, in that scenario, I'm just not sure why the Cabinet Secretary is insisting on maintaining unto himself the power to determine how much tax people in Wales should pay on this first tax that has been devolved to us.

[410] For that reason I would like to move amendment 93, to put on the face of the Bill the relevant tax rates that apply both to residential and to non-residential or mixed-use property. The Minister's been clear that these are the rates he wants to apply. We are passing this legislation for the first time. Let's put it on the face of the Bill.

[411] **Simon Thomas:** Nick Ramsay.

[412] **Nick Ramsay:** Diolch. Yes, I wish to support amendment 93. I suspect that we will not have much success in getting it passed, certainly at this stage. However, I would concur with Mark Reckless's comments that, when it comes to the establishment of this new tax in Wales, it is going to be the rates and the bands that the public and the people using the tax are going to be most interested in. There is a precedent in UK legislation to have such items on the face of the Bill, and whilst I appreciate that we can do things differently here, I think that to ease the transition to the new tax regime in Wales and to reassure those stakeholders used to dealing with the current SDLT, it would be beneficial to seek to have the rates and bands on the face of the Bill. That's not to say that—. Of course, they are not set in stone, and the Welsh Government, we would expect, would change those rates and bands over time to come. But I think it would give a useful starting point.

[413] I've had this discussion with the Minister during previous sessions of the committee. I fully respect the Minister's previous decision on this, and why you took the stance you did. However, having thought about it, I do think that, on balance, it would be beneficial to have an indication of the

rates and bands in the Bill, and that is specified by amendment 93, and I think that that is similar to that which is operating across the border. So, I'm happy to support this amendment.

[414] **Simon Thomas:** Steffan Lewis, **Simon Thomas:** Steffan Lewis, you mae gennyh chi welliant yn y grŵp. have an amendment in the group.

[415] **Steffan Lewis:** Yes, thank you, Chair. I wish to speak to amendment 81, which inserts a new subsection into section 24 of the Bill that would require Welsh Government to set the initial rates and bands and gain the approval of the National Assembly at least six months before they could come into force. The purpose of the amendment is to ensure sufficient time to raise awareness among, and engagement with, practitioners around the changes to the rates and bands before the new regime commences in April 2018. This is considered desirable in order to aid the initial transition from SDLT to land transaction tax—again, an issue that we have received considerable evidence on as a committee. However, having said that, I understand and appreciate that one of the consequences of this amendment would be that the drafting would occur over the summer period, and that there may be a better way of achieving the Assembly's approval and a greater clarity. So, I'm open to the possibility of seeing whether we could introduce a new draft at Stage 3 of this Bill, and ensure that the regulations come into force with at least six months having elapsed after the rates were announced, so that we can, as I say, get that clarity. I'm open to hearing what the Cabinet Secretary has to say in response.

[416] **Simon Thomas:** Mike Hedges.

[417] **Mike Hedges:** Two very quick points. We talk about clarity for the taxpayer. I can imagine a situation where we set on the face of the Bill the tax and the tax rates. An informed taxpayer, five or six years down the line, goes and looks at those things, goes to see his solicitor, who tells him that entirely different rates are currently there—and if the rate hasn't changed, I guarantee the bands will change over the next 10 years, as they've changed in the last 10 years. That is an inevitability as house prices move. They'll be going there, and they'll be saying, 'I know how much I should be paying' and the solicitor will say, 'No, you've got to pay more' and there's a danger of causing confusion. One of the things we've avoided during the last session was putting amounts in Bills because of changes that were likely to take place over a period of time.

[418] I know this is a tax Bill rather than any other type of Bill, but I think that putting those on the face of the Bill does have the problem of somebody seeing these figures in 10, 15 years' time, assuming there's not a new Act that has come in in that time, and in which case they'll look back and say, 'I should only be paying' and they'll be being told they have to pay something different because the rates have been changed. There is an inherent danger of confusing taxpayers and leading to problems. So, consequently, I think that putting these on the face of the Bill, when you know they're going to change—. If you're putting something on the face of a Bill that you expect to stay static for a long period of time, I think it's a level of sense, but when you have things that you know are going to change, and we know the bands are going to change, I think there is an inherent danger.

[419] **Simon Thomas:** Unrhyw Aelod **Simon Thomas:** Any other Member? I arall? Na. Gofynnaf i'r Ysgrifennydd call on the Cabinet Secretary to Cabinet i siarad. speak.

[420] **Mark Drakeford:** Diolch, Gadeirydd. This group has some Government amendments as well as non-Government amendments in them, and I wanted briefly to deal with the Government amendments first, if I could, because there are three Government amendments: 31, 32 and 16. They make some minor changes to the safeguards provided by section 26 of this Bill, and new section 63A of the Tax Collection and Management (Wales) Act 2016, and they are all there to protect the taxpayer where further returns are submitted in relation to that original transaction, and particularly to make it clear again that if the National Assembly were not to approve of provisional affirmative regulations, that the taxpayer is protected, and their position cannot be—. Sorry, that the Government cannot collect tax from them that the National Assembly would have denied Ministers the ability to collect. And those three amendments just reinforce those protections.

[421] I want to turn now to the non-Government amendments, because they deal with an important matter, which the committee's heard a lot about, about the issue of certainty. And I have indeed emphasised in front of the committee a number of times my wish to provide a smooth transition from the position there is today to the position that will appertain once this Bill is enacted here in Wales. But I think, Chair, there is a difference between a through train and a train that is identical, and that there are differences at the point at which you would want this train to leave the station. So, Mark Reckless's amendments particularly seek to constrain us to a position where our rates and bands must be identical to the ones across our border, and

that we would have to declare that more than a year in advance of when those rates and bands would come into effect. And while I continue to say that a smooth transition is a real objective of the Government, I've never said that that means a guarantee that nothing will change. In particular, I think it is important that Welsh Ministers and then the National Assembly are able to decide on the right rates and bands for LTT in Wales, taking into account the state of the property market in Wales, the wider economic conditions that will prevail at the time and what we know about rates and bands across our border.

14:15

[422] I think the amendments that Mark Reckless has put forward create too much of a straitjacket. I don't intend to be pejorative at all, but I think the risk is that they provide a spurious certainty, because many things could change between the time that these amendments would appear to let people know what is going to happen and what will actually happen well over a year later. You will remember, Chair, that in Scotland, they declared rates and bands in November, and they had to change them again in January. When I was in Scotland on Wednesday, they said to me: 'Don't do that, if you can manage not to.'

[423] **Mark Reckless:** When this Bill receives Royal Assent, surely that is the point at which the rates have been set through what we put on the face of the Bill, albeit the point at which they will begin to be paid is at a later date. Is it not the case that, at any point from that Royal Assent and Ministers having moved any relevant commencement procedures, you, as Cabinet Secretary, would be able to lay a statutory instrument and seek to change any rates in response to a change in the property market, the economy or indeed events over the border?

[424] **Mark Drakeford:** That is exactly why I described putting the rates and bands, at this point, on the face of the Bill as offering a spurious certainty to taxpayers, because circumstances could change. Those rates and bands may change. The rationale for doing it this early and in this way is that it does provide clarity and certainty for taxpayers, and I'm saying that I don't think it really does.

[425] I think it is right and proper and in the Welsh national interest that these rates and bands should be set in the context of the wider budget setting of the National Assembly so that the National Assembly is able to see

the interaction between the revenue that will be raised through this tax and the disbursement of those revenues in public services in Wales and that they should be set in the circumstances that prevail, closer to the time at which they will come into effect.

[426] Steffan Lewis's amendment is different. It sets out a timetable that would get us closer to the point where I think it would be sensible to be making a public declaration of the Government's intention. My objection to it is more technical than in principle. As it stands, what amendment 81 would require is for Ministers to be putting regulations through the Assembly so that those regulations complete their passage through the Assembly by 26 September of this year. I would have to declare the rates and bands by 11 July in order to reach that point. The regulations will have been taken through the Assembly before the end of September in advance of the budget-making process, and crucially, in advance of the autumn statement, which we will expect towards the middle/end of November. If SDLT rates changed in that autumn statement, I would be bringing forward a second set of regulations in front of the Assembly with the ink on the first set of regulations barely dry.

[427] However, I recognise very much the points that both Members have made. What I am prepared to do this afternoon is to make a commitment in front of the committee that I would announce the rates and bands that I intend to bring forward by 1 October of this year. I think that, in essence, provides for what Steffan Lewis's amendment seeks to provide, but it would be an announcement of my intention, rather than a completed set of regulations. I would then have to bring regulations in front of the Assembly, and those regulations would be in front of the Assembly at the time that the autumn statement was made. So, if there were changes that needed to be made, they could be reflected in that set of regulations. So, I'm trying to indicate my continued commitment to providing certainty, but to do it in a way that I think allows us to take greater cognisance of the circumstances we will face—

[428] **Mike Hedges:** Will the Minister take an intervention?

[429] **Mark Drakeford:** I've got just one sentence, Mike, then of course I will.

[430] I'm trying to bring forward a set of proposals that go quite a long way, I think, to meeting the points that Members have made about the need for clarity and certainty, but to do it in a way that reflects the circumstances of

the time and which would allow those announcements that I would make to be taken through the Assembly in a way that wouldn't result in us sending out mixed messages to people there by setting one set of regulations and then maybe having to provide another one immediately afterwards.

[431] **Simon Thomas:** Will you take an intervention from Mike Hedges?

[432] **Mark Drakeford:** Yes, of course.

[433] **Mike Hedges:** My intervention is that I think that goes a long way towards what Steffan and others, including myself, would like to see happen, but from what you said, that's for one year only. Would you look to put into Standing Orders, or wherever it needs to go, that that would happen every year from now on?

[434] **Mark Drakeford:** Well, I'm happy to think about that, of course, Chair. Once we're past this first set of regulations, then the provisional affirmative procedure means that we'll be in a different position to deal with some of the certainty matter, and some of the forestalling matters and some of the difficulties of timing our provision against what might be happening across our border and so on. But I'll certainly give some thought to the point that Mike has made.

[435] **Simon Thomas:** Have you concluded?

[436] **Mark Drakeford:** I've concluded.

[437] **Simon Thomas:** Diolch. Galwaf **Simon Thomas:** Thank you. I call on ar Mark Reckless, felly, i ymateb i'r **Mark Reckless,** therefore, to reply to ddadl. the debate.

[438] **Mark Reckless:** Thank you. I have to say, Cabinet Secretary, that I'm rather disappointed by your response. I think there are two issues here. Firstly, certainty for the taxpayer. I think, at best, your response is that there wouldn't be any difference in terms of certainty for the taxpayer. I'm not sure that the commitment you've given, I think, to say what rates you intend to apply by October is of particular significance. Perhaps I misunderstood, but my understanding of Stage 1 proceedings was that you'd already indicated to us your intention to have the tax rates as they currently are for SDLT applicable in England and Wales.

[439] **Mark Drakeford:** I'm not allowed to interrupt the Member—

[440] **Simon Thomas:** No, you are.

[441] **Mark Drakeford:** I don't think that I ever have said that I am guaranteed to bring forward identical rates and bands. I've always said that I recognise the arguments about consistency and I recognise the nature of the border and so on, but I've never done the step that the Member I think has suggested I have a couple of times now, which is to say that that means that I am guaranteed to bring forward rates and bands in Wales that are identical to the ones across our border.

[442] **Mark Reckless:** No, and you're not saying that now. You're saying that, by October, you will say what your intention is. That's far short of a guarantee. I haven't said that you gave a guarantee before, and you're certainly not giving one now. I don't see how certainty for the taxpayer is assisted. But I think that there is actually a much more important point of principle here, and that is that we are, for the first time as a National Assembly or Parliament, passing tax legislation that devolves a tax, and we are, through an instrument of this Assembly, raising tax from people in Wales for the first time, at least potentially the first time in many centuries. There is an important distinction of principle between a legislature and an executive, and, yes, I admit it is disappointing at a minimum that you as a Minister are seeking, through this legislation, to take unto yourself the power to decide what should be the first rate of tax paid by people in Wales. Your party has been in charge, or has led the Government in Wales, since the Assembly came in in 1999. Perhaps you feel that that's something that should be for you and your party to determine rather than for a legislature representing the people of Wales as a whole. I don't know yet how Members from Plaid Cymru are going to vote on this amendment, but surely it should be—

[443] **David Rees:** [*Inaudible.*]

[444] **Mark Reckless:** Yes, of course.

[445] **David Rees:** Could you just clarify or me? Because I couldn't understand the situation. I understood that an announcement would be made and regulations would be brought, so he is not arbitrarily making a decision. The Assembly will make the decision. So, I can't see why you are saying that he is making the call. The Assembly will make the call on the regulations, as I

understand.

[446] **Mark Reckless:** The decision that the Assembly will make, though, is simply one of whether what the Minister is proposing should come to pass, or whether there shall be no LTT at all. And, as I would submit, that is not a real decision, because if we were not to do as the Minister wants in this special positive resolution procedure, then we would get no tax from this at all. So, we wouldn't, as an Assembly, be setting the first tax; we should merely be accepting that the UK Treasury has removed this from the block grant, and we are not doing anything about it. There's a huge distinction between 'Do you accept or not accept what Ministers are deciding?'—that binary decision—and actually a considered decision as part of a legislative process by this Assembly to determine the rates of tax that should apply to land transactions. The Minister, through this Bill, is removing that decision from us and taking it unto himself. For something of such groundbreaking importance as the first tax to be raised, at least in modern times, from the people of Wales, I find that disappointing. I don't speak as anyone with a strong view on the principle around the devolution of taxes. My party has agreed to this because we wanted a devolution settlement that was broadly agreed. This was part of the St David's Day agreement, and we therefore support that. But, for those who see this as the beginning of a number of further taxes that will lead to greater autonomy, or even potentially to independence in Wales in the future, I find it surprising that it should be allowed to Ministers—to the Executive—to determine what rate of tax the people of Wales should pay. I would simply encourage Members: when you are setting a tax for the first time, then allow the people of Wales's representatives to determine what that tax should be. Do not give up your power and allow an Executive—only indirectly accountable to the people of Wales—to make that decision for you.

[447] **Simon Thomas:** Diolch yn fawr. **Simon Thomas:** Thank you very much. I take it, therefore, Mark, that you wish to proceed to a vote on amendment 93.

[448] **Mark Reckless:** Yes, I do.

[449] **Simon Thomas:** Y cwestiwn yw, **Simon Thomas:** The question is, felly: a ddylid derbyn gwelliant 93? A therefore, that amendment 93 be oes gwrthwynebiad? agreed. Does any Member object? [Gwrthwynebiad.] Mae [Objection.] There is objection, and

gwrthwynebiad, felly cynhelir therefore we will have a vote on
pleidlais ar welliant 93. Y cwestiwn amendment 93. The question is that
yw: a ddylid derbyn gwelliant 93? Y amendment 93 be agreed. Those in
rhai sydd o blaid i godi eu dwylo. Y favour, please indicate. Those
rhai yn erbyn y gwelliant i godi eu against, please indicate. Those
dwylo. A'r rhai sy'n ymatal. Felly, abstaining, please indicate.
canlyniad y bleidlais ar welliant 93 Therefore, the result of the vote on
oedd: 2 o blaid, 3 yn erbyn a 2 yn amendment 93 was: 2 in favour, 3
ymatal. Felly, gwrthodwyd y against and 2 abstentions. Therefore,
gwelliant. the amendment is not agreed.

*Gwelliant 93: O blaid 2, Yn erbyn 3, Ymatal 2.
Amendment 93: For 2, Against 3, Abstain 2.*

O blaid:	Yn erbyn:	Ymatal:
For:	Against:	Abstain:
Ramsay, Nick	Hedges, Mike	Lewis, Steffan
Reckless, Mark	Morgan, Eluned	Thomas, Simon
	Rees, David	

*Gwrthodwyd gwelliant 93.
Amendment 93 not agreed.*

[450] **Simon Thomas:** Mark, a ydych **Simon Thomas:** Mark, do you wish to
chi'n dymuno cynnig gwelliant 94? move amendment 94?

[451] **Mark Reckless:** No, I think my remaining amendments in this group
are consequential and will fall implicitly by the vote we have just taken.

*Ni chynigiwyd gwelliant 94 (Mark Reckless, gyda chefnogaeth Nick Ramsay).
Amendment 94 (Mark Reckless, supported by Nick Ramsay) not moved.*

[452] **Simon Thomas:** Diolch yn fawr **Simon Thomas:** Thank you very much
am hynny. for that.

**Grŵp 4: Trafodiadau Eiddo Preswyl Cyfraddau Uwch (Gwelliannau 24, 25,
26A, 26, 27, 28, 29, 41A, 41, 30, 43, 33, 34, 35, 36, 40)**
**Group 4: Higher Rates Residential Properties Transactions (Amendments 24,
25, 26A, 26, 27, 28, 29, 41A, 41, 30, 43, 33, 34, 35, 36, 40)**

[453] **Simon Thomas:** Symudwn **Simon Thomas:** We move on,

ymlaen, felly, i drafod grŵp 4. Mae therefore, to discuss group 4, which grŵp 4 yn ymwneud â thrafodiadau relates to higher rates residential eiddo preswyl cyfraddau uwch. Y prif properties transactions. The lead welliant yn y grŵp hwn yw gwelliant amendment in the group is 24, yn enw Ysgrifennydd y Cabinet. amendment 24, in the name of the Cabinet Secretary.

Cynigiwyd gwelliant 24 (Mark Drakeford).

Amendment 24 (Mark Drakeford) moved.

[454] **Simon Thomas:** Felly, oni bai **Simon Thomas:** Unless the Cabinet nad yw Ysgrifennydd y Cabinet am Secretary doesn't want to move the gynnig y gwelliant, cynigiau y amendment, I move the amendment gwelliant ar ran Ysgrifennydd y on his behalf, as the Chair, and I call Cabinet, fel y Cadeirydd, a galwaf ar on the Cabinet Secretary to speak to Ysgrifennydd y Cabinet i siarad am y his amendment and other gwelliant ac am y gwelliannau eraill amendments in this group as well yn y grŵp yn ogystal.

14:30

[455] **Mark Drakeford:** Diolch yn fawr, Gadeirydd. I would like to speak first to the Government amendments in this group, and then I will respond to the non-Government amendments. Everything we have discussed so far—amendments to do with the Bill as the Bill was originally presented and extensively discussed in Stage 1. This is a group of amendments that I explained to the committee I would be bringing forward at Stage 2, and it is a substantive group of amendments dealing with the surcharge on additional residential dwellings. Given that there was considerable discussion of this issue at Stage 1, I was glad to be able to make officials available to provide a technical briefing to Members on this issue, and I hope that that was helpful. Given that this is a new part of the Bill, and is significant, Chair, I hope you will allow me to set out on the record, a bit more substantively, the background to it and the way in which these amendments would operate.

[456] So, as you know, the funding raised by the introduction of this surcharge is essential to the delivery of public services across Wales, and will become part of the block grant adjustment under the fiscal framework. The office for budget responsibility initially forecast that higher rates would raise about £10 million in Wales in this financial year. By November, the Office for Budget Responsibility forecast had risen to £58 million, by the time of SDLT

devolution in April of next year. The impact of not introducing a supplement of this sort—a surcharge of this sort—would be that we would potentially lose a sizeable amount of resource, which would otherwise be available for the provision of public services, because the block grant adjustment will be based on the money that is being raised already here in Wales.

[457] So, amendment 41 introduces the new Schedule, which makes provision for higher rates on residential property transactions. It sets out the rules by which higher rates of LTT will be applied to a purchase of an additional residential property. It includes adopting the same exemptions for the LTT surcharge as are currently there for SDLT, and it provides a 36-month period for taxpayers to account for a delay or overlap between the sale and the purchase of a main residence.

[458] Amendments 24 to 30, 33 to 36, 40 and 43 are all related to the implementation of the higher rates for purchases of additional residential properties through land transaction tax. The amendments take into account the areas where respondents to our technical consultation on higher rates were broadly in agreement, and where there were suggestions, as part of that consultation, of where we could adapt the LTT surcharge, I've taken these forward where I can.

[459] I've taken opportunities to address potential anomalies that have been identified in the SDLT higher rate rules, and the aim is to provide clarity where we are able to, and to align the rules more securely to our policy intentions. For example, the new Schedule, introduced by amendment 41, provides that where a taxpayer is required to maintain an interest in a former matrimonial home, due to a court order on divorce or the dissolution of a civil partnership, then amendment 41 means that interest should not be taken into account when considering whether or not that interest should be taken into account, when considering whether or not the higher rates will apply to the taxpayer's acquisition of a dwelling.

[460] Chair, I wrote to you yesterday confirming my intention to bring forward a Stage 3 amendment that seeks to modify the higher rate provisions, so that the acquisition of a property that is intended to be used as a main residence for a child who lacks mental capacity, and whose affairs are maintained and protected by a court-appointed deputy, will not be deemed to be acquired or owned by that child's parents. The provision will cover certain acquisitions by a deputy when acting in accordance with the Mental Capacity Act 2005, and I was just keen to alert the committee to our

intention to do that.

