



Cynulliad  
Cenedlaethol  
Cymru

National  
Assembly for  
Wales

# Cofnod y Trafodion The Record of Proceedings

[Y Pwyllgor Cyllid](#)

[The Finance Committee](#)

11/01/2017

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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 <a href="#">Bywgraffiad</a>   <a href="#">Biography</a>	Llafur Labour
Nick Ramsay <a href="#">Bywgraffiad</a>   <a href="#">Biography</a>	Ceidwadwyr Cymreig Welsh Conservatives
Mark Reckless <a href="#">Bywgraffiad</a>   <a href="#">Biography</a>	UKIP Cymru UKIP Wales
David Rees <a href="#">Bywgraffiad</a>   <a href="#">Biography</a>	Llafur Labour
Simon Thomas <a href="#">Bywgraffiad</a>   <a href="#">Biography</a>	Plaid Cymru (Cadeirydd y Pwyllgor) The Party of Wales (Committee Chair)

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

Mark Drakeford <a href="#">Bywgraffiad</a>   <a href="#">Biography</a>	Aelod Cynulliad, Llafur (Ysgrifennydd y Cabinet dros Gyllid a Llywodraeth Leol) Assembly Member, Labour (The Cabinet Secretary for Finance and Local Government)
Andrew Jeffreys	Cyfarwyddwr y Trysorlys, Llywodraeth Cymru Treasury Director, Welsh Government
Tara King	Cyfarwyddwr Cynorthwyol Masnacheiddio a Chydweithredu, Cyngor Caerdydd Assistant Director for Commercialisation and Collaboration, Cardiff Council
Dr Tim Peppin	Cyfarwyddwr Materion Adfywio a Datblygu Cynaliadwy, Cymdeithas Llywodraeth Leol Cymru Director of Regeneration and Sustainable Development, Welsh Local Government Association
Ed Sherriff	Pennaeth Strategaeth Gyllidol, Llywodraeth Cymru Head of Fiscal Strategy, Welsh Government

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

Bethan Davies	Clerc Clerk
Gemma Gifford	Dirprwy Glerc Deputy Clerk
Martin Jennings	Y Gwasanaeth Ymchwil Research Service
Helen Jones	Y Gwasanaeth Ymchwil Research Service
Georgina Owen	Dirprwy Glerc Deputy Clerk
Katie Wyatt	Cynghorydd Cyfreithiol Legal Adviser

*Dechreuodd y cyfarfod am 09:00.*  
*The meeting began at 09:00.*

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

[1] **Simon Thomas:** Croeso i gyfarfod o'r Pwyllgor Cyllid. Rŷm ni mewn ystafell newydd ar gyfer pwyllgorau—dros dro, gobeithio. Ond croeso i chi i gyd. Mae'r drefn yn aros yr un peth. So, a gaf i atgoffa Aelodau bod angen diffodd unrhyw ffonau symudol ac offer symudol fel nad oes sain os gwelwch yn dda, a hefyd, wrth gwrs, bod offer cyfieithu ar sianel 1 a lefel y sain gwreiddiol ar sianel 0?

**Simon Thomas:** Welcome to this meeting of the Finance Committee. We are in a new room for committees—pro tem, hopefully. But I welcome you all here. The arrangements are still the same. So, may I remind Members that there is a need to switch off any mobile phones and mobile electronic equipment so that they do not impair the audio? Also, interpretation equipment is available on channel 1 and the amplification is available on channel 0.

09:00

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

[2] **Simon Thomas:** A gaf i ofyn i aelodau'r pwyllgor, yn gyntaf oll, i nodi'r papurau sydd gerbron? Yr un cyntaf yw adroddiad perfformiad corfforaethol Comisiwn y Cynulliad o Ebrill i Fedi 2016. A yw pawb yn hapus i nodi ein bod wedi derbyn hwnnw? Diolch yn fawr. A'r ail beth yw llythyr gan Ysgrifennydd y Cabinet dros Gyllid a Llywodraeth Leol ynglŷn â'r Bil Treth Gwarediadau Tirlenwi (Cymru), sy'n ychwanegu at y dystiolaeth yr ŷm ni wedi bod yn casglu, nodi hwnnw. Diolch yn fawr iawn i chi.

**Simon Thomas:** May I ask committee members, first of all, to note the papers that we have before us? The first is the Assembly Commission corporate performance report from April to September 2016. Is everyone happy to note that we accept that? Thank you. And the second is the letter from the Cabinet Secretary for Finance and Local Government on the Landfill Disposals Tax (Wales) Bill, which is in addition to the evidence that we have been collecting. Do we note that? Thank you very much.

09:01

### **Fframwaith Cyllidol: Sesiwn Dystiolaeth gydag Ysgrifennydd y Cabinet Fiscal Framework: Evidence Session with the Cabinet Secretary**

[3] **Simon Thomas:** A gaf i droi, felly, at yr Ysgrifennydd Cabinet a rhoi croeso iddo ef eto?

**Simon Thomas:** Therefore, may I turn to the Cabinet Secretary and welcome him once again?

[4] **Ysgrifennydd y Cabinet dros Gyllid a Llywodraeth Leol (Mark Drakeford):** Diolch yn fawr.

**The Cabinet Secretary for Finance and Local Government (Mark Drakeford):** Thank you.

[5] **Simon Thomas:** Blwyddyn newydd dda i chi ac i'r adran—blwyddyn brysur iawn o'ch blaen chi a'r adran wrth sefydlu'r Welsh Revenue Authority a phob dim arall

**Simon Thomas:** Happy new year to you and the department—I'm sure it's going to be quite a busy year for you and your department as you establish the Welsh Revenue

sy'n dod yn sgil hynny. Rŷm ni yma i holi cwestiynau ynglŷn â'r fframwaith cyllidol a gytunwyd toc cyn Nadolig rhyngoch chi a Llywodraeth San Steffan. A gaf i ofyn i chi yn gyntaf i gyflwyno'r swyddogion sydd gyda chi?

Authority and everything else that comes as a result of that. We are here now today to ask you about the fiscal framework that was agreed just before Christmas between you and the Westminster Government. May I ask you first to introduce the officials you have with you?

[6] **Mark Drakeford:** Bore da a diolch yn fawr. Gyda mi y bore yma mae Andrew Jeffreys, sy'n bennaeth y Trysorlys yn Llywodraeth Cymru ac Ed Sherriff, sy'n arwain ar fanylion y fframwaith.

**Mark Drakeford:** Good morning and thank you very much. With me this morning is Andrew Jeffreys, who's the head of the Treasury in the Welsh Government and Ed Sherriff, who leads on the details of the framework.

[7] **Simon Thomas:** Diolch yn fawr i chi. Efallai gan fod hwn yn newydd, a newydd ei gyhoeddi cyn y Nadolig, byddai'n briodol, os oes gyda chi gyfle, i roi rhyw amlinelliad byr o'r cytundeb a wnaed cyn ein bod ni yn gofyn i aelodau'r pwyllgor ofyn cwestiynau. Diolch.

**Simon Thomas:** Thank you very much. Perhaps, as this is new, and it has just been published before Christmas, it would be appropriate to give you an opportunity to give a brief outline of the agreement that was made before I ask committee members to ask questions. Thank you.

[8] **Mark Drakeford:** Diolch yn fawr; diolch am y cyfle i roi datganiad agoriadol i'r pwyllgor ar y fframwaith.

**Mark Drakeford:** Thank you for the opportunity to give an opening statement to the committee on the framework.

[9] As you said, Chair, we were able to conclude these discussions shortly before Christmas with the Chief Secretary to the Treasury. These were discussions that began in July of last year and then particularly gathered pace during the autumn. The fiscal framework as it is then published between the two Governments is a complex and relatively technical set of arrangements in their detail but, in their impact, are fundamental to the way that the Welsh Government and Welsh public services will be funded in the future. If I was to draw your attention to one aspect of the framework, it is the way in which it contains a significant reform of the Barnett formula as applied to Wales. I

don't think I'd be saying anything out of turn in saying that was pretty much at one end of the spectrum of our ambitions for these discussions at the outset. To have persuaded the Treasury to make Barnett part of the discussion, and then to get an agreement on the reform of it, I think is one of the most significant achievements of those discussions and it is central then to the fiscal framework itself. I think it's probably just important for the record to say that the Welsh Government's view remains that a more root-and-branch revisiting of the way that funding flows through the United Kingdom and recognises relative need is still our primary ambition. In the meantime, having a reformed Barnett formula, one that is fairer to Wales, I think is a pretty significant step at this point, I should say, as well. But I felt throughout those discussions with the Treasury the fact that this was a pretty cross-party ambition at the Assembly, supported by the work of this committee in the past as well, was always a strength to me in being able to argue, not for special treatment for Wales, but simply a recognition that Wales has needs that ought to be reflected in the way the funding flows.

[10] So, the fiscal framework implements, for the first time, the funding floor recommended by the Holtham commission. The fact of there being a funding floor at all was a significant breakthrough, secured by Jane Hutt in her negotiations during the last Assembly. But that was a temporary funding floor and, if we're frank, a funding floor that came at no cost to the UK Government, because the impact of austerity meant that the Barnett squeeze, which had been the experience of the longer run of devolution, was, at least for that period, not going to materialise. So, it was an important principle to secure but it didn't actually have a direct cost to the Treasury and they were only willing, at that point, to agree it for the length of this spending-review period. We've now secured that as a long-term and a permanent feature of the fiscal framework and we've secured the 115 per cent threshold that Holtham recommended.

[11] Within that, then, we have, with fair funding secured, agreed a set of arrangements for adjusting the block grant for income tax that ensures that the characteristics of the tax base in Wales are properly reflected and that the Welsh budget is protected from the impact of some significant UK policy changes. It was always the intention of the fiscal framework that decisions that lie in the hands of the Welsh Government, we should bear the risk of the outcome of those—if we make the right decisions, we get the benefit; if we make the wrong decisions, we bear the consequences—but that we should not be exposed to the consequences of decisions that are made by other people, and the arrangement we have on income tax secures that position.

[12] As a result, I believe that the fiscal framework opens the way for the National Assembly to make a decision on the Wales Bill. My view of it is that it is neutral as far as the Wales Bill is concerned. The fiscal framework is no longer an impediment to people voting for the Wales Bill if they think the Wales Bill is worth voting for on its own terms. Had we not had a fiscal framework that could be supported in that way, it would have been a very significant barrier to supporting an LCM on the Wales Bill and the Treasury were very well aware of that throughout the discussions.

[13] So, alongside those fundamental matters, there are a series of other aspects of the framework, which I'm sure committee members will be interested in: the agreement to double our capital borrowing limit to £1 billion, the creation of a new Welsh reserve that will allow us to manage our resources in a more flexible and efficient way, and, finally, the agreement of an element of independent oversight of the operation of the framework. It is very interesting, as you can imagine, to conduct discussions with the Treasury. I'm a social scientist by background and, every now and then, used to ask myself whether this was anthropology or ethnography I was involved in. It is like meeting another tribe, really, because it's an organisation that comes at things in a very particular way and the idea of an independent element in discussions with them is not part of their normal culture. But we secured that—partly on the back of the way that Scotland had secured it as well, but it's another important departure from the normal way that business is conducted and a very important part of the ongoing ability to review the framework in the future.

