



Cynulliad Cenedlaethol Cymru The National Assembly for Wales

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol The Communities, Equality and Local Government Committee

**Dydd Iau, 17 Ionawr 2013
Thursday, 17 January 2013**

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

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

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

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

Peter Black	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Janet Finch-Saunders	Ceidwadwyr Cymreig Welsh Conservatives
Mike Hedges	Llafur Labour
Mark Isherwood	Ceidwadwyr Cymreig Welsh Conservatives
Ann Jones	Llafur (Cadeirydd y Pwyllgor) Labour (Committee Chair)
Gwyn R. Price	Llafur Labour
Kenneth Skates	Llafur Labour
Rhodri Glyn Thomas	Plaid Cymru The Party of Wales
Joyce Watson	Llafur Labour

Eraill yn bresennol
Others in attendance

Steve Halsall	Dirprwy Ysgrifennydd, Comisiwn Ffiniau Llywodraeth Leol Cymru Deputy Secretary, Local Government Boundary Commission Wales
Daniel Hurford	Pennaeth Polisi, Gwella a Llywodraethu, Cymdeithas Llywodraeth Leol Cymru Head of Policy, Improvement and Governance, Welsh Local Government Association
Dilys Phillips	Swyddog Monitro, Gwynedd, Cymdeithas Ysgrifenyddion a Chyfreithwyr y Cynghorau Monitoring Officer, Gwynedd, Association of Council Secretaries and Solicitors
Owen Watkin	Cadeirydd, Comisiwn Ffiniau Llywodraeth Leol Cymru Chair, Local Government Boundary Commission Wales

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

Bethan Davies	Clerc Clerk
Gwyn Griffiths	Uwch-gynghorydd Cyfreithiol Senior Legal Adviser
Leanne Hatcher	Dirprwy Glerc Deputy Clerk
Rhys Iorwerth	Ymchwilydd Researcher

Dechreuodd y cyfarfod am 9.32 a.m.

The meeting began at 9.32 a.m.

**Cyflwyniad, Ymddiheuriadau a Dirprwyon
Introduction, Apologies and Substitutions**

[1] **Ann Jones:** Good morning, everybody, and welcome to the Communities, Equality and Local Government Committee. I ask Members around the table to switch off their mobile phones—I have checked that mine is off, bearing in mind what happened at the last meeting—and pagers, as they interfere with the translation and broadcasting equipment. The Assembly operates bilingually, so headsets are available for translation from Welsh to English on channel 1, while the floor language is available on channel 0. We are not expecting the fire alarm to sound, so if it does so we will take our directions from the ushers—or follow me, as I usually say that I will be one of the first out of the building.

[2] We have had apologies from Lindsay Whittle. Do Members wish to declare any interests that they have not already declared? I see that you do not. I should also welcome Ken back. He was substituting on another committee. It is nice to have you back, Ken.

[3] **Kenneth Skates:** It is nice to be back among friendly faces.

9.33 a.m.

**Bil Llywodraeth Leol (Democratiaeth) (Cymru) (Cyfnod 1): Sesiwn Dystiolaeth
2—Comisiwn Ffiniau Llywodraeth Leol i Gymru
Local Government (Democracy) (Wales) Bill (Stage 1): Evidence Session 2—
Local Government Boundary Commission for Wales**

[4] **Ann Jones:** We are taking evidence from the Local Boundary Commission for Wales today, and both witnesses are very welcome. Will you introduce yourselves for the record before we move on to our questions?

[5] **Mr Watkin:** We are very grateful for the opportunity to appear before you; thank you for the invitation. Sitting next to me is Steve Halsall, who is the deputy secretary of the commission and who has extensive experience in local government boundary work over many years. My name is Owen Watkin. I spent my career in local government, spending the last ten years or more as chief executive of a county council. I have also had experience in local government elections and boundary work with local authorities.

[6] **Ann Jones:** Thank you. I will start with a general question. In what ways have the commission's way of working already been improved since the publication of the Mathias review? To what extent, therefore, is this Bill still necessary?

[7] **Mr Watkin:** Following the publication of Glyn Mathias's review, the interim commission gave very serious consideration to the recommendations made, and a number of changes have taken place. The governance of the commission has been improved overall. We now have an independent member of the audit committee. We have consulted and published a practice paper on policies and practice for conducting the reviews, which explains to everybody—the principal authorities and community councils—all the steps entailed in a review. We have done a lot on governance, with a governance statement and operational plans. We have been in close contact with colleagues in Welsh Government in order to take the governance things forward. We have a very robust risk register that is updated monthly, a clear audit trail on decisions, and evidence-based decision making. We have done a huge amount of work on engagement with stakeholders. We feel it is incredibly important to engage with partners in the community—that is, not only the 22 principal authorities, but

community councils, representatives, the Welsh Local Government Association, Un Llais Cymru/One Voice Wales, and other bodies. We have introduced a lead commissioner. Of the three commissioners for every review, a lead commissioner takes personal interest in the detailed work of the review, and is able to give a commissioner point of view and the staff point of view when we look at reports. We have published a communication strategy and, at the minute we are finalising our paper on the consultation for councillor numbers, which will go out for a second consultation in the next month or so. We want to engage with partners in the sector. So, what Glyn Mathias recommended, outside the legislative changes, has been embraced.

[8] Why do we want the Bill? We think that it is important. This is the first time for 40 years that we have had a piece of legislation affecting the Local Government Boundary Commission for Wales. The last Act was the Local Government Act 1972, and it is surprising what a long time has passed without bringing the powers up to date. We recognise that the Bill makes important improvements to the 1972 Act, for example, dividing communities into wards, and the powers to consult and to determine councillor numbers. However, we have reservations about certain aspects of the Bill.

[9] We have proposals that we would like to make in order to improve the Bill, not only for the commission, but for local government as a whole, in order to make the system cohesive and logical so that everybody knows where they stand. We have come from a point of view where there should be no surprises for anybody. We want to be open and transparent, and we would like to have a system whereby everybody knows what is going to happen when, and what is expected of them. We have some proposals—

[10] **Ann Jones:** We might come on to that later in questions, and if we do not cover the bits that you want, you can fetch them in at the end. I am conscious that Members have questions, and I do not want you to keep going now, or I will never keep control.

[11] **Mr Watkin:** I appreciate that. Thank you.

[12] **Peter Black:** Obviously, we will go into some detail on the Bill, but I have general questions that might start to tease out some of the issues that you have with the Bill. What is your general view on the way in which the Mathias recommendations have been turned into legislation by the Welsh Government? Is there anything in particular that you disagree with? Perhaps that is a better way of focusing on it.

[13] **Mr Watkin:** No, we do not disagree with what has been put in the Bill, but we rather think that there are some aspects that need to be tweaked in order to meet what Glyn Mathias was looking for. To give you a quick example, I think that Glyn Mathias was looking at a constant flow of work and a rolling system of reviews, so that the workloads would be fair to councils. They would know in advance and we would carry it through. We feel that there are issues with regard to section 29, especially 29(7), where we need to pick up some points with regard to that rolling workload. That is one aspect. We think that perhaps that is something in the Bill that is not quite what Glyn Mathias had in mind. The second bit of that is that Glyn Mathias was looking for a consistency and regularity of workload. There are issues in section 29, where we get into more detail about the period of suspension before elections, which would interfere with that rolling programme and workload.

[14] **Peter Black:** Section 29(7) says that you should not publish a review nine months before the day of an election. Do you think that that is a reasonable provision, given that it might throw the arrangements into confusion and chaos?

[15] **Mr Watkin:** We recognise the sensitivities associated with the date of an election, and that, as happens in government in general, perhaps controversial matters should not be

published. However, we think that the nine-month period before an election is excessive. Nine months is what is stated in section 29(7), but we think that it is more than nine months, because as Members around this table will know, particularly those with vast experience in local government, when a council is elected, it takes some time to sort out its arrangements—it needs to appoint a leader, a Cabinet and scrutiny committees et cetera—so, the nine months is not nine months when you talk about engaging authorities: it is longer than that, because there is a spill-over period after the election.

[16] **Peter Black:** So, what is a reasonable period of time?

[17] **Mr Watkin:** We have suggested that we would not publish or act after the date of notice of publication of an election poll.

[18] **Peter Black:** So, you are suggesting 42 days.

[19] **Mr Watkin:** Yes.

[20] **Mike Hedges:** Do you not see that creating difficulties, not necessarily for local authorities, but political parties?

[21] **Mr Watkin:** Chair, I recognise that there is a balance here, is there not? It is an issue. We recognise that there are issues that political parties will wish to address, but, if we wind the matter back a bit, section 29 asks us to publish a programme of reviews over the 10-year period. We will do that; it is what we want to do. I think that, in the two elections running up to 2017 and 2022, there are probably three or four authorities that will be affected in those two tranches. Those authorities will know in advance that something is going to happen: that is, we will have agreed a programme and there will be a timetable and preparations will have been made. So, we are trying to strike a balance: on the one hand, we will have a consistency of conducting reviews, on the other, those who are intensely interested—political parties—would know that they have a clear timeline as to when they would be affected. Where this balance lies is, perhaps, the judgment of Solomon, but we are concerned that the nine-month period is too much.

[22] **Peter Black:** I do not properly understand your concentration on the formation of an executive and the election of a leader, because the publication of boundary review changes does not have an impact on that and vice versa. What happens is that the council, as a whole, will pass a view on any proposals that come before us. So, I do not see how that process will get in the way of a boundary review.

[23] **Mr Watkin:** To clarify what I said, from my experience in local government, after an election there is a period of settling down. This period is one in which authorities do not want to be bothered with consultations and external matters; they want to sort out their own authority business. You might have seen in the tables that we distributed that, if we have started a review and published draft proposals, there is a concern that an authority might not want to engage for a period after that. I am trying to say that, although the statute talks about nine months, in practical terms, it is probably more than nine months before we can actually get something going. Could I ask Steve whether he wishes to add to that?

9.45 a.m.

[24] **Mr Halsall:** We would prefer it for the nine months to be taken out, as Owen says. We think that we can work with the Minister to form a timetable. One of the issues that we would see is the publication of final proposals. That is a significant issue because, before an election, there has to be a period when the Orders can be made to bring them into effect. So, we think that it would be appropriate for us not to publish final proposals or that we allow

sufficient time after the final proposals before an election.

[25] In terms of the general work of the commission, the phrase in the Bill as it stands that says ‘conduct a review under this section’ could be interpreted to mean that no work is to be carried out on the review. That is what we want to avoid.

[26] **Peter Black:** My next question is more straightforward. Do you agree that changing the name of the commission is an appropriate step, and, if so, why?

[27] **Mr Watkin:** If the Minister wishes to change the name of the commission, we accept his decision.

[28] **Mike Hedges:** Can the commission explain why a rewording of section 4 is needed with regard to the term ‘chairing member’?

[29] **Mr Watkin:** It just strikes us that it is a different description to that applied to other similar bodies. ‘Chairing member’ introduces a new term that is undefined. If you go back to the 1972 Act, which says that it is a body corporate consisting of a chairman, a deputy chairman et cetera, that is quite clear and everybody understands that. Introducing this new term is within the gift of the Minister, but we are not certain what it means.

[30] The second thing is that we have a clear framework agreement between the commission and the Welsh Government and the Minister that sets out the respective duties of the chairman and the members, and what is expected of them. That refers to a chairman, so we do not see the reason for changing the name—it is semantics, but a lot turns on it.

[31] **Mike Hedges:** The commission states that,

[32] ‘the Commission would be strengthened by the appointment of a member with language skills.’

[33] What therefore are the commission’s views on the fact that this will no longer be a statutory requirement? In a number of areas in Wales, the ability to speak Welsh will be very important in order to deal with people coming to give evidence.

[34] **Mr Watkin:** We understand that when the 1972 Act was enacted, the legislation with regard to the Welsh language was not in place, and things have moved on since then. The practice of the commission is this: we are really interested in and place great store on engagement with all stakeholders. We must ensure that we have a good easy relationship and communication with everyone in the community. To that end, we have appointed a lead commissioner who has this interface between the commission and the authority. We think that it is important that it is made clear upfront that the commission has language skills and can communicate in Wales in the twenty-first century in the language of choice of whoever wants to be involved.

[35] We understand that the position would be that the Minister would make appointments based on the Welsh language scheme of the Welsh Government. That is fine, but that does not necessarily guarantee that a member of the commission will have language skills. So, we thought that what was in the 1972 Act was worth capturing in this piece of legislation, because, in doing reviews, we are a front-line service to local authorities and community councils. We think that that language skill is an important element that enables us to fully engage.

[36] **Peter Black:** Does this go beyond just communication? Is it also to do with the fact that a Welsh-speaking member of the commission would better be able to deal with the

naming of communities in the Welsh language, which would be more difficult if you did not have that Welsh-speaking member.

[37] **Mr Watkin:** That is a terribly important point. We are using names that are really interesting—historic names with great value attached to them. When we did the Anglesey review, we tried to go back to names that had cultural connotations. We would like to ensure that this continues because it is important that we preserve the names of communities that would be lost otherwise. An extreme example is losing the name of fields. Every field had a name at one point in history, but that practice has gone. We need to reach a position where we can enrich, conserve and preserve, and also to enhance the way in which local government in Wales operates throughout communities in terms of preservation. That is an element of this.

[38] **Rhodri Glyn Thomas:** A oes gan y Rhodri Glyn Thomas: Does the commission comisiwn bolisi o ran y defnydd o ieithoedd? have a policy in terms of language use?

[39] **Mr Watkin:** Oes, mae gennym **Mr Watkin:** Yes, we have a language gynllun iaith sydd wedi bodoli ers scheme that has been in place for years. blynyddoedd. Fodd bynnag, yn sgîl y Mesur However, in light of the latest Measure, we diweddaraf, mae'n rhaid inni weithio yn unol have to work in accordance with standards. I â safonau. Credaf y bydd yn rhaid inni believe that we will have to amend our ddiwygio ein cynllun iaith, gan fod y cynllun language scheme, given that the current cyfredol wedi'i seilio ar y system a oedd yn scheme is based on the system that was in place before the Measure came into force. bodoli cyn i'r Mesur ddod i rym. Bydd yn We will have to amend it, therefore, in the rhaid inni ei ddiwygio, felly, yn sgîl y Mesur. Hefyd, bydd yn rhaid cydnabod yr hyn y wake of the Measure. We will also have to bydd Comisiynydd y Gymraeg yn gofyn inni acknowledge what the Welsh Language wneud o ran safonau. Bydd yn rhaid inni Commissioner will ask us to do in terms of ganfod y modd cywir o ymateb i'r safonau standards. We will have to find the correct sy'n deillio o swyddfa'r comisiynydd way of responding to the standards that emanate from the office of the new newydd. commissioner.