[461] If I could turn now to the two non-Government amendments proposed in this group, and, of course, I'm anticipating what Members will say, so forgive me if I've misunderstood the intention of the amendments. Amendment 41A, Nick Ramsay's amendment, particularly—I struggled to understand what the amendment was for. So, I'll listen carefully to, of course, what the Member has to say. Because as far as I could read it, the amendments says that couples who are not married or in a civil partnership are not married or in a civil partnership. If that is what the amendment says, then it does seem to me to be saying something that is rather axiomatic and not necessarily needing to be put into the statute. But I'll listen carefully to see whether I've just misunderstood the purport of the amendment.

[462] Steffan Lewis has amendment 26A, and this has two parts to it. It introduces a new paragraph (d), which would allow local authorities to bring forward proposals to suggest variations in the higher rates and bands in their localities. I think I would argue that the Bill already allows for that to happen—that there's provision in the Bill that would allow a local authority to make such a set of proposals. There are some anxieties amongst legal advisers who advise me that the general power that the Bill provides for proposals to come forward for variation in rates and bands might be regarded by courts as having been narrowed down to this specific example of it, by having an example where only local authorities are identified on the face of the Bill. But let me say that, as far as I am concerned, the intention of paragraph (d) is one that I'm perfectly comfortable with. I think it makes good sense to allow local authorities to make such proposals, which then can be considered by Ministers. And if there's a way of confirming that on the face of the Bill that doesn't have unintended consequences, I'd be very open to that happening.

[463] Paragraph (e) I think is more difficult because I think it can be read as requiring Ministers to act on the basis of the proposals that local authorities bring forward. There doesn't seem to be scope for Ministers to disagree with a proposal or to make changes to a proposal. In effect, paragraph (e) hands over to individual local authorities full control over the higher rates within their areas. Now, I'm not sure whether that is the intention of paragraph (e). I probably made an assumption that that wasn't what lay behind it. If it does lay behind it, then I would have to object to it, because Mr Reckless objects to Ministers exercising powers when those powers at least have some checks and balances on the floor of the Assembly itself. I don't think the National

Assembly would wish to hand over to individual local authorities a power that they could exercise over which the National Assembly would have no control at all. So, whereas paragraph (d), I think, I'd be very open to, working with the Member to find a way of putting that on the face of the Bill, I still think that the power should be for local authorities to investigate, provide evidence and propose, and then for the National Assembly to dispose.

[464] **Simon Thomas:** Steffan Lewis.

[465] **Steffan Lewis:** Wel, ar sail **Steffan Lewis:** Well, on the basis of ymateb adeiladol yr Ysgrifennydd the Cabinet Secretary's constructive Cabinet, rwy'n hapus gyda'i ymateb comments, I'm happy with his ef ac i gydweithio gydag ef ar sut y response and happy to co-operate gallwn ni gael egwyddorion fy with him on how we can get the ngwelliant i ar wyneb y Bil. principles contained within my amendment on the face of the Bill.

[466] **Mark Drakeford:** Diolch yn **Mark Drakeford:** Thank you. fawr.

[467] **Simon Thomas:** lawn, diolch yn **Simon Thomas:** Okay, thank you. fawr. Nick Ramsay. Nick Ramsay.

[468] **Nick Ramsay:** Thanks, Chair. I'm sorry, Minister, if there was a lack of clarity in that amendment. The purpose of amendment 41A, actually, was to try and gain some clarity on amendment 41, but as I say, I'm sorry if that hasn't happened. The reason for the amendment was that—and it relates to the application of the surcharge to cohabiting couples—the Land and Buildings Transaction Tax (Scotland) Act 2013 does extend the additional dwelling surcharge to cohabitants. Spouses and civil partners are treated as a single economic unit for both surcharges, meaning that ownership for a residential property by one party is attributed to the other. As I say, the Scottish Act extends this treatment to cohabitants. That doesn't happen south of the border.

[469] The purpose of this amendment, really, was to seek clarity on whether you intend to extend the additional dwelling surcharge to cohabiting couples. I believe you don't. If that is your intention—not to have that extension—then the purpose of this was simply to make it clearer to those looking at the Act.

[470] **Mark Drakeford:** I'm happy to clarify that on the record. It is not our intention that it should be extended to cohabiting couples.

[471] **Nick Ramsay:** Okay.

[472] **Simon Thomas:** Okay, thank you, You finished with an intervention at the end of a speech. That's great. Any other Member wish to speak on this? Mr Reckless.

[473] **Mark Reckless:** I would just draw attention, I think—one difficulty in discussing Nick Ramsay's amendment is a lack of knowledge about what the revenue implications of that would be. I think, on a couple of the changes you set out just now, Cabinet Secretary, related to a child who didn't have capacity or where there's a court order on divorce—it sounded very sensible to me, and I support—. My best estimate is that the cost will be relatively de minimis for those. You set out another amendment going the other way in terms of landlords previously, which would raise, perhaps, some revenue, and I suspect that Nick Ramsay's amendment would actually be quite significant in terms of the revenue it might raise, but we're not yet in a position, really, to judge these things.

[474] Just the other thing I wanted to say—I think I support what you've said in response to Steffan Lewis's amendments about powers to local authorities, but I do note you're taking I think a rather different approach elsewhere in your portfolio, where it's suggested local authorities will determine their own electoral system without even the requirement for a two thirds majority that we will have in the Assembly.

[475] **Mark Drakeford:** We'll come to that, no doubt.

[476] **Simon Thomas:** Another Bill at another time.

[477] **Mark Drakeford:** Yes, another Bill indeed. [*Laughter.*]

[478] **Simon Thomas:** The point's been made, however. Any other Member?

[479] Os felly, gofynnaf i'r Therefore, I ask the Cabinet Secretary Ysgrifennydd Cabinet ymateb i'r to reply to the debate.
ddadl.

[480] **Mark Drakeford:** Diolch yn fawr. Well, thanks to Members for their

contributions. Thanks to Steffan Lewis for the indication he gave. I'll just go back to the point that Mark Reckless made at the end, because what he said, I think, does sum up the approach I've tried to take in bringing this group of amendments forward. Essentially, we have stayed with the rules that are currently there for SDLT. Where there are changes we can make, where we can be confident the costs of doing so are marginal and where we think that that improves the operation of the supplement, then I've been willing to do that.

[481] There were a large range of other suggestions made for how we might improve its operation, where I felt that the data as to what the financial impact of doing so were unavailable to me, and although I could sometimes be attracted by the policy arguments that were being made, I felt that, without a full sense of the financial consequences of making those amendments, this wasn't the point at which I should put them before you. We take a regulation-making power, probably of the sort that Nick objected to earlier, to be able to come forward with those proposals to be able to refine the arrangements we set out here if the data become better available in future and we can come forward with arguments to the National Assembly that demonstrate the policy intent and can tell you what the cost of that will be, so Members can then make their mind up as to whether or not that's a price they would be prepared to pay. But because we're not in that position at the moment, the only changes that we are proposing to SDLT arrangements are ones where we think that the cost will be at the margin and therefore the policy change can be advanced.

[482] **Simon Thomas:** Do you want to make a quick intervention on the Minister?

[483] **Mark Reckless:** It's a question of whether I could ask whether that was also the case for the change you'd made that would bring in revenue where someone, I think, was selling a main residence and yet to buy a new one—if in the meantime they brought another property, they would be liable for the 3 per cent in Wales when they wouldn't be in England, which will bring in revenue. Do I infer from what you've just said that that would only be a minimal amount of revenue, or could that be more substantial?

[484] **Mark Drakeford:** I'm being told that it would be marginal in the amount of revenue that it would raise and, therefore, falls under the same sort of general principle adopted.

14:45

[485] **Simon Thomas:** Diolch am hynny. Os felly, y cwestiwn yw: a ddylid derbyn gwelliant 24? A oes unrhyw wrthwynebiad? Nid oes gwrthwynebiad, felly derbynnir gwelliant 24.

Simon Thomas: Thank you for that. The question, therefore, is that amendment 24 be agreed. Does any Member object? There are no objections and therefore amendment 24 is agreed.

*Derbyniwyd gwelliant 24 yn unol â Rheol Sefydlog 17.34.
Amendment 24 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 25 (Mark Drakeford).
Amendment 25 (Mark Drakeford) moved.*

[486] **Simon Thomas:** Cynigiaf welliant 25 yn enw Ysgrifennydd y Cabinet. Y cwestiwn yw: a ddylid derbyn gwelliant 25? A oes unrhyw gwrthwynebiad? Felly, derbynnir gwelliant 25.

Simon Thomas: I now move amendment 25 in the name of the Cabinet Secretary. The question is that amendment 25 be agreed. Does any Member object? Amendment 25 is therefore agreed.

*Derbyniwyd gwelliant 25 yn unol â Rheol Sefydlog 17.34.
Amendment 25 agreed in accordance with Standing Order 17.34.*

[487] **Simon Thomas:** Mark Reckless, a ydych chi'n dymuno cynnig gwelliant 95?

Simon Thomas: Mark Reckless, do you wish to move amendment 95?

[488] **Mark Reckless:** Just give me a moment, if you would, Chair, I'm just trying to find that. Do you know what page of the pack amendment 95 is on, sorry?

[489] **Nick Ramsay:** It's group 3.

[490] **Simon Thomas:** It's group 3. It was in your tax rates and bands group. Consequential, I think.

[491] **Mark Reckless:** Once again, I accept that's consequential to the amendment that has already fallen, so I won't move that.

[492] **Simon Thomas:** Not moved. Diolch yn fawr.

*Ni chynigiwyd gwelliant 95 (Mark Reckless, gyda chefnogaeth Nick Ramsay).
Amendment 95 (Mark Reckless, supported by Nick Ramsay) not moved.*

[493] **Simon Thomas:** Cyn gwaredu gwelliant 26, byddwn ni'n ymdrin â gwelliant i'r gwelliant hwnnw, sef gwelliant 26A yn enw Steffan Lewis. Steffan, a ydych chi'n dymuno cynnig gwelliant 26A?

Simon Thomas: Before disposing of amendment 26, we will deal with the amendment to that amendment, which is amendment 26A in the name of Steffan Lewis. Steffan, do you wish to move amendment 26A

[494] **Steffan Lewis:** Nac ydw.

Steffan Lewis: No, I don't.

[495] **Simon Thomas:** Nid yw'r gwelliant wedi'i gynnig.

Simon Thomas: The amendment is therefore not moved.

*Ni chynigiwyd gwelliant 26A (Steffan Lewis).
Amendment 26A (Steffan Lewis) not moved.*

[496] **Simon Thomas:** Felly, y cwestiwn yw—.

Simon Thomas: So, the question is—.

*Cynigiwyd gwelliant 26 (Mark Drakeford).
Amendment 26 (Mark Drakeford) moved.*

[497] **Simon Thomas:** Na, yn hytrach, cynigiaf i welliant 26 yn enw'r Ysgrifennydd Cabinet, felly.

Simon Thomas: No, rather, I move amendment 26 in the name of the Cabinet Secretary.

[498] Y cwestiwn yw: a ddylid derbyn gwelliant 26 heb ei ddiwygio? A oes unrhyw wrthwynebiad? Felly, derbynnir gwelliant 26.

The question is that amendment 26 be agreed. That's unamended. Does any Member object? Therefore, amendment 26 is agreed.

*Derbyniwyd gwelliant 26 yn unol â Rheol Sefydlog 17.34.
Amendment 26 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 27 (Mark Drakeford).
Amendment 27 (Mark Drakeford) moved.*

[499] **Simon Thomas:** Cynigiaf welliant 27 yn enw Ysgrifennydd y Cabinet. Y cwestiwn yw: a ddylid derbyn gwelliant 27? A oes gwrthwynebiad? Felly, derbyniwyd gwelliant 27.

Simon Thomas: I move amendment 27 in the name of the Cabinet Secretary. The question is that amendment 27 be agreed. Does any Member object? Amendment 27 is therefore agreed.

Derbyniwyd gwelliant 27 yn unol â Rheol Sefydlog 17.34.
Amendment 27 agreed in accordance with Standing Order 17.34.

Cynigiwyd gwelliant 28 (Mark Drakeford).
Amendment 28 (Mark Drakeford) moved.

[500] **Simon Thomas:** Cynigiaf welliant 28 yn enw Ysgrifennydd y Cabinet. Y cwestiwn yw: a ddylid derbyn gwelliant 28? A oes gwrthwynebiad? Nac oes, felly derbyniwyd gwelliant 28.

Simon Thomas: I move amendment 28 in the name of the Cabinet Secretary. The question is that amendment 28 be agreed. Does any Member object? Amendment 28 is agreed.

Derbyniwyd gwelliant 28 yn unol â Rheol Sefydlog 17.34.
Amendment 28 agreed in accordance with Standing Order 17.34.

Cynigiwyd gwelliant 29 (Mark Drakeford).
Amendment 29 (Mark Drakeford) moved.

[501] **Simon Thomas:** Cynigiaf welliant 29 yn enw Ysgrifennydd y Cabinet. Y cwestiwn yw: a ddylid derbyn gwelliant 29? A oes unrhyw wrthwynebiad? Nid oes, felly derbyniwyd gwelliant 29.

Simon Thomas: I move amendment 29 in the name of the Cabinet Secretary. The question is that amendment 29 be agreed. Does any Member object? No. Amendment 29 is agreed.

Derbyniwyd gwelliant 29 yn unol â Rheol Sefydlog 17.34.
Amendment 29 agreed in accordance with Standing Order 17.34.

[502] **Simon Thomas:** Steffan, a ydych chi'n dymuno cynnig welliant 81?

Simon Thomas: Steffan, do you wish to move amendment 81?

[503] **Steffan Lewis:** Nac ydw.

Steffan Lewis: No.

[504] **Simon Thomas:** Mae gwelliant 81 heb ei gynnig. **Simon Thomas:** Amendment 81 is therefore not moved.

Ni chynigiwyd gwelliant 81 (Steffan Lewis).

Amendment 81 (Steffan Lewis) not moved.

[505] **Simon Thomas:** Nawr, cyn cael gwared â gwelliant 41, byddwn ni'n ymdrin â'r gwelliant i'r gwelliant hwnnw, sef, gwelliant 41A yn enw Nick Ramsay. Nick Ramsay, a ydych chi'n dymuno cynnig gwelliant 41A? **Simon Thomas:** Now, before disposing of amendment 41, we will deal with the amendment to that amendment, which is amendment 41A in the name of Nick Ramsay. Nick Ramsay, do you wish to move amendment 41A?

Cynigiwyd gwelliant 41A (Nick Ramsay).

Amendment 41A (Nick Ramsay) moved.

[506] **Nick Ramsay:** Yes, I move the amendment.

[507] **Simon Thomas:** lawn. Y cwestiwn yw, felly: a ddylid derbyn gwelliant 41A? A oes unrhyw wrthwynebiad? *[Gwrthwynebiad.]* **Simon Thomas:** Okay. The question is that amendment 41A be agreed. Does any Member object? *[Objection.]* We'll therefore move to a Felly, cawn ni gynnal pleidlais ar welliant 41A. A gaf i ofyn, yn y lle cyntaf, i'r rhain o blaid gwelliant 41A i godi dwylo? first of all, those in favour of amendment 41A to raise their hands?

[508] Not even a cohabiting voter with you.

[509] **Nick Ramsay:** Is it time to count? *[Laughter.]*

[510] **Simon Thomas:** You certainly count.

[511] Y rhain sydd yn erbyn gwelliant 41A i godi dwylo a dangos yn glir, os gwelwch yn dda. Yn erbyn. Y rhain sydd ymatal ar welliant 41A. Diolch yn fawr. Y bleidlais, felly, oedd: o blaid gwelliant 41A, un Those against amendment 41A, please indicate clearly. Okay, and those abstaining on amendment 41A. Okay. The result was therefore one in favour, four against, and 2 abstentions. Therefore, amendment

pleidlais, yn erbyn, pedwar pleidlais, 41A is not agreed.
 dau yn ymatal. Felly, gwrthodwyd
 gwelliant 41A.

*Gwelliant 41A: O blaid 1, Yn erbyn 4, Ymatal 2.
 Amendment 41A: For 1, Against 4, Abstain 2.*

O blaid: For:	Yn erbyn: Against:	Ymatal: Abstain:
Ramsay, Nick	Hedges, Mike Morgan, Eluned Reckless, Mark Rees, David	Lewis, Steffan Thomas, Simon

*Gwrthodwyd gwelliant 41A.
 Amendment 41A not agreed.*

*Cynigiwyd gwelliant 41 (Mark Drakeford).
 Amendment 41 (Mark Drakeford) moved.*

[512] **Simon Thomas:** Cynigiaf, felly, **Simon Thomas:** I therefore move
 gwelliant 41 yn enw Ysgrifennydd y Cabinet. Y cwestiwn yw: a ddylid
 derbyn gwelliant 41 heb ei ddiwygio? amendment 41 in the name of the
 Cabinet Secretary. The question is
 A oes gwrthwynebiad? Nid oes that amendment 41 be agreed
 unamended. Does any Member
 gwrthwynebiad, felly derbyniwyd object? There are no objections, and
 gwelliant 41 heb ei ddiwygio. therefore amendment 41 is agreed
 without amendment.

*Derbyniwyd gwelliant 41 yn unol â Rheol Sefydlog 17.34.
 Amendment 41 agreed in accordance with Standing Order 17.34.*

[513] **Simon Thomas:** Mark Reckless, **Simon Thomas:** Mark Reckless, do
 a ydych chi'n dymuno cynnig you wish to move amendment 96?
 gwelliant 96?

[514] **Mark Reckless:** Which I think again is consequential upon this one.

[515] **Simon Thomas:** Consequential, yes.

[516] **Mark Reckless:** No, I won't.

[517] **Simon Thomas:** Not moved. Okay, thank you.

*Ni chynigiwyd gwelliant 96 (Mark Reckless, gyda chefnogaeth Nick Ramsay).
Amendment 96 (Mark Reckless, supported by Nick Ramsay).*

[518] **Simon Thomas:** Mark, once again,

[519] gwelliant 97. amendment 97.

[520] **Mark Reckless:** I won't move.

[521] **Simon Thomas:** Not moved.

*Ni chynigiwyd gwelliant 97 (Mark Reckless, gyda chefnogaeth Nick Ramsay).
Amendment 97 (Mark Reckless, supported by Nick Ramsay).*

*Cynigiwyd gwelliant 30 (Mark Drakeford).
Amendment 30 (Mark Drakeford) moved.*

[522] **Simon Thomas:** Cynigiaf **Simon Thomas:** I move amendment welliant 30 yn enw Ysgrifennydd y 30 in the name of the Cabinet Cabinet. Y cwestiwn yw: a ddylid Secretary. The question is that derbyn gwelliant 30? A oes amendment 30 be agreed. Does any gwrthwynebiad? Neb yn Member object? There are no gwrthwynebu, felly derbyniwyd objections, and therefore amendment gwelliant 30. 30 is agreed.

*Derbyniwyd gwelliant 30 yn unol â Rheol Sefydlog 17.34.
Amendment 30 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 31 (Mark Drakeford).
Amendment 31 (Mark Drakeford) moved.*

[523] **Simon Thomas:** Cynigiaf **Simon Thomas:** I move amendment welliant 31 yn enw Ysgrifennydd y 31 in the name of the Cabinet Cabinet. Y cwestiwn yw: a ddylid Secretary. The question is that derbyn gwelliant 31? A oes amendment 31 be agreed. Does any gwrthwynebiad? Neb yn Member object? No objections. gwrthwynebu. Felly, derbyniwyd Therefore, amendment 31 is agreed. gwelliant 31.

*Derbyniwyd gwelliant 31 yn unol â Rheol Sefydlog 17.34.
Amendment 31 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 32 (Mark Drakeford).
Amendment 32 (Mark Drakeford) moved.*

[524] **Simon Thomas:** Cynigiaf **Simon Thomas:** I move amendment welliant 32 yn enw Ysgrifennydd y 32 in the name of the Cabinet Cabinet. Y cwestiwn yw: a ddylid Secretary. The question is that derbyn gwelliant 32? A oes amendment 32 be agreed. Does any gwrthwynebiad? Neb yn Member object? No objections. gwrthwynebu. Felly, derbyniwyd Therefore, amendment 32 is agreed. gwelliant 32.

*Derbyniwyd gwelliant 32 yn unol â Rheol Sefydlog 17.34.
Amendment 32 agreed in accordance with Standing Order 17.34.*

[525] **Simon Thomas:** Cyn trafod **Simon Thomas:** Before we turn to gwelliant 46, mae eisiau dweud, os amendment 46, I should say that, if derbynnir gwelliant 46, bydd amendment 46 is agreed, gwelliant 82 yn methu. Nick, ydych amendment 82 will fall. Nick, do you chi'n dymuno cynnig gwelliant 46? wish to move amendment 46?

[526] **Nick Ramsay:** No, I don't wish to move it.

[527] **Simon Thomas:** Not moved.