[14] **Simon Thomas:** Diolch yn fawr am yr adroddiad cynhwysfawr yna. Roeddech chi'n dweud yn glir iawn, o safbwynt cyfansoddiadol, eich bod yn teimlo bod hwn yn gytundeb niwtral, o safbwynt yr LCM, symud ymlaen gyda Bil Cymru a datganoli treth incwm ac ati i'r Cynulliad. Ond, o safbwynt cyllidol, a ydy'r cytundeb yma yn niwtral? Pwy sy'n elwa o'r cytundeb yma? A ydych chi wedi modelu sut fydd hwn yn gweithio dros y pum mlynedd nesaf?

**Simon Thomas:** Thank you very much for that comprehensive report. You did state very clearly, from a constitutional point of view, that you thought that this is a neutral agreement, in terms of the LCM, moving ahead with the Wales Bill and the devolution of income tax and so forth to the Assembly. But, from a fiscal point of view, is this agreement neutral? Who benefits from this agreement? Have you modelled how this will operate over the next five years?



[15] **Mark Drakeford:** Ie, rydym ni wedi gwneud y gwaith yna, Gadeirydd. Rŷm ni wedi ei wneud e, gan edrych yn ôl, i weld beth oedd yn mynd i droi mas os oedd y cytundeb sydd gyda ni nawr wedi gweithio dros y ddegawd ddiwethaf. Rŷm ni wedi edrych ymlaen hefyd. Wrth gwrs, mae'n dibynnu ar lot o bethau yr ŷch chi'n eu bwydo i mewn i'r gwaith yr ŷch chi'n ei wneud yno.

**Mark Drakeford:** Yes, we've done that work, Chair. We have done it, looking back, to see what was going to happen if this agreement that we have now had worked over the last 10 years. We've looked forward as well. It depends, of course, on many things that you feed into the work that you do.

[16] So, it's the assumptions you make. Inevitably, these things are sensitive to that, but, looking back, we believe that had this package been in place over the last 10 years, despite the fact that that is a period of extraordinary austerity, we would have been £400 million better off over the last 10 years.

[17] **Simon Thomas:** Over the 10 years.

[18] **Mark Drakeford:** Over the last 10 years. Now, that's cumulatively, not every year, but it would be £400 million that the Assembly didn't have over that period. Looking forward, if you make three mid-range assumptions, if you assume that the population grows in line with Office for National Statistics projections, if you assume a modest increase in public spending, and if you assume that historic patterns of tax revenues can be projected into the future, then we believe we will be £1 billion better off over the next 10 years as a result of this agreement. If public spending doesn't grow at all—if it simply just holds its value in real terms where there's no increase—we would be £500 million better off over the next 10 years.

[19] **Simon Thomas:** It's very unusual for a Treasury tribe to be so generous to a devolved government. What did they get in return for this relative generosity?

[20] **Mark Drakeford:** Well, the agreement is one that has to be taken in the round and, of course, there are risks in the agreement for the Welsh Government too. What I had to argue with the Treasury was that, in order to persuade the National Assembly to accept the agreement in the round, there would need to be some safety net in it. So, if those mid-point assumptions

that I've just outlined for you were to cut against us, then that £500 million is there as a sort of safety net that I can persuade, if I can, the National Assembly that, if the risks turn out to be greater than those mid-points would assume, in the round, the package still protects us from those adverse outcomes. So, there are risks in relation to population, there are risks in relation to comparability, there are risks that public expenditure will be cut in real terms rather than stay neutral or grow. So, there are risks, inevitably, in it. This arrangement provides the Welsh budget with a secure safety net against those risks, and that was the nature of the discussion with the Treasury.

[21] **Simon Thomas:** Diolch yn fawr. Mark Reckless.

[22] **Mark Reckless:** Congratulations, Cabinet Secretary. Isn't the reality, except potentially my own party, that everyone was going to vote for the legislative consent motion anyhow, and you've got quite a lot of improvement out of the Treasury when the Wales Bill and income tax devolution without a referendum had pretty much been stitched up and decided in any event?

[23] **Mark Drakeford:** Well, personally, I wouldn't have started from that point. I don't think it's a foregone conclusion, even today, that the Assembly will vote for the Wales Bill, which was still alive in front of the House of Lords yesterday. So, I think parties will be weighing it up over the weekend and into next week. It was always helpful to me that other parties—and certainly Nick Ramsay mined a consistent seam on this issue in making it clear on the floor of the Assembly that if the fiscal framework didn't deliver what was necessary for Wales then support for the Wales Bill would always be more difficult. I thought that was a genuine argument. I think it did have an influence over the Treasury. Neither they nor I went into the discussions on the basis that, no matter how ropey the fiscal framework might be, the Wales Bill was going to sail through anyway.

[24] **Mark Reckless:** So, should I be congratulating Nick Ramsay instead? Or is it a joint effort?

[25] **Mark Drakeford:** Well, I—[*Laughter.*] I was genuine in what I said in my introductory remarks that, if you are there on your own, on behalf of the Welsh Government, you feel that the ground is stronger under your feet when you are able to say to the chief secretary how this is not just the Welsh Government's point of view; every time I answer questions on the floor of the

Assembly, Members right across the Chamber ask questions and express their interest in this topic.

09:15

[26] **Mark Reckless:** There are a couple of areas in the negotiations where the outcomes come, where people, if they were just looking, perhaps, at that aspect, might question whether you had got a good deal. The Holtham independent commission came up with a range of 114 per cent to 117 per cent for the needs base. You've settled on 115 per cent, which is two thirds of the way down that range. Similarly, with the deal to reduce the pace at which any changes would push the overall settlement towards that floor, you've agreed at 105 per cent, which, again, is two thirds of the way down the range of between 115 per cent and 100 per cent, where it could have been. Are either of those—either individually, or taken together—in any sense a negotiating defeat for your team?

[27] **Mark Drakeford:** The negotiating game is to agree the principle of both. We've never had an agreement on any needs-based element in Barnett, so it's possible, of course, to have a higher ambition for the needs percentage, but the big breakthrough is to get an agreement on a percentage at all. Holtham himself uses 115 per cent pretty regularly as his assessment within that range and I was content to agree to that.

[28] The Barnett addition, the multiplier—the 105 per cent—again, to get a multiplier of that sort at all when the Treasury's starting point was that there shouldn't be anything, because they're already at 120 per cent in terms of relative need, so why should they possibly want to offer us more on top of that? To get that in as a principle and to have it operating from the very beginning, as soon as the devolution of taxes begins, I think is the major breakthrough. There was a discussion, a negotiation, as you can imagine, with the Treasury over what the percentage would be. You've heard the figures that I've used this morning that, with 105 per cent, we believe that we will be £1 billion better off on those mid-point assumptions. I think that persuading the Treasury to be even more generous—because every percentage point you go up, that figure rises—would've been a pretty big ask.

[29] **Mark Reckless:** To address population growth, there was some commentary that perhaps we would seek protection in the way that Scotland has and the way that that can affect the spending formula. Can you perhaps

initially, Cabinet Secretary, just explain, when both the Barnett formula currently and the Barnett formula with the needs-based factor for the future, when both of those, include population share as one of the multipliers, why is change in relative population growth affecting the spend and how it comes in?

[30] **Mark Drakeford:** That's a very good question because it points to part of the discussion that I think is often missed in the way that population is talked about, because population is often talked about as though it only affects the tax-raising side of the equation. But population is a factor in Barnett as well and they operate in opposite directions. So, if Wales's population, compared to England, were to grow less quickly, then, on the tax-raising side, that is a problem for you because tax receipts in Wales would be rising more slowly than in England. But, on the other side of the equation—the Barnett side of the equation—if the Welsh population grows more slowly than in England, then the relative spend in Wales grows so that things do have, not exactly a cancelling out, but a balancing effect. If population in Wales were to grow more quickly than in England, then we gain in terms of potential tax receipts, but the Barnett relativities would go in the opposite direction. So, I think it's an important point that Mr Reckless is making there, and that's part of why, in the negotiations, I felt that we could agree a different set of arrangements on population than were agreed in Scotland. There are other reasons as well, which I'm happy to elaborate, but that was one of the basic reasons why we agreed to a different outcome.

[31] **Mark Reckless:** Would you like to see population in Wales rise or fall relative to England?

[32] **Mark Drakeford:** Well, I don't know that I've got a particular ambition either way, but in the sense that the discussion has focused on the risks to Wales if our population grows less quickly then we had to interrogate that and to assess how great a risk we think that would be. And, sometimes, some of the commentary—

[33] **Simon Thomas:** Historically, it's growing less quickly, isn't it?

[34] **Mark Drakeford:** Well, not really, Simon. If you look back over 30 years, for the first 20 years of that, our population, I think, grew slightly more quickly than in England. In the last 10 years, our population has grown more quickly than Scotland, but not as quickly as England, so you have to then find out why that should be, and whether you think those risks will

continue into the future. My analysis at least is that the reason our populations have grown in that way is mostly to do with in-migration. So, over 60 per cent of population growth in Scotland is the result of in-migration; over 50 per cent of population growth in England is a result of in-migration, and less than 40 per cent of population growth in Wales is a result of in-migration. Now, if you make the assumption that, over the next 10 years, those patterns will be different, and there may even be out-migration as a result of Brexit, and that in-migration will fall, we are less exposed to that than they will be in either Scotland or in England. It's a much bigger problem for Scotland, where there's been historic depopulation, and where the risks for them were much more salient than for us, and that's the second reason why I was willing to agree to take the risk on population into the Welsh side of the equation, because my calculation of the risk is that it is a less significant risk for us than it would have been in the Scottish context.

[35] **Mark Reckless:** Cabinet Secretary, finally from me, you said that, in the longer term, you wanted to see a more comprehensive review of the Barnett formula. Would you agree with me that that's going to become increasingly challenging as we see a greater degree of tax devolution to Wales, because that previously perhaps more implicit transfer from England to Wales becomes clearer, and, as there is more fiscal autonomy, then the challenge of negotiating, let alone increasing, that subsidy, is going to get greater?

[36] **Mark Drakeford:** I think there will be different challenges in the future. In some ways, I think you could argue that the case for a root-and-branch revisiting of the way that risks and rewards are shared around a more devolved United Kingdom will be even more necessary post Brexit, when we will—. Brexit will not leave the current set of institutional arrangements between the nations of the United Kingdom untouched. There will be a need to revisit them, and the way that they are revisited, I think, will surface in a different way the need, not to reform Barnett, because we think Barnett was an arrangement made in its day and that we need, as I say, a more fundamental look at the way that funding flows around the system and recognises relative need. So, I think I'm agreeing with what Mr Reckless says, for a slightly different set of reasons. In the immediate future, the fact that we've got changes to Barnett itself will make a big difference to Wales.

[37] **Mark Reckless:** Sorry, Chairman. So, it seems it's fundamental rather than comprehensive. Can I also just clarify, in this helpful and, actually, very readable document that the two Governments have put together, it says 'aside from periodic review', as to not wanting it to be subject to ongoing

negotiation. Do we have an agreement as to what that period is, or is that up in the air?