[40] **Rhodri Glyn Thomas:** Oni fydd y **Rhodri Glyn Thomas:** Will those standards safonau hynny o reidrwydd yn golygu, gan not necessarily mean, given that you deal eich bod yn ymwneud â'r cyhoedd, fod yn with the public, that the commission will rhaid i'r comisiwn allu ymdrin â'r cyhoedd a have to deal with the public and all manner of chynghorau o bob math, yn ogystal â of councils, as well as other organisations, sefydliadau eraill, drwy gyfrwng y Gymraeg? through the medium of Welsh?

[41] **Mr Watkin:** Rydych yn hollol **Mr Watkin:** You are correct, and I agree gywir, ac rwyf yn cytuno'n llwyr â hynny. entirely with that. It is possible to argue— Gellid dadlau—ond nid fy nadl i yw hyn— though I would not make this argument—that fod cynllun iaith y Gweinidog, wrth benodi the Minister's language scheme, in aelodau, yn ddigon grymus i alluogi hynny i appointing members, is sufficiently robust to ddigwydd. Yn ein barn ni, beth bynnag fydd allow that to happen. In our view, however, cynllun iaith y Cynulliad, mae'n werth inni regardless of how the Assembly's language sicrhau ac amddiffyn gallu ieithyddol y scheme looks, it is worth securing and comisiwn, o ran y gwaith yr ydym yn ei protecting the language capability of the wneud gyda chymunedau. commission, in terms of the work that we do with communities.

[42] **Mike Hedges:** I would like to kick off with the comment that it would be much more helpful if names meant something to people. I know that, in Swansea, places have names that the areas are not known by, Mynydd-bach being a classic example. The commission's evidence suggests that it does not agree that the quorum for the commission's meetings

should be increased to three, due to cost considerations. I have two questions on this. Is not the danger of having a quorum of two, if the Chair has a casting vote, that you are giving power solely to one person? Secondly, how is the cost going to increase so dramatically by increasing the quorum from two to three?

[43] **Mr Watkin:** Perhaps I should declare an interest in this, as the chair, and ask Steve to answer the question.

[44] **Mr Halsall:** This is how we see it: at the moment, we have three members, and the quorum is two. Obviously, this carries the risk that it could be inappropriate for significant decisions to be made by just two people. The Bill proposes increasing the quorum from two to three to eliminate that risk. However, we consider that, if you increase the quorum to three, and we still have three members, that increases the risk of meetings becoming inquorate if one of the members cannot turn up. However, increasing the membership to four or five, which is allowed at the moment and under the new Bill, would reduce that risk but would increase the cost of running the commission. We have estimated that the cost of each additional member would be in the region of at least £6,000 per year. We are of the view that, in order to ensure that meetings are quorate and to avoid incurring additional costs, the quorum should remain at two. However, at meetings where only two members are present and where decisions in respect of reviews or other significant matters are to be made, then a procedure can be put in place whereby the decisions have to be ratified by the absent member at a later date, by correspondence, e-mail, or whatever. We consider that such an arrangement would allow the commission to continue with its work on a day-to-day basis, but without incurring additional costs for additional members.

[45] **Mike Hedges:** I might be incredibly dense, but I do not understand why having three out of three members turning up as opposed to three out of four would cost more.

[46] **Mr Watkin:** It is because an additional member would have to be appointed.

[47] **Mike Hedges:** So, the cost would just be the appointment cost.

[48] **Mr Watkin:** Along with the ongoing revenue costs for meetings, attendance, travelling, and whatever.

[49] **Mike Hedges:** However, if all three members attend, you have that cost, and you expect all three members to attend each meeting. If, by some chance, three out of four members attended, I do not see how there is any additional cost. Having three out of three is the same as having three out of four.

[50] **Mr Halsall:** If there are four members then all four members could attend all meetings.

[51] **Mr Watkin:** The potential is that you are expanding the number of members. I stand to be corrected, but I do not think the chairman has a casting vote. That is not in the statute. The work is done by consensus.

[52] **Ann Jones:** That might be something that we return to. Mike, you have finished now, I see. Janet is next.

[53] **Janet Finch-Saunders:** Good morning. In the interests of transparency and accountability—because we are in an age when people want to know how public money is spent—could you expand on why you state that there should not be a requirement for you to consult with the Welsh Government with regard to the remuneration of staff and appointing expert advisers?

[54] **Mr Watkin:** This is to do with our relationship with the Welsh Government. The budget of the commission is the subject of detailed discussions and is based on an operational plan that gives all the details of every year's staffing costs and goes down to minute detail. The operational plan contains that, and that is in the budget. What we were suggesting was that, having been given the budget and being in close contact, continuously, on a monthly basis, with the Welsh Government, we need not bother Welsh Government. Having given us the power to employ staff, why get into the detail of remuneration? However, we do not hold it as a very difficult point. Steve can perhaps explain the relationship that we have with the Welsh Government with regard to incurring costs.

[55] **Mr Halsall:** In terms of staffing, there is a long agreement with the Welsh Government under the previous management statement and what is now a framework document for the operation of the commission. Pay and conditions for the staff of the commission are approved by the Welsh Government. In order to conform with that, the commission has always considered it appropriate to adopt the same terms and conditions for the staff at the commission as the staff of the Welsh Government.

[56] **Janet Finch-Saunders:** Could you tell me what your annual budget is, please?

[57] **Mr Watkin:** It is £520,000. It is fixed for this year and next year. We do not know what will happen after that.

[58] **Janet Finch-Saunders:** Why does the commission state that it should be necessary for the Minister to consult with it before issuing a direction under section 14?

[59] **Mr Watkin:** We have given more detailed consideration to what section 14 and section 48 mean, and perhaps we have now had time to think it through a bit more. Section 48 talks about direction, and section 14 tells us that we must comply with the direction. There is no problem with that. What we really wanted, in relation to this issue of openness and transparency, and no surprises, was that if the Minister wanted to issue a direction, then in advance of that, we would welcome discussions so that, first, we would understand where the Minister was coming from and, secondly, perhaps there would be issues where we could help the Minister in framing the direction. It was merely that directions can be very important because, as we have seen in the past, they can affect the way in which reviews are undertaken. We want to ensure that we have the best possible wording of a direction, and we think that discussions in advance are a good way of achieving that.

10.00 a.m.

[60] **Janet Finch-Saunders:** What would be the advantages of the commission itself being able to appoint lay members to its audit committee?

[61] **Mr Watkin:** We think that this is incredibly important. This is one thing that has arisen post Mathias. On the audit committee, we have two commission members, not excluding the chair, together with representatives from internal audit, external audit and the Welsh Government. If you look at audit committees across the public sector, it is good practice to have lay members with expertise and knowledge who can bring challenge and new information to enhance the committee's work. We set great store by the quality of challenge of the audit committee regarding what we are doing. This is enhanced by having a lay member.

[62] **Gwyn R. Price:** Can you expand on why you are concerned about the wording in section 21 and the reference to 'ensuring' effective and convenient local government?

[63] **Mr Watkin:** It was useful to have time between seeing the draft and appearing here today, because we have had more time to reflect on it. We initially thought that the word ‘ensuring’, which is not in the Local Government Act 1972, meant that additional requirements and responsibilities would be placed on the commission. We were not exactly sure what that meant. However, if we interpret the word ‘ensuring’ in the context of undertaking a review and placing an expectation on us to do our very best in undertaking such a review—if it is about ensuring the best in the interests of efficient and convenient local government—then that is what we try to do. If the word ‘ensuring’ places a duty on us to get the best possible result, then we would be content with that. However, it comes back to a question of reflecting on the interpretation of a new section.

[64] **Gwyn R. Price:** You have had time to reflect on this matter.

[65] **Mr Watkin:** Yes, and we will live with it.

[66] **Gwyn R. Price:** Moving on, can the commission explain the implications of not including in the Bill a provision that allows it to make consequential changes to the electoral arrangements of principal councils when reviewing community boundaries?

[67] **Mr Watkin:** I will ask Steve to answer that question because it has a technical dimension.

[68] **Mr Halsall:** A provision exists under the current legislation for the commission to consider consequential changes to principal councils’ electoral arrangements when reviewing community boundaries. We think that this is essential for tidying up the boundaries of electoral divisions. We would like that provision to be added to section 26(3)(b). An example of the implications of this is that if we have a proposal for changing a boundary between two communities, which may, for instance, move a row of houses from community A to community B, we would look at it and the commission would say, ‘Right, that is fine and makes sense; we will go with that’. What the legislation currently allows us to do is that if that boundary between those two communities is also an electoral division boundary, we can make proposals for consequential changes that bring the electoral division boundary in line with the new community boundary. The Bill does not give us that power. The consequence of that would be that there would be an anomaly between the community boundaries and the electoral division boundaries, which would remain in place until such time as the commission conducts an electoral review. In the example that I gave, the row of houses would now be in community B for community council elections, but would remain with community A for county council elections. You can imagine the problems that that would cause.

[69] **Gwyn R. Price:** We will take that on board; thank you very much.

[70] **Peter Black:** What it actually says in section 26(3)(b) is that you can make associated changes to the electoral arrangements of the community or communities under review. Does that specifically exclude the electoral arrangements of principal councils in your view?

[71] **Mr Halsall:** Yes.

[72] **Peter Black:** That seems to be quite wide to me. Maybe we should get a legal opinion on that.

[73] **Ann Jones:** Yes, okay. We will get one.

[74] **Mark Isherwood:** Would a change in the commission’s duty to review electoral boundaries within principal council areas from the current 10 to 15-year window after a previous review to 10 years be an improvement? If so, why?

[75] **Mr Watkin:** We think that it would be an improvement because it would enable reviews to be conducted on a more current basis. Demographics change within authorities. Up to 15 years is on the long side. What we are interested in, as I mentioned previously, and as Glyn Mathias suggested, is a rolling continual review programme. It has to be sensible. There are 22 authorities to review and, if we have to do it, a number of community councils. Less than 10 years is probably too short, but we need a period that means we can ensure that, for those 22, work is done on a continuous basis throughout that period. It is about making things current. Demographics change. Planning permissions are granted and development takes place. We need to make sure that we have the best figures possible, so that, when an election comes, we have the closest possible figures to what is the reality on the ground.

[76] **Mark Isherwood:** You have also expressed some reservations about the Bill's proposal for the review period to start in 2014. Why do you believe that an earlier start date would be preferable?

[77] **Mr Watkin:** We would like to get on with the work as early as possible. If we could start work this year, after Royal Assent in September, it would give us another period leading up to the election in 2017. The clock is against us all of the time. We have to maximise the time that we have available. We are keen to get on with the work, not that we are not doing any work at the minute. However, in terms of the Bill, we are keen to get into publishing the programme and getting all the infrastructure of the work in place.

[78] **Mr Halsall:** To add to that, for various reasons, the situation now is that some principal authority areas have not been reviewed for a considerable length of time. We know that there are areas with significant under or over representation. That needs to be addressed. The quicker we can get on with that the better.

[79] **Mark Isherwood:** I think that my next question has already been answered.

[80] **Ann Jones:** I think so, yes. We touched upon that before, did we not? Joyce is next.

[81] **Joyce Watson:** Good morning. I will ask the reverse question to the one you have just answered. To what extent is the commission satisfied with the provision that it will be able to propose changes to community boundaries as part of electoral reviews of principal areas?

[82] **Mr Halsall:** This is a new provision within the Bill. We see that it seeks to address a long-standing problem we have encountered when we have undertaken electoral reviews. We get suggestions for changes to an electoral division boundary in an electoral review, but we cannot consider them in the electoral review, because it would require a change to the community or the community ward boundary. That is because community and community wards are considered to be the building blocks for the electoral divisions.

[83] We are of the view that the best forum for changing community and community wards is a review by the principal council. However, when we have undertaken an electoral review, it could be that it has been some time before such a review has taken place and issues have arisen with community and community wards boundaries, and developments may have taken place that span community boundaries; that occurs quite often. These can be addressed with this power within the electoral review.

[84] However, we recognise that changes made under this provision would need to be given careful consideration by the commission. We would need to consult on such changes with the principal authority and any community councils that are involved, and lay out the proposals in a draft report to allow people to comment on them before we made final

recommendations.

[85] **Joyce Watson:** The explanatory memorandum concedes, as you have said, that allowing the commission to change community boundaries as part of the electoral reviews could prove to be controversial and unpalatable among those communities affected. There is nothing new there. So, are the provisions in the Bill clear enough, in your opinion, to allow the commission to make confident decisions in that respect?

[86] **Mr Halsall:** Yes, I think so. The Bill clearly sets out the requirements for the commission and local authorities regarding the operation of reviews. It sets out who we should consult with and all the rest of it. It mirrors a lot of what the commission does anyway, but it sets it out clearly so that everybody understands. The commission would undertake this power carefully; we are aware of the controversy that it might cause and we would fully consult with the principal council and community councils. Only at that stage would we publish and allow people to comment on them, then take account of those comments. With those balances in place, we would then be confident to make a decision.

[87] **Rhodri Glyn Thomas:** Mae cyfres o gwestiynau gennyf ynglŷn â rhai o'ch pryderon, fel comisiwn, a rhai o'r newidiadau a gyflwynwyd yn y Bil.

Rhodri Glyn Thomas: I have a series of questions about some of your concerns, as a commission, and some of the changes introduced in the Bill.

[88] Ynghylch y pryder a fynegoch ynglŷn â'r anghysondeb rhwng nifer y bobl sydd ar gofrestr a nifer y bobl sy'n gymwys i bleidleisio, a ydych yn credu bod angen diwygio'r Bil i ateb y pryderon hynny? Os ydych, sut y dylai'r Bil gael ei ddiwygio?

As regards your concerns about the inconsistency in the number of people on the register and the number who are eligible to vote, do you think that the Bill needs to be amended to satisfy those concerns? If you do, how should the Bill be amended?

[89] **Mr Watkin:** Mae'r ddarpariaeth yn y Bil hwn yn un newydd sbon. Credaf ei bod yn deillio o'r newidiadau yn y ddyletswydd i gofrestru, o ran unigolion yn mynd ar y gofrestr o etholwyr. Mae anawsterau yn y ffordd yr ysgrifennwyd y Bil sydd bron yn amhosibl eu goresgyn. Er enghraifft, ym Mangor, Aberystwyth, ar ddau safle yn Abertawe, Pontypridd, Caerdydd, Casnewydd a Wrecsam, lle mae myfyrwyr, mae wedi bod yn anodd yn y gorffennol i swyddogion cofrestru etholwyr i naill ai gael myfyrwyr i gofrestru, neu i wybod ym mha le y maent wedi'u cofrestru: lle y maent yn astudio neu adref. Ar hyn o bryd, mae'n rhaid i rywun ddyfalu—a dyna beth ydyw: dyfalu—achos sut y gallant benderfynu lle mae myfyrwyr wedi'u cofrestru? Ac, os nad ydynt wedi'u cofrestru, ym mha le y dylent gofrestru? A ddylent wneud hyn lle maent yn astudio, neu adref? Nid ydym wedi dod o hyd i fodd o weithio allan—yn ystadegol gywir a gwyddonol—sut i oresgyn y broblem hon.

