



The Constitution Unit



Strategy Wales  
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# Nations and Regions: The Dynamics of Devolution

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**Wales**

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# Cull of the Quangos

Monitoring  
**The National Assembly**  
June to September 2004

Edited By  
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## SUMMARY

In the biggest Welsh government shake-up since the creation of the National Assembly in 1999, the Welsh Development Agency, ELWa (the Education and Training body), and the Wales Tourist Board will be abolished from 1 April 2006 and their staff and functions absorbed into the Assembly Government civil service. As the First Minister Rhodri Morgan said, in his statement to the Assembly on 14 July as it was going into recess, the three bodies “represent two thirds of quangoland in Wales” with some 1,600 staff and a combined annual budget of some £920 million. Together they would make a substantial addition to Assembly Government’s capability. The announcement came out of the blue, taking the Opposition parties by surprise. The organisations themselves were informed only minutes beforehand, prompting the WDA’s Chief executive Graham Hawker to resign on the spot. The Chairman of the Wales Tourist Board, Philip Evans, was informed by a mobile telephone call as he was boarding a plane.

In August Welsh Labour published its response to the Richard Commission on the Assembly’s powers 'Better Governance for Wales' which was approved unanimously at a Special Conference in Cardiff on 13 September. Following publication of a consultative White Paper after the next election, and assuming it wins, Labour will amend the Government of Wales Act to:

- Develop enhanced legislative powers for the Assembly, with the White Paper setting out one of two options: (i) to enhance the Assembly’s powers of secondary legislation; and (ii) to grant primary powers, subject to a post-legislative referendum. Secretary of State for Wales, Peter Hain hinted that, in the event, the latter may be the only option offered.
- Change the voting system by preventing candidates from standing for election in both a constituency and on a regional list.
- End the corporate body status of the Assembly.

The document rules out tax varying powers and any reduction in the number of Welsh MPs at Westminster. It also rejects the Richard Commission’s proposal to adopt the STV proportional representation system.

Meanwhile, the Presiding Officer and the former leader of Plaid Cymru, Lord Elis-Thomas said he believed pursuing independence was a mistake in the post-devolution era and that his party had not adjusted to devolution: "I think what we should be doing is offering ourselves as a proper alternative government, or part of a government, to break the hegemony of Labour... In a democracy the important thing is political choice and that’s where I think the role of the party should be... We should be concentrating on our objective to give the people of Wales a choice in relation to the next election. The party should be helping to govern Wales as it is, not dreaming about some unrealistic future.”

# 1. ASSEMBLY GOVERNMENT

*John Osmond and Suzanne Grazier*

## ***Cull of the Quangos***

In the biggest Welsh government shake-up since the creation of the National Assembly in 1999, the Welsh Development Agency, ELWa (the Education and Training body), and the Wales Tourist Board will be abolished from 1 April 2006 and their staff and functions absorbed into the Assembly Government civil service.

As the First Minister Rhodri Morgan said, in his statement to the Assembly on 14 July as it was going into recess, the three bodies “represent two thirds of quangoland in Wales” with some 1,600 staff and a combined annual budget of some £920 million. Together they would make a substantial addition to Assembly Government’s capability:

“The shape of the Assembly Government will become more governmental because by merging the staff currently employed by the quangos with our existing departments, it will give us far more firepower, more critical mass, more ability to generate distinct Wales-oriented policies, more opportunities for staff to specialise in policy areas in their careers, and less of a distinction between making policy and implementing it.”<sup>1</sup>

And he added:

“How much further we go in shrinking the quango state will depend on the outcome of further work into the remaining bodies and how analogous they are to the three specified today. If others need to remain separate from Ministerial control and accountability they will. But I doubt that will apply in many cases. They may fit into the range of current agency-type and arms length models already present inside our administration, such as CADW (the heritage and listed buildings organisation), the Wales European Funding Office and Wales Trade International, or the Wales Industrial Development Advisory Board, and the Social Services and Care Standards Inspectorates for Wales. It will enable us to merge back office functions, IT systems and procurement and get improved value for money. And, as far as the public are concerned, today’s announcement is important because by streamlining structures and processes, we will simplify decision-making and make public services more flexible and responsive to users’ needs. For example, is it right that investors have to negotiate a Property Development Grant from the WDA and a RSA grant direct from us? Clearly not. Staff have made the system work but it is a flawed system.”<sup>2</sup>

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<sup>1</sup> First Minister’s Statement, ‘Public Services In Wales’, Assembly *Record*, 14 July 2004.

<sup>2</sup> *Ibid.*

The announcement came out of the blue, taking the Opposition parties by surprise. The organisations themselves were informed only minutes beforehand, prompting the WDA's Chief executive Graham Hawker to resign on the spot. The Chairman of the Wales Tourist Board, Philip Evans, was informed by a mobile telephone call as he was boarding a plane.

Economic Development Minister Andrew Davies hinted that disagreements over the strategic direction of the organisations had motivated the change. He referred reporters to a speech he has made at the Wales Labour conference in March when he attacked "those who feel they have the authority and right to set the agenda and priorities for their quango".<sup>3</sup>

The timing of the announcement was linked by commentators to Rhodri Morgan's retreat from an early endorsement of the Richard Commission's proposals on primary legislative powers for the Assembly, being debated by a special Wales Labour Conference on 11 September. It was suggested that the so-called "bonfire of the quangos" provided him with a populist message to counteract criticism that he was caving in to a refusal by Number 10 to contemplate putting a commitment to legislate for more powers for Wales in Labour's manifesto for the general election expected in 2005. Instead, he said an alternative route would be to enhance greater use of framework-type legislation for Wales at Westminster, giving the Assembly more scope to decide and implement its secondary legislative powers.

Coming in the wake of the debate over the Richard Commission's recommendations, the timing suggested there may be a link between the two. It is noteworthy, for instance, that a paper presented to the Cabinet by Finance Minister Sue Essex in March gave no hint that abolition of the quangos was in the offing. Instead the paper focused on how the Assembly Government could better direct their activities:

"...we need to improve the system more fundamentally and ensure that ASPBs have clarity of vision about what the Assembly requires from them in terms of delivery. Remit letters currently deal with one year ahead, and the system serves to put more scrutiny of ASPBs' one-year operational plans than on their three-year corporate plans. Some letters focus on process and activity, while other centre on Wales-wide performance targets. All these factors make it hard to focus on strategic outcomes. We need to consider how we can improve and strengthen the process of giving strategic direction to ASPBs."<sup>4</sup>

Later in the paper the Minister added that "consideration needs to be given to what processes should be in place to focus on driving longer-term performance improvement in ASPBs."<sup>5</sup> While these suggestions indicate some dissatisfaction with the arrangements for monitoring the work of the quangos they hardly lay the ground for the radical course adopted little more than weeks later.

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<sup>3</sup> *Western Mail*, 16 July 2004. In the Assembly debate on the announcement Rhodri Morgan referred to Andrew Davies' speech, saying "... if people had read between the lines they would have seen a preface to today's statement" (*Assembly Record*, 14 July 2004).

<sup>4</sup> Sue Essex, *Planning and Delivering Quality Public Services for the People of Wales*, Cabinet Paper March 2004, para. 4, Assembly website.

<sup>5</sup> *Ibid.*, para 13.

Early in August the Permanent Secretary Sir Jon Shortridge wrote to the remaining Welsh ASPBs setting out the basis on whether they, too, would be integrated with the Welsh Assembly Government. The Government's presumption would be that:

“Where such bodies undertake functions which are essentially governmental in character, in that they set or lead on an aspect of public policy or policy delivery, they should be merged with the administration.”<sup>6</sup>

Sir Jon added that there would be three exceptions to this presumption:

1. “Where such bodies audit or regulate Assembly Government business or are quasi-judicial in much of their work
1. “Where bodies take decisions which are better kept at arms length from the Government
1. “Where such bodies undertake functions or exercise professional judgements which are clearly non-governmental in character.”<sup>7</sup>

Despite such caveats speculation mounted about the dangers of “state control” of cultural quangos such as the Arts Council of Wales, the National Museum and the National Library, all seen as prime candidates for Rhodri Morgan's next move.<sup>8</sup> The Arts Council put up a vigorous defence of its independence, responding with a lengthy paper, essentially elaborating a two-pronged case:

- “First, freedom of expression and integrity of artistic vision are characteristics vital to the arts in any free society. In that sense the arts are characteristics fundamentally non-governmental in character, although in the course of their work they often serve the Government's objectives. The arts and government are best served by retaining an arms-length relationship.
- Second, the Arts Council has fully integrated its work as a Lottery distributor with its work as a distributor of Assembly Government grant-in-aid, to create a genuine one-stop shop for arts funding. If these two functions are to be separated, then the overall strategic vision will be lost.”<sup>9</sup>

For its part, the National Museums and Galleries of Wales cited its charitable status as a major reason why it should not be absorbed into the Assembly Government. This provides it with access to Lottery funds and other grants – worth more than £20 million in recent years – that would not be available to it if it were part of the government.<sup>10</sup>

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<sup>6</sup> Quoted in Arts Council of Wales, ‘Public Service Reform: Future Arrangements for Supporting the Arts in Wales’ 10 September 2004.

<sup>7</sup> *Ibid.*

<sup>8</sup> Martin Shipton, ‘Assembly may target cultural quangos next’, *Western Mail*, 22 July 2004.

<sup>9</sup> Arts Council of Wales, *op. cit.* The Paper adds that in 2004-05 Lottery Funds provided a third (£11.4 million) of the Arts Council's total £35.5 budget.

<sup>10</sup> *The National Museums and Galleries of Wales - future governance arrangements*, NMGW website, 10 September 2004.



While the announcement was met by applause from Labour AMs in the Assembly chamber, Opposition members were more cautious. Having led a campaign against the quangos over the previous six months Plaid Cymru's leader Ieuan Wyn Jones could do little but query how much further the cull would go. Would it, for example, include the health service? In April 2005 a new quango, the Wales Centre for Health comes into existence, charged with research, training and making information available to the public. Conservative leader Nick Bourne was concerned that by making the announcement on the final day of the session the First Minister was closing down any debate. However, it was left to Liberal Democrat leader Mike German to question whether the change would result in less rather than more scrutiny of decision-making:

“On openness and scrutiny, one of the changes brought about by the establishment of the National Assembly is that we have been able to scrutinise quangos – they have been brought before committee – even though they operate independently. For those of us who have the job of scrutinising the role of the Executive, it is not clear whether, given this change, you would be able to perform the scrutiny role effectively within a three-weekly committee cycle. The range of scrutiny that must exist is clear, and it is also clear from the First Minister's statement that, if you are to bring quangos in-house, the scrutiny role lies here, with our committee structure. If you cannot increase the amount of time that is being spent in an already over-crowded timetable, it is clear that something will have to give, namely the timetable that the Business Minister tried to impose on us yesterday, in order to ensure appropriate scrutiny.”<sup>11</sup>

These points were echoed by Professor Kevin Morgan, who led the Yes Campaign in the 1997 referendum:

“We are told that the abolition of the quangos will make their functions more accountable. But accountable to whom? To politicians in the Assembly or to the wider electorate in civil society? Quangos like the WDA have been held accountable in a whole series of ways – through their board, through targets set out in the remit letter from the sponsoring minister and, most visibly, through public scrutiny before the Assembly subject committee. This stands in stark contrast to the degree of public accountability of bodies which have been absorbed into the Assembly, like Wales Trade International for example, which has been subject to less public scrutiny since it left the WDA.”<sup>12</sup>

Kevin Morgan added that a further consideration was the commercial focus of the organisations being absorbed into the Assembly Government:

“The idea that people become more commercially focused when they become civil servants is at best novel and at worst risible. This is not to say that civil servants in Wales are not competent and industrious, because most of them are in my experience. But the civil service culture, with its safety-first procedures and protocols, tend to rate process over outcome making it more risk averse

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<sup>11</sup> Assembly Record, 14 July 2004.

<sup>12</sup> Kevin Morgan, *Quango Decision: Robust debate needed*, Western Mail, 23 July 2004.

and less innovative than the private sector. It was to overcome this laudable but limiting culture that quangos were created in the first place, a point that seems to have been conveniently forgotten ... The decision to substitute political scrutiny of for the corporate scrutiny of quango boards signals a clear devaluation of professional expertise in Wales. Even at its best the Assembly can never hope to match the specialised business acumen that has been distilled in the WDA board.”<sup>13</sup>

On this aspect it was noteworthy that Finance Wales, a subsidiary of the Welsh Development Agency but a company in its own right, may survive the quango cull, with Economic Minister Andrew Davies hinting that it might survive in some spin-out form.<sup>14</sup> During 2003-04 the company secured £35 million to provide a range of financial support to Welsh businesses, including equity investments and loans, with the WDA contributing £5.9 million towards administrative expenses. Finance Wales secures the bulk of its funding from Barclays Bank and the European Union, with the latter on the proviso that it operates at arms length from the Assembly Government.