[38] **Mark Drakeford:** The agreement we have on review, Chair, is this: that both the Welsh Government and the UK Government have independent rights to trigger a review, but only once during any Assembly or parliamentary term. That doesn't mean to say that, by agreement, it couldn't be reviewed more than that if it was necessary, but, as a right, I would be able to say once, during any Assembly term, 'I want a review of the way all this is working' and that would be guaranteed to happen. Equally, the Chief Secretary, once during a parliamentary term, could require that to be done. We could, by agreement, do it more than that, but it's written in that those independent rights exist to a periodic review.

[39] **Simon Thomas:** Most cricket has shared interests of the two drives, but we'll leave that there. [*Laughter.*]

[40] **Mark Drakeford:** Yes, of course; definitely.

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

[42] **David Rees:** Thank you, Chair. Just a small point: on the population growth—and you highlighted that inward migration, clearly, is a factor in the changing of the larger past or historic growth—has an analysis been undertaken as to the reasons for that migration, because, clearly, there are different implications and risk factors, depending on why people are moving in?

[43] **Mark Drakeford:** There's a very significant piece of work being done on migration by the PPIW, the Public Policy Institute for Wales, which they published recently. It is worth a look at if Members have time, because, of course, as well as looking at migration from outside the United Kingdom into the United Kingdom and where that sits, it looks at in-migration within the United Kingdom, where Wales has big net in-flows of people from other parts of the United Kingdom who come to live in Wales. So, we were able to draw on that analysis in helping us to weigh up some of these risks.

[44] **David Rees:** Thank you.

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

[46] **Mike Hedges:** I could talk about population all day, but I'll resist that. Just one final question on population: is it not true that the changes between England and Wales have not been particularly substantial if you look at the last 30 years, and, even when we're under or over, it's not a substantial amount under or over in terms of growth on either side?

[47] **Mark Drakeford:** I'll see if either of my colleagues wants to give you the detail but, Mike, the general point is one that I'm agreeing with. In Scotland, the importance of the issue is different. In Wales, the idea that we have consistently had population growth more slowly than elsewhere just turns out not to be true.

[48] **Mr Jeffrey:** I've nothing to add.

[49] **Mike Hedges:** Can I ask you, for the record, if you'll talk about the importance of applying the model to each income tax band, rather than to income tax as a whole?

[50] **Mark Drakeford:** Yes. Well, this was, again, one of those parts of the discussion with the Treasury where I felt we gained some ground during the discussions, if I could put it that way. The Treasury's starting point was that income tax in Wales should be compared to income tax across the UK; my position was that that exposed us unfairly to a series of risks and that decisions would be made outside Wales, but the consequences of those would be left with us. So, we discussed a number of different comparator models where we felt we were being compared fairly to the way that things happened elsewhere. And, as you will see, the final agreement is that, for each of the three bands of income tax where we will have partial devolution, we will be compared to what is happening to that band in the rest of the United Kingdom. And, given that we have a concentration of taxpayers in the lower band and very few taxpayers, comparatively, in the top band, that means we will be comparing like with like and our risks on the income tax front as a result have been very, very significantly reduced.

[51] **Mike Hedges:** Thank you. Turning back to the land transaction tax, which we've talked about a lot, we know two things about it: we know that it's cyclical and we also know that London is different to the rest of Britain. To repeat what I said yesterday, London is an international city whose prices are set in the international market and, as the pound reduces in value, people in America and Europe can get more for their dollars and euros. Is there a 'no detriment' in there that protects us in terms of land transaction

tax, otherwise the proportion of land transaction tax taken in Wales, compared to London—no matter what Government it is, no matter what any Government does—is likely to decrease?

[52] **Mark Drakeford:** Well, I listened carefully to what Mike Hedges said yesterday on the floor of the Assembly on this, and I think the truthful answer to the question is that we do not have a direct no-detriment mechanism in relation to SDLT. We did have discussions with the UK Government as to whether or not it was possible to agree a comparator on SDLT a bit as the Wales Governance Centre had suggested, by taking London and the south-east out of the equation. We weren't able to secure their agreement to that. They didn't believe that the data would be reliable enough for us to construct the framework on that basis. It is why, Chair, you have to see the package in the round, because the risks we are taking in relation to SDLT are part of the reason why we have the Barnett multiplier, in order to give us that compensatory mechanism within it.

9:30

[53] Mike, I think the other thing, just to put on the record, I guess, is that, if you look back at what has happened historically, then what you've said certainly is borne out. If you look at the OBR forecasts for SDLT over the coming period, they suggest that growth in Wales will significantly outstrip growth in England. So, it's not inevitable that SDLT will always cut against us. We could be entering a period where, actually, house prices in London and the south-east have hit a peak and are not going to be able to continue to accelerate at the rate they are, and that house prices and land prices in Wales will grow proportionately more quickly. The OBR's forecasts—we may not agree with them, but they are a credible body, so their views are not abstruse, if that's the right word—they suggest the opposite.

[54] **Mike Hedges:** I think they're probably right in pounds. The problem is that people buying into London, especially at the top end of the market, are people who are using euros and dollars. I mean, the pound's lost roughly 20 per cent of its value since we voted to come out of the European Union. I expect it to drop another 20 per cent between now and March, when they start the negotiations and afterwards. That will mean the stock market will go up in pounds, and property prices will go up in pounds, but most of the property we sell in Wales is in pounds—we don't have lots of very rich Americans paying £20 million and £30 million for houses.



[55] **Simon Thomas:** Yet.

[56] **Mark Drakeford:** That's true.

[57] **Mike Hedges:** Can I move on to something? You've got two taxes that you're talking about, income tax and land transaction tax, and both are cyclical taxes. Are we even going to have notionally apportioned to us countercyclical taxes in order to have some balance, or do you think the 105 per cent and 115 per cent will make up for that?

[58] **Mark Drakeford:** In this fiscal framework, those are the balancing mechanisms, not countercyclical, notional assignments of other taxes. It is by those two mechanisms, and of course, through the normal procedures of in-year block grant adjustments, to take account of things that change within year. There's a careful set of arrangements in the fiscal framework that allows for those in-year adjustments to be made. We've already seen them deployed in Scotland and we think that those will be sufficient.

[59] **Mr Jeffreys:** Just to add to that, in a sense there is no change in the way that cyclical risks are managed in this framework. It's still effectively the UK Government that carries that risk through its overall borrowing arrangements. So, where tax receipts turn out to be lower than planned, then the UK Government will borrow more and finance the same level of expenditure, other things being equal. I suppose the thing that's different now is that, if there's a slightly different cycle in Wales, and our tax base rises or changes in a different way from the rest of the UK, then that's the risk that Wales is now taking on for that share of our funding that's from Welsh taxes.

[60] **Mike Hedges:** Moving on, we talked about the in-year block grant adjustments. Will the change to an autumn budget make any difference to the way that the Government can plan?

[61] **Mark Drakeford:** I don't believe so, in relation to the need to make in-year adjustments as far as the fiscal framework is concerned, Chair. We're very used to in-year adjustments. The autumn statement made a series of adjustments to our block grant in year this year, and we would expect that any in-year adjustments that need to be made as a result of the fiscal framework would be carried out in the normal course of business in that way.

[62] **Mike Hedges:** Okay. That's me done.

[63] **Simon Thomas:** You mentioned there the in-year adjustments under the fiscal framework with Scotland had been deployed. Was that around the stamp duty? Was that the issue?

[64] **Mark Drakeford:** Andrew understands it better than me.

[65] **Mr Jeffrey:** In the autumn statement, before Christmas, there were obviously very big revisions in the forecasts as a result of Brexit and other factors, and those fed through into the block grant adjustments that Scotland has, and that's all reflected in the arithmetic there. There are some relatively large movements there, because, obviously, income tax is a very big tax base and there are quite big revisions in income tax forecasts.

[66] **Simon Thomas:** Okay, lovely, thank you. Nick Ramsay.

[67] **Nick Ramsay:** Thanks, Chair. Can I congratulate the Cabinet Secretary on this move forward on the fiscal framework? As you know, I've been very supportive of this change for a long time now. Can I just ask you—? Under the previous Government, there was a concern with the commitment as to the permanence of the arrangement. It was only until the end of that Parliament. I think that was their wording. Can you clarify exactly how permanent this arrangement is? You've mentioned the review, but exactly what degree of permanence can we expect from this arrangement?

[68] **Mark Drakeford:** There is now a permanent funding floor. The previous one, as you say, was time limited. That is now a permanent feature of the way that things will work, and we've got an agreement on the percentages that the floor will operate. So, we've not only got a permanent floor, but we've got a proper needs-based adjustment to it. Now, obviously, I say 'permanent' in the sense that the periodic review will look at the package as a whole and things, but there are no time-limited elements to it in the way that there were before.

[69] **Nick Ramsay:** It seems to me that we've got an arrangement that is particularly suited to Wales—one that would not necessarily have been so suited to Scotland, for instance, but one that we can benefit from.

[70] **Mark Drakeford:** That was a very important principle for the Treasury in the discussions—that we were agreeing a set of arrangements that were unique to Wales and that there are no easy read-offs to different sets of

circumstances that appertain in other parts of the United Kingdom from this, and I think that's fair. I think it is an agreement that attends very directly to the particular circumstances of Wales, and the solutions that it brings to those circumstances are ones that work for us.

[71] **Nick Ramsay:** Is there flexibility? As we see, obviously, we've got the first two taxes being devolved now. In future, I imagine there would be more. Is there flexibility for that indexation of the reduction of the block grant to be revisited to make sure that it is, over two, three, four, five or 10 years, actually working in our interest?

[72] **Mark Drakeford:** I think it is one of the strengths of the framework that, were there to be further fiscal devolution in the future, the basic framework that it sets out would still stand up to—. It would have to be calibrated, it would have to take account of them, and so on, but the basic mechanisms that it sets out would not have to be revisited and set up all over again to accommodate new fiscal devolution.

[73] **Nick Ramsay:** Nice to see some progress after a number of years. Okay. I wanted to ask you about borrowing and capital borrowing powers, and the rationale behind increasing capital borrowing from £500 million to £1 billion.

[74] **Mark Drakeford:** Thank you. Chair, when I look back over the process, one of the things I feel like I've learned from it is how important some of those very early discussions turned out to be. So, in the very first meeting in June, there was what looked like a relatively innocuous item on the agenda, which was about the scope of the discussions. The Treasury were very clear that, in their minds, this was very straightforward: this was about block grant adjustments and how to make sure that the system fairly took account of devolved taxes. We had to argue, I thought, fairly hard, to widen the scope of the discussion and to get capital borrowing part of what the scope of the discussions would be. The Chief Secretary, at the beginning, was fairly clear with me that he didn't see why capital borrowing was being put on the table in all of this. We had an arrangement, and he thought that was satisfactory, but, to be fair, he was also willing for us to, as he would have said, make the case for a change.

