



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

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

**Dydd Llun, 24 Medi 2012**  
**Monday, 24 September 2012**

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

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

**Aelodau'r pwyllgor yn bresennol**  
**Committee members in attendance**

Suzy Davies	Ceidwadwyr Cymreig Welsh Conservatives
Jocelyn Davies	Plaid Cymru (yn dirprwyo ar ran Simon Thomas) The Party of Wales (substitute for Simon Thomas)
David Melding	Y Dirprwy Lywydd a Chadeirydd y Pwyllgor The Deputy Presiding Officer and Committee Chair
Simon Thomas	Plaid Cymru The Party of Wales

**Eraill yn bresennol**  
**Others in attendance**

Yr Arglwydd Carlile o  
Aberriw/Lord Carlile of  
Berriew CBE QC

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

Steve George	Clerc Clerk
Gwyn Griffiths	Uwch-gynghorydd Cyfreithiol Senior Legal Adviser
Olga Lewis	Dirprwy Clerc Deputy Clerk
Lisa Salkeld	Cynghorydd Cyfreithiol Legal Adviser
Dr Alys Thomas	Y Gwasanaeth Ymchwil Research Service

*Dechreuodd y cyfarfod am 2.32 p.m.*  
*The meeting began at 2.32 p.m.*

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

[1] **David Melding:** Good afternoon, everyone, and welcome to this meeting of the Constitutional and Legislative Affairs Committee. I will now go through the usual housekeeping announcements. We do not expect a routine fire drill, so if you hear the alarm, please follow the instructions of the ushers, who will help us to leave safely. Headsets are available for interpretation, and for amplification if you are hard of hearing; channel 1 is for interpretation and channel 0 is for amplification. Please switch off all electronic equipment completely because it can interfere with our broadcasting equipment. We have had apologies from Eluned Parrott, and Jocelyn Davies will be substituting for Simon Thomas. We have also had apologies from Julie James.

2.33 p.m.

**Offerynnau nad ydynt yn Cynnwys Unrhyw Faterion i'w Codi o dan Reolau  
Sefydlog Rhifau 21.2 neu 21.3  
Instruments that Raise No Reporting Issues under Standing Order Nos. 21.2 or  
21.3**

[2] **David Melding:** These instruments are listed. Regarding item 2.1, namely the National Health Service (Dental Charges) (Wales) (Amendment) Regulations 2012, there is a slight issue to which the clerk will wish to refer.

[3] **Mr George:** The explanatory memorandum for these regulations says, in relation to the regulatory impact assessment:

[4] ‘The Regulations simply increase a statutory fee by a predetermined formula.’

[5] In fact, in light of correspondence that I have had with the Welsh Government, that may be a slightly misleading impression. There was a formula that was used previously, but there is now ministerial discretion as to the level of fees set. I believe that Ministers and officials have taken into account the way in which the formula used to apply, and they have taken into account issues such as the retail price index, and so on. However, the explanatory memorandum, as it is, is probably slightly misleading. I do not know whether the committee wants to note that or write to the Minister to point it out. I will leave it to your discretion.

[6] **David Melding:** I suggest that this is a fairly de minimis matter; it is not a huge issue. However, what is stated there is slightly wrong, and there is a principle in terms of increasing charges, though the amount of increase is very modest indeed. Therefore, I think that correspondence pointing this out to the Government, for the purposes of better practice in the future, may be appropriate. Are Members content with that? I see that they are.

[7] There is no comment to make on items 2.2, 2.3, 2.4, 2.5 and 2.6. With your permission, we will defer item 2.7, which is the Bluetongue (Wales) (Amendment) Regulations 2012, to our next meeting, which I think is in two weeks' time, as we now have some additional information that can be considered. Are we happy with that? I see that we are.

[8] Item 2.8 is an affirmative resolution instrument, the Smoke-free Premises etc. (Wales) (Amendment) Regulations 2012. I think that Members will be aware that this has attracted quite a high level of interest among some outside bodies. We have had quite a lot of correspondence, individually. However, it is listed for affirmative procedure, as you can see. Are we content with all items, subject to that one deferment? I see that you are.

2.36 p.m.

**Offerynnau sy'n Cynnwys Materion i'w Codi gyda'r Cynulliad o dan Reolau  
Sefydlog Rhifau 21.2 neu 21.3  
Instruments that Raise Issues to be Reported to the Assembly under Standing  
Order Nos. 21.2 or 21.3**

[9] **David Melding:** These are both negative instruments. Item 3.1 is the Waste (England and Wales) (Amendment) Regulations 2012. Technical and merit points have been identified. Are you happy with the report that has been prepared? I will ask Gwyn to elaborate if necessary.

[10] **Suzy Davies:** There is reference to judicial review proceedings being brought. Do we know who brought them?

[11] **Ms Salkeld:** I think that it was the waste recycling companies that brought it. There is a number of them, but I am not sure of their names.

[12] **Suzy Davies:** That is fine. I was curious about the source, that is all.

[13] **Jocelyn Davies:** It is not a local authority, it is a business, is it?

[14] **Ms Salkeld:** Yes.

[15] **David Melding:** I should point out that we did receive some information just before the meeting from the Government about some of the issues that gave rise to the court action, and that will be in the report. Subject to that, are we happy? I see that we are.

[16] Item 3.2 is the Conservation of Habitats and Species (Amendment) Regulations 2012. There is a technical and merits report on that. Do Members have any queries? Again, there is a brief note on this in terms of the Government's response to some of the issues that we note in the merits report, which is basically about this issue that similar procedures in England now have a review and a report attached to them. However, I do not think that the devolved legislatures are following that particular procedure; it is their right to pursue matters in a different manner, but obviously, we are pointing that out. I sense that we are content.

2.38 p.m.

**Y Pwyllgor Craffu ar Waith y Prif Weinidog: Y Dull o Weithio a Phynciau i'w  
Craffu Arnynt  
Committee for the Scrutiny of the First Minister: Approach to Work and Topics  
for Scrutiny**

[17] **David Melding:** There is a letter from the Chair of the Committee for the Scrutiny of the First Minister, who happens to be me, outlining the nature of the committee's remit, indicating the first two subjects that will be examined with the First Minister, which are the legislative programme and promoting enterprise. Committee Chairs are invited to submit topics that they think may be suitable for discussion by the committee for the scrutiny of the First Minister. So, we need not do this now, but if there are issues that you feel that have been identified in the work that our committee has done, which could with profit be considered by that committee, please raise them with me and we can forward them to the clerk of that committee and then I will consider them further in that capacity.