In his article Kevin Morgan concluded that the quango cull constituted an unprecedented politicisation of the economy and civil society in Wales:

“Politicians tend to interpret accountability narrowly, meaning accountable to them. But there is a wider sense of accountability, and that is to being accountable to the public forums of civil society – to boards of specialised professionals, to the glare of media inquiry, to the scrutiny of publicly-convened subject committees and so forth. The politicisation of civil society means that all roads will lead to and from the Assembly, rendering Wales a less pluralistic and more state-centric society than ever before. One of the unintended consequences of this process is that the capacity for public debate in Wales is atrophying. Fewer and fewer people – in business, the arts, local government and the voluntary sector for example – are willing to speak their mind in public for fear of upsetting their political patrons in the Assembly, with the result that silence is mistaken for tacit support.”<sup>15</sup>

Clwyd West MP Gareth Thomas also criticised the absorption of the quangos into the Assembly Government, warning that it could damage the Welsh economy. In particular, he did not agree with what he described as the “destabilising” of the Welsh Development Agency, adding

“If they want a bonfire of the quangos they should start with the local health boards.”<sup>16</sup>

He warned that political control may result in a “brain drain” of expertise, damaging the WDA’s current worldwide reputation. He said he would be recommending that the Welsh Affairs Committee investigate the decision and its implications for the Welsh economy.

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<sup>13</sup> *Ibid.*

<sup>14</sup> *Western Mail*, 25 August 2004.

<sup>15</sup> Kevin Morgan *Op. Cit.*.

<sup>16</sup> *Western Mail*, 20 July 2004

## ***School Tests to be Scrapped***

Jane Davidson announced that statutory school tests for 11 and 14 year olds would be abolished. Her proposals follow the recommendations of the Daugherty Review<sup>17</sup> and ACCAC's review of the school curriculum. Both reports conclude that statutory tests at Key Stage 2 and 3 have negative effects on teaching and learning. Compulsory testing for 11 year olds will be abolished with immediate effect, while a more gradual approach will be adopted for phasing out testing of 14 year olds. Statutory Teacher Assessments will remain and will be subject to checks to ensure they are robust and consistent. In addition, a new style of test focussing on key skills will be introduced for pupils in Year 5. A consultation document, released in September, proposes the following timetable for the new system:

### **Key Stage 2 (age 7 to 11)**

In 2004-05 tests will be provided but will be non-statutory; external markers will also be available. Tests will again be supplied in 2005-06 but with no external marking. From 2006-07, tests will not be available but optional assessment materials will be provided to assist teachers. Annual pupil reports will include Attainment Target levels for core subjects. Skills Tests will be trailed in some schools during 2005-06, and piloted in all schools in 2006-07. From 2007-08, Skills Tests will be statutory.

### **Key Stage 3 (age 11 to 14)**

Tests will remain statutory in 2004/05, but will not be compulsory in 2005-06. However, tests will still be provided to schools with the option of having them externally marked. Tests will also be provided in 2006-07 but with no provision for external marking. Statutory Teacher Assessments will continue; by 2007-08, all secondary schools will have received "accredited centre" status in respect of their Teacher Assessment arrangements and systems.

The consultation period ends in October.

## ***NHS Waiting Times***

Jane Hutt announced a further extension to the second offer scheme in June. The extension means that by March 2005, patients will not have to wait more than 12 months for an operation without having been offered treatment elsewhere. Currently, the scheme, which has been in operation since April 2004, only applies to patients waiting over 18 months.

The announcement comes at a time when Jane Hutt has faced extensive criticism. The Wales chairman of the British Medical Association Tony Calland, who has previously offered his support to the Assembly Government and Jane Hutt, stated that they were

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<sup>17</sup> Daugherty Review Group, *Learning Pathways through Statutory Assessment: Key Stages 2 and 3*, May 2004.

“losing patience with the lack of strategic direction and planning” of the Health service.<sup>18</sup> He said:

“NHS Wales needs improvement NOW and the Welsh Assembly Government needs to start a major exercise in strategic planning with the stakeholders NOW.”<sup>19</sup>

Meanwhile, in a written answer to a question from the Conservatives, the Health Minister said that she could not confirm the rate at which manager and administrators are being recruited to NHS Wales. In response to a request to confirm the percentage waiting for in or out patient treatment, she said the information was not available as patients may be “on several lists concurrently.”<sup>20</sup> Jonathan Morgan, the Conservative Health spokesperson said the responses demonstrate the Ministers’ “terrifying lack of authority.”<sup>21</sup>

There was further criticism of Jane Hutt, as statistics published by the National Assembly continue to show an increase in waiting times in some areas. The number of people waiting more than 12 months for admission to hospital as an in-patient of a day case rose over July by 18 to 8,958. Those waiting more than 18 months increased by 36 to 1,483. Those waiting more than 18 months for an outpatient appointment rose by 81 to 7,186.<sup>22</sup> Responding to the criticism the Health Minister said the Assembly Government focus was on the number of people waiting rather than the length of their wait.

### ***Jane Davidson’s New Zealand Visit***

Following an invitation by the Honourable Trevor Mallard, Minister of Education in New Zealand, Jane Davidson announced that she would be visiting the country in a bid to develop links between education and training policy makers. The 12 day trip focused on early years education, given the development of the Foundation Phase and Integrated Centres in Wales, with New Zealand currently piloting Early Education Centres. New Zealand has also just developed a National Certificate of Educational Achievement qualification, which is similar to the Welsh Baccalaureate. Jane Davidson stated that it would be beneficial to contrast the two initiatives. She said:

“I expect the visit to enable me to link Wales with best practice in New Zealand. We have a number of common interests regarding lifelong learning and community centred learning.”<sup>23</sup>

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<sup>18</sup> *Western Mail*, 28 June 2004

<sup>19</sup> *Ibid*

<sup>20</sup> *Assembly, Written Questions answered between 24 June and 1 July 2003*, p.15

<sup>21</sup> *The Western Mail*, 7 July 2004

<sup>22</sup> *NHS Hospital Waiting Times*, July 2004, [www.wales.gov.uk/statistics](http://www.wales.gov.uk/statistics)

<sup>23</sup> *The Western Mail*, 19 July 2004

News of the visit was met with criticism by Conservatives, with David Davies describing the trip as “disgraceful”.<sup>24</sup> He attacked Jane Davidson for only revealing she would be going the day before the Assembly went into summer recess..

## **“Keeping Our Promises”**

The First Minister launched his annual report, *Keeping Our Promises*, in July. Rhodri Morgan states that his government have made progress in delivering its election commitments, with a strategic agenda in place for the next four years. He highlights the progress made in delivering the following manifesto commitments:

- Free prescriptions: charges are currently frozen and will be reduced next year. They will be abolished by 2007.
- Free breakfasts for primary school children: through the introduction of a pilot scheme, up to 11,000 primary school children will receive a free breakfast this September, with £5million committed to the scheme over the next two years.
- Invest £560 million to improve school buildings: investment will increase by £139 million per year from 2005-06.
- Invest £550 million on health facilities: on target to exceed £550 million on capital spending on the health service.

The First Minister stated that “the Annual Report highlights a strong record of achievement across all Assembly Government priorities.”<sup>25</sup> However, Welsh Conservative Assembly leader Nick Bourne accused Rhodri Morgan of “abject failure to deliver anything of significance to the people of Wales.”<sup>26</sup> There was further criticism from opposition after it was announced that a debate on the report was to be postponed until the next term, due to time constraints. Plaid Cymru leader Ieuan Wyn Jones described this as “shameful”.<sup>27</sup>

## **Turnover Rule criticised**

The Welsh Assembly Government were accused of excluding small businesses from public contracts, by imposing a turnover rule that is not applied elsewhere in the UK. The rule states that companies can only win a public contract if it would be worth more than 40 per cent of their turnover. A total of £4 billion a year is awarded through such contracts, with only 35 per cent of this going to Welsh businesses.<sup>28</sup> The *Western*

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<sup>24</sup> *The Western Mail*, 19 July 2004

<sup>25</sup> *Keeping Our Promises*, July 2004.

<sup>26</sup> *Western Mail*, 8 July 2004.

<sup>27</sup> *Assembly Record*, 13 July 2004.

<sup>28</sup> *Western Mail*, 30 June 2004.

*Mail* revealed that England used to impose a rule that no contract could exceed 25 per cent of turnover. However, it scrapped the rule to encourage more small businesses to bid for contracts. No equivalent rule is imposed in Scotland or Northern Ireland. The Assembly Government said the rule relates to an organisations' capacity to cope with large increases in activity, and also to ensure that businesses do not rely on the Assembly for a contract.<sup>29</sup> Conservative economic development spokesman Alun Cairns called the rule "outdated". Plaid Cymru's Elin Jones called for the Assembly Government to consider more factors when awarding contracts.<sup>30</sup>

### ***MRSA Infection Rate Statistics***

The Assembly Government were criticised for refusing to release MRSA figures for specific hospitals and NHS Trusts. The figures are instead available in an anonymous format. It was announced that MRSA infection rates for specific hospitals and NHS Trusts, the equivalent of which are available in England via the Department of Health website, would not be released because:

- Figures may be misinterpreted if explanations are not given
- Some hospitals carry out more serious operations than others
- Some patients are more vulnerable than others
- Patients may have become infected elsewhere but diagnosed in hospital

Conservative AM David Davies, accused the Assembly Government of treating patients like "second class citizens". He called for the rates to be released so that "we can be reassured that hospitals in Wales are safe" and so that "those with higher rates can be given the help to improve".<sup>31</sup> The Assembly Government defended its decision stressing that nothing would be gained from releasing the figures, adding that "the Welsh reporting scheme is highly responsible".<sup>32</sup>

### ***Welsh Language Board Appointment Row***

The Commissioner for Public Appointments, Dame Rennie Fritchie, has launched an inquiry into the appointment of the new Chair of the Welsh Language Board, following a complaint by Plaid Cymru AM Owen John Thomas who was a member of the appointments panel. Owen John Thomas claimed that Culture Minister Alan Pugh had insisted on appointing Meri Huws, Director of Lifelong Learning at the University of Wales, Bangor, even though she received 71.5 points from the panel

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<sup>29</sup> *Ibid*

<sup>30</sup> *Western Mail*, 7 July 2004.

<sup>31</sup> *Western Mail*, 20 July 2004.

<sup>32</sup> *Ibid*

against 79 for another candidate. Mr Thomas also alleged that Mr Pugh had made written observations only about his favoured candidate who was interviewed first, writing down nothing about the rest.

Ms Huws took over the two-day a week £31,000 post at the beginning of September despite Mr Thomas's call for this to be delayed until the Commissioner had reported. A spokesman for the Assembly Government, which had until 10 September to respond to the complaint, said that an independent assessor who had taken part in the appointment, had endorsed the procedures adopted. Meanwhile it emerged that Meri Huws had previously had a relationship with Economic Development Minister Andrew Davies which she had not declared. To this the Assembly Government spokesperson responded, "Asking whether applicants to public positions are required to list previous partners on application forms is ridiculous."<sup>33</sup>

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<sup>33</sup> *Western Mail*, 3 September 2004.

## 2. THE NATIONAL ASSEMBLY

*John Osmond and Suzanne Grazier*

### ***Richard Commission Debate***

In August Welsh Labour published its response to the Richard Commission on the Assembly's powers 'Better Governance for Wales' which was approved unanimously at a Special Conference in Cardiff on 13 September. Following publication of a consultative White Paper after the next election, and assuming it wins, Labour will amend the Government of Wales Act to:

- Develop enhanced legislative powers for the Assembly, with the White Paper setting out options.
- Change the voting system by preventing candidates from standing for election in both a constituency and on a regional list.
- End the corporate body status of the Assembly.

The document rules out tax varying powers and any reduction in the number of Welsh MPs at Westminster. It also rejects the Richard Commission's proposal to adopt the STV proportional representation system. Options for enhancing the legislative powers of the Assembly are:

- Primary law making powers following a post-legislative referendum.
- Allowing the Assembly to amend or repeal existing legislation in those areas of policy for which it already has responsibility.

A key commitment in the policy statement is to a referendum, a concession that appears to have been made to backbench Welsh Labour MPs who have been campaigning against any change. Peter Hain described his grounds for conceding one in the following terms:

“I argued against a referendum for 18 months on the European Constitution, and had thrown back at me the accusation that we didn't want to give people a say. That would also be said about primary law making powers for the Assembly, and as a Bill went through Parliament an amendment would be put in calling for a referendum, probably in the Commons and certainly in the Lords.”<sup>34</sup>

These considerations were also alluded to by the First Minister, interviewed on the subject on the eve of the 11 September Labour conference. Asked why he committed a U-turn on his opposition to a referendum, he pronounced, “The landscape has changed.”<sup>35</sup>

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<sup>34</sup> *Western Mail*, 18 August 2004.

<sup>35</sup> *BBC Wales Today* news programme, 10 September 2004.



The option of widening the Assembly's secondary legislative powers, already advocated by Rhodri Morgan as a compromise solution at the end of June, is described in 'Better Governance for Wales' in the following terms:

“One option would be to grant the Assembly enhanced Order-making powers to make new legal provision for Wales in defined fields within the responsibilities currently devolved to it, including a power to amend or repeal relevant earlier legislation in these fields. This would in effect apply the principle of framework legislatively retrospectively. Parliament would continue to be the appropriate body to pass Wales-only primary legislation outside the areas covered by these Order-making powers (for example, the proposed Bill to create an older People's Commissioner for Wales) and Sewel-type measures on an England and Wales basis. As with the ending of corporate body status, this option would require a Government of Wales (Amendment) Act. This sort of Order making powers could be extended gradually over the devolved fields, or related to specific pieces of legislation.”<sup>36</sup>

However, in the wake of Labour's conference Lord Richard said Rhodri Morgan's compromise would have great difficulty in being accepted in Westminster

“The House of Lords doesn't like 'Henry VIII' powers, which gives somebody the power to amend acts of Parliament by delegated legislation, statutory instruments - people don't like that. I think you can pretend for the sake of unity in the party before the general election that this is going to be the permanent solution. I don't think it could be permanent and you could only pretend for so long.”<sup>37</sup>

In a newspaper interview in late August, the Secretary of State Peter Hain, also appeared to rule out Rhodri Morgan's approach. As he put it:

“In the next term (after the general election), a White Paper could consider options. But there may be only one option by the time the White Paper is put together. Rhodri's option, as he has made perfectly clear, has still to be 'bottomed out'.”<sup>38</sup>

This appeared to clarify the use of the word “could” in a key passage of the ‘Better Governance for Wales’ document which states:

“The White Paper would state an intention to enhance the legislative powers of the Assembly and *could* set out the options for achieving it” (Para. 24, our emphasis).