[75] As a result, we had that opportunity to do it. We were able to go back to the command paper that was published alongside the 2014 Wales Bill, which very clearly said that, as Wales took on new fiscal responsibilities, so

the level of capital borrowing available to Wales should be looked at again. That was a clear position in Silk as well. And, using those arguments, we obtained, I suppose, a concession from the Treasury. Then it was a matter of the quantum: if you're going to increase capital borrowing, what should it be increased to? Again, you can have a discussion as to whether or not we got a sufficiently high figure as a result. We have a figure that is commensurate with the figure that was available to Scotland at the point that they had the same sort of level of fiscal devolution. The Chief Secretary's position was that, as well as being fair to Wales, he had an obligation to be fair to the whole of the United Kingdom, and his view was that there was a fixed sum of borrowing that he had available to him, and if he gave an extra £500 million of that to Wales, that was £500 million he didn't have to deploy for borrowing that might have been to the benefit of another part of the United Kingdom. So, he was having to weigh those things up. Using the Scottish figures, £1 billion is what you come out at. In line with the command paper, we have the ability to have that reviewed at every spending review, so it is not the end of that discussion. We can go back to it and we can argue for more.

[76] Chair, I should say, from where I sit as the Finance Minister, I'm acutely aware of the fact that capital borrowing comes at a revenue cost. We're already supporting significant capital borrowing through housing associations and through local government and so on. The next few years are not going to be a period when there is lavish new revenue available to the Welsh Government. In a practical sense, I believe £1 billion will be what we can afford to support through revenue during this period, and then, if we need to revisit it at the next spending review, we can.

[77] **Mark Reckless:** So, are you planning to borrow the full £1 billion?

[78] **Mark Drakeford:** No, I'm not saying that, Chair. My view is that there is a hierarchy here; the first thing you do is you use to the fullest extent the conventional capital you've got that doesn't cost you anything. Then we have financial transaction capital that I would want to see deployed next, and then, when we've exhausted both of those streams, I'm open to borrowing for investment purposes that will pay back in terms of developing the Welsh economy. But I don't see, in a practical way, how I would be able to go beyond £1 billion, because of the revenue consequences of borrowing at that level.

[79] **Nick Ramsay:** Do you envisage setting out to the Assembly in more

detail, certainly once we've got the further fiscal powers, the Government's strategy in terms of borrowing? Because I think it's an area that, in the past, we've obviously never had to worry about. But it might be helpful, I think, if Members did understand the parameters of that.

[80] **Mark Drakeford:** What I do hope to do during this year, Chair, is to publish a tax policy statement, which will be broader than borrowing, but will include borrowing, and will set out, in a policy sense, the approach that the Welsh Government intends to take to these new fiscal responsibilities. I hope it will set out a set of principles that Members will find useful in seeing how the decisions we will make are being guided.

[81] **Mr Jeffrey:** Could I just add—? The budget that was voted on by the Assembly yesterday includes borrowing plans over the next four years, but those were premised on the previous borrowing limits, so there may be a need to revisit that in due course.

[82] **Nick Ramsay:** I made that point and asked that question, because I think all of us recognise that, over the last 15 years, the absence of borrowing powers has been inhibitive to the Government, as, of course, it would be. But, of course, on the flip side of that, there are understandably going to be some concerns about the parameters within which it happens and that we don't get into some of the problems, on a smaller scale, that the UK Government, since the second world war has got involved in. So, that's why I asked that. I think it would be helpful if your team could be clear on that.

[83] **Mark Drakeford:** Sure.

[84] **Nick Ramsay:** One final point, Chair. Sorry, I'm hogging this. I just noticed—the UK Government, within the Government of Wales Act, retains the ability to revise the borrowing limit upwards and downwards, but not below the initial £500 million. Is that correct?

[85] **Mark Drakeford:** That's my understanding.

[86] **Mr Jeffrey:** Yes. There's an amendment in the current Wales Bill that puts it to £1 billion, so £1 billion becomes the bottom.

09:45

[87] **Nick Ramsay:** So, that's the norm. Would that—?

[88] **Mr Jeffreys:** Yes.

[89] **Mark Drakeford:** The £1 billion becomes the floor. It's £500 million now, but there's an amendment to the Wales Bill to increase that to the £1 billion that we've agreed—

[90] **Nick Ramsay:** Oh, I see; this is going back to the Act of 2014. So, that's an amendment in the new Bill.

[91] **Mark Drakeford:** In the Wales Bill.

[92] **Mr Jeffreys:** [*Inaudible.*]—two reflectors that it will be moved to £1 billion.

[93] **Mark Drakeford:** You will see there is a commitment in the fiscal framework to move an amendment to the Wales Bill to put the £1 billion in as the threshold.

[94] **Mark Reckless:** But could it be increased above that by agreement with the Treasury without further amendment of legislation?

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

[96] **Mr Jeffreys:** Yes, I think a Treasury Order can vary the limit.

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

[98] **Mike Hedges:** I've got three main questions. I assume that, from now on, we'll always get the revenue costs of borrowing as a part of the budget line within the budget so that we can actually see how borrowing is infringing on the revenue of the Assembly. The second one is: did they explain why Rutland council, which I think is the smallest council in England, and Merthyr, which is the smallest council in Wales, are able to engage in prudential borrowing, but the National Assembly for Wales isn't? And the third point: that £1 billion is a cumulative total. So, if we do hit the £1 billion, then the money we get back in payback would then be able to be reused, a bit like invest-to-save.

[99] **Mark Drakeford:** I'll take the three in line, if I could, Chair. In relation

to—. I'm sorry, I've written down 'revenue' and I've forgotten what the question was.

[100] **Mike Hedges:** The revenue costs of borrowing would be shown as a line within the budget.

[101] **Mark Drakeford:** Yes. I'm sorry. Well, I think that, during the budget scrutiny, I provided some additional information on current—

[102] **Simon Thomas:** You did, which we published—

[103] **Mark Drakeford:** It was a recommendation in your report that we should make that a more permanent feature of the information that we provide, and I think we've accepted that recommendation.

[104] On prudential borrowing, one of my colleagues will know the answer more than I will, but I do know that the UK Government ruled out a prudential borrowing approach for all devolved administrations very early on in discussion with others. Quite why they did that, Ed, do you know?

[105] **Mr Sheriff:** So, the Smith Commission recommended a prudential scheme for the Scottish Government, and the UK Government rejected that as part of the fiscal framework negotiations and wanted to have controls over the operation of capital borrowing for the devolved administrations, and that applied equally to Wales as well.

[106] **Mr Jeffreys:** It is, from our perspective, peculiar that it was a step too far for the Treasury to agree something like that for us.

[107] **Mark Drakeford:** And the final point about whether it operates like invest-to-save, I imagine it does to a certain extent, but—

[108] **Mr Jeffreys:** So, it's an interesting question about what happens when you reach your limit, but, as you say, you'll be, depending on the tenor of the borrowing, you'll be repaying a bit every year, probably, if you're going for that form of borrowing, that annuity-based borrowing, which is likely to be how we do it. So, you know, every year, you'll be paying a bit off and maybe borrowing a bit more, and so—. We've got an annual limit of £150 million now under these new arrangements, so, in theory, we'll hit our limit in seven years, if there are no changes to the aggregate limit. But, as the Minister has said, in every spending review, we'll look at this again and look at the

headroom that remains and what perhaps we might need for the coming period. So, we would hope there is a rational and sensible discussion to be had with Treasury about that in due course.

[109] **Simon Thomas:** Are there any practical problems in the fact that you have to go through the Secretary of State in order to access the borrowing?

[110] **Mark Drakeford:** Well, there haven't been, in the sense that I don't think we've ever had the Secretary of State try to hold up or interfere with what we are—. My own view is that I don't see the case for us not being able to do it direct.

[111] **Simon Thomas:** No, which it would be with the prudential borrowing point that Mike Hedges is making.

[112] **Mr Jeffrey:** It's mainly a legal technicality that Secretaries of State can borrow from the national loans fund. I mean, that could obviously be changed in legislation if the Treasury wanted to.

[113] **Mark Drakeford:** But I don't think we could say that it actually turned out to be used, in a sense, to undermine what we—

[114] **Simon Thomas:** No. So, you were content to accept that as part of the current arrangements.

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

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

[117] **David Rees:** Diolch, Chair. Cabinet Secretary, one of the issues you're obviously highlighting is the budgetary management tools that have been introduced. You're removing the budget exchange facility and the cash reserve and you're now creating a Wales reserve as a consequence of this agreement. In paragraph 49 of the agreement, it actually highlights that the Wales reserve that will be created will be separated into two resource and capital reserves. Can you explain how you intend to operate the Wales reserve?

[118] **Mark Drakeford:** Thank you. Well, Chair, it's not one of the first-order achievements of the fiscal framework, but it is a significantly positive part of the agreement as far as Wales is concerned that we will now in future have



this single cash reserve into which we will be able to pay any receipts from taxation above what we were anticipating, but also use it in place of the budget exchange mechanism. The budget exchange mechanism is a relatively new invention, and one that is a constant source of dispute, really, for all devolved administrations. The fact that the Treasury seeks to place a limit on how much of our own money we can carry forward from year to year—and at the moment we are limited to £75 million in revenue and £20 million in capital—. In future that will disappear. So, that will be a very welcome removal of a point in the year that is always a tricky one. We will have a single reserve that we will be able to use much more flexibly across tax and Barnett consequentials. There are still controls year by year—we can take £125 million in revenue and £50 million in capital. I was willing to agree that, first of all because I do recognise that the Treasury has the job of managing the UK's budget as a whole, and that they have to have some parameters that they know that they can plan and work within, and the proportions are modelled on the proportions that Scotland is able to draw down from the cash reserve that they now have.

[119] **David Rees:** The Wales cash reserve is actually, as you said, split into two—into capital and resource—and it's clear the capital is only there for capital purposes. Are there any other limitations on the resource reserve, as to what it should be spent on and what it cannot be spent on?

[120] **Mr Jeffreys:** No, I don't think so. I think the distinction is that if we underspend on capital, then that remains capital and can only be used for capital. But either underspends on the resource budget or tax receipts that we don't spend in the current year could be used for capital or resource spending in future, so that has that flexibility.

[121] **David Rees:** And the limits you've identified for drawdown and for the capital level, you're happy with those limits of £50 million as a capital cash resource limit, and £125 million per year?

[122] **Mark Drakeford:** Yes. They're modest flexibilities, I agree that, but they are significantly more than we have at the moment, and they are commensurate to what is available to devolved administrations elsewhere.

[123] **Simon Thomas:** Wrth **Simon Thomas:** In introducing the gyflwyno'r fframwaith ar ddechrau'r framework at the start of a meeting, cyfarfod, roeddech chi'n sôn am yr you mentioned this independent elfen annibynnol yma, a'ch bod chi'n element, and that you feel that that

teimlo bod hynny'n torri trwyddo, mewn ffordd, gyda'r Trysorlys. Byddwch chi'n cofio bod y pwyllgor yma wedi argymhell y dylid sefydlu comisiwn cyllidol i Gymru i edrych ar y broses yma—mae rhywbeth tebyg yn yr Alban. Yn ôl beth rwy'n deall o'r fframwaith, nid oes dim yn y fframwaith sydd yn dweud na ellir sefydlu comisiwn o'r fath, ond nid yw chwaith yn esbonio pa fath o broses annibynnol a fydd yn ei lle. Felly, beth yw eich cynlluniau chi ar gyfer y broses yma, a phryd ydym ni'n debygol o weld eich bod chi'n cychwyn ar sefydlu proses fel hyn? Achos, am wn i, nid ydych chi eisiau galw rhywun i mewn ar fyr rybudd; rydych chi eisiau bod mewn sefyllfa lle mae yna rywun â rhyw fath o orolwg dros y broses yma reit o'r cychwyn, bron.