[18] We will now move to item 5 on the agenda, which gives us a natural pause. I see that Simon Thomas is going to join us. Perhaps we could also ask for Lord Carlile to join us.

[19] **Simon Thomas:** Apologies, Chair.

[20] **David Melding:** That is all right.

2.40 p.m.

**Ymchwiliadau'r Pwyllgor: Ymchwiliad i Sefydlu Awdurdodaeth ar Wahân i  
Gymru  
Committee Inquiries: Inquiry into the Establishment of a Separate Welsh  
Jurisdiction**

[21] **David Melding:** This is the final oral evidence session that we are holding in the inquiry into the establishment of a separate Welsh jurisdiction. It gives me great pleasure to welcome Lord Carlile of Berriew here this afternoon. I think that you have visited the Assembly and given evidence to committees in the past, Lord Carlile, and you are a very experienced parliamentarian, so we are particularly looking forward to the evidence that you will give to us this afternoon.

[22] I do not think that I need to labour the points about how we will work, but we have a range of questions that we want to put to you, and we may follow up the points, as appropriate, with supplementary questions. If we do not cover all the ground or the most relevant information that you think that we should be aware of, you will have a chance at the end to add anything. However, welcome to Cardiff bay this afternoon.

[23] **Lord Carlile:** Thank you very much.

[24] **David Melding:** I will just use the Chair's prerogative to ask the first question. I will take you back to the distant past and to the Richard commission, which produced some fine work. In your evidence, you touched on the subject of a legal jurisdiction. You said that Wales was sort of three quarters of the way there. I wonder whether you think that that was a fair reflection then, whether things have moved even further, and how it sets a context for the inquiry that we are holding.

[25] **Lord Carlile:** Yes, I think that there has been progress in this sense. First, the legislative context is much stronger than it was when I gave evidence to the Richard commission in June 2003. There is more Welsh legislation. Above all, there is more Welsh administrative law and, in particular, more judicial review decisions, which affect Wales in particular. So, there has been progress in that regard. Also, since 2003, whether you like it or not—and I did not, particularly, for historical reasons—the Wales and Chester circuit ceased to exist and was replaced by the Wales circuit, which is coterminous with the boundaries of Wales. So, that is progress in square brackets. It is a change, in any event, which provides equivalence with the Assembly's general jurisdiction. I think that those would be the two main points that I would rely on.

[26] Perhaps I could say at this point that there has been some regression, in the sense that some of the senior people in the legal profession, particularly members of the bar who were serving north Wales, as a result of the removal of the Wales and Chester circuit, have retreated on to the northern circuit to a great extent, and they tend to give priority to work in the north-west of England rather than within Wales. I suspect, therefore, that the service available to solicitors who wish to brief counsel in north Wales is not as good as it was. There are still very good barristers available, but they might prioritise their work differently.

[27] **David Melding:** We have heard from some witnesses that it is necessary, for our inquiry to come up with an authoritative report, to define what we mean by a separate Welsh jurisdiction. Others have followed a slightly more practical line, similar to the one that you have just indicated, I think, on the administration of justice. Are there issues surrounding definitions that we need to be aware of before we stumble in to making recommendations for something as distinct as a separate jurisdiction?

2.45 p.m.

[28] **Lord Carlile:** There are some practical issues that you have to start with. I know that there has been a great deal of interest in Northern Ireland. As it happens, I visit Northern Ireland frequently and do two jobs for the Government in Northern Ireland—the London Government—which give me a very close familiarity with the judiciary and the court system there. The key difference between Northern Ireland and Wales is the porosity of the Welsh border. Northern Ireland is surrounded by water apart from its border with the Republic, which is a political inconvenience that everyone has to put up with. The porosity of the Welsh border means that, in my view, it would be extremely difficult to create a completely separate Welsh system, even along the lines of that in Northern Ireland or British Columbia. I think that one has to be careful about issues connected to that. For example, I happen to be one of the chairs of the competition appeal tribunal. Although I did not start out as a competition lawyer, and I am still an amateur at it, I have learned quite a lot. Within competition law, which is EU competition law, the requirement, if it ever came about, that people should be separately qualified in Wales in some way might be regarded as anti-competitive and unsustainable in law.

[29] **David Melding:** That is very interesting. To develop this point of where we are with the constitution and some of the big constitutional questions, the First Minister made quite a lot of the point that he does not know of any other primary law-making body in the world that does not have a distinct jurisdiction attached to it. Do you place much value on such arguments or would you say that the practical points are more appropriate for consideration?

[30] **Lord Carlile:** I place a lot of value on those comments, but one has to temper what one does in the outturn with practicality. There is a strong argument and my preference has long been—and I have not changed my view—for a Wales division of the High Court of Justice in which, for all practical purposes, all cases started in Wales would be heard in Wales. That would enable cases to be held bilingually where appropriate because Wales is well ahead of almost everywhere in the world in respect of bilingual hearings. There are meetings such as this, for example, as well as in courts. I think that we should revert to the tradition depicted in Chester town hall, where there is a portrait of, I believe, the last chief justice of Wales. I think that it was Judge Jeffreys actually. Certainly, Judge Jeffreys was a chief justice of Wales, even if I have not quite got the history right. I think that there is a lot to be said for having a chief justice of Wales who would not necessarily sit only in Wales. He or she might sit in the Court of Appeal in London as well.

[31] I think that there is a very strong argument for having two or three regional peripatetic High Court judges who, as Welsh judges, would be able to deal with all the most serious civil cases in Wales and some of the most serious criminal cases in Wales. There is a great deal to be said for having a completely separate administration of the courts in Wales. Wales is both big enough and small enough for it to work really well. If one had that sort of devolution of the administration of justice, it would also demonstrate to the London Government that it works, and we might then move, kicking and screaming and years too late, to having a single police force and police administration for Wales, which is demonstrably a requirement and would make Welsh policing much better, as the Welsh extremism and counter terrorism unit, WECTU, has proved.

[32] **David Melding:** You touched on quite a few subjects there. My next question was going to be whether you thought that we ought to grasp this issue as a matter of constitutional principle, but I think that we can conclude from your answer that you do feel that, and that the various practical challenges that would follow should just be confronted in the manner that one would expect of law-making bodies. Simon Thomas, I see that you have a question. Do you want to follow up something that has just been raised that we do not already have as a follow-up question? Obviously, we have questions for Lord Carlile on a lot of the issues just raised.