Mr Watkin: The provision in this Bill is a brand new one. I think that it stems from the changes in the duty to register, in terms of individuals going on the electoral register. There are difficulties in the way in which the Bill has been written that are almost impossible to overcome. For example, in Bangor, Aberystwyth, on two sites in Swansea, Pontypridd, Cardiff, Newport and Wrexham, where there are students, it has been difficult in the past for electoral register officials either to get students to register or to know where they are registered: where they study or at home. Currently, someone has to guess—and that is what it is: guessing—because how can they decide where students are registered? And, if they are not registered, where should they register? Should it be where they study, or at home? We have not come across a way in which we can correctly work out—statistically and scientifically—how to overcome this problem.

10.15 a.m.

[90] Mae'n dod i lawr i wneud amcangyfrif o faint sy'n gymwys ac a ddylai fod ar y gofrestr, ond mae'n dod â lluo o gwestiynau sydd yn creu amwyster yn y data. Pan rydym yn gorfod dibynnu ar yr ystadegau hynny er mwyn creu wardiau cywir, mae'n creu anhawster nad oes modd ei ddatrys yn iawn. Mae'r Bil yn cyfeirio at ystadegau y gellir eu cyhoeddi. Nid ydym yn siŵr os yw'r ystadegau hynny ar gael neu a fyddant yn gyfredol. Felly, rydym yn meddwl bod hyn yn rhoi dyletswydd fawr ar swyddogion cofrestr etholwyr a'r swyddogion ymchwil mewn awdurdodau lleol i amcangyfrif pwy a fyddai'n gymwys. Mae hyn ar ben gorfod amcangyfrif—efallai bod hyn yn fwy ystadegol—y boblogaeth ym mhen pum mlynedd, achos mae'n rhaid i ni amcangyfrif beth fydd poblogaeth cyngor yn y dyfodol. Mae hyn yn dod â ffactor sydd â chymaint o anawsterau fel nad ydym yn siŵr bod modd eu goresgyn drwy newid y Bil. Y ffordd galed rydym wedi ei hawgrymu yw y dylid tynnu'r ddwy adran hyn sy'n ymwneud â phrif gynghorau a chynghorau lleol allan o'r Bil achos rydym yn credu bod yr anawsterau ynghlwm â'r hyn y mae'r Bil yn ceisio ei gyflawni yn ormod i'w goresgyn.

[91] **Rhodri Glyn Thomas:** A gaf i symud at adran 29(10), sy'n ymwneud ag adrannau ac ardaloedd etholiadol? Mae newid yn y derminoleg yn y fan honno. A fydd hynny'n effeithio ar waith y comisiwn?

[92] **Mr Watkin:** Yn y bôn, ni fydd yn effeithio ar waith y comisiwn, ond mae'n fater o ddealltwriaeth o'r enwau sy'n cael eu defnyddio. Er enghraifft, mae pobl yn cyfeirio at wardiau, ond, yn gyfreithiol, nid oes y fath beth ag ward yng Nghymru. Mae wardiau yn Lloegr, ond nid oes rhai yng Nghymru. Mae pobl yn defnyddio'r termau yn amwys. Os oes gennym un term sydd yn gyffredin i bawb, mae pawb yn gwybod am beth maent yn sôn—rydym yn meddwl bod Deddf 1972 wedi sefydlu hynny—ond, yn y pen draw, bydd yn fater o arfer a gall pobl ddod yn gyfarwydd â'r termau hyn. Ni wnaiff lesteirio gwaith y comisiwn, ond efallai ei fod yn ymwneud â dealltwriaeth y cyhoedd o'r hyn rydym yn ceisio ei wneud.

[93] **Rhodri Glyn Thomas:** Mae adrannau 31 i 33 yn ymwneud ag

It comes down to making an estimate of how many people are eligible and should be on the register, but it brings with it a host of questions that create ambiguities in the data. When we have to depend on those statistics to create accurate wards, it creates a difficulty that cannot be resolved correctly. The Bill refers to statistics that can be published. We do not know whether those statistics are available or whether they will be current. So, we think that this puts a great duty on the electoral register officials and on officials who conduct research in local authorities to come up with an estimate of who would be eligible. This comes on top of having to estimate—this is more statistical, perhaps—the population in five years' time, because we have to estimate what the population of the council area will be in the future. This introduces a factor that has so many difficulties that we doubt that there is a way of overcoming them by changing the Bill. The hard line that we have suggested is to remove these two sections that relate to the principal councils and the local councils from the Bill, because we think that the difficulties in what the Bill is trying to achieve are too great to overcome.

Rhodri Glyn Thomas: May I move to section 29(10), which relates to electoral divisions and areas? That is a change in the terminology there. Will that have an effect on the work of the commission?

Mr Watkin: Essentially, it will not have an effect on the work of the commission, but it is a matter of understanding the terms that are being used. For example, people refer to wards, but, legally, there is no such thing as a ward in Wales. There are wards in England, but there are not any in Wales. People can use these terms in an ambiguous manner. If we have one term that is commonly used, everyone knows what they are talking about—we think that the 1972 Act has established that—but, ultimately, it is a matter of habit, and people will get used to these terms. It will not frustrate the work of the commission, but perhaps it is to do with the understanding of the public of what we are trying to do.

Rhodri Glyn Thomas: Sections 31 to 33 relate to the reviews of a community's

adolygiadau o drefniadau etholiadol cymuned. A ydych yn fodlon gyda'r ddarpariaeth honno?

electoral arrangements. Are you content with that provision?

[94] **Mr Watkin:** Rydym yn meddwl bod lle i wella'n sylweddol ar hyn yn y Bil. A gaf i ddarlunio'r hyn a allai ddigwydd? A barnu bod cyngor sir wedi gwneud arolwg o gymunedau a bod cytundeb ar y nifer o aelodau fesul cyngor sir, byddai'n beth da pe bai gwaith y cyngor sir o adolygu cymunedau yn clymu i mewn i waith y comisiwn yn adolygu'r etholaethau sirol. Yr hyn rydym yn ei awgrymu yw hyn: pan fod rhaglen yr adolygiadau yn cael ei chyhoeddi bod pob cyngor sir yn gwybod ym mha flwyddyn y caiff ei adolygu, a bod pob sir yn ei dro, ddim mwy na phum mlynedd cyn yr adolygiad hwnnw, yn adolygu ei gymunedau ac yn dweud wrth y comisiwn beth mae'n mynd i'w wneud. Felly, rydym yn awgrymu ein bod yn gofyn i'r cyngorau sir gytuno eu rhaglenni adolygu cymunedau gyda ni. Ar hyn o bryd, nid yw'r cysylltiad hwnnw yn y Bil. Rydym yn meddwl y gallai'r Bil gael ei wella drwy wneud hynny. Bydd yn dod â llif gwaith y cyngor sir a'r comisiwn ynghyd mewn un darn o waith parhaol ac o fewn terfyn amser sy'n ddealladwy i'r cymunedau, y sir, y comisiwn ac, yn y pen draw, y Gweinidog wrth iddo ystyried yr argymhellion terfynol.

Mr Watkin: We think that there is room for significant improvement in the Bill in this area. May I outline what could happen? Accepting that a county council has done a review of communities and there is agreement on the number of members per county council, it would be a good thing if county councils' work of reviewing communities were tied into the commission's work of reviewing county constituencies. What we suggest is this: when a programme of reviews is published, that every county council knows in which year a review of the county will be undertaken, and that every county in its turn, no more than five years before that review, reviews its communities and tells the commission what it is going to do. So, we suggest that we ask the county councils to agree their programmes of reviewing communities with us. At present, that link is not in the Bill. We think that the Bill could be improved by doing this. It will bring the county council and the commission's workflow together in one piece of continuous work within a time frame that is comprehensible to the communities, the county, the commission and, ultimately, the Minister in considering the final recommendations.

[95] **Rhodri Glyn Thomas:** Diolch yn fawr. Trof yn awr at y gweithdrefnau ar gyfer cynnal adolygiadau. Rydych wedi codi pryderon am hynny, ac am amwysedd ynghylch cyhoeddi adroddiadau drafft papur yn ogystal â chopïau electronig. A allwch chi esbonio'r broblem gyda hynny?

Rhodri Glyn Thomas: Thank you. Turning now to the procedures for holding reviews, you have raised concerns about that, and about the ambiguity to do with publishing a paper copy of draft reports as well as the electronic copy. Can you explain what the problem is?

[96] **Mr Watkin:** Mae'r pryder yn ymwneud â gallu'r rhai a fydd yn ymddiddori yn y cyhoeddiadau i gael gafael arnynt. Rydym yn gwybod nad yw band eang yn cyrraedd pob rhan o Gymru a bod llawer sydd heb gyfrifiadur neu nad ydynt yn arddel gwybodaeth ar ffurf electronig. Felly, rydym yn cydnabod bod eisiau symud at gyhoeddi yn electronig, ac rydym wedi cytuno â Llywodraeth Cymru i wneud hynny yn raddol erbyn 2017. Felly mater ydyw o ofyn pa ffordd sydd orau o gyfathrebu ac ymwneud â phawb sydd â diddordeb yn yr adolygiadau.

Mr Watkin: The concern is to do with the ability of some people to get hold of the publications they are interested in. We know that broadband does not cover the whole of Wales and that there are many people who are without a computer or who do not acknowledge information in electronic form. So, we accept that we need to move to publishing electronically, and we have agreed with the Welsh Government to do that gradually by 2017. It is a matter of asking what is the best means of communicating and engaging with everyone who is interested in

the reviews.

[97] **Peter Black:** Section 35(3)(b) states that the report should be available for inspection at the offices of any principal council. Does that not imply a paper copy?

[98] **Mr Watkin:** There would be a paper copy, yes.

[99] **Peter Black:** Clearly, there is a provision in there for a paper copy and an electronic copy.

[100] **Mr Watkin:** However, we are concerned that that would be at the principal council's office, and there may be a need for greater availability than merely going to a council office to see a report.

[101] **Peter Black:** It does not state that you cannot publish a paper copy.

[102] **Mr Watkin:** We understand that the trend here is that we should reduce the number of paper copies. The ultimate aim is to do it electronically, 100%—that is perhaps a desire that is unachievable, but we shall be working towards it. We are just concerned about missing the means of sharing information with people when they want it and in a form that is convenient to them. It should not be at our convenience; it is easy enough for us to do it. We should bear in mind who the recipients of this information are and what would be the easiest way for them to get hold of it.

[103] **Peter Black:** The way I read this section, it implies that there will be paper copies, because one will be available for inspection. Clearly, there is a paper copy there, and you can produce paper copies for anyone who wants them.

[104] **Mr Watkin:** We could, but we are also conscious of the fact that we are trying to reduce costs.

[105] **Rhodri Glyn Thomas:** Dyma'r cwestiwn olaf gennyf i. O ran adrannau 26(3)(b) a 36(6)(c), sy'n ymwneud ag adolygiadau o ffiniau cymunedau, rydych wedi codi pryderon yn benodol, hyd y gwelaf, ynglŷn â rôl yr awdurdod gweithredu yn y broses a phwy yn union fyddai'r awdurdod hwnnw. A allwch chi esbonio eich consyrn am hynny?

Rhodri Glyn Thomas: This is the final question from me. On sections 26(3)(b) and 36(6)(c), which relate to community boundary reviews, you have raised some specific concerns, from what I can see, about the role of the implementing authority in the process and who exactly the implementing authority would be. Can you explain your concern in this regard?

[106] **Mr Watkin:** Rhaid imi edrych ar fy nodiadau.

Mr Watkin: I have to look at my notes.

[107] Steve, do you have a quick answer to this one?

[108] Rydych wedi codi pwynt technegol—bydd rhaid imi edrych—

You have raised a technical point—I will have to check—

[109] **Rhodri Glyn Thomas:** Os ydych eisiau, cewch anfon nodyn atom. Byddai hynny'n ddigon derbynol. Rwy'n derbyn ei fod yn bwynt technegol.

Rhodri Glyn Thomas: If you want, you can send us a note. That would be quite acceptable. I do accept that it is a technical point.

[110] Yr adrannau yw 26(3)(b) a 36(6)(c), The sections are 26(3)(b) and 36(6)(c), to do

sy'n ymwneud â gwneud newidiadau with making consequential changes to canlyniadol i ffiniau adrannau etholiadol fel electoral division boundaries as part of rhan o adolygiadau o ffiniau cymunedol. community boundary reviews.

[111] **Mr Watkin:** Mae Steve wedi **Mr Watkin:** Steve has found the ffeindio'r wybodaeth. information.

[112] **Mr Halsall:** This relates to the information that we were talking about earlier, about making the consequential changes to the electoral division boundaries. At the moment, once the commission has made proposals for the community boundaries and any consequential changes, they will go to the Minister, who will make the Order. What the new Bill states is that, for community reviews, the commission can make the Order if it adopts the proposals made by the principal authority. Our concern is this: if we introduce the consequential changes power, does that mean that the commission is making changes to local authority proposals? Will Welsh Ministers be happy for us to make changes to the electoral division boundaries and for us to make the Order to do that? At the moment the Bill states that we cannot do that—we do not have that consequential power—so it is okay that we can make the Order for community reviews. However, if it is in the Minister's gift to make changes in relation to electoral reviews and all electoral arrangements of principal authorities, our concern is that if you do bring in this consequential change, will that not mean that every time that we make a consequential change, we are going to have to push it up to the Minister to make the Order?

[113] **Rhodri Glyn Thomas:** A ydych **Rhodri Glyn Thomas:** Are you suggesting felly yn awgrymu bod angen diwygio'r Bil i therefore that the Bill needs to be amended to ateb y gofyn hwnnw, neu ai rhywbeth yw hyn answer this concern, or is it something to be i'w drafod rhyngoch chi a'r Gweinidog? discussed between you and the Minister?

[114] **Mr Halsall:** I think that it needs to be clarified. We are asking that the Bill is changed to bring in this consequential change; we think that that is important. If the Welsh Government and yourselves think it appropriate for the commission then to make the Order to bring that into effect, then that can be encompassed within the Bill and within the powers that the Bill gives us. However, if there are concerns, which the Welsh Government or yourselves might have, about the commission making Orders for electoral arrangements for principal authorities, then the Bill would need to be changed accordingly.