[124] **Mark Drakeford:** Wel, mae e yn ein dwylo ni i benderfynu ar beth rŷm ni eisiau ei roi i mewn fel rhywbeth annibynnol i'r broses. Roedd hynny'n bwysig i fi pan oeddem yn trefnu'r fframwaith. Mae'r egwyddor o gael llais annibynnol i mewn, ond mae e lan i ni gynllunio'r ffordd o gael y cyngor yna i mewn. So, rŷm ni'n dal i feddwl am beth fydd y ffordd orau o wneud hyn yng Nghymru. Mae nifer o ddewisiadau. Mae rhai pobl yn dweud, 'Wel, mae'r OBR yn annibynnol—mae e y tu fas i'r Llywodraeth.' Un ffordd yw i ni roi arian i'r OBR i wneud mwy o waith annibynnol i ni ac i ddefnyddio'r adnoddau sydd gyda nhw ac sydd

was a breakthrough, in a way, with the Treasury. You'll remember that this committee has recommended that there should be a fiscal commission for Wales to look this process—they have something similar in Scotland. According to what I understand of the framework, there is nothing in the framework that says we can't establish that kind of commission, but neither does it explain what kind of independent process will be in place. So, what are your plans for this process, and when are we likely to see that you will start this kind of process? Because, I suspect that you don't want to call someone in on short notice; you want to be in a situation where someone has had some kind of overview of this process from the outset.

**Mark Drakeford:** Well, it is in our hands to decide what we want to put in place as an independent part of the process. That was important for me when we were negotiating the framework. There is the principle of having an independent voice, and it's there, but it's up to us to plan how we would get that advice in. So we're still thinking about the best way of doing it for Wales. There are a number of options. Some people would say, 'Well, the OBR is independent—it is outwith the Government.' So, one way would be for us to give the OBR funding to carry out more independent work for us and to use the resources that they

gan y bobl sy'n gweithio yn y maes. Dyna un ffordd. Rwy'n dal i feddwl ai honno yw'r ffordd orau. Ar yr ochr arall, yn yr Alban, mae gyda nhw gomisiwn annibynnol. Rwy'n fodlon gweld a oes digon o waith i sefydlu corff fel yna yng Nghymru. Nid wy'n hollol siŵr y bydd digon o waith ar hyn o bryd i gael comisiwn llawn amser i'w wneud e. Ffordd arall yw defnyddio'r cyrff sydd yma nawr, sydd â phobl sy'n gweithio yn y maes, a'u hariannu nhw i weithio fel llais annibynnol ar ein hochr ni. So, mae swyddogion yn dal i wneud y gwaith i fi i gymharu'r modelau.

have and that the experts in the field have. That is one way. I'm still thinking about whether that is the best way. On the other hand, in Scotland, there is an independent commission. I'm content to see whether there is enough work to justify establishing such a body here in Wales. I'm not sure that there will necessarily be enough work to justify having a full-time commission. Another option would be to use the bodies that are here presently, which have people who do work in that area, and fund them to work as an independent voice on our side. So, officials are still carrying out the work for me to compare the models that are out there.

[125] Yn y flwyddyn gyntaf, nid oes rhaid inni ei wneud e. Dyna beth mae'r cytundeb yn ei ddweud. I ddechrau, rŷm ni'n gallu gwneud y gwaith ein hunain a chael rhywun o'r tu fas i gael golwg ar beth rŷm ni wedi'i wneud. Felly, mae amser gyda ni i feddwl trwy'r ffordd i'w wneud e, a dyna beth rŷm ni'n mynd i'w wneud dros y misoedd nesaf.

In the first year, we don't have to do it. That is what the agreement states. So, to begin with, we can carry out the work ourselves and then get someone from the outside to have a look at what we've done. So, we do have time to think through the way of doing this, and that's what we're going to do over the coming months.

[126] **Simon Thomas:** Ond a ydych chi wedi penderfynu eto a ddylid sefydlu proses o brynu i mewn cyngor annibynnol ar adegau penodol wrth gynllunio'r gyllideb, er enghraifft, neu beth bynnag? Neu a ydych chi wedi penderfynu bod angen, ocê, os nad comisiwn, o leiaf cysondeb neu bresenoldeb—efallai nad 'presenoldeb' yw'r gair cywir—

**Simon Thomas:** But have you decided yet whether we should have a process of buying in independent advice at specific times in planning the budget, for example, or whatever? Or have you decided that we need, okay, if not a commission, at least consistency or presence—perhaps 'presence' is not the right word—but some kind of unbroken

neu rhyw fath o linydd di-dor, er enghraifft rhyw fath o olwg annibynnol ar y deunydd craidd ynglŷn â'r data ynglŷn â'r dreth incwm yng Nghymru—rhywbeth sydd yn rhoi'r wybodaeth yna i chi'n gyson a thrwy'r flwyddyn? Neu a ydych chi jest yn meddwl, 'Fe wnawn ni brynu e i mewn pan fydd ei angen e'? Beth yw'r opsiynau?

[127] **Mark Drakeford:** Mae nifer o opsiynau, rwy'n meddwl, Gadeirydd, ac nid wyf wedi dod at benderfyniad eto o gwbl. Yn fy marn i, os ydym yn mynd i'w wneud e trwy brynu pethau i mewn, bydd rhaid inni gael perthynas tymor hir gyda'r cyrff sydd yn mynd i wneud—. Nid wyf jest yn mynd i fynd mas i'r farchnad bob tro a dweud, 'Dyma beth sydd wedi digwydd. A oes yna rywun sy'n gallu ein cynghori ni?' Os ydym yn mynd i brynu i mewn, bydd rhaid inni gael rhyw fath o gytundeb gyda rhyw gyrff sy'n gallu adeiladu ar yr *expertise* sydd gyda nhw i'n helpu ni. So, nid wyf wedi penderfynu peidio â'i wneud e fel yna, ond bydd ffordd i'w wneud e, os ydym yn mynd i'w wneud e.

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

[129] **Mike Hedges:** Have you got any initial cost forecast for implementing and operating the Welsh rate of income tax?

[130] **Mark Drakeford:** Chair, we don't, and that's partly because we still don't know whether we'll ever be in this position, because until the Wales Bill has legislative consent via the Assembly and completes its passage through the Houses of Parliament, then partial devolution of income tax may not

line, for example some kind of independent view of the core materials in terms of data on income tax in Wales—something that provides that information to you consistently throughout the year? Or are you just thinking, 'Well, we'll buy it in when we need it'? What are the options?

**Mark Drakeford:** There are a number of options, I think, Chair, and I haven't come to a conclusion on that at all. In my view, if we're going to do it by buying things in, then we'll have to have a long-term relationship with the bodies that will do—.I'm not just going to go out to the market every time and say, 'This is something that has happened. Can someone advise us?' If we are going to buy in, then we'll have to have some sort of relationship or agreement with the bodies for us to build on the expertise that they have to help us in that regard. So, I haven't decided not to do it like that, but it is an option, if we are going to do it.

happen. So, we haven't put a lot of time into securing estimates of cost and so on for something until we are sure that we know it's going to happen. However, what we do have are very secure arrangements with HMRC, because, through stamp duty land tax and landfill disposals tax, we have a devolved taxes Wales working group with HMRC. So, the machinery is there, ready for us to be able to secure that information as soon as we know that we need it.

[131] **Mike Hedges:** Thank you. And you'll come back and we'll have a discussion about that if we reach such a time.

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

[133] **Mike Hedges:** Regarding land transaction tax—and again, an area that I've talked about is cross-border, and, of course, in income tax itself, cross-border would become a major issue. I'm sure that the initial number estimated of people living in Wales and working in England and vice versa will be one number and when people start trying to do some detail on it, it'll be another number. I also know that there'll be no problem with the big employers, who will have people's addresses et cetera, but the problems will start arising, especially in north-east Wales, where people live some of the time in England and some of the time in Wales, and they don't change their address with their employer, who may only employ three or four people. They just know Dai or Joan who come to work for him and don't really care where they live and will have out-of-date addresses, et cetera. Will you be discussing these sorts of problems? If there was a problem in Scotland with a border devoid of people, it's got to be an even bigger problem in Wales where a lot of people live, especially in north-east Wales, around the border.

10:00

[134] **Mark Drakeford:** I think these are very genuine practical issues. We know from the Scottish experience that HMRC didn't manage to spot people who are living in Scotland, including, as I remember, the wife of the Scottish finance Minister, who didn't appear on HMRC's list as living in Scotland. [*Laughter.*] So, it's one of the areas where going second around the course is probably to our advantage. At the moment, I am due to go to Scotland on Friday next week for what was going to be a trilateral meeting with finance Ministers from Northern Ireland and Scotland. That may not now happen. If I do go, then one of the meetings that's on my list of things is to have a meeting with Revenue Scotland. I've got a list of things that I'm keen to

explore with them. These practical issues of how HMRC went about the business and what it has learnt in order to try and get a more secure understanding of the Welsh context was one of the things I was keen to talk to them about.

[135] **Simon Thomas:** A final point, then.

[136] **Mark Reckless:** On this, Cabinet Secretary, do you share Mike Hedges's concern that tax devolution, including of LTT, may lead to a building of houses along the full length of the border from north to south between England and Wales?

[137] **Mark Drakeford:** 'Heol Offa', as I think we were thinking of it yesterday. [*Laughter.*] On the whole, I probably don't think it's quite as high a risk as Mike has very sensibly alerted us to its possibility.

[138] **Mike Hedges:** But can I just say how pleased I am that Mark Reckless now recognises that small increases in taxes have no effect on people's behaviour? [*Laughter.*]

[139] **Simon Thomas:** I think we'll leave border debates for another time. Let's just say that we've all been sufficiently alerted of border issues, as we've looked at—

[140] **Nick Ramsay:** Chair, can I just—?

[141] **Simon Thomas:** Yes, okay.

[142] **Nick Ramsay:** Sorry, I might not have been listening right at the end when Mike was speaking, but a fiscal commission—. Scotland went down the line of looking at a fiscal commission. Are you saying that you're not decided yet on the mechanisms you might use, whether it be the Office for Budget Responsibility or some kind of other commission?

[143] **Mark Drakeford:** Yes, that's right, Nick. The principle of an independent voice in the way that the system operates is secure. How we secure that independent advice for Wales is a matter for us to decide, not for the Treasury to decide. There are a number of different ways in which we could do that. I am keen that it is proportionate to the task. Our fiscal devolution is relatively modest compared to Scotland, where they had a full-blown commission. But it is a model that we're looking at. The OBR is

another model. Having a long-term arrangement with an independent organisation—a university, for example—that could provide this for you, is another model and I am prepared to look at them all and then weigh up their relative merits before deciding.

