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RICHARD COMMISSION SETS AGENDA

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SUMMARY

Publication of the Richard Commission report, recommending full legislative powers for the National Assembly sparked a vigorous debate within the Welsh Labour Party. Most MPs at Westminster demanded a referendum before any more powers were granted, while First Minister Rhodri Morgan declared one would not be necessary. While there was general agreement within Labour's ranks in the Assembly on the case for more powers there was much less consensus on the Richard Commission's recommendations for increasing the Assembly membership from 60 to 80 and electing them by the STV proportional representation system. At the end of April the Wales TUC annual conference approved a TGWU motion approving more powers and 80 members, but demanding that they should be elected by first-past-the-post in two member constituencies.

These questions will be hammered out by the Welsh Labour Party at a special conference on September 11. An NOP poll for ITV1 Wales, undertaken in the run-up to the 10 June local; and European elections, found 60 per cent of respondents in favour of legislative powers for the Assembly, a notable advance on previous levels of support. Meanwhile, a broad-based campaign in support of the Richard Commission package, called *Tomorrow's Wales* and fronted by, the Archbishop of Wales Dr Barry Morgan was launched at the end of June.

The 10 June council elections produced the most variegated local government map in the history of Welsh electoral politics. Hitherto, the pattern has been one of overwhelming domination - first by the Liberal Party, from the 1880s to the 1920s, and since then by the Labour Party. Now, however, there is power sharing in nine councils across Wales, Labour control in eight, Independents run three, and Plaid Cymru and the Conservatives one each. Labour rules Newport and the core Valley authorities of Neath Port Talbot, Rhondda Cynon Taf, Merthyr, Caerphilly, Blaenau Gwent and Torfaen, together with Flintshire in the north east corner of the country. Independents have Ynys Mon, Powys and Pembrokeshire, while the Conservatives control Monmouth and Plaid Cymru Gwynedd. The remainder of Wales is run by coalitions. The Welsh Liberal Democrats are now the leading party in Swansea, Bridgend and Cardiff; Independents in Conwy, Denbighshire, Wrexham, and Carmarthenshire; and Independents with support from Liberal Democrats in Ceredigion (although Plaid Cymru are the largest party).

There were Opposition calls for the Health Minister Jane Hutt to resign following publication of a critical Audit Commission report on NHS Wales in April. The report, *Transforming Health and Social Care in Wales*, highlights problems within the management and structure and a lack of leadership within the Welsh health service. Drawing heavily on the Wanless review, the report describes a 'vicious' circle caused by an imbalanced health and social care system and recommends a 'virtuous' circle that the Government should strive to achieve.

1. RICHARD COMMISSION SETS AGENDA

John Osmond, IWA

On the day that the cross-party Richard Commission report was published at the end of March 2004, First Minister Rhodri Morgan remarked that its unanimity reflected “the maturing of civic society in Wales.” As he said, “All of us involved in political life in Wales know just how contentious the remit provided to the Commission was capable of becoming.”¹

It was, indeed, extraordinary that representatives nominated by each of the four parties could agree, not only on the Assembly becoming a legislative parliament, but that its members should be increased from 60 to 80 and elected by the single transferable vote proportional system, based on multi-member constituencies. Lord Richard himself declared, “I didn’t expect that the political representatives would be able to come to an agreed understanding. The reason they did was because they looked at the evidence.”²

He added that at the start of the process he was sceptical himself that change was needed so soon after the Assembly had been established. However, the weight of the evidence had swayed him too. Speaking at an Institute of Welsh Affairs conference in April he described the Assembly’s present powers, procedures and relationship with Westminster as “grotesque” and “a lawyers’ nightmare.”³ As the former Secretary of State for Wales Ron Davies had conceded in his submission to the Commission, the Assembly he had done so much to establish in 1999 had been the best compromise he had been able to extract from a divided Welsh Labour Party. The evidence showed that its operations were poorly understood, even by some AMs let alone the wider public, and that it was failing to deliver in promoting through Westminster the primary legislation it wanted. At the same IWA conference Lord Richard quoted the view of one speaker at a public meeting held by the Commission in Newport, which he said had stuck in his mind: “We were short-changed on the devolution argument compared with Scotland.”⁴

In addition, there was what he described as “the Redwood factor”, after the former Conservative Secretary of State for Wales John Redwood whose lack of accord with Welsh aspirations had done so much to fuel the case for devolution in the 1990s. This was the inherent instability in the present system whose smooth operation depended on governments of the same complexion being in place in both Westminster and Cardiff Bay. What would happen if, for example, there was a Labour administration in Cardiff, and an unsympathetic Conservative administration in Westminster? “This prospect of different colour administrations was one we could not ignore,” Lord Richard concluded.⁵

¹ Assembly *Record*, 31 March 2004.

² IWA ‘Responding to Richard’ conference, Cardiff, 23 April 2004.

³ *Ibid.*

⁴ *Ibid.*

⁵ *Ibid.*

Figure 1: Richard Commission's Main Recommendations

- There should be a legislative Assembly for Wales, with powers to pass primary legislation in the policy areas in which it took on powers in 1999.
- A new Wales Act could be put through Westminster and the new parliamentary style Assembly could be elected by May 2011 – that is, the elections due to be held after those due in 2007.
- In the interim, broad framework powers should be delegated to the Assembly, within the 1998 Government of Wales Act provisions. This should allow the maximum scope for the Assembly Government to exercise its secondary legislative powers to deliver its policies.
- To exercise primary powers, the Assembly's Members should be increased from 60 to 80.
- The present system for electing Members – 40 first-past-the-post constituency Members and 20 List members elected by the Additional Member System – cannot sustain an increase to 80. Instead, the report says the best alternative is for all 80 members to be elected by the Single Transferable Vote system.
- The corporate body structure in which the Assembly as a whole is a single legal entity, with the members delegating their powers to the First Minister and Cabinet - should be replaced with a separated executive and legislature.
- Tax varying powers would be desirable but are not essential to the exercise of primary powers.
- The examination of primary legislation would require a change in focus in the work of the Assembly, particularly in the Committees, with a stronger culture of detailed scrutiny and challenge.
- The direct increase in costs of an Assembly with primary law making powers is likely to be £10 million a year, of which around half would be due to the increase in AMs from 60 to 80.

So the weight of the evidence pointed to more powers. It was not that the system was currently breaking down, operating as it was with co-operative Labour administrations in Cardiff and London. As Lord Richard put it at the media launch of his report, against a pale blue backdrop in Cardiff's St David's Hall, with his nine commissioners sitting alongside him:

“The surprising thing – and I want to emphasise this – is that we didn't reach this conclusion because the present system isn't working. Almost the opposite in fact. It is precisely the success of the Assembly and the Welsh Assembly Government in establishing itself as the government of Wales in the key

public policy areas that creates the pressure for change. We examined in detail the dynamics of the present situation and found that the Assembly is increasingly setting the legislative agenda for Wales in devolved areas and negotiating with Whitehall and Westminster for the legislation it needs. Since this is already happening and likely to happen increasingly in future, it seemed to us that the most efficient and straightforward process would be for the Assembly itself to pass this legislation in Cardiff.”⁶

Underlying all of this is the emerging civic character of Welsh society. This is the characteristic that Rhodri Morgan highlighted in his initial response to the report and which is building momentum behind the Commission’s recommendations. Dr Barry Morgan, the Archbishop of Wales, has declared his support for the Commission’s recommendations and will be fronting a campaign *Tomorrow’s Wales* arguing for their implementation in full. According to the *Western Mail*, a source close to him said the campaign:

“... would be very much be targeted at civil society – trade unions, voluntary groups, the business community, academics etc. It would be semi-independent of political parties, although support would be welcome from them too. It is hoped that those in the Labour Party who are in favour of devolution would be strengthened in their battle against the groundless propaganda that is being spread by some in the party who oppose the Richard recommendations.”⁷

Civil society can only develop in response to civic institutions. In our case, of course, they are headed by the National Assembly. An indication of the growth of civil society in Wales was the literal weight of the evidence the Richard Commission received. During the 18 months it deliberated it received more than 300 submissions from a wide range of organisations and held nine public meetings across Wales. It would have been impossible to imagine such a civic involvement in a debate on Wales’s constitutional future before the Assembly was established. The nearest equivalent was the evidence collected by the Kilbrandon Royal Commission on the Constitution, which reported in 1974. At that time views from Wales were limited to the political parties and a handful of academics. And, of course, the Kilbrandon commissioners were split between those who wanted an Assembly along the lines of the one presently in Cardiff Bay and those who advocated primary legislative powers.

Another indication of the strength of today’s civic society was the recent appearance of *Delineating Wales* by Richard Rawlings, Professor of Public Law at the London School of Economics.⁸ This is one of the two most important books about Welsh society and politics to appear in our generation. The other is John Davies’ *Hanes Cymru*, published in 1990. Both are testimony to the building of a civic dimension to Welsh culture. The one describes the inheritance, the foundations if you like. After a review of 2,000 years of history Davies concludes that the best times for Wales are yet to come. Rawlings surveys the present building plot and the emerging outline of the structure succeeding generations will inhabit.

⁶ Speech by Lord Richard at the press launch of his report, Cardiff 31 March.

⁷ *Western Mail*, 4 May 2004.

⁸ Richard Rawlings, *Delineating Wales*, University of Wales Press, 2003.

In fact, Rawlings gives us a magisterial, almost intimidating account of the civic institutions that are being put in place. To do so he requires more than 600 pages, despite concentrating almost wholly only on the five years since 1999. First he describes the rebirth of Welsh legal history. He goes on to analyse in great detail the character of the nascent institution that trembled into life in May 1999. He then relates how it has developed from being a mere adjunct to the old system, the Welsh Office, into a virtual Parliament. Alun Michael, the Assembly's first leader behaved as though it was merely an advisory committee to his continued role as Secretary of State for Wales. This interpretation was brought to an abrupt end within less than a year by Michael's ejection and his replacement with the more autonomously-minded Rhodri Morgan. At about the same time the original corporate body established by the 1998 Wales Act began to be dismantled. This had described the Assembly and its AMs collectively as a single legal personality, along local government lines. In short order it was buried by all-party agreement. Instead we now have the Welsh Assembly Government - the executive - separated from the Presiding Officer's Assembly parliamentary service - the legislature.

One is tempted to ask: if all of this can happen in just five years, what may we expect of the next fifty? Certainly the Richard Commission's recommendations and its suggested timetable up to 2011, the date of the fourth elections to the National Assembly, provide a clear sense of direction.

Figure 2: Richard Commission's Illustrative Timetable for the Implementation of its Recommendations

2005	Possible UK General Election
2005	Drafting approval for new Wales Bill
2006	Bill published for pre-legislative scrutiny
May 2007	Assembly election
November 2007	Wales Bill introduced
July 2008	Royal Assent
2008-2010	Boundary Review
2011	Election of new body with 80 Members and primary powers

Richard Rawlings himself made a lengthy submission to the Commission and one feels a good deal of the ballast for its overall evidence. His ideas are scattered through the report. Most notable, perhaps, are the so-called 'Rawlings Principles', familiar to all devolution practitioners as guidelines Westminster should follow in allowing the National Assembly maximum discretion in formulating secondary legislation. Needless to say, while these have been unanimously approved by the Assembly they have not been accepted in their entirety by Westminster.

