



Nations and Regions: The Dynamics of Devolution

Quarterly Monitoring Programme

Wales

Quarterly Report
August 2002



The Leverhulme Trust

The monitoring programme is jointly funded by the ESRC and the Leverhulme Trust



A BILINGUAL WALES

Monitoring



Cynulliad Cenedlaethol Cymru
The National Assembly for Wales
June to August 2002

Edited By
John Osmond

In association with:



August 2002

CONTENTS

SUMMARY.....	1
1. THE ASSEMBLY GOVERNMENT	2
NIA RICHARDSON AND JOHN OSMOND, IWA	
COMMITMENT TO ‘A BILINGUAL WALES’	2
MIKE GERMAN REINSTATED	7
FOOT AND MOUTH POWERS TO BE TRANSFERRED.....	11
HEALTH SERVICE RE-STRUCTURING COSTS	12
CLOSURE OF RURAL SCHOOLS	13
PUBLIC TRANSPORT REVIEW	14
U.K. COMMUNICATIONS BILL	15
MINORITY LANGUAGES PROJECT FOR THE BRITISH IRISH COUNCIL.....	15
AUDIT COMMISSION REPORT ON PUBLIC SERVICES	16
AUDIT COMMITTEE’S REPORT ON NHS WALES	17
FUTURE OF THE CIVIL SERVICE	18
2. THE ASSEMBLY.....	21
JOHN OSMOND AND NIA RICHARDSON, IWA	
RICHARD COMMISSION ON THE ASSEMBLY’S POWERS	21
DEBATE ON THE NATIONAL CURRICULUM	25
3. FINANCE.....	28
ADRIAN KAY, UNIVERSITY OF BRISTOL	
THE BARNETT SQUEEZE	28
MATCHED FUNDING	29
FINANCIA.32 380.0003 Tm-0.00[(RIS)-8(T)1.6(OL)]T(C5SSE)9.7(MBLY)-24.9(.....EN13218OWERS)Tj10.U7Y.32 380.000B2 39...6 TcT.....	

5. THE LEGISLATIVE PROCESS.....38

JANE WILLIAMS, UNIVERSITY OF WALES, SWANSEA

NHS REFORM AND WESTMINSTER LEGISLATION38
NHS REFORM AND HEALTH CARE PROFESSIONALS ACT 200238
ASSEMBLY IMPLEMENTATION OF THE 2002 ACT.....39
DRAFT NHS (WALES) BILL.....41

6. RELATIONS WITH LOCAL GOVERNMENT44

ALYS THOMAS, UNIVERSITY OF GLAMORGAN

SUNDERLAND COMMISSION44
DRAFT LOCAL GOVERNMENT BILL44
LOCAL GOVERNMENT PARTNERSHIP SCHEME.....46

7. RELATIONS WITH WESTMINSTER AND WHITEHALL.....47

MARK S. LANG, WELSH GOVERNANCE CENTRE

WIND FARM PLANNING POWERS47
DEBATE ON ENGLISH DEVOLUTION.....48
WELSH AFFAIRS COMMITTEE AND THE DRAFT NHS (WALES) BILL49

8. RELATIONS WITH THE EUROPEAN UNION52

MARK S. LANG, WELSH GOVERNANCE CENTRE

COMMON AGRICULTURAL POLICY REFORM.....52
COMMITTEE ON EUROPEAN AFFAIRS.....52
AUDIT COM(EFO Tm0 Tc(C)Tj7.98 0 0 7.98 136.92 357.3806L 7..78 405.6803 Tm()Tj102 274.68 380.360T2-9(M)S9)JTJ 368.9.....T4.....

SUMMARY

1. A Welsh Assembly Government landmark policy statement *Bilingual Future*, published in July, committed to “creating a bilingual Wales”. For the first time in the language’s history, a government was taking full responsibility for its future. This will include preparing a National Action Plan to ensure that Welsh becomes a mainstream issue across the range of Ministerial portfolios. The policy statement also concedes that ‘incomers’ are threatening the rural heartlands and promises education, planning and housing measures to address the problem. These commitments come in the wake of an 18-month period in which the language has been a matter for contentious dispute between the parties, especially Labour and Plaid Cymru. First Minister Rhodri Morgan acknowledged that the document was an attempt “to stop the language becoming a political football in the run up to next May’s Assembly elections.”
2. After a year-long investigation by the South Wales Police, the Crown Prosecution Service finally cleared Mike German in June of any criminal charges relating to his time as Head of the European Unit at the Welsh Joint Education Committee. On the same day German returned to the Cabinet as Deputy First Minister and Minister for Rural Development and Wales Abroad. The ‘Wales Abroad’ title was a new portfolio causing him to be immediately labelled

1. THE ASSEMBLY GOVERNMENT

Nia Richardson and John Osmond, IWA

Commitment to 'a Bilingual Wales'

When the National Assembly was established in 1998, there were high hopes that it would be able to reverse the century-long decline of the Welsh language. As Dylan Phillips, a lecturer at Trinity College, Carmarthen, put it:

“There is no denying the fact that the creation of the National Assembly for Wales in 1999 was a momentous milestone in the history of the Welsh language. As well as being an important achievement in itself, with the result that Wales was at last to have its first taste of self-government in seven hundred years, for the language it also meant that this new political forum would have tremendous power and influence over the future of Welsh.”¹

At the end of July 2002 just ahead of the National Eisteddfod in St David's, the Assembly Government took its first important

provoked a long-running and angry dispute, with charges of ‘racism’ levelled by some Labour figures against Plaid Cymru, now claimed vindication.⁴ However, the Lorraine Barrett, Labour AM for Cardiff South and Penarth, said she was unhappy by the use of the term ‘inward migration’:

“It sounds as if I would have to obtain a visa if I wanted to move to Ceredigion.”⁵

Mid and West Wales Conservative AM Glyn Davies also expressed surprise at the use of the term, adding:

“What the Government is talking about in its document will cost a lot of money. If non-Welsh speakers feel threatened it could become difficult to raise the support for the spending.”⁶

Bilingual Future agrees with the definition of what would constitute a ‘bilingual Wales’ as set out at the head of the joint report of the Culture and Education Committees’ policy review of the Welsh language *Our Language: Its Future*, published a month earlier:

“In a truly bilingual Wales both Welsh and English will flourish and will be treated as equal. A bilingual Wales means a country where people can choose to live their lives through the medium of either or both languages; a country where the presence of two national languages and cultures is a source of pride and strength to us all.”⁷

In their Foreword to *Bilingual Wales*, Rhodri Morgan and Jenny Randerson continue:

“The Welsh language is an important part of our national identity and creativity, and awareness of the educational, cultural and social benefits of bilingualism is growing. Bilingual, and even multilingual cultures are the norm rather than the exception in much of Europe and across the world. That is why the Assembly Government believes that languages should be seen as providing opportunities and economic benefits for Wales ... The Assembly Government will provide strategic leadership to sustain and encourage the growth of the Welsh language within a tolerant, welcoming and open Wales. The Welsh language will be mainstreamed into the work of the Assembly Government and its agencies. Positive support for communities including primarily Welsh-speaking communities, will be provided by pursuing policies which seek to create economically and social sustainable communities. We will ensure that we have effective structures in place to enable individuals to learn the language. We will place greater emphasis on promoting language use and enabling individuals to use the language in all aspects of everyday life...”⁸

In a section at the end of the document, headed *Next Steps* the policy statement commits to two significant strategic initiatives:

⁴ Western Mail, 30 July 2002.

⁵

1. The Assembly Government will ensure that the Welsh language is mainstreamed across Ministerial portfolios and within all Assembly Sponsored Public Bodies. Each Assembly Government Minister will take responsibility and ownership of the language within their own particular policy areas.

- 2.

responsibility for the Welsh language to share ideas, co-ordinate approaches and contribute to policy development.