[144] **Nick Ramsay:** I imagine, at the moment, that your focus is on the Welsh Revenue Authority and the Welsh Treasury to get in there with the nuts and bolts of the election mechanism.

[145] **Mark Drakeford:** There's a lot going on.

[146] **Nick Ramsay:** Yes, like yesterday in Plenary—very detailed.

[147] **Mr Jeffreys:** It is the case that we would need to be forecasting Welsh tax receipts ourselves now, or we are starting to do that now, and getting independent assurance and the input into those forecasts is very valuable and important. We need to get on with that at the same time.

[148] **Simon Thomas:** David, did you want to—?

[149] **David Rees:** Just on the words you just mentioned there, 'independent advice': is it advice or is it actually going to be an independent decision process?

[150] **Mark Drakeford:** So, Chair, the fiscal framework sets out a sort of hierarchy of dispute resolution. It says that, where differences of view first occur, those should be resolved at official level and that there should be effort between officials to come to an agreement on an outcome. If officials cannot agree then it goes to what's called the joint-exchequer committee, which is where the Welsh finance Minister and the Chief Secretary to the Treasury come together, and should be resolved there. If it can't be resolved there, then it goes into the dispute resolution mechanisms as set out in the devolution guidance notes. At all of those levels, independent advice can be called on and it is now not a matter just of the Treasury telling you what the evidence is and telling you what the conclusions are, there will be an independent stream of advice that we can call on and we can put on the table. In the end, what the fiscal framework says is, if agreement cannot be secured, the status quo prevails.

[151] While that can act against you, in the sense that we could have an important issue that we think needs attention, and in the end, if we can't

agree, it won't get attention, I think that, probably more significantly from our point of view, it means that the Treasury cannot unilaterally make changes to any of this either. In the end, if we don't agree, the status quo continues.

[152] **Simon Thomas:** Byddwn ni'n dod â'r drafodaeth a'r cwestiynau i ben ar hynny, gan ddiolch i chi a'r swyddogion am ddod i mewn i esbonio'r fframwaith cyllidol ac ateb cwestiynau. Mae yna benderfyniad pwysig gan y Cynulliad yr wythnos nesaf ar yr LCM ar gyfer Bil Cymru, ac, fel yr oeddech chi'n amlinellu ar y dechrau, mae'r materion hyn yn hollbwysig i'r Cynulliad bwyso a mesur sut i bleidleisio ar y mater yna. Ac er nad oes amser i ni fel pwyllgor baratoi adroddiad fel y cyfryw i'r Cynulliad, byddwn ni'n chwilio am y ffordd orau i wneud yn siŵr bod Aelodau eraill y Cynulliad yn gwybod ein bod ni wedi cael y drafodaeth yma, a'r cwestiynau a'r atebion rŷch chi wedi eu rhoi ac ati, fel eu bod nhw'n cael eu cyfoethogi yn y ffordd y maen nhw wedyn yn gwneud y penderfyniad yr wythnos nesaf. Ond, gan ddiolch i chi am y tro, diolch yn fawr iawn.

**Simon Thomas:** We'll bring the discussions and questions to an end on that note, and I thank you and your officials for coming in to explain the fiscal framework and answer the questions. There is an important decision for the Assembly next week on the LCM for the Wales Bill, and, as you outlined at the outset, these issues are vital for the Assembly to determine how to vote on that issue. And even though we don't have time as a committee to prepare a report as such for the Assembly, we'll be looking for the best way to ensure that the other Assembly Members will know that we've had this discussion, and the questions and the answers that you've given, and so on, so that they can be enriched in terms of their decision-making process next week. But thank you very much for now.

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

**Mark Drakeford:** Thank you very much.

[154] **Simon Thomas:** Ac, i aelodau'r pwyllgor, gwnawn ni dorri tan 10.15 a.m., pan fyddwn ni'n symud ymlaen at y Bil tirlenwi.

**Simon Thomas:** And, for the committee members, we will take a quick break until 10.15 a.m., when we will move on to the landfill disposals Bill.

*Gohiriwyd y cyfarfod rhwng 10:06 a 10:16.*



*The meeting adjourned between 10:06 and 10:16.*

## **Y Bil Treth Gwarediadau Tirlenwi (Cymru): Sesiwn Dystiolaeth 2 Landfill Disposals Tax (Wales) Bill: Evidence Session 2**

[155] **Simon Thomas:** A gaf i alw'r pwyllgor nôl i drefn? Fe fyddwch chi, o bosibl, angen offer cyfieithu. A gaf i eich croesawu chi, felly, i'r sesiwn dystiolaeth ar y Bil Treth Gwarediadau Tirlenwi (Cymru)? A gaf i ofyn i chi, i ddechrau, i ddatgan eich enw a'ch swyddogaeth, jest ar gyfer y Cofnod, os gwelwch yn dda, gan ddechrau gyda Mr Peppin?

**Simon Thomas:** May I call the committee back to order? You may need the interpretation equipment. May I welcome you, therefore, to this evidence session on the Landfill Disposals Tax (Wales) Bill? May I ask you to begin by giving us your name and your role, just for the Record? Thank you. We'll start with Mr Peppin?

[156] **Dr Peppin:** Good morning. I'm Tim Peppin. I'm the director of regeneration and sustainable development at the Welsh Local Government Association.

[157] **Ms King:** Good morning. I'm Tara King. I'm the assistant director for Cardiff Council. I've had responsibility for landfill sites for some years.

[158] **Simon Thomas:** Diolch i'r ddau ohonoch chi am ddod i mewn i helpu'r pwyllgor gyda'ch tystiolaeth ar y Bil. A gaf i ddechrau drwy ofyn yn gyffredinol, ac efallai gan ddechrau gyda Cymdeithas Llywodraeth Leol Cymru, a ydych chi'n croesawu egwyddorion cyffredinol y Bil ac a ydych chi'n meddwl bod angen y ddeddfwriaeth yma, yn y lle cyntaf, gan Lywodraeth Cymru?

**Simon Thomas:** Thank you, both, for coming in to help the committee with your evidence on the Bill. May I begin by asking generally, and I'll start with the WLG, whether you welcome the general principles of the Bill and do you believe that this legislation is necessary in the first place, from the Welsh Government?

[159] **Dr Peppin:** Yes, most definitely we see the case that, if the landfill tax is going to be disapplied in Wales from April 2018, there would be serious issues for Wales if we didn't have an equivalent measure here. I think the risks of waste tourism—waste coming into Wales if there wasn't such a tax—are well documented. That would be a major concern for us. I think also the

landfill tax over the recent years has been a major factor in helping to see recycling rates, which have risen from about 7 per cent in 2000 up to about 60 per cent at the moment. So, it's been a major part of that and we wouldn't want to see that finished.

[160] **Simon Thomas:** And I take it you would concur.

[161] **Ms King:** I would, yes. I think an added position to that is that the landfill tax credit system has also fed back and supported a number of projects. I wouldn't want to see that stopped either. So, we did need a replacement for that.

[162] **Simon Thomas:** What is your take on the fact that the tax, of its very essence, however, is designed to almost do itself out of existence? I mean, the more successful it is, the less money, for example, is raised towards the credit scheme. But is that principle still enshrined in the Bill, as the Welsh Government has produced it, do you feel?

[163] **Ms King:** Yes.

[164] **Dr Peppin:** Yes, I think so. I believe, the way the Bill has been designed, there is potential to actually tighten up on some of the working arrangements. So, although we would expect revenue to decrease over the coming years, if it's managed effectively, and I think that's what the Bill is trying to achieve, then it should help to actually ensure that as much of the tax is collected as possible. So, that drop off will occur, but it may not be as extreme as it may have been.

[165] **Ms King:** If I could add, as well, I think that, by taxing fly-tipping, that will maintain a level of revenue as well, which doesn't exist at the moment.

[166] **Simon Thomas:** That's a new element to this. And in those terms—you're dealing at the moment with the current legislation—are you able to give a view on this Bill? Does it bring together the current legislation in a coherent way, from your perspective? Does it address problems with the current legislation? The fly-tipping issue might be one of those. Do you have an overview of how it makes a set of proposals and either addresses problems in the past or takes advantage of things that should be done with the devolution of this tax to Wales?

[167] **Dr Peppin:** I think the Bill does tighten up in a number of areas. It

introduces a number of measures that help to give clarity. I think the explanatory memorandum is very helpful in setting out a number of those areas where they will seek to tighten up some of the areas that are a bit uncertain at the moment. And, as you mentioned, that issue of introducing unauthorised disposals has the potential to make a big contribution to wider efforts in terms of environmental improvement.

[168] **Ms King:** I'd agree with that. I think the Bill is also enabled to consolidate some of the administration of the existing system as well. I think that's another improvement that we'll see from that.

[169] **Simon Thomas:** Is there any area that you feel perhaps could be added to the Bill, in terms of the practical delivery on the ground? Are there things that happen now under the current legislation that perhaps are not as effective as they could be, and the Bill could be improved in that sense? Are there ways that you would like that to happen?

[170] **Ms King:** I think from my perspective, as part of the consultation process that I've been involved with, addressing fly-tipping or unauthorised disposals was a key part that we could improve in Wales compared to the current legislation. So, I'm really pleased to see that coming through. And, also, as I said, the improvement in the administration burden of landfill tax credits and removing some of that sort of third-party arrangement will be beneficial as well. So, I think we've done the right thing.

[171] **Simon Thomas:** Okay. And the balance in the Bill between the powers that you read on the face of the Bill—what the Welsh Government is directly doing—and the further powers that there might be to take under secondary legislation, again, from your perspective, does that seem to be about right in the way that you can deliver it on the ground, or get local authorities, who are the main people who do this, of course—would they be able to understand and know how to use the Bill in the most effective way?

[172] **Dr Peppin:** I think, when you read through it, there are an awful lot of examples where there is scope for additional secondary legislation or amendments to be made, which suggests that the Act could change its shape over time quite considerably, because there are so many provisions. But, equally, because we're going into new territory, and there is the potential for changes to be made in England or Scotland, which may require changes to be made in Wales as well, I think that there is a need for that ability to be fleet of foot really.

[173] **Ms King:** I'd agree with that, yes.

[174] **Simon Thomas:** Okay. That's great. Can I come to Mr Ramsay? Thank you.

[175] **Nick Ramsay:** Diolch. Good morning. The Welsh Government's maxim on the whole area of tax devolution so far has been that they should keep the different tax rates across the border the same as in Wales—sorry, I'll put it the other way around: the rates in Wales the same as in England—as closely as possible, unless there's a material reason to change. So, do you think that the standard and lower rates of landfill tax should remain similar to England? Who wants to take that? Tara.

[176] **Ms King:** I do, yes. We've been involved with debates over this for some time, and I think if we didn't, then you would get that migration of materials either out or inward of Wales. It's not dealing with it within our own territory, if you like. So, I think if we had a disparity in charging mechanisms, then that would be a problem that we'd see occurring.

[177] **Nick Ramsay:** The dreaded waste tourism.

[178] **Ms King:** Yes. [*Laughter.*] And having managed sites for 20 years or more now, the impact of non-organic materials is far, far lower and, in fact, you can use the materials for engineering, et cetera. So, I think it's appropriate that it's a much lower tax level than the active tax, which obviously carries much more environmental burden on both the management and the environment in general. So, I think it should be around the same value.