[33] **Simon Thomas:** Indeed. My question is specifically on the model of devolution that you have just set out. Do you see that being brought about through an Act of Parliament at Westminster or by simple administrative procedures?

[34] **Lord Carlile:** Administrative procedures could set up a Wales division of the High Court. In an ideal world, I would like to see it evolve and develop and then be fixed, rather like a photograph in the old-fashioned way of developing photographs, by primary legislation. I would like to see it institutionalised, but I believe that primary legislation is not strictly necessary. Many years ago now—I can pinpoint it; it was in either 1997 or 1998—I believe that the then Lord Chief Justice was very interested in the possibility of having regional High Court judges in Wales, and I believe that, if that had taken place, we would be where I am suggesting now, and we would have had quite a few years of experience of it.

[35] **David Melding:** That is an interesting metaphor, I must say, of fixing the photograph. Suzy Davies will take us on to the next questions.

[36] **Suzy Davies:** Good afternoon, Lord Carlile. You gave your evidence to the Richard commission in 2003, which is before we freed up the primary legislative powers for the Assembly. Bear that in mind, because you referred in your evidence to British Columbia as a possible template for us. You said, if you do not mind my quoting you:

[37] ‘Turning to the legal system, it is said by some that one of the reasons why we cannot have a fuller form of devolution, including some primary legislative powers is we do not have a separate legal system. That, in my view, is utter nonsense.’

[38] You went on to say that, looking at various Commonwealth countries, they would say something like this:

[39] “‘Oh, devolution works fine, having a Supreme Court in British Columbia is fine, it works very well. We have a little bit of trouble with Quebec, because they have a different legal system, but we manage”. So, in other words, they turn the argument on its head and say that the disadvantage to devolution is having a separate legal system in Quebec’.

[40] Would you still use those words and say that there is a disadvantage to devolution in having a separate legal system in Wales, bearing in mind that we now have primary legislative powers?

[41] **Lord Carlile:** I have travelled quite a bit since 2003; in particular, I have travelled and been to conferences in Canada and Australia. I have also appeared as a barrister on the Isle of Man quite recently and at some length, and I have experience of giving advice in the two big Channel Islands. So, I have learned quite a lot since 2003. I would say that, just as Quebec is a bit of an anomaly in Canada and Louisiana is a bit of an anomaly in the United States, where I have also travelled, Scotland is actually the anomaly here, and we cope very well. I think that you are all lawyers, are you not? Scotland has a markedly different legal system from ours, but we manage, although not without some difficulties. I am aware, for

example, of the difference in the prosecutorial system in Scotland as compared with England and Wales, the important difference being that, in Scotland, the procurator fiscal, when he or she charges, is not in fact imposing a charge as we understand it here in Wales, but is simply indicating that an inquiry as to whether there should be a prosecution is taking place. That confuses people. It even confuses the higher echelons of the Crown Prosecution Service sometimes, with which I have more than a passing familiarity. However, I do not believe that an at least partly separate and individualistic jurisdiction in Wales would cause any of those problems.

[42] We would have to create a jurisdiction that was attractive to the litigant, because just as a company can choose to start an action in London or Rome if it wishes to—provided that both are what is called in legal terms a ‘proper law’, a proper forum—equally, we cannot deprive people of the right to start an action in Rotherham, if they wish to, although we would rather that they started the action in the Welshpool county court. We cannot remove the flexibility. The porosity of the border highlights that, because so many things happen across the border between England and Wales. That is especially so in the north, where there is a natural affinity, in litigation terms, with, for example, Chester and Liverpool.

[43] **Suzy Davies:** Do you think that that might cause a problem with your idea for a separate Welsh high court or a division of the High Court for Wales? We know from our experience with the administrative court that, even though that was designed for as many cases of administrative law to be started in Wales as possible, it is still not happening. People are still choosing to start cases over the border and, of course, since the centralisation in Salford of certain cases, you cannot start them in Wales, even if you want to.

[44] **Lord Carlile:** I shall get into terrible trouble for calling the administrative law system for Wales half-baked. I sit as a deputy judge in the High Court and, in particular, the administrative court. When I was first asked to sit as a deputy High Court judge, the judge who asked me, who was then the senior presiding judge of the Wales and Chester circuit, said ‘particularly so that you could sit in Cardiff’; I have never been asked to sit in Wales. I have been sitting as a deputy High Court judge for about 10 years, and it has never happened because the system is overwhelmed, in my view. The administrative court office in particular is struggling, very valiantly, to meet the burdens that it faces. I have seen that for myself on many occasions. My belief is that if there was a separate and devolved jurisdiction, let us call it the WACO—the Welsh administrative court office—it would be a nice, tidy and well-run system that could be very efficient.

[45] If you look at the organisation of court hearings in Northern Ireland, you will see that they are run very efficiently. For example, there is paperless transfer of documentation between the court administration and the prosecuting authority, the Public Prosecution Service for Northern Ireland. It has been shown that, in that sort of scale, which is smaller than Wales, it can work well.

[46] I think that it would just be more efficient. If part of the aim of the exercise is to attract people to bring cases in Wales—I do not think that there is anything wrong with that; I am all in favour of it—a devolved administration would work really well.

[47] **Suzy Davies:** To come at this from a slightly different angle, Professor John Williams told the committee a while ago that, for the emergence of a Welsh jurisdiction, there would need to be a sufficient body of law. You have already alluded to a growth in administrative law, in particular, to suggest that perhaps there is a sufficient body of law now. Do you envisage that just as law that relates to Wales or cases that arise or could arise in Wales?

[48] **Lord Carlile:** I can see good arguments for a body of Welsh law to emerge. I

absolutely cannot see why health and safety provision should not be different in Wales. Environmental provisions are already different in Wales. There may be a strong argument for some criminal law being different in Wales. That is what happens in devolved jurisdictions. Look at the United States of America where drinking laws, laws about prostitution and all kinds of things, such as divorce laws, are different in different states. So, I do not see a problem with that and, indeed, it might be good if Wales was able, politically and culturally, to develop a greater body of legislation of its own. I would not be in favour of a pell-mell attempt to create a Welsh legal code. Law evolves rather better than it is created is what I am really saying, and I would rather see it evolve.