Lorraine Barrett, a Labour member of the Culture Committee claimed there were two schools of thought amongst those who gave evidence to the Committees on how to safeguard the Welsh language's future. The first, to which she adhered, believed that education and language transference in the family should be the priority. The second believed that in-migration, out-migration and housing problems were the main barriers to the language's survival.¹¹

Members agreed that education was an essential aspect of their review. Their report recommended that a national strategic framework should be drawn up to guide the development of Welsh-medium and bilingual education. The report also emphasised the importance of language immersion during early years and envisaged an expanded role for *Mudaid Ysgolion Meithrin* (the Welsh Association for Nursery Schools).

However, Members differed over the importance of in-migration to their study. The Labour AMs were reluctant to discuss in-migration. As a result the Committees concentrated on the effects of out-migration on the language together with its causes: lack of affordable housing and lack of employment in rural communities. They believed that Welsh public bodies had a responsibility for creating employment in rural communities which would encourage Welsh speakers to stay in their communities. It called on the Assembly, Assembly-sponsored Public Bodies and non-answerable bodies such as S4C and BBC to consider devolving to the regions. The Assembly Government is already planning to decentralise some of its departments around Wales and in her response to the committee's report Culture Minister Jenny Randerson said she would expect all the Assembly's agencies to follow this example.

Collating recommendations on housing and planning was the most difficult part of the review because they are directly connected with inward migration, availability of local housing and the threat to Welsh-speaking communities. All had been subjects of acrimonious rows within the Assembly during the previous year. The controversy had begun when Seimon Glyn, Plaid Cymru Chair of Gwynedd's Housing Committee had declared that in-migration of English people was the root cause of the decline of Welsh-speaking communities.¹² The debate that ensued prompted the formation of *Cymuned*, a controversial pressure group for safeguarding Welsh-speaking communities. *Cymuned* rapidly achieved a high media profile, partly by threatening to resort to civil disobedience if the Committees' report failed to address their concerns.

As it was the Committees' initial recommendations were relatively tame. They included the strengthening of the Homebuy Scheme to assist local people in buying their own homes, but this would have to apply to all of Wales, not just the Welsh-speaking heartlands. In the event, this part of the document was significantly strengthened at the last minute as a result of amendments tabled by Plaid Cymru AM Dafydd Wigley. These gained the support of Labour's Deputy Minister for Culture, Delyth Evans. The most significant proposed:

¹¹ Interview with Lorraine Barret, 25 July 2002

¹² See the previous monitoring report *The Economy Takes Centre Stage*

“Planning permission should be required before changing the status of a permanent dwelling into a holiday home in areas where the number of holiday homes had exceeded a threshold of the existing housing stock.”

Delyth Evans supported the amendment after Dafydd Wigley agreed not to specify a figure for the threshold. Instead, local authorities would be left to decide depending on local circumstances. Wigley also agreed to add another paragraph stating that the Environment Minister should be allowed to consider the recommendation alongside other measures which could ensure the availability of housing stock. A further amendment that was agreed included the statement:

“Local Authorities should be encouraged to use all the powers available to them, including housing and planning powers, to enable local people to secure homes, either by purchase or rent, within their own community; but that in the exercise of these powers there shall be no discrimination on the basis of language.”

As with the Homebuy Scheme this measure was accepted by all Members on the condition that it could apply to any community. The inclusion of the measure on second homes also highlighted the important role of Delyth Evans, a Welsh-speaking Labour AM, in making many of the more radical proposals acceptable to her Labour colleagues.

However, this recommendation on second homes was the only instance where cross-party consensus was not achieved. Conservative AM Glyn Davies (Mid and West Wales) found it unpalatable and claimed that Dafydd Wigley’s last minute amendments were the ex-Plaid Cymru leader’s attempts at “playing to the Cymuned/Seimon Glyn faction of his party.”¹³ During the plenary debate on the Committees’ report Davies warned that the recommendation was:

“A political gimmick and is unworkable. If the Government’s response is foolish enough to bring forward a proposal endorsing such a scheme we will oppose it.”¹⁴

After what most of the Culture Committee members agreed had been an ‘emotionally draining’ review – although it was the work of two committees, the Culture Committee took the leading role - they were satisfied with the final report. Glyn Davies agreed to support the document despite the inclusion of the recommendation on second homes. Consequently the final recommendations were unanimous. Cross-party support for the document was essential to give it credibility and any real hope of being implemented.

Although Plaid Cymru were disappointed that a number of their recommendations were left out - in particular their call for a new Welsh Language Act - Helen Mary Jones (Llanelli) welcomed the report as:

¹³ Interview with Glyn Davies 30 July 2002.

¹⁴ *Assembly Record*, 9 July 2002

“Visionary as well as practical, challenging as well as deliverable, and optimistic as well as realistic.”¹⁵

However, many Welsh language activists were less impressed. Cymdeithas yr Iaith

leader responsibility for co-ordinating the promotion of Wales in the rest of the UK and overseas. This would also involve chairing the National Assembly's European and External Affairs Committee and the Cabinet Committee on Wales and the World. The press immediately labelled him as Wales's new Foreign Minister¹⁹. Mr German also took over Carwyn Jones's responsibility for rural development and was tasked with chairing a new Cabinet Committee on the regeneration of rural Wales. Whilst Carwyn Jones lost his Agriculture portfolio he gained a new responsibility for Open Government in addition to his continuing role as Business Manager. The Open Government portfolio covers equal opportunities, freedom of information and human rights.

There were also slight changes to the responsibilities of the Minister for Finance and the Communities, Edwina Hart. She was given overall responsibility for crime reduction and safe communities which included

well in his new job, in taking on the agriculture portfolio

“The appointment of Chair of the Committee on European and External Affairs, as it is now called, and of the Chair of the Committee on Equality of Opportunity, are matters for the Assembly as a whole. A precedent was set – and I look to the Presiding Officer as much as to the First Minister on this -with the secret ballot to elect the Deputy Presiding Officer ... should we not consider a secret ballot in this case also?”²⁷

A further, procedural, question was raised on the accountability of Mike German regarding his new ministerial responsibility for Wales abroad. Members quoted Section 57(4) of the Government of Wales Act 1998 which states that there should be a Subject Committee to mirror the responsibilities of each Minister. Members wanted to know whether the Committee on Rural development would subsequently become the ‘Rural Development and Wales Abroad Committee’.

The Presiding Officer concluded that Ministers could only be questioned or shadowed by a committee on their fields of accountability in which the National Assembly has functions, and could not be questioned on any additional responsibilities. He told plenary:

“Members will have heard me refer on several occasions to section 56(3) of the Government of Wales Act 1998, which requires the First Minister to allocate accountability in the fields in which the Assembly has functions to Ministers, so that, in the case of each of those fields, accountability in the field is allocated either to a Minister or to him. This means that Members and the public can be clear about what Ministers are accountable for in law. They may hold other responsibilities, but there is no accountability for them in our founding legislation.

“Standing Order No. 6.3(iv) provides that Ministers other than the First Minister, the Minister with responsibility for finance, and the Minister responsible for Assembly business, answer questions only in respect of their fields of accountability.

“I understand that the Business Committee has already requested that the First Minister provide Members with a detailed and comprehensive list of ministerial accountabilities in fields under section 56 (3) of the Government of Wales Act. I hope that this document can be provided without delay ... so that Members can be clear about the matters for which each Minister is accountable within a field in which the Assembly has functions.”²⁸

Assembly Members were dissatisfied and frustrated with the ruling, as it would not allow them to question Mike German on his Wales abroad portfolio because this was a responsibility and not a field in which the Assembly had functions. Ieuan Wyn Jones complained:

“The Minister cannot be asked questions on his responsibility for Wales abroad and he does not appear before a Committee for Wales abroad. He can spend

²⁷ *Ibid.*

²⁸ *Assembly Record*, 2 July 2002

money on behalf of Wales, but he is not answerable for all the money that he spends.”