[179] **Nick Ramsay:** Okay. And if the lower rate was—. Just suppose that at some point in the future the rates were substantially different in Wales, if the lower rate was increased, would this lead to reduced amounts of materials being brought on to landfill sites which is useful for site development?

[180] **Ms King:** I think what you'd see is the migration of that material. The carriers would weigh up the cost of transport versus disposal. So, you'd have to have—. It would probably need to be reasonably substantially higher to see a significant migration, but you would see that on the borders, where you've got lower transport additional costs. So, they'd be weighing up the transport versus disposal. So, there are probably a few pounds on the tonnes

that we charge at the moment that you could get away with because of the transport burden. But the impacts of that transport are going to be a lot higher if you get that migration.

[181] And, in terms of engineering, I'm in the process of closing a site now. We would see a reduction, but I don't know that it would be that significant today, and what you'd end up doing is putting more of a cost burden on the operator for road building, because we have to rebuild roads as we go through a site. So, they would end up importing more material. So, if you were looking at it in a holistic way, you'd have to weigh up the burden of the environmental impact of raw materials being purchased versus what would be waste materials but can be part-utilised on a site being transport elsewhere purely because of the tax. Does that make sense? Sorry, I'm not sure if I explained that quite well enough.

[182] **Nick Ramsay:** It made as much sense as my question. [*Laughter.*] Do you think this is more of an issue for Wales than it would be for Scotland, for instance, because we often talk about the nature—? Mike Hedges is often talking about the nature of the long, porous border. We've got a long border between Wales and England with, I think, something like 50 per cent of the population living within proximity to it, whereas you cross the border into Scotland and there's quite a gap until you get to the central belt. So, do you think these are issues that the Welsh Government has to deal with more than in the north of England and Scotland?

[183] **Ms King:** I think you've got more risk of migration in Wales than you have in Scotland, just from pure geography. Yes, I would agree with that.

[184] **Nick Ramsay:** In your submission, you state that, whilst the presumption is that there will be one higher rate and one lower rate, the potential is to specify multiple rates, which would be more complex. Could you explain your concerns about multiple rates?

[185] **Ms King:** I think it goes back to the points we picked up earlier regarding the movement of materials. As an operator, there's always a battle between carriers wanting to get the lower rate. So, the more variety you have between those two, the harder those distinctions are going to be in order to actually apply the correct charging, but also there'll be a lot more dispute, I think. And in terms of tax collection, I think there would be a lot more difficulties for the tax collector to distinguish between those different levels.

[186] **Dr Peppin:** There have been numerous legal cases arguing whether something is lower or higher, and I think the more bands you put in, the more scope there is for arguments of that nature. I think the other thing is we would expect a higher rate for the unauthorised disposals. So that would be a different rate, but that's a slightly different aspect.

[187] **Nick Ramsay:** So, in conclusion from me, Chair, the moral is: where possible, keep the rates equitable with those across the border; it's less hassle for everyone.

[188] **Dr Peppin:** Yes.

[189] **Simon Thomas:** Just on that, it isn't completely clear to me whether—. Obviously, the powers are in the Bill to have secondary legislation to have different rates at some stage. That's not the proposal at the moment, but the potential is there. It's not been clear to me so far whether that is seen generally, outside of Government, if you like, as something that could be useful in the future. You mentioned the non-authorised disposals, so clearly you could have a different rate for those, but it isn't clear to me that this is seen as something that really is a useful tool, or is it that we are waiting for recycling rates to get even better, when we can bear down in an even more specific way on landfill? What's the kind of thinking in the profession about how this might develop?

[190] **Ms King:** I think there could be some consideration as part of the Environment (Wales) Act 2016 as to seeing how that influences commercial disposal and commercial recycling rates, because we operate quite a significant collection operation across the city as well, and there isn't the drive there yet. There aren't the tools there yet for business to recycle in the same way because they haven't had the fiscal levers that we've had on municipal waste. So, I think it would be interesting to see how those two pieces of legislation could tie together in future and also how those regulations are going to pan out on the environment Bill as well. I think that's where we maybe need to review the charging mechanisms that we put in place and, perhaps, then, there's potential for different qualifications of charges to different materials at that point.

[191] **Simon Thomas:** But more on the commercial side than the residential side.

[192] **Ms King:** Yes, I would suggest; yes.

[193] **Simon Thomas:** Okay. Is that—?

[194] **Dr Peppin:** Yes. I agree with that.

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

10:30

[196] **David Rees:** Diolch, Chair. Reliefs and exemptions, clearly, are an element of any taxation process. Your written submission indicates that you're quite—. Do you think the reliefs and exemptions identified in the Bill are sensible? However, we are moving away from exemptions to more reliefs. Is that an issue that you think could be problematic, because, clearly, with exemptions you don't have to put tax submissions in, but, with reliefs, you have to claim for tax relief? Is that going to be a problem for operators and local authorities?

[197] **Ms King:** I don't think it's a problem. I think, if I'm looking at it from the wider environmental aspect, rather than as an operator, the exemptions have caused us difficulties in that it's a very fixed process, and, once they're in place, it leaves open a risk of fraudulent activities around those exemptions or stretching the boundaries of those exemptions. I think them having to apply for relief of tax will require them to provide more evidence. So, I think that will be a positive, rather than causing more issues. I think that is the right step to take.

[198] **David Rees:** As a former operator, therefore, the multiple disposal relief, obviously, you believe, is a step forward.

[199] **Ms King:** Yes.

[200] **David Rees:** Because, in your answer to Nick Ramsay earlier, you indicated that one of the problems you saw with the higher rates was that an operator might be moving a lot within their own site. Of course, this relief would remove that problem.

[201] **Ms King:** From my perspective, I'm coming at it less as an operator and more so on the environmental impact, because, obviously, I've dealt with fly-tipping and all the rest of it, and working through the environmental impacts of those issues. To me, if, rather than being able to apply for

exemptions they've got to actually apply for relief on that tax, so, in other words, there's an automatic charge, as opposed to an exemption, then they're going to have to be a lot clearer about what they've done, how they've treated those materials and how they've receipted them. I wear several hats, so I want to be looking at this with a holistic view, and I think that, in terms of the objectives of the Bill to improve the environmental management of waste, we need to have those levers in place as well.

[202] **David Rees:** Has the Government missed a trick in any of the exemptions or the reliefs that would help the environmental management?

[203] **Ms King:** Not to date, and I think we need to see how this one works. But I think I'm pleased that we've got options within the Bill to review. I think we need that to see how it works.

[204] **Simon Thomas:** Okay? I'll turn back to Nick Ramsay, if I may. Thank you.

[205] **Nick Ramsay:** Diolch. The Bill makes provisions for a number of new penalties that apply to authorised landfill sites and the liabilities that fall on the landfill site operator. I think this is for Tim, as it relates more to the WLGA. Does the WLGA agree with the inclusion of penalties for the following: failing to comply with the weighing requirement and to correctly apply an agreed water discount; failing to register with the WRA; and failing to comply with the requirements of a notice designating a non-disposal area?

[206] **Dr Peppin:** Yes, I think, broadly, we're supportive of those as part of this tightening up that I mentioned earlier. I think it helps to have clarity over what is required, and the fact there is a penalty there in place if those requirements aren't met, which, perhaps, previously haven't been quite so clear.

[207] **Nick Ramsay:** Do you think that the penalties in the Bill are set at the right level?

[208] **Dr Peppin:** I think there's enough provision within the Bill that change can be made if it proves that they're not. So, there's a lot of flexibility built in, but no immediate reaction to the level, I don't think.

[209] **Ms King:** No.



[210] **Dr Peppin:** No.

[211] **Nick Ramsay:** So, broadly happy, yes. Okay, thanks.

[212] **Simon Thomas:** Diolch. Gwnaf i droi at y Gymraeg os caf i. Rydw i jest eisiau gofyn ichi, rydych chi eisoes wedi sôn, sawl gwaith, a dweud y gwir, ac mae'n amlwg eich bod chi'n falch bod y Bil yn cymryd camau tuag at ddelio â gwastraff anghyfreithlon, neu wastraff heb awdurdod fel mae'n cael ei alw yn y Bil. A fedrwch chi jest ymhelaethu tipyn bach yn fwy ar hyn o bryd ar sut y byddech chi'n disgwyl i'r, yn benodol, awdurdodau lleol, allu defnyddio'r rhan yma o'r Bil i leihau tipio, i bob pwrpas? A ydych chi'n gweld hwn yn cael ei ddefnyddio yn bennaf yn erbyn, os liciwch chi, y bobl sydd, i bob pwrpas, yn rhedeg llefydd tirlenwi anghyfreithlon, neu a ydych chi'n ei weld e'n cael ei ddefnyddio yn erbyn pobl fel yr adeiladwr lleol sydd jest yn dymchwel yr estyniad ac yn rhoi'r gwastraff i lawr y lôn? A ydy e'n cael ei ddefnyddio ym mhob sefyllfa, neu a ydych chi'n gweld hwn fel rhywbeth sydd yn benodol wedi'i anelu at rai o'r cowbois yn y maes?

**Simon Thomas:** Thank you. I will turn to Welsh, if I may. I just want to ask you, you've already mentioned it, several times, actually, and it's obvious that you're pleased that the Bill is taking steps to deal with illegal waste or unauthorised waste disposal, as it's referred to in the Bill. Could you just expand a little further on how, at present, you would expect local authorities, specifically, to be able to use this part of the Bill to reduce tipping or fly-tipping, to all intents and purposes? Do you see this being used chiefly against, if you like, the people, to all extents and purposes, who are running illegal landfill sites, or do think it would be used to target people like the local builder who is just bringing down an extension and is sending the waste down the road? Is it used in every situation, or do you see this as something that specifically targets some of the cowboys in this area?

[213] **Dr Peppin:** We welcome the fact that—. Unauthorised disposals are a major problem for local authorities; they're a major cost, and anything that can be a deterrent is seen as a positive. The danger with it is being able to enforce it. As with anything, the cost of actually monitoring and looking at unauthorised disposals to try and find out who's done it—there is a cost involved and it's more cost-effective when that's on a larger scale. So, trying to do that for lots of small-scale fly-tipping would be very resource intensive.

[214] You hinted at the controlling minds element, where there's more organisation around this sort of unauthorised tipping. I think that would be more the target: for where this is being done on an industrial scale. We would look to work very closely with NRW on this, as we already do.

[215] **Ms King:** I'd concur with that. The issue for local authorities on the smaller scale is anything from a black bag on a highway to very organised illegal tipping in large quantities. That is the scale of what we're dealing with. There are already a number of mechanisms where we can deal with the day-to-day issues, which we already utilise to the full in Cardiff and elsewhere in local authorities. But when we do get that more in-between—where it may not be residents misunderstanding collections; it may be much more about a regular occurrence, but not of the scale where they're disposing in large fields outside in the environment, but it's a regular, long-term nuisance—then, having that extra mechanism and deterrent is something that we would utilise to the full. I think it would be very, very useful to get that medium-scale operator to either not do it in the first place—that would be the best outcome—or to be able to leverage much higher penalties on them once they're actually caught and fined. Because one of our frustrations has been in courts; when we do take it through to court level, the fines don't often impact significantly on the operator. So, having that additional fiscal leverage would certainly help. But I don't think we'd use it in every case.