[115] **Mr Watkin:** Gadeirydd, ategaf y **Mr Watkin:** Chair, I endorse that point. pwynt. Mae gwneud Gorchymyn yn beth Making an Order is very important in legal cyfreithiol bwysig, achos fe seilir terms, given that the elections of the future etholiadau'r dyfodol ar hynny. Felly, er are based on that. Therefore, to avoid any mwyn osgoi unrhyw amwyster, byddai'n ambiguity, it would be much better for the llawer gwell i'r Bil ddatgan yn eglur beth Bill to state clearly what the relationship is yw'r berthynas a pha awdurdod sydd fod i and which authority is supposed to do this. wneud hyn. Nid ydym eisiau amheuo yn We do not want doubts to arise in relation to codi ynglŷn â phwy sy'n gwneud hyn, yn who should do this, especially in relation to enwedig o ran gwneud Gorchymyn, gan fod making an Order, because that is a matter of hynny'n fater o greu sefyllfa gyfreithiol creating a continuous legal situation, which is barhaol, sy'n well ei wneud mewn Bil na better done in a Bill than through an thrwy gytundeb. agreement.

[116] **Kenneth Skates:** The commission has identified problems in allowing the Secretary of State to direct the commission to carry out a review of principal area boundaries following the modification of police area boundaries. What should be done to amend the Bill to rectify this?

[117] **Mr Halsall:** We note that there is provision in the new Bill in respect of the commission recommending changes to police areas. This replicates existing legislation so there should not be a problem with that. What we were concerned with was whether the provision in the Bill to allow the Secretary of State to direct the commission to carry out further reviews of principal areas following modification of police boundaries may cause a conflict between the interests of the Secretary of State in terms of police boundaries and Welsh Ministers in terms of local authority boundaries. However, in consideration of the experience in terms of previous changes to local authority and consequential changes to police boundaries, there has not been any conflict in the past, so perhaps this is only of minor concern.

[118] **Kenneth Skates:** Okay. How content is the commission with the provision in section 48, which gives Welsh Ministers the powers to give directions to the commission and to issue guidance?

10.30 a.m.

[119] **Mr Watkin:** The commission accepts the position. As we said previously, we would welcome a discussion before a direction is signed. That would allow us to inform the process that arrives at a direction, and understand what the Minister intends to do, so that there is no uncertainty. There has been uncertainty in the past about the interpretation of directions, and the consistency of directions, for various reasons. This is merely ensuring, as we have tried to explain, that everybody understands what the position is, so that there is no ambiguity and that the matter is straightforward and clear to everybody.

[120] **Kenneth Skates:** Turning to section 50 on public body membership, the commission states that the provision that will enable it to make proposals about the constitution of additional public bodies is still open and subject to any directions by Welsh Ministers. Should the Bill be amended in any way to address this?

[121] **Mr Watkin:** I think that we are in new territory with regard to this provision. Really, the commission does not have a view on it, because I think that it is in the gift of the Minister to suggest what is included. What we are anxious to do, if the Minister requires us to do this, is to have discussions in advance about the guidelines to implement the section. We need to get the right results. We are given a set of rules and we work through them and provide the correct answer, but we need to understand the rules clearly so that we get to the right answer. It does not just affect the commission; it would affect whatever body the Minister would designate as being subject to this provision. It is only fair for that body to understand what the considerations are in relation to its membership. For the minute, we regret that we do not have the temerity to suggest improvements to the Bill in this particular section, but we would very much welcome discussions with the Welsh Government on how to do it, were it to be implemented.

[122] **Ann Jones:** The last question is on the financial implications of the Bill. The explanatory memorandum that accompanies the Bill states that there are no significant cost increases, and I think that you have accepted that, because you say that you are in agreement with the assessments made in the explanatory memorandum. Is there anything else that you wanted to add on the financial implications, or on the general comments that perhaps we have not covered, but which you thought we would?

[123] **Mr Watkin:** On the financial side, our duty is to do our best to end up right on the penny on the budget, and that is what we aim to do. Whatever budget is given to us, that is what we aim to do—clearly and with no overspends. We think that we can accommodate it. However, there are risks here, namely that if we move towards the period of suspension before the elections, as discussed previously, then that leads to an uneven pattern of

expenditure for the commission. We may have to adjust for these peak periods and fallow periods, which may mean that we will need temporary staff. So, there is an implicit risk, not only in terms of workload, but in the complement of the commission in order to undertake that work. We just want to voice the concern that that is another implication of an interrupted programme.

[124] Finally, Chair, I would just like to thank you very much for giving us the opportunity to address you. We think that it is really important, because we may not get another Act for another 40 years. So, we need to get the position right.

[125] **Ann Jones:** By that time, most of us will not be here.

[126] **Mr Watkin:** We will not be here as commissioners. I was just reflecting on 1972 and 1974; it is 40 years on, so we need to get this right. Our major concerns are, first, the linking of community reviews by county councils to our programme—we think that that is a really important point—and, secondly, how we handle the suspension period before elections. As I say, it is a matter of judgment, but we hope that the way we have expressed it today can point to the need to have a cohesive programme.

[127] There are other amendments to the Bill that we have suggested, just in the spirit of trying to get the best possible vehicle we can achieve for the commission for the period going forward. I will just end by thanking you, Chair, and every Member for the courtesy expressed to us this morning.

[128] **Ann Jones:** Thank you for your evidence. I am sure that it will play a major part in our report. We will send you a copy of the transcript of this session so that you can check it for accuracy. I do not think that you can add anything or take anything out, but it is just to check for accuracy so that we do not put anything in that you have not said. Thank you both for coming today.

*Gohiriwyd y cyfarfod rhwng 10.35 a.m. a 10.41 a.m.
The meeting adjourned between 10.35 a.m. and 10.41 a.m.*

**Bil Llywodraeth Leol (Democratiaeth) (Cymru) (Cyfnod 1) Sesiwn Dystiolaeth 2:
Cymdeithas Llywodraeth Leol Cymru (CLILC) a Chymdeithas Ysgrifenyddion a
Chyfreithwyr y Cynghorau (ACSeS)
Local Government (Democracy) (Wales) Bill Evidence Session 2: (Stage 1) Welsh
Local Government Association (WLGA) and Association of Council Secretaries
and Solicitors, Wales Branch (ACSeS)**

[129] **Ann Jones:** We continue with our scrutiny of the Local Government Democracy (Wales) Bill, and are taking evidence now from the Welsh Local Government Association and the Association of Council Secretaries and Solicitors. Philip Johnson, the electoral services manager from Newport, was meant to join us, but I believe that he is unwell, so we hope that he makes a quick recovery. I am sure that we could write to him for his views if there are points that our witnesses are unable to cover.

[130] Could you both, for the record, tell us who you are and which organisation you represent? We will then move straight to questions.

[131] **Ms Phillips:** Bore da. Dilys Phillips ydw i a fi yw cadeirydd presennol y gymdeithas sy'n cynrychioli ysgrifenyddion a chyfreithwyr llywodraeth leol a swyddogion
Ms Phillips: Good morning. I am Dilys Phillips and I am the current chair of the association that represents local government secretaries and solicitors and monitoring

monitro. Rwyf hefyd yn swyddog monitro yng Ngwynedd. officers. I am also the monitoring officer in Gwynedd.

[132] **Mr Hurford:** I am Daniel Hurford, head of policy at the Welsh Local Government Association.

[133] **Ann Jones:** Thank you. I will start with a general question. To what extent do you believe that the Bill is necessary and do the provisions adequately and clearly address the issues that need to be addressed in this field?

[134] **Mr Hurford:** Broadly, the WLGA has welcomed this Bill. A large number of the proposals regarding the boundary commission, electoral reviews and community reviews necessitated legislation following the Mathias review. The Bill also deals with a couple of amendments to the Local Government (Wales) Measure 2011, the need for which, through the implementation of that Measure, have recently come to light, so it makes some minor amendments to that. So, we welcome it and regard it as an appropriate Bill to introduce.

[135] **Ms Philips:** Mae ACSeS hefyd yn croesawu'r Bil hwn. Roedd angen cywiro rhai materion yn y Mesur Llywodraeth Leol (Cymru) 2011 ac y mae'r Bil hwn yn cymryd y cyfle i wneud hynny. Felly, credwn fod angen y Bil. Mae un neu ddau o bethau ychwanegol y gellid eu cynnwys yn y Bil a fyddai'n ddefnyddiol. Yn arbennig, rydym yn meddwl bod angen cynnwys darpariaeth er mwyn ymestyn cyfnod tymor mewn swydd cynghorwyr sy'n gwasanaethu ar bwyllgorau safonau. Fel y mae pethau'n sefyll ar hyn o bryd, bydd hynny'n dod i ben blwyddyn cyn yr etholiad nesaf, felly dim ond cywiriad bach i hwnnw sydd ei angen ac y mae'r Bil hwn yn rhoi cyfle i ni wneud hynny. **Ms Philips:** ACSeS also welcomes this Bill. It was necessary to correct some issues in the Local Government (Wales) Measure 2011 and this Bill takes the opportunity to do that. Therefore, we believe that the Bill is needed. There are one or two additional things could be included in the Bill that would be useful. In particular, we think there is the need to include a provision to extend the duration of the term of office for councillors who serve on standards committees. As things currently stand, that will come to an end a year before the next election, so only a small correction to that is needed and this Bill gives us an opportunity to do that.

[136] **Ann Jones:** Thank you. Peter has the next question.

[137] **Peter Black:** In general terms, how content are you that the Government has taken on board your views in drafting this Bill?

10.45 a.m.

[138] **Mr Hurford:** The Bill, as you will appreciate, follows quite closely the White Paper published last summer. Broadly, the White Paper was largely welcomed. There were a couple of points of clarification and a couple of points where we suggested amendment. The Welsh Government has taken on board a number of those comments and considerations, such as a reference to where the boundary commission may seek to re-charge for undertaking community reviews. If there are any disputes regarding the levels of fees being charged to local authorities, the matter can then be referred to the Minister. That was one of the queries that we put forward. So, that is just one example of where the Welsh Government has responded.

[139] **Ms Phillips:** Ar y materion sydd yn y Bil, credwn ei fod wedi cymryd sylw o'r ymatebion a roddwyd i'r Papur Gwyn. Mae dau fater penodol y mae ACSeS wedi tynnu **Ms Phillips:** On the issues contained in the Bill, we believe that it has taken note of the responses given to the White Paper. There are two specific issues that have been highlighted

sylw atynt: un rwyf wedi ei grybwyll yn barod ac un arall sydd yn ein tystiolaeth ysgrifenedig, lle gwnaethpwyd sylwadau i Lywodraeth Cymru mewn ymateb i'r Papur Gwyn, ond, unwaith eto, nid ydynt yn ymddangos yn y Bil.

by ACSeS: one that I have mentioned already and the other is in our written evidence, where comments were made in response to the Welsh Government White Paper, but, again, they do not appear in the Bill.

[140] **Peter Black:** I would like to move on to discuss the boundary commission provisions. Based on your experiences of the boundary commission's work in the past, to what extent would the new structure for the boundary commission enable it to carry out its functions more effectively?

[141] **Mr Hurford:** Essentially, the proposals around the boundary commission's structure relate to its size and capacity. That has been an issue in the past, which was revealed by the Mathias review. The commission has a very challenging role anyway, and the scale of the work with community reviews, electoral reviews and boundary reviews is significant. This Bill suggests expanding the resources of the commission, its membership and the opportunity to draw on expert advisers. So, we feel that it better equips the commission to face this challenging agenda.

[142] **Ms Phillips:** Nid yw ACSeS wedi gwneud unrhyw sylwadau ar y rhan hwn o'r Bil oherwydd nad yw'r newidiadau yn dod o fewn cylch gorchwyl y gymdeithas.

Ms Phillips: ACSeS has not made any comments on this part of the Bill because the changes are not within the remit of the association.

[143] **Peter Black:** Okay. What is your view on the proposal to remove the requirement that one of the commissioners should be a Welsh speaker?

[144] **Mr Hurford:** We did not have any strong views on this during the consultation. Essentially, as we understand the rationale for it, the Local Government Act 1972 predated the Welsh-language legislation—the Welsh Language Act 1993 and the more recent Welsh Language (Wales) Measure 2011—and we understand that the new commission will be subject to the more relevant, more recent Welsh-language legislation and Welsh language standards. So, it is more than likely that future members of the commission will be Welsh speakers and, certainly, the commission will have to ensure that fully bilingual arrangements are in place.

[145] **Peter Black:** Do you think that the removal of that requirement will mean that the commission will have a lesser understanding of Welsh-language issues, particularly in relation to the names of communities?

[146] **Mr Hurford:** We would hope not. If the commission was following the provisions of the Welsh Language Act and the Welsh Language (Wales) Measure, there should not be. We hope that, if there was not a Welsh-speaking member of the commission, that one of the expert advisers whom it might seek to appoint would be expert in the Welsh language and the naming of communities.

[147] **Rhodri Glyn Thomas:** Yr unig beth y dywedwn yn y cyd-destun hwn yw: os oes unrhyw amwysedd ynglŷn ag a ddylai'r comisiwn ffiniau gyd-weithredu â'r safonau hyn, byddai hynny'n fater i'r comisiynydd iaith. Yn sicr, fy nealltwriaeth i yw y byddai'r safonau hynny, gyda chorff sy'n ymwneud â'r cyhoedd, yn golygu y byddai'n rhaid bod

Rhodri Glyn Thomas: The only thing I would say in this context is that, if there is any ambiguity about whether the boundary commission should co-operate with these standards, that would be a matter for the language commissioner. Certainly, my understanding is that those standards, with regard to a body that deals with the public,

darpariaeth, nid yn unig o ran y staff, ond o ran y comisiynwyr, i allu cyfathrebu drwy gyfrwng y Gymraeg gydag unrhyw un a fyddai'n dymuno'r gwasanaeth hynny oddi wrthynt. Felly, nid wyf yn gweld y byddai unrhyw amwysedd ynglŷn â'r ffaith y byddai'n rhaid i un, o leiaf, o'r comisiynwyr allu gyflawni'r gwaith hwnnw a hefyd bod modd, o ran y peirianwaith gweinyddol, i allu cyfathrebu drwy gyfrwng y Gymraeg â chynghorau a chyrff eraill, ac unigolion.

would mean that there must be provision, not only for the staff, but for the commissioners, to be able to communicate through the medium of Welsh with anyone who wishes to receive that service. So, I do not foresee that there would be any ambiguity about the fact that at least one of the commissioners would have to be able to carry out that work and there must also be a way, in terms of the administrative machinery, to communicate in Welsh with councils and other organisations, and individuals.