Delineating Wales brilliantly describes the emerging political culture of civic Wales. In the first place it states what is perhaps obvious, but needs to be emphasised. This is that so far as Wales is concerned devolution is being applied to a nation. Hence Rawlings calls it "national devolution", an idea that is explained by contrasting it with what is being proposed for the English regions. It is difficult to interpret the so-called devolution referendums that are being held in northern England this Autumn as being about anything other than a reorganisation of local government. In Wales, however,

Rawlings argues that ‘national devolution’ is “a qualitatively different species”. And as he notes, the work of the Welsh Assembly Government constantly accentuates the difference – “from particular ‘made in Wales’ policies to the lessons in flagwaving that now characterize Welsh paradiplomacy.”⁹

A further aspect is what Rawlings describes as “the closeness of Wales”. This requires two chapters to delineate. There is the central partnership between the Assembly and local government, and the intensity of new relationships between the Welsh Assembly Government, the NHS and the key administrative quangos, the WDA and ELWa. The Permanent Secretary Sir Jon Shortridge highlighted this in his evidence to the House of Lords Select Committee on the Constitution’s parallel and highly useful 2003 inquiry into inter-institutional relations in the United Kingdom. Comparing the present position with previous Welsh Office days, he said, “There is a greater intensity and proximity politically driven throughout the relevant structures associated with the Assembly.”¹⁰

Yet, accompanying the elaborations of these structures and the relationships between them is a growing threat of bureaucratic inertia. This takes the form of a growing fear amongst senior civil servants at being exposed for bungles and incompetence. There is an anxiety to take the risk out of decision-making which can lead to a reluctance to take decisions in the first place. The Richard Commission is very good at unpicking some of this, in particular exposing the Assembly’s inadequacies in scrutinising decision-making and holding the executive to account. Here the Subject Committees come into a good deal of criticism:

- *Some of those who appeared before committees felt that sessions were not sufficiently rigorous or challenging.*¹¹
- *We have been struck by the wide coverage and crowded nature of the meeting agenda, which often leaves insufficient opportunity to probe key issues within each agenda item.*¹²
- *AMs have not developed a sufficiently detailed understanding of the work of quangos to be able to examine their work effectively.*¹³
- *Ministers’ membership of Subject Committees has benefited their deliberations, but it suppresses the development of a scrutiny culture in committee and obscures the lines of accountability.*¹⁴

As far as secondary legislation is concerned the report notes that during the first term nearly half of the Assembly’s statutory instruments were made by the Cabinet under the Executive procedure, while only nine per cent of plenary time was spent debating subordinate legislation. All this leads it to suggest that under present arrangements the

⁹ Ibid, page 501.

¹⁰ House of Lords Select Committee on the Constitution, *Devolution: Inter-Institutional Relations in the United Kingdom – Evidence* (HL 147, Session 2001-02, Q.1021).

¹¹ Report of the Richard Commission, Chapter 4, para 32.

¹² *Ibid.*

¹³ *Ibid.*, Chapter 6, para. 30.

¹⁴ *Ibid.*, Chapter 4, *Findings*.

60 members – with 15 forming the Assembly Government and another two the Presiding Office - are hardly enough now to provide adequate scrutiny of the Executive. It concludes that primary legislative powers would require “a stronger culture of scrutiny in the Assembly” and 20 more members.

What are the chances of the Commission’s proposals being adopted? Across the parties within the Assembly there is general acceptance of the case for more powers. However, there is no consensus on the case for more members and a change to the electoral system.

Most observers believe that an increase in members for the Assembly will necessitate a reduction of Welsh MPs at Westminster, perhaps from the present 40 to around 32. After all, the precedent has been set in Scotland where the number of MPs will fall from 72 to 59 at the next election as a result of the Scottish Parliament’s acquisition of primary legislative powers. Inevitably this prospect has failed to win the full hearted enthusiasm of backbench Welsh Labour MPs. Almost to a man they have called for a referendum as a means of frustrating change. Caerphilly MP Wayne David, a devolution supporter in the 1997 referendum, has said he would campaign for a no vote in a referendum giving the Assembly primary legislative powers.¹⁵

No doubt partly to assuage these MPs, Rhodri Morgan has declared he does not believe extending the Assembly’s powers requires increasing the number of AMs. In an Assembly debate on the Richard Commission at the end of April he announced that in the ensuing months officials would be mounting a time and motion study on the work of AMs to see how easily they might accommodate dealing with around five or six legislative Bills a year.

If anything STV seems destined to provoke even more opposition. At the end of April the Wales TUC annual conference passed a TGWU resolution approving the Richard Commission’s call for more powers and extra members. However, it advocated a reversion to First Past the Post on the basis of two members for each of 40 Welsh parliamentary constituencies, one of whom should be a woman and the other a man. This was despite the Richard Commission’s observation that in the 2003 Assembly elections, First Past the Post would have given Labour around three-quarters of the seats, despite securing no more than 40 per cent of the vote. As the Commission concluded, “This would have major implications for accountability, scrutiny and debate in the Assembly ... Reducing the representation of the smaller parties would seriously weaken the capacity for opposition and challenge.”¹⁶

A special Welsh Labour conference is being held on 11 September to finesse these problems into a compromise. However, a difficulty for Labour will be to find arguments sufficiently compelling to combat the internal logic of the Richard Commission’s package. Once the step towards primary powers is accepted, the need for democratic scrutiny makes the case for more members; increasing the Assembly’s size underpins the case for a different and fairer electoral system. The Commission’s arguments for STV, the aspect on which many of its membership – and not least the former Merthyr MP Ted (now Lord) Rowlands - moved most, are highly pragmatic.

¹⁵ *Western Mail*, April 2004.

¹⁶ Report of the Richard Commission, Chapter 12, para. 32.

In an imperfect world it was judged “on balance” to be the most effective solution. As Plaid Cymru’s representative on the Commission, Professor Laura McAllister, told the Institute of Welsh Affairs conference, “We didn’t exactly rejoice in finding ourselves in this position.” Nonetheless, it is a position arrived at reasonably and logically. As such, if the Welsh Labour conference decides against this, or indeed other parts of the Richard package, it may well find it impossible to persuade either the House of Commons, or even less likely, the House of Lords, when the issue reaches that stage of the process.

At the same time, these arguments may be in danger of obscuring real difficulties with the main thrust of the Richard Commission’s recommendations, namely that the Assembly should acquire full legislative powers. The Commission suggests that new legislation pursuing this objective should follow the Scottish example. That is to say, rather than attempt to define those areas where primary powers should be devolved, a new Wales Act should instead define those which should be retained to Westminster – defence, foreign affairs, macro-economic policy and so on. Everything else should be left within the Assembly’s competence.

On the face of it this is simpler and so highly desirable, and has been broadly accepted as the way to proceed. Yet there are inherent difficulties which make Wales different from Scotland in this area. In particular, the longer and more intimate cross-border relationships between England and Wales makes disentangling legislation more problematic. These are summed up in a telling phrase deployed by Richard Rawlings in *Delineating Wales*, which as it happens is directly quoted in the concluding chapter of the Richard Commission’s report. This is “the uniquely powerful geo-political concept of England and Wales – a ‘pull towards uniformity’ unparalleled inside the United Kingdom.”¹⁷

In a lecture to the Institute of Welsh Politics in Aberystwyth in early May the Presiding Officer, Lord Elis Thomas, dealt with this aspect in some detail. He noted the complexities that were involved in the 1999 Transfer of Functions order that set out in huge detail those parts of Westminster Acts – more than 300 involving 5,000 functions – which were devolved to Wales. However, he did not accept that adopting the Scottish approach in respect of Wales – that is, setting out exceptions to primary legislative competence rather than itemising areas to be devolved – would necessarily produce a more straightforward result. As he explained:

“Why do I assert this with confidence? It is based on my experience, and that of my advisers, of the continuing practice of Whitehall officials in the whole field of devolution. They are guided by one principle alone that is the concept of not devolving matters which THEY consider to be common to England and Wales. There lies obfuscation and complexity. Lack of clarity is an enemy of democratic scrutiny and debate. Some in Whitehall it could be argued have a vested interest in obfuscation.”¹⁸

The question is, what legislative initiative by the National Assembly could not be argued to have some cross-border implication and thereby entail the evocation of that

¹⁷ Richard Rawlings, *Delineating Wales*, page 528.

¹⁸ Lord Elis-Thomas, *Contingencies of Devolution*, address to Institute of Welsh Politics conference, Aberystwyth, 1 May 2004.

“uniquely powerful geo-political concept of England and Wales”? Take the banning of smoking in public places. There is no doubt that left to its own devices the National Assembly would legislate for such a ban. But even on such a potentially distinctive initiative Whitehall officials might argue that England would inevitably be affected – even by a backwash of pressure for such a ban to be put into effect in England. Such potential disputes suggest that a referendum on more powers might be beneficial in clearing the ground for the Assembly to exercise primary legislative powers. And, as Richard Rawlings himself says, towards the end of *Delineating Wales*: “Put simply, if the people of Wales cannot be convinced of the virtues of legislative devolution in open debate and secret ballot, then it is not worth the candle.”¹⁹

¹⁹ Richard Rawlings, *op.cit.*, page 544

2. ASSEMBLY GOVERNMENT

Jessica Mugaseth, IWA

Lack of Leadership Within NHS Wales

There were Opposition calls for the Health Minister Jane Hutt to resign following publication of a critical Audit Commission report on NHS Wales in April.²⁰ *Transforming Health and Social Care in Wales* highlights problems within the management and structure and a lack of leadership within the Welsh health service .

Drawing heavily on the Wanless review²¹, the report describes a ‘vicious’ circle caused by an imbalanced health and social care system and recommends a ‘virtuous’ circle that the Government should strive to achieve:

“In the virtuous circle, the system is in balance. Alternatives to admission and timely discharges are facilitated by greater partnership and whole-system working. Access to acute services is improved by providing greater emphasis on non-acute early intervention and preventative services. As access and efficiency improve, so does performance and quality.”²²

In order for this position to be reached the financial and structural management of the health service must be brought under control. The report highlights the anomaly that both health spending *and* deficit in the Welsh NHS have increased substantially since devolution in 1999. This is because of a system “which applies the wrong resources in the wrong place for the wrong reasons.” The report calls for a reassessment of resource allocation and a bold leadership style:

“There is considerable potential to release finance already in the healthcare system to secure the necessary improvements, but in many cases this can only be released through reconfiguration of services and the development of more innovative partnership arrangements. This requires a clear vision and a strategic lead from policy makers, courage to take hard political decisions and greater focus on explaining and informing the public and lay members of health bodies of the vision and why change is necessary to realise it.”²³

The report’s recommendations concur with those of Derek Wanless, in particular that “addressing the symptom of the problem rather than its cause when managing and allocating resources is one of the key issues in Welsh health care”. It recognises that difficult and politically sensitive decisions need to be taken to address the “inherently inefficient” nature of the NHS in Wales:

²⁰ *Transforming Health and Social care in Wales*, Audit Commission, April 2004.

²¹ Published in August 2003, see the previous report in this series, *Wales is Waiting* (December 2003).

²² *Ibid.*

²³ *Ibid*

“The reality is that implementation will necessitate the closure or re-designation of some hospitals and the timing of change and reallocations of associated resources will be politically sensitive.”²⁴

The report outlines six principal levers for change which must be utilised if the Wanless vision of the future is to be realised:

- Consensus building and leadership, with ‘social architects’ who are brave enough to design and deliver new futures
- Robust performance management and the judicious use of targets and incentives for improvement
- Partnership working
- Release of Capacity :-
 - Necessary capacity is already within the system but needs to be released
 - Almost a quarter of available beds in Wales were occupied by patients who could have potentially been treated elsewhere or could be at their usual place of residence – approximately 13,000 additional patients per year could be treated within the existing cost envelope or the costs associated with these patients could be transferred elsewhere in the system to ease the capacity pressures on the acute sector.
 - Poor utilisation of community hospitals –70 per cent of this under utilisation represents an available capacity to accommodate patients.
 - Utilisation levels need to be improved, for example theatre and day surgery.
- European Working Time Directive and the new clinician contracts:-
 - Provision for expansion of roles.
 - Modernised NHS workforce.
- Reconfiguration:-
 - Radically better use of resources.
 - Cheaper to develop primary care service than adding more beds.

Health Minister Jane Hutt brushed aside calls from the Opposition parties for her to go. She claimed that the report endorsed the Assembly Government policies and called for consensus between the parties to improve the system as a whole, claiming that the NHS in Wales does not benefit from being a “political football”.

The 22 Local Health Boards submitted their Local Action Plans to the Assembly Government at the end of April. The plans are their response to the Wanless report and recommendations for its implementation in their areas. The plans will now be fully evaluated before any funding is released. An announcement on the outcome of evaluation will be made in July 2004.