At the time Opposition parties seized on this sentence as indicative of Labour's prevarication. However, it seems the word was deliberately inserted to allow the

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<sup>36</sup> Welsh Labour Party, *Better Governance for Wales*, Para 26, August 2004.

<sup>37</sup> BBC Wales news online, 13 September 2004.

<sup>38</sup> *Western Mail*, 18 August 2004.

eventual appearance of just one option in the promised White Paper. Certainly, this was an interpretation that would be welcomed by most of the delegates who met at Labour's special conference in Cardiff on 11 September to approve the document. On the basis of contributions from the floor a large majority favoured going for primary powers but accepted that for sake of party unity in the run up to a general election, the formula laid out in the paper was the most they could expect. As Jim Hancock, the Wales Secretary of the Transport and General Workers Union, put it:

“This document offers one small step forward. It is not the major stride forward my union and many others had been hoping for. But we know that it is all we're going to achieve at this stage, with an election looming, without having a bloody war in the party.”<sup>39</sup>

Peter Hain's apparent favouring of primary powers being the only option in the promised White Paper could reflect growing opposition in Westminster and Whitehall to Rhodri Morgan's advocacy of “Henry VIII powers”, enabling the Assembly to amend retrospectively Westminster primary legislation. Alan Trench, a constitutional lawyer working at the Constitution Unit in University College London, concluded that Morgan's proposal – made at a speech to an ESRC devolution conference in Cardiff on 23 June - made “little sense either constitutionally or politically”:

“The first problem with his compromise proposal is working out what it is. To paraphrase his speech, the idea is to use framework powers granted at Westminster not as an interim step toward full legislative powers (as the Richard report recommends), but as an end point. Such powers would look ‘backwards as well as forwards’, so the Assembly is able to reshape existing legislation as well as develop new approaches to its own timetable.”<sup>40</sup>

This suggestion could be implemented in at least two ways. The first would be to draft laws at Westminster with limited discretion for English Ministers, but only a broad set of goals for Wales, so the Assembly could develop its own distinctive approach. This idea was canvassed by the former Secretary of State for Wales, Ron Davies, and others, before devolution. However, such an approach has not worked out in practice so far. As Alan Trench points out:

“It is hard to point to even a single Act where Wales has been granted wider powers than Ministers have had for England. Instead, Westminster has legislated differentially, applying a different policy for Wales, but under the same framework of powers as for England. What Rhodri appears to want is something along the lines sketched out by Ron Davies, coupled with greater scope for the Assembly to repeal or disapply existing Westminster legislation that would obstruct that policy. These are known to lawyers as ‘Henry VIII’ powers, after a King who gave himself the power to revoke legislation that displeased him.”<sup>41</sup>

The other approach could be for the Assembly to be granted power in a new Act to legislate in certain defined areas like aspects of health or education. However, the

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<sup>39</sup> Speech to Welsh Labour Special Conference, Cardiff, 11 September 2004.

<sup>40</sup> Alan Trench, *Rhodri's Retreat*, Agenda, IWA, Summer 2004.

<sup>41</sup> *Ibid.*

moment the Assembly strayed out of the defined areas it would lose its power and the Secretary of State for Wales could stop a law going through. As Alan Trench concludes:

“Neither of these models is likely to provide a coherent, durable, stable settlement for Wales that will prevent an ongoing constitutional debate, the aim of the First Minister. Because any verbal description of fields of legislation is unclear, it will lead to ambiguity and uncertainty about legislative competence – a recipe for litigation.”<sup>42</sup>

The proposal would also, he suggests store up problems for the future when there is a non-Labour administration at Westminster. And he adds:

“There is a further factor arising from the constitutional problems of these schemes. The First Minister’s idea may make political sense within the Welsh Labour Party, but it loses any attraction it has as soon as it crosses Offa’s Dyke. In particular many in the House of Lords would find such a proposal very controversial. A bill that seeks to carve up Parliament’s powers without providing for proper accountability to a National Assembly equipped to scrutinise them would attract wide opposition. It would almost certainly attract critical responses from two important, all-party Lords Committees, the Delegated Powers and Regulatory Reform Committee and the Select Committee on the Constitution. Getting any new Wales bill through Parliament will not be straightforward, but getting a gravely defective one through, against such opposition, will be immensely hard work.”<sup>43</sup>

A different view was articulated by three members of the Law Society in Wales in the wake of Labour’s special conference. Professor Iwan Davies, Tim Jones and Jane Williams, of the Law Department at Swansea University, argued:

“Since 1999 law-making for Wales has broken with tradition in a number of ways. The Assembly’s own (subordinate) legislation, made under powers conferred by pre and post devolution Acts of Parliament, is not subject to parliamentary scrutiny at Westminster at all. Instead, by virtue of the Government of Wales Act, the Assembly’s own scrutiny arrangements apply. Those arrangements are contained in the Assembly’s Standing Orders and provide for a greater amount of scrutiny, and for a more flexible approach, than the equivalent Westminster procedures.

“The Assembly’s procedures for subordinate legislation already contain many ‘checks and balances’ on government law-making. There is no reason in principle why the systems should not continue to evolve, to accommodate more and more law-making of this kind, reaching into areas that might once have been expected to be dealt with in Westminster Bills. ‘All’ that is required is a shift in the mindset of Whitehall and Westminster, to acknowledge that the traditional objections to very wide enabling powers in primary legislation do not apply when powers are being conferred on the Assembly.

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<sup>42</sup> *Ibid.*

<sup>43</sup> *Ibid.*

This hasn't happened yet, but in 'Rhodri's law-making compromise' there is a proposal to galvanise such a change by means of a parliamentary vote, after the general election, on the general principle of framework legislation for Wales. The stage would then be set for the introduction of Westminster Bills with very wide enabling powers for Wales, leaving the lion's share of Welsh policy to be spelt out, debated and scrutinised through the process of subordinate legislation made by the Assembly.

"Later, following an amendment to the Government of Wales Act itself, the Assembly's subordinate law making powers could be extended even further, including powers to amend or repeal earlier Acts of Parliament in their application to Wales. There is nothing wrong with this sort of innovative thinking. Traditional boundaries between primary and subordinate legislation are just that: traditions. Like many traditions they tend to lag behind changes in the environment in which they are practised. And in this case the major environmental change is devolution and the existence of a democratically elected legislative Assembly."<sup>44</sup>

### ***Archbishop's Committee for 'Tomorrow's Wales'***

The Committee brought together by Dr Barry Morgan, the Archbishop of Wales, to campaign for the Richard Commission's recommendations to be implemented published an open letter to the Welsh Labour Party on the eve of its special conference. The Campaign Group, known as *Tomorrow's Wales / Cymru Yfory*, has the following membership:

- Chris Chapman, Labour AM for the Cynon Valley
- Cynog Dafis, former Plaid Cymru AM and MP
- Geraint Talfan Davies, former Controller of BBC Wales and current Chair of the IWA and the Arts Council of Wales
- Rev Aled Edwards, Assembly liaison officer for Cytun, Churches Together in Wales
- Philippa Ford, of the Chartered Society of Physiotherapists
- Mike German, Liberal Democrat Assembly Leader
- Tom Jones, chair of the Wales Council for Voluntary Action and a member of the Richard Commission
- Saleem Kidwai, chief executive of the Ethnic Business Support Programme
- Professor Kevin Morgan, who chaired the Yes for Wales Campaign in 1997
- Paul O'Shea, Welsh Secretary of Unison
- Tyrone O'Sullivan, founder of the Tower Colliery Co-operative

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<sup>44</sup> Iwan Davies, Tim Jones, and Jane Williams, 'Welsh Labour's Dilemma: Primary Powers for Wales?', *Western Mail*, 13 September 2004.

- Peter Price, a former Conservative MEP who was the Liberal Democrats' nominee on the Richard Commission Chris Ryde, chair of the Wales Association of Performing Arts
- Rev Gethin Williams, general secretary of Cytun, Churches Together in Wales

Their open letter, published in the Western Mail, describes the Richard Commission's proposals as a coherent blueprint in contrast to Rhodri Morgan's proposals for enhancing the Assembly's secondary legislative powers, known as the '13.2+ proposition' after a paragraph in the Richard Commission report. This, says the letter, is:

“... imprecise in its formulation and its practicality unproven, as even Ministers have had to concede. It runs counter to long-established principles of Parliamentary control over delegated legislation. So, it is unlikely to be adopted by Parliament without being watered down to insignificance.”<sup>45</sup>

### ***Presiding Officer Fires Warning Shot***

In early September, Presiding Officer Lord Elis-Thomas attacked a suggestion that First Minister Rhodri Morgan may be reconsidering separating the position of Counsel general, the Assembly's leading lawyer, into two posts, one advising the Assembly Government and the other the Assembly Parliamentary Service. He declared that if the First Minister resiled from this intention he would refuse to co-operate.

The suggestion that the Assembly's legal advice should be separated was prompted by Rhodri Morgan's rejection of a recommended replacement for the former Counsel General, Winston Roddick, who retired in October 2003. In late December 2003 Civil Service commissioners recommended that Gerard Elias QC, a leading Welsh criminal lawyer, should become Counsel General to the Assembly on a salary of £120,000 a year.<sup>46</sup> However, the First Minister objected because he had been a freemason and was an advisor to the Independent Supervisory Authority for Hunting. Instead, he asked that another short listed candidate be chosen, Malcolm Bishop QC, who had stood as a Labour candidate in Bath in the two 1974 general elections and had as a referee the former Lord Chancellor Lord Irvine. The Civil Service commissioners turned down this request with the result that the whole selection process had to be rethought. In March Rhodri Morgan told a plenary session that his preferred option was to separate the post into two, one advising the Assembly Government and the other the Presiding Office, now renamed as the Assembly Parliamentary Service.<sup>47</sup>

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<sup>45</sup> Western Mail, 10 September 2004.

<sup>46</sup> The interviewing panel included Baroness Prashar, the First Civil Service Commissioner, Lord Justice Thomas, a senior presiding England and Wales judge, Sir Anthony Hammond, a former Treasury solicitor, and Sir Jon Shortridge, the Permanent Secretary.

<sup>47</sup> See the previous report in this series, *End of the Corporate Body* (March 2003).

However, at the end of August the Assembly Government published a booklet, distributed to all AMs, describing the office of the Counsel General as “the final source of authoritative legal advice to the Assembly across the full range of its responsibilities.” In a statement in response Lord Elis-Thomas said:

“I was not consulted about this document and do not accept the basis on which it was produced. I am perfectly satisfied with the advice we in the Assembly Parliamentary Service receive from our own legal advisers. I was very satisfied with the selection of Gerard Elias as Counsel general, and see no reason why there should be the appointment of anyone else to the role. My understanding was that the Permanent Secretary was looking into the matter with a view to separating formally the arrangement for legal advice to the Assembly Government and to the Assembly Parliamentary Service, although I have heard nothing further recently. From the publication of this booklet it would seem that the Assembly Government intends to re-open the appointment process for a Counsel General;. If they do so, and of someone is appointed to the role, I have no intention of co-operating with them.”<sup>48</sup>

## ***Smoking Ban Committee***

An ad hoc cross-party committee to assess the impact of a ban on smoking in public places, chaired by Val Lloyd (Labour) held its inaugural meeting on 15 July. It was agreed that the committee should visit Ireland in the spring to take evidence from the implementation of the Irish ban on smoking in enclosed workplaces. A list of consultees and the consultation letter was agreed upon which invited evidence to be submitted on:

- Health risks of environmental tobacco smoke.
- The economic impact of intended restrictions.
- The impact of a ban on reducing the prevalence of smoking.
- The Human Rights arguments for smokers and non-smokers.
- The effectiveness of extractor fans and other ventilation equipment to remove tobacco fumes from the atmosphere.
- Enforcement.

During its first meeting, the committee was presented with 200 letters from Welsh doctors in support of the ban. The Welsh Secretary for the British Medical Association Dr Richard Lewis said doctors would continue to lobby the Assembly until a ban was introduced throughout Wales:

“These letters are representative of the overwhelming support among the medical profession in Wales for an end to smoking in public places.”<sup>49</sup>

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<sup>48</sup> *Western Mail*, 9 September 2004.

<sup>49</sup> *Western Mail*, 16 July 2004.