[148] **Mr Hurford:** Absolutely; I agree entirely. The standards are quite clear regarding the expectations on public bodies in dealing with the public generally, particularly with regard to the sensitivities regarding community reviews and electoral reviews, where there is a lot of engagement. As you are aware, some of this can create a lot of public interest and it is important that the commission communicates and engages appropriately through the appropriate medium for those communities.

[149] **Mike Hedges:** Do the witnesses have a view on whether it is appropriate for Welsh Ministers to have a general power of direction over the commission?

[150] **Mr Hurford:** As far as I understand it, the powers of direction are similar to those that apply now, and the Minister has given the current and previous commission directions over undertaking its business. So, we do not have any strong issues regarding that.

[151] **Ann Jones:** Ms Phillips, do you have anything to add?

[152] **Ms Phillips:** Nac oes.

Ms Phillips: No.

[153] **Mike Hedges:** One of the requirements is for the commission to undertake a full review every 10 years, rather than between 10 years and 15 years. We saw what happened with the last set of reviews—we saw that it drifted and that some of the proposals were incoherent, where communities who had nothing to do with each other were lumped together, mountains were treated as if they were flat, and communities were joined with other communities that are a 10-mile round trip to get to, unless you are a mountaineer. Do you believe that the commission has the capacity to undertake this review over a 10-year period?

[154] **Mr Hurford:** Theoretically, it should be feasible. Unfortunately, the previous reviews were undertaken with what was described as a 'big bang' approach. It was a very short timescale and it did not allow any contingencies for some of the issues that you have outlined. The issue is capacity; the Bill proposes enhancing the capacity of the commission. There is also a key issue regarding the capacity of local authorities, principal authorities and community councils. When these extensive pieces of work are undertaken, it requires a significant amount of administrative resources and logistical effort. As long as the commission plans appropriately well in advance, and engages and liaises with principal authorities and community councils well in advance so that they can plan, it should be feasible.

[155] However, there are issues regarding the administrative capacity of local authorities and electoral services in particular, which would be responsible for undertaking this work. I know that there is provision in the Bill with regard to when electoral reviews would be undertaken, so that they would not be undertaken around local government election times. However, we are getting into a cycle of elections whereby the Assembly election is in one year, parliamentary elections are in the next, European parliament elections are in the next,

and so on. So, even though there is not an election to principal councils, there will probably be other elections or other electoral activities going on. For a council that has been scheduled to undertake an electoral review or widespread community reviews in that period, it will be quite challenging.

[156] So, in summary, the timescales should be manageable, but it is all to do with careful planning and allowing for some contingency.

[157] **Mike Hedges:** I have confidence in local authorities in general to deal with this. My lack of confidence is in the people coming in who seem have a map in front of them but a lack of understanding of what fits around it. They then come up with things which are strange, unacceptable or just plain bonkers, as a number of their proposals were last time. That is where I see the problem.

[158] **Mr Hurford:** Ultimately, that is down to the new commission and the new commissioners, when they are appointed, as to its policies and practices. We have a constructive relationship with the commissioners currently. There is a lot of discussion around approaches to consultation, engagement et cetera. We are also looking at new policies as to how the commission might undertake reviews in future. There were very significant issues with the most recent round of reviews, which did not chime with what local authorities thought was the most appropriate way of doing things. If there is appropriate dialogue and consensus around process, procedures, policies and the concept of council size, et cetera, which is outside the Bill, there is scope for it. However, you are right that it is ultimately dependent on how the commission approaches its business and how it rolls it out.

[159] **Mike Hedges:** This is the last question from me. Can the WLGA explain to the committee its concerns about the commencement of provisions relating to community reviews that are undertaken by principal authorities?

[160] **Mr Hurford:** The concern regarding that relates to the fact that this year is a non-election year, as I am sure you are all aware, so electoral services staff in many authorities are looking to undertake community reviews now, because there is not much activity going on with regard to elections. A number of authorities are looking to programme those reviews in this year. My slight concern is just that, when the Bill is commenced, and my reading of it is that it would commence two months after Royal Assent is given—whenever that would be—if councils are already undertaking a number of community reviews, are halfway through them, or have finished them but not yet implemented them, we would not want to have to go back and restart everything. We would not want to hold off for most of the year either, because that would be an opportunity missed to undertake these community reviews. We have made these comments to the Welsh Government, so, hopefully, there can be some leeway in terms of how the community review provisions will be implemented, and whether they would be for community reviews commenced after commencement of the Bill, as it were.

[161] **Janet Finch-Saunders:** I note that, in your letter, you say that this is only a provisional response and that WLGA members have not yet had an opportunity to consider the Local Government (Democracy) (Wales) Bill formally and that they will not be able to do so until the 25 January. Are you confident that you can get appropriate broad representations from member of the WLGA as a whole to feed into this process within the right timescale?

[162] **Mr Hurford:** Yes. The response is based largely on our White Paper response, which certainly reflected the WLGA membership. I mentioned that the WLGA has not met formally in the period since the Bill was produced. We encouraged all authorities to submit responses to the committee to cover that. If there are any supplementary issues that arise out of some of your questions, I will ensure that our leadership responds appropriately within the timescales of the committee's consultation.

[163] **Janet Finch-Saunders:** Okay. Have we had what the committee would consider to be good responses from all 22?

[164] **Ann Jones:** No. The consultation period is ongoing, so there is still time.

[165] **Janet Finch-Saunders:** How many responses have we had so far?

[166] **Ann Jones:** I do not know.

[167] **Janet Finch-Saunders:** How much has come forward from the local authorities?

[168] **Ann Jones:** Very little has come forward—the consultation period included the Christmas period as well.

[169] **Janet Finch-Saunders:** Okay. To what extent are the consultation and reporting procedures that the commission and principal councils must follow an improvement on the current procedures for undertaking reviews?

[170] **Mr Hurford:** If it is all right with the committee, we will respond to that in writing. That would have been an area that Phil Johnson would have led on. Phil is an electoral services manager and normally undertakes these reviews. If it is okay with the Chair, we will do that.

[171] **Janet Finch-Saunders:** What are your views on the power given to Welsh Ministers in section 48 to issue directions and guidance to principal councils with regard to community review? I know that this issue has been touched on.

[172] **Mr Hurford:** I read through that section this morning. It struck me that, while there are powers of direction over principal authorities, there would also be some consultation with the commission and associations representing the authorities. It would probably be appropriate to include consultation with the relevant principal authority there as well. If the Minister were to issue a direction around a specific community review, a group of community reviews or an electoral review, I am sure there would be some dialogue anyway, but it would offer clarity if it was in the Bill that the Welsh Ministers would consult with the principal authority concerned. It may well be that the authority has already programmed in some of this activity, and Welsh Ministers may not be aware of that. It would offer clarity to include it in there.

[173] **Janet Finch-Saunders:** Do you believe that it is right that the commission should be able to make proposals about the constitution of additional public bodies, other than councils, whose make-up includes councillors?

[174] **Mr Hurford:** In principle, the response from authorities during the White Paper consultation was broadly supportive of this concept. However, there is no significant detail as yet around which bodies those may be. One issue that we would probably highlight might be around the capacity of the commission to undertake this work.

11.00 a.m.

[175] We do not yet know the scope of what the commission might be expected to do, following on from the previous comment about its capacity to undertake what is already a very challenging agenda. Also, I think that section 50(3) states that the commission would not just look at the number of members on a public body, but that it would look at things like skills, attributes and so on. In principle, that is fine, but if it is looking at the membership of a

local health board, would the boundary commission have the expertise and capacity to determine what skills a health board might need? That comment is a request for additional information and clarity around the scope of what this might entail.

[176] **Janet Finch-Saunders:** To what extent would witnesses agree with the comments made by the commission that this provision appears to be very open in nature?

[177] **Mr Hurford:** As I say, it is fairly open. I think that the White Paper referred to fire and rescue authorities and local health boards as just a couple of examples.

[178] **Janet Finch-Saunders:** The list is endless, is it not?

[179] **Mr Hurford:** Potentially, yes. We would like some clarity on what is, perhaps, being considered. It might just be a reserve power and it might well be appropriate, given that the commission undertakes those sorts of activities, to broaden its remit. However, as I say, if it gets into the specifics around skills, attributes and the make-up of particular bodies, we would expect it to draw in relevant expertise to know, for example, what skills a local health board member would need.

[180] **Gwyn R. Price:** Turning to the financial implications, the WLGA states that community area reviews undertaken by the commission could mean additional costs to the authority, as delays are likely due to internal capacity issues. Can you clarify this statement and estimate what the additional costs imposed on a local authority in Wales would be in respect of this? I notice that an estimate of between £8,000 and £15,000 has been given. Do you think that it would go over that?

[181] **Mr Hurford:** Feedback from electoral services managers who undertake this work is that they felt that although the figures cover quite a broad range, they are probably about right, depending on the size and complexity of the community. There is no major concern around the scope of the costs as specified. However, our evidence hinted that the Bill allows the commission to undertake community reviews rather than the principal authorities. It is more than likely that where a principal authority was unable to undertake a community review, there might be an issue of internal capacity in the organisation. So, if the commission were undertaking the review, it would inevitably be an additional cost. This is because the cost, estimated as being between £8,000 and £15,000, largely relates to staff time and administration. If it did not undertake that work, and somebody else had to do it, it would mean an additional cost. However, at this stage, we do not know how many community reviews the boundary commission will be undertaking, so we would not like to say that it is going to be a disproportionate cost. If the commission does undertake this work, it is likely to mean an additional cost.

[182] **Gwyn R. Price:** Just to clarify, are there any other issues relating to proposals for the boundary commission that you would like to raise with the committee today?

[183] **Mr Hurford:** I do not think so. We covered most of the issues in our evidence. As we touched on in the evidence, the proposed renaming of the commission caused some interest. It was not a significant issue, but there is potential for confusion of perception by external sources—perhaps the public—around the role, around local democracy and around the boundary commission with regards the Electoral Commission, perhaps, but it is nothing significant. The commission seemed fairly comfortable with it.

[184] **Ann Jones:** Do you have another question on presiding members of principal councils, Gwyn?

[185] **Gwyn R. Price:** You are overworking me today, Chair. What tangible benefits will

there be for allowing the separation of the role of civic head from the person presiding over council meetings?

[186] **Ms Phillips:** Rwy'n deall bod hyn yn digwydd mewn un neu ddau o gynghorau yn barod. Ar hyn o bryd, mae cadeirydd cyngor yn cyflawni dwy rôl wahanol: mae'n cyflawni rôl ddinesig o fod yn cynrychioli'r cyngor mewn digwyddiadau o fewn y sir ac y mae hefyd yn cyflawni rôl o gadeirio cyfarfodydd y cyngor. Mae'r ddwy rôl hynny yn galw am ddau wahanol fath o sgiliau mewn person. Felly, byddai caniatáu i gynghorau eu gwahanu, os ydynt yn dymuno gwneud hynny, yn golygu eu bod yn medru cael pobl sydd â'r sgiliau addas i gyflawni'r ddwy rôl. Byddai hefyd yn caniatáu i gyngor allu penodi person i gadeirio cyfarfodydd y cyngor flwyddyn ar ôl blwyddyn. Hynny yw, gall y person hwnnw weithredu am dymor cyngor tra, yn draddodiadol, mae cadeirydd cyngor ar hyn o bryd yn newid bob blwyddyn, o flwyddyn i flwyddyn.

Ms Phillips: I understand that this already happens in one or two councils. At present, the chair of a council fulfils two different roles: they fulfil a civic role of representing the council in events within the county and they also fulfil the role of chairing council meetings. Those two roles call for two different sets of skills within one person. So, allowing councils to separate them if they wished to do so would mean that they would be able to attract people with the appropriate skills to fulfil both roles. It would also allow a council to appoint a person to chair council meetings year after year. That is, that person could operate for a council term whereas, traditionally, at present, the chair of a council changes every year, from year to year.

[187] **Gwyn R. Price:** Have you identified any risk with regard to this provision?

[188] **Ms Phillips:** Nac ydym. Ni fedrwn weld bod risg. Mae cwestiwn yn codi ynglŷn ag a yw'r aelod llywyddol a'r cadeirydd ill dau yn mynd i dderbyn uwch-gyflog, ac a fydd hynny felly yn cyfyngu ar faint o uwch-gyflogau a fydd ar gael i weddill y swyddi o fewn y cyngor, ond nid yw hynny'n risg mewn gwirionedd; mater cyllidol ydyw.

Ms Phillips: No, we have not. We cannot see that there would be a risk. A question arises regarding whether the presiding member and chair would both receive a higher salary, and whether that would therefore limit the number of higher salaries available for other posts within the council, but that is not really a risk; it is a budgetary consideration.

[189] **Mark Isherwood:** You have just referred to the budgetary implications of splitting the role. You will know that the explanatory memorandum states that there would be no anticipated costs associated with splitting that role. So, to clarify, do you anticipate, therefore, that those local authorities that might choose to split this role could or would incur additional costs, both in terms of remuneration for the individuals concerned, but also possibly in terms of support staff and administration teams?

[190] **Ms Phillips:** Trafodaf daliadau i'r unigolion i ddechrau. Ar hyn o bryd, mae trothwy ar y nifer o uwch-gyflogau y mae cyngor yn gallu eu talu. Yn achos cyngor weddol fawr, fel Gwynedd, er enghraifft, 20 uwch-gyflog yw'r uchafswm posibl. Mae hynny oherwydd bod y panel annibynnol ar gyflogau yn gosod yr uchafswm fel nifer. Mae hynny'n golygu pe bai cyngor sy'n dewis cael cadeirydd ac aelod llywyddol yn rhoi taliad i'r ddau ohonynt, byddai hynny wedyn yn cyfyngu ar faint o uwch-gyflogau neu faint o swyddi eraill yn y cyngor a

Ms Phillips: I will discuss payments to individuals first. At the moment, there is a limit to the number of higher salaries that a council can pay. In the case of quite a large council, such as Gwynedd, for example, 20 higher salaries is the maximum number that can be paid. That is because the independent remuneration panel sets the maximum as a number. That means that if a council that chose to have a chair and a presiding member gave them both a payment, that would then limit the number of higher salaries or the number of other jobs in the council that could

fyddai'n medru denu uwch-gyflog, neu, fel arall, byddai'n rhaid i'r panel ganiatáu nifer uwch o uwch-gyflogau yn y cyngorau hynny sy'n dewis cael aelod llywyddol yn ogystal â chadeirydd. Os yw'n dewis cael nifer uwch, byddai hynny'n cynyddu, o ychydig bach, y gost i'r cyngor hwnnw.

attract higher salaries, or the panel would have to allow a greater number of higher salaries in those councils that choose to have a presiding member as well as a chair. If it chooses to have a higher number, then that would increase, slightly, the cost to that council.