NHS Waiting Times

²⁴ *Ibid.*

Despite the introduction of the Assembly Government's second offer guarantee scheme for hospital treatment at the beginning of April, waiting times over April increased in some areas. The number of people waiting more than 12 months for admission to hospital as an in-patient or day case rose by 358 to 8,815 and those waiting more than 18 months fell by 51 to 1,350. Those waiting over 18 months for a first out-patient appointment rose by 572 to 6,776.

Even the Health Minister's specific targeted procedures saw rises in waiting times over the month of April. There was an increase from 0 – 9 of those waiting over 18 months as an Orthopaedic inpatient / day case, and an increase in those waiting for cataract surgeries. However, the Health Minister could claim success for ensuring that no patients were waiting over 12 months for cardiac surgery and ensuring that the one person who had been waiting over 6 months for an angiography had been treated by the end of April.²⁵

Jane Hutt was further criticised when it was revealed that she only answered 56 per cent of her correspondence within the target time between January and May 2004. The First Minister argued that the “sheer volume” of correspondence the health Minister received made it more difficult for her to reach her targets.²⁶

Meanwhile it was reported that a private A&E service will be established in north Cardiff. The first of its kind in Wales will treat the ‘walking wounded’ who have health insurance or are willing to pay a consultation fee. More recently an NHS GP has announced that she will be setting up her own private clinic in Cardiff City Centre, charging patients between £14 and £80 a month.

WDA Restructuring

In mid-June the Welsh Development Agency announced plans for a new corporate structure in an aimed at making itself more “business-friendly “ and “customer focussed”. It is hope the structure, based on three new divisions will be implmented by the end of this year:

- **SME Business Support**, which will bring Finance Wales under its wing together with other services aimed at small businesses.
- **Corporate Business**, which will be geared towards companies employing more than 250, including both inward investors and indigenous businesses.
- **Assets**, which will deal with land activities and property management.

One notable result of the change was the downgrading of the previously high-profile International Division of the WDA – a change that presumably reflects the fall off of inward investment into Wales. While Chief Executive Graham Hawker said the

²⁵ All statistics come from NHS Hospital Waiting Times, April 2004. www.Wales.gov.uk/statistics

²⁶ *Assembly Record*, 8 June 2004

rationalisation was not designed to save money, he did indicate that some jobs within the Agency may be lost. Once appointed, the three divisional directors will begin work on reorganising their divisions. Despite suspicions that the reorganisation is due to the Economic Development Minister Andrew Davies freezing the WDA's budget, Mr Hawker insisted that:

"There was no external pressure to do it other than our market research which showed our customers found us too complicated. In conversations, we have had business people saying they would like it to be easier to do business with the WDA."²⁷

RSA Cymru Wales

Meanwhile Andrew Davies announced the re-branding of the Assembly Government's key business support grant programme. RSA Cymru Wales will replace the grant scheme previously known as the Regional Selective Assistance (RSA). RSA Cymru Wales is a discretionary grant scheme delivered by the Assembly Government to help businesses carry out capital investment projects to create or safeguard jobs in the Assisted Areas of Wales.

The RSA scheme has been changed to ensure greater support for the Assembly Government's strategy of encouraging innovation, research and development and high value-added project opportunities in Wales. The rebranding and refocusing of RSA Cymru Wales will ensure that the new body will be targeted at more quality projects. Each application will be considered in the light of its potential contribution to the Welsh economy in areas such as training, good management practice, diversity, equal opportunities and sustainability.

The Minister also announced a new pilot initiative where businesses will be offered a premium payment to take on long-term unemployed or long term economically inactive people.

More Pupil Testing to Go

The final report of the Daugherty Review Group *Learning Pathways through Statutory Assessment: Key Stages 2 and 3* was published in May. Under the chairmanship of Richard Daugherty, Professor of Education at the University of Wales, Aberystwyth, the group reviewed the National Curriculum Assessment arrangements at Key Stages 2 and 3. It recommended a revised assessment system as follows:

²⁷ *Western Mail*, 12 June 2004.

Key Stage 2

A set of “skills tests” to focus on literacy, numeracy and problem solving – to be developed and introduced on a statutory basis from 2007/08. The new tests to draw on skills across the National Curriculum – not exclusively on the core subjects – and to provide a ‘pupil profile’ of skills. The tests should be externally marked and taken at or near the end of year 5 not at the end of the last year of Key Stage 2 as now. The results should be reported to parents, inform teachers and teaching programmes for year 6, and be used in transition planning with year 7 teachers in secondary schools.

Teacher Assessments should be retained at the end of Year 6, and as at present, to be confined to the core subjects and measured against the National Curriculum scale. Moderation of the Teacher Assessments, (supported and informed by ACCAC exemplar material) should be introduced at a local level with primary schools working together, and in collaboration with their partner secondary schools.

Key Stage 3

Assessment, of all subjects, at the end of this Stage should be by Teacher Assessment only. No replacement tests are recommended. Consideration should be given to moving the timing of the Teacher Assessment to the spring term of Year 9. Secondary schools should be given “Accredited Centre” status – ACCAC to lead – when they can demonstrate sound, robust and proper assessment and moderation arrangements.

Both Key Stages

The current tests and testing arrangements should continue during 2004 but be phased out by 2007-08 with optional test material available during the intervening years (from 2005). Data from the Teacher Assessments – and when available the ‘skills tests’ - should continue to be collected and issued to monitor national, local and school performance.

The Education Minister welcomed the report and promised a formal response in July.

LG Electronics

Following an investigation by the European Commission, an enquiry by the National Audit Office and complex negotiations, the Assembly Government have signed a settlement agreement with LG electronics concerning overspend of regional selective assistance to the projected development at Newport.²⁸ The £34 million recovered through the settlement represents 70 per cent of the grant originally given. The

²⁸ See the previous report in this series *Welsh Labour Takes Control* (June 2003).

complex settlement includes £15 million in an upfront payment of cash and £20 million of land and property.²⁹

It is believed that this is the largest RSA reclaim in Britain. Economic Minister Andrew Davies confirmed that the cash reclaimed would be returned to the Assembly's general budget rather than to the economic development budget. This was because the package of support for LG had come from a wide range of budgets. The Audit Commission is due to publish its report following which both the Audit Committee and the Economic Development and Transport Committee will examine the episode. Replying to questions in the Economic Development Committee, Andrew Davies and his officials categorically denied that any of the payments made were illegal and agreed with committee members that lessons should be learnt from the experience.³⁰

Higher Education Mergers Still on Agenda

The Minister for Education Jane Davidson has called for a more collaborative culture within higher education institutions in Wales. As part of the reconfiguration agenda within her 2002 policy document *Reaching Higher* she announced that she expected:

“... higher education institutions in Wales to see the merit of building well-founded, powerful collaborative arrangements.”³¹

Speaking to the National Assembly in June, she advocated the development of clusters and networks of excellence between the institutions with the promise of “financial incentives for reconfiguration”. She said that funding to the HE sector will continue to be on a “something for something basis”, with an aspiration that reconfiguration will “change the landscape of higher education in Wales.”³²

New Head of Corporate Communications

Tim Hartley, formerly Head of News for the Assembly Government, has been appointed to the new post of Head of Corporate Communications. This will require

²⁹ After making allowance for the Assembly Government expenditure on services to the buildings coming in to its ownership, this brings the total net value of the recovery of assistance in current terms to £34 million.

³⁰ *Minutes*, Economic Development and Transport Committee 1 April 2004

³¹ *Assembly Record*, 9 June 2004

³² *Ibid.*

him to work across the range of Assembly Government Departments, and be responsible for:

- More effective forward planning of communications work.
- Developing stronger partnership with ASPBs and regional media.
- Ensuring the Assembly Government can communicate effectively in emergencies.

3. ECONOMIC DEVELOPMENT AND FINANCE

Professor James Foreman-Peck, Cardiff Business School

A Sleeping Dragon?

Weak demand from the European Union, which currently takes 70 per cent of Wales' exports, is damaging the growth prospects of the Welsh economy, according to HSBC's *Regional Focus 2004*³³. The report's authors are too diplomatic to attribute this to shortcomings in Eurozone economic policy- the adoption of the Euro itself being the chief culprit. However, the corollary of their analysis must be that, despite signs of recovery in the Eurozone at last, Wales should try to refocus on the far more resilient US market, at present receiving only one eighth of Welsh exports, and on China.

The pessimistic tone of *Regional Focus*, picked up by the *Western Mail*³⁴, stems in part from a concentration on output indicators. Real GDP growth for 2003 is measured at 1.6 per cent lower than any other UK area apart from London. Yet employment growth in Wales was the second highest in the UK. In contrast London (and the West Midlands and Northern Ireland) experienced falling employment in the same year, according to the report's table.

Two possible reasons for this paradox spring to mind. The first is that the output measures are unreliable - a suggestion supported by past experience - and that the Welsh economy is actually growing rapidly by historical standards. The second is that the output measures are correct and that increased employment in Wales is not adding to measured or actual output.

Consistent with the first reason, the *Quarterly Economic Report for Wales* for May 2004³⁵ concluded optimistically that labour market indicators show Wales outperforming the UK as a whole. The *Quarterly Report* notes that the Welsh index of production and construction increased by 4.5 per cent during the last quarter of 2003, and the Purchasing Managers Index of new orders and business activity in Wales has risen continuously for over a year.

Support for the second explanation may be found in the *Regional Focus* table of public services contribution to GDP (p4). Wales is second only to Northern Ireland in dependence of GDP on public services - which account for just under one quarter of output. Measured by employment the reliance is even greater. If the new jobs were largely in the public sector then the contradiction noted above could be resolved. For

³³ HSBC Bank plc, Business Economics, Marketing, 8 Canada Square, London E14 5HQ.

³⁴ See Rhodri Evans 'Welsh exporters will struggle, says report' *The Western Mail* April 16 2004.

³⁵ Economic Development and Transport Committee 19 May 2004 EDT2 08-04.

the UK as a whole, in the year ending June 2003 almost twice as many public sector new jobs were created as those in the private sector.

Increases in self-employment may also result in underestimation of output. A higher proportion of the Welsh workforce was self-employed at the end of 2002 than in Great Britain as a whole. Anyway there is enough evidence to contest HSBC's description of Wales, 'the dragon still sleeps', even if she is still yawning and deciding whether to get up.

Objective 1 Targets

Will increasing doses of 'regional aid' be the necessary stimulus, or instead merely a sedative? The answer determines whether we should welcome the additional £65million of funding from the European Commission as a reward for Wales meeting Objectives One, Two and Three programme management performance targets. Economic Development Minister Andrew Davies maintained such money has been contributing to creating jobs, increasing opportunities and helping to regenerate our poorest communities³⁶.

On the other hand doubts about this view are raised by a recent rigorous statistical cross-EU study of European Structural Funds³⁷. The research finds that, despite the concentration of development funds on infrastructure and, to a lesser extent, on business support, the returns to these outlays are not significant. Support for agriculture has only short-term positive effects on growth that disappear quickly. Uniquely, investment in education and human capital – merely one-eighth of total spending – has medium-term positive and significant returns. Possibly Wales may be different from the EU average and total Structural Fund spending will exceptionally prove productive. But there is no obvious reason to believe it will.

Instead, there is sense in looking at the positive message. This is that spending on education can work as a long-term economic and social policy, and the present Assembly budget round is an opportunity. In April the Assembly's Education and Lifelong Learning Committee discussed a statistical paper on spending that showed per pupil current expenditure was virtually the same as in England. But school funding has been a source of friction between the Assembly and representatives of head teachers associations who claim they do not receive the allotment of their English counterparts. Many secondary head teachers object to their funds being paid through local authorities - with a potential 'fly paper' effect, the money sticks where it

³⁶ Rhodri Evans, '£65m for on-target Wales' *The Western Mail* April 1 2004.

