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DRAGON TAKES A DIFFERENT ROUTE

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John Osmond

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SUMMARY

Following the Queens Speech in November, First Minister Rhodri Morgan distanced himself from the notion of Foundation hospitals, making it clear that the 'consumerist' agenda being pursued by the government in England had little relevance in Wales. As he put it, "We are neither going down the foundation hospital route nor the top-up fees route. We are still for universal provision rather than a variation of provision." Morgan forecast that divergences between Cardiff and London on such issues would widen over the years: "That is what devolution is all about," he said. In this he was echoing an acknowledgement made by Prime Minister Blair a month earlier at the Blackpool Labour Conference. Differences between public services in the two countries were the inevitable result of devolution, Blair declared: "I agree with him [Rhodri Morgan] that the Welsh health service and schools are matters for the Assembly and the Welsh executive. If people in Wales want to do it in a different way they can – and it will be the people of Wales that will be the judge of that."

That judgement will come at the next Assembly election in May 2003 and the latest opinion poll, the first to be carried out in Wales since the 2001 Westminster general election, predicts the continuation of the Labour Liberal Democrat coalition in Cardiff Bay. With the 1999 Assembly election results shown in brackets, it gives Labour 29 (28) seats, Plaid Cymru 16 (17) Liberal Democrats 8 (6), and the Conservatives 7(9). Carried out by NOP for HTV Wales in mid November, the poll predicts the main winners to be the Liberal Democrats who move just ahead of the Conservatives to become the third party in the Assembly.

Overall, however, the poll suggests only small changes in the percentage vote compared with 1999, with the major shifts taking place in the Regional List, top-up constituencies. Predicted percentage votes given by the poll (with 1999 results in brackets) are: **First Past the Post:** Labour 32 (37.6), Plaid Cymru (27 (28.4), Conservatives 14 (15.8), and Liberal democrats (13 (13.5); **Regional List:** Labour 32 (35.5), Plaid Cymru 31 (30.6), Conservatives 15 (16.5), Liberal Democrats 19 (12.5). However, turn-out will undoubtedly be a key factor in the outcome of the election. It was only 46 per cent in 1999, and the November 2002 poll suggests this will drop even further, with only 37 per cent of the electorate saying they were certain to vote. The poll indicates that differential voting between Westminster and Cardiff is now becoming firmly established. Even if Labour were to win a narrow majority, of say just one or two seats, Rhodri Morgan has made it clear that he might still seek another coalition rather than rely on backbench support from potentially dissident members on his own side.

Peter Hain's appointment as Secretary of State for Wales in October, in succession to Paul Murphy, may have far reaching constitutional consequences since, for the first time the Assembly now has a strong pro-devolution advocate in Whitehall. At the Welsh Office Hain was campaigner co-ordinator in the 1997 referendum. Hain also retains his position as the UK Government's representative on the Convention for the Future of Europe. Again this may prove important given the links between Welsh and European constitutional futures that First Minister Rhodri Morgan has sought to highlight.

1. THE ASSEMBLY GOVERNMENT

John Osmond and Nia Richardson, IWA

Doing Things Differently

As the Assembly's first term drew to a close it became clear that one major impact of devolution was simply that Wales need not follow health and education policies being promoted in England. So, for example, Tony Blair's statement in his October party conference speech that schooling was entering a 'post-comprehensive era' immediately drew a disclaimer from First Minister Rhodri Morgan. He was Prime Minister in Wales as far as schools and hospitals were concerned, he said, and he would never use the phrase 'post-comprehensive' to describe the Welsh education system. He said there was no demand in Wales for alternative selective secondary schools, such as city technology colleges.

Similarly, following the Queen's Speech in November, the First Minister distanced himself from the notion of Foundation hospitals, making it clear that the 'consumerist' agenda being pursued by the government in England had little relevance in Wales. He said that University top-up fees would also be rejected as unsuited to Welsh needs:

“We are neither going down the foundation hospital route nor the top-up fees route. We are still for universal provision rather than a variation of provision.”¹

And he forecast that divergences between Cardiff and London on such issues would widen over the years: “That is what devolution is all about,” he said.² In this he was echoing an acknowledgement made by Prime Minister Blair at the Labour Conference that differences between public services in the two countries were the inevitable result of devolution. Asked whether he was now effectively premier for England on these matters Blair responded:

“I agree with him [Rhodri Morgan] that the Welsh health service and schools are matters for the Assembly and the Welsh executive. If people in Wales want to do it in a different way they can – and it will be the people of Wales that will be the judge of that.”³

Rhodri Morgan's views on foundation hospitals and top-up fees were underlined by his Ministers the following week. Health Minister Jane Hutt declared:

¹ Guardian, 15 November 2002.

² *Ibid.*

³ Western Mail, 4 October 2002.

“The foundation hospital programme is a policy being pursued in England, not in Wales. Foundation hospitals are not part of our reforms here in Wales. We want an NHS based on co-operation between hospitals, not competition.”⁴

Education Minister Jane Davidson said:

“I do not believe we should have fees in advance of receiving an education at higher education level because that is a disincentive and what we want to do is create incentives. I do not see it as an issue benefiting our sector in Wales when one of our biggest agendas is about widening participation. The issue about up-front student fees does not just put off those who would have to pay them, it puts off those who don't have to pay them in large numbers as well.”⁵

In his address to the National Assembly on the Westminster Queen's Speech in November, the newly appointed Secretary of State for Wales Peter Hain acknowledged, and endorsed, these differences:

“The Assembly Cabinet has made it clear that you will not follow the same path as the Government intends pursuing in England by, for example, the creation of foundation hospitals. Why should this be a problem? It is devolution in action. That is why we campaigned so hard to win that referendum: to enable the people of Wales to meet the different needs and values of our nation in different ways from England.”⁶

Caution on PFI

Again in contradistinction to Westminster, in particular edicts emanating from the Treasury, the Assembly Government is proving notably cautious on pursuing capital projects through utilising the private finance initiative route. In late 2001 the Assembly Government announced that two new community hospitals, in Porthmadog and Rhondda, were to be financed entirely through the public sector. During 2001, too, Finance Minister, Edwina Hart, re-branded PPPs and PFI schemes in Wales as 'investment through partnership'. She described this as a pragmatic 'Welsh way' embracing the four principles laid out in Table 1 on the following page.⁷ The approach would limit the use of PFI to large-scale schemes that were clearly within the public interest.