However, Jane Hutt defended the work of the committee stressing the need for a “go slow” approach and more consultation before a ban on smoking in public places was attempted.<sup>50</sup>

### ***Business Manager Attacked***

In a joint letter to the First Minister in July, the three opposition party leaders urged him to replace Karen Sinclair, the Business Minister. In a letter, they declared the Assembly was in danger of being run as an “old-fashioned county council”, expressing particular concerns about debates on Iaith Pawb (the Assembly Government’s Welsh language policy) and the First Ministers Annual Report.<sup>51</sup>

### ***Assembly Parliamentary Service Accused of Empire Building***

A decision by the Presiding Officer Lord Elis-Thomas and his deputy, John Marek, to appoint a European Union Policy Analyst based in Brussels was criticised by Wales Labour MEP Eluned Morgan. The post, which attracts a £40,000 salary, will be in addition to the briefing service that is already provided by the Assembly Government’s seven-strong team in Brussels. The Deputy Presiding Officer Dr John Marek said that it is essential the Assembly Parliamentary Service have its own adviser “to unearth secrets that might be kept from ordinary AM’s by the Assembly Government.”<sup>52</sup> Eluned Morgan called the post “a complete waste of public money” and accused the Presiding Officer and his deputy of “empire building.”<sup>53</sup>

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<sup>50</sup> *Western Mail*, 26 July 2004.

<sup>51</sup> *Western Mail*, 16 July 2004.

<sup>52</sup> *Western Mail*, 8 June 2004

<sup>53</sup> *Ibid.*

### 3. POLICY DEVELOPMENT

*Suzanne Grazier, IWA*

#### ***Health and Social Services***

Assembly members voted 36 votes to seven in favour of reducing prescription charges by £1<sup>54</sup>. The policy, which will see prescription charges cut from £6 to £5 from October, is part of the Labour manifesto commitment to abolish charges from 2007. The Minister emphasised the importance of taking a gradual approach to phasing in this new policy. Prescriptions will now be cheaper in Wales than in England, where £6 has been charged for the past four years.

An 'Orthopaedic Plan for Wales' was launched in July, setting out the long term future of orthopaedic services in Wales. Developed by the Orthopaedic Group, which includes professional advisors and consultants, the plan was commissioned by the Minister to advise on the way forward for reducing waiting lists. The core elements of the plan include:

- Managing demand
- Using capacity efficiently
- Using staff effectively
- Adding capacity
- Informing the process

As part of the strategy, the Minister has committed £10 million for schemes in south-east Wales where waiting lists are the longest. A further £5 million has been announced to develop services in mid and west Wales. The next phase, to improve services in north Wales, will receive a further £5 million<sup>55</sup>.

Following the announcement in May of the provision of £5.3 million for NHS dentistry, the Minister outlined where the first £1.5 million is to be allocated. The first £550,000 will go directly to dentists, distributed through the Local Health Boards. Six Local Health Boards where access to dentistry has been most difficult, namely Ceredigion, Gwynedd, Merthyr Tydfil, Flintshire, Carmarthenshire and Pembrokeshire, will then share a further £510,000. The remaining £440,000 will be shared between Local Health Boards to support them with dental changes. In addition to the provision of £5.3 million, the Minister announced funding for nine new dental training places in Cardiff. This will take the total number of undergraduate places for the September 2004 intake to 64<sup>56</sup>.

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<sup>54</sup> *Assembly Record*, 23 June 2004

<sup>55</sup> *The Western Mail*, 15 July 2004

<sup>56</sup> *The Western Mail*, 3 August 2004



## **Economic Development and Transport**

The Digital Technium at Swansea University, which is part of the £150 million Technium roll-out in Wales, officially opened in June. The Minister announced that Vishay Siliconix, one of the world's leading suppliers of niche semiconductor products, will be basing its UK development centre in the Digital Technium.

The Minister announced the provision of £260,000 to support Stagecoach's 'Kick-start' Bus Improvement Scheme in Caerphilly. This three-year pilot scheme, due to begin in November 2004, will see the introduction of fourteen new buses which will operate on two routes within the area. All new buses will have low floors making the service more accessible to the elderly and less mobile.

## **Education and Lifelong Learning**

The National Assembly passed regulations that will allow classroom assistants to teach<sup>57</sup>. Although headteachers currently have flexibility in how they deploy their support staff, these regulations will provide a framework with clear conditions on the extent of responsibility support staff should be given. Designed to tackle the issue of teachers' workloads, the regulations do not make it compulsory for support staff to teach, or for a school to employ High Level Teaching Assistants. Any teaching by support staff must be to assist or support a teacher, and must also meet the head teacher's approval.

All qualified Further Education lecturers will be placed on a new six point pay scale from 2004-05, bringing their pay into parity with school teachers. This follows a commitment by the Minister in 2002 to address low pay in this sector. The package, funded by ELWa, means that full-time lecturers will receive an average pay increase of 4.5 per cent.

Following consultation with experts and young people, the 'Learning Pathways 14-19 Guidance' was published in July. The report contains detailed guidance of how the Assembly Government goal that 95 per cent of young people by the age of 25 will be ready for high skilled employment or higher education by 2015, will be achieved.

ELWa presented its paper '*The Development of the National Planning Framework and Funding System for Post-16 Education and Training*' to the Education and Lifelong Learning Committee in July. The aim of the new system is to create a unified and integrated post-16 planning and funding system. ELWa sets out its plans to abolish the current 'post code lottery' of funding for post-16 learning, with a single formula being introduced. The new funding system will be introduced in August 2005 following a dual-running year. The paper also details new arrangements for planning with the creation of local pathfinders. In working with learning providers, local authorities, employers, CCETs and 14-19 networks, the establishment of local

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<sup>57</sup> Assembly Record, 6 July 2004

pathfinders should enable planning to become better focused on the needs of learners and employers.

## ***Culture, Language and Sport***

A Consultation document on the establishment of a Fforwm Iaith has been launched. This is following the joint report *Our Language: Its Future* (2002) from the Culture, Welsh Language and Sport, and Education and Lifelong Learning Committees. This report identified a desire by several organisations for the establishment of a Language Forum. It is anticipated this would increase coordination between different Welsh language activities across Wales. The Minister is seeking views on whether a Forum is needed, in addition to consulting over the proposals set out in the consultation document. The consultation period ended on 10 September.

The Iaith Pawb Annual Report, published in July, detailed progress made in promoting and sustaining the Welsh language. The report concludes that significant progress has been made towards creating a bilingual Wales. In reviewing the Welsh Assembly Government's progress in implementing its own Welsh Language Scheme, the report concludes that performance was generally good with corporate identity overwhelmingly bilingual.

The Minister announced funding of £279,150 for essential repairs and restoration work to nine historic buildings. The grants, which range from £3,900 to £80,000, have been awarded as follows<sup>58</sup>:

- Powys Castle: £81, 900
- Castle Green House, Cardigan Castle: £60,000
- St Paul's Church, Sketty: £45,250
- Melin Y Bont, Isle of Anglesey: £40,000
- 16-37 Perrots Terrace, Haverfordwest: £22,500
- Town Clock, Machynlleth: £12,500
- Blaenavon Evangelical Church: £8,000
- High Glanau, Monmouthshire: £5,100
- Llannerch Hall, Denbighshire: £3,900

Cadw has assessed all projects, and awards are made on the recommendations of the Historic Building Council for Wales.

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<sup>58</sup> Assembly Government *Press Release*, 2 August 2004.

## ***Environment and Rural Affairs***

A public consultation on strategic options for the National Scrapie Plan was launched in July. Involving a programme of breeding for genetic resistance, the plan encourages flock owners to breed from and use scrapie resistant sheep. EU requirements make the introduction of a genotype based breeding programme compulsory by April 2005. The consultation therefore, provides an opportunity to review and evaluate the plan and further consider how the EU requirements can be implemented. The consultation period ends in October 2004.

Following public consultation on CAP reform measures, the Minister announced that the Assembly Government will introduce an entry-level agri-environment scheme for farmers known as Tir Cynnal. The scheme will provide opportunities for farmers to undertake positive agri-environment action, as participants will be required to follow a set of environment actions on their land. The target is to bring 60 per cent of agricultural land that is not in an agri-environment scheme into Tir Cynnal within five years. It is estimated that Tir Cynnal will cost £20 million a year once fully adopted, and will be funded jointly by the Treasury, and through modulation of CAP payments to farmers<sup>59</sup>.

The Minister announced funding of £100,000 for phase two of 'Wise about Waste', the Assembly's public sector waste minimisation strategy. The second phase involves:

- Providing an online resources pack to be accessible by all public sector groups.
- Devising a training programme to increase public sector awareness of waste minimisation.
- Creating a new award for 'Sustainable Waste Management in the Public Sector'<sup>60</sup>.

The strategy sets a target for each public sector body to reduce its waste by at least 5 per cent by 2005.

## ***Local Government and Public Services***

The results of the consultation on 'The Balance of Local Authority Funding in Wales' have been published. The consultation, to which 47 responses were received, was launched to consider the funding of local government in Wales. Currently 19 per cent is raised through council tax, and 81 per cent provided by central government. The Assembly Government's response has been submitted to the Office of the Deputy Prime Minister. Among the recommendations include a reform of the Council Tax benefit system.

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<sup>59</sup> Assembly Government *Press Release*, 14 July 2004

<sup>60</sup> The award will be presented at the Environment Awards on 4 November.

## ***Social Justice and Regeneration***

The 'All Wales Youth Offending Strategy' was launched by the Minister in July. Designed to prevent children and young people offending and re-offending, the strategy is the result of collaboration between the Assembly Government, the Youth Justice Board, and local agencies. The strategy resolves to provide programmes that divert children and young people at risk of offending away from offending behaviour, and to create community-based alternatives to custody where appropriate.

The Minister announced that funding for the Royal National Institute for the Blind Cymru's Accessible Housing Project will be extended for a further three years, representing an investment of £224,604<sup>61</sup>. The project, which has been running for the past two years, is working towards ensuring blind people in Wales have their homes adapted to help them live independently.

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<sup>61</sup> Assembly Government *Press Release*, 9 July 2004

## 4. FINANCE

*Professor James Foreman-Peck*

### ***Spending Review Settlement***

One of a minister's top priority's is to fight for their departments budget. Sue Essex then is surely happy with the outcome of the Chancellor's Spending Review. She announced that the Assembly Government's budget will rise by an average of 4 per cent in real terms, with an increase totalling £2.5 billion extra by 2007-8.<sup>62</sup> Treasury figures show the nominal budget for Wales rising by 4.5 per cent annually, higher than the increase for Scotland of 3.5 percent and the 4.2 percent in this category of spending as a whole<sup>63</sup>. This settlement does indeed seem generous.

Part of the explanation is that a portion of the British government spending outside the block grant (debt service that constitutes the Assembly's income) is actually falling. As the UK government boasts, debt service, social security and tax credits account for a declining proportion of their total spending, thanks to their prudent management of the economy.<sup>64</sup>

There is an irony here between the contrasting style of government that allow this largesse to Wales and the style practised within Wales. Low debt service charges and an economy growing for the longest sustained period in recent years stem from the decision to abandon direct government control of the Bank of England. This is not just the British government's view but a general consensus of economists throughout the world. The monetary policy that has delivered these benefits is determined by an unelected committee - precisely the type of quango that Rhodri Morgan in July boasted of putting on the bonfire. The creditable UK economic performance has also depended upon a determination to prevent government borrowing rising excessively by following two principles:

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<sup>62</sup> Assembly Government Press Release 'Another Record Deal for Wales' 12 July 2004. However, there seems to be a divergence of opinion as to whether this £2.5 billion includes the more than half a billion for Objective 1 matching or not. Chapter 23, p.173 of the *Spending Review* states that it does. The Assembly Government press release states that it does not: "The Assembly Government's budget will increase by an average of 4 per cent in real terms, with an increase of £2.5 billion extra in 2007-8. Furthermore, Wales will benefit from an extra £555 million from the Chancellor to support the delivery of our structural funds programmes." Possibly the explanation is in the enigmatic footnote to table 23.3 of the *Spending Review* "The Wales ..baselines shown above for 2004-05 and 2005-06 exclude the above Barnett formula additions of £106 million a year for Objective 1 in Wales .... These figures are however in spending plans for these years.'

<sup>63</sup> H M Treasury *Spending Review 2004* Table 1.2

<sup>64</sup> H M Treasury *Spending Review 2004*

[http://www.hm-treasury.gov.uk/media//C6EDA/sr2004\\_ch1.pdf](http://www.hm-treasury.gov.uk/media//C6EDA/sr2004_ch1.pdf)

1. The 'golden rule' of no net borrowing over the economic cycle for current spending.
2. Keeping borrowing incurred for investment below 40 percent of GDP.

In turn these restraints require at least 2.5 percent per year public sector efficiency gains, as outlined by Sir Peter Gershon's review.<sup>65</sup> The Gershon proposals also require a gross reduction of over 84,000 posts in the Civil Service. By contrast the government rhetoric in Wales continues to be about job creation and more democratic accountability.

### ***Regional Selective Assistance***

In June Andrew Davies AM, Minister for Economic Development and Transport, re-launched the RSA discretionary capital grant scheme.<sup>66</sup> RSA Cymru Wales, as it is now known, supposedly will create and safeguard jobs in the Assisted Areas of Wales more effectively. It will do so by directly supporting the Welsh Assembly Government strategy of 'encouraging innovation, research and development and high value added project opportunities'. Is this rebranding of Regional Selective Assistance (RSA) a triumph for evidence-based policy?

The Economic Research Unit of the Welsh Assembly had already found that both at Welsh and UK levels, over the period 1990-98 non-RSA assisted plants tended to exhibit faster productivity growth. The latest work on the official website now shows that productivity in Wales on average is the same as elsewhere in the UK.<sup>67</sup> However, higher productivity is associated with *not* being in an assisted area and/or having received RSA. Since to maintain the international competitiveness necessary to provide jobs, Welsh industry needs high and increasing productivity, RSA appears to have been found wanting. Hence, perhaps, the Davies initiative.