[191] Wrth edrych ar gost y gefnogaeth, ni allwn weld unrhyw oblygiadau cost. Yr un bobl a fyddai'n cefnogi'r cadeirydd a'r aelod llywyddol, a'r un yw'r gwaith a fyddai angen ei wneud pa un ai un person neu ddau sy'n ei wneud. Nid ydym yn rhagweld y byddai hynny'n cynyddu'r gost o gwbl.

Looking at the cost of support, we cannot see that there would be any cost implications. The same people would be supporting the chair and the presiding member, and it is the same work that would need to be done whether it were done by one person or two. We do not anticipate that that would increase the cost at all.

[192] **Janet Finch-Saunders:** I would like to ask a supplementary question on that point. I understand that, at the moment, although the limit is 20, a local authority can ask for special dispensation and apply to increase that number if it feels that a post warrants a special responsibility allowance. So, we could have 22 local authorities deciding to use that option, could we not? Therefore, I suppose that there could be additional costs, which could be quite considerable if you multiply the average current SRA in Wales by 22.

[193] **Mr Hurford:** I would like to respond to that point. Yes, as you rightly say, councils can apply to the independent remuneration panel for special dispensation. However, if this was enacted, the independent remuneration panel would certainly review its current scheme of allowances and salaries. Previously, in practice, it has been quite restrictive and strict about the number of senior salaries being awarded. So, it would be a matter for the independent remuneration panel to decide whether this counted as an extra one to add to the 20 or whether councils would have to find this salary within the existing number. So, it has the potential to increase allowances, but I would imagine that, given the current practices, the remuneration panel would keep it fairly constrained.

[194] **Janet Finch-Saunders:** Okay. Finally on that point, this comes on the back of the additional salary for the chairman of the democracy committee. We have seen newspaper reports that some committees have not actually met, yet local authorities are paying out an SRA for the chair. So, we are seeing an ever-increasing circle of expenses coming into local authorities. It is an issue that I receive a lot of comments on from people across Wales—

[195] **Ann Jones:** But this is not part of the Bill, is it?

[196] **Mike Hedges:** It is not relevant.

[197] **Janet Finch-Saunders:** It is relevant when SRAs are being increased in number, and this has the potential to increase the number of SRAs available in local authorities. It is a cost to the taxpayer.

[198] **Mr Hurford:** I appreciate that it is not within the committee's remit, but the independent remuneration panel—

[199] **Ann Jones:** It is in the committee's remit, but it is not in the remit of this Bill. That is what we are trying to establish.

[200] **Mr Hurford:** Yes, but just to clarify, the independent remuneration panel has, in

recent years, reduced the number of senior salaries that are available to councils; it has constrained it.

[201] **Rhodri Glyn Thomas:** Gan eich bod wedi cyffwrdd â hyn nawr, mae gennyf gwestiwn ychwanegol. Yn eich tystiolaeth, rydych chi'n gwrthwynebu bod gan y panel annibynnol ar gydnabyddiaeth ariannol yr hawl i gyfyngu ar nifer y bobl sy'n derbyn cyflogau uwch o fewn awdurdodau lleol. Felly, o ran ateb i Janet, mae'r panel yn mynd i reoli'r broses honno, ond rydych chi, fel corff, yn erbyn hynny.

Rhodri Glyn Thomas: As you have touched on this now, I have a supplementary question. In your evidence, you object to the independent remuneration panel having the right to limit the number of people who receive senior salaries in local authorities. So, in answer to Janet, the panel is going to regulate that process, but you, as a body, object to it.

[202] **Mr Hurford:** To clarify, we do not have an issue with the independent remuneration panel specifying the proportion of councillors who should receive senior salaries. That is right and proper and has been laid out in legislation—previously, it was a maximum of 50%. In recent years, the policy and practice of the independent remuneration panel has been more of an issue in that the Measure allows it to specify a proportion of councillors in a council who receive senior salaries, but it has decided to specify numbers. As Dilys said, in Gwynedd, that number is 20.

[203] So, it has banded councils by size and allows the larger councils a certain number, medium-sized councils a certain number, and so on. Our concern is that it has been fairly arbitrary in terms of the numbers that have been allowed. That has constrained authorities, certainly the larger ones, by reducing the number of senior salaries available to them. By doing that, it has forced councils to change their governance arrangements. So, our argument is that it should be up to councils to decide their appropriate governance arrangements—who has responsibilities, how many planning, licensing and scrutiny committees it requires to undertake its business and so on. However, what happened under the previous Measure—and this Bill seeks to strengthen that—was that the panel was allowed specified numbers, which we regard as arbitrary. A proportion, as previously, would allow councils the flexibility to determine how large its cabinet is, how many chairs of committees it has, whether opposition group leaders receive allowances, et cetera. Those are our issues. We do not have a problem, in principle, with the panel setting a maximum level, but we have an issue with it prescribing a certain amount.

[204] **Mark Isherwood:** What are your views on the lack of specific reference in the Bill to the voting rights of the members presiding over council meetings if their role is split from that of civic head?

[205] **Ms Phillips:** Nid yw'r Bil yn sôn o gwbl am hawliau pleidleisio i aelodau. Fodd bynnag, byddai rhywun yn cymryd yn ganiataol, oherwydd ei fod yn gynghorydd, fod ganddo'r un hawliau pleidleisio â phob cynghorydd arall. Ar hyn o bryd, yn y rhan fwyaf o gynghorau, tybiaf fod gan gadeirydd pwylgor bleidlais a phleidlais fwrw. Mae hynny'n gwbl hanfodol, achos os oes yr un nifer o bleidleisiau ar y ddwy ochr mewn cyfarfod o'r cyngor, mae angen i'r cadeirydd allu delio efo hynny. Yn fy nealltwriaeth i, bydd y swydd newydd—yr aelod llywyddol—yn cadeirio cyfarfod o'r cyngor,

Ms Phillips: There is no reference in the Bill to members' voting rights. However, someone would take for granted that because he or she is a councillor, they would have the same voting rights as every other councillor. Currently, I think that, in most councils, the committee chair has a vote and a casting vote. That is essential, because if the same number of votes is cast on both sides in a council meeting, the chair has to be able to deal with that. My understanding is that the new post—the presiding member—would chair a council meeting, therefore it is essential that that person has the same voting

felly mae'n hanfodol bod gan y person hwnnw yr un hawliau pleidleisio. Nid oes dim yn y Bil hwn a fyddai'n atal hynny rhag digwydd.

rights. There is nothing in this Bill that would prevent that from happening.

11.15 a.m.

[206] Byddai deddfwriaeth arferol llywodraeth leol yn golygu bod gan y person hwnnw bleidlais a byddai rheolau sefydlog y cyngor yn caniatáu ail bleidlais i'r person hwnnw os dyna'r ffordd y mae'n gweithredu fel arfer. Felly, nid wyf yn gweld y byddai problem yn codi oherwydd y diffyg sôn am bleidlais.

Current local government legislation would mean that that person would have a vote and the council's standing orders would allow a second vote for that person if that is the way it normally operates. So, I do not see that a problem would arise just because voting rights are not mentioned.

[207] Mae'n debyg mai'r un mater y dylwn ei bwysleisio ar gynffon hynny yw gallu'r aelod llywyddol i lywyddu mewn cyfarfod o'r cyngor ar ôl etholiad. Yr un peth sydd ar goll yn y Bil yw ymestyn tymor aelod llywyddol y tu hwnt i etholiad llywodraeth leol. Ar hyn o bryd, fel yr ydych yn gwybod, mae cadeirydd cyngor yn parhau i fod yn gadeirydd ar gyfer cyfarfod y cyngor yn dilyn etholiad, hyd yn oed os ydyw wedi colli ei sêd yn yr etholiad neu heb sefyll yn yr etholiad. Caiff fynd i'r cyfarfod cyntaf er mwyn llywyddu yn y cyfarfod hwnnw. Mae'n hanfodol, yn ein tyb ni, fod yr aelod llywyddol hefyd yn cael yr hawl i wneud hynny.

The one issue that I should probably emphasise on the back of that is the presiding member's ability to preside at a meeting of the council after an election. The one thing missing in the Bill is the extension of the term of a presiding member beyond a local government election. Currently, as you know, the chair of the council continues to be the chair for the first council meeting following the election, even if he or she had lost his or her seat in the election or did not stand for election. He or she is allowed to attend the first meeting in order to preside over that meeting. It is essential, in our view, that the presiding member also has the right to do so.

[208] **Mark Isherwood:** Thank you very much indeed. What are your views in principle on the proposal that community and town councils should be required to publish certain information electronically?

[209] **Mr Hurford:** Obviously, community and town councils are outside the responsibility and area of interest of the Welsh Local Government Association, but we have a close relationship with One Voice Wales and principal authorities have a similar relationship with community councils. So, we do not have a strong view on this, but we accept the Welsh Government's rationale for promoting engagement and making increasing amounts of information available. This would seem to be a sensible way to do that.

[210] **Ms Phillips:** Nid oes gennym ychwaith unrhyw sylwadau i'w gwneud ar yr egwyddor. Mae pwynt bach iawn ynglŷn â phennawd yr adran hon yn y ddeddfwriaeth er mwyn osgoi dryswch gyda deddfwriaeth arall sy'n bodoli'n barod. Rydym yn gwneud y sylw hwnnw yn ein datganiad ysgrifenedig.

Ms Phillips: We have no comments to make on the principle either. There is a very small point regarding the title of this part of the legislation in order to try to avoid confusion with other, existing legislation. We have made that observation in our written statement.

[211] **Mark Isherwood:** There are possible implications for principal authorities, for example, being called upon to host websites on behalf of community and town councils. So, what level of involvement would you expect principal authorities to have in helping town and

community councils to publish information electronically if they lack the capacity, resource or expertise to do it themselves?

[212] **Mr Hurford:** It is certainly a possibility that principal councils might provide support to community and town councils on this. Once further detail and guidance comes out on this, we would anticipate that One Voice Wales will lead on this and perhaps look at procuring software solutions and providing training. Producing a general website should not have too significant a resource implication for community councils, and it could perhaps be undertaken by groupings of councils, or via One Voice Wales. However, as you know, many principal authorities have charters with their local community and town councils and so this might be an area where additional support regarding updating materials might be included in those charters. However, where those principal authorities have many community councils—I am just thinking of Powys, for example, which has well over 100—if the principal council had to create and update websites for those community councils, it might have quite significant resource implications for that authority. So, I would expect there to be greater discussion in the guidance about who might lead on co-ordinating some of this, whether there are opportunities to train clerks or even community councillors to do this. However, if necessary, principal authorities would certainly be available to provide advice on this agenda.

[213] **Mark Isherwood:** I have one further supplementary question for clarification. You mentioned both One Voice Wales and Powys; some town and community councils in Powys belong to the North Wales Association of Town and Larger Community Councils, so presumably you would be in dialogue with those as well.

[214] **Mr Hurford:** Yes, of course.

[215] **Ann Jones:** Peter has a supplementary question.

[216] **Peter Black:** I have two questions. First, this sets out a statutory legal basis for community council websites. As far as I am aware, there is no comparable legal basis for principal council websites, although every single aspect of this is available on all principal councils' websites anyway. However, do you believe that it would be administratively tidier if this applied both to principal councils as well as to community councils, just so that we have that statutory basis?

[217] **Ms Phillips:** Fel rydych yn ei ddweud, mae'r 22 prif gyngor yn cynnal hyn p'run bynnag. Felly, byddai rhywun yn cwestiynu a oes angen deddfwriaeth i gywiro rhywbeth nad yw'n broblem ar hyn o bryd. Nid oes gennyf sylw arall i'w wneud ar hynny.

Ms Phillips: As you say, the 22 principal councils maintain this regardless. So, one might question whether legislation is needed to correct something that is not a problem at present. I have no other comment to make on that.

[218] **Mr Hurford:** Further to that, there is a code of local authority publicity, which is statutory, that may be able to cover this issue as well. However, as Dilys said, because the 22 principal authorities have websites and update them with council agendas et cetera, it would not necessarily be an issue, so we do not have too many concerns about this.

[219] **Peter Black:** The second question is that the Minister has indicated that he may amend this to include a requirement that community councils publish the register of members' interests as part of the publications. Of the 22 councils, only eight currently publish their register of members' interests. Do you agree that that should be a requirement for principal councils as well?

[220] **Ms Phillips:** Mae cwestiynau am **Ms Phillips:** There are questions regarding

gyhoeddi'r gofrestr. Mae hi'n ddogfen gyhoeddus ac felly nid oes trafferthion o gwbl o ran cyhoeddi'r wybodaeth sydd ynddi neu roi gwybodaeth i aelodau o'r cyhoedd. Efallai fod y gofyniad i'w chyhoeddi ar wefan yn golygu bod angen rhoi ychydig mwy o sylw i'r ffordd y caiff ei chadw a pha wybodaeth yn union sy'n cael ei datgelu. Mae'n debyg bod materion o gwmpas sensitifrwydd y wybodaeth sydd ynddi. Er enghraifft, mae cofrestr buddiannau yn cynnwys gwybodaeth ynglŷn â pha eiddo mae aelod yn berchen arno o fewn y sir, ac mae'n bosibl bod sefyllfaoedd lle na fyddai aelod yn dymuno i wybodaeth o'r fath gael ei chyhoeddi, er ei bod ar gael yn gyhoeddus i rywun sydd yn gofyn amdani.

publishing the register. It is a public document, and, therefore, there are no difficulties at all with publishing the information contained within it or making information available to members of the public. The requirement to publish it online could mean that a little more attention needs to be given to the way in which it is kept and to the information revealed. It could well be that there are issues surrounding the sensitivity of the information contained in the document. For example, a register of interests contains information about the property a member owns within the county, and there could be situations in which a member would not wish for such information to be published, even though it is available publicly to anyone who asks for it.

[221] Os yw'r Bil yn cael ei newid er mwyn ei wneud yn orfodol i gynghorau cymuned gyhoeddi, mae'n dilyn y dylai'r orfodaeth honno fod ar brif gynghorau hefyd. Ni fyddai'n gwneud synnwyr i roi gorfodaeth ar gynghorau cymuned sydd yn mynd tu hwnt i'r orfodaeth ar brif gynghorau. Fodd bynnag, os yw'r Bil yn cael ei newid er mwyn gwneud i gynghorau cymuned gyhoeddi'r cofrestrau, gallai hynny ddod â goblygiadau sylweddol yn ariannol nid yn unig i'r cynghorau cymuned, ond i'r prif gynghorau hefyd, oherwydd mae'r gofrestr buddiannau yn cael ei chadw ar ran swyddog monitro'r prif gyngor, er ei bod yn ymwneud â'r cynghorau cymuned. Felly, byddai'r cyfrifoldeb am sicrhau bod y cyhoeddi'n digwydd ac yn y blaen yn disgyn ar y prif gyngor yn yr achos hwnnw.