Edwina Hart also promised to widen the categories of staff who would remain within the public sector when a PFI was underway. At present employees such as doctors who are involved directly in providing a public service remain within the public sector when a facility is operated under PFI.

⁴ Assembly Record, 19 November 2002

⁵ Western Mail, 20 November 2002.

⁶ Assembly Record, 26 November 2002

⁷ Edwina Hart, Statement on Investment through Partnerships in Wales', Assembly Record, 13 December 2001.

Table 1: The Assembly Government's Four PFI Principles

<ul style="list-style-type: none"> • All PFI schemes should be governed by the public interest in the quality of public services. • The relationship with the private sector should be based on partnerships that improve services rather than arrangements to access finance only. • The interests of employees should at least be maintained. • Partnerships between people who work together to serve the public should be enhanced rather than diminished.
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On the other hand, staff who are involved in the upkeep of a facility - such as porters, cooks and cleaners - are transferred to the private sector. As Edwina Hart put it, addressing an Assembly plenary session in December 2001:

“We must continue to be prepared to finance a large part of our capital investment through conventional means ... The Assembly does not intend to privatise public services. Rather, it seeks to deliver those services by the most efficient and effective means available under the direction of the relevant public body ... We aim to maintain the public sector ethos, which we value, in all public services ... we would not expect clinical, professional, or front-line staff, such as doctors, nurses and teachers, to transfer to the private sector as part of any PPP or PFI project in Wales. I want to ensure that the concept of the clinical team in this context is not defined by status. We will aim to redefine that which makes up the clinical team so that staff such as porters, cooks, and cleaners would not transfer to private sector employment but would remain employees of the National Health Service.”⁸

It is clear, therefore, that the Assembly Government is pursuing PFI less aggressively than the Labour administration at Westminster. As First Minister, Rhodri Morgan, put it, speaking to the Wales TUC in May 2002:

“Our decision, jointly made by Finance Minister, Edwina Hart, and Health Minister, Jane Hutt, to build the second Rhondda hospital and the hospital at Porthmadog entirely through the public sector is not some opportunistic aberration.”⁹

The less enthusiastic approach to PFI in Cardiff Bay compared with Whitehall is perhaps not surprising, given the importance of the public sector in Wales and the degree of antipathy to the private sector. At the same time it holds out the prospect of a more measured approach to the implementation of a policy that has proved highly controversial.

Advocates of PFI have traditionally argued that it gives public authorities access to new sources of investment and management skills for capital schemes. The public sector gets the benefit of the commercial efficiency and innovation of private sector

⁸ *Ibid.*

⁹ Western Mail, 3 May 2002.

investors who put their skills and capital into a project. The overall result, it is claimed, is improved public services and better value for money. Risks associated with new buildings - such as construction costs, time over-runs and project performance - are transferred from the public to the private sector.

Opponents, and in particular the trade unions, claim that the public service ethos is at stake. Public services are about supporting the social, economic and environmental well being of communities and not about making profits. They say that greater involvement from the private sector endangers the working conditions and the salaries of those working in the public sector. Private contractors tend to cut salaries and jobs to reduce costs. A paper by the policy think tank, Catalyst, in November 2001, for example, claimed that costs per prisoner in four privately managed prisons in 1997-8 were 11 per cent lower on average than in comparable publicly managed prisons and that staff costs accounted for all the difference.

Opponents also argue that PFI schemes give a misleading impression that private sector investors are putting additional funding into public services. Although private / public partnerships give the public sector **access** to capital funding, they do not deliver **extra** funding. This is because the public sector has to pay for the private sector's services and pay much more than if the public sector had paid up front for the new facility.

The new A55 extension across Anglesey, opened in March 2001, and which cost an estimated £100 million to build, makes the point. The Assembly Government will be paying £16 million a year for the road for the next 30 years. In total over this period the road will cost the taxpayer some £480 million. It could be more since the annual charge paid to the private consortium that built the road is based on the traffic flows. Because A55 traffic is expected to grow, partly owing to increasing Irish usage, the Assembly Government's contribution will also increase in future years. Table 2 on the following page includes other examples of how the final repayment costs of PFI schemes in Wales are considerably higher than the initial capital value.

Such schemes inevitably cost more than conventional publicly funded investment because the Government can borrow money at a lower interest rate than private consortiums. Nevertheless, in the long run the public sector has to pay for a private consortium's borrowing since this is included within the total repayment costs.

PFI contracts commit public agencies to a proportion of their future budgets for many years ahead, so reducing future flexibility in decision making. During 2002-03, for example, the £16 million repayment on the A55 extension will absorb 36 per cent of the Assembly Government's £44.4 million budget for trunk road, motorways and transport services.

PFI opponents also contest the UK government's claim that private sector involvement enhances efficiency. The Anglesey A55 extension required major repairs less than six months after it opened. There was very little evidence here of risk having been transferred to the private sector.

The lower level of enthusiasm for the public private partnership route in Wales is reflected in the figures for schemes completed. In England more than 400 PFI contracts are currently in operation committing departments to future expenditure of

around £100 billion. On the other hand, in Wales only 31 PFI schemes come within the remit of the Assembly Government. The figures for completed PFI projects show that capital spend on PFI projects in Wales accounts for just under three per cent of the English total, as Table 3 on the following page shows.