Ron Davies claimed that one of the founding principles of the Assembly was in jeopardy:

“One of the founding principles of the Assembly was that of accountability. We would not be here unless we wanted accountability. What is the point of having an Assembly if a Minister cannot be held to account?”²⁹

However, the Presiding Officer maintained that Standing Orders do not allow for questions on ‘responsibilities’:

“The Standing Order governs our present context. Similarly, Standing Order No. 6.3 states that Ministers can answer questions ‘in relation to that field’ that is, the field of their accountability. Therefore, I cannot allow questions on responsibility.”³⁰

“The Assembly is a corporate body according to the Government of Wales Act but the fiction that it acts as one has in practice been abandoned, with a *de facto* Executive scrutinised by a legislature. Yet Assembly Ministers are not Ministers according to law, and this means that wh

However, the Minister defended her position claiming that the running costs of the new structures would be no greater than the annual costs of the existing structures and so the process was cost neutral as she had promised on earlier occasions. She refused to confirm whether the £15 million would come from the NHS Wales budget or from other Assembly money. Opposition members argued that the money could be better spent. The Conservative's health spokesman, David Melding, said:

“I'm astonished that the estimate for the costs of reorganising has gone from cost-neutral to £12.5m to £15.5m, and even that's not a final estimate. This is the cost of a small hospital, but instead of getting better hospital facilities we are

NUT Wales and UCAC (the Welsh teaching union) appealed to the Minister to halt the closures. However, the Assembly Government denied claims that it is in favour of closing small schools. As Jane Davidson put it:

“Since I have been Minister for Education I have confirmed that the overriding priority in considering proposals for changes to small and rural schools is the standard of education which will result. There is no presumption for or against closure in Wales. Each proposal which gives rise to objections is looked at on its merits.”³⁹

Differences of opinion within the Coalition emerged in August when Deputy First Minister Mike German criticised Monmouth’s Labour-led Local Authority for voting in favour of closing eight local schools which, he said, would ‘harm the education of pupils.’⁴⁰

This issue will re-emerge in the coming months since parents at Moyle-grove and Dinas primary schools in Pembrokeshire are considering taking Education Minister Jane Davidson’s decision to allow their closure to go ahead to judicial review.

Public Transport Review

Environment Minister Sue Essex announced that she would be seeking additional legislative powers on transport as part of her response to the Environment and Transport Committee’s public transport report which as published in December 2001.

public transport alliance as a non-executive body. This would include representatives of key stakeholders and would provide expertise to the new Public Transport Unit.

U.K. Communications Bill

In July the Assembly Government demanded that changes be made to the UK Communications Bill. They were highly critical of the Bill for not giving Wales a strong enough voice within the new proposed regulatory regime and were particularly annoyed that the Bill did not provide for Welsh representation on OFCOM, the new communications regulator. Culture Minister Jenny Randerson is seeking amendments to the Bill which would provide:

1. A member for Wales and other UK nations on the OFCOM board.
2. An OFCOM office in Wales.
3. A statutory role for the Assembly.
4. The Welsh Consumer Council to advise the new Ofcom regulator.

The proposals received cross-party support in the Assembly. For once Plaid Cymru's spokesman Owen John Thomas praised the Assembly Government:

“It is difficult to find fault with a response that pays such appropriate attention to the need and aspirations of Wales.”⁴²

Minority Languages Project for the British Irish Council

A British-Irish Council meeting held in Jersey in June agreed that the Assembly Government should take the lead.

4.

media that it is an attempt to silence the Audit Commission and its criticism of public services in Wales.⁴⁶

In light of the publication of *Delivering a Better Wales* Opposition politicians also expressed concerns that a new body would not have the same high standards as the Audit Commission. Would Local Government and Unions seek to water down the assessment criteria of the proposed new audit body leading to further trouble and decline in some of our public services? Conservative leader Nick Bourne said:

“Having different standards usually leads to more lenient standards. With a Cabinet that is dominated by people fr

Wales the need for financial stability and the importance of operating within the available resources.”⁴⁸

The second major concern was the large amount of money being spent on the Welsh Risk Pool which assist Health Authorities and NHS Trusts in Wales with risk management and the settlement of claims. Not only did the pool pay out £18.6 million more than expected during 2001-02 but it is estimated that NHS Wales has probable liabilities of £92 million in respect of claims to be met in future years. Audit Committee Chairman, Dafydd Wigley said that the health service was ‘existing on a shoestring’ and would find it difficult to deal with the costs of clinical negligence:

Members in the National Assembly (though it will be important to retain mobility of civil servants throughout the United Kingdom).”⁵⁰

In oral evidence to the Committee the Permanent Secretary Sir Jon Shortridge, concurred with the idea of greater collaboration across the public services in Wales:

“I am keen to find ways of establishing stronger relationships across the public sector in Wales to assist career development for public service officials in Wales ...”⁵¹

However, he argued strongly for maintaining a unified British civil service. Responding to a question from the Chairman of the Committee, Lord Norton of Louth, comparing Wales with Scotland on the significance of maintaining a unified service, he replied:

“I think in the case of the Assembly as compared with the Scottish Executive and the Scottish Parliament it is even more important that we should retain the unified Civil Service because the nature of the settlement that we have requires us to have much closer relationships with the Government departments which share our responsibilities, particularly given that we do not have responsibility for primary legislation. From my perspective, for officials to be speaking, discussing, negotiating across the divide who are all civil servants, both sides are civil servants, both share the same set of values, I think that is very significant in helping to make this particular settlement work.”⁵²

These views should be sent against an apparently radical commitment, contained in the Coalition Partnership Agreement, to review the role of the civil service:

“We will review the existing structures and workings of Assembly officials to ensure they are in tune with the reality of political devolution. We seek to move towards an increasingly independent and Welsh-based civil service – investigating ways of introducing an Assembly ‘fast-track’ programme to attract and retain high quality staff.”⁵³

It was revealing, therefore, that in his written submission to the House of Lords Committee First Minister Rhodri Morgan addressed the question head-on, and appeared to square the circle, in the process of describing a cultural shift for civil servants that has taken place since the advent of the Assembly:

“... the main focus of Assembly civil servants has moved to Wales itself and to relations with the wider world. Officials have had quickly to develop new skills and competencies, in particular those concerning policy development, engagement with the Assembly’s partners and sensitivity to Ministers’ political agendas ...

⁵⁰ House of Lords Select Committee on the Constitution, *Devolution: Inter-Institutional Relations in the United Kingdom*, Minutes of Evidence, July 2002: ‘Memorandum by the Lord Elis-Thomas AM, Presiding Officer, National Assembly for Wales’, p.255.

⁵¹ *Ibid.*, p. 280.

⁵² *Ibid.*, p.281.

⁵³ *Putting Wales First: A Partnership for the People of Wales*, Section on Better Government, para. 6, 6 October 2001.

“That should not in any sense question the value of Assembly staff remaining

2. THE ASSEMBLY

John Osmond and Nia Richardson, IWA

Richard Commission on the Assembly's Powers

Membership of the Richard Commission on the Assembly's powers, established under the Labour/Liberal Democrat Coalition agreement, was announced in August. Four members were nominated by each of

1. **Eira Davies** (55) is the Managing Director of a web publishing business. She lives and works in Wrexham. Her diverse career encompasses teaching, radio broadcasting and business and she has had experience of the private, public and voluntary sectors. A Welsh speaker she is a member of the Board of S4C and of Coleg Llandrillo Cymru.
2. **Vivienne Sugar** (55) was the Chief Executive of the City and County of Swansea since 1995 until July 2002, when she resigned to allow her more time to concentrate on other activities. She has extensive experience in local government and the voluntary sector and was a member of Beacon Councils Advisory Panel from 1999 - 2002. She lives in Swansea.
3. **Sir Michael Wheeler-Booth** (68) had a long career as an officer in Parliament since 1960, ending in 1997 when he was Clerk of the Parliaments. Sir Michael was a member of the Royal Commission on House of Lords Reform and of the Commission which drafted the Standing Orders for the National Assembly. He is currently a special lecturer in politics at Magdalen College, Oxford. He lives near Chipping Norton, Oxon.
4. **Tom Jones** (52) is a farmer from Welshpool, Powys. He has been committed to public service for the past 25 years including most recently, as Chair of Wales Council for Voluntary Action, a member of the Countryside Council for Wales and Chair of the Millennium Stadium Charitable Trust. He is also Chair of Berwyn Local Access Forum and the Independent Chair of the National Assembly Working Group on Patient Advocacy and Support. He is former President of the Young Farmers Movement.
5. **Huw Thomas** (53) is from Colwyn Bay and is currently the Director of a Consultancy Company specialising in senior management development, organisation change and public policy. He was Chief Executive of Denbighshire County Council from 1995 to 2001 and prior to that was the Chief Executive of Gwynedd County Council. He also has extensive experience of public service and the voluntary sector, is hearing impaired and is the National Trustee for Wales for the RNID.