³⁷ A Rodriguez-Pose and U Fratesi 'Between Development and Social Policies: The Impact of European Structural Funds in Objective 1 Regions' *Regional Studies* 2004 February Vol. 38.1, pp. 97–113.

lands, instead of entirely passing on to their schools. This theme of under-allocation continues. In June the Assembly was attacked for the poor state of school structures and for spending half as much on improving school buildings as was spent in England.³⁸ A spokesperson for the Assembly Government responded, "We do not recognise these figures." According to a council statement, a ballot in favour of a teachers' strike in Powys stemmed from possible redundancies in the face of falling school rolls and only a small increase of 2.6 per cent in the allocation from the Assembly.³⁹

The Assembly's education spending apparently continues to suffer from too many public intermediaries. Local government support channelled through the Welsh assembly, much of it intended for the Welsh school system is the second largest budget item (the largest is health care). Amounting to well over one quarter of spending, the local government rate support grant allocation was £3.055 billion in 2003/4, with £3.123 billion planned for 2004/5 and £3.143 billion indicated for 2005/06. Amounting to annual increases of 2.2 per cent and 0.6 per cent these allocations presage a squeeze upon local government from which schools may not emerge too well.

Part of the plan may be to provide supplementary education finance through specific grants that circumvent local authorities. The Education and Lifelong Learning Committee budget shows indicative spending of £1.28 billion, a 4.6 per cent increase over the 2004/5 plans, rather more than the rate support grant. But even this seems less than lavish if education is the one area of regional policy that is likely to work in the long term, as the structural funds study indicates.

³⁸ Jenny Rees, 'Welsh classrooms lag behind England's' *The Western Mail* Jun 4 2004.

³⁹ Rhodri Clark 'Falling rolls could spark teacher strikes' *The Western Mail* May 22 2004.

4. THE NATIONAL ASSEMBLY

Jessica Mugaseth, IWA

Relocation Strategy

The Assembly Government's plans for relocating staff from Cardiff to other parts of Wales have taken a step forward with the announcement of new offices and functions in Merthyr and Llandudno Junction in north Wales.

More than 400 posts will be located in at Rhyd-y-Car in Merthyr Tydfil, 320 transferring from Cardiff. The main functions being transferred are largely within the Social Justice Department and the Welsh European Funding Office, with Cadw relocating to Treforest. Over 85 per cent of staff will be moving with their posts to Merthyr, while 90 people from other divisions have indicated that they wish to find posts in Merthyr. The office will be fully operational by late 2005. It is estimated that it will cost £15 million to establish the Merthyr Tydfil and Nantgarw offices.

Staff consultations on the functions to transfer to the Llandudno Junction site, due to open in early 2007, will take place over the summer. In addition, negotiations are underway for establishing a new office in Aberystwyth in mid Wales.

GM Debate

A plenary debate on Genetically Modified Crops united the Assembly in their demand to keep Wales GM-free. A resolution re-affirming their opposition to growing GM crops, was passed overwhelmingly.⁴⁰ It followed negotiations between Environment Minister Carwyn Jones and his counterpart in Whitehall, Margaret Beckett, on two questions:

- The listing of the GM fodder maize variety Chardon LL on the National Seeds Register and
- The decision by the biotechnology giant Bayer Crop Science to withdraw its application to grow the crop commercially in the UK.

Introducing the debate Carwyn Jones outlined the difference that the National Assembly's stance had made:

“I am confident that the robust stance taken by the Welsh Assembly Government on the listing of this maize variety and our insistence on having

⁴⁰ Assembly *Record*, 5 May 2004.

co-existence measures in place prior to any commercialisation will have influenced the company's decision. Another outcome from the rigid stance that we adopted was the decision by the UK Government and other devolved administrations to work with us on the development of co-existence guidelines and compensation proposals. It is unlikely that this would have come about had we not remained firm in our resolution to protect conventional and organic farming from possible contamination from GM crops."⁴¹

He explained that working with UK officials the Assembly Government are currently drawing up a consultation document on the co-existence of GM crops and possible measures of compensation. The Assembly Government will contact farmers and other interested parties about the possibility of introducing voluntary GM-free zones in Wales. Carwyn Jones added:

"It is fair to say that, within Europe, Wales is seen to be leading the way on what has become a controversial issue."⁴²

Smoking Ban Committee

A cross-party committee has been established to advise the Assembly on the impact a ban on smoking in public places would have in Wales. It will

- Consider current evidence on relevant issues, including the health risks of environmental tobacco smoke and the economic impact of restrictions on smoking in public places;
- Review developments in the UK and Ireland relating to the introduction of restrictions on smoking in public places (including the debates on Baroness Finlay's and Lord Faulkner's Private Member's Bills, the response to the UK Government consultation on devolving powers to local authorities to introduce smoking bans at work and in public places, the outcome of the Scottish Executive consultation on smoking in public places, and the experience of implementing the workplace smoking ban in Ireland).
- Consider the experiences in other countries where a ban has been introduced.
- Report to the Assembly by 25 May 2005.

Chaired by Val Lloyd (Labour) the Committee comprises Jeff Cuthbert (Labour), Dai Lloyd (Plaid Cymru), Jonathan Morgan (Conservative) and Peter Black (Liberal Democrat).

⁴¹ Assembly Record, 5 May 2004.

⁴² *Ibid.*

National Museum

A report on collections management at the National Museums and Galleries of Wales was presented to the Assembly by the Auditor General in April. While recognising that progress was being made it raised concerns over the backlog of curation work. The Museum estimates that it would cost up to £1.65 million to remove the documentation and curation backlog. Conservation backlog would take 384 years of staff time to undertake.

The report highlighted that 43 per cent of storage was poor or worse, and there are millions of pounds worth of objects still in storage, with only 0.57 per cent of the museum's collection on display. The report made a number of recommendations including drawing on good practice in collections management from other museums and galleries.

Resignation from Equality Committee

After accusing other AMs of “insufferable political correctness” because they criticised his questioning of a gay rights group, Monmouth Conservative AM David Davies resigned from the Equality of Opportunities Committee. He had raised concerns about the funding of the gay rights charity Stonewall:

“I wonder why you feel a homosexual who is attacked has more rights in the eyes of the law than an elderly lady or an elderly man?”⁴³

Social Justice Minister Edwina Hart described his remarks as “offensive”, an exchange that prompted his resignation. He has been replaced by North Wales Conservative AM, Mark Isherwood.

⁴³ Western Mail, 2 April 2004.

5. POLICY DEVELOPMENT

Jessica Mugaseth

Health and Social Services

The report of the advisory forum on the Older People's Commissioner was published in May. It will form the basis of the Assembly's Consultation process on establishing an Commissioner for Older People in Wales. As well as inviting views of the experts, there will be consultation with groups of older people to comment on the proposals of the advisory group.

An extra £5.5million has been provided for enhanced services in Wales, increasing the total funding package to £21.9 million. The Enhanced Service package comprises ten services. These are split into six Directed Enhanced Services⁴⁴ which local health boards are required to provide and four National Enhanced Services⁴⁵ which are at the discretion of Local Health Boards.

From September 2004, NHS funded students in Wales will benefit from a new allowance to help with up to 85 per cent of their childcare costs during their studies. The £1 million means-tested scheme could see students receiving up to £114 a week for parents with one child and £170 a week for two or more children.

An extra £5.3 million was provided for the NHS Dentistry alongside a programme for reform. The extra money, which is available over three years will improve access to dentists and support Local Health Boards, local dental committees and dentists to help prepare for reform changes. Following the English lead, a new NHS dentistry contract will be implemented from April 2005. The Minister also announced an increase in the allowance paid to NHS Vocational Trainers and NHS Vocational Dental Practitioners in Wales. It is hoped that this will encourage younger dentists to stay or move to Wales.

Following the British Society for Mental Health and Deafness 2004 Annual Conference, the Assembly Government announced it is developing good practice guidance on mental health services for profoundly deaf people in Wales.

Education and Lifelong Learning

⁴⁴ Minor surgery; Flu and Pneumococcal vaccinations; Working towards achieving target of access to primary care team within 24 hours; Childhood immunisations; Preparation work on enhancing quality; services to violent patients).

⁴⁵ Inter-uterine contraceptive services; INR testing (a service to monitor the intake of Warfarin, aiming to stabilise the INR within set limits to help prevent serious side effects while maximising effective treatment); Near patient testing (This is a service that establishes a share care drug monitoring service for patients needing regular blood monitoring, due to the treatment of several different diseases); Services to drug misusers).

As part of the Assembly Government's commitment that all school buildings should be in a good physical shape and properly maintained by 2010, the Education Minister announced the funding to local authorities from 2005-07. The funding will allow 32 projects in 16 local authorities to receive a share of £42,064 million for projects commencing in 2005-06, and £42,451 million for 2006-07.

Education Maintenance Allowances (EMAs) which provide means-tested financial support between £10 and £30 for young people aged 16-19 in full time education, will be introduced in Wales from September 2004. Additional funding will be made available from the UK Treasury to fund the scheme. The £30 weekly entitlement will be available to students in households with an income of up to £19,000; £20 to those in the £19,000 to £23,000 income band, and £10 for household income up to £30,000. Bonus payments will be paid to those who qualify in January and July of each academic year with an additional bonus for those who returned to learning for a second or subsequent year.

Primary schools across nine local authorities are taking part in a pilot scheme for the free breakfasts initiative that was launched in April. The scheme will be rolled out across Wales from September 2004, starting with schools in the Community First areas. It is anticipated that all primary schools will be able to participate in the scheme by September 2006: £1.5 million has been allocated for this year, with a further £3.5 million available for 2005/06.

As part of the Early Years policy, a new training programme for Welsh-medium early years practitioners is being developed between Mudiad Ysgolian Meithrin and Trinity College, Carmarthen. The programme is expected to train at least 150 people by 2006.

The Minister launched a Consultation Document on the Skills and Employment Action Plan 2004. The plan consults on new proposals to boost skill levels and help more people into employment. The proposals have four aims:

- Improve workforce development.
- Supply new entrants to the labour market with the employment skills.
- Work with employers and employees to improve skills
- Help more people into sustained employment

The consultation period ends in July with a final plan to be presented in the Autumn.

Culture, Language and Sport

Following an extensive review, the Culture, Language and Sport Committee published its final report on 'Welsh Writing in English'. The Assembly Government accepted a number of the Committee's recommendations and allocated £250,000 to implementing them. They include:

- Supporting new writing and strengthening the infrastructure of the publishing industry.
- Creation of a Library of Wales of classic works.⁴⁶
- A Joint Marketing Strategy.
- Increase promotion of Welsh writing in English in Bookshops and Libraries across Wales.
- Collection of library data on Welsh writing in English.
- Improving the sourcing and purchasing of Welsh writing in English.
- Establishment of industry awards.

CyMal: Museums Archives and Libraries Wales was opened in April, creating 25 jobs in Aberystwyth. CyMAL will incorporate the majority of functions previously undertaken by the Council of Museums in Wales, and the functions of the Library and Information Services Council (Wales), and cover the whole sector including archives. The aim is to develop closer cooperation between museums, archives and libraries in Wales, enhance the support available, and work with organisations throughout the UK to share best practice.

A review of the system which controls changes to listed religious buildings in Wales was announced in April. Peter Howell, formerly Deputy Chair of the Joint Committee of the National Amenity Societies and co-author of *The Companion Guides to Wales*, will carry out the review and report his conclusions by the end of September 2004.

Social Justice and Regeneration

The Social Justice Committee published its review into housing needs of older people in Wales. The report makes 26 recommendations to the Assembly Government ranging from improving housing choices for older people with dementia, recommendations on how ways to enable existing older people to remain residence in their own home and looks at the possibilities for specialised housing and care provision in Wales.

The Committee recommend that the Assembly Government establish and fund a ‘not for profit’ Welsh Home Improvement Lending Agency to enable older people to release the equity in their house in an easy and flexible manner. The report also advocates the need for an Older People’s Commissioner as a ‘one stop shop’ for the

“Provision of an integrated range of advice, advocacy, information and support services to ensure that older people are aware of their rights and of the options available to them in relation to their housing and care needs.”

⁴⁶ Professor Dai Smith, Pro-vice chancellor of Glamorgan University, has been appointed to advise the Assembly on the make-up of the “library” which will collect and showcase the very best of English language writings from Wales and market them to readers and bookshops.

A Report by an Independent Commission on Voluntary Sector Scheme in Wales concluded that

- The scheme was a groundbreaking innovation which remains highly value by the voluntary sector and the Assembly Government today.
- The scheme is still fit for purpose and should not be remade.
- The implementation of the scheme is very much work in progress and there is more work to do.