[49] **David Melding:** I have been trying to get my head around this argument about what a sufficient body of law is, because, presumably, we would have a body of law even if it was largely inherited. The jurisdiction would presumably adopt all current England and Wales law in relevant areas until that was changed by the legislature.

[50] **Suzy Davies:** That is what I was asking. If you are thinking of a separate administrative jurisdiction, are you envisaging that applying just to laws that are applicable in Wales or to law that arises in Wales?

[51] **Lord Carlile:** It should be applicable to events or issues that arise in Wales.

[52] **Suzy Davies:** Geographically, then.

3.00 p.m.

[53] **Lord Carlile:** Geographically. A very good example is planning law, where already there is a body of planning policy and law that is applicable within Wales. Some of it is rather better than the planning law in England, and some perhaps not. However, it is pretty clear to people who want to create development in Wales. That kind of law—it depends on the political will, obviously—can be put to creative use if, for example, the Government of Wales wished to develop a particular industry. If it really wishes to industrialise the landscape with wind turbines all over Montgomeryshire, then it will make that political decision, and some of us will oppose it, but at least people will know what they can do in Wales when they apply for planning consent. I think that the creation of a body of law, whether it is good law or bad law, is actually beneficial to a part of the United Kingdom that has its own clear, or fairly clear, identity.

[54] **Suzy Davies:** Going back to what you said, that you could see that there could be a problem with anti-competition law, for example, if we had a judiciary that was disinclined to sit only in Wales, and that you did not really foresee a problem with English judges sitting in Wales and vice versa. Do you think that there might be a tendency to specialise in law as it applies in Wales, and separate Welsh issues?

[55] **Lord Carlile:** There are three answers, I think, to your question. The first is that I do not see a problem with the judiciary. There would be a Welsh judiciary. I would expect the most senior Welsh judiciary to be able to sit in the Court of Appeal in London, because we are part of the United Kingdom. My own view is that there should be, and there is not, a Welsh judge in the Supreme Court. I think that it is extraordinary that there is a Northern Ireland judge in the Supreme Court, a Scots judge in the Supreme Court, but no Welsh judge in the Supreme Court, other than by chance.

[56] I do not see a problem about specialisation. There would be, and there already are, people who specialise in Welsh administrative law, and there may well be people who do or who would specialise in Welsh planning and licensing law—they tend to go together. I can see strong arguments for that. There would be a real problem if people were required to be

qualified in Welsh law, so that somebody qualified in England could not be seen as qualified in Wales too. Also, let us face it, Wales is very good at producing lawyers, and we have sent out some great lawyers into the wider world. I recently spoke a eulogy at the memorial service to Emlyn Hooson, who took his Welsh language and his north Wales advocacy out into a much wider world. There have been great judges: Lord Atkin, the greatest administrative judge of the twentieth century, came from Montgomeryshire, as it happens; Edmund Davies; Arthian Davies; Lord Morris of Borth-y-Gest; and, John Morris, who I think gave evidence to this committee, who was never a member of the Wales and Chester circuit, although he was very much a south Walian. I bumped into Gerard Elias just an hour ago, by chance, who has taken his brilliant Welsh advocacy skills to become one of the leading practitioners in sports tribunals in Europe. We would hesitate long before we wanted to stop exporting our best legal skills, and that has to cut both ways. I would see a particular Welsh qualification as a requirement as being disadvantageous. I would not be against making available a Welsh qualification as a bonus that would mark people out as perhaps being noted as specialised to qualify in Wales, and I would expect, certainly among the Bar, which I know about, almost every barrister practising in Wales to take it.

[57] **Suzy Davies:** May I turn to something completely different: criminal law? The First Minister has suggested that it might be possible to have the devolution of legal competences to Wales, but excluding criminal law. Is that something that you could agree with, bearing in mind your advice in 2003?

[58] **Lord Carlile:** In broad terms, yes. I would devolve criminal competency at least to Wales, in the sense that if a crime is committed in Wales, then it should certainly be tried in Wales. There would have to be some kind of cross-border dispensation—I presume there are similar problems between here and, say, Bristol. Certainly, up in the north, historically, most of the worst villains came from, dare I say it, somewhere not far from Liverpool, and they would often be committing crimes spanning the Welsh border. I, for example, once memorably prosecuted a string of about 20 armed robberies of post office safes, and they ranged from somewhere near Criccieth to Liverpool. Somebody has to decide where these cases are to be tried. It is preferable to try them in one place only, because you are more likely to secure a conviction if you have one trial rather than two—that is just practical reality.

[59] So far as all other aspects of criminal competency are concerned, I do not see why cases should not be tried in Wales. I do not see any need to limit it, but the civil jurisdiction is easier to deal with, certainly.

[60] **Suzy Davies:** How do you feel about the ability of this place to make new criminal law—apart from the small-scale things that we already deal with? Does it matter or not?

[61] **Lord Carlile:** I do not have any difficulty with a mature legislature, which this has now become, making criminal laws. There would have to be a doctrine to ensure that there was not an unseemly clash between Westminster and Cardiff. I have no doubt that it could be achieved. I think that there may be every reason for it. I will give you an example: criminal law that affects the agriculture industry, of which there is more than one might think at first blush—I am not just talking about the stealing of sheep, which does not happen very often these days. There are laws about tagging animals and moving them from market to market, and there are quite important laws involving very large sums of money and other criminal offences of that kind. I can see every reason for giving them a Welsh context.

[62] **Suzy Davies:** Do you think that there is an argument for taking things one step at a time in this? For example, you mentioned in your evidence, all those years ago, perhaps dealing with youth crime as a first step.

[63] **Lord Carlile:** I certainly think that there is a lot to be said for allowing law to evolve.

I have very strong feelings about dealing with youth crime. I am just about to produce a report for the Department for Education—it arises from a particular and horrific incident in Doncaster, but it has a more general application. The Scots' system of dealing with youth crime is not only more civilised than the English and Welsh system, it is also, more importantly, far more successful. If guilt is to be determined, it is determined in a fairly conventional way, but then the case is transferred to a so-called children's panel, which is not like a court at all, in that everybody sits around a table, including the young person involved, and while there may be a condign punishment, it tries to resolve the best way of dealing with the case. All those involved in that kind of work say that the children's panel system works much better. I am the current president of the Howard League for Penal Reform. We have looked at this, and I could see Wales developing something like the Scots' system that may be better to deal with youth crime.