Table 2: Repayments on Selected Welsh PFI Schemes

Project	Approximate Capital value (£million)	Annual Payments (£million)	Contract duration (years)	Total cost of repayment (£million)
Neath Port Talbot Hospital	66	10	27.5	275
St. David's Hospital, Cardiff	16.5	2	30	60
Chepstow Community Hospital	10	1.2	25	30
Replacement Secondary Schools, Ysgol Gyfun Cwm Rhymni and Lewis Boys, Caerphilly	35.5	3.23	30	96.9
Replacement of Primary School in Pembroke Dock with local council offices	11.3	1.1	30	33
Penweddig High School, Ceredigion	16.5	1.8	30	54
Nevill Hall Hospital Day Surgery Unit	3.5	0.58	25	14.6
Chepstow Community Hospital	10	1.6	25	40
Bute Avenue road scheme, commercial development and residential units	45	5.18	25	129.5
A55	100	16	30	480

Source: Assembly website

However, it is unlikely that the Assembly Government will be prepared to drop PFI completely so long as it is being pursued in Whitehall. As Edwina Hart admitted to Assembly Members during plenary in December 2001:

“Insofar as the rest of the UK finances part of its investment in public services through PFI and therefore from outside the public expenditure block allocated to the Assembly, we must either mirror this form of investment or accept that Wales will have a lower level of investment.”¹⁰

Table 3: English and Welsh PFI Schemes Compared

	Completed projects	Capital spend £m
England	124	9,514.8
Wales	5	275
Wales capital spend on PFI as percentage of spend in England	2.8	

Source: www.pppforum.com

The outcome appears to be a ‘Third Way’ in Wales. It is not as dogmatic as the approach being adopted by the Treasury with its insistence on private finance for such projects as the upgrading of the London Underground, in the face of fierce opposition from the city’s mayor Ken Livingston. But neither is it a complete rejection of the concept, as many working in the public sector and their supporters in the unions are demanding.

Health Service Reorganisation

The Assembly Government’s reorganisation of the Welsh health service is in part a response to the proposed changes in England. From April 2003 the five Welsh health authorities will be replaced by 22 health boards that will commission health services for their local populations. The new boards will match the boundaries of the 22 unitary authorities. In addition, three new Regional Offices are being established, for North Wales, Mid and West Wales, and South East Wales. These Offices will be outreach arms of the Assembly Government’s NHS Wales Department, responsible for performance managing and developing NHS Trusts and the new Local health Boards within their regions.

The changes, involving strong representation for local government, are seen by the Assembly Government as more democratic and equitable than giving the best performing hospitals foundation status, with their own assets and borrowing powers. In a plenary debate on a delegation of functions to the Assembly Government that will allow the changes to be brought about, Health Minister Jane Hutt declared:

“Uniquely, the new local health boards and local authorities will have a duty to work together to formulate and implement health, social care and wellbeing

¹⁰ Edwina Hart, *op.cit.*

strategies for the people in their areas. Bringing the NHS and local government together in that way is distinctive to Wales, and it will deliver joined-up health and social care planning and provision. The changes will bring a greater local voice to NHS decision making ... In bringing these provisions into effect we will be better placed to challenge health inequalities and improve the standard of healthcare for the people of Wales.”¹¹

By November 2002 the Regional Director appointments, members of the Senior Civil Service (within a salary range of £51,250 to £107,625) had been announced as follows:

1. North Wales (based in Mold): Derek Griffin, currently Chief Executive of Wrexham County Borough Council.
2. Mid and West Wales (based in Carmarthen): Stuart Marples, currently Chief Executive of the Institute of Healthcare Management.
3. South East Wales (based in Pontypool): Sonia Mills, currently Chief Executive of the Swindon and Marlborough NHS Trust.

In addition a further Civil Service appointment of a Director of Performance, Quality and Regulation within the central NHS Wales Department of the Assembly Government was made on the same scale. He will be John Hill-Tout, currently seconded to the Assembly Government from his role as Business Director for Bro Taf Health Authority. Meanwhile, by November 13 of the 22 Local Health Board Chief Executives had been appointed, on salaries of £80,000, as follows:

1. Bridgend LHB Kay Howells currently general manager for Bridgend Local Health Group.
2. Neath Port Talbot LHB Katie Norton currently general manager for Neath Port Talbot Local Health Group.
3. Powys LHB Andy Williams currently Director of Performance Management, Dyfed Powys Health Authority.
4. Blaenau Gwent LHB Joanne Absalom currently general manager of Newport Local Health Group.
5. Rhondda Cynon LHB Mel Evans currently general manager of Rhondda Cynon Taff Local Health Group.
6. Vale LHB Abigail Harris currently general manager for the Vale Local Health Group.
7. Caerphilly LHB Judith Paget currently general manager for Caerphilly Local Health Group
8. Cardiff LHB Sian Richards currently general manager for Cardiff Local Health Group.
9. Merthyr LHB Ted Wilson currently on secondment from the Vale Local Health Group to Bro Morgannwg Trust where is the general manager for the Princess of Wales Hospital.
10. Flintshire LHB Andrew Gunnion currently general manager for Flintshire Local Health Group.
11. Wrexham LHB Geoff Lang currently Director of Finance for North Wales Health Authority

¹¹ Assembly Record, 20 October 2002.

12. Gwynedd LHB Grace Lewis-Parry currently general manager for Gwynedd Local Health Group.
13. Conwy LHB Wyn Thomas currently manager for Conwy Local Health Group.