The Assembly Government published in draft, *Tackling Domestic Abuse: All Wales National Strategy*. A number of principles underpin the document: protection and support for survivors; perpetrator accountability; and prevention. The draft report is subject to consultation exercise with views being sought from a wide range of relevant organisations.

Environment, Planning and Countryside

The final report of the Review of National Parks was published in March. The review focussed on four areas:

- The role of the Park Authorities.
- Promoting sustainable development;
- Addressing social inclusion issues.
- Strengthening links with local communities.

Among the recommendations made was that one fifth of National Park Authority members should be appointed by direct elections or via a collegiate system involving the community councils.

Economic Development and Transport

British Telecom announced that they were speeding up the arrival of broadband services across Wales. BT will now upgrade all exchanges (apart from 35 it deems unviable) by summer 2005.

A consultation on internal Wales scheduled air services at Cardiff international airport was launched in March. The document considers various network options and what investment would be necessary to develop air services and airport infrastructure to an appropriate standard.

Local Government and Public Services

The Local Government and Public Services Committee decided its terms of reference for its next policy inquiry into the operation of the public services regulation and inspection regime in Wales:

“To consider the operation of the public services regulation and inspection regime in Wales, including the roles and accountabilities of inspectorates, their interaction with inspected bodies and the added value the regime brings to public service improvement.”

6. THE LEGISLATIVE PROCESS

Sarah Beasley, Cardiff Law School

Draft Bills

The following Draft Bills were introduced in Parliament conferring functions on the Assembly:

Charities

Published on 27 May 2004 the changes contained in the Bill are intended to:

- update and expand the list of charitable purposes and place a clearer emphasis on the requirement to deliver on public benefit;
- contain a range of measures designed to enable charities to administer themselves more efficiently and to be more effective in their work;
- introduce a new legal form specifically for charities;
- provide for a greater degree of accountability for charities which are currently excepted or exempt from the requirement to register with the Charity Commission;
- improve the regulation of charity fundraising; and
- modernise the Charity Commission's functions and powers as regulator and increase its accountability.

The draft Charities Bill is currently the subject of pre-legislative scrutiny by a Joint Committee of both Houses. The Committee is due to report its recommendations by the end of September 2004.

Gambling

The draft Bill was published by the UK government on 19 November 2003, following the publication, in March 2002, of the Gambling White Paper "A Safe Bet for Success"⁴⁷

The Bill has 13 parts and makes provision for England, Wales and Scotland, as follows:

⁴⁷ (Cm 5397)

- ‘Part 1 and Schedule 1 introduce the fundamental concepts used in the draft Bill including definitions for “gambling”, “betting”, “gaming”, “casino”, “remote gambling” and “licensing authorities”.
- Part 2 and Schedules 2 and 3 establish the Gambling Commission and effect the transfer from the Gaming Board of Great Britain. The core powers and duties of the Commission are set out, including its consultation obligations.
- Part 3 sets out the general, Bill-wide offences, including the two key offences in the new scheme of regulation: the unlawful provision of facilities for gambling and the unlawful use of premises for this purpose.
- Part 4 establishes a number of specific offences that involve the participation of children and young persons in gambling, their employment in relation to gambling and their entry to premises licensed to provide gambling.
- Part 5 and Schedule 4 concerns operating licences issued by the Gambling Commission. This Part establishes:
 - the different types of licence and the rules relating to them;
 - the conditions which may be attached to them;
 - the required procedure for applying for them;
 - the requirements as to their duration and validity; and
 - a review procedure to be operated by the Commission.
- Part 5 further provides powers for the raising of a levy on operating licence holders.
- Part 6 concerns personal licences issued by the Gambling Commission. It defines the circumstances in which the Gambling Commission can impose requirements for a person to hold a personal licence, and the procedures and rules relating to personal licences (to the extent these differ from the provisions of Part 5).
- Part 7 and Schedule 5 create a tribunal to hear appeals from decisions taken by the Gambling Commission and provide the relevant powers and procedures for bringing an appeal.
- Part 8 concerns premises licences issued by local authorities, in their role as licensing authorities. This Part describes the functions of licensing authorities, the types of premises licence and the procedure for application. It further scopes the powers of authorities to attach conditions to licences. There are provisions on the duration, transfer and review of licences, and the mechanisms by which appeals can be made.
- Part 9 provides a procedure for authorising the temporary use of non-gambling premises for gambling. Licensing authorities are responsible for these authorisations which are time limited.
- Part 10 and Schedule 6 of the draft Bill provide a new framework of regulation for gaming machines. There is a new definition of gaming machine together with the powers for the Secretary of State to prescribe categories of machine, from A to D. Licensing authorities are given powers to issue gaming machine permits for the lowest stake machine (a category D machine). There are also specific machine-related offences.
- Part 11 and Schedules 7 and 8 establish a new regime for lotteries, which is based upon, but modernises the regime set out in the Lotteries and Amusements Act 1976. A new category of lawful lottery, the customer lottery, is created, together with a number of new rules concerning the operation and promotion of lotteries.

- Part 12 deals with the inspection rights and powers that are needed by the police, Commission inspectors, and local authority officers in order for them to carry out their functions under the draft Bill. Appropriate safeguards are afforded to those who may be the subject of inspection.
- Part 13 provides the key interpretation clause, together with a number of Bill-wide provisions.⁴⁸

A Joint Committee was established by both Houses of Parliament to consider the draft Gambling Bill and to report back to the Houses.

Identity Cards

This draft bill was published on 26 April 2004. It makes provision for a national scheme of registration of individuals and for the issue of cards capable of being used for identifying registered individuals. Its main features are:

- Setting up a National Identity Register that will include all the identity information held on those individuals who have been registered and issued with an identity card;
- Establishing powers to issue identity cards including ‘plain’ cards as well as a power to designate existing documents (such as passport or driving licence cards) as identity cards;
- Data sharing powers to ensure that the issuing authority is able to check the details provided by an applicant against information already held on other databases. This provision will ensure that biographical checks can be made against other government databases to confirm the applicant’s identity and guard against fraud;
- Providing reassurance that disclosure of information from the National Identity Register without the individual’s consent will not be allowed, apart from in specified exceptional circumstances, such as on grounds of national security or for the prevention or investigation of crime;
- Establishing new criminal offences for the possession of false identity documents. These will cover offences relating to the new identity card as well as existing identity documents that are false or have been improperly obtained;
- Powers to set a date when it would become compulsory to register and be issued with a card (but not compulsory to carry a card which is specifically prohibited in the draft Bill). This provision could be brought in only once the initial stage of the identity cards scheme was in place and following a vote in both Houses of Parliament on a detailed report which sets out all the reasons for the proposed move to compulsion;
- A provision that would enable Regulations to be made, once it was compulsory to register and hold an identity card, to make it a requirement to provide proof of identity by the production of an identity card to access public services.

⁴⁸ The Draft Gambling Bill - Explanatory Notes

The Bill is generally intended to be a UK wide measure, however there is some territorial variation in the Bill. With respect to Wales, the order-making power in Clause 15(1) enables Departments to make regulations linking production of an identity card with access to its services where such a power does not currently exist. This clause does not extend to Scotland, and the Scottish Parliament would have to pass its own legislation to enable an identity card to be required for access to certain services. However, a similar requirement to use an identity card to access public services that have been devolved in Wales would be a matter for the National Assembly for Wales. In these cases the enabling powers to make such measures are included in the draft Bill.⁴⁹

The draft Bill is currently being considered by the Home Affairs Committee.

School Transport

The School Transport Bill was published in draft on 8 March 2004 for pre-legislative scrutiny. Its main purpose is to enable LEAs to run school travel schemes which are tailored to the needs of their area. Initially it allows a limited number of LEAs in England and Wales to run pilot school travel schemes. Existing legislation in this area is contained in the Education Act 1996. The arrangements provided for in it require LEAs to provide free transport for pupils where they consider this is necessary to facilitate attendance at school. LEAs running the new travel schemes under the draft Bill will instead make whatever travel arrangements they consider appropriate, for which they may charge. The Bill covers:

- the purpose of schemes, their geographic extent, and administrative arrangements;
- the type of transport arrangement that must and might be made for pupils of compulsory school age and younger;
- charging arrangements;
- provision for piloting schemes;
- measures to ensure bus services provided under school travel schemes do not have to be registered with the Traffic Commissioner.

Of particular relevance to Wales is the function given to the National to approve school travel schemes made by LEAs in Wales. The Assembly also has the power to make regulations and orders relating to Wales.⁵⁰

The draft Bill is currently being considered by the Education and Skills Committee in London, and will also be considered in the appropriate Assembly subject committee.

⁴⁹ Legislation on Identity Cards – A Consultation, Cmnd 6178

⁵⁰ Except in the case of the regulation making power in clause 5

Transport (Wales)

This Bill gives effect to the Assembly's request for primary legislation relating to transport in Wales expressed in a resolution of the Assembly approved in plenary on 17 March 2004. It places on the Assembly a general transport duty to develop policies for the promotion and encouragement of safe, integrated, efficient and economic transport facilities and services to, from and within Wales and to carry out its functions so as to implement those policies. Further, it requires the Assembly to prepare and publish a Wales Transport Strategy setting out how it proposes to discharge the general transport duty.

The Assembly will be able to direct local authorities as to the manner in which they should discharge their transport functions and, in particular, to direct two or more authorities to enter into joint working arrangements for this purpose.

The Assembly will also be able, by order made by statutory instrument (which will be subject to the Assembly's procedures for making subordinate legislation laid down by the Government of Wales Act 1998), to establish, if necessary, joint transport authorities to discharge specified local authority transport functions on a regional basis.

The Assembly will have specific powers to give financial assistance to local transport authorities (including any joint transport authorities which are established) and will be able, itself, to secure the provision of public passenger transport services. In order to do so, the Assembly will be able to enter into direct agreements with the providers of such services.

The Assembly will be granted similar powers, in relation to rail passenger services and facilities, to those of the Scottish Executive.

The Bill provides a specific power for the Assembly to give financial assistance to airport facilities in Wales and air transport services serving Wales.⁵¹

The Welsh Affairs Committee will hold joint meetings with the Assembly's Economic Development and Transport Committee (subject to the agreement of the House of Commons and the National Assembly for Wales). The Committees will hold oral evidence sessions in June and will report separately on the draft Bill in late July.

Progress of Bills Conferring Functions on the Assembly

⁵¹ Draft Transport (Wales) Bill Explanatory Notes and Regulatory Impact Assessment, Cm 6195

Carers (Equal Opportunities)

This Bill, brought from the House of Commons on 18 May 2004, places new duties on local authorities and health boards in respect of carers.

For Wales, it is proposed that the Assembly be given the commencement power.

Children

The Bill contains a broad range of measures which aim to promote the interest of children and young people in England and Wales, with measures introduced specifically for Wales. A key measure to note in relation to Wales is the introduction of a Children's Commissioner for England, concerned with all matters affecting children in England and *non devolved matters affecting children in Wales*. The Bill went through Committee Stage in the House of Lords on 27 May 2004.

Civil Contingencies

The Bill proposes a single framework for civil protection in order to improve the UK's ability to deal with the consequences of terrorist incidents. In relation to Wales, it requires the UK Government to consult the Assembly on civil protection and emergency powers regulations. The Bill received third reading in the Commons on 24 May 2004, and was brought to the Lords for first reading on 25 May 2004.

Fire and Rescue Services

The Bill makes provision for responsibility for the fire and rescue service in Wales to be devolved to the Assembly. It repeals the Fire Services Act 1947. It is divided into seven parts:

- Part 1 - Fire and rescue authorities (clauses 1 to 5): determines which bodies are the fire and rescue authorities for an area, and provides for the combination of two or more fire and rescue authorities by order
- Part 2 - Functions of fire and rescue authorities (clauses 6 to 20): sets out the duties and powers of fire and rescue authorities.
- Part 3 – Administration (clauses 21 to 30): provides for the preparation of a Fire and Rescue National Framework setting out the strategic priorities of the Fire and Rescue Service, and for the supervision of fire and rescue authorities. It makes provision for the provision of equipment and training centres for fire and rescue authorities.
- Part 4 - Employment (clauses 31 to 36): deals with employment by fire and rescue authorities, in particular the creation of negotiating bodies to determine the terms and conditions of employees, and pension schemes.