The terms of reference approved by the Assembly following a plenary debate on 20 June, are as follows:

Assembly Powers

The Commission should consider the sufficiency of the Assembly's current powers, and in particular:

1. Whether the Assembly's powers are sufficiently clear to allow optimum efficiency in policymaking.
2. Whether both the breadth (that is, the range of issues over which it has control and the depth (that is, the capacity to effect change within those issues) of the Assembly's powers are adequate to permit integrated and consistent policy-making on issues where there is a clear and separate Welsh agenda.

3. Whether the mechanisms for UK Government policy-making as regards Wales, and the arrangements for influence by the Assembly on these, are clear and effective, and in particular whether they correct any apparent shortcoming from the previous item.
4. Whether the division of responsibility between the Assembly and the UK Government places inappropriate constraints on Whitehall policy-making, both on matters over which the Assembly has control and otherwise.

The Commission should consider any possible financial implications arising from the implementation of its proposals.

Electoral Arrangements

The Commission should consider the adequacy of the Assembly's electoral arrangements, and in particular:

1. Whether the size of the Assembly is adequate to allow it to operate effectively within a normal working week, and without placing undue pressure on Members;
2. Whether the means of electing the Assembly, including the degree of proportionality, adequately and accurately represents all significant interests in Wales
3. Whether any changes which may be recommended to the Assembly's powers make either necessary or desirable changes to the size of the Assembly or the means of electing it .

Report

The Commission should report on its deliberations, including its recommendations on the above matters, by the end of 2003. It may make interim reports or recommendations if it sees fit.

Procedural Matters

The Commission is to be free from any influence from either the Welsh Assembly Government or the Assembly as a whole. It shall determine its own agenda and priorities within these terms of reference. The Commission may determine its own working procedures. However, it should:

1. Invite oral and/or written evidence from any who wish to provide it.
2. Accept such evidence in either English or Welsh.
3. Meet in public unless those giving evidence request otherwise or unless, in exceptional circumstances, the Commission resolves to meet in private.
4. Publish periodic accounts of its proceedings and evidence received.

The Commission has no power to compel any person to give evidence or to see any documents other than those available under the Assembly's freedom of information policy or similar equivalent regimes. It is supported by a Secretariat comprising seconded Assembly civil servants led by Carys Evans, formerly with the Policy Unit in the Cabinet Secretariat.

During the Assembly debate on the Commission First Minister Rhodri Morgan again drew attention to the coincidence of the timing of its deliberations with those underway on the future constitution of the European Union:

“A major revision of European treaties will take place at an inter-governmental conference in early 2004. The Laeken convention has been set up to cover the next 12 months, and the double subsidiarity question will be considered. What should Europe, member states and regional tier governments be doing? That was Tony Blair and Gerhard Schröder’s deal at the Nice summit in 2001. That is why the Laeken convention is in full swing now, and is why any recommendations by the Richard commission would be relevant to the conclusions of the inter-governmental conference in the first quarter of 2004.”⁵⁶

A month earlier, in oral evidence to the House of Lords Select Committee on the Constitution, meeting at the National Assembly in Cardiff, the First Minister made clear his view that the Assembly should have primary legislative powers:

“I have always held the view, and I have always expressed the view, that it would have been better if the Government of Wales Act had incorporated primary legislative powers, but that is not the settlement we operate. It may come in the future. I have never taken the view we should have tax raising powers but I have always held the view personally we should have had and should have primary legislative powers.”⁵⁷

Written and oral evidence presented to the Committee by the Presiding Officer, Lord Elis-Thomas, argues strongly that the 1998 Wales Act was fundamentally flawed in failing to delineate the Assembly’s powers in terms of subject areas. Instead, as a Memorandum, prepared by his Legal Adviser David Lambert, puts it, the Assembly:

“... exercises its functions by reference to an uncomfortable amalgam of general powers in the Government of Wales Act, of specific powers in the Transfer of Functions Orders made under section 22 of the Act, of specific powers given in a variety of ways in post-devolution legislation and by subject areas in derogation orders enabling it to implement Community Directives. Each legislative instrument which may give powers to the Assembly has to be carefully scrutinised page by page. There is no overall subject area competence and no general way of quickly and comprehensively finding whether an Act gives powers to the Assembly. Can the Assembly continue in this way with such fragmented powers, while seeking to make a significant contribution to the

⁵⁶ *Assembly Record*, 20 June 2002.

⁵⁷ House of Lords Select Committee on the Constitution, *Devolution: Inter-Institutional Relations in the United Kingdom*, Minutes of Evidence, 10 July 2002, p. 237.

- ! Replacing the present 'rigid' testing regimes with continuous assessment and off-the-peg tests.
- ! More flexibility allowing teachers to develop their own initiatives.

However, Plaid found no support from the other parties. Education Minister Jane Davidson accused the party of turning their back on the consensus that had been built around the current since 2000:

"I find myself in unreal territory because, it is less than two years since Assembly Members voted unanimously on the curriculum. Plaid Cymru's Education Spokesperson, Gareth Jones, strongly welcomed the fact that we had a national curriculum, which was developed in Wales and which reflected Wales's needs. Yet, less than two years later, the party calls for the system to be changed completely. I am sorry that

“The Minister, once again, claims that all is right with the world, and that anything that is not is being put right. While there have been welcome changes, our concern is that change is piecemeal. However, unwilling the Minister is to distance herself from the Westminster Government’s control freak, centralist agenda on the curriculum – which, frankly, even it is beginning to doubt – the debate will not go away. We must have a new curriculum that meets the needs of twenty-first century Wales. Plaid Cymru – the Party of Wales has been proud to kick-start this debate today.”⁶⁵

3. FINANCE

Adrian Kay, University of Bristol

On 15 July, Gordon Brown announced the results of the UK Government's latest Comprehensive Spending Review (CSR). Confusingly, these cover three years of expenditure but occur every two years. The first CSR was in 1998, while the 2000 CSR allocated resources for the three years to 2003-04. The 2002 Spending Review revises these plans for 2003-04 and outlines new plans for 2004-05 and 2005-06. In the context of the Assembly, the latest CSR determines almost all the financial resources that will be available over the next three years.⁶⁶ The bare bones of the Assembly's settlement are set out in Table 1.

Table 1: 2002 Comprehensive Spending Review for Wales

£ million	2002-03	2003-04	2004-05	2005-06
Resource Budget	8,829	9,655	10,240	11,000
Capital Budget	801	830	919	999
Total Departmental Expenditure Limit¹	9,424	10,275	10,941	11,774

¹Full resource budgeting basis, net of depreciation

Political reactions to these headline figures closely followed the pattern of the 2000 CSR.⁶⁷ They can be grouped under three broad headings: arguments over the 'Barnett

“Allowing for inflation this means that the overall budget in England for the devolved matters will increase by 6.6% per annum in real terms. The corresponding budget in Wales will rise by 5.2% per annum.”⁶⁸

This is a *locus classicus* of the Barnett squeeze argument. The actual increase in the budget in Wales is equivalent to about six per cent of the actual increase in the English budget. As a population-weighted formula this is what the Barnett formula predicts: six per cent is roughly the population of Wales as a proportion of the population of England. Consequently, the actual increase in expenditure per head in England and Wales is roughly the same. However, because existing levels of expenditure per head are higher in Wales than in England, the same actual increases when expressed as a percentage appears smaller. This is a well-rehearsed argument in Welsh politics but has been used recently by Plaid and the Liberal Democrats as well as some academic sources⁶⁹ to press for a reform of the Barnett formula to take account of particular needs in Wales.