The fact that eleven of the appointments had still to be made, with less than six months to go before the new system became operational, prompted strong attacks by the Opposition parties. A memorandum from Bryan Mitchell, Programme Director of the NHS Structural Change Programme, posted on the Assembly's website in October, identified this as among a number of 'Major risks' to the implementation of the programme. The memorandum was picked up by BBC Wales' *Dragon's Eye* political programme in mid October and promoted as a "leaked" document indicating serious problems.¹² In turn this prompted the Opposition attacks. Plaid Cymru's leader Ieuan Wyn Jones declared:

"Unquestionably, this project by the coalition Government to restructure the health service is the biggest it has undertaken. However, in recent weeks it has become clear that the project is surrounded by chaos, confusion and uncertainty: chaos because many of the deadlines set by the Minister for Health and Social Services for each stage of the proceedings has been changed; confusion because there will be 54 bodies running the health service for a nation of 3 million people; uncertainty because no-one can predict the cost of either the transitional arrangements until the new structures are in place or the operational costs once the new system is running."¹³

Agreeing with these criticisms the Conservative's health spokesman, David Melding, added that a major difficulty had been brought about by the tight legislative timetable:

"Originally, in summer 2001, the Minister said that these reforms would be delivered in a specific Wales-only NHS Wales Bill. That would have allowed an appropriate and more relaxed timescale and a full examination of the new structures ... The Minister has been forced on this course because she could not defend the Bill that was negotiated by the First Minister. Within five weeks she was told that this had to be passed by means of an England and Wales Bill. That Bill has now become an Act and all these procedures have, therefore, to be rushed through – although she could still have abolished the health authorities a year later and given herself more room for manoeuvre. The problem has been caused by the tight legislative timescale under which we have had to work."¹⁴

Wanless to Review Health and Social Care

¹² BBC Wales *Dragon's Eye*, 24 October 2002.

¹³ *Assembly Record*, 31 October, 2002.

¹⁴ *Ibid.*

During her budget speech in October Finance Minister Edwina Hart announced that she had appointed an expert adviser, Derek Wanless, to review health and social care in Wales. Derek Wanless is former chief executive of Nat West Bank and author of the (Wanless) report on the future of the NHS in the UK, commissioned by Chancellor, Gordon Brown in the run-up to his 2001 budget. Edwina Hart explained that the review would have far-reaching consequences and would determine the health budget post 2004:

“This report will be crucial in terms of setting the agenda for the NHS and social care reform in Wales. It is also the reason why the budget table circulated contained relatively modest increases in the existing health budget lines for 2004-05 and 2005-06 and a significant reserve provision for those two years. The allocation of resources beyond the end of the next financial year will be determined by the direction in which that review can lead us in ensuring that investment is matched by reform and delivery.”¹⁵

The terms of reference for the review are yet to be published and the final report is unlikely to see the light of day before the Assembly elections. (See also the analysis of the issues facing Wanless in the Finance chapter.)

Language Action Plan

The Assembly Government’s language Action Plan, *‘Iaith Pawb* (‘Everybody’s language’), which seeks to create “a truly bilingual Wales”, was presented to the Assembly at the end of November. Described by Culture Minister Jenny Randerson as the “most radical comprehensive and far-reaching policy ever produced for the Welsh language” the aim is to increase raise the number of Welsh speakers by 5 per cent to by 2011 – from around 20 per cent to 25 per cent.¹⁶

The action plan builds on the blueprint *Bilingual Future* published by the Assembly Government in the summer of 2002 in response to the Culture Committee’s review into the Welsh language.¹⁷ The action plan was welcomed by the Chair of the Culture Committee, Rhodri Glyn Thomas (PC):

“I congratulate you on the action plan. Much good work has been done to bring this together, and we and the Culture Committee greatly welcome it. There is much that is encouraging in this report, and the commitment and political will obviously exists to accomplish the work.”¹⁸

The action plan is based around three main strands, the national level, the community and the individual, and is supported by an extra £26.8 million funding. At the national level, as was announced in *Bilingual Future*, the Welsh language will now be

¹⁵ Assembly Record, 15 October 2002.

¹⁶ These percentages are estimates, pending publication of the 2001 census in the early part of 2003.

¹⁷ See the previous quarterly report, *A Bilingual Future*, IWA, August 2002.

¹⁸ Assembly Record, 27 November 2002

mainstreamed through all policy sectors within the Assembly Government. A new unit will be established to be responsible for implementing the plan.

The Welsh Language Board is the main recipient of the additional funding, receiving an extra £16 million over the next three years. This represents a 75 per cent increase in the Board's budget. It will use the extra funding to develop more *Mentrau Iaith* (community based language initiatives) and to set up nine new local language action plans. The Board will also be responsible for encouraging more use of the language in the private sector and amongst young people in Wales. It will be setting up new regional offices in north and south west Wales to equip itself for these new challenges.

In terms of protecting and promoting the language as the language of the community, the Minister committed to reviewing the effectiveness of the Assembly's planning policies in relation to the language. She also provided extra £750,000 for the 'homebuy' ownership scheme in rural areas to encourage people to stay in their local communities. However, this is unlikely to appease language activists such as the pressure group *Cymuned* whose spokesperson, Simon Brooks, said the additional money amounted to little more than 'tokenism'. As he put it:

"The extra £750,000 allocated to the flagship Homebuy policy enabling local people to buy houses in their own communities instead of being pushed out by incomers will allow a council, such as Gwynedd, to help buy no more than two or three extra houses a year."¹⁹

The third strand, empowering individuals to speak Welsh, is supported by £9.5 million funding. The greater part of it will go towards increasing the availability of early years provision through the medium of Welsh and increasing the number of staff available to teach in Welsh.

Together with the Action Plan, the Minister also announced that all housing associations would become within the ambit of the Welsh Language Act from April 2004 and be obliged to prepare Welsh language schemes. Language activists had made it clear during the Culture Committee's review that they wanted to see Utilities coming under the same obligation, and the Minister stated that the Assembly Government would work towards this objective.

All four parties in the Assembly welcomed the document, a rare consensus over what over the past two years has been an extremely contentious issue, in and outside the Assembly. Owen John Thomas, Plaid Cymru's Culture spokesperson remarked:

"I am happy with the friendly tone of *Iaith Pawb*, and I am glad that Welsh medium education, from zero to five years old, will be a foundation on which to build a bilingual Wales."²⁰

At the same time Plaid's was concerned with the lack of detailed targets in the document. Commenting on the Minister for Culture's commitment to "create a truly bilingual Wales", Dafydd Wigley asked:

¹⁹ Western Mail, 28 November 2002

²⁰ Assembly Record, 27 November 2002.