*Ni chynigiwyd gwelliant 46 (Nick Ramsay).
Amendment 46 (Nick Ramsay) not moved.*

Grŵp 5: Rhyddhadau (Gwelliannau 82, 79) Group 5: Reliefs (Amendments 82, 79)

[528] **Simon Thomas:** Os felly, awn **Simon Thomas:** We will therefore ymlaen i grŵp 5, sydd yn ymwneud â move to on to group 5, which relates rhyddhadau. A'r prif welliant yn y to reliefs. The lead amendment in grŵp yma yw gwelliant 82, sydd yn this group is amendment 82, which dal i sefyll, diolch i'r drefn, yn enw still stands, thankfully, in the name Steffan Lewis. Ac, felly, galwaf ar of Steffan Lewis. And I call on Steffan Steffan Lewis i gynnig ei welliant ac i Lewis to move his amendment and to

siarad am y gwelliant a'r rhai eraill yn y grŵp. Steffan Lewis. speak to other amendments in the group. Steffan.

*Cynigiwyd gwelliant 82 (Steffan Lewis).
Amendment 82 (Steffan Lewis) moved.*

[529] **Steffan Lewis:** Diolch yn fawr, Gadeirydd—thank you, Chair. Amendment 82 inserts a new subsection into section 30 of the Bill that would require Welsh Ministers, through regulations subject to the affirmative procedure, to add a relief for land transaction tax that would apply to those chargeable transactions that have benefitted from improvements to energy efficiency. The amendment's been drafted in order to apply to a wide range of energy efficiency initiatives, including solar panels, although the precise detail would be left to regulations. I think that the Welsh Government should explore ways of incentivising energy efficiency and renewable energy generation investment in properties. This Bill has the potential, I think, to address broader policy aims, and, in this case, to incentivise energy efficiency and renewable energy generation improvements, and, indeed, would be consistent with the objectives of the Well-being of Future Generations (Wales) Act 2015, among others.

[530] It's also, I think, worth noting, on the specifics of the history of energy efficiency in relation to property tax, that commercial properties benefitting from improvements to their energy efficiency are sometimes perversely punished through greater rateable value for business rates, for example, and so perhaps this is an opportunity to do the opposite in relation to land transaction tax. Diolch.

[531] **Simon Thomas:** Diolch yn fawr. **Simon Thomas:** Thank you very much. Nick Ramsay, do you want to speak?
Nick Ramsay, a ydych chi am siarad?

[532] **Nick Ramsay:** On this, or to—

[533] **Simon Thomas:** On this group.

[534] **Nick Ramsay:** Yes. Yes, I do. I've got amendment 79. This relates to the right to buy. I'll just get to the relevant part. The reason for this is that, given that it's reasonably foreseeable that there's going to be legislation, or a risk there's going to be legislation, which will abolish the right to buy and the right to acquire, I think it would be beneficial if the tax Bill reflected this.

Although Ministers can change the rates relief under the Bill, this is something that can be changed. I think, with the intention of the Government on the right to buy legislation, it seems to me that this legislation before us, this draft Bill, doesn't actually take into account the changes that could happen. That's the reason for the amendment.

[535] **Simon Thomas:** Unrhyw Aelod **Simon Thomas:** Any other Member? arall?

[536] Any other Member wish to speak? Mike Hedges.

[537] **Mike Hedges:** It's probably a question or comment. I think Steffan will be summing up at the end, so, if I throw this out as a question at him, he can answer it at the end. Energy efficiency covers a whole range of areas. I'm old enough to remember when energy efficiency consisted of putting double glazing in, in order to stop heat loss. Now we've gone to the other extreme; we've got houses that are net contributors to the grid. I'm not quite sure how this fits in to such a wide range, because, now, nearly every house has got double glazing, but those that actually do the heavy lifting of actually contributing to the grid are far fewer. I'm not quite sure how you can manage to find a point somewhere where you draw a line. I'm sure Steffan will answer that when he sums up at the end.

[538] **Simon Thomas:** Iawn. Galwaf **Simon Thomas:** Okay. I call on the ar yr Ysgrifennydd Cabinet i siarad. Cabinet Secretary to speak.

[539] **Mark Drakeford:** Diolch yn **Mark Drakeford:** Thank you very fawr, Gadeirydd. much, Chair.

[540] If I deal, first of all, with amendment 79 that Nick Ramsay has put forward, I want to confirm that it is the Government's intention to repeal this relief if the National Assembly decides to abolish the right to buy in Wales, because, if the right to buy is abolished, then the accompanying relief provided in this Bill will also need to be repealed. So, for me, it is just a matter of where is the best place to do it: is it best to do it in an anticipatory way in this Bill or is it better to do it in the legislation that will be brought forward to abolish the right to buy? The Government's intention is to make the provision that this amendment seeks to make in that Bill. So, the legislation that we will bring forward to abolish the right to buy will make provision for the repeal of this relief. I think the reason why it is better to do it in that Bill rather than this one is that if there are to be any transitional

arrangements that that Bill sets up then it will be important to align the decision on the relief with whatever transitional arrangements it will bring forward.

[541] If it helps the Member, I'm very happy to offer to meet him and to discuss the Government's intentions in advance of Stage 3 and if he were to decide not to put this to a vote today and was not satisfied with the Government's approach, there'd still be a Stage 3 opportunity to put this amendment again, but, because I don't think we have any difference in what we're trying to achieve, just have different vehicles for achieving it, I'd be happy to offer an opportunity to explore that in more detail.

[542] **Nick Ramsay:** [*Inaudible.*] It is an intervention opportunity, isn't it? I recognise the Cabinet Secretary's offer there to have a meeting to discuss this. I just think this is one of those examples where it could be clearer, given that people out there are well aware of the intentions of the Welsh Government on the right to buy and we're aware of them. I thought that it would be helpful if that had been outlined or indicated in the Bill somehow, but if there's an alternative way of doing that then I'm happy to meet to discuss that and not to move this amendment—at this stage, anyway.

[543] **Mark Drakeford:** Well, thank you, Chair. That's a very helpful indication.

[544] I turn, then, to the other amendment in the group: amendment 82. Again, the case that Steffan Lewis puts up, in the sense of wanting to do more things to promote energy efficiency, is clearly something that the Government would wish to be associated with, but, I think, when I was before the committee previously, I set out a number of tests that I said I thought would need to be passed before new reliefs could be introduced in this legislation. My position this afternoon is that I don't think amendment 82 meets all the tests that the Government set up. So, the first test is: is there an evidence base to lie behind any proposed relief? I don't think what we've heard today amounts to an evidence base. I don't think there is an evidence base that emerged from Stage 1 proceedings; this is not covered in the committee Stage 1 report. While I'm not sceptical of the fact that an evidence base could be provided or could be brought together, I don't think we're at the point where that work has been done.

[545] The second test is: is the relief aligned with Government policy? There, I think, the amendment does—you know, there'd be a tick in the box for that

criterion. The third one is: is it cost-effective? Truthfully, we have no idea whether the relief provided by this amendment will be affordable. We don't know. It's widely drawn, as the Member has said, and, potentially, could be very expensive indeed. We simply don't know and I don't think that we have the sort of information that this committee would need to see in order to have confidence that putting this relief on the face of the legislation would be a secure course of action. I don't think we've got that at the moment.

[546] The fourth and final test is: are we confident that the relief would reach the intended beneficiary? Again, we would just need to know better. We'd need to be better informed about it. History is rather against the amendment on that score, because, as you know, there was a relief for an analogous purpose that ran for five years, up to 2012, and the evidence of it was unconvincing and the Government of the day decided not to continue with that relief. The number of transactions that qualified for the relief in that case was small, and I believe, from memory, that the average cost of a property that secured any relief was £330,000. One of the things I think you can be sure of in this relief is that the money would flow to those who have it the most, because, you know, if your property is below the threshold, you wouldn't get any help from the relief; the more you're able to invest in energy efficiency, and the bigger your house is, the better off the relief would make you.

15:00

[547] Now, having said all of that, Chair, because there is a close policy alignment with the Government and this amendment, I don't want to say that it's something that we would just want to turn our backs on. I am in the process of developing a work programme for the Welsh Treasury on tax matters. I met our tax advisory group earlier this week to talk about items that will be on that work programme, and I intend to publish the work programme in this area in April of this year. And given that the idea we've heard today does have a policy alignment with Government priorities, I'm willing to add this matter to the work programme of that group, so that some of the things that I don't think we're in a position to know enough about today to support the amendment, could be pursued and the evidence base could be firmed up, so that we would have a better idea of where the costs and benefits would lie. And, of course, the Bill, as constructed, gives the Government regulation-making powers to bring forward new reliefs, and if that work was convincing against the test I've set out, we'd then be in a position to move forward.

[548] **Steffan Lewis:** Will you take an intervention, Minister? Can you clarify the work programme that you mentioned there? Is that a work programme with an intention to look broadly at how the tax powers of the Welsh Government and the Assembly can be utilised for policy objectives? I just want a bit of clarity on what the scope of this work programme is.

[549] **Mark Drakeford:** I intend, Chair, to do two things. I intend to publish a tax policy statement for the Welsh Government, so that the way in which we will approach our new fiscal responsibilities is set out against a series of principles and objectives that members of this committee and members of the public could see, and then I will have a work programme alongside the policy statement so that people can see where we hope new work is to be undertaken. So, amongst the things on the work programme as I anticipate it at the moment will be: action to make council tax fairer; the small business rate relief scheme that we are committed to making permanent; the practical implications of a land value tax for Wales; and then I would be prepared to add to that list a review of an energy efficiency relief for land transaction tax. The purpose of doing that, as I say, would be to flesh out some of the arguments that have been made today, so that if we were able to move forward, we would be doing it on the basis of secure evidence.

[550] **Simon Thomas:** Diolch. Galwaf **Simon Thomas:** Thank you. I call on ar Steffan Lewis i ymateb i'r ddadl. **Steffan Lewis** to reply to the debate.

[551] **Steffan Lewis:** Diolch, **Steffan Lewis:** Thank you, Chair. Gadeirydd.

[552] In direct response to Mr Hedges's question, of course, I acknowledge that designing a relief that would successfully incentivise greater energy efficiency may prove difficult; it has in the past. However, the way that the amendment was worded was in order to allow for the regulations to determine the precise nature of such reliefs, so that there would be time then to create the evidence base and so on. However, in concluding, I think that, on the basis of the Cabinet Secretary's commitment that he's just made, I would be happy and content that the objectives that I have been seeking through the amendment will be met through another means, after a considerable period and attention has been given to the evidence, and to get the matter right.

[553] **Mark Drakeford:** Diolch yn fawr.

[554] **Simon Thomas:** A ydych chi felly yn chwilio am ganiatâd y pwyllgor i beidio â phleidleisio ar y cynnig?

Simon Thomas: Are you therefore looking for the committee's leave not to vote on the amendment?

[555] **Steffan Lewis:** Ydw.

Steffan Lewis: Yes.

[556] **Simon Thomas:** A ydy pawb yn hapus i'r cynnig gael ei dynnu yn ôl? Pawb yn hapus, felly mae gwelliant 82 wedi'i dynnu yn ôl.

Simon Thomas: Is everybody happy for the amendment to be withdrawn? Everyone is content, so amendment 82 has been withdrawn.

*Tynnwyd gwelliant 82 yn ôl gyda chaniatâd y pwyllgor.
Amendment 82 withdrawn by leave of the committee.*

[557] **Simon Thomas:** Rwy'n meddwl bod hwn yn gyfnod priodol inni dorri—am gyfnod byr yn unig—ond os cawn ni dorri am bum munud, os gwelwch yn dda, a dod yn ôl i ymwneud â gweddill y Bil, diolch yn fawr.

Simon Thomas: I think this is an appropriate time for us to have a short break. So, if we can break for five minutes, please, and come back to deal with the rest of the Bill, thank you very much.

*Gohiriwyd y cyfarfod rhwng 15:05 a 15:12.
The meeting adjourned between 15:05 and 15:12.*

[558] **Simon Thomas:** Galwaf y Pwyllgor Cyllid yn ôl i drefn. Awn ni yn ôl i ystyried y Bil trafodiadau tir.

Simon Thomas: I call the Finance Committee back to order. We will return to the consideration of the land transaction Bill.

**Grŵp 6: Cywiriadau Drafftio (Gwelliannau 8, 9, 3, 6, 10, 11, 12)
Group 6: Drafting Corrections (Amendments 8, 9, 3, 6, 10, 11, 12)**

[559] **Simon Thomas:** Mae grŵp 6 o'r gwelliannau i'r Bil yn ymwneud â chywiriadau drafftio. Y prif welliant yn y grŵp yw gwelliant 8, yn enw Ysgrifennydd y Cabinet.

Simon Thomas: Group 6 of the amendments to the Bill is to do with drafting corrections. The lead amendment in the group is amendment 8, in the name of the Cabinet Secretary.

Cynigiwyd gwelliant 8 (Mark Drakeford).
Amendment 8 (Mark Drakeford) moved.

[560] **Simon Thomas:** Felly, cynigiaf welliant 8 yn enw Ysgrifennydd y Cabinet, a galwaf ar Ysgrifennydd y Cabinet i siarad am y gwelliannau ac am y grŵp.

Simon Thomas: I therefore move amendment 8 in the name of the Cabinet Secretary, and I call on the Cabinet Secretary to speak to the amendments in the group.

[561] **Mark Drakeford:** Diolch, Gadeirydd. So, we have come to the first group where the changes are essentially minor and technical in nature. Amendments 3, 6, 8 and 9 are technical amendments, designed to improve the clarity of drafting. For example, amendment 3 inserts a missing 'the' into the text. Amendment 10 is necessary to update section 1 of the Tax Collection and Management (Wales) Act 2016, and this amendment will insert a reference to new Part 3A, which will be inserted by Part 7 of the LTTA Bill. Amendments 11 and 12 are minor in nature, but necessary to ensure a consistent approach to terminology used in this Bill and the tax collection and management Act, by replacing the words 'day' or 'days' with 'date' or 'dates' in section 38 of the TCMA.

[562] **Simon Thomas:** Diolch yn fawr iawn. A oes unrhyw Aelod yn dymuno siarad ar y grŵp yma? Nid oes neb am siarad. Rwy'n cymryd nad ydych am ymateb i'ch dadl eich hunan, Ysgrifennydd Cabinet, felly symudwn ymlaen. Y cwestiwn yw: a ddylid derbyn gwelliant 8? A oes gwrthwynebiad? Neb yn gwrthwynebu, felly derbyniwyd gwelliant 8.

Simon Thomas: Thank you very much. Are there any Members who wish to speak on this group? Nobody wants to speak. I take it that you don't want to reply to your own debate, Cabinet Secretary, therefore, we will move on. The question is that amendment 8 be agreed to. Is there any objection? No objection, therefore amendment 8 is agreed.

Derbyniwyd gwelliant 8.
Amendment 8 agreed.

Cynigiwyd gwelliant 9 (Mark Drakeford).
Amendment 9 (Mark Drakeford) moved.

[563] **Simon Thomas:** Cynigiaf **Simon Thomas:** I move amendment 9

welliant 9 yn enw Ysgrifennydd y in the name of the Cabinet Secretary.
Cabinet. Y cwestiwn yw: a ddylid The question is that amendment 9 be
derbyn gwelliant 9? A oes agreed. Does any Member object?
gwrthwynebiad? Felly, derbyniwyd Amendment 9 is agreed.
gwelliant 9.

Derbyniwyd gwelliant 9 yn unol â Rheol Sefydlog 17.34.
Amendment 9 agreed in accordance with Standing Order 17.34.

Cynigiwyd gwelliant 43 (Mark Drakeford).
Amendment 43 (Mark Drakeford) moved.

[564] **Simon Thomas:** Cynigiaf **Simon Thomas:** I move amendment
welliant 43 yn enw Ysgrifennydd y 43 in the name of the Cabinet
Cabinet. Y cwestiwn yw: a ddylid Secretary. The question is that
derbyn gwelliant 43? A oes amendment 43 be agreed. Does any
gwrthwynebiad? Derbyniwyd Member object? Amendment 43 is
gwelliant 43. agreed.

Derbyniwyd gwelliant 43 yn unol â Rheol Sefydlog 17.34.
Amendment 43 agreed in accordance with Standing Order 17.34.

[565] **Simon Thomas:** Nick Ramsay, **Simon Thomas:** Nick Ramsay, do you
a ydych chi'n dymuno cynnig wish to move amendment 78?
gwelliant 78?

[566] **Nick Ramsay:** Seventy-eight.

[567] **Simon Thomas:** It is in group 1.

[568] **Nick Ramsay:** Oh, removal of regulation-making powers. No, I don't.

[569] **Simon Thomas:** Not moved.

Ni chynigiwyd gwelliant 78 (Nick Ramsay).
Amendment 78 (Nick Ramsay) not moved.

[570] **Simon Thomas:** Nick Ramsay, **Simon Thomas:** Nick Ramsay, do you
a ydych chi'n dymuno cynnig wish to move amendment 79, which
gwelliant 79, yr ydym newydd ei we have just discussed?
drafod?

[571] **Nick Ramsay:** No, I don't now wish to move that, given the Cabinet Secretary's comments.

[572] **Simon Thomas:** Exactly. Thank you. Not moved.

*Ni chynigiwyd gwelliant 79 (Nick Ramsay).
Amendment 79 (Nick Ramsay) not moved.*

15:15

[573] **Simon Thomas:** Nick, a ydych chi'n dymuno cynnig gwelliant 80? **Simon Thomas:** Nick, do you wish to move amendment 80?

[574] **Nick Ramsay:** No, I don't.

*Ni chynigiwyd gwelliant 80 (Nick Ramsay).
Amendment 80 (Nick Ramsay) not moved.*

[575] **Simon Thomas:** Ac eto, a ydych chi'n dymuno cynnig gwelliant 76? **Simon Thomas:** Again, do you wish to move amendment 76?
76?

[576] **Nick Ramsay:** No, I don't.

[577] **Simon Thomas:** Not moved.

*Ni chynigiwyd gwelliant 76 (Nick Ramsay).
Amendment 76 (Nick Ramsay) not moved.*

[578] **Nick Ramsay:** I'm sorry; I'm zipping up and down on this sheet.

[579] **Simon Thomas:** A ydych chi'n dymuno cynnig gwelliant 77? **Simon Thomas:** Do you wish to move amendment 77?

[580] **Nick Ramsay:** No.

[581] **Simon Thomas:** Not moved. Not moved, I think.

[582] **Nick Ramsay:** No, not moved.

[583] **Simon Thomas:** Not moved. Thank you.

Ni chynigiwyd gwelliant 77 (Nick Ramsay).

Amendment 77 (Nick Ramsay) not moved.

Grŵp 7: Lesoedd (Gwelliannau 42, 39)

Group 7: Leases (Amendments 42, 39)

[584] **Simon Thomas:** Fe wnawn ni droi, felly, at grŵp 7. Mae grŵp 7 yn ymwneud â lesoedd. Y prif welliant yn y grŵp yma yw gwelliant 42, yn enw Ysgrifennydd y Cabinet.

Simon Thomas: We turn now to group 7, which related to leases. The lead amendment in this group is amendment 42, in the name of the Cabinet Secretary.

Cynigiwyd gwelliant 42 (Mark Drakeford).

Amendment 42 (Mark Drakeford) moved.

[585] **Simon Thomas:** Cynigiaf, felly, welliant 42 yn enw Ysgrifennydd y Cabinet, a galwaf ar Ysgrifennydd y Cabinet i siarad am y gwelliant, a'r gwelliannau eraill yn y grŵp.

Simon Thomas: I move amendment 42, therefore, in the name of the Cabinet Secretary, and I call on the Cabinet Secretary to speak to the amendment, and the others in the group.

[586] **Mark Drakeford:** Diolch yn fawr, Gadeirydd.

Mark Drakeford: Thank you very much, Chair.

[587] I thought it might be helpful to begin by just setting the context for the amendments in this group, because they stem from changes to SDLT legislation. Prior to the Finance Act 2016, SDLT legislation contained a targeted anti-avoidance rule, which prevented taxpayers in certain non-residential leasehold transactions from manipulating the terms of the lease, when granted, to avoid paying SDLT. And to ensure that similar activity does not take place in relation to land transaction tax in Wales, an equivalent rule was inserted into the Bill in front of the committee. However, the Finance Act 2016 contained a small number of changes to SDLT legislation, which included the removal of the anti-avoidance rule described above. These changes were not reflected in the LTTA Bill on introduction, as the Finance Act 2016 had not, by then, received Royal Assent. It is not entirely clear to us why the Finance Act included that change, and we would wish to retain the rule here in Wales. But, in case there is evidence that emerges that makes us

better able to understand why the Finance Act has made the change it has, we now need to make provision for adapting that position in the light of emerging experience, here and elsewhere.

[588] Amendment 42, therefore, retains the anti-avoidance rule for LTT, but introduces a regulation-making power to remove or vary it at a later date, if that is deemed to be necessary. It means that the protection of the former SDLT anti-avoidance rule will be carried over into LTT, but that the amendment would give us the ability to remove or amend the rule at a later date, as evidence emerges. Amendment 39 then ensures that this regulation-making power is subject to the affirmative procedure, and I ask Members for their support for these amendments this afternoon.