- Part 5 - Water supply (clauses 37 to 42): imposes duties on fire and rescue authorities and water undertakers to ensure an adequate supply of water for fire-fighting activities.
- Part 6 – Supplementary (clauses 43 to 53 and Schedules 1 and 2): concerns the powers of fire and rescue authority employees to undertake rescue work and investigations, as well as a number of consequential provisions and repeals, including the abolition of the Central Fire Brigades Advisory Council.
- Part 7 - General (clauses 54 to 62): makes general provision in relation to pre-commencement consultation, interpretation, statutory instruments, and territorial extent.

The Bill gives the Assembly the power to commence the relevant provisions of the Act in Wales. On 31 March 2004, the provisions of this Bill were considered by the Assembly Social Justice and Regeneration Committee. At the meeting, the Minister expressed her satisfaction with the Bill. It has since successfully passed through Grand Committee in the House of Lords on 24 May 2004.

Higher Education

The provisions of this Bill were discussed in the previous monitoring report in this series. On 8 June 2004, the Bill went through the first day of Report Stage in the House of Lords.

Housing

The Housing Bill was introduced into the House of Commons on 8 December 2003 and has 10 main elements:

- Reform of the housing fitness regime with a new risk based housing health and safety rating system.
- Licensing arrangements for houses in multiple occupation (HMOs)
- Selective licensing of non HMO private rented accommodation.
- Introduction of home information packs to provide key information at the start of the home buying process.
- Updating the right to buy scheme including an increase in the qualifying period to 5 years.
- Tackling antisocial behaviour by providing more tools for local authorities to deal with problem tenants.
- Equalising same sex tenancy succession rights.
- Extending eligibility for disabled facilities grants to include all those occupying caravans as their only or main residence including gypsies or travellers.
- Provides for more flexible use of social housing grant.

- Establishing a new office of Social Housing Ombudsman for Wales to provide an independent means for the investigation of complaints against social landlords in Wales.

With the exception of the establishment of the Social Housing Ombudsman for Wales, the Housing Bill will apply to both England and Wales. Powers to make secondary legislation in Wales will generally be vested in the National Assembly. On 31 March 2004, the Bill was considered in the Assembly Social Justice and Regeneration Committee. Comments were received by the Minister, and a report will be produced for publication at a later date.

Planning and Compulsory Purchase

In relation to Wales, planning is an area where functions are devolved to the National Assembly for Wales. The Assembly Government published its own consultation paper: *Planning Delivering for Wales* in January 2002. This Act gives effect to the Assembly Government's policy, formulated in the light of responses to the consultation document, as announced by the Assembly Minister for Environment in November 2002.

Part 6 of the Bill is of particular relevant to Wales. It reforms the development plan system in Wales, where a single-tier system of local government and a uniform pattern of unitary development plans were introduced by the Local Government (Wales) Act 1994.

Each local planning authority in Wales will be required to prepare a local development plan, to review it at intervals and to revise it as necessary. Procedures for preparing and revising plans will be simplified. Public participation in formulating plans and expedition in taking them through to adoption are to be maximised through community involvement schemes and timetables agreed between the local planning authority and the National Assembly for Wales (or, if agreement cannot be reached, determined by the Assembly).

Provision is also made for the National Assembly for Wales to prepare and publish a national spatial plan for Wales to which local planning authorities will be required to have regard when preparing their plans.

This Bill received Royal Assent on 13 May 2004.

Public Audit (Wales)

The Bill, which will, inter alia, establish a single public audit body for Wales, received its third reading in the House of Lords on 11 May 2004. It is now awaiting the relevant Bill stages in the House of Commons.

The Smoking in Public Places (Wales)

This Private Members Bill received its third reading in the House of Lords on 11 May 2004. It was then sent to the Commons, where it has been ordered to be read for a second time on 18 October 2004.

National Assembly Subordinate Legislation

- The Care Council for Wales (Specification of Student Social Workers) (Registration) Order 2004
- The Care Standards Act 2000 (Extension of Meaning of "Social Care Worker") (Wales) Regulations 2004
- The Inspection of Education and Training (Amendment) (Wales) Regulations 2004
- The Education (School Inspection) (Amendment) (Wales) Regulations 2004
- The Council Tax (Administration and Enforcement) (Amendment) (Wales) Regulations 2004
- The Library Advisory Council for Wales Abolition and Consequential Amendments Order 2004
- The Local Authorities (Conduct of Referendums) (Wales) Regulations 2004
- The National Health Service (Travelling Expenses and Remission of Charges) (Amendment) (Wales) Regulations 2004
- The Education (Induction Arrangements for School Teachers) (Amendment) (Wales) Regulations 2004
- The Health and Social Care (Community Health and Standards) Act 2003 Commencement (No. 2) (Wales) Order 2004
- Community Health Councils Regulations 2004
- The Welsh Development Agency (Derelict Land) Order 2004
- The Education (School Organisation Proposals) (Wales) (Amendment) Regulations 2004
- The Litter and Dog Fouling (Fixed Penalty) (Wales) Order 2004
- The Water Act 2003 (Commencement) (Wales) Order 2004
- The Dairy Produce Quotas (Wales) (Amendment) Regulations 2004
- The Education Act 2002 (Commencement No. 4 and Transitional Provisions) (Wales) Order 2004
- The Pigs (Records, Identification and Movement) (Wales) Order 2004
- The Anti-Social Behaviour Act 2003 (Commencement No.1) (Wales) Order 2004
- The Non-Domestic Rating (Miscellaneous Provisions) (Amendment) (Wales) Regulations 2004
- The Local Authorities (Capital Finance and Accounting) (Wales) (Amendment) Regulations 2004
- The Adoption Support Services (Local Authorities) (Wales) Regulations 2004

- The Food for Particular Nutritional Uses (Addition of Substances for Specific Nutritional Purposes) (Wales) (Amendment) Regulations 2004
- The Council Tax (Administration and Enforcement) and the Non-Domestic Rating (Collection and Enforcement) (Local Lists) (Amendment) (Wales) Regulations 2004
- The National Health Service (Optical Charges and Payments) and (General Ophthalmic Services) (Amendment) (Wales) Regulations 2004
- The Care Standards Act 2000 (Commencement No. 13) (Wales) Order 2004
- The General Medical Services Transitional and Consequential Provisions (Wales) (No. 2) Order 2004
- The Primary Medical Services (Sale of Goodwill and Restrictions on Sub-contracting) (Wales) Regulations 2004
- The National Health Service (Pharmaceutical Services etc.), (Repeatable Prescriptions) (Amendment) (Wales) Regulations 2004
- The Health and Social Care (Community Health and Standards) Act 2003 (Commencement No. 1) (Wales) (Amendment) Order 2004
- The National Health Service (Performers Lists) (Wales) Regulations 2004
- The National Health Service (Pharmaceutical Services) (Amendment) (Wales) Regulations 2004
- The National Health Service (General Medical Services Contracts) (Prescription of Drugs Etc.) (Wales) Regulations 2004
- The National Assistance (Assessment of Resources) (Amendment) (Wales) Regulations 2004
- The National Assistance (Sums for Personal Requirements)(Wales) Regulations 2004
- The Education (School Performance Information) (Wales) Regulations 2004
- The Education (Pupil Information) (Wales) Regulations 2004
- The National Health Service (Travelling Expenses and Remission of Charges) and (Optical Charges and Payments) and (General Ophthalmic Services) (Amendment) (Wales) Regulations 2004
- The Agricultural Holdings (Units of Production) (Wales) Order 2004
- The Food (Jelly Confectionery) (Emergency Control) (Wales) (Amendment) Regulations 2004
- The Valuation Tribunals (Wales) (Amendment) Regulations 2004
- The National Health Service Bodies and Local Authority Partnership Arrangements (Wales) (Amendment) Regulations 2004
- The Meat Products (Wales) Regulations 2004
- The Products of Animal Origin (Third Country Imports) (Wales) Regulations 2004
- The Registration of Establishments (Laying Hens) (Wales) Regulations 2004
- The National Health Service (Charges to Overseas Visitors) (Amendment) (Wales) Regulations 2004
- The Town and Country Planning (General Development Procedure) (Amendment) (Wales) Order 2004
- The Advocacy Services and Representations Procedure (Children) (Wales) Regulations 2004
- The Review of Children's Cases (Amendment) (Wales) Regulations 2004

7. RELATIONS WITH WESTMINSTER AND WHITEHALL

Sarah Beasley, Cardiff Law School, and Jessica Mugaseth, IWA

Joint Assembly/Westminster Legislative Scrutiny

The Welsh Affairs Committee has recommended that the House of Commons should grant powers for select committees to hold joint formal meetings with committees of the National Assembly for Wales and for the Welsh Grand Committee to hold joint debates with members of the National Assembly. The Committee has a particular wish to avoid duplication in pre-legislative scrutiny of draft bills relating to Wales by conducting such scrutiny jointly with the relevant National Assembly Committee.

A joint working group of officials of the House and the National Assembly has examined the procedural and practical implications of the Welsh Affairs Committee's proposals and has reported on how they could be put into effect.

The proposed solution is termed "reciprocal enlargement", with Assembly Members invited to take part in House of Commons proceedings or vice versa, the activities counting as proceedings of the host body, chaired by one of its members and governed by its rules. Meetings could, if desired, be hosted by the House and the National Assembly alternately.

The working group also suggested that the House's rules relating to the use of the Welsh language should be relaxed for such joint meetings, so that all participants could use either English or Welsh at will, with interpretation being provided.

The resulting recommendations by the Commons Procedure Committee, published in its third report 'Joint Activities with the National Assembly for Wales' on Tuesday 11 May 2004, were that until the end of the current Parliament, the Welsh Affairs Committee should be authorised to invite members of any specified committee of the National Assembly for Wales to attend and take part in its proceedings (but not to vote), with the arrangements for the use of Welsh as suggested by the working group.⁵²

On 27 May 2004 the Government issued a statement accepting the recommendations in the report and on 7 June 2004, the House of Commons voted to accept the motion:

“That this House approves the Third Report of the Procedure Committee, on Joint activities with the National Assembly for Wales, HC 582; and that the following Order be a Standing Order of this House until the end of the present Parliament: the Welsh Affairs Committee may invite members of any specified committee of the National Assembly for Wales to attend and participate in its proceedings (but not to vote).”

⁵² The House of Commons Procedure Committee, third report HC 613

On 15 June the National Assembly voted to alter its Standing Orders to enable this to happen. The new arrangements were also recommended by the Richard Commission as an essential step in providing AMs with more experience of legislative scrutiny.

Children's Commissioner Row

There has been a bitter exchange of words between Peter Clarke, the Children's Commissioner for Wales, and Margaret Hodge, the Minister for Children in Westminster. Giving evidence to the Welsh Affairs Committee's inquiry into the draft Children's Bill, Margaret Hodge accused Peter Clarke's office of getting "bogged down" in individual cases and "losing sight of the bigger picture" on child welfare in Wales.⁵³ She also expressed disappointment that Mr Clarke had only produced one report in three years.

However, Peter Clarke said he was "perplexed" by the Minister's comments:

"She is so clearly unaware not only of the breadth of work undertaken by myself and my team, but also of the whole range of developments in Wales in general."⁵⁴

Along with the majority of AMs Clarke has expressed concern over the draft Children's Commissioner Bill which would establish a Children's Commissioner for England. The proposals would give the English Commissioner powers over child welfare in non-devolved areas rather than extending the powers of the Welsh children's commissioner. Politicians from all parties in Wales, as well as the Commissioner himself believe this has the potential to cause confusion to youngsters. As Peter Clarke put it:

"My own view is that I need all the tools that the legislation provides me with to do a good job as a Children's champion."⁵⁵

Despite such views expressed from Wales Mrs Hodge told Welsh MPs that the government had no plans to rethink its position. She claimed that the split in power between the Welsh and English Commissioner's would be "pretty straightforward" and it was "patronising" to suggest children could not work out which office to approach.