“What is the yardstick that will measure whether or not we have reached that goal? What is the target date for achieving that goal? How will we turn this document into a real plan?”²¹

Culture Minister, Jenny Randerson, explained that she was cautious about setting targets before the results of the 2001 census are known. Lack of targets was also the a Conservative criticism. The party also wanted to make the learning of Welsh optional at Key Stage 4, between 14-16. However they did welcome the action plan.

Delyth Evans, Labour’s Deputy Minister for Culture, took the opportunity to defend her party’s record on the language:

“The action plan clearly reflects the values of the Labour Party and its strong support of the language in the context of equal opportunity, tolerance and community sustainability.”²²

However, whilst the response to the action plan within the Assembly was on the whole positive, Cymdeithas yr Iaith Gymraeg (the Welsh Language Society) was bitterly disappointed with the its content:

“After three-and-a-half long years of listening to the different opinions and standpoints on the Welsh language, we have, at last got the official response of the Welsh Government. Unfortunately the Government has failed in two key areas. Firstly, the Government is not prepared to interfere in the competitive housing market –for example, through a new Property Act – to ensure a future for Welsh-speaking communities. Furthermore, there is no commitment to a new Welsh Language Act which would ensure that private companies respect the right of the people of Wales to use the language as part of their daily lives.”²³

The action plan will be formally published early in the New Year after the Education and Culture Committees in the assembly have had the opportunity to debate it.

Learning Pathways for 14-19 Education

The 2002 Education Act provided the Assembly Government with scope to develop its own proposals for 14-19 education, outlined in *Learning Country: Learning Pathways 14-19*. This advocates the introduction of more flexibility and choice in learning pathways for 14-19 year olds:

²¹ *Ibid.*

²² *Ibid.*

²³ Press release Cymdeithas yr Iaith Gymraeg, *Response to the Welsh Assembly Government’s statement on the Welsh language*, , 27 November 2002.

“The key to our approach is ‘choice’. We want to move away from a one-size-fits-all approach, where achieving anything other than good academic qualifications is often seen as less useful or prestigious. We want our young people to be able to choose Learning Pathways that best suit them – mixing and matching vocational, academic and occupational qualification and experience.”²⁴

The Assembly Government is aiming for 95 per cent of young people to be ready for high skills employment or higher education by 2015. In other words, it would like the majority of young people to either reach an Advanced (level 3) qualification²⁵ or an Intermediate qualification²⁶, both of which could be obtained by following the proposed Welsh Baccalaureate award. The new structures for 14-16 learning pathways include:

- The statutory requirements of English, Welsh, maths, science, physical education, religious education, careers education, sex and relationship education, personal and social education (from 2002)
- An Options Menu, including existing subject options, range of modern foreign languages and options for work based and community learning.
- A continuum of learning enabling young people to practice and develop their key personal and interpersonal skills (especially relating to employability) in a range of contexts. An additional curriculum component will be *Wales, Europe and the World*.
- A balanced *Learning Pathway* with greater emphasis on essential skills and real life experience.
- A vocational option for all.
- More emphasis on work focused learning and community and voluntary opportunities as part of a continuum of learning.
- Extended choice of innovative and exciting options.²⁷

The proposed structures for 16-19 year olds includes:

- Four distinct routes,; National Trainee-ship, Combined Apprenticeship, Modern Apprenticeship and General Apprenticeship
- Extending the continuum of learning including work focused learning and community and voluntary opportunities to 19 and beyond.
- The majority of young people remaining in some form of learning at least part time up to the age of 19.
- Increased emphasis on real life experiences and skills essential for employment.
- Structure of routes following the model of the Welsh Baccalaureate.²⁸

²⁴ *Learning Country: Learning Pathways 14-19*, Assembly Government, October 2002.

²⁵ An intermediate (level2) qualification – the National Trainship which includes a substantial work focused and accredited element plus the essential and key skills for employment, in addition to level 2 qualifications, equivalent to 5 GCSEs at A*-C, following the model for the Intermediate Welsh Baccalaureate award.

²⁶ An advanced (level3) qualification – the General, Combined or Modern Apprenticeship, following the model of the Advanced Welsh Baccalaureate and allowing access to employment or higher education.

²⁷ Assembly Government Press Release, October 23 2002

²⁸ Assembly Government Press Release 23 October 2002

To assist young people in choosing the most appropriate pathways additional support will be given to young people through learning coaches. Their role will be to co-ordinate the range of advice and support available to the young person within a school/college. It is also proposed that local 14-19 Networks between schools and colleges be created that will work on developing an Area Option Menu from which young people could select the elements of their *Learning Pathways* to help them achieve their goals. Education Minister Jane Davidson told plenary:

“The proposed new structures for 14-19 year olds are intended to be more flexible, with young people able to pursue learning with wider range of options in a combination of settings including the workplace. They are also more focused, recognising that we need to make provision for all young people, to have the experiences and opportunities necessary to develop essential skills.”²⁹

While welcoming aspects of the document, Plaid Cymru’s spokesperson Helen Mary Jones criticised the lack of detail in the proposals:

“For example, little is said in the document about who the individual learning coaches should be, how they should be trained, what will be done to ensure their independence from the institutions that may have vested interests in the young people’s choices, and so on.”³⁰

“Also, there is little sense of how these proposals will fit with all the other initiatives that are either in existence, or in the pipeline. There are times when this administration appears to be barely capable of joined-up writing never mind joined-up Government.”³¹

Conservative members were concerned that the proposals would increase the burden on teachers and would curtail the freedom of schools.