[64] There is also the issue of rurality, which has made a great deal of difference to the way in which courts operate in Wales. I know that some justices of the peace will not like this, but I cannot say why we have to have all these *palais de justice* that exist in almost every small town in Wales. There are only about two security cases a year in most courts, and they could be transferred to the main court centres. I believe that a youth justice and, indeed, a magistrates' court system in Wales could be taken much closer to the population, and function in school halls, village halls, of which we have a large number, and places where the Mudiad Ysgolion Meithrin has its existence—all sorts of public buildings—so that people could feel much more involved in the justice that is happening in their area. I believe from experience that people in Wales are rather more interested in these justice issues than people in some parts of England, at least.

[65] **Suzy Davies:** That is interesting. Are you saying that you would perhaps like to see the responsibility for prisons also coming to Wales?

[66] **Lord Carlile:** That is a much more difficult issue. When I was an MP, Elfyn Llwyd and I—who are old and good friends—both formed the view that, whatever the opinions of our constituents, we would really love to have a prison in our constituencies. Indeed, I offered the then responsible department the possibility of a site in Newtown in Powys, suggesting to my constituents, half-jokingly, that this would provide much secure employment in Newtown. I know that Elfyn Llwyd and I genuinely believed that it was odd that there was not a prison in north or mid Wales, and that it could be built and run cheaply and there would be plenty of competent people to run it. So, I do not have an issue about prisons in Wales. I would like to see a prison in mid Wales and a prison in north Wales.

[67] There is an issue, of course, about critical mass, which is that there are not enough people being sent to prison—and I would not like to take affirmative action to increase the number.

[68] **David Melding:** No, not as the president of the Howard League for Penal Reform. [*Laughter.*]

[69] **Lord Carlile:** No, not as the president of the Howard league.

[70] There are not enough people being sent to prison in Wales to justify prisons in north and mid Wales, particularly given that there is a big prison estate, for historical reasons, on Merseyside.

[71] **Suzy Davies:** Does that mean that there is not sufficient critical mass to consider devolving responsibility for running those prisons to the Assembly?

[72] **Lord Carlile:** I cannot see any reason why the responsibility for running prisons that

are situated in Wales should not be devolved to the Assembly. It could not be done much worse than it is currently, after all.

[73] **Suzy Davies:** Even if it is not mainly full of Welsh people?

[74] **Lord Carlile:** It is in Wales, and there are plenty of non-Welsh people living in Wales who are subject to the Welsh jurisdiction in all other respects, so I do not see any problem about that. Indeed, I could see every reason for the Government of Wales doing a deal with the Ministry of Justice to build a prison in north Wales to replace, for example, HMP Risley, but that would have to be the subject of contract directly. However, it could be run by the Assembly. I do not see any problem about that at all. I think that it would be run rather better. A Welsh prison system could run just as well as, for example, the Queensland prison system, which is also devolved, or the New South Wales prison system. You have to remember that, in Australia, which is possibly a better example or set than Canada, each territory or state has its own director of public prosecutions, its own public prosecutions service, its own courts system, and its own police run within the state, but there is the High Court of Australia, which is the equivalent of our Supreme Court, situated in Canberra, which has supreme judicial authority. Its precedents are binding on all of the states.

[75] **Suzy Davies:** Thank you very much indeed.

[76] **David Melding:** Lord Carlile, I would like to move on to discuss access to justice. I was interested in what you said about the experience in Northern Ireland. It seems to me that it has concentrated its administration of justice very much on a system that the public can understand. There is access, there are local courts, and they are unified courts. Indeed, you also talked about youth justice fitting into that model of more collaborative or community justice. Do you see that model working effectively in Wales? Should that be something that we should aspire to? Does that not take you down the road of seeing a unified jurisdiction that covers civil and criminal matters, if we want to go in this direction of strengthening Wales's legal personality?

3.15 p.m.

[77] **Lord Carlile:** I love Northern Ireland and, if I am about to criticise Northern Ireland, it is done kindly. First, I think that there is the very important difference about the border. There is very little cross-border activity because Northern Ireland is part of quite a small island. Secondly, I joined the Wales and Chester circuit in 1971, and I practised almost exclusively on the Wales and Chester circuit for a couple of decades. Northern Ireland feels very much like the old Wales and Chester circuit—it is pretty old-fashioned. It is being modernised quite quickly, but I think that the judiciary and lawyers there understandably feel a little uncomfortable about the pace of some aspects of modernisation. As a result, the pace has not been great. The Northern Ireland jurisdiction is expensive. Criminal cases in Northern Ireland cost considerably more than criminal cases in England and Wales. There is significantly less judicial diversity than in England and Wales. For example, there are no female High Court judges as yet in Northern Ireland. We may be very close to it, but it happened a long time ago in England and Wales, although I think that I am right that there has been no female presiding judge of the Wales and Chester circuit yet, but there is now a female resident judge in Cardiff.

[78] I think that the organisation of the courts in Northern Ireland has been hamstrung by history. They tend to use old buildings. Building new courts is very expensive, though there are exceptions to that, particularly in Belfast, and there is one other example that I can think of off the top of my head. So, I would be reluctant to say that you could just pick up the Northern Ireland system and plonk it in Wales, as it were, because I think that circumstances are rather different. However, there are, no doubt, lessons to be learned. They have a very

able Lord Chief Justice in Northern Ireland, Sir Declan Morgan, who is the successor to a number of other very able Lords Chief Justice who have become distinguished members of the Supreme Court. So, there is no denying the quality of the senior judiciary in Northern Ireland, but it is a little unreconstructed in parts.

[79] **David Melding:** I am not necessary reflecting on Northern Ireland, but we visited Northern Ireland to gather evidence, so I think that all Members will appreciate what you have just said, because we can compare it with what we saw as well. It is an interesting view, and it is important that we weigh it in the balance carefully. However, what was emphasised all the time during our visit—they were talking about the reforms in a hopeful way and about the vision that they had—was that law reform needed to focus on access to justice. Their message to us was: ‘If you’re going to have a separate jurisdiction, it has to be justified on the basis that it greatly or significantly aids access to justice’. Do you think that that is the criteria? That might lead us to take a slightly bolder approach than perhaps the Welsh Government would take on criminal law, for instance.