Matched Funding

As with the 2000 CSR, the Assembly will receive money 'over and above' the Barnett formula to provide for EU expenditure in Wales, in particular the amount spent under the Objective-1 programme. So, in addition to the figures in the table above, Wales will receive an extra £492m between 2003-04 and 2005-06 (or £164 million per year) to 'cover' EU expenditure. Plaid Cymru have produced the figure that £180 million per annum is needed for Wales to spend its full entitlement under several EU programmes. However, this figure includes an uplift of £10 million to cover the strength of the Euro over the last two months. This adjustment is questionable on two grounds:

1. It is uncertain whether the recent strength of the Euro against the pound will be sustained for the period of time covered by the CSR.
2. The EU accounting system only takes account of exchange rate fluctuations annually, for which there are compensating mechanisms in place.

However, Plaid's unadjusted figure of £170 million per annum is a credible estimate of the amount of money that would be required if Wales used its full entitlement to EU funds; and the £164m allocated 'on top of' Barnett to cover it is within a reasonable margin of error.

The real political heat is in the question of match funding. The above-Barnett monies do not include nor were not intended to provide for match funding that the public sector in Wales must allocate to EU projects in order to access the EU funds. The response of the Assembly Government to von.6(o1funich them Tc0.03iti0.0205Tc-0.cce)]TJ5Tc

funding purposes. An alternative line is to note that the underspend across the Assembly's budget over the past few years is of sufficient magnitude to comfortably provide matched funding. This reduces the force of the Opposition's argument that the demands of matched funding are actively drawing resources away from other areas of the Assembly's budget.

Financial Transfers and Assembly Powers

Perhaps the most interesting development from the recent CSR is an increasing political interest in linking questions about the mechanics of the Barnett formula with questions concerning the Assembly's powers. In this sense, financial issues are increasingly intertwined with constitutiona

“We believe that this can be achieved in many areas without introducing a plethora of inspection and audit regimes, because the relationship between the Welsh Assembly Government and those who deliver public services is closer than it is elsewhere.”⁷⁰

The decision not to adopt a Treasury-style public expenditure monitoring framework is a genuine difference between the Cardiff and London governments. The extent to which it will influence negotiations with the Treasury leading up to the next CSR and perhaps over any proposed alternative to Barnett remains to be seen.

⁷⁰ *Assembly Record*, 16 July 2002.

4. POLICY DEVELOPMENT

Nia Richardson, IWA

Education

The Assembly approved regulations as part of the Extending Entitlement programme that will require each local authority in Wales to provide youth support services. Education Minister Jane Davidson told Assembly:

“We are delivering on our promises to ensure that all 11-25 year olds, regardless of their circumstances, receive their basic universal entitlement to opportunities, services and the support they need in order to lead full and productive lives.”⁷¹

She announced that she is to produce a consultation document on proposals for the development of 14-19 learning Wales in October this year. A project team will work on the proposals under the leadership of John Williams, Headteacher of Pen-y-dre High School in Merthyr.⁷²

A similar exercise is currently taking place but on the education of early years. Jane Davidson has appointed an Expert Adviser, Shan Richards, to lead on the development of a Foundation Phase for 3-7 year olds. The Adviser will be working with the Assembly, ACCAC and the Early Years Advisory Panel to develop a curriculum for early years by the end of the year.

Another policy review will be undertaken in October looking at possible models for a ‘school of the future’. The review will explore possible changes in the operation of primary and secondary schools in ten to 15 years time. The policy review will look at the following:

- ! The school as a community resource.
- ! Use of, and developments in, information technology.
- ! Teaching methods.
- ! The curriculum.
- ! Funding.
- ! Widening opportunity and participation.
- ! Adding value to the education and school experience.

The first meeting of a new task and finish group on truancy took place in June. Its work includes exploring the reasons for truancy and advising on current best practice on how it may be tackled and methods by which information may be shared.

⁷¹ Assembly Record, 27 June 2002.

⁷² Report to the Education and Lifelong Learning Committee June 2002.

Environment, Planning and Transport

Wise about Waste, the Assembly Government's National Waste Strategy was launched in June with a main objective to increase waste recycling. Currently Wales sends 93 per cent of municipal waste to landfill sites. The new strategy has targets that local authorities should be recycling and composting a minimum of 40 per cent of their municipal waste by 2010. This is significantly higher than the 33 per cent originally set for England and Wales in the UK Government's Waste Strategy 2000. The Assembly Government is providing an additional £79 million to help fund the process. In addition New Opportunities funding of £3.25m is being made available to specifically support community recycling and composting initiatives in Wales.

The strategy also includes voluntary targets for businesses to reduce the amount of waste they produce and send to landfill. The high targets have been driven by a shortage of sites in Wales that can be used as rubbish tips, particularly in the Valleys. Other proposals include establishment of a Centre of Excellence in waste research amongst further and higher education institutions and an education campaign to raise awareness and understanding across Wales of the need to manage waste in a more environmentally friendly manner.

A new Advisory Panel has been established to assist the Minister for the Environment with the administration of a new Aggregates Levy Sustainability Fund for Wales. The £1.7m fund will be spent on reducing quarrying and the effects it has on surrounding local communities. It will be spent on providing environmental and amenity benefits for communities within five mile of a quarry and on reducing the amount of primary aggregates extracted by encouraging more use of recycled or secondary aggregates such as sand and gravel.

The Assembly Government is currently developing a Walking and Cycling Strategy which is out for consultation. Proposals include:

- ! Bus and train operators should be required to ensure easy access to stations on foot and bicycle, and to provide on-board storage for bikes.
- ! Introduction of a new 'Travel Smart' scheme which would offer tailor-made travel information to individuals such as personalised bus timetables, journey plans and local cycling maps.

A new Design Commission for Wales which the Assembly voted for last October was established in May. The Commission will work with business, public bodies, professional organisations and community groups to improve the standards of new building designs in Wales. It will consist of six Directors and will be chaired by Richard Parnaby, who though a lecturer in architecture and planning at the University of the West of England lives in Wales.

Free eye examinations have been extended to people who suffer from diabetes. The eye test will be different to a

Local Government and Housing

Local authorities are to be given more freedom in determining how to assist people in repairing and improving their homes. Previous home renovation grant arrangements have ended and in their place local authorities will be allowed to choose assistance in accordance with their local needs. Before using these new arrangements, however, local authorities must publish a housing renewal policy explaining how they will be delivering assistance locally.

The Local Government and Housing Committee's review of community regeneration has reached its final stage. The review has focused on funding, capacity development and shortage of community staff. It has been suggested, for example, that the Assembly Government should publish an annual digest and calendar of funding streams with associated dates and deadlines to help community project in securing funding.

Agriculture

A consultation document on the future of the Tir Mynydd hill farmers assistance scheme after 2004 is being circulated. Although the document proposes no changes to the scheme it seeks views on possible options for the long-term future.

A new support programme for projects which integrate leisure and tourism has been launched by the Assembly government. The scheme, known as *Adfywio*, will provide £5.2m worth of match-funding for projects that integrate tourism business more closely with open-air recreation, outdoor leisure and the natural environment. Examples include projects that improve catering facilities for outdoor users or programmes that provide up to date and useful information about opportunities to enjoy the Welsh countryside.

New measures to combat the spread of Bovine TB in Wales have been introduced as pilot programmes by the Assembly Government. Two new methods of tackling the rise in TB are being introduced: the use of Gamma interferon blood test and a wider application of the 'severe interpretation' of skin rest results. A 'severe' interpretation of skin tests results will mean that animals reacting with smaller swelling than under the standard interpretation will be culled immediately.

5. THE LEGISLATIVE PROCESS

Jane Williams, University of Wales, Swansea

NHS Reform and Westminster Legislation

The primary legislation required to give effect to the National Assembly's Health Plan is contained in two separate legislative vehicles – the NHS Reform and Health Care Professionals Act 2002, and a further Bill now published as the draft National

the 2002 Act). A different but related point

It is always possible to identify scope for improvement, for example external consultation over the summer holiday period is unlikely to be ideal especially when consultees include public and voluntary

Within two months of publication, on 18 July, the Assembly came to debate the draft Bill in plenary. By that time all three of the Committees mentioned in the joint letter had conducted their scrutiny.