ELWa Management Shake-up

A major shake-up in the operation of Wales’ biggest Quango ELWa, which runs further and higher education with a £811 million budget (2002-03), is foreshadowed in an Assembly Government review of its operation. The Education Committee is also recommending that the two arms of ELWa - the National Council for Education and Training and the Higher Education Funding Council - should merge to plan and fund post-16 education and training more effectively, though it acknowledges this would require primary legislation.³²

²⁹ Assembly Record, 12 November 2002

³⁰ Assembly Record, 12 November 2002

³¹ Assembly Record, 12 November 2002

³² This was a recommendation of the Education Committee in evidence it presented to the Richard Commission in November, see pages 20-21.

The Assembly Government review recommends that in the short term the executive leadership of the two bodies – the National Council and HEFCW– should be separated. In the longer run, however, the review agrees with the Education Committee that the two bodies should be replaced by a single organisation to bring a “holistic vision” to post-16 education in Wales.

At present the two organisations are served by a single chief executive to ensure close co-ordination. However, this has resulted in an overload of work which prompted the review. It is recommended that the two organisations should each have a full-time dedicated Chief Executive and Director of Finance. The cost of these changes is estimated at £220,000.

The two chief executive posts would supplant that of the present single chief executive, Steve Martin, formerly Director of Policy with S4C (the Welsh Fourth TV Channel), and before that head of the Education Division in the pre-Assembly Welsh Office. The review finds that he spends about 80 per cent of his time working for the National Council and the remainder for HEFCW.

In his conclusion to the review the author, Hugh Rawlings, a senior member of the Assembly Government’s civil service, says that very early in his researches he was “struck by the awkwardness” of the key recommendation of the Welsh Office’s Education and Training Action Group’s report of March 1999. This had recommended the formation of ELWa as an umbrella body to oversee the two separate organisations for further and higher education:

“The Group it seems to me, was struggling to avoid the logic of its own policy prescription for a holistic vision for post-16 education, which may well be thought to imply a single organisation responsible for this whole area. I note, too, that combining the two Councils of ELWa was floated as a possibility in *The Learning Country*.”³³

Dated 18 September 2002, the review was tabled as an annex to the Minister of Education’s report to the Education Committee on 21 November. A Ministerial statement on the report is expected early in the New Year. Hugh Rawlings notes that a detailed recommendation for combining the two bodies would go beyond his remit, but adds:

“On the other hand, in the normal course of events the roles and operations of the two Councils will be for review in some three years’ time. If the recommendations in this Report are accepted and implemented, it should be clear by then whether they are providing a firm foundation for continuing close and effective working between the Councils, or whether a more radical approach may prove necessary if the Assembly Government’s expectations are to be realised.”³⁴

The review was instigated by the Assembly Government in July 2002 following receipt of letters from Enid Rowlands, Chair of the National Council for Education

³³ Hugh Rawlings, *ELWa: Review of Senior Structure*, September 2002. *The Learning Country* was a major Assembly Government education policy document published in September 2001.

³⁴ *Ibid.*

and Training for Wales and former Chair of the North Wales Health Authority; and Roger Williams, Chair of Higher Education Funding Council for Wales and vice-chancellor of the University of Reading.

The two organisations derive their powers and functions from separate Acts of Parliament. The National Council was established under the Learning and Skills Act and became operational in April 2001. It took over functions from six predecessor bodies: the Further education Funding Council for Wales, four Training and Enterprise Councils (the TECs), and the Council of Welsh TECs. It also took over from local authorities the responsibility for adult and continuing education, and in 2002 became responsible for the funding of school sixth forms. At £489 million in 2002-03 its budget makes it by some margin the largest funded public sector agency in Wales.

The Higher Education Funding Council for Wales was established under the Further and Higher Education Act 1992 with a budget (in 2002-03) of £322 million. As the Rawlings report put it:

“Insofar as it has any strategic or planning role, this has derived from its ‘power of the purse’ rather than from any more formal statutory remit ... HEFCW’s strategic interventions in the structure of Welsh higher education have in the first ten years of its life been limited. That, however, is already changing, in consequence of the Welsh Assembly Government’s policy document *Reaching Higher* (March 2002). This envisages a significant role for HEFCW in promoting the reconfiguration of the sector and collaboration between institutions which the Assembly Government considers necessary.”³⁵

The review notes that if HEFCW is to undertake these tasks it will have to plan more strategically and strengthen its staff structure. Both of these imply changes to the structure and management of ELWa as a whole, producing a more integrated organisation.

Wales International Centres

The Assembly Government opened the second of six Wales International Centres, following Brussels, in New York in November. Further offices will be established in San Francisco, Tokyo, Singapore, and Sydney. Based in the Chrysler Building, the New York Centre will also house representatives from the Welsh Development Agency and Wales Trade International. Economic Development Minister, Andrew Davies said the main function of the new Centre will be to expand business opportunities:

“The benefits to Wales that this office will bring could be huge. It will give businesses and individuals in the USA a shop window where they can view the possibilities of relocating, visiting or studying in Wales. It will help to generate

³⁵ *Ibid.*

millions of pounds worth of business and new jobs. This Wales International Centre will give us an invaluable platform to promote those key job-creating industries. This is a multi-purpose office to boost the Welsh economy.”³⁶

The facilities and activities of the Wales International centres will include:

- Promotion of in –market publicity about Wales and the Welsh
- Promotion and maintenance of key local relationship
- Access to reference facilities and drop in centres for business arts, culture, and tourism.
- Direct links back to Welsh institutions such as the Universities, National Library, Museums and Arts and sports Councils.
- Executive business facilities.
- Focus on local ex-patriot community.
- Displays/exhibitions

The First Minister has been eager to emphasise that the new Centres will be focused on business development rather than aspire to be ‘Welsh Embassies’, as they have been labelled by the press.

New Scheme to Promote Open Government

The agendas, minutes and papers of the monthly management meetings of the Assembly’s Executive Board will be published from November onwards as a result of the Assembly’s new Publication Scheme. The scheme has stipulated 18 additional classes of information that will be published in the future which also includes a reference list of the grant schemes operated by the Assembly, and a directory of research projects that are being undertaken by the Assembly Government.