Despite pressure from Welsh MPs, Secretary of State for Wales Peter Hain dismissed the concerns. He said the campaigners ran the risk of "snatching defeat from the jaws of victory" over what was essentially a good deal for Wales,⁵⁶ while his deputy at the

⁵³ House of Commons, oral evidence session HC538-ii, Tuesday 4 May.

⁵⁴ *Western Mail*, 6 May 2004.

⁵⁵ *Western Mail*, 6 May 2004.

⁵⁶ *Western Mail*, 12 May 2004.

Wales Office, Don Touhig, described the row as “anoraky”.⁵⁷ Nonetheless, Rhodri Morgan echoed the opinions of AMs and children’s groups in Wales:

“I believe that we are unanimous that children in Wales need a one-stop-shop, particularly children who are in some kind of trouble and need help from the authorities...we do not expect children in Wales to be experts on our constitutional arrangement.”⁵⁸

⁵⁷ *Western Mail*, 12 May 2004.

⁵⁸ *Assembly Record*, 11 May 2004.

8. RELATIONS WITH EUROPE

Jessica Mugaseth, IWA

Cohesion Forum

First Minister Rhodri Morgan played a leading role in the European Commission's Cohesion Forum in early May. Political leaders from all of the EU countries were represented at the forum in Brussels to discuss the future of regional development in Europe after 2006.

Rhodri Morgan who was accompanied by the Economic Minister, Andrew Davies as part of the 70 strong UK delegation, gave a keynote speech. The First Minister formed part of a round table discussion chaired by the new Regional Affairs Commissioner, Jacques Barrot who has replaced Michel Barnier. The forum was part of the consultation process on the Third Cohesion Report, which outlines the EU's structural funds programme post 2006, published in February.

The theme of the First Minister's contribution was 'something has got to give', reflecting the financial burdens brought about by spending on both the Common Agricultural Policy and Structural Funds. Rhodri Morgan was criticised for merely urging the commission to ensure that statistical effect regions be given adequate eligibility under the revision of the regional aid guidelines for the attraction of inward investment. Opposition leaders in the Assembly were disappointed that the First Minister didn't take the opportunity to set out Wales's position on the Third Cohesion Report. Despite repeated questioning Rhodri Morgan continued to evade stating his position arguing it was too early to speculate:

“It is far too early to say that the Commission has the funding to allocate to Objective 1 areas in Wales, as it will not have that money until the negotiations on the budget – and on whether 1 per cent will be the maximum or whether it will rise to 1.1 per cent and so on – are concluded.”⁵⁹

European Partnerships

The Education Minister attended the general assembly of the European Association for Regional and Local Authorities for Lifelong Learning (EARLALL) in March where members gave an update on developments within their regions. Wales is coordinating a paper representing the group's views on 'the role of the regions in the future administration of the structural funds' which will be forwarded to the European Commission on completion.

⁵⁹ *Assembly Record*, 19 May 2004.

A Wales-led 'pre-proposal' for Leonardo funding for a joint project with the Basque country, Tuscany and Scotland on the accreditation of post graduate learning in higher education was favourably received by the Commission at the beginning of the year and is currently awaiting on the Commission's response

Wales is also working actively with partners in the Basque county and Tuscany on a project to identify common occupational standards and competencies for particular vocations, starting with cooking and concrete laying. It is also working with the Vastra Gotaland region on a 'Women in Management' exchange programme. This will start with a visit to Wales by female managers from the Swedish Health Service in the Autumn.

Structural Funds Conference

The Assembly Government hosted a conference on Wales' experience of European Structural funds in Swansea. Representatives from the new EU members of Malta, Poland, Hungary, Latvia and Czech Republic attended the event in Swansea to hear lessons learnt from the Welsh experience of European funding.

9. RELATIONS WITH LOCAL GOVERNMENT

Jessica Mugaseth, IWA

Wales Programme for Improvement

An audit of the Wales Programme for Improvement 2003/04 highlighted serious problems of management and leadership capacity within local government in Wales:

“Many senior and service managers need to develop their people management skills. Many lack expertise in business analysis and project management and therefore have difficulty in identifying causes of risks and implementing the improvement action required... There appears to be a general lack of capacity in Wales in certain key areas such as HR management, asset management, social care workers, educational psychologists and planning officers.”⁶⁰

There are also serious problems with capacity which has a detrimental effect on service delivery:

“Shortages of capable senior managers and service managers in some areas represents one of the most fundamental barriers to improving governance and services.”⁶¹

In addition to problems with leadership and management capacity and capability, the report highlighted five other areas of corporate management as at risk: Strategic HR management, Customer and citizen engagement, Performance management/ measurement, Partnership/ procurement and Project management. Whilst the report concluded that improvement in education had been “very good”, the results of the joint review inspections for social services had been “disappointing with some very poor results”. Other areas with problems included Housing and Asset Management. The report cites “lack of capable management arrangements and a shortage of skilled social workers” as being significant contributory factors.

The report recognises the potential for further partnership working within the public sectors as well as with private and voluntary organisations. Although a politically sensitive issue, it calls for the exploration of “the potential for economies of scale through rationalisation of central services” signifying the “significant opportunities for step changes in improvement”. It also drew attention to a need for more effective public consultation:

“Whilst there has been a significant amount of public consultation, in many authorities this has not been translated into effective engagement... citizen engagement and community focus is a significant risk in 16 authorities.”⁶²

⁶⁰ Report of the Director General of the Audit Commission in Wales, *Wales programme for improvement 2003/2004*, April 2004.

⁶¹ *Ibid.*

The report calls on the Assembly to take a more proactive role in both its policy development and actions to assist local authorities:

“The Welsh Assembly Government has already recognised that it needs to better connect WPI to its national policies set out in ‘Better Wales, Better Country’. In essence these national priorities should be cascaded into authorities’ Community and Improvement Plans, aligned to financial planning. Policy agreements are likely to be the main instrument for achieving this objective and they will need to be re-shaped to provide a clearer and more explicit link between the national and local government plans. WPI can help reinforce that linkage...we believe the Assembly now needs to take a more forward role both through the Wales Improvement Board and through separate contacts and opportunities to assist these authorities and enable them to drive change and improvement.”⁶³

New Local Government Management Structures

Following the reorganisation of local authorities with the Local Government Act 2000, the Local Government and Public Services Committee undertook a year-long inquiry into the ‘operation of new political management structures in local government’. This was published in April 2004. The Act required authorities to replace the old committee system of local government with a system in which a small, clearly identified executive is responsible for providing leadership and taking decisions.

The committee noted the “period of profound cultural change” the local authorities were going through due to the restructuring. It felt that its observations and recommendations would improve the transparency, efficiency and accountability of local political management in Wales.

An underlying theme to the committee’s report was development and training. The report highlighted the success of the development and training of the executive members provided by *Syniad*, the training arm of the Welsh Local Government Association. However, the report was keen to emphasise the need for more training especially amongst non-executive councillors. It noted the importance of developing relevant training for Members and Officers in the scrutiny function and adequate induction for new councillors. It was concerned about the lack of effective scrutiny being undertaken within local authorities. It named a variety of possible reasons:

- Problems of organisation culture in the domination of committees by Officers in terms of operation and agenda setting and committee members operating as they would have under the old committee system.

⁶² *Ibid.*

⁶³ *Ibid.*

- In some authorities there is a perception that the overview and scrutiny function is marginalised with limited support, influence and prestige.
- Lack of response by the Executive to scrutiny committee recommendations and insufficient access to and restricted flow of information
- Lack of clarity about the role of the overview and scrutiny functions and how Member can best exploit its potential to influence policy and to hold the Executive to account.

The report also commented on the need for “non-Executive councillors (to have) a thorough understanding of what their role is” so that they can “feel empowered and engaged as leaders of their communities”. The report recognised that non executive councillors feel out of the system under the new style of governance and the committee suggest that all non-executive councillors should sit on at least one council committee so that they have some role in the overview and scrutiny function or in regulatory matters.

The Committee also calls for Local Authorities to have more freedom in determining their own management structures. At present local authorities must submit proposals to the Assembly Government if it wishes to alter its internal structure of overview and scrutiny committees, the Committee report proposes giving the local authorities more freedom by changing the legislation to allow local authorities to reform their political management structures and overview and scrutiny arrangements as they see fit.

Ceredigion Mayor

After months of campaigning, voters in Ceredigion voted three to one against having a directly elected mayor in May on a 36 per cent turn-out. Llais Ceredigion (Ceredigion Voice), a group linked to the language pressure group Cymuned, was behind the campaign. It was prompted by concerns over the Independent-led council’s plans to allow construction of 4,500 new houses which, it was feared would lead to more incomes and a dilution of the Welsh language in Ceredigion. However, all the major parties in the area opposed an elected mayor. Plaid Cymru led the campaign against a mayor, arguing that voting for the party in the forthcoming election was the best way to oppose the housing plans. In the event Plaid increased its councillors by three in the elections on 10 June making it the largest group on the council. Independents lost five seats and ended up with 15, followed by nine Liberal Democrats (up one), one Labour and one Other.

Energy Saving Policy

The Welsh Local Government Association has published new guidelines for the 22 local authorities to help them produce new energy policies based on local needs and priorities. The guidance highlights actions that local authorities could take to cut their

energy bills by 20 per cent. This could save over £8 million pounds a year across Wales. The policy also sets out a strategy to reduce fuel poverty in council and private homes by improving energy efficiency, and cutting fuel bills in thousands of homes by up to £200 a year.

10. POLITICAL PARTIES: THE JUNE ELECTIONS

John Osmond, IWA

The 10 June council elections produced the most variegated local government map in the history of Welsh electoral politics. Hitherto, the pattern has been one of overwhelming domination - first by the Liberal Party, from the 1880s to the 1920s, and since then by the Labour Party. Now, however, there is power sharing in nine councils across Wales, Labour control in eight, Independents run three, and Plaid Cymru and the Conservatives one each.

Labour rules Newport and the core Valley authorities of Neath Port Talbot, Rhondda Cynon Taf, Merthyr, Caerphilly, Blaenau Gwent and Torfaen, together with Flintshire in the north east corner of the country. Independents have Ynys Mon, Powys and Pembrokeshire, while the Conservatives control Monmouth and Plaid Cymru Gwynedd.

The remainder of Wales is run by coalitions (see Table 1). The Welsh Liberal Democrats are now the leading party in Swansea, Bridgend and Cardiff; Independents in Conwy, Denbighshire, Wrexham, and Carmarthenshire; and Independents with support from Liberal Democrats in Ceredigion (although Plaid Cymru are the largest party).

First Minister Rhodri Morgan described these results as “patchy and weird”⁶⁴. And certainly it is hard to find a consistent explanation that works across the country. The Liberal Democrat surge along the M4 corridor was attributed by some commentators to voters reacting against the Iraq War and Rhodri Morgan’s gaffe in failing to attend the D Day ceremony in Normandy. But if this was so, why did Labour voters seemingly ignore the same issues in neighbouring Rhonda Cynon Taf, Caerphilly and Newport?

Other explanations for the Liberal Democrats’ extraordinary success pointed to local issues, such as the closure of the Swansea Leisure Centre, the unpopularity of Labour leaders Russell Goodway in Cardiff and Jeff Jones in Bridgend, or the presence of John Marek’s new party, Forward Wales, in Wrexham. Yet local factors are by definition local and cannot explain more general trends.

What does seem the case is that wherever possible the electorate turned against incumbent administrations, whether Labour in Cardiff, Plaid in Rhondda Cynon Taf, or Independent in Ceredigion. The explanation for Labour holding on to councils like Blaenau Gwent, Torfaen, and Newport may simply be that there was little organised opposition for voters to mobilise around. In Merthyr, for example, the recently formed ‘People before Politics’ grouping won an astonishing nine seats, while in Bridgend a concerted campaign by Independents matched the Liberal Democrats’ seven-seat increase which was enough to wrest control from Labour.