The main consideration by the Assembly's Health and Social Services Committee was on 29 May at a meeting also attended by members of the Welsh Affairs Committee. The procedure adopted was that amendments were circulated in advance.⁹² the Minister outlined key policy points and the Assembly Government's attitude to the amendments and the amendments were debated and withdrawn, accepted or voted upon. A Report was then drawn up and tabled ready for the plenary debate on 18 July.

The approach taken by the Welsh Affairs Committee is interesting. In its Report it declares that its "prime responsibility" in considering the draft Bill was to prepare a report for the debate in the Welsh Grand Committee.⁹³ This duly took place on 16 July. Ministerial decisions about amendments to the draft would then be taken in early August, so that in October the UK Cabinet's Legislation Committee could be presented with a Bill "ready and waiting to be presented as early as possible in the new session", with the intention that it would then "go through the standard legislative process at Westminster." The Committee appears to have taken the view that its scrutiny should concentrate more on process than on the substantive provisions. Political debate on the latter ought to be reserved for the Welsh Grand Committee at Westminster and the Assembly both in plenary and in the Subject Committee. The Welsh Affairs Committee saw its task as

"... to assure the House of Commons that

- ! the primary legislation is appropriate and effective;
- ! the balance of primary and secondary legislation is right;
- ! the powers given to the NAW are broad enough to ensure that their objectives, and the reasonable aspirations of stakeholders, are met, while not giving scope for unexpected or unreasonable exercise of those powers
- ! there is no readily foreseeable requirement for the National Assembly for Wales to have to return to Westminster to seek a slight amendment of statute because of oversight or excessively restrictive drafting."⁹⁴

The Bill, like the Wales provisions in the NHS and Health Care Professions Act 2002, confers significant subordinate legislation making functions on the Assembly. The Welsh Affairs Committee Report notes that the Assembly has undertaken to produce draft subordinate legislation for public consuf-12sble re -1.1q1s

will be submitted for early scrutiny at Westminster, despite the formal disapplication of Westminster subordinate legislative procedures in the Government of Wales Act 1998 and their substitution by the Assembly's own procedures.

The Welsh Affairs Committee is to return in the Autumn to its examination of the legislative process as it affects Wales.⁹⁵ In doing so it will draw on its experience of dealing with this draft Bill.⁹⁶ Neither in the Assembly nor in the Westminster Committees which examined the draft Bill has there been any substantial disapproval of the draft Bill as a means of securing greater participation in pre-legislative scrutiny. No doubt it will not provide a satisfactory answer to those who call for the Assembly to be granted primary legislative powers, but the advantages of the device are equally applicable whether legislation is made in Cardiff or Westminster. Consequently it merits careful consideration by the Commission on the Assembly's powers as well as by the Welsh Affairs Committee in due course.

⁹⁵ See Welsh Affairs Committee Press Notice 25

6. RELATIONS WITH LOCAL GOVERNMENT

Alys Thomas, University of Glamorgan

Sunderland Commission

The Report of the Commission on Local Government Electoral Arrangements in Wales was published in early July. Among its recommendations were the reduction of the voting age to 16, the reduction of the minimum age for candidates from 21 to 18, and the introduction of the Single Transferable Vote (STV) form of proportional representation.

Two members of the Commission, Eleri Ebenezer (Conservative) and Alun Williams (Wales Labour Party Executive and USDAW) dissented from the majority view and advocated retention of First-past-the-post on the grounds of preserving the individual councillor-ward relationship at local level.

The Commission Report will be discussed in a Plenary session of the Assembly to be noted, but will then go out to consultation. The timetable has yet to be set, but it seems unlikely that the Assembly Government will make a formal response prior to next year's National Assembly elections. In any case, several of the recommendations would require primary Westminster legislation, and there would need to be an extensive review of electoral boundaries throughout Wales.

The Sunderland Commission was set up as a result of the Partnership Agreement which underpins the coalition between Labour and the Liberal Democrats in the Assembly. In that sense it represents a box ticked. However, question marks remain over its ultimate implementation. Sections of the Labour Party, not least the Labour dominated WLGA remain implacably opposed to any move away from First-past-the-post and should Labour win an overall majority in next May's Assembly election the impetus for change would diminish further. On the other hand, if the Liberal Democrats once again find themselves being courted as coalition partners will they insist on implementation of the report as a price for their support even in the face of local government hostility?⁹⁷

Draft Local Government Bill

The Westminster Government published a draft Local Government Bill for consultation on 12 June. This consultation is on an England-Hae81 T8.475 0 TD0.r(7.s)0(ke a pose

The draft Bill is intended to give effect to all the proposals in the White Paper that

of State to make regulations dealing with the interaction between small business relief and other reliefs the Government wants:

“... a widely drafted power enabling the Assembly to set, by Order, the parameters of the scheme to be introduced in Wales. This would include the size and types of property to be covered and the amount of relief to be given” (including the power for the Assembly to revoke by order the current provisions for rural rate relief contained in the 1988 Act relating to Wales).

The Assembly Government is strongly opposed to a provision making transitional relief a permanent feature of revaluations, wishing:

“... to retain the existing provision that gives the Assembly the power to decide whether or not to have a scheme in the light of the impact of a revaluation on business in Wales”.

With regard to Council Tax it agreed the introduction of statutory revaluation cycle and clarification of ability to change bandings and ratios on revaluation with the proviso that it had:

“... discretion over timings of revaluation, structure of the system in Wales and complete discretion over transitional relief schemes”.

It also requested provisions not required by Whitehall, namely the approval of the Council Tax Base to become a function of local authority executives in order to improve the revenue settlement timetable and the separation of Local Government and Police settlement reports in order to

7. RELATIONS WITH WESTMINSTER AND WHITEHALL

Mark S. Lang, Welsh Governance Centre

Wind Farm Planning Powers

The Assembly Government is in negotiation with the Department of Trade and

Debate on English Devolution

In June the Assembly debated in plenary session the question of English devolution. First Minister Rhodri Morgan said he had spoken with the Secretary of State for Wales, Paul Murphy about the content of *Your Region, Your Choice*, the White Paper proposing devolution to the English Regions, published at the end of May:

“The key point is that a different model is being proposed for English regional devolution. The English regions are being offered a democratisation of the development agency function rather than the full range of functions that we have in Wales.”¹⁰³

Plaid Cymru’s Phil Williams observed that elected Assemblies in England are likely to justifiably demand a review of the regional distribution of government expenditure. He therefore wanted to know how the First Minister and the Secretary of State were going to ensure that a strong case for “increased expenditure in Wales is presented early, often, and forcibly, so that the interests of the National Assembly are protected?” Rhodri Morgan responded

“I met the leaders for the Campaign for a Northern Assembly during their visit to Cardiff last Friday. I discussed that point with them. The key matter for them is to get the show on the road. It may start small: initial funding for the North-East, we are told, will be about £500 million. That is why I make the point that it would be the democratisation of the Development Agency function. It would be like having a democratically elected board of the Welsh Development Agency, and a few other functions. That is why we have 20 times the amount of funding. We have £10 billion in funding and the North-East Region will have £500 million. It is not in the same ball game. However, it may raise the question of a review of the Barnett formula, to which I would not object.”¹⁰⁴

Liberal Democrat AM Kirsty Williams pointed out that the proposals in the Government White Paper would give the English devolved bodies the ability to raise their own revenue, as the Scottish Parliament already does. She then raised the question of why Wales did not have similar powers. However, the First Minister made clear that the revenue raising powers of the English Regional Assemblies would not be tax-raising powers, but something more akin to the Welsh Development Agency’s borrowing power or a local authority’s power to precept.

Richard Edwards, Labour AM for Preseli Pembrokeshire, raised a more overtly political matter welcoming the

“... prospect of devolution for the English regions, not least because it will help to dissipate the worst excesses of English nationalism and its mirror image, Scottish and Welsh nationalism”.¹⁰⁵

Rhodri Morgan, though largely avoiding the ideological content of the question, responded by saying that “understanding that you need not be a nationalist to be a

¹⁰³ Assembly Record 11 June 2002.