On the other hand RSA's immediate objective was jobs, not productivity. Indeed, without increases in outputs, higher productivity means fewer jobs. So it is not so surprising that RSA has apparently not delivered greater productivity. Instead, if official numbers are accepted, between 1971 and 2001 RSA in Wales 'created and safeguarded' about one third of today's total employment.

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<sup>65</sup> *Releasing Resources to the Frontline: Independent Review of Public Sector Efficiency*, July 2004.

<sup>66</sup> Assembly Government press release June 15 2004 *RSA Cymru Wales – "Building on success"*

<sup>67</sup> <http://www.wales.gov.uk/subiresearch/content/eru/projects/productivity-growth-e.htm>

## ***Welsh Development Agency's Record***

On top of this the Welsh Development Agency was also busy 'creating and safeguarding' apparently on a much larger scale. Indeed if WDA's own figures are to be believed, the announcement of their absorption by the Assembly Government was certainly not an instance of evidence-based policy. For in each of the last five years the WDA created and safeguarded more jobs than in the last. In the last full financial year the total was double that of 2001-2, and over the quinquennium WDA claimed credit for 153,000 jobs. This was approaching to the sum of all Welsh manufacturing employment!<sup>68</sup>

In his statement of 14 July Rhodri Morgan's made no reference to WDA's past effectiveness. Instead he stated that Wales was too small a country to have an Assembly and so many unelected quango boards. Carwyn Jones, Minister for Planning and Rural Affairs, pointed out that ministers take the blame when bodies like the WDA are unpopular so these bodies may as well be bought under direct ministerial control.<sup>69</sup>

The clue to the policy motivation could be the statement that "The change will streamline structures and processes, simplify decision-making..." The Treasury Spending Review alludes to efficiency savings that the Assembly Government is examining in line with the Gershon recommendations. The likelihood is that streamlining quangos has been chosen as politically the least painful means of reducing state spending on administration. So, the difference in government styles is less than appears when it comes to job cuts, but the question of effectiveness remains.

For those looking for work, the democratic accountability from burning quangos will usually be a less pressing concern than the number of suitable job vacancies. There is no reason to suppose that greater effectiveness in employment creation will be achieved by turning quangos into government departments. Rhodri Morgan blames the strength of the pound in recent years as the single biggest cause of Wales economic problems, pricing Welsh manufactured goods out of world markets.<sup>70</sup> But greater productivity would offset such adverse exchange rate movements. Like happiness, employment creation is best achieved indirectly. Greater productivity can mean more sales and therefore an expansion of jobs.

If productivity is recognised as the principal challenge, then the objectives of RSA and WDA need to be refocussed and adequate budgetary, appraisal and evaluation controls put in place. Simply integrating WDA into the civil service fails to address the problem. Taking the experience of monetary policy administration as a guide, we must also conclude that relaunching RSA while keeping it in the civil service is unlikely to be much more effective.

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<sup>68</sup> [http://www.wda.co.uk/resources/A3\\_Main\\_AR2004\\_E.pdf](http://www.wda.co.uk/resources/A3_Main_AR2004_E.pdf)

<sup>69</sup> 'Bringing All the Quangos into (Democratic) Line' *Cowbridge Gem* 2 September 2004 p.8.

<sup>70</sup> Stephen Cook 'Saving Wales' *Management Today*, 1 September 2004.

## 5. THE LEGISLATIVE PROCESS

*Sarah Beasley, Cardiff Law School*

### ***Draft Bills in Parliament Conferring Functions on the Assembly***

#### **Draft Animal Welfare Bill<sup>71</sup>**

All regulation and order-making powers in this Bill are to be exercised by the National Assembly in Wales. Published on 14 July 2004, the draft is currently being considered by the Environment, Food and Rural Affairs Committee in Westminster, who started taking oral evidence from relevant parties in September. The purpose of Bill, as set out by the Committee, is to

“... clarify the offence of cruelty to animals and strengthen and amend offences relating to animal fighting. It would also introduce a duty of care, whereby a keeper of an animal would commit an offence if he or she failed to take reasonable steps to ensure the animal’s welfare. This is intended to bring the protection for companion animals into line with the level of protection currently given to farm animals. The draft Bill also proposes to ban all mutilations unless they can be justified.”

#### **Draft Transport (Wales) Bill**

Following the recommendation in the report of the Procedure Committee of the House of Commons, ‘Joint Activities with the National Assembly for Wales’, the Assembly Economic Development and Transport Committee has undertaken a scrutiny of the Draft Transport (Wales) Bill jointly with the Welsh Affairs Committee of the House of Commons. Joint evidence was taken both at the National Assembly in Cardiff and in the House of Commons

The Assembly’s Report on the Draft Transport (Wales) Bill<sup>72</sup> was published in July 2004. The main conclusions and recommendations are summarised below:

#### **“General comments**

We recommend that the UK Government brings forward its timetable for the publication of Wales-only draft Bills so that the Assembly and the Welsh Affairs Committee may in future be given a suitable period of time in which to undertake pre-legislative scrutiny.

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<sup>71</sup> Cm 6252

<sup>72</sup> ISBN 0 7504 3472 4



*Clause 1. General transport duty*

We recommend that a duty to have regard to sustainable development be included in the General transport duty.

We recommend that Clause 1(3) of the draft Bill be amended to refer also to cyclists.

*Clause 2. Wales transport strategy*

We welcome proposals to enable the National Assembly to establish a Wales Transport Strategy. We recommend that Clause 2(5) of the Bill be amended to place a duty on the National Assembly to consult Welsh local authorities and English local authorities whose boundaries lie adjacent to the Welsh border, in addition to “any persons it considers appropriate” in the preparation of the Wales Transport Strategy.

*Clause 3. Local transport plans*

Local transport plans will play an integral part in delivering the Welsh Transport Strategy. Therefore it is appropriate for the National Assembly to have some control over their content. However, the powers of approval to be conferred on the National Assembly need to be accompanied by an active duty to take a partnership approach to plans.

*Clause 5. Joint transport authorities*

The proposals to establish joint transport authorities will offer the potential to implement the Wales Transport Strategy at a regional level. For that reason we welcome the proposals. We recommend that Clause 5(4)(a) be reworded to make it a requirement that the majority of members of joint transport authorities must be appointed by the local authorities.

*Clause 7. Provision of public transport services*

We recommend that the UK Government sets out any impact the School Transport Bill is likely to have on this clause.

*Clause 8. Rail Passengers’ Committees*

We support the proposal for the National Assembly to have the power to appoint the Chair of the Rail Passengers’ Committee for Wales. We recommend that the UK Government includes provisions in the Bill to ensure the independence of the Rail Passengers’ Committee. We recommend that the UK Government includes in the Bill the necessary powers to establish a public transport passengers’ committee for Wales.

*Clause 9. Power to give directions etc to the Strategic Rail Authority*

We recommend that the Bill should include a statutory duty for the Strategic Rail Authority to consult the National Assembly on its activities, as they affect Wales. We further recommend that the UK Government seeks to enhance the influence of the National Assembly over inter-city and cross-country services in Wales.

We consider it important that the Strategic Rail Authority should establish and maintain an office in Wales and we therefore recommend that the Bill is amended to include such a requirement. We are aware that the Draft Transport (Wales) Bill

may well need to be amended in the light of the UK Government's Rail Review. If this proves to be necessary, we recommend that Ministers use the opportunity to give the National Assembly the broadest appropriate range of powers in the field of rail transport, including a role in determining priorities for investment in railway infrastructure in Wales and in England where this impacts on rail services in Wales.

We recommend that the UK Government include in the explanatory notes to the Bill, a clear description of the working relationship between Network Rail and the National Assembly and any obligations on Network Rail resulting from the Transport (Wales) Bill.

Clause 9(6) reflects the need for the Secretary of State to hold the final authority on the priorities of the UK rail network. It is included in the Bill to ensure that the policies of the National Assembly do not adversely impact on rail services in England. It raises the question of the influence that can be exerted by the National Assembly over a rail service in England that adversely impacts upon Wales. We seek an assurance from the UK Government that in having regard for the protection of English rail services, the Bill can be amended to offer a similar protection to rail Services in Wales.

We further recommend that Clause 9(6) is amended so that the Secretary of State cannot by Order exclude rail services starting and ending in Wales.

*Clause 11. Financial assistance: air transport services*

We welcome the provision in the draft Bill to grant the National Assembly the power to give financial assistance to people providing air transport or airport services. We recommend that the UK Government sets out clearly what resources, if any, will be transferred to the National Assembly as a result of this clause.

**Other Issues:**

*Traffic Commissioner for Wales*

Easy access to the Traffic Commissioner for Wales is an important factor in the development of a Wales Transport Strategy. Whilst we commend the work of the current Traffic Commissioner, we believe that Wales would be better served if he were to be located in Wales. We recommend that the UK Government consider relocating the Traffic Commissioner for the Welsh Traffic Area from Birmingham to Cardiff. Should that not be possible, we believe that some of the Traffic Commissioner's staff should be based in Wales.

*Bus franchising*

We recommend that Ministers should consider whether the Assembly needs further powers over the provision of bus services in Wales. Any necessary changes to existing primary legislation should be included in the Transport (Wales) Bill.”

## ***Progress of Bills in Parliament Conferring Functions on the Assembly***

The following Bills received Royal Assent prior to Parliament's summer recess:

- Carers (Equal Opportunities) Bill - 22 July 2004;
- Fire and Rescue Services Bill –22 July 2004;
- Higher Education Bill – 1 July 2004.

### **Children Bill**

This Bill passed third reading in the Lords on 15 July 2004, and was brought to the Commons for the relevant stages on 19 July 2004.

### **Civil Contingencies Bill**

This Bill passed Committee stage in the House of Lords on 21 July 2004. It is now awaiting further stages through the House.

### **Housing Bill**

The Bill was considered in a Committee of the House of Lords on 21 July 2004. Currently it is still under consideration.

### **Human Tissue Bill**

Originally published on 3 December 2003, this is a Bill to provide a legislative framework for issues relating to whole body donation and the taking, storage and use of human organs and tissue. The Bill deals mainly with reserved matters, and as such will operate on an England and Wales basis. However, as some provisions may have an effect on the NHS and other issues in Wales for which the Assembly is responsible, the Bill includes powers for the Assembly to appoint a member to the Human Tissue Authority (HTA). The HTA is established under Part II of the Bill, with responsibilities covering removal, storage, use and disposal of human material. This Bill was agreed to in Grand Committee on 22 July 2004 and is now awaiting the remaining stages in the Lords.

### **Public Audit (Wales) Bill**

This Bill was agreed to on third reading in the Commons on 19 July 2004 and was returned on 20 July 2004.

## ***Legislative Activity within the Assembly***

### *The National Health Service (Charges for Drugs and Appliances) (Wales) (Amendment) Regulations 2004*

These regulations, agreed to in plenary on 23 June 2004, amend the charges for, amongst other matters, prescriptions for out-patients from £6 to £5 per prescription as of 1 October 2004.

### *Subordinate Legislation Produced by the National Assembly*

- The Conduct of Members (Model Code of Conduct) (Wales) (Amendment) (No2) Order 2004
- The Local Elections (Declaration of Acceptance of Office) and Welsh Forms (Wales) Order 2004
- The Local Government (Whole Authority Analyses and Improvement Plans)(Wales) (Amendment) Order 2004
- The School Organisation Proposals by the National Council for Education and Training for Wales Regulations 2004
- The Road Traffic (Permitted Parking Area and Special Parking Area) (County of Denbighshire) Order 2004
- The Farm Waste Grant (Nitrate Vulnerable Zones) (Wales) Scheme 2004
- The Dyfed Powys Health Authority and Gwent Health Authority (Transfer of Trust Property) Order 2004
- The Wales Centre for Health (Constitution, Membership and Procedures) Regulations 2004
- The Designation of Schools Having a Religious Character and Amendments (Wales) Order 2004
- The Environmental Assessment of Plans and Programmes (Wales) Regulations 2004
- The National Health Service (Optical Charges and Payments) (Amendment) (Wales) Regulations 2004
- The Wales Centre for Health (Constitution, Membership and Procedures) Regulations 2004
- The Care Standards Act 2000 (Commencement No. 20) Order 2004
- The Feeding Stuffs, the Feeding Stuffs (Sampling and Analysis) and the Feeding Stuffs (Enforcement) (Amendment) (Wales) Regulations 2004
- The Care Standards Act 2000 (Commencement No. 14) (Wales) Order 2004
- The Children (Leaving Care) (Amendment) (Wales) Regulations 2004
- The Animal Gatherings (Wales) Order 2004
- The Wildlife and Countryside Act 1981 (Amendment) (Wales) Regulations 2004
- The Education Act 2002 (Transitional Provisions and Consequential Amendments) (Wales) Regulations 2004
- The Housing (Right to Buy) (Priority of Charges) (Wales) Order 2004
- The General Teaching Council for Wales (Functions) (Amendment) Regulations 2004
- The Education (Specified Work and Registration) (Wales) Regulations 2004
- The Education (School Teachers' Qualifications) (Wales) Regulations 2004
- The School Teachers (Consequential Amendments) (Wales) Regulations 2004
- The Adult Placement Schemes (Wales) Regulations 2004