[216] **Simon Thomas:** No. I'm trying to understand how it would be used. To my mind—and this is very much a layman's approach, correct me if I'm wrong—there are kind of three clear ways that this happens: there's a person who just dumps the fridge and they shouldn't be doing it, but they dump their fridge down the bottom of a lane, or whatever it might be. If you know who that is, then, presumably, there are things that you can do under present legislation; it doesn't need landfill tax to deal with that. Then, right at the other end, you've got people who, frankly, have operated unauthorised landfill sites and that's happened in the past and will happen, potentially, again. So, there, this part of the tax could be used, quite clearly, to tax what they've allowed to be disposed of on that land at a higher rate, and there's a penalty there. But it's these people in the middle; it's the operator who goes around cutting everyone's hedges, but then never ever disposes of it in a legal way. Do you think that that can be extended down towards those persistent offenders, if you like?

[217] **Ms King:** Absolutely, yes. I think there needs to be a sense, like you

say, of persistency and repeat offenders, even within the domestic arena where we know that there are people who will occasionally pay a fine or take a risk of not being caught. It's those who regularly reoccur and those who we've been trying to track for some time: yes, absolutely, because we can't use our current tools, which is needing some form of ID to be identified in order to fine. Things like green waste, fridges, bulky materials, settees: we can't identify the offender unless we've got camera evidence or eye-witness evidence, et cetera. So, it's very difficult to capture, and they're quite canny in terms of removing information that could trace back to people. So, once you do get them, you want to hit them as hard as possible with all levers that you've got available.

[218] **Simon Thomas:** So is there potential here that people will be fined and pay a tax?

[219] **Ms King:** Yes.

[220] **Simon Thomas:** So you'd be looking to do both, which is fair enough as they have broken the law. What about how you might actually achieve this, though? You've talked about working with NRW and clearly there's a relationship there, but do you have the resources? Is the economic impact assessment sufficient in terms of in the memorandum that's with the Bill that sets out how the costs might be apportioned? Are you content that there are the resources there and the support there to be able to use the tools that the Bill may give you?

[221] **Dr Peppin:** I think there is provision for NRW to get additional resource to undertake enforcement activity. Now, if there was additional resource made available to local authorities so they had more capacity to do this then, clearly, more of the sort of activity Tara mentioned could be undertaken. So we would certainly welcome that, and I think there have been some indications that Welsh Government are prepared to look at that.

[222] **Simon Thomas:** Yes. You'd want the tax, basically. Or the proportion of the tax.

[223] **Ms King:** Yes.

[224] **Simon Thomas:** And do you think that would also help authorities, and the members of authorities as well, to motivate their officers and allocate the right level of resources to this work?

[225] **Ms King:** Absolutely, yes. The dilemma is that if we know we're going to get those costs covered then we can attack it hard.

[226] **Simon Thomas:** Okay, diolch. Mike Hedges.

[227] **Mike Hedges:** Can I just carry on from where you've finished off, Chair? I think the position at the moment is: if you get 5,000 tonnes of rubbish dumped on your land, which you opened up as an illegal site, if you get fined £50,000 then you'll probably make substantially more than that. The fact that you have landfill tax on top, so that you actually can no longer undercut the official site, surely that will be of major help in stopping some of these illegal sites, which do exist and have existed in the past. The councils have been very good at taking them to court, but it takes a long time for the fines to start being of a level where it stops being economically advantageous. With this, would it stop being economically advantageous on day one?

[228] **Dr Peppin:** I think it certainly tilts the balance better, and also the fact that you will be taxed for the unauthorised disposal but then also taxed when it goes into the landfill site. So, it starts to stack things up in favour to deter that type of activity.

[229] **Ms King:** It's that double tax that will make it financially unviable for them as a risk.

[230] **Mike Hedges:** Which will be of benefit to all of us.

[231] **Ms King:** Yes, absolutely.

[232] **Mike Hedges:** One of the important things will be the sharing of data. One thing local authorities are very good at is sharing data with other government and quasi-governmental agencies. I assume you see no problem with sharing data with NRW, the Welsh Revenue Authority and other bodies in order to ensure that the right data are there?

[233] **Dr Peppin:** I think, subject to the legal provisions of data sharing, we'd be very keen to share as much as possible.

[234] **Mike Hedges:** Moving on to what to do with the community element of landfill tax, I think that we all hope it goes down, not because we wouldn't

want the community element spent, but because we would like to reduce landfill tax. If somebody comes in with a national landfill tax collection in Wales of £10,000 a year, most of us would be very, very happy and I think that would include you. But there will be some money available at the moment. You suggest that some of that money should be used for waste awareness. Do you still believe that—that it should be used to inform people, rather than just be used for nice schemes in the area?

[235] **Dr Peppin:** When we put our original submission in in response to the Bill, we suggested that rather than setting up a fund, it was an option to consider, because prevention is really the name of the game. There have been successful activities under Waste Awareness Wales to try and raise that understanding on the need to cut back on waste in the first place, and then recycle wherever possible. So, it's an option, but since the decision has now been made to establish a fund, it may be that that is no longer possible.

[236] **Mike Hedges:** Do you like the Welsh Government's approach to the administration of the fund? Do you think it simplified it?

[237] **Ms King:** Yes I do, absolutely. Just picking up on that last point, if within that fund there is a criteria for awareness that's applicable to the fund, then that would still support that prevention agenda as well. The previous landfill tax credits kind of discounted the option to put money back into environmental based projects, and it would be very welcome to see that return.

10:45

[238] **Mike Hedges:** Thank you. The last question from me: we've argued to reduce it from 10 miles to 5 miles. You can speak to somebody in Cardiff who is well aware that, 10 miles away from a site, you can be totally unaffected by it. I'd actually reduce it to a lot closer, but five miles appears to be what it is here. Do you see the advantage of doing that: that you are getting people who aren't affected by it 10 miles away? And probably, some of the people living 10 miles away from the waste disposal sites in Cardiff may not even know where they are—and also that waste transfer stations are treated as well, because they also suffer the problem of waste being delivered. So, are you happy with those reductions?

[239] **Ms King:** I am, yes. If you think about the illegal sites as well, I think it's particularly pertinent for those where they've had to suffer the

consequences of that illegal disposal. So, whether it's traffic coming in within a few miles or whether it's the actual direct impact. So, yes.

[240] **Mike Hedges:** I've got a major site in my own constituency. I think the two big problems are flies and lorries. I think that, for the people living there, who suffer most, to get the benefits—that does alleviate some of the concerns.

[241] **Ms King:** Absolutely. Yes.

[242] **Simon Thomas:** Just looking at the Bill as a whole, if this Bill is going to get approval from the National Assembly and be enacted, there are obviously financial implications about how the Bill will be delivered on the ground by, mainly, the organisations that you represent. Are you content with the financial information that has been provided with the Bill? Do you think that that's a reasonable assessment of the costs—and potential tax-raising parts of the Bill as well? From your operating end of the game, are you happy with that?

[243] **Dr Peppin:** There's been some extensive work done to look at this. It's always difficult to make very accurate predictions, but I think that we welcome the fact that there's been a very inclusive process in the way that the tax has been taken forward. We've had every opportunity to feed in. We're welcoming the flexibility from the point of view that that can also be flexible [correction: that there can also be flexibility] in terms of responding: if we do identify that there are cost pressures, there may be ways that we can amend the legislation, if necessary, through secondary measures, to respond to that.

[244] **Simon Thomas:** But you haven't got anything that you want to see addressed right now. As we are looking at it as a Bill, this is something that you would see as an operational matter when it became an Act—or if it were to become an Act.

[245] **Ms King:** I think it's probably just reinforcing the points that you picked up earlier in terms of enforcing the regulations that come from it, and the opportunities that come from it. It's making sure that we've got those resources available to us all. The return of the funds are to offset the costs so that we can operate it in the best way possible.

[246] **Simon Thomas:** Thank you. Mr Hedges, you can come back.

[247] **Mike Hedges:** I was going to say: do you agree that we should be congratulating local authorities on reducing the tonnes sent to landfill from over 1.5 million tonnes in 2002–03 to fewer than 300,000 tonnes in 2015–16? Should we not say ‘well done’ to local authorities on the amount that they’ve reduced landfill?

[248] **Dr Peppin:** Absolutely. As you would expect me to say, I think you—

[249] **Simon Thomas:** I didn’t expect you to disagree with that question, no. *[Laughter.]*

[250] **Dr Peppin:** It has been a major achievement, and I think it is an example of the Welsh Government and local authorities working towards the same ends very effectively.

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

[252] **David Rees:** Obviously, this is a transfer of taxation powers from Westminster to Cardiff. Based upon this Bill and what Mike has just said, do you see this Bill as actually continuing the ability to decrease the amount of landfill and greater increase the recycling of our waste?

[253] **Dr Peppin:** I think it puts the backstop in to say, ‘We’re going to continue to tax you for your landfill’, so that the deterrent is still there. There’s a whole range of other measures that local authorities are taking to improve recycling rates, both for dry recyclables, for food recycling and so on, and the awareness campaigns will continue. So, it’s not one single measure that’s going to help moving us towards the 70 per cent recycling and beyond.

[254] **David Rees:** But this is not going to hinder that.

[255] **Dr Peppin:** It won’t be hindering; no.

[256] **Ms King:** No, not at all. Again, with the additional levers regarding illegal disposals, if you think about that waste stream instead being deterred and put into controlled waste, as in into the hands of the local authority or an experienced qualified waste operator, then that material is more likely to be recycled and recovered—and, at the very worst, the energy recovered—than it would be to go to landfill. So, I think the number of measures will

continue to support the reduction to landfill and, actually, to energy from waste, because we'll have that material to recycle instead of being disposed of.

[257] **Simon Thomas:** Thank you for your evidence and thank you in particular for your very succinct and clear answers to our questions. If all witnesses were so clear, it would help our inquiries enormously. You certainly helped our examination of this Bill, so thank you for that. We'll send you a transcript so that you can just check it for veracity and if there are any obvious mistakes that have been made, but I'm sure that's fine.

[258] Felly, diolch yn fawr i chi. So, thank you very much.

**Cynnig o dan Reol Sefydlog 17.42 i Benderfynu Gwahardd y Cyhoedd o  
Weddill y Cyfarfod  
Motion under Standing Order 17.42 to Resolve to Exclude the Public  
from the Remainder of the Meeting**

*Cynnig:*

*Motion:*

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

*accordance with Standing Order 17.42(vi).*

*Cynigiwyd y cynnig.*

*Motion moved.*

[259] **Simon Thomas:** Can I ask the Committee to consider going into private session, under Standing Order 17.42?

[260] Pawb yn hapus? Iawn. Diolch yn fawr.

Is everyone content? Yes. Thank you very much.

*Derbyniwyd y cynnig.*

*Motion agreed.*

*Daeth rhan gyhoeddus y cyfarfod i ben am 10:50.*

*The public part of the meeting ended at 10:50.*