[589] **Simon Thomas:** A oes unrhyw **Simon Thomas:** Does any Member
Aelod am siarad? Mark Reckless. wish to contribute? Mark Reckless.

[590] **Mark Reckless:** Thank you, Chair. I think we sometimes have to remind ourselves that it's the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Bill—we've relatively few amendments on the second aspect. I think that reflects the Cabinet Secretary having reassured the committee at Stage 1 about a number of the complexities and potential concerns that various Members had. I wonder if I could just ask him: he says he's not sure why this change was made in the Finance Act 2016, and therefore is having to seek this amendment; has he asked the Treasury why that amendment was made and, if so, has he had any response?

[591] **Mark Drakeford:** Well, what we've done, Chair, is to explore the record as the Finance Bill was making its way through the Houses of Parliament, trying to see whether Ministers were on the record giving any clues as to why this had taken place. We've not been able to discover any so far, but it just seems sensible to make a provision now, in case there is evidence that emerges. The position in Wales is not identical to the position in England in relation to leases. This is a lease area. The amount of premium and rents paid for non-residential—

[592] **Simon Thomas:** Sorry, I'm treating this as an intervention on Mark, because otherwise we might go out of order.

[593] **Mark Drakeford:** I'm so sorry.

[594] **Simon Thomas:** Unless Mark had actually finished and you—

[595] **Mark Reckless:** I'd completed my contribution.

[596] **Simon Thomas:** You had, but I don't know if other Members wanted to come in before you responded as such to the debate. In which case, we can treat it as you responding to the debate. [*Laughter.*]

[597] **Mark Drakeford:** Thank you, Chair.

[598] **Simon Thomas:** I just wanted to make sure nobody was left out.

[599] **Mark Drakeford:** Absolutely. So, in responding, let me say we've tried to discover, through the record, what the rationale for the change in the finance Act was. We weren't able to find it in a way that made us feel confident that we would want to remove the GAAR [correction: TAAR] in relation to non-residential leases in the way that they have there, partly because the position, as I say, in Wales is different. The amount of premium and rents paid for non-residential leases is typically lower in Wales, and you could argue that that provides a greater incentive to attempt to manipulate any tax charge away completely. The purpose of the original rule is to stop taxpayers being able to pay both a premium for the grant of a lease and also for rent. So, because we think that the position in Wales may be slightly more susceptible to avoidance activity, and because we're not certain of what the case for removing the GAAR [correction: TAAR] across our border was, we'd like to retain the power, but to futureproof the Bill, so that if better evidence emerges that might make us want to alter our position on that, these amendments would allow the Welsh Ministers to come forward with such an amendment.

<p>[600] Simon Thomas: Diolch. Rydych chi wedi ymateb i'r ddadl felly. Ac rydym yn gallu symud at y cwestiwn. Y cwestiwn yw: a ddylid derbyn gwelliant 42? A oes gwrthwynebiad? Neb yn gwrthwynebu. Felly, mae gwelliant 42 wedi'i dderbyn.</p>	<p>Simon Thomas: Thank you. You have replied to the debate therefore. And we can move to the question. The question is that amendment 42 be agreed. Does any Member object? No objections. Therefore, amendment 42 is agreed.</p>
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Derbyniwyd gwelliant 42 yn unol â Rheol Sefydlog 17.34.

Amendment 42 agreed in accordance with Standing Order 17.34.

Grŵp 8: Diffiniad o 'Cwmni' (Gwelliannau 47, 48, 61)
Group 8: Definition of 'Company' (Amendments 47, 48, 61)

[601] **Simon Thomas:** Grŵp 8 yw'r diffiniad o 'cwmni' ac mae nifer o welliannau yn y grŵp yma. Y prif welliant yn y grŵp yw gwelliant 47 yn enw Nick Ramsay, ac felly gofynnaf i Nick Ramsay i gynnig y gwelliant ac i siarad am y grŵp. Nick Ramsay.

Simon Thomas: Group 8 relates to the definition of 'company'. There are a number of amendments in this group and the lead amendment is amendment 47 in the name of Nick Ramsay. I call on Nick Ramsay to move the amendment and to speak to the amendments in the group. Nick Ramsay.

*Cynigiwyd gwelliant 47 (Nick Ramsay).
 Amendment 47 (Nick Ramsay) moved.*

[602] **Nick Ramsay:** Thank you, Chair. This is a technical amendment in many ways. Under the Wales Act 2017, the formation of a business is specifically included under the list of reserved matters. Under head C of the Act, reserved matters include

[603] 'The creation, operation, regulation and dissolution of types of business association....which an individual or business association carries on business.'

[604] Therefore, a further section should be added to amendment 47 to ensure that all companies, incorporated or unincorporated, are included in line with UK legislations and definitions of a company.

[605] **Simon Thomas:** Unrhyw Aelod arall? Mark Reckless.

Simon Thomas: Any other Member? Mark Reckless.

[606] **Mark Reckless:** Can I ask—? I was just unclear from what I heard from Nick Ramsay just now about a company incorporated or unincorporated. I didn't quite understand how you could have a company that was unincorporated, or perhaps it was a reference to a company coming off the register and no longer being a company. I also didn't fully understand why the change would be made, or what the risk would be otherwise. If this is a reserved matter, aren't there clear definitions from Westminster that we can't change in any event, or have I missed an important part of the intention?

[607] **Simon Thomas:** Nick will be able to respond, but if no other Member wants to speak, I'll invite the Cabinet Secretary to speak.

[608] **Mark Drakeford:** Thank you, Chair. My understanding of amendment 47 is that it would have the effect of replacing the wider definition of 'company' provided in the Bill with the narrower definition provided by the Companies Act 2006. And while I agree that it is very important to have a definition of what we mean by a company, the definition provided in the Bill is wider for a number of important reasons. In particular, the definition currently in the Bill captures a number of bodies corporate such as certain entities formed by statute that would not be caught by the Companies Act definition. The current definition provided in the Bill also, very importantly, captures unincorporated associations such as sports clubs that are similarly not caught by the Companies Act definition. So, to give you just one example, Chair, of what the practical effect of the amendment would be, at the moment, if an unincorporated association such as Abertridwr rugby club were to buy a piece of land, then at the moment it simply makes a single return. The effect of the amendment would be that each and every member of the club would have to make a return as a buyer, or a trust deed would need to be established for a number of members to hold the land on trust for all of the other members of the club. It might be necessary, if the amendment were passed, for those clubs to send a return in every time a member joins or leaves the club if there were to be any financial payments made to acquire, or for loss of, rights.

[609] **Mark Reckless:** Would the Cabinet Secretary take an intervention?

[610] **Mark Drakeford:** Yes.

[611] **Mark Reckless:** I don't fully understand what he's been saying now. Surely, the situation would be that the legal ownership of the land—that would tend to be a number of trustees, up to four, owning it on behalf of the club and the actual ownership might well lie with the membership as a whole—but surely you wouldn't, under either scenario, be changing the legal owners every time someone joined or left the club, given only four people can, by my understanding, be legal owners in any event.

[612] **Mark Drakeford:** Let me say again, Chair, maybe more clearly, I hope, and more effectively for the record: my understanding is that, if the amendment were to be passed, any unincorporated association would need to include on its return for any land purchased a list of each and every

member of the club as a buyer. Alternatively, a trust deed would need to be established for a number of members to hold the land on trust for all of the other members of the club. It may also be necessary for those clubs to send in a return each time a member joins or leaves the club if there is any financial payment made to acquire, or for loss of, rights. LTT, like SDLT, taxes beneficial ownership, not legal ownership. I don't suppose those were necessarily the intentions of the amendment, but they would be unintended consequences of them. For those reasons, I'll be asking Members to oppose the amendment.

[613] **Simon Thomas:** Diolch. Rwy'n **Simon Thomas:** Thank you. I look edrych ymlaen at—*[Torri ar draws.]* forward—*[Interruption.]* Well, you will Wel, fe gewch chi ymyrryd ar Nick have an opportunity to intervene on Ramsay wrth iddo fe gloi os ydych Nick Ramsay as he concludes. Nick chi'n dymuno. Nick Ramsay i gloi'r Ramsay to conclude. ddadl.

[614] **Nick Ramsay:** Can I thank the Members for their comments there in that debate? No, picking up on the comment that the Cabinet Secretary made, it certainly wasn't the intention of the amendment to in any way undermine rugby clubs across Wales. *[Laughter.]* I know where my bread is buttered too much to do that. Even if you think I've made a mistake in tabling this amendment, you understand where I was coming from in doing so, and it was to avoid replication with the wider definition, which you have now said was a narrower definition of a company, actually, and to avoid stepping on the toes of the Wales Act 2017. However, having listened to what the Minister has said, and, I think, with officers' support—I could see notes flying around—this is clearly a complex area of legislation that could have consequences that I, in tabling the amendment, didn't foresee. So, I wonder if it would be possible—. Is it to not move or to withdraw this amendment at this point?

[615] **Simon Thomas:** To withdraw with the permission of the committee.

[616] **Nick Ramsay:** Because it's not the lead amendment, is it?

[617] **Simon Thomas:** It is.

[618] **Nick Ramsay:** So, if I seek the permission of the committee to withdraw this amendment at this stage, and if I could seek a further discussion with the Cabinet Secretary in advance of the next stage—

[619] **Mark Drakeford:** By all means.

[620] **Nick Ramsay:** If my initial reasons for tabling this amendment stand, then I intend to reintroduce it later, but from what the Cabinet Secretary has said, I realise that there would be problems with pushing it at this stage. So, I'll ask for permission to withdraw.

[621] **Simon Thomas:** Os felly, a **Simon Thomas:** If so, is the ydy'r pwyllgor yn cydsynio â thynnu'r committee content for the gwelliant yn ôl? Mae'r pwyllgor yn amendment to be withdrawn? The cydsynio. Felly, mae gwelliant 47 committee is content and, therefore, wedi ei dynnu yn ôl. amendment 47 is withdrawn.

*Tynnwyd gwelliant 47 yn ôl gyda chaniatâd y pwyllgor.
Amendment 47 withdrawn by leave of the committee.*

[622] **Simon Thomas:** Yn y cyd- **Simon Thomas:** In that context, Nick, destun hwnnw, Nick, a ydych chi'n do you wish to move amendment 48? dymuno cynnig gwelliant 48?

[623] It's a related amendment. Or are you not moving that?

[624] **Nick Ramsay:** Related to this—?

[625] **Simon Thomas:** It's related, yes.

[626] **Nick Ramsay:** No, I won't.

[627] **Simon Thomas:** That's not moved. Thank you. Amendment 48 not moved.

*Ni chynigiwyd gwelliant 48 (Nick Ramsay).
Amendment 48 (Nick Ramsay) not moved.*

[628] **Nick Ramsay:** And thank you for the clarification—[*Inaudible.*]

Grŵp 9: Cynlluniau Contractiol Awdurdodedig Cyfberchnogaeth (Gwelliannau 1, 38)

Group 9: Co-ownership Authorised Contractual Schemes (Amendments 1, 38)

[629] **Simon Thomas:** Fe awn ni **Simon Thomas:** We'll move therefore ymlaen, felly, i grŵp 9. Mae grŵp 9 to group 9, on the co-ownership yn ymwneud â chynlluniau contractiol authorised contractual schemes. awdurdodedig cyfberchnogaeth. That's certainly the first time that's Dyna, yn bendant, y tro cyntaf i been said in Welsh. But perhaps not hynny gael ei ddweud yn Gymraeg, the last time as we discuss this issue. rwy'n meddwl. Ond efallai nid y tro The lead amendment in the group is olaf wrth inni drafod hwn. Y prif amendment 1 in the name of the welliant yn y grŵp yw gwelliant 1, yn Cabinet Secretary. enw Ysgrifennydd y Cabinet.

15:30

*Cynigiwyd gwelliant 1 (Mark Drakeford).
Amendment 1 (Mark Drakeford) moved.*

[630] **Simon Thomas:** Felly, cynigiau **Simon Thomas:** Therefore, I move welliant 1 yn enw Ysgrifennydd y amendment 1 in the name of the Cabinet a galwaf ar Ysgrifennydd y Cabinet Secretary and I call on the Cabinet i siarad am y gwelliant a'r Cabinet Secretary to speak to the gwelliant arall yn y grŵp. amendment and the other amendment in the group.

[631] **Mark Drakeford:** Diolch yn fawr, Gadeirydd. Amendment 1, tabled in my name, is a substantive amendment and it responds to the Finance Committee's recommendation 11 in the committee's Stage 1 report. This relates, as you've heard, to co-ownership authorised contractual schemes, or CoACS. CoACS is a form of investment vehicle that is similar to a unit trust scheme, a vehicle authorised and designed for multiple people to invest collectively. In the LTT Bill, already there are special rules that treat a unit trust as though it were a company. Without this rule it would, for example, be necessary, each time the unit trust manager purchased a new property, to complete the LTT return to show each and every beneficiary as they would all be treated as joint buyers. The rule to treat the unit trust as a company avoids such administrative complications, but as a CoACS is not a trust, the unit trust rules cannot themselves operate to make their property purchases

more administratively simple.

[632] Amendment 1 introduces equivalent rules that would apply to any CoACS. The effect of this is to make property purchases more administratively simple within a CoACS arrangement—to make it more administratively simple. It's important for me to be clear that this rule does not provide for a seeding relief for CoACS or property authorised investment funds as I don't believe that there is, as yet, a strong enough case to include such a relief in the Bill at this point. Further work will be required to establish whether it is the right choice for Wales to introduce seeding reliefs of this sort. We don't have, for example, sufficient data to establish the level, if any, of this provision in SDLT. There's no extant information on the potential future demand for such a relief, and there's no analysis undertaken as yet by HMRC on the application of the SDLT portfolio test in the Welsh context.

[633] However, without a rule, there can be no relief. That's why amendment 1 is before Members today, in order to create the conditions that will be necessary to be able to introduce a seeding relief in the future, if needed, through regulations made under section 30. Bringing forward the amendment to create the rule is an important step and a recognition that reliefs of this sort may, in the future, help to attract more investment into the Welsh property market. It's possible, indeed, that the change may itself attract investment from CoACS into Wales as the change means that they would be on an equal footing with unit trust schemes.

[634] For anti-avoidance purposes, amendment 1 sets out that Ministers may make regulations to address the risk that a CoACS is deliberately constructed in a particular way for the purpose of avoiding tax, and amendment 38 makes use of this regulation power subject to the affirmative procedure.

[635] Chair, I was grateful for the work that Members did in exploring this issue during Stage 1 proceedings. I thought that the recommendations in the Stage 1 report were helpful in clarifying a number of issues here, and I'm glad to have been able to bring forward an amendment to respond to that work in Stage 2.

[636] **Simon Thomas:** Unrhyw Aelod **Simon Thomas:** Do any other yn dymuno siarad? Pawb yn hapus? Members wish to speak? Everyone Ysgrifennydd Cabinet, a ydych chi am content? Cabinet Secretary, do you ychwanegu unrhyw beth, neu a ydych want to add anything, or are you

chi'n hapus wedi ichi osod allan y happy, given that you've laid out the
gwelliannau? amendments?

[637] **Mark Drakeford:** Na, dim **Mark Drakeford:** No, thank you. I'm
diolch. Rwy'n hapus. happy.

[638] **Simon Thomas:** Os felly, y **Simon Thomas:** Therefore, the
cwestiwn yw: a ddylid derbyn question is that amendment 1 be
gwelliant 1? A oes gwrthwynebiad? agreed to. Does any Member object?
Neb yn gwrthwynebu. Derbyniwyd No objection. Therefore, amendment
gwelliant 1. 1 is agreed.

Derbyniwyd gwelliant 1 yn unol â Rheol Sefydlog 17.34.

Amendment 1 agreed in accordance with Standing Order 17.34.

[639] **Simon Thomas:** Rydym nawr **Simon Thomas:** We now move on to
yn mynd ymlaen i waredu rhai dispose of other amendments we've
gwelliannau yr ydym eisoes wedi'u already discussed. Nick Ramsay, do
trafod. Nick Ramsay, a ydych chi'n you wish to move amendment 49?
dymuno cynnig gwelliant 49?

[640] It's on regulation-making powers, if that helps.

[641] **Nick Ramsay:** No, I don't wish to move.

[642] **Simon Thomas:** Not moved.

Ni chynigiwyd gwelliant 49 (Nick Ramsay).

Amendment 49 (Nick Ramsay) not moved.

[643] **Simon Thomas:** Nick Ramsay, **Simon Thomas:** Nick Ramsay, do you
a ydych chi am gynnig gwelliant 50? wish to move amendment 50?

[644] **Nick Ramsay:** No, I don't.

[645] **Simon Thomas:** Diolch yn fawr. Not moved.

Ni chynigiwyd gwelliant 50 (Nick Ramsay).

Amendment 50 (Nick Ramsay) not moved.

[646] **Simon Thomas:** Mark Reckless, **Simon Thomas:** Mark Reckless, do

a ydych yn dymuno cynnig gwelliant you wish to move amendment 98?
98?

[647] Group 2: land partly in Wales and partly in England.

[648] **Mark Reckless:** I'm just checking the pages; if you just give me 30 seconds, Chair. Yes, I think I do, Chair. I'm slightly surprised by the grouping on this.

[649] **Simon Thomas:** It's deliberately designed to trick.

[650] So, to be clear, you want to move amendment 98. Correct?

Cynigiwyd gwelliant 98 (Mark Reckless).

Amendment 98 (Mark Reckless) moved.

[651] **Mark Reckless:** Yes, but I notify Members that it's on page 54. I don't know if, Chair, we might have 10 seconds to read it, even if I'm not allowed to speak to it now.

[652] **Simon Thomas:** That's fine. It would have been within that group somewhere.

[653] Y cwestiwn yw: a ddylid The question is that amendment 98
derbyn gwelliant 98 yn enw Mark in the name of Mark Reckless be
Reckless? A oes gwrthwynebiad? agreed to. Does any Member object?
[Gwrthwynebiad.] Mae [Objection.] There is objection,
gwrthwynebiad, felly cynhelir therefore we will hold a vote on
pleidlais ar welliant 98. Yn gyntaf oll, amendment 98. First, those in favour
os caf weld y rheini sydd o blaid of amendment 98 please raise your
gwelliant 98 yn dangos hynny trwy hands? Thank you very much. Those
godi eu dwylo, os gwelwch yn dda? against amendment 98? There are no
Diolch yn fawr. Y rhai sydd yn erbyn abstentions. Therefore, the vote was:
gwelliant 98 i ddangos hynny trwy one in favour of amendment 98, six
godi eu dwylo? Diolch. Nid oes neb against amendment 98. Therefore,
yn ymatal. Felly, y bleidlais oedd: un amendment 98 is not agreed.
o blaid gwelliant 98, chwech yn erbyn
gwelliant 98. Felly, gwrthodwyd
gwelliant 98.

Gwelliant 98: O blaid 1, Yn erbyn 6, Ymatal 0.

Amendment 98: For 1, Against 6, Abstain 0.

O blaid:	Yn erbyn:	Ymatal:
For:	Against:	Abstain:
Reckless, Mark	Hedges, Mike Morgan, Eluned Ramsay, Nick Rees, David Lewis, Steffan Thomas, Simon	

*Gwrthodwyd gwelliant 98.**Amendment 98 not agreed.*

[654] **Simon Thomas:** Nick Ramsay, **Simon Thomas:** Nick Ramsay, do you wish to move amendment 51?
a ydych yn dymuno cynnig gwelliant 51?

[655] **Nick Ramsay:** Pum deg un? **Nick Ramsay:** Fifty-one?

[656] **Simon Thomas:** Pum deg un—

[657] It's part of regulation-making powers.

[658] **Nick Ramsay:** No. I don't wish to move that.

[659] **Simon Thomas:** Not maged.

*Ni chynigiwyd gwelliant 51 (Nick Ramsay).**Amendment 51 (Nick Ramsay) not moved.*

[660] Nick Ramsay, a ydych yn Nick Ramsay, do you wish to move
dymuno cynnig gwelliant 52? amendment 52?

[661] **Nick Ramsay:** No.

*Ni chynigiwyd gwelliant 52 (Nick Ramsay).**Amendment 52 (Nick Ramsay) not moved.*

[662] **Simon Thomas:** A'r un **Simon Thomas:** And the same
cwestiwn ar welliant 53. question on amendment 53.

[663] **Nick Ramsay:** No.

[664] **Simon Thomas:** Not moved.

*Ni chynigiwyd gwelliant 53 (Nick Ramsay).
Amendment 53 (Nick Ramsay) not moved.*

[665] Nick Ramsay, a ydych yn Nick Ramsay, do you wish to move dymuno cynnig gwelliant 54? Mae'n amendment 54? I have to say that if rhaid dweud, os derbynnir gwelliant amendment 54 is agreed, 54, bydd gwelliant 33 yn cwmpo. amendment 33 will fall. Nick Ramsay, Nick Ramsay, a ydych chi am gynnis do you wish to move amendment 54? gwelliant 54?