- The Education (School Information) (Wales) (Amendment) Regulations 2004
- The School Governors' Annual Reports (Wales) (Amendment) Regulations 2004
- The Home Loss Payments (Prescribed Amounts) (Wales) Regulations 2004
- The Health and Social Care Act 2001 (Commencement No7) (Wales) Order 2004
- The Community Care, Services for Carers and Children's Services (Direct Payments) (Wales) Regulations 2004
- The Education (Pupil Exclusions and Appeals) (Miscellaneous Amendments) (Wales) Regulations 2004
- The Planning and Compulsory Purchase Act 2004 (Commencement No. 1 and Transitional Provision) (Wales) Order 2004
- The Street Works (Inspection Fees) (Amendment) (Wales) Regulations 2004
- The Education (Assisted Places) (Incidental Expenses) (Amendment) (Wales) Regulations 2004
- The Education (Assisted Places) (Amendment) (Wales) Regulations 2004
- The Food (Emergency Control) (Wales) (Miscellaneous Amendments) (No 2) Regulations 2004
- The Planning and Compulsory Purchase Act 2004 (Commencement No. 2) (Wales) Order 2004
- The Welsh Development Agency (Financial Limit) Order 2004
- The General Medical Services (Transitional Measure Relating to Non-Clinical Partners) (Wales) Order 2004
- The Bus Service Operators Grant (Amendment) (Wales) Regulations 2004

## 6. RELATIONS WITH WESTMINSTER AND WHITEHALL

*Alexander Still, IWA*

### ***Welsh Affairs Committee Report On Children's Commissioner***

On the 29 July the Welsh Affairs Select Committee published its Report on the Powers for the Children's Commissioner for Wales. This was an investigation into the claims by Peter Clarke, Children's Commissioner for Wales, that the creation of a similar position for England having authority in Wales on non-devolved powers, would undermine his authority and confuse children. The findings of the Select Committee substantiated his claims. It declared that "the Government's approach to devolution on this issue has fallen short of what we would expect", and suggested the Welsh Secretary had failed to push Wales onto Labour's agenda.<sup>73</sup>

Following the appointment of Peter Clarke in 2001 and then Professor Kathleen Marshall and Nigel Williams in Scotland and Northern Ireland in 2003, it was decided that England should receive a similar post. The difference would be in the range and scope of powers conferred on the English Commissioner who would also have authority in areas of power *not* devolved to Edinburgh, Cardiff or Belfast.

This potential conflict of powers and duality of authority in Wales caused concern amongst a significant number of Welsh MPs. In January 2004 the Welsh Affairs Select Committee published its report *The Empowerment of Children and Young People in Wales*. This recommended that the Government extended the remit and powers of the Children's Commissioner for Wales to include non-devolved matters.<sup>74</sup> Nonetheless, the Government proceeded in March to introduce the Children's Bill into the House of Commons containing 'provisions to establish a Children's Commissioner for England whose remit would include non-devolved matters in Wales.'<sup>75</sup>

These plans also concerned Clarke himself. He is currently only able to deal with areas in which power has been devolved to Cardiff, such as in health and education. Clarke raised the fear that children would potentially be confused over to whom to turn over important matters.<sup>76</sup> The creation of a Commissioner for England with responsibility for non-devolved areas in Wales could undermine his position. As a result he hoped that:

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<sup>73</sup> 'Government leaves Wales on the margins, *Western Mail*, 29 July 2004; report available at: <http://www.publications.parliament.uk/pa/cm200304/cmselect/cmwelaf/538/538.pdf>

<sup>74</sup> Report on the Empowerment of Children and Young People in Wales, Welsh Affairs Select Committee, 15 January 2004.

<sup>75</sup> Report on the Powers of the Children's Commissioner for Wales, Welsh Affairs Select Committee, 29 July 2004.

<sup>76</sup> 'Child commissioner fear over role', *BBC News Online*, 3 March 2004.

“The new Children’s Bill would be an opportunity to extend his power in protecting children’s rights across a number of areas.”<sup>77</sup>

However, the Select Committee report recognises that the Westminster Government may not move on this issue and makes a number of recommendations should this be the case. These can be summarised as follows:

- The Welsh commissioner should be given the same powers as his English counterpart to instigate inquiries in order to ensure the effective functioning of his position.
- The fact that the English commissioner is responsible to the Home Office may undermine his or her independence and integrity.
- The remit of the Children’s Commissioner for Wales should be extended to cover all aspects of a child’s life. If not, then clear lines of authority and divisions of power need to be drawn between both Welsh and English positions.
- The Government’s failed to consult with the Welsh commissioner in coming to its views.
- In Wales, the introduction of a Children’s Commissioner has had a positive impact on children’s lives.
- Should the English commissioner be made responsible for non-devolved areas of power in Wales, then he or she should have proportionate and appropriate resources to do so.
- The English commissioner’s lack of a physical presence in Wales may cause a problem and become a source of confusion for children.
- The Government must enter discussions with the Bwrdd yr Iaith (Welsh Language Board) so that arrangements can be made for adequate provision of Welsh language facilities for Welsh-speaking children in areas where dealing with the English commissioner.

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<sup>77</sup> Ibid.

## 7. RELATIONS WITH EUROPE

*Suzanne Grazier, IWA*

### **Structural Funds Report**

*European Union Structural Funding: Progress on Securing Benefits for Wales*, a National Audit Office Wales report evaluating the work of Wales European Funding Office, was published in July. It says the Office has made significant progress in simplifying and shortening the process of appraising projects. It has also been successful in meeting its spending targets. As a result an additional £65 million will be available, while funds (which could have been as much as £40 million) will not be withdrawn. At the same time, WEFO had difficulties meeting its spending targets due to the following factors:

- A decline in the exchange rate between the pound and the euro which effectively increased the spending target.
- Delays in receiving grant claims.
- Projects spending less than they forecast.
- A shortage of suitable projects in some parts of the programmes.

To achieve its spending targets, ‘special measures’ had to be taken by WEFO, including:

- Paying £34 million for projects that had already taken place.
- Giving an extra £9 million to existing projects.
- Bringing forward £14 million by asking projects to submit monthly rather than quarterly claims for October and November 2003.

Although spending targets were met, the Auditor General for Wales, Sir John Bourn warned that there would be less scope to use such special measures in the future. He stressed that Wales European Funding Office:

“... must be careful to reach its targets in the coming years so that it does not miss out unnecessarily, but also it must prepare in good time for the next round of funding.”<sup>78</sup>

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<sup>78</sup> Auditor General Press Release, 8 July 2004.



## ***Structural Funds Post 2006***

The European Commission published its proposals for the new regional aid system post 2006. It has proposed that temporary support be given to those regions where per capita GDP would have been below 75 per cent of the European Union average of 15 member states. If proposals are agreed, these regions, of which Wales is one, would receive a decreasing allocation of aid, which would end in 2013. Jan Royall, Head of the European Commission in Wales said the proposal:

“... would ensure that the funding tap would not be turned off overnight and would give Wales the opportunity to continue to make good use of the European funding that it has received so far.”<sup>79</sup>

The proposals, which will only be adopted if agreed by national governments, will now be negotiated over the next 12 to 18 months.

## ***European Regional Government Networks***

The Cabinet Sub-Committee on Sustainable Development and Spatial Plan requested a list of European Regional Government Networks with which the Assembly Government is involved. The following networks were listed:

- **Network of Regions for Sustainable Development:** promotes sustainable development at the regional level and share information and best practice.
- **Conference of Peripheral and Maritime Regions:** represents the collective interests of peripheral regions in spheres such as regional policy, agriculture, fisheries, transport and the environment.
- **Regions with Legislative Power:** brings together regions with legislative power from across Europe, with the aim of enhancing their role within the European decision making process.
- **European Association of Regional and Local Authorities for Lifelong Learning:** gives members the opportunity to discuss developments in the field of Lifelong Learning, so as to learn from one another experiences and best practice examples.
- **Teleregions Network:** focuses on information society initiatives and policies in support of regional development.
- **Four Motor Regions:** considers economic development, science and innovation issues.
- **Regions for Health Network:** supports the development of policies and strategies for improving health at a regional level through collaboration and exchanging best practice.
- **Committee of the Regions:** brings together representatives from regional and local government across Europe, to discuss and draft opinions on draft

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<sup>79</sup> *Western Mail*, 17 July 2004.

European legislation and other initiatives likely to have an effect at the regional level.

## 8. RELATIONS WITH LOCAL GOVERNMENT

*Alexander Still, IWA*

### ***New Political Control of the Welsh Unitary Authorities***

As a result of the 10 June elections, the party political make-up of the 22 Welsh unitary authorities underwent fundamental change. Wales is no longer the Labour monolith that it had been for much of the twentieth century. Approach half of them are now governed by a coalition of parties, ranging from a Labour-Liberal-Independent alliance outweighing Plaid Cymru in Ceredigion, to a Conservative-Plaid Cymru-Independent alliance against Labour in the Vale of Glamorgan. A detailed county by county analysis (summarised in Table 1) is as follows

**BLAENAU GWENT** As expected, Labour remain in control of Wales' most deprived unitary authority (31 seats), with Independents (eight seats) and the Liberal Democrats (three seats) coming a distant second and third place respectively. Plaid Cymru put on a poor showing while this was one of five Welsh unitary authorities where the Conservatives did not even bother fielding candidates.

**BRIDGEND** Although the largest single party, Labour are still comfortably outnumbered 29-22 by a Liberal Democrat-Conservative-Independent coalition. Plaid Cymru continued their poor performance in south Wales by taking only one ward, although this was, perhaps significantly, the post-industrial Valleys town of Ogmere Vale. The small cabinet is subsequently made up of three Lib-Dems, two Tories, and one Independent.

**CAERPHILLY** Labour regained control of this seat with 39 seats from Plaid Cymru which managed to hold on to 26 seats. Though losing control, Plaid did better here than other Valley areas where it had been successful in 1999, in particular the Rhondda. Independents won eight seats on the council, while both the Conservatives and Liberal Democrats performed relatively poorly.

**CARDIFF** The Liberal Democrats made a large gain in becoming the largest party, with 33 seats to Labour's 27. It won every ward within the Cardiff Central constituency, thereby improving its chance at next year's general election. It now rules as the only minority administration in Welsh local government. The Conservatives came a distant third place and claimed 12 seats, mostly in the middle-class wards that constitute the Cardiff North constituency of Julie Morgan. Plaid Cymru performed reasonably well, surprisingly capturing one of their three seats in the multicultural Riverside ward. However, much of the nationalist vote is likely to have derived from the city's small but powerful Welsh-speaking bureaucratic and media class (again, many of whom reside within the Cardiff North boundaries). The Liberal Democrats have had to resort to forming a minority government, with the Tories in particular refusing to enter any form of governing coalition with them to form an anti-Labour alliance.

**Table 1: Control of Welsh Local Authorities**

<b>Council</b>	<b>Party Breakdown</b>	<b>Cabinet Breakdown</b>	<b>Leader (Affiliation)</b>
<b>Blaenau Gwent</b>	Labour (31) Independent (8) Lib Dems (3)	<b>Labour Control</b>	Dr. John Jones Hopkins (Labour)
<b>Bridgend</b>	Labour (22) Lib Dems (13) Independent (10) Conservative (8) Plaid Cymru (1)	<b>Coalition</b> Lib Dems (3) Conservatives (2) Independent (1)	Cheryl Green (Liberal Democrats)
<b>Caerphilly</b>	Labour (39) Plaid Cymru (26) Independent (8)	<b>Labour Control</b>	Harry Andrews (Labour)
<b>Cardiff</b>	Lib Dems (33) Labour (27) Conservative (12) Plaid Cymru (3)	<b>Lib Dem Minority Government</b>	Rodney Berman (Liberal Democrats)
<b>Carmarthenshire</b>	Independent (31) Labour (25) Plaid Cymru (16) Conservative (1) Non-Aligned (1)	<b>Coalition</b> Independent (6) Labour (4)	Meryl Gravell (Independent)
<b>Ceredigion</b>	Independent (16) Plaid Cymru (16) Lib Dems (9) Labour (1)	<b>Coalition</b> Independent (5) Liberal Dems (2) Labour (1)	David Lloyd Evans (Independent)
<b>Conwy</b>	Independents (19) Conservative (12) Labour (12) Plaid Cymru (9) Lib Dems (6)	<b>Coalition</b> Independents (4) Conservative (3) Plaid Cymru (2) Liberal Dems (1)	Emlyn Davies (Independent)
<b>Denbighshire</b>	Independents (19) Conservative (8) Labour (8) Plaid Cymru (7) Dem. Alliance (3) Lib Dems (2)	<b>Coalition</b> Independent (5) Conservative (3) Plaid Cymru (1) Dem. Alliance (1)	Rhiannon Hughes (Independent)
<b>Flintshire</b>	Labour (37) Independents (17) Lib Dems (10) Conservative (4) Plaid Cymru (1) Non-Aligned (1)	<b>Labour Control</b>	Alex Aldridge (Labour)
<b>Gwynedd</b>	Plaid Cymru (42) Independents (12) Labour (10) Lib Dems (6) Non-Aligned (5)	<b>Plaid Cymru Control</b>	Richard Parry Hughes (Plaid Cymru)
<b>Isle Of Anglesey</b>	Anglesey Fwd. (22) Plaid Cymru (8) Independents (5) Non-Aligned (5)	<b>Independent Control</b>	William John Williams (Anglesey Forward)
<b>Merthyr Tydfil</b>	Labour (17) People Politics (9) Independents (7)	<b>Labour Control</b>	Harvey Jones (Labour)