[80] **Lord Carlile:** I certainly think that it is a criterion. Access to justice always assumes questions about legal aid. We have had a very painful process in Parliament on legal aid in the last year, in which legal aid for civil proceedings has been decimated, and that is no exaggerated use of the term. I think that in a smaller jurisdiction it might be possible to provide different forms of access to justice, particularly in the civil process. I have not been an MP since 1997, so it is a long time ago now, but even before 1997 the performance of small claims courts in mid Wales was generally excellent. Provided that people were able to obtain advice from somebody who could tell them to put the word ‘contract’ into their claim, and ‘damages’ and such words that some of us around this table are familiar with, then, generally speaking, the small claims courts provided high-quality access to justice at very low cost.

[81] I think, too, that, in the criminal setting, we could probably develop a much more flexible duty solicitor scheme, which would cover the rural courts. Its smallness of scale would enable one to be much more conceptual about how it was created. You could start with a clean sheet of paper, a sensible use of the internet, including Skype and such things, so that first advice could be given, by, say, a solicitor in his or her home. I have been in Newtown police station at 3 a.m. on a Saturday with an acquaintance of mine who is the duty solicitor arriving in his pyjama top and a pair of trousers. I think that there is a better way of dealing with cases such as that than the traditional way, although he handled the case extremely well. It would give scope for a much more imaginative approach and maybe enhance access to justice. What I think would be a mistake would be if any Welsh Government were foolish enough to say that it was going to spend more money on legal aid, because it is not going to happen—not in the real world.

[82] **David Melding:** Thank you. I was interested in what you said about the judiciary in Northern Ireland and that there is no female High Court judge. Some people have raised the issue of the strength of the legal profession in Wales. It is usually hinting at the fact that a lot of the best legal talent practices outside Wales, particularly in London, and that it would be difficult to recruit senior lawyers into positions where they are judges, and, if we have higher courts, that they are the judges in those courts. We may lack the strength and depth that we would need in the legal profession. Others have sought to refute that view in their evidence, and I wonder what your view is, because you have referred several times to those that have practiced both in and outside Wales.

[83] **Lord Carlile:** If you were to draw a line across Wales, just north of Merthyr Tydfil, you would have two very different Waleses for this purpose. It seems to me that there is an abounding legal profession of solicitors and barristers in south Wales now, with chambers right across the piece and with some star silks and star solicitors practising in the cities of

south Wales. Given what has happened to the Wales and Chester circuit, what you tend to get in the northern two thirds of Wales is an uneven quality of practice, including some extremely able solicitors. Some of the most outstanding solicitors in the country practice in the most unlikely places in Wales, providing general advice across an incredible range of issues. Advocacy is more difficult. There are a lot of advocates in Chester now, in two large sets of chambers, one of which is a combination of two former sets in Chester, and the other is part of a Manchester set of chambers, which is the chambers from which Lord Justice Maurice Kay emerged. I think that it would be difficult to be sure that a sufficient number of people would devote themselves solely to practising in Wales in the northern part of the country. Some would be absolutely outstanding; others, to be frank, would not be. Therefore, one would inevitably have a gravitation of the profession from the south northwards.

[84] That is one of the main reasons why the porosity of the border is important and one needs to welcome into Wales, as part-time practitioners, those who may have their offices in Chester, Liverpool or even Manchester, and Birmingham, of course, as we go down to the middle. I used to be the Honorary Recorder of Hereford, and I know from that border that, when cases occurred on the Wales side of the Herefordshire border, the advocacy in the county courts was almost always done by barristers from Birmingham; perhaps not almost always, but very frequently. Does that answer the question?

[85] **David Melding:** It does. I do not think that anyone has raised this issue that the capacity in south and north Wales is very different potentially, and that is something that we should reflect on.

[86] **Simon Thomas:** I have some questions for you in Welsh, Lord Carlile.

[87] **David Melding:** Channel 1 will give you the translation.

[88] **Simon Thomas:** A dweud y gwir, rwy'n meddwl eich bod chi wedi crybwyll y rhan fwyaf o'r meysydd yr wyf am eu codi yn eich tystiolaeth. Fodd bynnag, mae rhai cwestiynau penodol yr hoffwn eu gofyn. **Simon Thomas:** To be honest, I think that you have touched on most of the areas that I wish to raise in your evidence. However, there are some specific questions that I would like to ask.

[89] Yn gyntaf, beth yw eich barn am ddefnyddio rheolau trefniadaeth sifil er mwyn mynd ati i ddatganoli gweinyddiad cyfiawnder, fel yr ydym wedi bod yn ei drafod, sef y dylai pob achos sy'n deillio'n ddaeryddol yng Nghymru gael ei drin yng Nghymru fel mater o drefn? A ydych chi'n meddwl bod hynny'n gam ymarferol ymlaen? A fuasai hynny'n arwain at sefyllfa lle y gallech chi eistedd yng Nghaerdydd fel barnwr? First, what is your view on using civil procedure rules in order to devolve the administration of justice, as we have been discussing, which would mean that each case that emerges geographically in Wales would, as a rule, be dealt with in Wales? Do you think that that is a practical step forward? Would that lead to a situation in which you could sit in Cardiff as a judge?

[90] **Lord Carlile:** I think that every case that started in the Welsh jurisdiction should be dealt with in Wales anyway, whether there is further devolution or not.

[91] **Simon Thomas:** That is not necessarily the case now.

[92] **Lord Carlile:** No, that is not necessarily the case now; that is subject to this. If you have to allow people to do some forum shopping, so be it. There are, for example, courts in London that specialise in certain areas, like the technology and construction court. I do not think that it would be practicable, although I know that there are regional arrangements for

technology and construction, for huge technology and construction issues to occupy the time of the one technology and construction judge in north Wales for the whole of the year. That can happen.

[93] However, I mentioned the Competition Appeal Tribunal earlier, and, in fact, I have chaired a tribunal in Cardiff within the last six months; it was an interesting case about bus services in Cardiff. The Competition Appeal Tribunal has been ready to sit in Wales and it has sat in Scotland. Most of the resistance usually comes from the lawyers who are involved in the case and, on that occasion, we made every one—they were all London based—come to Wales to do the case. For the first day or two, they were pretty grumpy about it, until they found some of Cardiff's better watering holes, and they looked pretty happy by the end. There is a point to saying that because I think that the Welsh jurisdictions operate in a rather less frenetic way sometimes and you get more work done if you can relax into a friendly and well-organised jurisdiction.