⁶⁴ BBC Wales website www.bbc.co.uk/wales, 11 June 2004

Table 1: All-Wales Performance of the Political Parties in the Council Elections

PARTY	COUNCILS		COUNCILLORS	
	Total	+ / -	Total	+ / -
Labour	8	0	478	-64
Plaid	1	-2	172	-28
Lib Dem	0	0	148	+37
Conservative	1	+1	109	+39

What do the results mean for the political parties? Welsh Labour can take comfort from the fact that they performed much better than in England. Voter discontent on the doorstep was largely linked to UK issues such as the Iraq war and asylum seekers rather than the actual performance of the party in Wales, either at local or Assembly level. Furthermore, compared with Labour's dismal performance in the European Parliament elections in England – where it came third behind the Conservatives and Liberal Democrats – Welsh Labour did extremely well, topping the poll and increasing its share of the vote compared with 1999 (see Table 2).

Table 2: European Parliament Election Results in Wales, 2004 and 1999

PARTY	2004 RESULTS			1999 RESULTS		
	votes seats	%	%	votes	%	seats
Labour	297,810	32.4	2	199,690	31.9	2
Conservative	177,771	19.3	1	142,631	22.8	1
Plaid Cymru	159,888	17.4	1	185,235	29.6	2
UKIP	96,677	10.5	0	19,702	3.1	0
Lib Dem	96,116	10.4	0	51,283	8.2	0
Green	32,761	3.5	0	16,146	2.6	0
BNP	27,135	2.9	0			
Forward Wales	17,280	2.8	0			
Christian Democrats	6,871	0.7	0			
Respect	5,427	0.5	0			

At the same time the varied pattern of the Welsh local council map, in contrast to Labour's complete domination a decade or so ago, tells its own story. Labour now has different fights on its hands in different parts of Wales. In the Valleys it competes with Plaid Cymru; and in the rest of Wales with various combinations of parties. In fact, outside the Valleys Labour faces a collection of parties and independents whose supporters sole shared interest as often as not is to vote tactically against Labour. This suggests that in future Labour will face an uphill task in holding on to Assembly and Parliamentary seats in many parts of the country.

The Conservatives will draw a good deal of comfort from these results. Taking back control of Monmouthshire, and winning seven extra seats in both Conwy and Cardiff suggests it will be well-placed to win Monmouth, Clwyd West and Cardiff North in next year's Westminster election. It also won second place in the European election, ahead of Plaid Cymru. As their MEP Jonathan Evans concluded, "That, for my party is the first step towards re-establishing ourselves in Wales."⁶⁵

The main victor in the local elections was, of course the Liberal Democrats. They gained 15 seats in Cardiff, eight in Swansea, seven in Bridgend, seven in Powys, and five in Newport. Their spectacular advance in the capital, in particular winning every ward in the Cardiff Central Westminster constituency, suggests they will be well-placed to win that seat at next year's general election. However, in other parts of Wales they also lost seats. For instance, in Conwy – long a Liberal Democrat stronghold – the party lost seven seats. And in the European election they were forced into fourth place, on 10.4 per cent (albeit up 2 per cent on 1999), just behind UKIP. A worry for the Liberal Democrats is that they lack a clear focus and – outside their strongholds in Powys and some city wards – remain a vehicle for protest voting.

In many respects the party whose fortunes are most difficult to read from the election results are those for Plaid Cymru. It received a shattering blow in Rhondda Cynon Taf, losing 25 seats to Labour and control of the council. It did less badly in Caerphilly, losing 12 seats, although this was enough for it to lose control. Rhondda Cynon Taf demonstrates how seldom local elections results relate to the actual record of councils. The Plaid Cymru administration had performed creditably, putting the council back on its feet financially and sorting out the literally poisoned inheritance of the Nantygwyddon tip. However, a unique combination of favourable circumstances swept it to power in 1999 and once these were removed, Plaid's relatively shallow purchase on local politics did not prevent it from being swept out again. In Caerphilly, where the party has a longer and deeper record it was better able to withstand the change in fortunes.

In pockets elsewhere Plaid did surprisingly well, for example winning seats in such unlikely places as Caldicot close to the Welsh border in south Monmouthshire, Riverside in Cardiff, Barry in the Vale of Glamorgan, Cockett in Swansea, and Milford Haven in Pembrokeshire. It is also now the biggest party in Ceredigion.

However, a worry for Plaid Cymru is that in the European elections, although it held on to a seat, it was the only party whose total vote compared with 1999 fell in the context of a substantial increase in the turnout. As Carmarthen West MP Adam Price put it, "Plaid Cymru made a massive jump back in 1999 and I think the party has taken some time to build its own capacity in parallel with the support it has gained."⁶⁶

The main message from the June elections – at local and European levels – is that the previously monochrome largely single party dominance of Welsh politics has changed irreversibly. In its place is a more colourful, and more mature map of many colours.

⁶⁵ *Ibid.*

⁶⁶ *Ibid.*

11. PUBLIC ATTITUDES

John Osmond, IWA

An NOP poll, carried out for ITV1 Wales in the run-up to the European and local elections in June, found that 60 per cent favoured giving law-making powers to the National Assembly (see Table 3).⁶⁷ Though this figure cannot be directly compared with previous surveys it does appear to represent a significant advance in opinion in favour of more powers.

Table 3: Do you agree or disagree that the Welsh Assembly should be given greater law-making powers?

	All	Assembly voting intention			
		Con	Lab	Lib D	PlC
Agree	60%	45%	66%	62%	81%
Neither agree nor disagree	6%	3%	6%	6%	2%
Disagree	28%	47%	22%	26%	15%
Don't know	5%	6%	5%	5%	2%

The nearest equivalent has been the question regularly posed by the Institute of Welsh Politics survey of attitudes to constitutional preferences, shown in Table 4. At the 2003 Assembly election those favouring either a legislative Parliament or Independence combined to make a total of 51.7 per cent. The latest poll suggests that a this view has been augmented by a further 8 points to 60 per cent. This increase may reflect the publication of the cross-party Richard Commission's report at the end of March which strongly argued the case for legislative powers.

Table 4: Constitutional Preferences (%) in Wales, 1997-2003

<i>Constitutional Preference</i>	<i>1997</i>	<i>1999</i>	<i>2001</i>	<i>2003</i>
Independence	14.1	9.6	12.3	13.9
Parliament	19.6	29.9	38.8	37.8
Assembly	26.8	35.3	25.5	27.1
No elected body	39.5	25.3	24.0	21.2

Source: Institute of Welsh Politics, University of Wales, Aberystwyth

At the same time, as shown in Table 5, a large majority are in favour of a referendum being held before more powers are ceded. Significantly Plaid Cymru supporters favour a referendum more emphatically than those voting for other parties. This may reflect a new confidence in the desire for constitutional change together with a wish that any further acquisition of powers should enjoy the protection from revision by a future Westminster government that endorsement by a referendum would provide.

⁶⁷ NOP interviewed a Wales representative sample of 1436 electors, by telephone, between 27 May and 1 June 2004.

Table 5: Should any decision concerning greater powers to the Assembly be conditional upon a referendum of the people of Wales?

	All	Assembly voting intention			
		Con	Lab	Lib D	PIC
Yes, referendum	76%	83%	76%	75%	81%
No	15%	13%	16%	17%	14%
Don't know	9%	4%	8%	8%	5%

The poll also sought voting intentions for Assembly and Westminster elections, shown in Tables 6 and 7 which compare the outcome with the Assembly election in 2003 and the last general election in 2001. The Assembly poll suggests that Plaid Cymru is recovering some of the support it lost in 2003, largely at the expense of Labour.

Table 6: How would you vote if a Welsh Assembly Election were to be held tomorrow?

	NOP Poll 2004	Assembly Election 2003	Change
Conservative	19%	20%	-1%
Labour	36%	40%	-4%
Liberal Democrat	13%	14%	-1%
Plaid Cymru	26%	21%	+5%
Other	6%	5%	+1%

Table 7: How would you vote if a Westminster General Election were to be held tomorrow?

	NOP Poll June 2004	Gen Elect 2001	Change
Conservative	22%	21%	+1%
Labour	41%	49%	-8%
Liberal Democrat	16%	14%	+2%
Plaid Cymru	15%	14%	+1%
Other	6%	2%	+4%

ITV1 Wales' poll also sought views on the projected new European Constitution. Table 8 queries whether respondents would be for or against endorsing a new constitution in the forthcoming referendum, likely to be held towards the end of 2005. Table 9 then asks those who would vote No whether they would prefer Britain to leave the European Union.

Table 8: There will be a referendum before Britain accepts the new Constitution of the European Union. If that referendum were to be held tomorrow, would you vote Yes or No to accept the Constitution?

	European voting intention				
	All	Con	Lab	Lib D	PIC
Yes	38%	30%	53%	38%	43%
No	40%	54%	26%	39%	41%
Don't know	22%	16%	21%	24%	17%

Table 9: If you said *No* (in Table 8), are you happy for Britain to remain in the European Union or would you prefer Britain to leave the European Union?

	European voting intention				
	All	Con	Lab	Lib D	PIC
Yes, stay in EU	44%	50%	52%	60%	38%
No, prefer to leave	49%	45%	40%	40%	52%
Don't know	7%	6%	8%	-	10%

A final question in the poll, shown in Table 10, asked whether respondents would like British troops to leave Iraq now.

Table 10: Should British troops be withdrawn immediately from Iraq?

	Westminster voting intention				
	All	Con	Lab	Lib D	PIC
Yes	49%	43%	41%	54%	58%
No	42%	50%	53%	42%	35%
Don't know	8%	7%	6%	4%	7%

12. PRESS AND MEDIA

Jessica Mugaseth, IWA

Western Mail Rejects Referendum on Powers

In the wake of the publication of the Richard Commission's report at the end of March, the *Western Mail* rejected calls for a referendum on increasing the powers of the National Assembly. In its editorial comment it attacked the "narrow self-interest...reactionary wing of Welsh Labour" which it blamed for "landing us with a largely impotent Assembly that is forced to beg Westminster for crumbs from the legislative table."⁶⁸

The paper argued that Lord Richard and his commissioners had set out an "excellent blueprint that would transform the Assembly into the powerful engine Wales needs." It criticised Rhodri Morgan for allowing the "anti-devolution MPs to seize the initiative", and encouraged the First Minister "to face down the enemies of Welsh self-determination and argue the case for Richard's recommendations to be implemented as a package."

The paper highlighted the £3.5 million that a referendum would cost and also pointed to the cost in terms of "the bitterness that would erupt in Wales over an exercise that most people would rightly see as unnecessary." However, it accepted that a referendum would be necessary if there were proposals to give tax-raising powers to the Assembly.

Bonfire of the Quangos

The *Western Mail* also called for cross-party collaboration to put pressure on the government to realise the promise made in 1997 for a bonfire of the quangos. The paper expressed concern over the amount of money spent by quangos in Wales and the fact that Ministers were using the quangos as "a buffer to avoid political accountability". In its analysis the *Western Mail* said it "applauds the idea of an audit of quangos with a view to scrapping as many of them as possible, bringing their staff directly under National Assembly control and making ministers accountable."⁶⁹

⁶⁸ *Western Mail* 1 May 2004

⁶⁹ *Western Mail* 17 April 2004

'Hutt Must Go'

The *Western Mail* called for Jane Hutt to reconsider her position following the publication of the recent Audit Commission and the Wanless report. The paper dismissed her response to the Audit Commission's report as a "predictable piece of spin attempting to turn the hard truth in to a ringing endorsement of her vision for the NHS" and called for her to "make good those promises of so long ago". It concluded that Ms Hutt could:

"... only carry on if both she and Morgan are 100% convinced she has the ability and the competence to take a firm hand to the NHS's problems and to give Wales the health service it was promised five years ago. Wales and the NHS cannot and will not tolerate the publication of another damning report a year from now."⁷⁰

ITV1 Wales

Meanwhile, as part of the restructuring of the ITV network, HTV Wales has now become part of ITV plc and is known as ITV1 Wales. The channel will continue to providing ten hours a week of programming for viewers in Wales, ranging from news and current Affairs to comedy, music and features.

⁷⁰ *Western Mail* 19 May 2004.