<b>Monmouthshire</b>	Conservative (23) Labour (9) Independent (5) Lib Dems (4) Plaid Cymru (2)	<b>Conservative Control</b>	Andrew Crump (Conservative)
<b>Neath Port Talbot</b>	Labour (36) Plaid Cymru (10) N/Pt Ratepayers (9) Lib Dems (2) Social Dems (2)	<b>Labour Control</b>	Derek Vaughan (Labour)
<b>Newport</b>	Labour (31) Conservative (11) Lib Dems (6) Independent (1) Plaid Cymru (1)	<b>Labour Control</b>	Bob Bright (Labour)
<b>Pembrokeshire</b>	Independent (38) Labour (12) Plaid Cymru (5) Lib Dems (3) Non-Aligned (2)	<b>Independent Control</b>	John Davies (Independents)
<b>Powys</b>	Independent (27) Non-Aligned (26) Lib Dems (15) Labour (4)	<b>Independent Control</b>	Gwilym Evans (Independents)
<b>Rhondda-Cynon-Taff</b>	Labour (57) Plaid Cymru (13) Independent (3) Liberal Dems. (1)	<b>Labour Control</b>	Russel Roberts (Labour)
<b>Swansea</b>	Labour (32) Lib Dems (19) Independent (7) Plaid Cymru (5) Con Servative (4) Swansea Indep. (4) People's Rep. (1)	<b>Coalition</b> Lib Dems (6) Independent (1) Conservative (1) Swansea Indep. (1)	Chris Holley (Lib Dem)
<b>Torfaen</b>	Labour (34) Independent (7) Lib Dems (2) Conservative (1)	<b>Labour Control</b>	Bob Wellington (Labour)
<b>Vale Of Glamorgan</b>	Conservative (20) Labour (16) Plaid Cymru (8) Independent (3)	<b>Conservative Control</b> (Informal Coalition With Plaid And Independents)	Jeff James (Conservative)
<b>Wrexham</b>	Labour (19) Independent (17) Lib Dems (10) Conservative (3) Non-Aligned (2) Forward Wales (1)	<b>Coalition</b> Labour (3) Lib Dems (3) Independent (2) Conservative (1) Non-Aligned (1)	Shan Wilkinson (Labour)

**CARMARTHENSHIRE** Independents with 31 seats now form the single largest group in this county. Labour with 25 seats is in second place. Although Plaid Cymru with sixteen seats was knocked back in to third place in one of its traditional west Wales strongholds, it received the largest share of the popular vote. The remaining two seats are held by one Conservative and one non-affiliated member. The cabinet is

split accordingly, six to four, between Independents and Labour. The overall outcome here probably reflects the division of the vote between Labour and Plaid at the Westminster level.

**CEREDIGION** Plaid Cymru and Independents make up the largest groups with sixteen seats each. However, an independent alliance between Independents (16 seats) and the Liberal Democrats (nine) together with one Labour councillor, means that the nationalists, with the same number of seats as the Independents, are firmly outnumbered. Plaid ran a campaign promising to put on hold the controversial plan to build thousands of new homes in the area, the subject of a recent mayoral referendum. The coalition Cabinet is split between five Independents, two Liberal Democrats and one Labour. The Conservatives have little representation in this part of West Wales.

**CONWY** As in Carmarthenshire, Independents are the largest single group in this council, holding nineteen seats, with Labour and the Conservatives sharing second place with twelve seats each. Plaid Cymru came in third place with nine seats (a relatively poor performance in a county borough that has a high proportion of Welsh speakers), followed by the Liberal Democrats with six. Subsequently the cabinet is divided between four independents, three Conservatives, two nationalists and one Liberal. The pattern here – as is the case in Denbighshire and the Vale of Glamorgan, therefore - is an overt anti-Labour alliance despite Labour not even being the largest party.

**DENBIGHSHIRE** As in neighbouring Conwy, independents are the largest single group in this north Wales county with nineteen seats. Labour and the Conservatives share second place with eight seats each, while Plaid Cymru is a close third with seven seats. The Democratic Alliance won three seats, pushing the Liberal Democrats into fifth place with two seats, and consequently the only party without a cabinet representative. Independents and Tories dominate the cabinet with five and three places respectively, while Plaid and the Democratic Alliance have one seat each in an overt anti-Labour alliance.

**FLINTSHIRE** Labour hold 37 seats, followed distantly by the independents and non-alliance group with seventeen, the Liberal Democrats ten, the Conservatives four, and Plaid Cymru one, with one non-aligned.

**GWYNEDD** Plaid Cymru retained control with a commanding 42 seats. Coming a distant second and third are Independents with twelve, and Labour ten seats. Following these are the Liberal Democrats with just six seats, and non-aligned members with five.

**ISLE OF ANGLESEY** The independent Anglesey Forward group are the largest single body here with 22 seats, followed by Plaid Cymru with eight. Other independents have five with non-affiliated members a further five. This result, in which Labour failed to win a single ward (it previously held four) emphasises the marginal character this seat will be in next year's general election.

**MERTHYR TYDFIL** Labour retained control of one of their traditional post-industrial heartlands with seventeen seats. However, a surprise was the performance of the 'People before Politics' coalition. This won nine wards reflecting growing

public disengagement with the mainstream political parties in this northern Valleys seat. Independents took the remaining seven seats.

**MONMOUTHSHIRE** This Marches county provided the best results for the Conservatives in Wales. They gained an overall majority in an area where they have traditionally been strong. They now hold 23 seats, distantly followed by Labour with nine, Independents with five, Liberal Democrats with four, and Plaid Cymru with two seats – a breakthrough in previously barren territory for the party .

**NEATH PORT TALBOT** Labour maintain control of this core, post-industrial Valleys seat that straddles the M4 corridor. With 36 seats, they command a majority over Plaid Cymru (ten seats) and the Liberal Democrats (two). The Conservatives did not contend this council. Of significance, however, was the performance of two smaller independent parties, the Neath-Port Talbot Ratepayers' Association (nine seats) and the Social Democrats (two), reflecting some discontent with mainstream party politics in this county borough.

**NEWPORT** Unlike other urban areas along the prosperous M4 corridor, Labour managed to hold on to Wales' third city. Here they have 31 seats, far ahead of the Conservatives with eleven (despite the Tories scoring impressively in the popular vote). Further behind lie the Liberal Democrats with six seats; and Plaid Cymru and Independents with one seat each.

**PEMBROKESHIRE** Independents control this west Wales county, holding a commanding 38 seats and a comfortable lead over Labour's 12-strong group. Plaid Cymru and the Liberal Democrats hold five and three seats respectively, with two non-aligned members completing the set. The Conservatives fared poorly in a county that they have previously held at Westminster level.

**POWYS** Here Independents form the largest group with 27 members, followed closely by non-aligned members with 26 seats. The Liberal Democrats have fifteen seats despite holding both Parliamentary seats in the county. Labour makes up the numbers with four.

**RHONDDA-CYNON-TAFF** With 57 seats Labour recaptured control from Plaid Cymru Despite a good local government record and a respectable popular vote, Plaid are now a distant second with only thirteen seats. The council also has three Independents and one Liberal Democrat. As in Neath-Port Talbot, the Conservatives did not contend this council.

**SWANSEA** Labour lost overall control despite remaining the largest single party with 32 seats, in a unitary authority where they also control all three Assembly and Westminster constituencies. As in Bridgend, they are outnumbered by a Liberal Democrat-Conservative-Independent coalition that holds a further 35 seats and runs the cabinet. Plaid Cymru fared reasonably well, winning five seats on the council, one more than the Tories, despite winning four thousand fewer votes.

**TORFAEN** Labour retain firm control of one of their most traditional south Wales strongholds with 34 seats, Independents seven, the Liberal Democrats two, and Conservatives one.

**VALE OF GLAMORGAN** With just twenty seats the Conservatives run this authority despite having no overall control. An informal coalition with Plaid Cymru which won eight seats, (including surprising gains in the Vale’s working-class urban core of Barry) enables them to keep out Labour which came a close second with sixteen seats. In addition three ex-Tory independents were elected in the Llantwit Major ward.

**WREXHAM** Labour with nineteen seats sustained a narrow lead over the Independents with seventeen seats. Nevertheless Labour lost overall control. The Liberal Democrats came in third place with ten seats, followed, distantly, by the Conservatives with three seats, two non-aligned members, and one seat for John Marek AM’s Forward Wales party in the Johnstown ward following a disappointing electoral performance overall. The cabinet is therefore an intriguing split between Labour (three seats), a Lib Dem-Independent alliance (three), another Independent (one), one Tory, one non-aligned member, and a councillor from the West Wrexham Independence Group.

### ***Welsh Local Government Association***

As a result of the local elections the composition of the Welsh Local Government Association (WLGA) was transformed at its first post-election meeting on 23 July. It is now led by Alex Aldridge, Labour leader of Flintshire County Council. The Presiding Officer is Meryl Gravell, the independent leader of Carmarthenshire County Council. The remainder of its group of senior office holders is structured along the basis of a power-sharing system, reflecting the local election results throughout Wales. They consist of one more Labour, one more independent, two Liberal Democrats, two Conservatives, and one Plaid Cymru councillor.

**Table 2: Political Make-up for the Welsh Local Government Association**

<b>Party Balance</b>	<b>Executive Committee</b>	<b>Leader</b>
Labour (27) Independent (17) Lib Dems (11) Conservatives (9) Plaid Cymru (4)	Conservatives (2) Independents (2) Labour (2) Lib Dems (2) Plaid Cymru (1)	Alex Aldridge (Labour)

The membership of its 69-strong Council, which appoints the senior office holders, also reflects the more varied distribution of party support throughout the unitary authorities. For 2004-2005 it will consist of 27 Labour councillors (from Blaenau Gwent, Caerphilly, Carmarthenshire, Conwy, Flintshire, Merthyr Tydfil, Neath-Port Talbot, Newport, Rhondda-Cynon-Taff, Torfaen and Wrexham), 17 independents



(from Bridgend, Carmarthenshire, Ceredigion, Conwy, Denbighshire, the Isle of Anglesey, Pembrokeshire, Powys and Wrexham), eleven Liberal Democrats (from Bridgend, Cardiff, Swansea and Wrexham), nine Conservatives (from Bridgend, Cardiff, Conwy, Monmouthshire and the Vale of Glamorgan) and four Plaid Cymru (from Cardiff and Gwynedd).

## 9. POLITICAL PARTIES

*Gerald Taylor, University of Glamorgan*

### **Plaid Cymru**

Potentially the most far reaching story of the summer was the announcement by Plaid Cymru MP for Carmarthen East and Dinfwr, Adam Price, of his intention to impeach Tony Blair for alleged deception in making the case for the Iraq War and entering into a 'secret treaty' with President Bush. The case was set out in a report commissioned from two academics, Glen Rangwala of the University of Cambridge, and Dan Plesch, an Honorary Fellow at Birkbeck College and a regular contributor to left-wing magazine *Tribune*<sup>80</sup>. Whilst the proposed impeachment was initially ridiculed by the Labour Party and seemed an unusual step given that the last time a Prime Minister faced impeachment was in 1848<sup>81</sup>, the story had some interesting twists. These included:

- Colleagues of Cherie Blair were engaged to work on the impeachment.<sup>82</sup>
- Peter Hain had supported the impeachment of the then Lord Advocate for Scotland, Ronald King Murray, in 1977, when he was President of the Young Liberals and a motion for impeachment, over Mr Murray's handling of the Rachel Ross murder case, was passed at the Young Liberals' Annual Conference.<sup>83</sup>

At Plaid Cymru's Spring Conference the leadership had been the obvious focus, with the new President Dafydd Iwan still settling in with Assembly Group Leader Ieuan Wyn Jones. A major issue was independence, its meaning and how Plaid intended moving towards it.<sup>84</sup> The most significant contribution came with Iwan's call for a "new relationship" with England "and with the other countries of Britain", and his denial that Plaid was focused on Welsh speakers claiming, in English, that speaking Welsh did not make people 'better or more Welsh.'<sup>85</sup>

Plaid's leadership was once again under scrutiny after the June elections with questions whether there would be resignations following the example of SNP leader John Swinney who had resigned as a result of his party's poor performance in the European elections.<sup>86</sup> There was some speculation that former President Dafydd

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<sup>80</sup> 'Blair to be impeached over Iraq war by Plaid Cymru MP' and "'I'm here to rattle the cage – it's very important to defend democracy'", both *Western Mail*, 26 August 2004; Impeach Blair website <http://www.impeachblair.org/>, and Rangwala and Plesch report *A Case to Answer* available at [http://www.impeachblair.org/A\\_Case\\_To\\_Answer.pdf](http://www.impeachblair.org/A_Case_To_Answer.pdf)

<sup>81</sup> 'Labour tries to ignore then ridicule impeachment – but Price is right', *Western Mail*, 28<sup>th</sup> August 2004.

<sup>82</sup> 'Cheris Blair's law colleagues working on PM's impeachment', *Western Mail*, 27<sup>th</sup> August 2004.

<sup>83</sup> 'Hain twist in impeachment', *Western Mail*, 6<sup>th</sup> September 2004.

<sup>84</sup> 'Who shall separate us?' *Western Mail*, 17<sup>th</sup> April 2004.

<sup>85</sup> '“We need England”', *South Wales Echo*, 19<sup>th</sup> April 2004.