The Assembly Government was obliged to prepare a new Publication Scheme under section 19 of the Freedom of Information Act 2000. According to the First Minister, it matches the Assembly Government’s aspiration for more open government:

“ The Publication Scheme is not some airy fairy academic lawyer’s toy. It enables ordinary members of the public to identify the categories of information that we undertake to make available, stating where the documents can be found, in what format and whether there is a charge. In producing the Scheme, we have further pushed ourselves to be more open, identifying no less than 19 classes of previously unpublished material which will be made available.”³⁷

The Business Manager and Minister for Open Government, Carwyn Jones, added:

³⁶ Assembly Government Press Release, September 26 2002

³⁷ Assembly Government Press Release, 20 November 2002

“To ensure we were including information within the Scheme that the public wished to see, we conducted a full public consultation. We are not aware of any government department or any other public body that has dared to go as far.”³⁸

The scheme was approved by plenary in October. The main criticism of the document came from Conservative AM, David Melding, who criticised the absence of a provision requiring members to publish the allowances they claimed:

“We should publish the information, because we are not afraid of it and do not want to hide it. We claim to be an exemplar of open government and freedom of information, but we do not publish the same sort of information, that our colleagues do [in the Scottish Parliament and the Northern Ireland Assembly] and, to draw an analogy, that we require local government members in Wales to publish”³⁹

Carwyn Jones replied that since such a change would require an amendment to Standing Orders David Melding should pursue that course.

³⁸ *Ibid.*

³⁹ *Assembly Record*, 23 October 2002

2. THE ASSEMBLY

John Osmond and Nia Richardson, IWA

Richard Commission

The Richard Commission on the Assembly's powers, which began work in September, will await the outcome of next May's election before formulating a view on charting a way forward for Wales's constitutional future.⁴⁰ This became clear when, responding to a request from the Welsh Labour Party, it set a deadline of 15 July 2003 for submissions from the political parties. In a letter to the parties in early October the Commission's secretary, Carys Evans, stated:

"I am writing to let you know that the Commission has received a request from the Welsh Labour Party to submit its evidence after the Assembly elections next year. The Commission has agreed to this and has asked me to write to the other political parties represented in the Assembly to offer them the same timetable if that is how they wish to proceed."⁴¹

However, responses from other organisations are being sought by the end of February 2003.⁴² The Welsh Labour request immediately drew criticism from the other parties. Plaid Cymru leader Ieuan Wyn Jones said the Commission's credibility had been "seriously undermined" and Labour was "running scared" from the issues, while Conservative leader Nick Bourne accused First Minister Rhodri Morgan of showing a "lack of leadership".⁴³ Welsh Liberal Democrat President Rob Humphreys said:

"The inadequacy of the Assembly's powers is a difficult issue for Labour. Some of their MPs are still firmly opposed to any devolution whereas some of the AMs are all for the same powers as the Scottish Parliament. No wonder Labour wants to brush the issue under the carpet, hiding its divisions until after May's elections."⁴⁴

There is certainly caution within Welsh Labour about making constitutional advances too soon, a caution that was reflected in early evidence to the Commission by two Labour Ministers in the Assembly. They stated that they did not need further powers to implement their policies. Economic Development Minister Andrew Davies said that to give the Assembly primary law-making powers at this stage would be "putting the cart before the horse".⁴⁵ Health Minister Jane Hutt said her officials were already working "flat out" building on secondary legislation, adding:

⁴⁰ See the previous quarterly report, *A Bilingual Wales*, IWA, August 2002, for an account of the Commission's membership and terms of reference.

⁴¹ Reported by BBC Wales news online, 9 October 2002.

⁴² Richard Commission, *The Powers of the National Assembly for Wales: issues and questions for consultation*, November 2002.

⁴³ BBC Wales news online, *op. cit.*

⁴⁴ *Ibid.*

⁴⁵ Western Mail, 8 November 2002.

“We must walk before we can run and deliver what we can within our powers.”⁴⁶

However, the Business Manager, Carwyn Jones, was happy to discuss with the Commission major changes in the running of the Assembly he said would have to take place if it acquired powers over primary legislative. There would need to be expansion of the civil service in the fields of policy making and the drafting of legislation:

“The Scottish Office and Northern Ireland Office were government departments used to drafting primary legislation. It was never the case that the Welsh Office was in the same category. Our policy development experience has had to be built up over the past three years or so.”⁴⁷

He added that the number of AMs would also need to be addressed:

“It would be extremely difficult to steer primary legislation through with the present structure. When you compare the number of AMs with the numbers in Northern Ireland [108] or the Scottish Parliament [129], it would be very difficult for 60 AMs to take on.”⁴⁸

And there would be a continued need for the Secretary of State and the Wales Office:

“There would still be many areas such as criminal justice, that have not been devolved, where the Wales Office would be an important means for an Assembly to have its say on proposed legislation.”⁴⁹

Interviewed by BBC Television’s *On the Record* programme in early December, First Minister Rhodri Morgan refused to say whether he advocated the transfer of tax varying powers to the Assembly, though he indicated that if they were transferred a Labour-led administration would not use them. Comparing the Welsh Assembly Government with the Scottish Executive he said:

“If they’ve got the power and they’re not using it, and we haven’t got the power, then I think anybody would say that if we did have that power we would not use it either.”⁵⁰

The Commission is asking for the views of Ministers and Chairs of the Subject Committees on whether the Assembly’s powers have constrained their policy aspirations. The Education Committee Chair, Gareth Jones (PC), listed three areas:

- *Performance management procedures for school teachers*: “The Committee would like the Minister to have the power to specify the criteria to be met in Wales for teachers to cross the ‘threshold’ for performance pay.”

⁴⁶ *Ibid.*

⁴⁷ Western Mail, 23 November 2002.