¹⁰⁴ *Ibid.*

¹⁰⁵ *Ibid.*

devolutionist may help, along the lines that you suggest”.¹⁰⁶ The First Minister concluded the discussion by repeating what the Prime Minister had said, when he visited the Assembly the previous November:

“... he was confident that Britain was ready to take another constitutional step, as devolution has worked so well in Scotland and Wales. He was ready to tell John Prescott, as someone who has always been an eager advocate of devolution in England, that he could go ahead. Since then, the White Paper has been published.”¹⁰⁷

Welsh Affairs Committee and the Draft NHS (Wales) Bill

The House of Commons Third Report The Draft National Health Service (Wales) Bill was published on 10 July. The report was the result of an inquiry undertaken into the draft Bill, which was published by the Secretary of State for Wales on 17 May 2002. The draft Bill relates to three elements of the National Assembly for Wales` Health Plan:

- ! Development of Community Health Councils in Wales;
- ! Establishment of the Wales Centre for Health to provide a forum for the multi-disciplinary advice on health hazards, risk assessments of threats to health, disseminate research and other evidence to support decision-making, support multi-professional training in sustainable health.
- ! Creation of ‘Health Professions Wales’, a body to provide quality assurance for training and education of healthcare professions in Wales.¹⁰⁸

The draft Bill is essentially an enabling measure, and most of the crucial detail will be in secondary legislation to be made by the National Assembly. Therefore the work of the Committee on scrutinising the draft Bill was designed to assure the House of Commons that:

- ! The primary legislation is appropriate and effective.
- ! The balance of primary and secondary legislation is right.
- ! The powers given to the National Assembly are broad enough to ensure that their objectives, and the reasonable aspirations of their stakeholders, are met, while not giving scope for unexpected and unreasonable exercise of those powers.
- ! There is no readily foreseeable requirement for the National Assembly to have to return to Westminster to seek a slight amendment of statute because of oversight of excessively restrictive drafting.¹⁰⁹

¹⁰⁶ *Ibid.*

¹⁰⁷ Record of Proceedings, National Assembly for Wales, 11/6/02.

¹⁰⁸ Press Notice on Pre-Legislative Scrutiny: The Draft NHS (Wales) Bill, Welsh Affairs Committee, House of Commons, 21/5/02.

“We warmly welcome the publication of this first ever draft Bill for Wales, and hope that it will in due course become the standard practice, not only for stand-alone ‘Wales-only Bills’, but also for clauses in England and Wales Bills which have particular implications for Wales.”¹¹¹

¹¹¹ *Ibid.*

8. RELATIONS WITH THE EUROPEAN UNION

Mark S. Lang, Welsh Governance Centre

Common Agricultural Policy Reform

On 10 July the European Commission published a Mid Term Review of the CAP, which was broadly welcomed by the Assembly Rural Development Minister Michael German as a basis for change. The proposals seek to change the existing market support mechanisms of the CAP, the introduction of de-coupled direct subsidy payments and reinforcement of rural development policies. Under the proposals the modulation of CAP receipts would be compulsory across the EU and compliance with animal welfare, food safety, environmental and health and safety standards would become pre-requisites for CAP payments. However, no firm conclusions were included on future arrangements for the dairy sector.

The de-coupled regime would be based on historical payments and would mean that farmers would no longer be tied to a system that required them simply to produce livestock numbers or grow specific crops in order to receive payments under the CAP. The Commission's proposals are not legislative, though they are expected to come forward in the autumn for implementation from January 2004.¹¹²

Deputy First Minister Michael German made the following statement on the changes, following a meeting of the European Council of Agriculture Ministers Meeting which he attended:

“The principle behind the Commission's proposals are in many ways remarkably close to the Welsh Assembly Government's policy on the future of farming, set out in *Farming for the Future*. The objective is not to abolish the Common Agricultural Policy, but to reform it so that it gives a better deal to farmers, rural communities, consumers and the environment.”¹¹³

Committee on European Affairs

The Annual Report of the Committee on European and External Affairs was debated during the Assembly plenary session on 18 June. Deputy First Minister, Michael German, who also holds the title of Minister for Rural Development and Wales Abroad, opened the debate. In doing so he spoke of the need to create a brand for Wales embracing all the valued aspects of Welsh life, to increase the country's profile

¹¹² Papers of the Agriculture and Rural Development Committee, 17 July 2002.

¹¹³ Assembly Government Press Release, 15 July 2002.

abroad. Summing up the annual report Michael German outlined the salient developments in the Assembly's relationship with the European Union over the previous year:

“Our relationships with European Union institutions continue to develop. The First Minister met with Members of the European Parliament from all parties last December. We have developed excellent relationships with the United Kingdom Permanent Representation to the European Union through our office in Brussels. The Committee met Commissioner Barnier in December and the

difficulties in the early stages as the partners endeavoured to reach consensus on key issues. What are the advantages of partnership working in your opinion and have those advantages been realised yet?"

To which John Clarke responded:

"Yes, Chair, I believe that they are being realised. One should not see partnership as a blockage in the process. We see it as a value-adding part of the process. Our partners have enormous experience and expertise and they contribute that to the analysis of the projects."¹¹⁸

Dafydd Wigley also asked whether there was a danger that working in partnership could lead to compromises that could then take emphasis away from a strategic focus for the programmes. To which John Clarke responded:

"There is that danger, but one thing that we are not short of in Objective 1 is strategies and one of the things that we are very keen on doing is ensuring that there is alignment between all the strategies so that, basically, all the needles on the various compasses are pointing in the same direction."¹¹⁹

Dafydd Wigley also wanted to know if sufficient funds were available for all projects that needed it, and was told that sufficient monies were available. Some of the most intense questioning came from Committee Member Alison Halford, who in the following exchange enquired about the private sector involvement:

(Alison Halford) do you agree that the private sector's perception is that your leadership role has been fairly slow?

(Mr Clarke) I have not heard it said that our leadership role has been lacking in any way.

(Alison Halford) Slow, not lacking.

(Mr Clarke) Well, no, not—

(Alison Halford) Yes or no?

(Dafydd Wigley) I think that it is a definite maybe.

(Mr Clarke) Yes, an unequivocal maybe on that one. We have not been slow to set up the private sector unit. I can well understand, coming from the private sector myself, how that can appear to be a fearsome exercise. It is for that reason that the Assembly Government set up the social partners unit to assist those very worthy people from the private sector

Labour's Janice Gregory also had some criticisms relating to the WEFO's apparently over bureaucratic approach. She pointed out that there are 11 stages to the Objective 1 application process with projects having to go through three working groups or committees prior to approval and, possibly, two rounds of consultation with other partnerships. John Clarke felt that, though some streamlining could be done, the process gave the impression of being longer than it actually was:

"If there is already in existence a reasonably well formed project and a good business plan, then, as in the rest of life, things can proceed somewhat faster."¹²¹

On the question of monitoring and evaluation he pointed out that although they have until the end of 2006 to commit all the money, there are in fact two further years after that to complete its spending. However, he agreed that his office must perform well over the next year if things are going to work through.

Dafydd Wigley ended the meeting by asking the Auditor General to present an update report in twelve months on the progress that the WEFO has made.

Future of the EU Structural Funds

At its meeting on 12 June the European and External Affairs Committee received a report on a recent European Commission technical conference on the future of EU regional policy, which was attended by two officials from the Welsh Assembly Government. The Conference was entitled *The Union's Priorities for the Regions – Defining Community Value Added*, and was held in Brussels on 27-28 May. The conference was the first of three events that the Commission was arranging and future sessions will be held later this year on human resources, and simplification, which will be held sometime during early 2003.