<sup>86</sup> 'Plaid chiefs will stay despite poor election performance', *Western Mail*, 23<sup>rd</sup> June 2004.

Wigley might return to front-line politics, perhaps standing in Conwy at the next Assembly elections in 2007. Pressed on the prospect he responded:

“I have no plans to do that. In politics you tend not to rule things out, but by the time of the next Assembly elections I will be 64. It is also likely there will be boundary changes in place by then.”<sup>87</sup>

Meanwhile, the Presiding Officer and the former leader of Plaid Cymru, Lord Elis-Thomas said he believed pursuing independence was a mistake in the post-devolution era and that his party and the SNP had not "adjusted to devolution":

"The one thing I regret, as a former leader of Plaid Cymru, is that my own party doesn't seem to have understood the issues raised by devolution in the same way as the other parties have. Plaid Cymru has not adjusted to devolution because you have this improbable allegiance of some people to something called Welsh independence. Not since the seventh century was this ever a real political project. And yet there are still people who still pursue the goal of Welsh independence and Scottish independence as if this was the real issue.”<sup>88</sup>

Asked whether there was any place for Plaid or the SNP in post-devolution Britain he added:

"There is still a role for them both but not as nationalist parties. If you look at mainland Europe and North America with people like the Party Quebecois the only role for autonomous parties is to transform themselves from opposition to the overall state to one of the parties of government in the areas they represent.”<sup>89</sup>

He continued that the way back for nationalist parties was to deal with the social, economic and environmental issues that face the country and to face up to the realities of coalition politics:

"I think what we should be doing is offering ourselves as a proper alternative government, or part of a government, to break the hegemony of Labour. We can't do it on our own and I don't think they can in Scotland. That is an issue that we can only tackle if you abjure having a nationalist programme because it's clear to any observer of the Welsh political scene that the vast majority of the Welsh electorate don't want nationalism. The majority of us want proper governance and by going for a nationalist rather than a proper governance programme what we are doing is betraying our own voters.”<sup>90</sup>

Interviewed on the same questions by the *Western Mail* he said that Plaid Cymru should consider working with other parties to form an “effective government” for Wales:

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<sup>87</sup> *Western Mail*, 10 September 2004. It is noteworthy that the boundary changes Wigley referred to are likely to favour Plaid Cymru.

<sup>88</sup> Interview with the political website [www.epolitix.com](http://www.epolitix.com), 16 September 2004.

<sup>89</sup> *Ibid.*

<sup>90</sup> *Ibid.*

“That happens in local government across Wales so if they can do it in local government we should be able to do it in national government. I would not use the word coalition ... In a democracy the important thing is political choice and that’s where I think the role of the party should be. Its not a campaigning pressure group. Those days are long gone and we should be concentrating on being electable. We should be concentrating on our objective to give the people of Wales a choice in relation to the next election. The party should be helping to govern Wales as it is, not dreaming about some unrealistic future.”<sup>91</sup>

And he added:

“Clearly Ieuan Wyn Jones will lead the party into the 2007 election as the leader and must be allowed freedom of action to lead the party.”<sup>92</sup>

The ‘Independence’ question was also raised by a report commissioned from a US economist, Jennifer Erickson, by Plaid MEP, Jill Evans, *Wales Can Work – Small Country Success in the New Global Economy*. The report criticised the performance of the Welsh economy under Labour and argued the case for the economic success of small nations. Plans were announced to follow up the report with ‘a series of road shows across the length and breadth of the country to promote the economic benefits of independence’, under the banner Wales Tomorrow/Cymru Fydd.<sup>93</sup>

## **Labour**

The fallout from the local elections, reported in the last monitoring report<sup>94</sup> continued as councils such as Swansea and Bridgend sought to negotiate coalitions, the result of which left Labour councillors not only in unexpected opposition but resentful and annoyed at their exclusion from the coalitions formed.<sup>95</sup> Labour also found themselves referred to the Commission for Racial Equality by Plaid Cymru MP, Simon Thomas, after a leaflet apparently distributed by Labour in the Llanedyn and Pentwyn wards in Cardiff urged voters not to vote Liberal Democrat in the local elections because of Lib Dem support for a permanent traveller site in Cardiff.<sup>96</sup>

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<sup>91</sup> *Western Mail*, 17 September 2004.

<sup>92</sup> *Ibid.*

<sup>93</sup> ‘Size shouldn’t matter, Plaid tells the nation’, *Western Mail*, 31 July 2004.

<sup>94</sup> ‘Political Parties: The June Elections’, John Osmond (ed) *Richard Commission Sets the Agenda: Monitoring the National Assembly, March-June 2004* Cardiff: IWA.

<sup>95</sup> ‘City Labour leader resigns and slates “politics of spite”’, *Western Mail*, 16 June 2004; ‘Labour’s walk, talk, deal bid fails’, *Western Mail*, 23 June 2004; ‘Lib-Dem to head Bridgend coalition’, *Western Mail*, 26<sup>th</sup> June 2004; ‘Council office row sent to Ombudsman’, *Western Mail*, 4 August 2004.

<sup>96</sup> ‘Race body demands explanation from Labour about anti-Gypsy leaflet’, *Western Mail*, 28 June 2004.

## ***Liberal Democrats***

Leading Welsh Liberal democrat academic Russell Deacon has urged the party to refuse to contemplate another coalition with Welsh Labour unless it agrees to implement the Richard Commission proposals in full, including the recommendation that an 80-member chamber be elected by STV. In a paper delivered to an academic conference in Oxford in September he referred to an agreement between the former Secretary of State Ron Davies and former Welsh Liberal Democrat leader, Alex Carlile prior to the 1997 referendum. Welsh Liberal Democrats agreed to support Labour's Assembly proposals subject to review of the electoral system if it proved non-proportional. In his paper Deacon declares:

“The system of First Past the Post/Additional Member System was proportional for some parties and not for others. Plaid Cymru and the Conservatives gained almost exactly the same proportion of seats as a percentage of their total votes. For the Welsh Liberal Democrats and the Labour Party the system was less proportional. Labour was significantly over-represented by the current electoral system, whereas the Welsh Liberal Democrats were slightly under represented.”<sup>97</sup>

Meanwhile, the Liberal Democrats' Montgomeryshire MP Lembit Opik, made an unsuccessful bid to become the party's President, losing out by 24,333 votes to 10,002 to Bermondsey MP, Simon Hughes<sup>98</sup>.

## ***Welsh Conservatives***

The Richard Commission provided an opportunity for Conservative AM, David Melding, to advocate that his party embrace devolution. He criticized Conservatives for “bizarrely” allowing “the Labour Party's flawed model [of devolution to] become official Conservative policy”. He argued that The Richard Commission should be used by the Conservatives to develop a more coherent model of devolution which provided institutions “fit for purpose.”<sup>99</sup> A similar line was pursued by Lord Griffiths of Fforestfach, the former head of Margaret Thatcher's Number 10 Policy Unit, in a speech to the Institute of Welsh Affairs in September. Explaining why he had changed his mind on devolution – because it would promote Welsh identity and allow debates on Welsh policy questions to be dealt with in greater depth - he declared:

“The most simple, effective and easily understood way to correct the deficiencies of the original settlement is by amendment to the Government of Wales Act which grants the Assembly primary law-making powers.”<sup>100</sup>

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<sup>97</sup> *Western Mail*, 16 September 2004.

<sup>98</sup> ‘Opik launches bid for Lib-Dem presidency’, *Western Mail*, 19 June 2004; and ‘Lembit loses tussle for top Lib-Dem job’ *Western Mail*, 2 September 2004.

<sup>99</sup> ‘Richard is Tories best ally’, *Western Mail*, 26 July 2004.

<sup>100</sup> *Western Mail*, 17 September 2004.

## 10. PRESS AND MEDIA

*Suzanne Grazier, IWA*

### ***BBC Wales and the Assembly Government***

A letter of complaint sent to BBC Wales by the Assembly Government's then Head of News, Ian Hartley, in June was at the centre of a row between the two bodies, with *The Western Mail* obtaining the full correspondence of the dispute. The complaint centred around a broadcast on Radio Wales' *Good Morning Wales* programme, which suggested that there was a shortfall in Objective One budgets. In his letter to BBC Wales, Ian Hartley accused the broadcast of being misleading, unfair and inaccurate, with leading questions put to Professor Dylan Jones Evans during an interview. Furthermore, he stated:

“This is a story created by the BBC presenting an inaccurate claim and asking opposition parties to react to that claim. That is not public sector broadcasting, it is the worst form of tabloid-style journalism. The BBC should report the news and present the facts impartially. It should not create a story and perpetuate inaccuracies in order to ‘sex up’ a broadcast.”<sup>101</sup>

BBC Wales defended their report and their impartiality, adding that the use of the word “sex-up” in their complaint was wholly inappropriate. Following a comment by Huw Brodie, a senior Assembly civil servant, it later emerged that Economic Minister Andrew Davies had made the decision to send the letter. Opposition parties expressed concern over this, stating that it was inappropriate for a Minister to order a letter to be written, with Alun Cairns believing the letters to show “a clear intention to bully BBC Wales”<sup>102</sup>.

Opposition parties emphasised the inappropriateness of the involvement of special advisers in formulating a letter that was sent in a civil servants name, as it suggests civil servants were being asked by Ministers to take a political role. However, the Assembly Government issued a statement stating:

“It is entirely proper for special advisers and Ministers to be consulted on drafts where appropriate”<sup>103</sup>.

### ***Speculation over ITV1 Welsh Coverage Cuts***

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<sup>101</sup> *Western Mail*, 22 June 2004.

<sup>102</sup> *Ibid.*

<sup>103</sup> *Ibid.*

Staff at ITV are concerned that their management is planning a 25 per cent cut in programmes made in Wales during 2005. This would mean only 7.5 hours of national broadcasting per week. In the past six years more than 100 jobs have been lost at ITV1 Wales, following a reduction of 12.5 per cent in the hours of national programmes produced. It is now feared that more cuts will be made if Ofcom accept ITV's argument that national and regional commitments need to be reduced if broadcasters are to remain competitive. ITV says that regional programmes represent a public service, and should therefore be shown by the BBC, as they receive the licence fee. ITV1 Wales issued a statement saying:

“Most of this is pure speculation and frankly wrong. There is no agreement to cut our programme hours.”<sup>104</sup>

A visit to ITV Wales by ITV1's Chief Executive Charles Allen did not end speculation amongst staff. However, a spokesman for ITV1 Wales said:

“He (Mr Allen) restated ITV's commitment to Wales and stated that the biggest threat to ITV was the high cost of the fee it pays for its regional licence to broadcast”<sup>105</sup>.

Plaid Cymru stated that they would be seeking guarantees from Ministers in Westminster and Cardiff Bay that there will be no more cuts.

### ***S4C Independent Review***

The results of an Independent Review of S4C were published in July. The review, commissioned by the Department of Culture, Media and Sport, supports the conclusions of S4C's internal review, stating that it is delivering its remit effectively and efficiently. The Review made a number of recommendations. In particular, it says that the BBC's contribution to S4C, currently 10 hours of programmes per week, should be increased in line with increases in the licence fee since 1996. It also highlights the challenges facing S4C in terms of the digital-switchover, when it will no longer show Channel 4 programmes. It argues that some financial support from the Government should be provided during the transitional period, when analogue and digital services both have to be maintained. Finally, the review recommends that relationships with the National Assembly and other partners need to be strengthened, so that S4C can play a more integral role in the cultural and economic agendas in Wales.

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<sup>104</sup> *Western Mail*, 19 July 2004.

<sup>105</sup> *Western Mail*, 31 July 2004.

## ***Alun Pugh Attacks Lack of Welsh Network Presence***

In an article in the *Western Mail*, Culture Minister Alun Pugh criticised the quality of network UK programmes available in Wales. He singled out news and current affairs programmes for failing to provide a disclaimer or caption for stories that affect only England, to say that the story does not apply to Wales. He calls on the BBC in London to begin to take account of devolution in its main news programmes. Although he recognised the benefits of digital television, as BBC Wales enables viewers to learn about Welsh policies, this only reaches the half of the Welsh population able to receive digital television. He also noted that the digital switchover may have a negative impact on S4C. Calling on broadcasters to provide details on what they will be doing to increase the network production in Wales, he warned:

“Our nation, its stories, its vibrant culture is nearly invisible within the most powerful cultural force in the UK.”<sup>106</sup>

## ***Western Mail Supports ‘Bonfire of the Quangos’***

The *Western Mail* offered its support to Rhodri Morgan following his announcement to bring three quangos under National Assembly control, saying the move means:

“Ministers who in the past have been able to hide behind the quango structure ... will now have to take direct responsibility.”<sup>107</sup>

However, it was noteworthy that in the early Autumn the *Western Mail* conducted what amounted to a campaign against Welsh Labour’s response to the Richard Commission, and the so-called compromise embraced in its policy paper *Better Governance for Wales*. Its editorial on the eve of Welsh Labour’s special conference to consider the paper concluded:

“Labour members who support primary powers are being urged to support the document in the interests of party unity in the run up to the general election. We have every sympathy with those who are being subjected to this pressure. What else are they to do today but support the proposal, pitifully weak though it is? If it is voted down, there will be nothing at all to put forward for the election manifesto. What a thorough disgrace.”<sup>108</sup>

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<sup>106</sup> *Western Mail*, 12 August 2004.

<sup>107</sup> *Western Mail*, 15 July 2004.

<sup>108</sup> *Western Mail*, 11 September 2004.