[666] **Nick Ramsay:** No, I don't wish to move it.

[667] **Simon Thomas:** Not moved. Okay.

*Ni chynigiwyd gwelliant 54 (Nick Ramsay).
Amendment 54 (Nick Ramsay) not moved.*

*Cynigiwyd gwelliant 33 (Mark Drakeford).
Amendment 33 (Mark Drakeford) moved.*

[668] **Simon Thomas:** Fel Cadeirydd, [669] **Simon Thomas:** As Chair, I cynigiau welliant 33 yn enw move amendment 33 in the name of Ysgrifennydd y Cabinet. Y cwestiwn the Cabinet Secretary. The question yw: a ddylid derbyn gwelliant 33? A is that amendment 33 be agreed to. oes gwrthwynebiad? Nid oes neb yn Is there any objection? There's no gwrthwynebu, felly mae gwelliant 33 objection, therefore amendment 33 wedi'i dderbyn. is agreed.

*Derbyniwyd gwelliant 33 yn unol â Rheol Sefydlog 17.34.
Amendment 33 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 34 (Mark Drakeford).
Amendment 34 (Mark Drakeford) moved.*

[670] **Simon Thomas:** Cynigiau hefyd **Simon Thomas:** I also move welliant 34 yn enw Ysgrifennydd y amendment 34 in the name of the

Cabinet. Y cwestiwn yw: a ddylid Cabinet Secretary. The question is derbyn gwelliant 34? A oes that amendment 34 be agreed to. gwrthwynebiad? Felly, derbynnir Does any Member object? Therefore, gwelliant 34 amendment 34 is agreed.

Derbyniwyd gwelliant 34 yn unol â Rheol Sefydlog 17.34.

Amendment 34 agreed in accordance with Standing Order 17.34.

Grŵp 10: Gohirio Treth (Gwelliannau 2, 4 a 10)
Group 10: Deferral of Tax (Amendments 2, 4 and 10)

[671] **Simon Thomas:** Rydym yn awr We now move to group 10. Group 10 yn symud i grŵp 10. Mae grŵp 10 yn relates to the deferral of tax. The ymwneud â gohirio treth. Y prif lead amendment in the group is welliant yn y grŵp yw gwelliant 2 yn amendment 2 in the name of the enw Ysgrifennydd y Cabinet. Cabinet Secretary.

Cynigiwyd gwelliant 2 (Mark Drakeford).

Amendment 2 (Mark Drakeford) moved.

[672] Felly, fel Cadeirydd, rwy'n **Simon Thomas:** Therefore, as Chair, I cynnig gwelliant 2 yn enw move amendment 2 in the name of Ysgrifennydd y Cabinet ac yn the Cabinet Secretary and call on the gwahodd Ysgrifennydd y Cabinet i Cabinet Secretary to speak to the siarad am y gwelliant a'r gwelliannau amendment and the other eraill yn y grŵp. amendments in the group.

[673] **Mark Drakeford:** Diolch yn fawr, Gadeirydd. So, the Government amendments in this group are relatively technical in nature, but they are all designed to strengthen protections provided to the taxpayer. They all relate to deferral rules, and the amount of tax associated with these rules and these new protections are set out in amendments 2, 4 and 5.

[674] The LDT deferral rules allow a taxpayer who would otherwise have to pay tax in respect of an amount that is currently contingent or uncertain and therefore has not been paid to the seller, to apply to defer payment until such a time as the uncertainty is resolved, and it is clear whether and how much they will have to pay. So, to give you a practical example, Chair: if someone buys a piece of land, where there is potential planning permission, and agrees to pay a certain price for that land, but to provide an additional amount, were planning permission to be granted, then that amount is

contingent on a future event and uncertain.

[675] What these amendments do is to make it clear in amendment 2—amendment 2 changes the meaning of the expected end date in relation to deferral rules. It will mean that if a taxpayer makes a request to defer tax, but is not able to predict a date by when any uncertain or contingent consideration may be determined, the fifth anniversary of the effective date of the transaction must be used as the end date for the deferral period. It's a technical amendment, therefore, that puts beyond a doubt that, in cases where it is genuinely impossible for the taxpayer to predict when the relevant uncertainty will be resolved, they may still apply to defer the payment of tax.

[676] Amendment 4 changes the day on which interest starts to run on a deferred amount. Currently, subsection (1)(b) sets interest running on a deferred amount on the same day as payment is required. So, even if the taxpayer paid on the day it was due, they would have accrued interest for that day. This amendment changes the date so that interest runs from the day following the day when the deferred amount is required to be paid. The consequence of this is that it avoids the taxpayer accruing that day's—worth of interest, even though they have paid LTT on time, thus making the deferral process fairer.

[677] Amendment 5 changes the day on which payment is required of an amount of LDT where a deferral application is refused, so that instead of this being the filing date in every case, it is the later of the day on which the notice of refusal is received and the filing date. If I misspoke, as they would say elsewhere, I shall make clear that it is LTT, not LDT, if I got that wrong. We're still talking about land transaction tax here. So, amendment 5 changes the late payment interest to start on the same day. The practical effect is to clarify when a taxpayer is required to pay tax, where a deferral request has been refused and when interest starts to accrue on that amount. In particular, the amendment clarifies the effect in a case where the WRA refuses a request before the relevant filing date. This provides additional clarity and protection for the taxpayer, and I hope Members will be willing to support these amendments.

[678] **Simon Thomas:** A oes unrhyw **Simon Thomas:** Does any Member Aelod am siarad? Pawb yn hapus. wish to speak? Everyone seems to be Ysgrifennydd Cabinet, a ydych chi am content. Cabinet Secretary, do you ychwanegu unrhyw beth? A ydych wish to add anything? Are you happy chi'n hapus i symud? Os felly, y to move to a vote? The question,

cwestiwn yw: a ddylid derbyn therefore, is that amendment 2 be
gwelliant 2? A oes gwrthwynebiad? agreed to. Does any Member object?
Derbyniwyd gwelliant 2. Amendment 2 is therefore agreed.

Derbyniwyd gwelliant 2 yn unol â Rheol Sefydlog 17.34.
Amendment 2 agreed in accordance with Standing Order 17.34.

Cynigiwyd gwelliant 3 (Mark Drakeford).
Amendment 3 (Mark Drakeford) moved.

[679] **Simon Thomas:** Cynigiaf **Simon Thomas:** I move amendment 3
welliant 3 yn enw Ysgrifennydd y in the name of the Cabinet Secretary.
Cabinet. Y cwestiwn yw: a ddylid The question is that amendment 3 be
derbyn gwelliant 3? A oes agreed to. Does any Member object?
gwrthwynebiad? Derbyniwyd Amendment 3 is therefore agreed.
gwelliant 3.

Derbyniwyd gwelliant 3 yn unol â Rheol Sefydlog 17.34.
Amendment 3 agreed in accordance with Standing Order 17.34.

Cynigiwyd gwelliant 4 (Mark Drakeford).
Amendment 4 (Mark Drakeford) moved.

[680] **Simon Thomas:** Cynigiaf **Simon Thomas:** I move amendment 4
welliant 4 yn enw Ysgrifennydd y in the name of the Cabinet Secretary.
Cabinet. Y cwestiwn yw: a ddylid The question is that amendment 4 be
derbyn gwelliant 4? A oes agreed to. Does any Member object?
gwrthwynebiad? Derbyniwyd Amendment 4 is agreed.
gwelliant 4.

Derbyniwyd gwelliant 4 yn unol â Rheol Sefydlog 17.34.
Amendment 4 agreed in accordance with Standing Order 17.34.

Cynigiwyd gwelliant 5 (Mark Drakeford).
Amendment 5 (Mark Drakeford) moved.

[681] **Simon Thomas:** Cynigiaf **Simon Thomas:** I move amendment 5
welliant 5 yn enw Ysgrifennydd y in the name of the Cabinet Secretary.
Cabinet. Y cwestiwn yw: a ddylid The question is that amendment 5 be
derbyn gwelliant 5? A oes agreed to. Does any Member object?
gwrthwynebiad? Derbyniwyd Amendment 5 is agreed.

gwelliant 5.

Derbyniwyd gwelliant 5 yn unol â Rheol Sefydlog 17.34.

Amendment 5 agreed in accordance with Standing Order 17.34.

[682] **Simon Thomas:** Os derbynnir **Simon Thomas:** If amendment 55 is gwelliant 55, bydd gwelliant 6 yn agreed, amendment 6 will fall. Nick methu. Felly, Nick Ramsay, a ydych Ramsay, do you wish to move chi'n dymuno cynnig gwelliant 55? amendment 55?

[683] **Nick Ramsay:** No, I don't wish to move it.

[684] **Simon Thomas:** Not moved.

Ni chynigiwyd gwelliant 55 (Nick Ramsay).

Amendment 55 (Nick Ramsay) not moved.

Cynigiwyd gwelliant 6 (Mark Drakeford).

Amendment 6 (Mark Drakeford) moved.

[685] **Simon Thomas:** Ac felly, **Simon Thomas:** And therefore, I cynigiau welliant 6 yn enw move amendment 6 in the name of Ysgrifennydd y Cabinet. Y cwestiwn the Cabinet Secretary. The question yw: a ddylid derbyn gwelliant 6? A is that amendment 6 be agreed to. oes gwrthwynebiad? Derbyniwyd Does any Member object? gwelliant 6. Amendment 6 is therefore agreed.

Derbyniwyd gwelliant 6 yn unol â Rheol Sefydlog 17.34.

Amendment 6 agreed in accordance with Standing Order 17.34.

Grŵp 11: Cais am Wybodaeth gan y Cofrestrydd Tir (Gwelliant 99)
Group 11: Request for Information from Land Registrar (Amendment 99)

[686] **Simon Thomas:** Rydym yn awr **Simon Thomas:** We now turn to yn troi at grŵp 11: cais am group 11, which relates to requesting wybodaeth gan y cofrestrydd tir. Yr information from the land registrar. Yr unig welliant yn y grŵp yma yw The only amendment in this group is gwelliant 99 yn enw Mark Reckless. amendment 99 in the name of Mark Galwaf felly ar Mark Reckless i gynnig Reckless, and I call on Mark Reckless gwelliant 99. to move amendment 99.

Cynigiwyd gwelliant 99 (Mark Reckless).

Amendment 99 (Mark Reckless) moved.

[687] **Mark Reckless:** Diolch, Gadeirydd. The move to land transaction tax represents a potential challenge for solicitors and other land conveyancers. I think, for the largest firms in the business anywhere in the UK and for Welsh-based firms, this will be less problematic, and this will be sort of higher up their awareness than may be the case for smaller, English solicitors who may only very occasionally undertake a land transaction in Wales. We have explored this as a committee at Stage 1 and I'm particularly keen to ensure that there are appropriate arrangements so that as wider range of professionals as possible can easily get up to speed on this issue. Clearly, as professionals, they ultimately have a duty to do that. However, in practice, in a scenario when, for the first time, a particular English solicitor or conveyancer might attempt to transact a property transaction in Wales and isn't necessarily aware, or hasn't had experience of submitting a land transaction tax return to the Welsh Revenue Authority. I am keen to ensure that our procedures, as such, help and facilitate them, and ease that path rather than there being unnecessary barriers in the way to that. As part of that, I propose this amendment.

15:45

[688] I haven't myself kept up to speed with changing practice in conveyancing. I had a seat as a trainee solicitor in a property field and got some sort of experience then, but that's now several years ago. What I at least then would have described as office copies would be sent to us at a stage in the transaction. What I am seeking is what I believe is at least an equivalent stage in the process now: when that is for a transaction in Wales, as part of that procedure, there is a notification to the person, usually a professional requesting that, that the land is in Wales—once we've got that mapped, that will make that definitive—and alerting them to the need in each instance to make the tax payment to the Welsh Revenue Authority rather than to HMRC.

[689] For similar reasons, regarding other bodies—HMRC or the WRA—when someone seeks to incorrectly pay a transaction to them, I think it would be useful—if not in legislation, but at least in guidance and practice—that some notification is given to the person trying to make that payment that they are seeking to pay to the wrong body and directing them to the appropriate body. So, I think this would be assisted if, at least when the transaction in

Wales was prepared, there was at least a standard notification, perhaps for a transitional period, that the tax would be payable to the WRA rather than to HMRC.

[690] **Simon Thomas:** A oes unrhyw **Simon Thomas:** Does any other Aelod arall yn dymuno siarad? Os nad Member wish to contribute? If not, I oes, fe wnaf i ofyn i Ysgrifennydd y will therefore ask the Cabinet Cabinet siarad. Secretary to speak.

[691] **Mark Drakeford:** Chair, I should begin by saying that I entirely agree with the general points that have just been made—that it is important to use as many opportunities as possible to ensure that taxpayers and their agents are aware of this new Act. My problem with the amendment is not in its intent, but that, in the way that it is drawn up, it may place an unnecessary and onerous burden on the Land Registry. That is because the term ‘proposed transaction’, as it is used in the amendment, does not have, I believe, a clear enough meaning and, as currently drafted, may cover a huge volume of cases where the enquiry to the Land Registry is not relevant to the Act but would still be captured by the amendment. For example, with first registrations or changes to the charges recorded on the register that do not necessarily have any tax implication, this amendment would require the Land Registry to provide information about this Act in those cases. That would place a significant burden on the Land Registry for no clear benefit to the recipient of that information.

[692] I think there are some difficulties in a second or subsidiary sense with the amendment, because it’s unclear how the registrar would know what the purpose of a request made would be. That would, if this amendment were to be passed, require a person who seeks information from the Land Registry to explain the nature of that request in order for the Land Registry to be able to discharge this obligation. I don’t know that we think that that is a proper obligation to place on the shoulders of a person simply seeking information from the registry.

[693] What I do want to say is that the WRA, HMRC and the Land Registry are working very closely together. I want them to achieve the effect that this amendment is intended to bring about, but I think we can do it without the possibly unintended consequences that the amendment, as currently drafted, would create. So, I’m going to ask the Members to vote against the amendment—not because I have any difference of view about what it’s intending to achieve, but because I think that there are better ways of

achieving it and that the amendment, as drafted, may have some significant downsides to it as well as, no doubt, being beneficial in some cases.

[694] **Simon Thomas:** Mark, a ydych chi am ymateb? **Simon Thomas:** Mark, do you wish to reply?

[695] **Mark Reckless:** I accept what the Cabinet Secretary says. My amendment had initially been intended to be grouped with—. I'd intended it to be similar to amendment 98, which was with reference to HMRC and WRA. Unfortunately, that amendment, in error, referenced only land that was straddling the border, and I think, more usefully, a requirement on HMRC and WRA might apply when someone seeks to make the payment to the wrong one, that being a narrower set of circumstances than the wider set of circumstances, and the Minister has rightly given me some examples over and above those that I considered when tabling the amendment. So, I'm very happy to accept what he says, and I look forward to whatever may be said, or produced, or future communications as to intention in terms of guidance, before considering whether to submit a perhaps improved amendment at stage 3. But, with permission of the committee, I would like to withdraw the amendment.

[696] **Simon Thomas:** Is the committee content that the amendment be withdrawn?

[697] **Simon Thomas:** Pawb yn hapus, felly nid yw gwelliant 91 wedi cael ei gynnig—wedi cael ei dynnu'n ôl, yn hytrach, yn ffurfiol. **Simon Thomas:** Everyone is content, and therefore amendment 99 is not moved—or is withdrawn, rather.

*Tynnwyd gwelliant 99 yn ôl gyda chaniatâd y pwyllgor.
Amendment 99 withdrawn by leave of the committee.*

Grŵp 12: Adolygu Darpariaethau'r Bil (Gwelliannau 83, 84, 100)
Group 12: Reviewing the Bill's Provisions (Amendments 83, 84, 100)

[698] **Simon Thomas:** Rydym ni'n symud ymlaen, felly, i grŵp 12. Mae grŵp 12 yn ymwneud ag adolygu darpariaethau'r Bil. Y prif welliant yn y grŵp yma yw gwelliant 83 yn enw Steffan Lewis, ac felly galwaf ar **Simon Thomas:** We move, therefore, to group 12, which relates to reviewing the Bill's provisions. The lead amendment in the group is amendment 83 in the name of Steffan Lewis, and I call Steffan Lewis

Steffan Lewis i gynnig gwelliant 83, ac i siarad am y gwelliannau eraill yn y grŵp.

to move amendment 83, and to speak to the other amendments in the group.

*Cynigiwyd gwelliant 83 (Steffan Lewis).
Amendment 83 (Steffan Lewis) moved.*

[699] **Steffan Lewis:** Diolch, Gadeirydd. Mae gwelliannau 83 ac 84, fel rydych chi'n gallu gweld, yn gwneud pethau tebyg iawn. Mae gwelliant 83 yn creu adran newydd yn rhan 8 o'r Bil, a fydd yn gofyn i'r Gweinidogion Cymreig i greu *review* annibynnol ar weithredu'r Ddeddf, a hefyd i roi'r adroddiad hwnnw gerbron y Cynulliad Cenedlaethol. Mae'r gwelliant yn ei gwneud hi'n ofynnol i wneud hyn o fewn tair blynedd ar ôl i'r Ddeddf gael *Royal Assent*, ac i'r adroddiad canlyniadol, wedyn, i ddod i'r Cynulliad ac i gael ymateb gan Lywodraeth Cymru o fewn pum mlynedd. Rwy'n meddwl bod elfen bwysig iawn fan hyn yw— rwy'n meddwl bod yna gytundeb ynglŷn ag a ddylid cael rhyw fath o adroddiad annibynnol ar weithredu'r Ddeddf, ond, wrth gwrs, rwy'n meddwl bod y cyfnod yn bwysig, ac rwy'n meddwl bod cael tair blynedd yn rhoi digon o gyfle i ni ystyried a yw'r Ddeddf wedi gweithio ac wedi gweithredu.

Steffan Lewis: Thank you, Chair. Amendments 83 and 84, as you can see, do very similar things. Amendment 83 creates a new section in part 8 of the Bill, which will require Welsh Ministers to create an independent review of the operation of this Act, and also to place that report before the National Assembly. The amendment makes it a requirement to do this within three years of the Royal Assent of this Act, and for the consequential report to be tabled to the Assembly, and to be responded to by the Welsh Government within five years. I think there's a very important element here, and I do think there is agreement that there should be some sort of independent report on the implementation of the Act, but I do think that the period of time is important, and having that three-year period does give sufficient opportunity to consider whether the Act has worked and has been implemented properly.

[700] Gyda gwelliant 100, yn enw Mark Reckless, nid ydw i'n siŵr a yw 12 mis yn ddigon o amser i wir bwysio a mesur a yw'r Ddeddf wedi gweithio, neu a oes problemau gyda'r Ddeddf, felly dyna pam, yng

In terms of amendment 100 in the name of Mark Reckless, I'm not sure whether 12 months is enough time to truly evaluate whether the legislation has worked or if there are problems, so that is why, in amendment 83, I

ngwelliant 83, rydw i wedi rhoi have proposed a three-year period cynnig am dair blynedd, gyda phum with a five-year period for response, mlynedd wedyn i ymateb, ac wedyn and then in 84, that there should be yn 84, un ar ôl pum mlynedd gyda one after five years, with a seven-saith mlynedd, wedyn, i gyhoeddi ac year period to report. Very ymateb i'r adroddiad. Yn bwysig iawn importantly as well, unlike Mr hefyd, yn wahanol i welliant Mr Reckless's amendment, I have Reckless, rydw i wedi cynnig ein bod proposed that we should have an ni'n cael adroddiad annibynnol. Nid independent review and report. There oes manylder ynglŷn â, yn gwmws, is no detail as to the exact nature of natur y math o adroddiad yng what's proposed in amendment 100. ngwelliant 100.

[701] **Simon Thomas:** Diolch. Mark Reckless, a ych chi am siarad? **Simon Thomas:** Mark Reckless, do you wish to speak?

[702] **Mark Reckless:** Yes, I do. I mean, I think my amendment could be complementary to Steffan Lewis's amendment. The timescale of—. To emphasise, I'm not sure whether it was already said by the Member, but I think there are two distinct purposes of Steffan Lewis's amendment: the first is to consider the operation of the Act, and the second of which is to consider alternatives to the Act. I think the time periods are clearly significantly more leisurely than that proposed in my amendment. However, I think that that is balanced by the nature of the sort of independent review and perhaps more formal process that he envisages, with wider input from across Wales and potential alternative jurisdictions, whereas I'm simply asking Ministers to consider the operation of the Act.