[94] **Simon Thomas:** Mae hynny'n mynd â ni at bwytnt yr ydym eisoes wedi'i grybwyll ynghylch gallu pobl broffesiynol i weithio ar draws ffiniau. Rydych wedi bod yn eithaf clir yn eich tystiolaeth bod gweithio trawsffiniol yn rhywbeth sy'n bwysig i Gymru a Lloegr a'n bod ni'n wahanol i Ogledd Iwerddon yn y cyd-destun hwnnw. Fodd bynnag, rydym wedi derbyn rhywfaint o dystiolaeth gymharol gryf fel pwyllgor sy'n dweud pe baem yn symud i awdurdodaeth gyfreithiol ar wahân, buasai gosod rhyw fath o brawf cymhwysedd yn hanfodol. Ni fuasai angen iddo fod yn rhywbeth mawr, ond dylai fod rhyw brawf o gymhwysedd y byddai'n rhaid i unrhyw un sy'n dymuno ymarfer yng Nghymru ei gael. Rydych wedi awgrymu heddiw y dylai fod yn fonws neu'n opsiwn a fyddai'n ychwanegu at sgiliau, yn enwedig sgiliau bargyfreithwyr. Fodd bynnag, beth fuasai eich ymateb pe bai awdurdodaeth yn cael ei sefydlu yng Nghymru a phe bai rhyw fath o brawf cymhwysedd yn cael ei ddefnyddio?

**Simon Thomas:** That takes us to a point that we have already mentioned about the capacity of professional people to work across borders. You have been quite clear in your evidence that cross-border working is something that is important to England and Wales and that we are different from Northern Ireland in that context. However, we have received some relatively strong evidence as a committee that, if we were to move to a separate legal jurisdiction, then having some sort of competence test would be crucial. It would not need to be anything major, but there should be some test of competence that anyone who wishes to practise in Wales would have to go through. You have suggested today that it should be a bonus or an option that would add to skills, particularly those of barristers. However, what would your response be if a jurisdiction were established in Wales and if some sort of competence test were applied?

[95] **Lord Carlile:** First, you would have to see whether it was lawful because my preliminary view was that it would probably offend European competition law because it is introducing a new restriction.

[96] **Simon Thomas:** Would it be a new restriction or a new qualification?

[97] **Lord Carlile:** It would be introducing a new restriction if you could not practise in Wales without passing it. I am very much in favour of a voluntary competency and, in time, that would come to be an accepted broad requirement. However, I would not support a compulsory competency, even if it were lawful. It would diminish the choice of lawyers for litigants in Wales.

3.30 p.m.

[98] I suppose that you could go back to what was regarded as out of date and historic,

namely the old special fees system, which we had on the circuit and which I remember well. I can remember one example where northern circuit QC, George Carman, had to buy 24 bottles of wine for the circuit wine cellar—and a very fine wine cellar we had in the Grosvenor Hotel, Chester—in order to be able to do a case on circuit. Some of the defence counsel in the moors murders case, for example, had to ‘go special’, as it was called, or ‘pay special’, in order to practise there. However, in a sense, the moors murders trial is a good example. Ian Brady was defended by Emlyn Hooson QC. The system enabled Myra Hindley’s solicitors to choose advocates whom they thought were best suited to that case, and who had some knowledge. The case was transferred from the northern circuit anyway, but the system enabled people whom they thought had some knowledge of the type of law involved to come to do the case.

[99] There is a system in place in the Isle of Man, which I experienced myself recently when I defended a short fraud case there. I had to turn up at an office there to swear an oath, and I was then given a certificate to show that I am a member of the bar of the Isle of Man for a limited period. That only applies to QCs in the Isle of Man. If people want to have that kind of ceremonial, I am not against it, but I do not believe that it adds anything. To put it more simply, I believe that people are entitled to their choice of lawyer. I give some advice to foreign business people, and, occasionally, to foreign governments, because they believe that there are lawyers in London who can advise them better than their local lawyers can. I do not see why the same should not apply to a Cardiff solicitor, or to the brilliant advocates in Cardiff.

[100] **Simon Thomas:** Mae math o brawf yn bodoli yng Ngogledd Iwerddon—ac yr ydych chi wedi bod yno. Er mwyn gallu ymarfer yno, mae’n rhaid talu ffi, onid oes? **Simon Thomas:** A test of some kind exists in Northern Ireland—and you have been there. In order to practice there, you have to pay a fee, do you not?

[101] **Lord Carlile:** Yes. I believe that that system is out of date. The Northern Ireland bar operates within a completely different set of circumstances, as you may have seen. Did you go to the bar library there?

[102] **David Melding:** I do not believe that we did.

[103] **Lord Carlile:** They do not operate from chambers in Northern Ireland, they operate from a central bar library, which was recently reconstructed—it is a beautiful place. It is rather like the Scottish bar, where they do not have chambers, although I believe that there is one sitting now in Edinburgh. However, it is rather an old-fashioned system, to be frank. You have to run practices at the bar like solicitors’ practices now—they are businesses, with issues about overheads. Indeed, there are very serious issues about overheads in London. Therefore, anything that imposes artificial restrictions is to be avoided, if possible. What is the aim of the exercise? It is to have the best possible courts in Wales, in which people have the choice of the best possible lawyers to represent them, to achieve the best possible results. That applies to the Government as well.

[104] **Simon Thomas:** Un peth a welsom yng Ngogledd Iwerddon, sydd yn wahanol i’r hyn sydd yn digwydd yng Nghymru a Lloegr ar hyn o bryd, oedd comisiwn diwygio’r gyfraith. Mae tystiolaeth wedi bod i’r pwyllgor fod sefydlu’r fath gomisiwn diwygio hefyd yn rhan hanfodol o unrhyw fath o awdurdodaeth gyfreithiol. A ydych yn gweld hyn fel rhywbeth hanfodol, neu rywbeth y byddai’n braf ei gael? **Simon Thomas:** One thing that we saw in Northern Ireland, which is different to what is happening in Wales and England at present, was the law reform commission. There has been evidence to committee that the establishment of this type of reform commission is also a crucial part of any sort of legal jurisdiction. Do you believe that this is crucial, or something that is only desirable?