If the Bill is amended to make it compulsory for community councils to publish, it follows that it should also be compulsory for principal councils. It would not make sense to compel community councils beyond what applies to principal councils. However, if the Bill is amended to compel community councils to publish the registers, that could have substantial financial implications not only for the community councils, but for the principal councils, because the register of interests is kept on behalf of the monitoring officer of the principal council, even though it relates to the community councils. So, the responsibility for ensuring that publication takes place and so forth would fall upon the principal council in that case.

[222] **Peter Black:** Yet eight principal councils currently manage to get around those hurdles, including Swansea, Cardiff, Newport and Wrexham.

[223] **Ms Phillips:** Ydynt. Nid wyf yn dadlau nad oes ffyrdd o'i wneud, ond, yn amlwg, mae llawer mwy o gynghorau yn teimlo nad yw'n beth sydd yn addas i'w wneud ar hyn o bryd.

Ms Phillips: Yes, they do. I am not arguing that there are no ways of doing it, but, obviously, many more councils feel that it is not something that it is appropriate to do at present.

[224] **Joyce Watson:** I have a small supplementary question. In 1995, when I was first elected, one of the first things I did was support a voluntary register of Pembrokeshire County Council members' membership of clubs, societies and organisations in order to make sure that we all knew who people were. So, I think that it is a good idea for people to state publicly who they are and what they belong to. Since that was set up in 1995, I cannot see how this is a big problem. I take on board what you have said about the principal authority being responsible for community and town councils if it is responsible for the website, because

there will be multiples of those in some areas. For example, Gwynedd, Pembrokeshire and Ceredigion will have multiples. However, I think that what we are trying to get at—and I agree with you—is that if we are going to put the onus on community and town councils, should that not also automatically put the onus on everybody, and vice versa, in the name of open and transparent democracy?

[225] **Mr Hurford:** Given that this was not part of the Bill, we do not have a firm position on the matter, but I clearly heard what you said. I think that it would be appropriate for us to take this proposal from committee members back and, given that eight authorities already do it, discuss it within the WLGA to see what the common view across the 22 authorities would be.

[226] **Ann Jones:** Joyce, do you want to move on to your next question? I think the one on websites has been covered.

[227] **Joyce Watson:** It has, so we are going to go on to democratic services. We have had testimony from witnesses saying that they support the proposal to provide more flexibility to democratic services committees, but are there any risks that could be seen as weakening the focus of these committees, as acknowledged in the explanatory memorandum?

[228] **Mr Hurford:** No. We support this amendment, because it gives greater flexibility to the democratic services committee to undertake reviews or pieces of work that the council has requested, to look at members' activities, member support, member development and maybe information technology support and scrutiny activity. It just gives a bit more flexibility to the council, because there is a certain line in the Measure that states:

[229] 'A democratic services committee may not exercise any functions other than its functions under this Chapter.'

[230] That is, it is specific to that chapter. However, this amendment would allow a council to commission that committee to undertake reviews as appropriate. So, it does give councils more flexibility.

[231] **Joyce Watson:** Can the Association of Council Secretaries and Solicitors explain its comment that an amendment to section 16 of the 2011 Measure is required to reflect the extension of democratic services committees' powers?

[232] **Ms Phillips:** Nid yw hwn yn bwynt sylweddol iawn. Mae'n dilyn o'r hyn y mae Daniel newydd ddweud, sef mai adran 16 o'r Mesur sy'n dweud nad yw'r pwyllgorau'n cael gwneud dim heblaw'r swyddogaethau sydd ganddynt o dan Fesur 2011. Ein teimlad ni yw, o ddarllen y geiriad yn y Bil, yn hytrach na rhoi swyddogaeth newydd i'r pwyllgor, mae'r Bil yn dweud y bydd y pwyllgor yn cael gwneud rhywbeth ar gais cyngor. Dyna'r ffordd y mae'r Bil wedi'i eirio. Efallai fod ychydig bach o wrthddweud rhwng adran 16 a'r hyn sydd yn y Bil, a dim ond mater o ddrafftio er mwyn twtio hwnnw sydd gennym yn y fan hon.

Ms Phillips: This is not a very substantial point. It follows on from what Daniel has just said, namely that section 16 of the Measure states that committees cannot do anything other than those functions conferred on them under the 2011 Measure. The feeling that we had, from reading the wording in the Bill, was that rather than giving a new function to the committee, the Bill states that the committee can do something requested by the council. That is how the Bill has been worded. There may be a contradiction between section 16 and what is in the Bill, and that would be a small matter of drafting to amend what we have there.

[233] **Joyce Watson:** And if it is not amended, what will the effect be, in your opinion?

[234] **Ms Phillips:** Pe na bai'n cael ei newid, byddai rhywfaint o amheuaeth ynglŷn ag union hawliau'r pwyllgorau hyn, ond byddai cynghorau'n ceisio eu gorau i wneud iddynt weithio beth bynnag.

Ms Phillips: If left unamended, there would be some doubt as to the exact rights of these committees, but councils would do their best to make them work whatever happens.

[235] **Ann Jones:** Rhodri Glyn, some of your questions have been answered.

[236] **Rhodri Glyn Thomas:** Dechreuaf gydag aelodaeth y pwyllgor archwilio. Rydych chi, y tystion, wedi dweud eich bod yn cefnogi'r ddarpariaeth yn y Bil i sicrhau bod cydbwysedd gwleidyddol o ran aelodaeth. A ydych yn credu bod angen cryfhau'r ddarpariaeth honno yn y Bil, neu a yw'n ddigonol fel ag y mae?

Rhodri Glyn Thomas: I will start with the membership of the audit committee. You, the witnesses, have said that you support the provisions in the Bill to ensure political balance in the committee's membership. Do you think that there is a need to strengthen that provision in the Bill, or is it sufficient as it stands?

[237] **Ms Phillips:** Mae'r ddarpariaeth honno'n ddigonol fel ag y mae, hyd y gwelwn ni. Mae pob un pwyllgor mewn llywodraeth leol, heblaw'r cabinetau, yn bwyllgor â chydbwysedd gwleidyddol. Drwy amryfusedd, mae'n siŵr, ni roddwyd hynny yn y Mesur, a'r sefyllfa oedd gennym oedd bod gan bob un pwyllgor mewn awdurdod lleol gydbwysedd gwleidyddol heblaw'r pwyllgor archwilio. Yr hyn y mae'r Bil yn ei wneud yw cywiro hynny a dod â'r pwyllgor archwilio o dan yr un ddarpariaeth â phob pwyllgor arall. Nid wyf yn gweld modd ei gryfhau ymhellach.

Ms Phillips: That provision is sufficient as it stands, as far as we can see. Each and every local government committee, apart from the cabinets, is politically balanced. Due to some oversight, most likely, that was not included in the Measure, and the situation we had was that every committee in a local authority was politically balanced apart from the audit committee. What this Bill does is to correct that and bring the audit committee within the same provisions as every other committee. I do not see a way of strengthening that further.

[238] **Rhodri Glyn Thomas:** Iawn. Symudwn, felly, at y panel annibynnol ar gydnabyddiaeth ariannol. Mae pryderon wedi cael eu codi gennych ynglŷn â'r cysylltiad rhwng adroddiadau'r panel hwnnw a threfniadau cynllunio ariannol cynghorau, ac o ran dyddiadau cyhoeddi a gweithredu'r rheini. Beth yw'r pryderon hynny?

Rhodri Glyn Thomas: Okay. Let us move on to the independent remuneration panel. Concerns have been raised by you about the link between the panel's reports and councils' financial planning arrangements, and with regard to the publication and implementation dates of those. What are those concerns?

11.30 a.m.

[239] **Ms Phillips:** Mae cylch cynllunio ariannol cyngor yn golygu bod cynigion yn dechrau cael eu ffurfio o gwmpas mis Rhagfyr, unwaith mae gwybodaeth ariannol wedi dod o'r Cynulliad a Llywodraeth Cymru. Mae'r dreth a'r gyllideb yn cael eu gosod oddeutu diwedd mis Chwefror neu ddechrau mis Mawrth. Mae'r gyllideb honno yn berthnasol am y cyfnod o 1 Ebrill ymlaen. Os nad yw'r panel annibynnol yn cyhoeddi ei adroddiad tan ddiwedd mis Chwefror, mae hynny'n rhy hwyr i ddal y cylch cynllunio

Ms Phillips: The financial planning process in a council means that proposals start to be drawn around December, once financial information has come from the Assembly and the Welsh Government. The tax and the budget are set around the end of February or the beginning of March. That budget is relevant for the period from 1 April onwards. If the independent panel does not publish its report until the end of February, that is too late to catch that financial planning process. If the panel does not propose any changes

cyllidol hwnnw. Os nad yw'r panel yn cynnig unrhyw newidiadau sy'n golygu codiadau o sylwedd, nid yw'n gwneud unrhyw wahaniaeth bod modd i'w gynnwys o fewn cyllideb arferol. Fodd bynnag, pe byddai adroddiad y panel yn golygu bod cynnydd sylweddol yn y taliadau sy'n cael eu gwneud i aelodau, byddai angen i'r cyngor fod wedi bod yn ymwybodol o hynny ymhell cyn diwedd mis Chwefror er mwyn medru cynllunio'r gwariant yn ei gyllideb, a chanfod o le y byddai'n cael yr arian. Felly, yn fras iawn, hwnnw yw'r pryder.

[240] **Rhodri Glyn Thomas:** A ydych chi'n awgrymu bod angen diwygio'r Bil ar gyfer hynny?

[241] **Ms Phillips:** Rydym yn awgrymu ein bod yn cadw at y dyddiad o ddiwedd mis Rhagfyr ar gyfer cyhoeddi adroddiad, yn hytrach na diwedd mis Chwefror.

[242] **Rhodri Glyn Thomas:** I ba raddau mae'r tystion yn cytuno â'r cynnig y dylai'r panel allu pennu taliadau ar gyfer aelodau eraill o gyfrff cyhoeddus ar wahân i'r cyngorau?

[243] **Mr Hurford:** This relates to my earlier point about the independent remuneration panel. We are currently at maximum proportions, but the Bill allows the panel to set specific numbers. The panel already sets specific numbers; as you can see from its annual report, it varies the percentage and proportion of the allowances available in each council to come up with the banding of 18, 17 and 16 senior salaries. Our concern is that this is arbitrary and allows the panel to constrain councils' governance arrangements, and also forces a number of members to forego allowances to undertake a responsibility or to double-up. So, you might get an opposition group leader who has to be a chair of a committee in order to fit within the cap. Doing this has constrained councils, and it has also made members undertake additional responsibilities and not get recognition for that.

[244] **Rhodri Glyn Thomas:** I symud at y cydbwyllgorau safonau, mae'r ddau gorff rydych yn eu cynrychioli yn cefnogi'r cynigion i alluogi awdurdodau i sefydlu'r cydbwyllgorau safonau. Beth fyddai manteision y cydbwyllgorau hyn?

[245] **Ms Phillips:** Rydych yn gywir; rydym yn cefnogi hwn cyn belled mai galluogi awdurdodau y mae ac mai pŵer ydyw, nid gorfodaeth. Y gwahaniaeth yw bod

which entail substantial increases, it does not make any difference for it to be included in the usual budget. However, if the panel's report means a substantial increase in payments to members, the council would have needed to be aware of that long before the end of February in order to plan the spend in its budget, and find a source for that money. So, very broadly, that is the concern.

Rhodri Glyn Thomas: Are you suggesting that the Bill needs to be amended for that?

Ms Phillips: We are suggesting that we adhere to the date of the end of December for the publication of the report, rather than the end of February.

Rhodri Glyn Thomas: To what extent do the witnesses agree that the panel should be able to set a limit on the number of senior salaries within an authority? [sic.] [N.B. *Translation should read: 'To what extent do the witnesses agree with the proposal that the panel should have the ability to set payments for other members of public bodies apart from councils?'*]

Rhodri Glyn Thomas: Moving to joint standards committees, the two bodies that you represent support the proposals to enable authorities to establish joint standards committees. What would be the advantages of those joint committees?

Ms Phillips: You are right; we support this as long as it enables authorities and that it is a power, rather than enforcement. The difference is that councils have discretion to

gan y cynghorau ddisgresiwn i sefydlu pwyllgorau ar y cyd, ac yn yr achos arall byddai'n rhaid iddynt sefydlu pwyllgorau ar y cyd. Rydym yn cefnogi'r hawl i gynghorau sefydlu pwyllgorau ar y cyd os ydynt yn dymuno gwneud hynny. Y manteision fyddai'r posibilrwydd bod rhai cynghorau sy'n ei chael yn anodd ar hyn o bryd i wneud hynny yn gallu denu aelodau annibynnol i wasanaethu ar y pwyllgorau. Mae'r pwyllgorau safonau, fel y gwyddoch, rwy'n siŵr, yn cynnwys nifer o aelodau annibynnol llewg, ac mae nifer yr aelodau llewg ar y pwyllgorau yn gorfod bod yn fwy na nifer y cynghorwyr, felly mae nifer sylweddol o aelodau llewg. Mae sawl ardal yn ei chael yn anodd i ddenu pobl gymwys i wasanaethu ar y pwyllgorau hyn, felly byddai medru sefydlu pwyllgor ar y cyd efo awdurdod cyfagos yn goresgyn y drafferth honno, o bosibl.

[246] Rydym hefyd fel corff yn gofyn am yr hawl ychwanegol yn y Bil i allu anfon mater o fewn pwyllgor safonau cyngor at bwyllgor safonau cyngor cyfagos os oes trafferthion o ran delio â'r mater. Mae hynny yn wahanol i sefydlu pwyllgor ar y cyd. Dyna beth rydym ni'n eu gweld fel y manteision.

[247] **Rhodri Glyn Thomas:** Beth, felly, yw'r anfanteision posibl neu'r peryglon mewn rhai sefyllfaoedd?