[703] The other area that I specifically draw out is its application to professionals. And, again, I refer to this issue of the occasional transaction that may be undertaken by a small firm of English solicitors. And I say this not particularly because I want to represent small firms of English solicitors, but I just have a concern that, when we bring in devolved taxes and when we change legislation so that it's different than in England, I don't think it would be helpful to Wales if a reputation or expectation developed amongst the legal profession in England that somehow dealing with a Welsh transaction here in respect of land was difficult or was such a thing that they want to throw up their hands and not get involved in it. I think perhaps that might lead to more work for firms of solicitors based in Wales, but I think there's also a risk that people undertaking business across the border might determine that there was a greater level of complexity in doing business in

Wales and, given the relatively limited import of that for their business, they wouldn't put in the steps to be able to do that. I think that that would be unfortunate for Wales as devolution develops. So, I refer to that specifically, but also believe that some of the financial implications we were talking about, particularly with the OBR and the talent that we're bringing in to the Welsh Revenue Authority—perhaps, you know, there are arguments as to what the period should be, but I think Ministers should be looking to get more information and to review the operation of the Act as the first bit of tax legislation where there may well be relevant lessons to be learned from elsewhere, and I don't doubt that Ministers will be sensibly doing that in any event, but I thought it would be helpful, at least on a probing basis, to put that amendment forward today.

[704] **Simon Thomas:** Unrhyw Aelod **Simon Thomas:** Any other Members? arall? Nac oes? Os felly, gofynnaf i'r No? Therefore, I call on the Cabinet Ysgrifennydd Cabinet siarad. Secretary to speak.

[705] **Mark Drakeford:** Diolch, Gadeirydd. So, let me begin by saying that I am very keen that the operation of this tax should be monitored and reviewed. I've made a number of commitments this afternoon in front of the committee, for example, in relation to the introduction of new reliefs and to the way we will monitor the impact of the surcharge on additional residential properties, where it's clear we have an articulated intention to monitor and review. So, there is no difficulty for me in principle in amendment 83, or, indeed, in aspects of amendment 100 either. My difficulty with amendment 100 is essentially one of timing and what seems to me to be the excessively short time it sets for the production of a report. Amendment 100 requires such a report to be laid before the Assembly no later than 12 months after the day on which the Bill is brought into operation via commencement Order under section 79(2). While Welsh Ministers may well wish to bring certain parts of the Bill into force in advance of April 2018, the implication is that the report would need to be written and laid before the National Assembly within only a few months of LTT being in operation, and Mark Reckless acknowledged some of that in what he said. So, it's an issue of timing, for me, that is the essential difficulty with 100.

[706] With amendment 83, there are some technical issues with the way the amendment is drafted, its alignment with some of the TCMA obligations on the WRA to produce reviews and reports before the Assembly, which I think I'd want to offer an opportunity at least to be able to discuss with the mover of amendment 83 to make sure that we've got an amendment that does

everything we want it to do. I feel confident we could do that.

[707] **Mark Reckless:** Minister, I'm sorry, could you just spell out TCMA?

[708] **Mark Drakeford:** Tax collection and management Act policies.

[709] **Mark Reckless:** Thank you.

[710] **Mark Drakeford:** So, the tax collection and management Act places certain reporting obligations on the WRA. We'd want to make sure these things were aligned sensibly to make sure that work isn't duplicated and so on. So, I feel confident that, with discussion, we could be in a position to bring forward an amendment at Stage 3 that would do what amendment 83 is seeking to do. I feel the same about amendment 84, although there are some slightly more competence questions that we'd have to be sure of in relation to amendment 84. As I understand the amendment, it's to ensure that, in future, there is a first-principles review of the tax undertaken and consideration given to whether it would be replaced with one of a different nature such as land value tax. I've already said this afternoon, Chair, that I'm keen to have work in hand to look at the practical application of land value tax in Wales to see whether it is a genuine runner, a genuine alternative that we could take forward in future.

16:00

[711] The Assembly's competence currently is to create devolved taxes in Wales in a strictly limited way and we need to make sure that any review would reflect the Assembly's legislative competence in this area. But I make the same offer in relation to amendment 84 as in relation to 83—that, the Member moving the amendment, I'd be very happy for him to be able to meet officials, discuss the drafting, and see if there is an amendment that he would be prepared to bring forward at Stage 3—

[712] **Mark Reckless:** Cabinet Secretary, would you take an intervention there?

[713] **Mark Drakeford:** Yes.

[714] **Mark Reckless:** Amendment 84 doesn't mention land value tax per se and we do have council tax and business rates devolved as well. Isn't that part of the rationale for the devolution of land transaction tax pursuant to

the Silk commission, that there may be some relation, potentially, between those taxes?

[715] **Mark Drakeford:** I agree with that general point. I'm very keen that, as a finance Minister, I'm able to take a view of the way that the different taxes that will be devolved to the Assembly operate and their relationship with one another and their potential interrelationship at the point of view of the citizen who is on the receiving end of all these different strands. So, I agree with that point. Whether that is captured by the amendment and the review that it proposes, well, discussions between now and Stage 3 would allow us to pursue that and flesh it out and see whether it's possible to come back with something that we're confident will do the job and that the amendment sets out to achieve and does it in a way that is technically secure and competent.

[716] **Simon Thomas:** Steffan Lewis i ymateb. **Simon Thomas:** Steffan Lewis to reply.

[717] **Steffan Lewis:** Gydag hynny ac awgrymiadau'r Ysgrifennydd Cabinet, a allaf i gael—a oes yn rhaid i mi ofyn i'r pwyllgor am ganiatâd i dynnu gwelliannau 83 ac 84 yn ôl? **Steffan Lewis:** With that and with the suggestions of the Cabinet Secretary, can I—do I have to ask the committee for permission to withdraw amendments 83 and 84?

[718] **Simon Thomas:** Os gwelwch yn dda, oes. **Simon Thomas:** Yes, please.

[719] **Ocê.** Gwelliant 83 yn gyntaf. A ydy'r pwyllgor yn gytûn—na, yn hytrach, a oes gwrthwynebiad i dynnu gwelliant 83 yn ôl? **Okay.** Amendment 83 first. Is the committee content—is there any objection to withdrawing amendment 83?

[720] **Mark Reckless:** Yes. I would like to support amendment 83, which I think is a good amendment, so I would like that to be voted on.

[721] **Simon Thomas:** In which case you—. That's fine.

[722] **Rwyt ti'n gwrthwynebu—** You 'oppose'—what is it? *oppose*, beth yw e?

[723] **Object.** You object. In which case, we will have a vote on

[724] gwelliant 83. amendment 83.

[725] Y cwestiwn yw, felly: a ddylid The question is, therefore, that
derbyn gwelliant 83? A oes unrhyw amendment 3 be agreed. Does any
wrthwynebiad? Member object?

[726] **Mark Reckless:** Sorry, Chair, amendment 3 is the translation—

[727] **Simon Thomas:** Wyth deg tri. **Simon Thomas:** Eighty three.

[728] No, 83.

[729] I fod yn glir. Gwrthwynebu? To be clear. Object? [*Objection.*]
[*Gwrthwynebiad.*] Felly, cynhelir Therefore, we will have a vote. The
pleidlais. Y cwestiwn eto yw: a ddylid question again is that amendment 83
derbyn gwelliant 83? Y rhai sydd o be agreed. Those in favour, please
blaid y gwelliant i godi eu dwylo, os raise your hands. Those against,
gwelwch yn dda. Y rhai sydd yn erbyn please raise your hands. Please show
y gwelliant i godi eu dwylo. Yn erbyn clearly, against. I know it's the end of
y gwelliant—dangos yn glir. Rwy'n the day. And those abstaining, please
gwybod ei fod yn ddiwedd y dydd. raise your hands. Thank you very
Diolch yn fawr. A'r rhai sy'n ymatal ar much. The result of the vote is that
welliant 83. Diolch yn fawr. Felly, y two are for, three are against and
canlyniad ar gyfer gwelliant 83 yw there are two abstentions. Therefore,
dau o blaid, tri yn erbyn a dau yn amendment 83 is not agreed.
ymatal, a gwrthodwyd gwelliant 83.

Gwelliant 83: O blaid 2, Yn erbyn 3, Ymatal 2.

Amendment 83: For 2, Against 3, Abstain 2.

O blaid:

For:

Ramsay, Nick
Reckless, Mark

Yn erbyn:

Against:

Hedges, Mike
Morgan, Eluned
Rees, David

Ymatal:

Abstain:

Lewis, Steffan
Thomas, Simon

Gwrthodwyd gwelliant 83.

Amendment 83 not agreed.

[730] **Simon Thomas:** Steffan Lewis, **Simon Thomas:** Steffan Lewis, do you

a ydych chi am gynnig gwelliant 84? want to move amendment 84?

[731] **Steffan Lewis:** Nac ydwyf. **Steffan Lewis:** No, I don't.

[732] **Simon Thomas:** Nid yw **Simon Thomas:** Amendment 84 is not gwelliant 84 yn cael ei gynnig. moved.

Ni chynigiwyd gwelliant 84 (Steffan Lewis).

Amendment 84 (Steffan Lewis) not moved.

Grŵp 13: Eiddo Preswyl (Gwelliannau 56, 57, 7, 69)

Group 13: Residential Property (Amendments 56, 57, 7, 69)

[733] **Simon Thomas:** Gwnawn ni **Simon Thomas:** We will move on to symud ymlaen i grŵp 13. Mae grŵp group 13, which relates to residential 13 yn ymwneud ag eiddo preswyl. Y property. The lead amendment in this prif welliant yn y grŵp yma yw group is amendment 56 in the name of Nick Ramsay. I call on Nick Ramsay to move amendment 56 and speak to Rwy'n galw felly ar Nick Ramsay i the amendments in the group. gynnig gwelliant 56 ac i siarad am y grŵp o welliannau.

Cynigiwyd gwelliant 56 (Nick Ramsay).

Amendment 56 (Nick Ramsay) moved.

[734] **Nick Ramsay:** Diolch. Amendment 56 relates to section 71 and is largely a probing amendment, seeking clarification on the reasoning in section 71, relating to linked transactions, for the cap on linked transactions to be set at six or more. So, my amendment changes that to 15 and makes it more generous. I'd like the Cabinet Secretary, in responding to this, to give some clarification on how the figure of six or more was arrived at and whether it's contiguous with the UK and Scottish legislation. I believe that, in the case of UK legislation, there was a consultation, and I think that, in the case of the Scottish legislation—the Scottish Government's rules on this—they allowed for a more generous situation in relation to linked transactions. So, as I say, it's largely a probing amendment, but I'd be grateful to the Cabinet Secretary for giving some details on this.

[735] **Simon Thomas:** A oes aelodau **Simon Thomas:** Do any committee o'r pwyllgor am siarad? Nac oes. Os members wish to speak? No. I felly, gofynnaf i'r Ysgrifennydd therefore call on the Cabinet

Cabinet i siarad.

Secretary to speak.

[736] **Mark Drakeford:** Diolch yn fawr, Gadeirydd. If I deal first of all with the Government amendment in this group, amendment 7, and then I'll respond to Nick Ramsay's amendments. Members will be aware from evidence taken at Stage 1 that a number of practitioners have, for some time, raised concerns about the existing definitions and guidance in relation to residential property. We understand that HMRC is currently undertaking a review of the main statutory definition of 'residential property' for SDLT purposes, and it is possible that there will be future changes to the existing definitions as currently set out in the Finance Act 2003. For that reason, this amendment seeks to provide a power to be able to make our own changes to the definition, or to be able to respond to change elsewhere, where consistency is desirable. That power to make changes is provided in amendment 7, which broadens the provision of section 71, while retaining its operation through the affirmative procedure, and, in that way, seeks to respond to concerns raised by some stakeholders regarding the definition during Stage 1 scrutiny.

[737] As far as Nick's amendments are concerned, as you've heard, his amendment 56 would seek to change the rule that a land transaction consisting of six or more dwellings is to be treated as a non-residential transaction, subject to any claim to multiple dwellings relief, to a rule that's based on 15 or more dwellings. Of course, I'm aware that there has been some discussion of this issue, as Mr Ramsay has told you. The HMRC consultation on higher rate rules suggested moving the figure from six to 15, but, in the event, Ministers in London decided not to proceed with such a change as a result of the consultation. My understanding is that the Scottish LBTT has the figure of six in it. Six is certainly the figure in SDLT. I've repeatedly said in front of the committee that I wanted to respond to the calls from the people who operate this tax on the ground that we don't introduce change for change's sake and that consistency and the landscape they're familiar with today will go on being the landscape in the future, unless there's a good reason for changing it.

[738] Any number, in a sense, is arbitrary. Why six? Why seven? Well, we have six in our legislation in order to remain consistent with the position that people are familiar with today and that will pertain across our border in the future. In a way, I think the onus in this argument is not to explain why we are carrying on with what we've got, because we know why we're doing that—for consistency and continuity—but to make a positive case for change,

and where the positive case for change was explored across the border, Ministers decided not to make that change.

[739] **Simon Thomas:** Nick Ramsay.

[740] **Nick Ramsay:** Thank you, Chair. As I said at the opening of this particular debate, it was largely a probing amendment. I'm satisfied with the reasoning that the Cabinet Secretary has given, particularly in terms of trying to keep the system similar unless there's a reason to deviate. I'm still a little intrigued as to why, not just here, but across the border as well, six was decided upon. But I accept what the Cabinet Secretary says, so I won't be wishing to move this amendment.

[741] **Simon Thomas:** Os ŷch chi'n **Simon Thomas:** If you wish to dymuno tynnu'r gwelliant yn ôl— withdraw the amendment—

[742] **Nick Ramsay:** I wish to withdraw this amendment. I keep getting it the wrong way round.

[743] **Simon Thomas:** Os felly, a oes **Simon Thomas:** Does any Member gwrthwynebiad i dynnu'r gwelliant object to the withdrawal of the nôl? I fod yn glir, gwelliant 56 yw amendment? To be clear, we're hwn. talking here of amendment 56.

[744] **Nick Ramsay:** And the subsequent amendment as well—the consequential amendment.

[745] **Simon Thomas:** We'll come to those now in a sec.

[746] So, dim gwrthwynebiad, felly. No objection, therefore amendment Tynnir gwelliant 56 yn ôl. 56 is withdrawn.

*Tynnwyd gwelliant 56 yn ôl gyda chaniatâd y pwyllgor.
Amendment 56 withdrawn by leave of the committee.*

[747] **Simon Thomas:** Os derbynnir **Simon Thomas:** If amendment 57 is gwelliant 57, bydd gwelliant 7 yn agreed, amendment 7 will fall. methu. Felly, Nick Ramsay, a ydych Therefore, Nick Ramsay, do you wish chi'n dymuno cynnig gwelliant 57? to move amendment 57?

[748] **Nick Ramsay:** Is that one linked to the—?

[749] **Simon Thomas:** Which is the consequential one.

[750] **Nick Ramsay:** Which is the consequential one. No, I don't wish to move that.

*Ni chynigiwyd gwelliant 57 (Nick Ramsay).
Amendment 57 (Nick Ramsay) not moved.*

[751] **Simon Thomas:** Not moved. In which case we can turn to amendment 7.

*Cynigiwyd gwelliant 7 (Mark Drakeford).
Amendment 7 (Mark Drakeford) moved.*

[752] **Simon Thomas:** Cynigiaf, fel **Simon Thomas:** As Chair, I move Cadeirydd, welliant 7 yn enw amendment 7 in the name of the Ysgrifennydd y Cabinet. Y cwestiwn Cabinet Secretary. The question is yw: a ddylid derbyn gwelliant 7? A that amendment 7 be agreed. Does oes gwrthwynebiad? Derbyniwyd any Member object? Amendment 7 is gwelliant 7. agreed.

*Derbyniwyd gwelliant 7 yn unol â Rheol Sefydlog 17.34.
Amendment 7 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 35 (Mark Drakeford).
Amendment 35 (Mark Drakeford) moved.*

[753] **Simon Thomas:** Cynigiaf **Simon Thomas:** I now move welliant 35 yn enw Ysgrifennydd y amendment 35 in the name of the Cabinet. Y cwestiwn yw: a ddylid Cabinet Secretary. The question is derbyn gwelliant 35? A oes that amendment 35 be agreed. Does gwrthwynebiad? Derbyniwyd any Member object? Amendment 35 gwelliant 35. is agreed.

*Derbyniwyd gwelliant 35 yn unol â Rheol Sefydlog 17.34.
Amendment 35 agreed in accordance with Standing Order 17.34.*

[754] **Simon Thomas:** Mark Reckless, **Simon Thomas:** Mark Reckless, do a ydych chi'n dymuno cynnig you wish to move amendment 100? gwelliant 100?

[755] **Mark Reckless:** No. On reflection I decided that Steffan Lewis's amendment was preferable, so I won't move that.

[756] **Simon Thomas:** Not moved. Okay.

*Ni chynigiwyd gwelliant 100 (Mark Reckless).
Amendment 100 (Mark Reckless) not moved.*

*Cynigiwyd gwelliant 10 (Mark Drakeford).
Amendment 10 (Mark Drakeford) moved.*

[757] **Simon Thomas:** Cynigiaf **Simon Thomas:** I move amendment welliant 10 yn enw Ysgrifennydd y 10 in the name of the Cabinet Cabinet. Y cwestiwn yw: a ddylid Secretary. The question is that derbyn gwelliant 10? A oes amendment 10 be agreed. Does any gwrthwynebiad? Derbyniwyd Member object? Amendment 10 is gwelliant 10. agreed.

*Derbyniwyd gwelliant 10 yn unol â Rheol Sefydlog 17.34.
Amendment 10 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 11 (Mark Drakeford).
Amendment 11 (Mark Drakeford) moved.*

[758] **Simon Thomas:** Cynigiaf **Simon Thomas:** I move amendment welliant 11 yn enw Ysgrifennydd y 11 in the name of the Cabinet Cabinet. Y cwestiwn yw: a ddylid Secretary. The question is that derbyn gwelliant 11? A oes amendment 11 be agreed. Does any gwrthwynebiad? Derbyniwyd Member object? Amendment 11 is gwelliant 11. agreed.

*Derbyniwyd gwelliant 11 yn unol â Rheol Sefydlog 17.34.
Amendment 11 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 12 (Mark Drakeford).
Amendment 12 (Mark Drakeford) moved.*

[759] **Simon Thomas:** Cynigiaf **Simon Thomas:** I move amendment welliant 12 yn enw Ysgrifennydd y 12 in the name of the Cabinet Cabinet. Y cwestiwn yw: a ddylid Secretary. The question is that

derbyn gwelliant 12? A oes amendment 12 be agreed. Does any gwrthwynebiad? Derbyniwyd Member object? Amendment 12 is gwelliant 12. agreed.

Derbyniwyd gwelliant 12 yn unol â Rheol Sefydlog 17.34.

Amendment 12 agreed in accordance with Standing Order 17.34.

Grŵp 14: Diwygio Ffurflen Dreth a'r Broses Asesu

(Gwelliannau 13, 14, 15, 23)

Group 14: Amendment of Tax Return and Assessment Process

(Amendments 13, 14, 15, 23)

[760] **Simon Thomas:** Rydym ni yn awr yn troi at grŵp 14. Mae grŵp 14 yn ymwneud â diwygio ffurflen dreth a'r broses asesu. Y prif welliant yn y grŵp yma yw 13 yn enw Ysgrifennydd y Cabinet.

Simon Thomas: We now turn to group 14, which relates to the amending of the tax return and the assessment process. The lead amendment in this group is amendment 13 in the name of the Cabinet Secretary.

Cynigiwyd gwelliant 13 (Mark Drakeford).

Amendment 13 (Mark Drakeford) moved.

[761] **Simon Thomas:** Felly, cynigiaf welliant 13 a galwaf ar Ysgrifennydd y Cabinet i siarad am y gwelliant a rhai eraill.

Simon Thomas: Therefore, I move amendment 13 and call on the Cabinet Secretary to speak to his amendment and the others in the group.

[762] **Mark Drakeford:** Diolch yn fawr, Gadeirydd. So, the Government amendments in this group are related to sections of the Tax Collection and Management (Wales) Act, and they are principally concerned with matters such as alterations or withdrawals of assessments and amendments made to tax returns while under inquiry, and they are designed to make the system fairer.

[763] Amendment 14 makes a minor change to the inquiry process. As currently drafted, there's nothing preventing a taxpayer from amending a return during an inquiry into that return. This amendment clarifies this point by making it clear that such amendments will not automatically have effect, but will have effect on completion of the inquiry unless the Welsh Revenue

Authority states otherwise. This has the effect of freezing the contents of the return until the WRA has concluded its inquiry, and is broadly consistent with the approach taken in other self-assessment tax regimes. Without clarity on this point, a taxpayer could attempt to frustrate the WRA inquiry by rendering it null and void simply by making an amendment to the tax return while the inquiry was under way.

[764] Amendment 13 is consequential to amendment 14. Amendment 15 amends section 61 of the Tax Collection and Management (Wales) Act to enable the Welsh Revenue Authority to alter or withdraw an assessment after it has been issued to the taxpayer. The amendment is intended to simplify the assessment process by enabling the WRA to reissue or make alteration to the assessment where there has been a mistake, instead of requiring the taxpayer formally to request a review or submit an appeal. The amendment thus obviates the risk of unnecessary delays to the taxpayer and unnecessary bureaucracy for them.