[105] **Lord Carlile:** I see it as desirable. I had a long conversation with a member of the Law Commission in London last week. That person was complaining pretty strongly that the work that the Law Commission produces, which is pretty well universally of a very high quality, gathers dust on shelves. One can point to maybe 200 Law Commission reports that have not been enacted. This place works differently. As it happens, I produced a report on the safety of children in the NHS in Wales in 2002. I cannot quite remember how many recommendations there were in that report—I believe that it was 113. About 100 of those recommendations had been brought into effect within a year. That is a pretty impressive performance. It certainly would not have happened if we were still living with the Welsh Grand Committee system and so forth. I believe that a Welsh law commission, particularly a part-time one, perhaps with fairly frequently changing personnel consisting of a mixture of academics and practitioners, could produce a turnover of recommendations, most of which would be at least considered properly by the Assembly in early course. That would be a huge advantage and what has happened with devolution generally demonstrates that.

[106] **Simon Thomas:** You just mentioned the membership, and I wanted to ask you about that specifically. You mentioned academics and practitioners; that is slightly different to the current Law Commission set-up, in a way, is it not? You would foresee something slightly more flexible, would you not?

[107] **Lord Carlile:** I would foresee something slightly more flexible. It is always very important in a small jurisdiction to avoid hands on shoulders. That does happen, and we have seen it happen in Wales over my 40 years in practice in the legal world, but much less recently than it used to. One must have a proper and transparent appointment system, but, in an ideal world, Wales has some excellent law schools with top-quality academics and some very good practitioners in both parts of the profession, so I think that one could develop an excellent Wales law commission.

[108] **Simon Thomas:** Diolch yn fawr. **Simon Thomas:** Thank you.

[109] **David Melding:** The final question that I have follows up, perhaps, on that particular point, which is the lack of quality commentary in Welsh law and cases. You noted the practice in Northern Ireland where they are developing that. Do you have any views on that, and what would you like to see emerging? Whatever happens, whether we say that there is a jurisdiction or not, there is more distinct Welsh law and yet perhaps there is not the academic interest or the commentary that you would get in other parts of the United Kingdom.

[110] **Lord Carlile:** I would like to see an online availability of a digest of all important Welsh cases in one place, whatever the jurisdiction. In my view, that should include criminal law; for example, sentencing remarks in important cases. When I started at the bar, I spent my first six months dealing with burglaries in roughly Rhyl and Prestatyn. In those days, there were many burglaries in Rhyl and Prestatyn, and judges who dealt with them used to give the defendants a bit of a hammering, saying, ‘There are far too many burglaries on the north Wales coast where nice people from Stoke-on-Trent should be allowed to have their holidays without their goods being stolen’. Even that sort of judgment, although it may seem trivial, actually is not. Setting out a digest of Welsh law from lead sentencing cases to administrative law, where jurisdictional points and practice directions can be included, would be a great advantage, but it would have to be done at the Government’s expense—or the Assembly’s expense, I suppose—because I do not suppose that any publisher could make any money out of doing it.

[111] **Simon Thomas:** On that, have you seen the proposals from the Counsel General here, and his proposal to work with a particular law publishing company, possibly on the cheap? Do you have any views on those proposals?

[112] **Lord Carlile:** I recently received an e-mail with an attachment about that. I have known the Counsel General for a long time. He has always had a great skill at public relations. I thought that it was an excellent piece of public relations and I would like to see it brought to fruition. I can tell you that that initiative would have the full support of the legal profession throughout Wales. I think that people would be willing to provide commentaries if there was a facility to do that alongside. If there was an internet system, instead of just having comments, such as, 'What a rubbish decision', 'What a great decision', one could have a separate digest of commentaries, and it would be for the courts to decide how much they valued them. Some articles in law journals are not very good, but others provide a clear picture for the future. I think having a facility for digest and comment in Wales would be helpful, and more flexible than any existing system.

[113] **David Melding:** That concludes the questions that we have for you. If there is anything that you would like to bring to our attention that we have not covered, we would be delighted to hear it now.

[114] **Lord Carlile:** No; if I may say so, your questions dealt with the range of issues that I expected. I am very grateful to you for allowing me to come to give evidence. It has been a great pleasure.

[115] **David Melding:** It is our pleasure to have received evidence from you, Lord Carlile. I think that you allowed us to test the value of some of the evidence that we received previously. We have put some of the things that we have heard to you in our various questions. However, you have also given us a couple of additional insights that have not been raised by anyone so far in written or oral evidence. That has been very welcome, and we will be reflecting on those as we start to prepare our report. Many thanks.

[116] **Lord Carlile:** Good wishes to you in the preparation of your report.

[117] **David Melding:** Thank you.

3.41 p.m.

**Y Pwyllgor Busnes—Adolygiad o Strwythur y Pwyllgorau a'r Amserlen  
Business Committee—Review of Committee Structure and Timetable**

[118] **David Melding:** We have a paper on this. I suspect that it will not entirely satisfy Members, but it is there for you to note. If you want to comment, now is the time. I see that no-one wants to comment at the moment. We can reflect on it and raise points at a future meeting if appropriate.

**Prosiect Ymchwil Rhyngwladol ynghylch Rheoli Proses Ddeddfwriaethol yr UE:  
Y System Rhybudd Cynnar  
International Research Project on the Control of the EU Legislative Process:  
Early Warning System**

[119] **David Melding:** The research is being done by an academic interested in how subsidiarity issues are dealt with. They want an account of the procedures that we have adopted, particularly since we have mainstreamed European issues. It is gratifying that there are people who are interested in what we are doing and who may see it as a model for others.

3.42 p.m.

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

[120] **David Melding:** There are some papers to note. We do not meet next week, so the next meeting will be on 8 October. That is likely to be in the Senedd, but you will obviously be advised of that nearer the time.

**Cynnig o dan Reol Sefydlog Rhif 17.42 i Benderfynu Gwahardd y Cyhoedd o'r  
Cyfarfod**  
**Motion under Standing Order No. 17.42 to Resolve to Exclude the Public from  
the Meeting**

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

*the committee resolves to exclude the public from the remainder of the meeting in accordance with Standing Order No. 17.42(vi).*

[122] Are there any objections? I see that no Member objects.

*Derbyniwyd y cynnig.*  
*Motion agreed.*

*Daeth rhan gyhoeddus y cyfarfod i ben am 3.42 p.m.*  
*The public part of the meeting ended at 3.42 p.m.*