At the conference the Commission made it clear that it was more interested in delegates discussing ideas rather than concentrate on financial issues. The European Commissioner for Regional Policy, Michel Barnier, put forward new ideas at the conference on non-Objective 1 support for regions, which would involve selecting from a 'toolbox' of support. This 'toolbox' might include urban initiatives, which would require careful consideration by Welsh stakeholders, and support for transnational co-operation programmes along the lines of INTERREG III B. There was also discussion on tri-partite agreements and regional relations with Brussels at the conference.¹²²

Points made by Committee Members during their discussion included:

- ! Concern was expressed that Wales should not lose out to urban areas in England should the Commission set up structural funds programmes for urban areas.

¹²¹ Audit Committee, Record of Proceedings, National Assembly for Wales, 20 June 2002.

¹²² Paper 2: The Future of Structural Funds, European and External Affairs Committee, National Assembly for Wales, 12 June 2002.

- ! The issue of 'repatriating' regional policy was discussed which could work against Wales' interests. The Chair said this was not a new proposal and it was important that Wales made its position clear.
- ! Structural fund programmes were similar to tri-partite contracts in that they were agreed between Regions and the Commission, whilst operating within the framework of a nation state.
- ! The Commission was open to suggestions on taking the 'toolbox' forward although the Department of Trade and Industry (DTI) had requested firmer proposals from the Commission at the conference. The DTI would discuss any UK position on the future of the structural funds with the Assembly in advance of submitting them to the Commission.
- ! The Wales European Funding Office would be best placed to answer questions on the simplification of structural funds.
- ! The Assembly Government was developing proposals for an event in Wales to promote interest in INTERREG III B. Any major event would be organised in conjunction with the Office of the Deputy Prime Minister, who managed the UK's participation in these programmes.¹²³

¹²³ Minutes of the European and External Affairs Committee, National Assembly for Wales, 12 June 2002.

“I have certainly not heard that accusation. I try to take everybody with me as much as possible but leaders from time to time will have members within their group ... who want to have a go at the leadership. It’s natural.”¹²⁶

There was never any sign that Peter Law could attract the necessary support to mount a serious bid against Rhodri Morgan’s leadership. Nevertheless, he confronted the Labour party with some interesting issues. The first is that any leadership rival to an incumbent faces the task of obtaining the support of more than one sixth of the party in the Assembly, in this case five out of the 28 Members. This suggests that any leadership challenge is likely to reflect a severe breach within what will always be a small and intimate working Group. The numbers also mean that there will almost certainly never be an effective ‘stalking horse’ candidate testing potential opposition to the leader of the kind which emerges now and again amongst parliamentary parties: any challenge will almost certainly be a serious challenge.

A further issue is that although there are unlikely to be ‘stalking horse’ candidates, the kind of challenge which Peter Law engineered - responding to a perceived wider discontent within the party - may well be likely in the future. If such a challenge strikes a chord with elements of the wider party this might cause some real problems in the relationship between AMs and the party itself.

One of the more notable aspects of Peter Law’s challenge was his insistence that party policy took precedence over the recommendations of the Sunderland Commission and, presumably, over any subsequent policy arrived at by the Assembly Government. In turn this raises the question of why have such a Commission at all if, in any event party policy is to take precedence? It also raises questions over the status of party policy formulated for submission to such bodies, not least the Richard Commission on the Assembly’s powers.

Plaid Cymru Chief Executive Appointed Amidst Leadership Wobbles

Plaid Cymru’s new Chief Executive, replacing the outgoing Karl Davies, will be University of Aberystwyth Welsh election analyst, Dafydd Trystan. Dr Trystan’s connections with the Valleys – he was brought up in Aberdare - may be an advantage as the party tries to broaden its support. However, his comments as a political analyst, including suggesting the possibility that Plaid Cymru might lose seats at the next Assembly elections and questioning current party President, Ieuan Wyn Jones’ grip on the party leadership, have been exploited by the other parties and the media.

Table 2: Principal Council By-elections, June 2001 to August 2002

Date	COUNCIL: Ward	Result	Lib Dem	Tory	Labour	PC	Others
7/6/01	Cardiff: Canton	Lab hold	950	1,266	3,130	1,170	
7/6/01	Cardiff: Llandaf North	Lab hold	566	664	2,115	362	
7/6/01	Caerphilly: Darren Valley	Lab hold	394		502	232	
5/7/01	Pembrokeshire: East Williamson	Ind hold					840
13/7/01	Powys: Newtown Llanllwchaiarn N	LD hold	209				219
13/7/01	Denbighshire: Rhyl East	Lab hold		319	538		207497 TD5.0195 Tc[(20

10. PRESS AND MEDIA

Nia Richardson, IWA

Welsh Mirror Attacks First Minister

Rumours of a challenge to Rhodri Morgan's leadership of the Labour Party by Blaenau Gwent AM, Peter Law gave the Welsh press and media the chance to get their teeth into a colourful political story to fill the hiatus that appeared in the Assembly's affairs towards the end of its summer term. Peter Law is taking time over the summer to consider whether he will challenge the First Minister for the leadership in September as is allowed by Labour Party rules. Mr. Law has been telling journalists that he would better represent the Labour Party roots, who he feels are being ignored by current leader, Rhodri Morgan.

Peter Law's general position has been articulated forcibly by Paul Starling, Political Editor of the *Welsh Mirror* who ran what amounted to a campaign on his behalf. This comprised a sustained and furious attack on the leadership offered by Rhodri Morgan. In one hysterical column headed 'Rein in or dump arrogant Rhodri' he denounced the First Minister as variously a "massive egotist", a "Vaudeville act" and "profoundly undemocratic":

'He never thinks beyond the moment. He has no vision. He is a political maverick. Brilliant at being a witty companion, he is no international statesman and, in my view, never can be.'¹²⁹

He went on to summarise the grievances of Peter Law in particular and what might be termed 'Old Welsh Labour' more generally:

"The Welsh Labour Party he is supposed to lead is a 100 year old (the) 4.7()b9e lea.4(rise

pointless because 23 of Labour's 28 AMs had already agreed to back Mr Morgan. Rogers was quoted:

“This is nothing less than central control freakery. Who the hell do these people think they are? Do they really expect party members to believe that within three days of a leadership challenge 23 AMs have signed up of their own accord? Rhodri Morgan and those around him in Cardiff are out-of-touch with the grassroots membership.

“It's like an elected dictatorship at the top. They may feel they've been very clever in seeing off a challenge from one man but what they fail to see is that he represents something which is eating away at the Labour party in Wales – and it's not going to go away.”¹³¹

Another article in the same week by Starling which criticised the Assembly government for not doing enough to tackle poverty was another opportunity for an attack on Rhodri Morgan:

“Rhodri Morgan, and the wine-swilling Cardiff smart set, should think long and hard about the messages they're sending to the rest of Wales. In the meantime, it is now time for those AMs and MPs who represent Wales' poorest areas to form a strong pressure group. Rhodri Morgan holds the job of leader in trust only. If he won't be moved to take such action then this powerful block of Welsh Labour politicians must be prepared to tell him: get in line, or get out and make way for people with policies that put our people first.”¹³²

BBC Wales Rejects Political Bias Claims

BBC Wales Controller Menna Richards rejected claims of political bias at the BBC after a series of accusations from political figures during July that it was pro-Nationalist. In early June the *Welsh Mirror's* front page headline declared 'Beeb Bias' after Kevin Brennan, Labour MP for Cardiff West was allegedly refused an interview by the station. According to Brennan he had been scheduled to have an interview with Radio Wales' early morning show *Good Morning Wales* on 10 June. He was due to debate allegations made by Plaid Cymru MP Adam Price that the Labour party was trying to compile a 'dossier of dirt' on his party's MPs. According to Brennan, however, the programme called him five minutes before he was due to go on air to say that they would have to postpone the interview since “Mr Price would not enter a debate and did not want Mr Brennan to go on air immediately after him.”¹³³ Brennan told the *Welsh Mirror*:

“They allowed Plaid to dictate editorial terms. I was furious. The allegations Plaid have made are extremely serious, yet I was blocked from debating and challenging them and demanding evidence. In other words, BBC Wales allowed

¹³¹ Welsh Mirror, 23 July 2002

¹³² Welsh Mirror, 26 July 2002

¹³³ Welsh Mirror, 11 June 2002