[765] Amendment 23 amends section 190 of the Tax Collection and Management (Wales) Act to insert a new subsection (1)(b). The effect of this amendment is to introduce a rule that ensures that minor errors in a document issued by the Welsh Revenue Authority do not jeopardise the status of that document. Cadeirydd, they are technical in nature, but they help the system to work more effectively, and I hope that Members will support them.

16:15

[766] **Simon Thomas:** A oes unrhyw Aelod am siarad? Nac oes. Os felly, rwy'n cymryd nad yw'r Ysgrifennydd Cabinet am ymateb o gwbl ac yn hapus i gynnig y gwelliannau.

Simon Thomas: Does any Member wish to speak? No? I therefore assume that the Cabinet Secretary doesn't wish to reply in any way to the debate and is content to move on.

[767] **Mark Drakeford:** Diolch.

Mark Drakeford: Thank you.

[768] **Simon Thomas:** Felly, y cwestiwn yw: a ddylid derbyn gwelliant 13? A oes gwrthwynebiad? Derbyniwyd gwelliant 13.

Simon Thomas: The question, therefore, is that amendment 13 be agreed. Does any Member object? Amendment 13 is agreed.

*Derbyniwyd gwelliant 13 yn unol â Rheol Sefydlog 17.34.
Amendment 13 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 14 (Mark Drakeford).
Amendment 14 (Mark Drakeford) moved.*

[769] **Simon Thomas:** Fel Cadeirydd, **Simon Thomas:** As Chair, I move
rwy'n cynnig gwelliant 14 yn enw amendment 14 in the name of the
Ysgrifennydd y Cabinet. Y cwestiwn Cabinet Secretary. The question is
yw: a ddylid derbyn gwelliant 14? A that amendment 14 be agreed. Does
oes gwrthwynebiad? Derbyniwyd any Member object? Amendment 14
gwelliant 14. is therefore agreed.

*Derbyniwyd gwelliant 14 yn unol â Rheol Sefydlog 17.34.
Amendment 14 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 15 (Mark Drakeford).
Amendment 15 (Mark Drakeford) moved.*

[770] **Simon Thomas:** Cynigiaf **Simon Thomas:** I move amendment
welliant 15 yn enw Ysgrifennydd y 15 in the name of the Cabinet
Cabinet. Y cwestiwn yw: a ddylid Secretary. The question is that
derbyn gwelliant 15? A oes amendment 15 be agreed. Does any
gwrthwynebiad? Derbyniwyd Member object? Amendment 15 is
gwelliant 15. agreed.

*Derbyniwyd gwelliant 15 yn unol â Rheol Sefydlog 17.34.
Amendment 15 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 16 (Mark Drakeford).
Amendment 16 (Mark Drakeford) moved.*

[771] **Simon Thomas:** Rwy'n cynnig **Simon Thomas:** I move amendment
gwelliant 16 yn enw Ysgrifennydd y 16 in the name of the Cabinet
Cabinet. Y cwestiwn yw: a ddylid Secretary. The question is that
derbyn gwelliant 16? A oes amendment 16 be agreed. Does any
gwrthwynebiad? Derbyniwyd Member object? Amendment 16 is
gwelliant 16. agreed.

*Derbyniwyd gwelliant 16 yn unol â Rheol Sefydlog 17.34.
Amendment 16 agreed in accordance with Standing Order 17.34.*

Grŵp 15: Cosbau Taliadau Hwyr (Gwelliannau 17, 18, 19, 20, 21, 22)
Group 15: Late Payment Penalties (Amendments 17, 18, 19, 20, 21, 22)

[772] **Simon Thomas:** Rydym yn awr yn troi at grŵp 15: cosbau taliadau hwyr. Y prif welliant yn y grŵp yma yw gwelliant 17 yn enw Ysgrifennydd y Cabinet.

Simon Thomas: We now turn to group 15: late payment penalties. The lead amendment in this group is amendment 17 in the name of the Cabinet Secretary.

Cynigiwyd gwelliant 17 (Mark Drakeford).
Amendment 17 (Mark Drakeford) moved.

[773] **Simon Thomas:** Cynigiaf, felly, welliant 17, a galwaf ar Ysgrifennydd y Cabinet i siarad am y gwelliant a'r rhai eraill yn y grŵp.

Simon Thomas: I move amendment 17 and call on the Cabinet Secretary to speak to his amendments in the group.

[774] **Mark Drakeford:** Diolch yn fawr, Gadeirydd. Well, with a slip of the tongue earlier, I referred to LDT when I meant LTT, but in this group of amendments, land disposal tax makes its first appearance—formally, anyway. [*Laughter.*] The reason for having to bring these amendments forward at this time is that when the LTT Bill was first published, the LDT Bill had yet to be introduced. So, this amendment, at this stage, allows us to align these two pieces of legislation sensibly together. So, Schedule 22 to this Bill contains a series of provisions that amend the Tax Collection and Management (Wales) Act. Those amendments are necessary to ensure that the provisions in the Tax Collection and Management (Wales) Act fully reflect the operation of the two devolved taxes that the Assembly will be responsible for from 1 April 2018.

[775] Paragraph 39 of Schedule 22 contains one of the amendments made to the late payment penalty provisions in the TCMA. The paragraph currently contains a table that sets out the circumstances in which a person will be liable to a penalty where they fail to pay land transaction tax on time. Amendment 17 removes this table so that it can be replaced by an updated table via amendment 18. Although the contents of the new table are broadly similar to the table being removed, it's necessary to replace the table so that we can introduce the circumstances in which a person will be liable to a penalty where a sum of land disposal tax has not been paid on time. The updated table also contains a small number of changes to the date on which

a person will become liable to a late payment penalty.

[776] Now, Chair, I provided a note to the committee on 18 January, which provided a detailed explanation of the changes being made here, and I hope that that was helpful to the members of the committee in considering the amendments in this group.

[777] In addition to replacing the table, the amendments in the group also make some other minor changes to the late payment penalty provision. Amendment 19 adds a new subsection to the TCMA, containing a power to make regulations to amend the table. That regulation-making power is necessary to enable changes to be made to the table in future; for example, in reaction to wider changes to the operation of the taxes. Amendment 22 provides that regulations made under this new power will be subject to the affirmative procedure.

[778] Finally, amendments 20 and 21 in this group make changes to the dates on which a person will become liable to further penalties in cases where there is a continuing failure to pay devolved taxes. The amendments ensure that the penalty dates for failing to pay on time correspond with the penalty dates for failing to submit a tax return on time. In practice, this means that a person who has failed to pay tax and submit the return on time will become liable to both penalties on the same day, rather than on separate dates, and that subsequent assessments and notices can be issued to taxpayers at the same time, rather than a day or two apart. I hope Members will be willing to support these amendments, which provide for proper consistency between the two devolved taxes that the Assembly will now have responsibility for taking forward.

[779] **Simon Thomas:** Mark Reckless.

[780] **Mark Reckless:** Cabinet Secretary, you referred to your letter of 18 January, but I think it's important for the record to at least probe and clarify the references to landfill disposal tax, and why it's necessary to make those as amendments to this Bill, rather than interject them into the process we will shortly be having for the landfill disposals tax. It's a question from me, and my only contribution, so I don't know, Chair, whether you want other Members before that.

[781] **Simon Thomas:** Thank you. Is there any other Member who wishes to contribute to this group?

[782] Os felly, yn ôl i Ysgrifennydd y Cabinet i ymateb i'r sylwadau. If so, back to the Cabinet Secretary to respond to those comments.

[783] **Mark Drakeford:** I thank Mark Reckless for a perfectly proper question. The reason we brought it forward as an amendment in this Bill is because the table that is being amended is to be found in this Bill, and therefore it just made more practical sense to amend the table through amendments that were being made to this Bill. I can see how you could have returned to it in the Bill that's specifically to do with LDT. But as the table we are considering is a table in LTTA, I thought it made better sense, and would be more coherent for Members to understand the arguments if we brought those amendments forward while we are amending the Bill that was going to be amended.

[784] **Simon Thomas:** Diolch am hynny. Y cwestiwn felly yw: a ddylid derbyn gwelliant 17? A oes gwrthwynebiad? Derbyniwyd gwelliant 17. **Simon Thomas:** Thank you for that. The question is that amendment 17 be agreed. Does any Member object? Amendment 17 is agreed.

*Derbyniwyd gwelliant 17 yn unol â Rheol Sefydlog 17.34.
Amendment 17 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 18 (Mark Drakeford).
Amendment 18 (Mark Drakeford) moved.*

[785] **Simon Thomas:** Cynigiaf welliant 18 yn enw Ysgrifennydd y Cabinet. Y cwestiwn yw: a ddylid derbyn gwelliant 18? A oes gwrthwynebiad? Derbyniwyd gwelliant 18. **Simon Thomas:** I move amendment 18 in the name of the Cabinet Secretary. The question is that amendment 18 be agreed. Does any Member object? Amendment 18 is agreed.

*Derbyniwyd gwelliant 18 yn unol â Rheol Sefydlog 17.34.
Amendment 18 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 19 (Mark Drakeford).
Amendment 19 (Mark Drakeford) moved.*

[786] **Simon Thomas:** Cynigiaf **Simon Thomas:** I move amendment

welliant 19 yn enw Ysgrifennydd y 19 in the name of the Cabinet
Cabinet. Y cwestiwn yw: a ddylid Secretary. The question is that
derbyn gwelliant 19? A oes amendment 19 be agreed. Does any
gwrthwynebiad? Derbyniwyd Member object? Amendment 19 is
gwelliant 19. agreed.

Derbyniwyd gwelliant 19 yn unol â Rheol Sefydlog 17.34.
Amendment 19 agreed in accordance with Standing Order 17.34.

Cynigiwyd gwelliant 20 (Mark Drakeford).
Amendment 20 (Mark Drakeford) moved.

[787] **Simon Thomas:** Cynigiaf **Simon Thomas:** I move amendment
welliant 20 yn enw Ysgrifennydd y 20 in the name of the Cabinet
Cabinet. Y cwestiwn yw: a ddylid Secretary. The question is that
derbyn gwelliant 20? A oes amendment 20 be agreed. Does any
gwrthwynebiad? Derbyniwyd Member object? Amendment 20 is
gwelliant 20. agreed.

Derbyniwyd gwelliant 20 yn unol â Rheol Sefydlog 17.34.
Amendment 20 agreed in accordance with Standing Order 17.34.

Cynigiwyd gwelliant 21 (Mark Drakeford).
Amendment 21 (Mark Drakeford) moved.

[788] **Simon Thomas:** Cynigiaf **Simon Thomas:** I move amendment
welliant 21 yn enw Ysgrifennydd y 21 in the name of the Cabinet
Cabinet. Y cwestiwn yw: a ddylid Secretary. The question is that
derbyn gwelliant 21? A oes amendment 21 be agreed. Does any
gwrthwynebiad? Derbyniwyd Member object? Amendment 21 is
gwelliant 21. agreed.

Derbyniwyd gwelliant 21 yn unol â Rheol Sefydlog 17.34.
Amendment 21 agreed in accordance with Standing Order 17.34.

Cynigiwyd gwelliant 22 (Mark Drakeford).
Amendment 22 (Mark Drakeford) moved.

[789] **Simon Thomas:** Cynigiaf **Simon Thomas:** I move amendment
welliant 22 yn enw Ysgrifennydd y 22 in the name of the Cabinet
Cabinet. Y cwestiwn yw: a ddylid Secretary. The question is that

derbyn gwelliant 22? A oes amendment 22 be agreed. Does any
gwrthwynebiad? Derbyniwyd Member object? Amendment 22 is
gwelliant 22. agreed.

Derbyniwyd gwelliant 22 yn unol â Rheol Sefydlog 17.34.
Amendment 22 agreed in accordance with Standing Order 17.34.

Cynigiwyd gwelliant 23 (Mark Drakeford).
Amendment 23 (Mark Drakeford) moved.

[790] **Simon Thomas:** Cynigiaf **Simon Thomas:** I move amendment
welliant 23 yn enw Ysgrifennydd y 23 in the name of the Cabinet
Cabinet. Y cwestiwn yw: a ddylid Secretary. The question is that
derbyn gwelliant 23? A oes amendment 23 be agreed. Does any
gwrthwynebiad? Derbyniwyd Member object? Amendment 23 is
gwelliant 23. agreed.

Derbyniwyd gwelliant 23 yn unol â Rheol Sefydlog 17.34.
Amendment 23 agreed in accordance with Standing Order 17.34.

[791] **Simon Thomas:** Nick Ramsay, **Simon Thomas:** Nick Ramsay, do you
a ydych chi'n dymuno cynnig wish to move amendment 58?
gwelliant 58?

[792] **Nick Ramsay:** Almost certainly not, but I—

[793] **Simon Thomas:** Which is part of your—*[Inaudible.]*

[794] **Nick Ramsay:** It was over the page, but no, I don't wish to move it.

[795] **Simon Thomas:** Not moved.

Ni chynigiwyd gwelliant 58 (Nick Ramsay).
Amendment 58 (Nick Ramsay) not moved.

[796] **Simon Thomas:** Nick, yr un **Simon Thomas:** Nick, the same
cwestiwn. A ydych chi'n dymuno question. Do you wish to move
cynnig gwelliant 59? amendment 59?

[797] **Nick Ramsay:** No, I don't wish to move that either.

[798] **Simon Thomas:** Amendment 59 is not moved.

Ni chynigiwyd gwelliant 59 (Nick Ramsay).

Amendment 59 (Nick Ramsay) not moved.

Cynigiwyd gwelliant 36 (Mark Drakeford).

Amendment 36 (Mark Drakeford) moved.

[799] **Simon Thomas:** Rwy'n cynnig **Simon Thomas:** I move amendment gwelliant 36 yn enw Ysgrifennydd y 36 in the name of the Cabinet Cabinet. Y cwestiwn yw: a ddylid Secretary. The question is that derbyn gwelliant 36? A oes amendment 36 be agreed. Does any gwrthwynebiad? Derbyniwyd Member object? Amendment 36 is gwelliant 36. agreed.

Derbyniwyd gwelliant 36 yn unol â Rheol Sefydlog 17.34.

Amendment 36 agreed in accordance with Standing Order 17.34.

[800] **Simon Thomas:** Nick Ramsay, **Nick Ramsay:** Nick Ramsay, back to rwy'n dod nôl atoch chi. A ydych you. Do you wish to move chi'n dymuno cynnig gwelliant 60? amendment 60?

[801] **Nick Ramsay:** Amendment 60? No, I don't wish to move it.

[802] **Simon Thomas:** Not moved.

Ni chynigiwyd gwelliant 60 (Nick Ramsay).

Amendment 60 (Nick Ramsay) not moved.

[803] **Simon Thomas:** A Nick Ramsay **Simon Thomas:** And again Nick eto. A ydych chi'n dymuno cynnig Ramsay. Do you wish to move gwelliant 61? amendment 61?

[804] **Nick Ramsay:** I didn't think—. No, I don't wish to move it. That's what I said earlier.

[805] **Simon Thomas:** You said you didn't want to move it, but you've got to not move it now.

[806] **Nick Ramsay:** So, I'm very clear I don't wish to move it.

[807] **Simon Tomas:** Thank you. Not moved.

Ni chynigiwyd gwelliant 61 (Nick Ramsay).

Amendment 61 (Nick Ramsay) not moved.

Grŵp 16: Cynlluniau Ymddiriedolaeth Unedau (Gwelliant 37)

Group 16: Unit Trust Schemes (Amendment 37)

[808] **Simon Thomas:** Rydym yn troi at y grŵp olaf ond un, grŵp 16: cynlluniau ymddiriedolaeth unedau. A'r unig welliant yn y grŵp yma yw gwelliant 36 yn enw Ysgrifennydd y Cabinet. Felly, fel Cadeirydd, rwy'n cynnig gwelliant 36, a galwaf ar Ysgrifennydd y Cabinet i siarad am y gwelliant.

Simon Thomas: We now turn to the penultimate group, group 16: unit trust schemes. The lead and only amendment in this group is amendment 36 in the name of the Cabinet Secretary. And, as Chair, I move the amendment and I call on the Cabinet Secretary to speak to the amendment.

[809] **Mark Drakeford:** Diolch yn fawr—

Mark Drakeford: Thank you very much—

[810] **Simon Thomas:** Mae'n ddrwg gyda fi, 37 yw hwn.

Simon Thomas: I'm sorry, this is 37.

[811] It's 37. I think I was saying 36. It's amendment 37.

Cynigiwyd gwelliant 37 (Mark Drakeford).

Amendment 37 (Mark Drakeford) moved.

[812] **Mark Drakeford:** It is indeed, and as you've said, Chair, there's just a single amendment in this group. It's an amendment related to unit trusts and the regulation-making power provided by section 34 of the Bill. Amendment 37 makes it clear that use of this regulation-making power will be subject to the affirmative procedure. The amendment is in direct response to recommendation 1 of the report prepared by the Constitutional and Legislative Affairs Committee, which sought clarification on the use of procedure for unit trusts.

[813] I've tried to follow a principle throughout this Bill, which is that regulations that have the potential to increase the amount of tax to be collected from an individual should be made subject to the affirmative

procedure. While these regulations cannot be used to increase the amount of tax collected, I'm bringing it forward in acknowledgement of the fact that changing the person liable to pay the tax could merit the additional scrutiny afforded by the affirmative procedure. So, in response to the recommendations of the CLAC report, I hope Members will be happy to support the proposal here.

[814] **Simon Thomas:** Unrhyw Aelod am siarad? Neb am gyfrannu. Felly, rwy'n credu ei bod hi'n briodol inni symud at y cwestiwn, a'r cwestiwn yw a ddylid derbyn gwelliant 37. A oes gwrthwynebiad? Derbyniwyd gwelliant 37.

Simon Thomas: Are there any other Members who wish to speak? Nobody wants to contribute. Therefore, I think it appropriate for us to move to the question, and the question is that amendment 37 be agreed. Does any Member object? Amendment 37 is agreed.

*Derbyniwyd gwelliant 37 yn unol â Rheol Sefydlog 17.34.
Amendment 37 agreed in accordance with Standing Order 17.34.*

*Cynigiwyd gwelliant 38 (Mark Drakeford).
Amendment 38 (Mark Drakeford) moved.*

[815] **Simon Thomas:** Fel Cadeirydd, rwy'n cynnig gwelliant 38 yn enw Ysgrifennydd y Cabinet. Y cwestiwn yw: a ddylid derbyn gwelliant 38? A oes gwrthwynebiad? Fe dderbyniwyd gwelliant 38.

Simon Thomas: Has Chair, I move amendment 38 in the name of the Cabinet Secretary. The question is that amendment 38 be agreed. Does any Member object? Amendment 38 is agreed.

*Derbyniwyd gwelliant 38 yn unol â Rheol Sefydlog 17.34.
Amendment 38 agreed in accordance with Standing Order 17.34.*

[816] **Simon Thomas:** Nick Ramsay, we return to some of your amendments.

[817] A ydych chi'n dymuno cynnig gwelliant 62? Do you wish to move amendment 62?

[818] **Nick Ramsay:** No, I don't wish to move the amendment.

[819] **Simon Thomas:** Not moved.

*Ni chynigiwyd gwelliant 62 (Nick Ramsay).
Amendment 62 (Nick Ramsay) not moved.*

[820] **Simon Thomas:** A ydych chi'n dymuno cynnig gwelliant 63? **Simon Thomas:** Do you wish to move amendment 63?

[821] **Nick Ramsay:** No, I don't wish to move amendment 63.

[822] **Simon Thomas:** Not moved.

*Ni chynigiwyd gwelliant 63 (Nick Ramsay).
Amendment 63 (Nick Ramsay) not moved.*

[823] **Simon Thomas:** A ydych chi'n dymuno cynnig gwelliant 64? **Simon Thomas:** Do you wish to move amendment 64?

[824] **Nick Ramsay:** No.

[825] **Simon Thomas:** Not moved.

*Ni chynigiwyd gwelliant 64 (Nick Ramsay).
Amendment 64 (Nick Ramsay) not moved.*

[826] **Simon Thomas:** A ydych chi'n dymuno cynnig gwelliant 65? **Simon Thomas:** Do you wish to move amendment 65?

[827] **Nick Ramsay:** No.

[828] **Simon Thomas:** Not moved.

*Ni chynigiwyd gwelliant 65 (Nick Ramsay).
Amendment 65 (Nick Ramsay) not moved.*

[829] **Simon Thomas:** A ydych chi'n dymuno cynnig gwelliant 66? **Simon Thomas:** Do you wish to move amendment 66?

[830] **Nick Ramsay:** No.

[831] **Simon Thomas:** Not moved.

Ni chynigiwyd gwelliant 66 (Nick Ramsay).

Amendment 66 (Nick Ramsay) not moved.

[832] **Simon Thomas:** A ydych chi'n dymuno cynnig gwelliant 67? **Simon Thomas:** Do you wish to move amendment 67?

[833] **Nick Ramsay:** No.

[834] **Simon Thomas:** Not moved.

Ni chynigiwyd gwelliant 67 (Nick Ramsay).

Amendment 67 (Nick Ramsay) not moved.