[248] **Ms Phillips:** Fel y dywedais, nid oes anfantais sylweddol cyn belled ag y bo hwn yn bŵer ac nid yn orfodaeth. Byddai'n anfantais sylweddol pe bai'n cael ei orfodi ar gynghorau. Mae cwestiwn ynglŷn ag ai sefydlu pwyllgor ar y cyd rhwng dau gyngor cyfagos a fyddai'n digwydd. Ni fyddai llawer o anfantais i hynny, ond pe bai unrhyw awgrym bod yn rhaid sefydlu pwyllgor safonau ar y cyd rhwng nifer o gynghorau—mewn ardal fel gogledd Cymru, rhwng chwe chyngor, neu wyth cyngor os ydych yn cynnwys y parc cenedlaethol a'r awdurdod tân—byddai anfanteision eithaf sylweddol oherwydd y gallu i fod â gwybodaeth digon lleol i wneud y gwaith a'r gallu i ddenu cynrychiolaeth deg ar draws yr holl gynghorau. Fodd bynnag, tra nad oes gorfodaeth a thra mai pŵer yn unig ydyw, nid ydym yn gweld anfantais.

establish joint committees, or they would otherwise be forced to establish joint committees. We support the right for councils to establish joint committees if they wish to do so. The advantages would be the possibility that some councils that currently find it difficult to do so could attract independent members to serve on the committees. The standards committees, as I am sure you know, include a number of independent lay members, and the number of lay members on the committees must be greater than the number of councillors, therefore there is a substantial number of lay members. Many areas find it difficult to attract qualified people to serve on these committees, so the ability to establish a joint committee with a neighbouring authority could possibly overcome that difficulty.

As a body, we are also asking for the additional right in the Bill to be able to send an issue within a council's standards committee to the standards committee of a neighbouring council if there is a problem with dealing with that issue. That is different to establishing a joint committee. Those are what we see as the advantages.

Rhodri Glyn Thomas: What, therefore, are the possible disadvantages or the risks in some situations?

Ms Phillips: As I said, there is no substantial disadvantage as long as this is a power and there is no enforcement. It would be a great disadvantage if it were forced upon councils. It is a question as to whether it would be a case of establishing a joint committee between two neighbouring councils. There would not be many disadvantages to that, but if there were any suggestion that a joint standards committee would have to be established between many councils—in an area like north Wales, between six councils, or eight councils if you include the national park and the fire authority—there would be quite substantial disadvantages due to the ability to have information that is local enough to carry out the work and the ability to attract a fair representation of all the councils. However, while there is no enforcement and that it is only a power, we do not see a disadvantage.

[249] **Kenneth Skates:** Can you elaborate on the reasons for your belief that an additional clear power to refer a standards committee to another authority is needed and in what circumstances? Surely, for it to be clear, there would have to be a set of criteria.

[250] **Ms Phillips:** Byddai. Mae sawl achlysur lle y gallai hyn fod yn ddefnyddiol. Os cymerwn sefyllfa lle mae gan y mwyafrif o aelodau'r pwyllgor safonau ryw fath o fuddiant mewn achos sydd o'u blaenau—efallai eu bod yn adnabod y person sydd o'u blaenau yn dda iawn—ac felly'n gorfod datgan y buddiant hwnnw ac yn methu â gweithredu, byddai hynny'n ei gwneud yn anodd i bwyllgor safonau cyngor A ddelio â'r mater. Felly, byddai'n werthfawr i allu gyrru'r mater hwnnw i bwyllgor safonau cyngor B, na fyddai'n gysylltiedig â'r person, i wrando ar yr achos. Gallai sefyllfa o'r fath hefyd godi lle mai aelod ar y pwyllgor safonau a oedd y cynghorydd a oedd yn destun rhyw wrandawriad. Efallai y byddai'n ei gwneud yn anodd i aelodau eraill y pwyllgor safonau gynnal gwrandawriad, ac y byddai'n fwy manteisiol i allu ei yrru i bwyllgor safonau cyngor annibynnol. Y trydydd achlysur lle byddai'r pŵer hwn yn fanteisiol byddai pe bai'r pwyllgor safonau yng nghyngor A yn barod wedi delio ag achos, ac efallai wedi rhoi ei farn arno—a daw hyn yn fwyfwy tebygol oherwydd y symudiad tuag at ddatrys cwynion yn lleol cyn mynd â hwy at yr ombwdsmon. Felly, dyweder bod pwyllgor safonau cyngor A wedi delio â chwyn yn erbyn cynghorydd yn anffurfiol dan y drefn yn lleol, ond bod y mater wedyn yn mynd ymlaen i fod yn gŵyn ffurfiol, a bod yr ombwdsmon yn ei gyfeirio yn ôl, byddai'n anodd i bwyllgor safonau cyngor A ailwrando ar yr un mater a dod i gasgliad unwaith eto. Byddai'n ddefnyddiol medru ei yrru i bwyllgor safonau cyngor B i ddelio ag ef. Dyna oedd sail y sylw y byddai hwnnw yn bŵer ychwanegol defnyddiol.

Ms Phillips: Yes, there would. There are several occasions when this could be useful. If we take a situation in which the majority of the members of the standards committee have some kind of interest in a case before them—perhaps they know the person who is before them very well—and so have to declare that interest and are not able to operate, that would make it difficult for the standards committee of council A to deal with the matter. So, it would be valuable to be able to send that matter to the standards committee of council B, which would have no connection to the person, to hear the case. A similar situation could also arise in which a member of the standards committee was the councillor who was the subject of a hearing. Perhaps that would make it difficult for other members of the standards committee to conduct a hearing, and there would be a greater advantage in being able to send the case to an independent council's standards committee. The third occasion when this power would be an advantage would be if the standards committee of council A had already dealt with a case, and had perhaps given its opinion on it—and this will become increasingly likely because of the shift towards resolving complaints locally before taking them to the ombudsman. So, let us say that the standards committee of council A has dealt with a complaint against a councillor informally under local arrangements, but the matter is then escalated to a formal complaint, and the ombudsman refers it back, it would be difficult for the standards committee of council A to hear the same case again and come to a conclusion again. It would be useful to be able to send the matter to the standards committee of council B for it to deal with it. That was the basis for the comment that that would be a useful additional power.

[251] **Kenneth Skates:** However, do you think that specific reasons would have to be set out in an amendment?

[252] **Ms Phillips:** Ni fyddai'n rhaid cael yr amodau yn y ddeddfwriaeth. Gallai'r ddeddfwriaeth ddweud yn syml mai mater i

Ms Phillips: You would not have to have the conditions in the legislation. The legislation could simply say that it is a matter for the

bwyllgor safonau cyngor A yw penderfynu a yw am ofyn i bwyllgor safonau cyngor B i ddelio â mater neu beidio. Ni welaf y byddai'n rhaid i'r ddeddfwriaeth gynnwys yr amodau, ond, yn amlwg, fe allai wneud. Ni fyddai rhwystr iddo wneud, os mai dyna ddymuniad y pwyllgor hwn neu'r Llywodraeth.

standards committee of council A to decide whether it wishes to ask the standards committee of council B to deal with the matter or not. I do not see that the legislation would have to include the conditions, but, obviously, it could. There is no barrier to that, if that is the desire of this committee or the Government.

[253] **Kenneth Skates:** The Bill states that any authorities considering establishing a joint committee must have regard to guidance issued by Welsh Ministers about the process. Do you agree?

[254] **Ms Phillips:** Yn amlwg, nid ydym yn gwybod beth fydd yn y canllawiau. Mae'n arferol iawn i orfod talu sylw i ganllawiau gan y Gweinidog. Rydym wedi arfer gweld y cymal hwn mewn sawl Mesur a sawl Bil; rydym wedi arfer delio âg ef. Yr unig bryder sydd gennyf yw'r un y pwysleisiais yn gynharach, sef na ddylai fod rhyw fordd, drwy ganllawiau, fod hyn yn dod yn orfodaeth ar lywodraeth leol.

Ms Phillips: Obviously, we do not know what will be in the guidance. It is normal to have to pay attention to guidance by the Minister. We are used to seeing this clause in several Measures and several Bills; we are used to dealing with it. My only concern is the one that I emphasised earlier, which is that there should not be any way, through guidance, that this should become a requirement of local government.

[255] **Mr Hurford:** I would agree with that.

[256] **Kenneth Skates:** I think that it has been estimated that £1,000 per person would be saved through the reduction in numbers, offset by higher travel and subsistence costs. Do you agree that savings could be made as a result of joint standards committees?

[257] **Mr Hurford:** That might be the case. However, as has been mentioned, if you had a north Wales standards committee, the travelling arrangements might be considerable; then again, you might use video conferencing and so on. The fact that this potentially improves governance outweighs any potential cost savings or costs incurred. The improvement in governance is key.

[258] **Ann Jones:** The last question is for Ms Phillips. How exactly would you wish to see the Bill amend section 4 of the Local Government (Wales) Measure 2011 to address the concerns about remote access at council meetings?

[259] **Ms Phillips:** Mae adran 4 o'r Mesur yn cyflwyno, am y tro cyntaf, y gallu i bwyllgorau llywodraeth leol, neu hyd yn oed y cyngor llawn, gyfarfod drwy fideo gynadleda. Cyn hynny, roedd yn rhaid i bawb fod yn bresennol yn yr un ystafell cyn i'r pwyllgor gael ei ystyried i fod wedi'i ffurfio'n gywir a chyn y gallai penderfyniad gael ei wneud. Rhoddwyd y gallu ym Mesur 2011 i aelodau ymuno â phwyllgor drwy fideo gynadleda. Fodd bynnag, ni roddwyd unrhyw beth mewn i ddelio â dilysrwydd penderfyniadau a oedd yn cael eu gwneud yn y pwyllgor hwnnw. Nad yw'r rhan hon o'r Mesur wedi cael ei weithredu ac mae

Ms Phillips: Section 4 of the Measure introduces, for the first time, the ability for local government committees, or even the full council, to meet through a video link. Before that, everybody had to be present in the same room before the committee could be considered to be properly constituted and before a decision could be made. The ability was given in the 2011 Measure for Members to join a committee through video link. However, nothing was included to deal with the validity of decisions that were made in that committee. This part of the Measure has not been implemented and the Welsh Government is looking at practical matters in

Llywodraeth Cymru yn edrych ar faterion ymarferol ynglŷn â'i gweithredu. Fodd bynnag, y pryder mawr sydd gennym fel swyddogion monitro yw sicrhau nad ywunrhyw benderfyniad sy'n cael ei wneud mewn pwyllgor yn agored i her gyfreithiol, dim ond oherwydd bod rhyw ddiffyg yn y dechnoleg ac nad yw person sy'n ymuno o bell, o bosibl, wedi gallu clywed y drafodaeth gyfan neu nad ydynt wedi gallu bod yn bresennol ar yr adeg pan oedd y bleidlais yn cael ei chynnal.

[260] Y diwygiad y byddem yn hoffi ei weld fyddai naill ai rhywbeth eithaf cyffredinol sy'n dweud, fel sy'n arferol mewn deddfwriaeth llywodraeth leol, rhywbeth i'r perwyl na fydd yn bosibl herio penderfyniad pwyllgor oherwydd unrhyw ddiffyg mewn cwrdd â darpariaethau adran 4—rhywbeth cyffredinol felly—neu rywbeth sy'n dweud yn fwy penodol os oes trafferthion yn codi ac nad yw'n bosibl i'r bobl sy'n ymuno o bell glywed y digwyddiadau cyfan, ei bod dal yn bosibl i'r rhai sy'n bresennol yn yr ystafell gyfarfod allu cymryd penderfyniad ar yr un pryd. Hoffem weld newidiadau i wneud yn siŵr nad oes her gyfreithiol i ddilysrwydd penderfyniadau oherwydd rhyw ddiffyg yn y dechnoleg a'r gallu i bobl ymuno o bell.

relation to its implementation. However, the great concern that we have as monitoring officers is ensuring that any decision made in committee is not open to legal challenge just because of some deficiency in the technology so that a person who has remote access has, perhaps, been unable to hear the whole discussion or were unable to be present when the vote was being held.

The amendment that we would like to see would either be something rather general that says, as is usual in local government legislation, something to the effect that it will not be possible to challenge any committee decisions due to any failure to meet the provisions in section 4—something general like that—or something that states more specifically that if difficulties arise and it is not possible for the people who have remote access to hear the full proceedings, it would still be possible for those present in the meeting room to make a decision at the same time. We would like to see these changes to ensure that there is no legal challenge to the validity of decisions due to some deficiency in the technology and the ability for people to have remote access.

[261] **Peter Black:** I do not have the 2011 Measure in front of me, but is there not guidance in relation to that provision under which all of this could be done, or does there have to be an amendment to the Measure through this Bill?

11.45 a.m.

[262] **Ms Phillips:** Ein barn yw y dylid deddfu ar y mater hwn. Mae'r Mesur ei hun ar y llyfr statud, ac mae'n caniatáu i aelodau ymuno â phwyllgorau o bell. Gan fod hwnnw ar y llyfr statud, yn ein barn ni, nid yw'n bosibl i'w oresgyn drwy ganllawiau neu reolau sefydlog cyngor. Er mwyn osgoi her gyfreithiol, bydd yn rhaid newid y ddeddfwriaeth. Mae'r newid rydym yn ei bwysu amdano yn un eithaf syml; dim ond i ddweud nad yw unrhyw beth yn gwneud penderfyniad yn annilys. Fodd bynnag, oherwydd bod yr hawl gwreiddiol ar y llyfr statud, fe ddylai'r diwygiad hwn hefyd fod ar y llyfr statud. Ni chredwn y gall rheolau sefydlog cyngor, neu unrhyw ganllawiau gan y Gweinidog, ddelio â hwn.

Ms Phillips: Our opinion is that this matter requires legislation. The Measure itself is on the statute book, and allows members to have remote access to committees. As this is on the statute book, in our opinion, it is not possible to overcome this through guidance or a council's standing orders. In order to avoid a legal challenge, the legislation would have to be changed. The change that we are pushing for is quite simple; just to say that nothing makes a decision invalid. However, because the original right is on the statute book, this amendment should also be on the statute book. We do not think that a council's standing orders or any guidance from the Minister would be able to deal with this.

[263] **Ann Jones:** Okay. Thank you. I see that Members do not have any further questions. I thank you both for coming in and giving evidence today. We will send you a copy of the transcript for you to check for accuracy. You will also receive a copy of the report when we finally get to the end of Stage 1. Thank you both very much.

[264] **Ms Phillips:** Diolch yn fawr. **Ms Phillips:** Thank you very much.

[265] **Mr Hurford:** Thank you.

11.46 a.m.

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

[266] **Ann Jones:** I move that

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

[267] I see that Members are in agreement.

*Derbyniwyd y cynnig.
Motion agreed.*

*Daeth rhan gyhoeddus y cyfarfod i ben am 11.46 a.m.
The public part of the meeting ended at 11.46 a.m.*