[835] **Simon Thomas:** A ydych chi'n dymuno cynnig gwelliant 68? **Simon Thomas:** Do you wish to move amendment 68?

[836] **Nick Ramsay:** No.

[837] **Simon Thomas:** Not moved.

Ni chynigiwyd gwelliant 68 (Nick Ramsay).

Amendment 68 (Nick Ramsay) not moved.

[838] **Simon Thomas:** A ydych chi'n dymuno cynnig gwelliant 69, sy'n ymwneud â grŵp 13, eiddo preswyl? **Simon Thomas:** Do you wish to move amendment 69, which relates to group 13, which is residential property?

[839] **Nick Ramsay:** No, I don't.

[840] **Simon Thomas:** That's not moved either. Diolch yn fawr.

Ni chynigiwyd gwelliant 69 (Nick Ramsay).

Amendment 69 (Nick Ramsay) not moved.

[841] **Simon Thomas:** A ydych chi'n dymuno cynnig gwelliant 70? **Simon Thomas:** Do you wish to move amendment 70?

[842] **Nick Ramsay:** No.

[843] **Simon Thomas:** Not moved.

*Ni chynigiwyd gwelliant 70 (Nick Ramsay).
Amendment 70 (Nick Ramsay) not moved.*

[844] **Simon Thomas:** A ydych chi'n dymuno cynnig gwelliant 71? **Simon Thomas:** Do you wish to move amendment 71?

[845] **Nick Ramsay:** No.

[846] **Simon Thomas:** Heb ei gynnis, felly. **Simon Thomas:** Not moved, therefore.

*Ni chynigiwyd gwelliant 71 (Nick Ramsay).
Amendment 71 (Nick Ramsay) not moved.*

[847] **Simon Thomas:** A ydych chi'n dymuno cynnig gwelliant 72? **Simon Thomas:** Do you wish to move amendment 72?

[848] **Nick Ramsay:** No.

[849] **Simon Thomas:** Heb ei gynnis. Diolch yn fawr. **Simon Thomas:** Not moved. Thank you very much.

*Ni chynigiwyd gwelliant 72 (Nick Ramsay).
Amendment 72 (Nick Ramsay) not moved.*

*Cynigiwyd gwelliant 39 (Mark Drakeford).
Amendment 39 (Mark Drakeford) moved.*

[850] **Simon Thomas:** Rwyf i nawr yn cynnig, fel Cadeirydd, welliant 39 yn enw Ysgrifennydd y Cabinet. Y cwestiwn yw: a ddylid derbyn gwelliant 39? A oes gwrthwynebiad? **Simon Thomas:** I now move, has Chair, amendment 39 in the name of the Cabinet Secretary. The question is that amendment 39 be agreed. Does any Member object? Amendment 39 is agreed.

*Derbyniwyd gwelliant 39 yn unol â Rheol Sefydlog 17.34.
Amendment 39 agreed in accordance with Standing Order 17.34.*

[851] **Simon Thomas:** Nick Ramsay, a ydych chi'n dymuno cynnig gwelliant 73? **Simon Thomas:** Nick Ramsay, do you wish to move amendment 73?

[852] **Nick Ramsay:** No.

[853] **Simon Thomas:** Heb ei gynnig. **Simon Thomas:** Not moved.

*Ni chynigiwyd gwelliant 73 (Nick Ramsay).
Amendment 73 (Nick Ramsay) not moved.*

[854] **Simon Thomas:** A ydych chi'n **Simon Thomas:** Do you wish to move
dymuno cynnig gwelliant 74? amendment 74?

[855] **Nick Ramsay:** No.

[856] **Simon Thomas:** Heb ei gynnig. **Simon Thomas:** Not moved.

*Ni chynigiwyd gwelliant 74 (Nick Ramsay).
Amendment 74 (Nick Ramsay) not moved.*

**Grŵp 17: Canllawiau (Gwelliant 101)
Group 17: Guidance (Amendment 101)**

[857] **Simon Thomas:** Rŷm ni nawr **Simon Thomas:** We now move to the
yn troi at y grŵp olaf ar gyfer y rhan final group for this part of the Bill.
yma o'r Bil. Mae'r grŵp olaf yn The final group relates to guidance.
ymwneud â chanllawiau. Mae yna un There is one amendment in this
gwelliant yn y grŵp yma, sef group, amendment 101 in the name
gwelliant 101 yn enw Mark Reckless, of Mark Reckless, and I call on Mark
ac rwy'n galw ar Mark Reckless i Reckless to move and speak to
gynnig gwelliant 101 a siarad amendment 101.
amdano.

*Cynigiwyd gwelliant 101 (Mark Reckless).
Amendment 101 (Mark Reckless) moved.*

[858] **Mark Reckless:** Diolch, Gadeirydd. I don't want to keep anyone from
their tea, but, I think, on this first set of Stage 2 proceedings on a tax Bill, I
thought this was an appropriate area at least to seek the Cabinet Secretary's
view and hear what he says before deciding whether this is something that I
wish to press to a vote.

16:30

[859] We saw in the debate on Nick Ramsay's set of amendments to regulation, for which there was quite a substantial number of consequential, which we've decided not to vote on, that there are difficulties and credible arguments on both sides—albeit I had a strong one on putting the tax rates on the face of the Bill. I think we have a similar debate in terms of guidance, and that legislation that has statutory guidance, either giving it particular force when it's done or requiring Ministers or another body to produce guidance. At Stage 1, we gave, I thought, significant consideration to the targeted anti-avoidance rule and the general anti-avoidance rule and what guidance would be appropriate and what examples we could draw on for those. We haven't debated those today, but I wonder: at least in respect of the land transaction tax, I'm keen to know what the Minister is proposing—what he sees in the Bill that may have, at least, an implicit need to produce guidance. I think this is going to depend, to a great extent, on relations with stakeholders. I noted earlier that when we were looking at a change that has been made to the Finance Act 2016, I was a little concerned that the Minister and his staff seemed to be wholly dependent on checking sources—online or otherwise—that were there as a matter of record, rather than having someone in the Bill team or a contact at the Treasury who they could just ring up and ask that question to. I do hope that, as we develop ways of operating this legislation and making sure it settles down as easily as possible for those who are using it, there is a considerable informal to-and-fro between the Minister and his department, the Welsh Revenue Authority, and everyone who's going to be involved in making this legislation work.

[860] In my amendment, I refer to the parties to the land transactions. One of the things about the land transaction tax is that it's something that for very many people is something they do occasionally, rather than a tax where there's an ongoing flow of tax they're giving, and it's a process which, if not a one-off, is for most people occasional, so we won't necessarily know who those people are. I think the legal and financial advisers are clearer and easier to identify, but I think there needs to be a particular need to make sure that the guidance is, at least, accessible and easily delivered, when needed, to those who are elsewhere in the UK and who may not be regular users of it. Going back to my own experience doing a seat in property, and the idea that if I were doing a transaction that might involve anything in Wales, that I failed to know that the process was separate and I had to do something in a different way, the possibility of that tax not being paid, and the implications for me as a trainee solicitor in terms of my future, or how people might consider me within that firm, and the requirements of people

who are writing guidance for solicitors and relatively junior people in a very large organisation, I just ask that proper consideration is given to how to make that process as easy as possible. And I'd just like the Minister, perhaps, to set out what he's proposing in terms of guidance—what the timeline is. And if he's not able to give too much in the way of detail now, whether there's a possibility for at least some more detail being given on those issues before we come to Stage 3.

[861] **Simon Thomas:** Diolch, Mark Reckless. A oes yna Aelod arall sydd am gyfrannu? Nac oes. Os felly, gofynnaf i'r Ysgrifennydd Cabinet.

Simon Thomas: Thank you, Mark Reckless. Does any other Member wish to speak? No. Therefore I'll ask the Cabinet Secretary to speak.

[862] **Mark Drakeford:** Diolch yn fawr, unwaith eto, Gadeirydd.

Mark Drakeford: Thank you very much again, Chair.

[863] In this final group, once again, I find there's little difference between the mover of the amendment and what the Government would seek to achieve in terms of our ambitions here, because it's absolutely a shared ambition that we should have comprehensive, accessible, accurate guidance available to all those who will have responsibilities in operating this Act. I agree with what Mark Reckless said, that in the process of taking on fiscal responsibilities, there will be a need to mature relationships in a number of different places, where those relationships haven't been as necessary in the past as they will be in the future. I took the opportunity, Chair, when I was in Edinburgh on Tuesday, to have a meeting with Revenue Scotland—with its chief executive and its chair—and very directly had the production of guidance on the agenda in order to learn from their experience and to hear from them as to where they thought there were audiences that were more difficult to reach than they'd expected, and what were the range of ways that they had deployed in order to try and make sure that guidance ended up in front of the people who would need it. There's a lot of contact between the Welsh Revenue Authority in embryo form and Revenue Scotland.

[864] **Mike Hedges:** This is not on the amendment, it's on the workings of it. Will HMRC tell people about it? Because most people who would make a mistake would make a mistake by looking at HMRC or going to HMRC, and, much as I would like to see it, I don't think there's anything that you can do on the face of the Bill or otherwise that would stop people going to HMRC. So, have you had discussions with HMRC for them to advertise the fact that, if it's Welsh, if it's in Wales, then they have to come to the Welsh Revenue

Authority, and for them to redirect people who make a mistake, which is almost inevitable?

[865] **Mark Drakeford:** I think HMRC absolutely understand that point. Chair, we can't place legal obligations on them, but we can help them to act in their own best interests. They understand that it's absolutely in their best interests to make sure that they don't spend loads of their time having to respond to people who've sent stuff to the wrong address. So, they have a shared interest with us and want to work with us very directly to make sure that they provide advice that's consistent with what this Act will require.

[866] I am taking this forward, Chair, in line with the recommendations of this committee, because, at the end of your Stage 1 considerations, you produced a report in which there were two recommendations to the Welsh Government in relation to guidance, in establishing working groups with practitioners very early on—we are doing that—and then a second recommendation about the way in which that guidance should be produced and disseminated. My ambition is to deliver what the mover of this amendment is seeking by acting in line with the committee's advice. That work is very actively going on.

[867] I managed to hear quite a lot of your session earlier today with the putative chair of the revenue authority and I think she was able to show you that, even in advance of being interviewed herself, she had made connections with HMRC and others and was well apprised of the need to make sure that those working in the field are well informed about the Act through guidance and other measures.

[868] I obviously have to consider the amendment that's in front of the committee and to look at what it would mean were it to be put on the face of the Bill, and, while I'm very happy to align myself with the ambition that lies behind the amendment, I think, in practice, it could create some significant difficulties. It makes it a requirement that Welsh Ministers

[869] 'must issue guidance to the parties to land transactions and their legal and financial advisers regarding the operation of this Act.'

[870] That could appear to create an obligation to send technical guidance out to every person who enters into a chargeable land transaction as well as their legal and financial advisers. We anticipate that approximately 60,000 returns will be sent to the WRA each year. So, this would be an obligation to

send guidance to a huge number of persons. It's also a technical issue in how the WRA would know about this. The WRA would tend only to know about a chargeable transition on receipt of an LTT return. It would, therefore, be providing guidance to the person and their advisers just at the point where they completed making that return, when it would seem that the guidance would be too late to be of significant assistance to them.

[871] So, my view is that I will have to ask members of the committee not to support the amendment, but want to give very clear assurances to the mover and to other members of the committee that we are determined to follow through on the recommendations that this committee made and to do everything we can to make sure that the WRA is able to produce reliable advice and does it with stakeholders. Mr Reckless asked for a timetable from me; that is to be the work of this calendar year, but I expect the WRA to have produced that guidance by the start of 2018 so that it is available months before the Bill will become a practical set of changes on the ground.

[872] **Simon Thomas:** Mark Reckless **Simon Thomas:** Mark Reckless to i ymateb. reply.

[873] **Mark Reckless:** I don't suggest that in advance it's possible to identify everyone who may be party to a land transaction in Wales. I think some of this can be done by guidance that is generally available. But the real nub of the point, I think, was something that I and others discussed at Stage 1, and I think Mike Hedges brought out just now. It's a question, if someone mistakenly seeks to pay SDLT on a property in Wales and does that to the HMRC, of what will happen to put them right. Overall, I've frankly been very impressed by you, Cabinet Secretary, in terms of how you've dealt with this committee and how this—. You have listened to our concerns, and I think on a number of recommendations you've taken those forward, and, others, you've seemed genuinely reflective about points that Members have made. In some ways I'm tempted to press the amendment, because, if the right guidance isn't produced, then at least one's done one's best to require that it is, but I think that, overall, a certain degree of appreciation and trust in you and your department and your focus and desire to ensure that this tax legislation works is something that I'm perfectly willing to give.

[874] You did say it wasn't possible to put obligations on HMRC. My understanding—and my amendment such as it was, on HMRC, I think was in order for this reason—is that we can do so, but it's subject to a process of agreement where they are involved. I'm just wondering, if you were willing to

intervene, Minister, whether you accept that the crux of this may be, if someone seeks to pay to HMRC when they should be paying to WRA, does someone send them a notification, and will you do everything within your power to ensure that HMRC has a proper process to make sure that WRA is getting the revenue when that should be appropriate? That's my absolutely core concern.

[875] **Mark Drakeford:** I thank the Member for what he said and for those two questions. It gives me a chance to clarify that, when I said that we cannot make legislation that requires HMRC to do something, we can do that with the consent of the Treasury. But we can't do it unilaterally—that's the point I was trying to make. We would have to seek consents elsewhere. If we have the consents, there are things we can do.

[876] But we are working very actively with HMRC. We already know of some of the plans that they have, practical plans, to be able to make sure that, if material ends up with them in error, they are able to identify that very early and very mechanically, and then to redirect the wrongly directed material straightaway to where it ought to go, and to provide guidance and advice to people at that point.

[877] So, as I say, it's in their interests as well as ours that they don't end up having to deal with a lot of things that they then find they didn't need to deal with, and that sense of 'it's good for them as well as us' is helping to drive them to do these sorts of practical things that I think will address the points that the Member has made.

[878] **Mark Reckless:** I'm encouraged by what the Minister says on that degree of liaison with HMRC. If it is in any event needing Treasury permission for us to put a requirement on HMRC then it does seem, at least in the first instance, a more sensible way of going about things. I think, subject to those notifications happening if someone does seek to pay HMRC in error, than this process of devolution of this tax should hopefully succeed. I'm grateful to you, Cabinet Secretary, and to you, Chair, for the process that we've been involved in.

[879] **Simon Thomas:** Thank you, Mark. Does that mean you're seeking to withdraw the amendment at this stage?

[880] **Mark Reckless:** That's correct.

[881] **Simon Thomas:** Is the committee content? Any objection to withdrawing the amendment? No objection, so the amendment is withdrawn.

*Tynnwyd gwelliant 101 yn ôl gyda chaniatâd y pwyllgor.
Amendment 101 withdrawn by leave of the committee.*

[882] **Simon Thomas:** Steffan Lewis, **Simon Thomas:** Steffan Lewis, do you a ydych chi'n dymuno cynnig wish to move amendment 85? gwelliant 85?

[883] **Steffan Lewis:** Yn dilyn beth a **Steffan Lewis:** Following the ddywedodd yr Ysgrifennydd Cabinet comments made by the Cabinet ar ddechrau ein sesiwn ni—rwy'n Secretary at the beginning of our meddwl bod e ar ddechrau'r sesiwn session—I think it was near the beth bynnag—bod e, fel Offa, wedi beginning of the session at least— ffeindio'r ffin, rwy'n hapus i beidio â that he, like Offa, has found the symud i bleidlais ar y gwelliant. border, I'm happy not to move to a vote on the amendment.

16:45

[884] **Simon Thomas:** Ocê. Gwelliant **Simon Thomas:** So, amendment 85 is 85 heb ei gynnig. not moved.

*Ni chynigiwyd gwelliant 85 (Steffan Lewis).
Amendment 85 (Steffan Lewis) not moved.*

[885] **Simon Thomas:** A'r gwelliant **Simon Thomas:** And the final olaf yn enw Ysgrifennydd y Cabinet amendment in the name of the yw gwelliant 40. Cabinet Secretary is amendment 40.

*Cynigiwyd gwelliant 40 (Mark Drakeford).
Amendment 40 (Mark Drakeford) moved.*

[886] **Simon Thomas:** Rwy'n cynnig, **Simon Thomas:** I, as Chair, move that fel Cadeirydd, y gwelliant hwnnw. Y amendment. The question is that cwestiwn yw: a ddylid derbyn amendment 40 be agreed. Does any gwelliant 40? A oes gwrthwynebiad? Member object? There are no Nid oes gwrthwynebiad. Derbyniwyd objections. Amendment 40 is agreed. gwelliant 40 felly.

Derbyniwyd gwelliant 40 yn unol â Rheol Sefydlog 17.34.

Amendment 40 agreed in accordance with Standing Order 17.34.

[887] **Simon Thomas:** Dyna sy'n dod â thrafodion Cyfnod 2 ar y Bil i ben. Hoffwn ddiolch i Ysgrifennydd y Cabinet am fod yn bresennol, ac am ymateb, fel sydd wedi cael ei ddweud eisoes, mor bositif i awgrymiadau'r pwyllgor. Fe fydd yna drawsgrifiad o'r cyfarfod i gadarnhau, wrth gwrs, ac mae'n bwysig yn y cyd-destun yna, i atgoffa pawb eich bod chi fel Ysgrifennydd Cabinet wedi gwneud nifer o addewidion i gwrdd ag Aelodau ac i drafod gwelliannau posib eraill ar gyfer Cyfnod 3. Ac, felly, rydym yn croesawu y cyfle i wneud hynny.

[888] Mae Cyfnod 3 yn dechrau'n ffurfiol yfory. Bydd y dyddiadau perthnasol ar gyfer gosod ac ati yn cael eu cyhoeddi maes o law. Serch hynny, fe fydd yna hanner tymor i bobl ddod dros rai o'r trafodion heddiw. Mae'r Rheolau Sefydlog hefyd yn gofyn i'r Ysgrifennydd Cabinet baratoi memorandwm esboniadol diwygiedig yn sgil y ffaith bod y Bil wedi'i ddiwygio—ac mae nifer o welliannau wedi'u cytuno arnynt heddiw—ac mae disgwyl i'r memorandwm yna gael ei osod o leiaf pump diwrnod cyn trafodion Cyfnod 3. Felly, rŷm ni'n edrych ymlaen at y memorandwm esboniadol diwygiedig er mwyn hwyluso trafodaethau *Plenary* llawn Cyfnod 3.

Simon Thomas: And that completes our Stage 2 proceedings. I would like to thank the Cabinet Secretary for his attendance, and for responding so positively to the committee's suggestions. There will be a transcript of the meeting that you can check, and it's important in that context to remind everyone that you as Cabinet Secretary have made a number of pledges to meet Members and to discuss other possible amendments at Stage 3. And we welcome the opportunity to do that.

Stage 3 formally begins tomorrow. The relevant dates for Stage 3 proceedings will be published in due course. There will be half term for people to get over some of the proceedings that we've just had. Standing Orders also make provision for the Cabinet Secretary to prepare a revised explanatory memorandum, taking account of the amendments agreed—and many amendments have been agreed today—and the revised memorandum is expected to be laid at least five working days before Stage 3 proceedings. So, we look forward to seeing that revised memorandum in order to facilitate full Plenary proceedings at Stage 3.

*Barnwyd y cytunwyd ar bob adran o'r Bil.
All sections of the Bill deemed agreed.*

16:47

**Cynnig o dan Reol Sefydlog 17.42 i Benderfynu Gwahardd y Cyhoedd
o'r Cyfarfod ar 1 Mawrth
Motion under Standing Order 17.42 to Resolve to Exclude the Public
from the Meeting on 1 March**

Cynnig:

Motion:

bod y pwyllgor yn penderfynu gwahardd y cyhoedd o'r cyfarfod ar 1 Mawrth yn unol â Rheol Sefydlog 17.42(vi).

that the committee resolves to exclude the public from the meeting on 1 March in accordance with Standing Order 17.42(vi).

*Cynigiwyd y cynnig.
Motion moved.*

[889] **Simon Thomas:** Bydd cyfarfod nesaf y pwyllgor yn cael ei gynnal ar 1 Mawrth, ac rwy'n cynnig, o dan Reol Sefydlog 17.42 bod y cyfarfod hwnnw yn cyfarfod yn breifat i drafod adroddiadau drafft y pwyllgor. Neb yn gwrthwynebu? Pawb yn gytûn. Gyda hynny, hoffwn i ddiolch i'r Gweinidog, a phawb arall. Ac mae'r cyfarfod wedi dod i ben. Diolch yn fawr iawn.

Simon Thomas: The next committee meeting will be held on 1 March, and I move under Standing Order 17.42 to exclude the public from that meeting so that we can discuss the committee's draft reports. Are there any objections to that? Everyone is agreed, I see. And, with those few comments, I'd like to thank the Minister, and everyone else, and declare the meeting closed.

*Derbyniwyd y cynnig.
Motion agreed.*

*Daeth y cyfarfod i ben am 16:47.
The meeting ended at 16:47.*