⁴⁸ *Ibid.*

⁴⁹ *Ibid.*

⁵⁰ BBC *On the Record*, 1 December 2002. Rhodri Morgan has indicated that he favours the transfer of primary legislative powers to the Assembly. See the previous quarterly report, *A Bilingual Wales*, IWA, August 2002, p. 24.

- *Financial support for students*: “The Committee would like the Minister to have the power to establish a scheme to pay grants to students in higher education, without having to rely on the goodwill of local education authorities.”
- *Strategic Planning in the Further and Higher education sectors*: “The Committee would like to see the Higher Education Funding Council for Wales (HEFCW) take a more proactive role on strategic planning. The Committee would also like National Council – ELWa and HEFCW to work together more effectively in the planning and funding of post-16 education and training, including higher education. This would require primary legislation.”⁵¹

The Chair of the Agriculture Committee Glyn Davies (Con) also drew attention to three areas where the Assembly’s powers had proved a constraint on its policy aspirations:

- *Foot and mouth*: In its report on the outbreak in April 2002 the Committee recommended the devolution of animal health powers.
- *Information and Communications Technology in Rural Wales*: The Committee recommended representation of Wales on OFCOM, the new regulatory body and called for it to address the particular needs of rural areas in Wales.
- *Hunting with dogs*: In June 2000 Plenary called for Westminster to allow the Assembly to decide the position in Wales “by framing any Bill to provide for secondary legislative purposes to this end.”⁵²

Meanwhile, in November 2002 the Richard Commission defined the major questions it wishes to address in a Consultation Paper⁵³, as follows:

Commission’s Approach

- In what practical ways do the powers of the Assembly, or the limits on its powers, impinge on you, your organisation or the people whom you serve and what are the best examples of this from your point of view?

Sufficiency of Powers

- Does the Government of Wales Act provide the Assembly with the powers it needs to operate effectively and met the expectations of the people of Wales?

⁵¹ Education and Lifelong Learning Committee minutes, 5 December 2002

⁵² Agriculture and Rural Development Committee Minutes, 27 November 2002.

⁵³ *The Powers of the National Assembly for Wales: issues and questions for consultation*, November 2002. For an analysis of the Commission’s task see the IWA paper, *The Commission on the Powers and Electoral Arrangements of the National Assembly of Wales: Issues and Methodology*, on the Institute’s website: www.iwa.org.uk

- Whether, and if so how, the powers should be extended strengthened or changed and whether they should include tax varying powers.

Structure and Working Arrangements of the National Assembly

1. If the Assembly were to acquire greater law making powers – is it inevitable that it would need to be reconstituted on the Parliamentary model?
2. If so what organisational changes would be needed to support this model and what would be the gains and losses from making this change?

Relationship between the Assembly in Cardiff and the Parliament at Westminster

- How effective has the Assembly been in influencing UK Government policy making in relation to Wales – what are the practical examples which illustrate the strengths and weaknesses of the process?
- What are the advantages and disadvantages in principle of having a law making process which is shared between Cardiff and Westminster and what are the respective contributions of AMs, MPs, and Peers?
- What would be gained or lost if powers to make fundamental policy changes through primary legislation were passed from Westminster to Cardiff?
- How would Welsh interests be affected if the role of Welsh MPs were to be reduced as a consequence of the acquisition of primary law making powers to the National Assembly?

Role of UK Government and the Secretary of State for Wales

- How would Welsh interests be affected if the Secretary of State's role was reduced as a consequence of the acquisition of primary law making powers by the Assembly?

Relations between the Assembly and Whitehall

1. What would be gained and lost if there was a clearer separation between England and Wales in policy development and implementation?

Financial Context

14. How should we evaluate the costs and benefits of moving to a different form of devolution in Wales?

15. What are the benefits which should be included in this evaluation – and what values should be attached to them?

First Minister's Annual Report

First Minister Rhodri Morgan produced his annual report for 2001-02 at the end of October, his second annual report since becoming First Minister. Six thousand copies of the glossy, illustrated report were published in a marketing effort the achievements of the Assembly Government. Headline successes listed were:

1. Lower prescription charges than in England.
2. Free local bus travel for pensioners and disabled people.
3. Free entry to the National Museums and Galleries of Wales.
4. An end to Key Stage 1 statutory testing in schools.
5. Six weeks free home care.
6. Assembly Learning Grants for people in higher and further education after the age of 18 on a means tested basis.
7. Finance Wales set up as a user-friendly 'bank' for small and medium enterprises.
8. Piloting the Welsh Baccalaureate for the 16-19 age group in 19 schools and colleges.⁵⁴

A few of these achievements were recognisable for their inclusion in the previous annual report, for example lower prescription charges. Further references in the First Minister's speech to the Assembly also referred to subjects mentioned in the previous report, notably the Communities First initiative, Objective 1, and agreements with the 22 county authorities on service delivery targets.

In the plenary debate on the report, Opposition leaders accused Rhodri Morgan of being self-congratulatory and selective, especially with his health, economic development and education policies. Plaid leader Ieuan Wyn Jones, declared:

“Having read this report, the impression I got was that it is excruciatingly self-congratulatory. It lists what the Government believes to be its successes and does not refer to the difficulties with waiting lists, the restructuring of the NHS and so on. The First Minister has repeatedly said that he wants to be judged on his record: on what his Government has achieved of its promises in the last election. Of course, he avoids mentioning the promises on waiting lists because he knows that he cannot achieve them.”⁵⁵

Conservative leader Nick Bourne concurred:

“The First Minister referred to the excellent news that Cardiff has been shortlisted for Cultural Capital of Europe 2008 ... However, he did not mention today's news about rising waiting lists. In the interest of completeness, perhaps the First Minister will address this problem later. We need complete reports. It is no good having lies, damned lies and the First Minister's annual report. It is no good presenting part of the picture. The picture in terms of the health service

⁵⁴ *Delivery*, First Minister's Report, October 2002.

⁵⁵ *Assembly Record*, 30 October 2002

is dire. It is no good either presenting selective statistics or trying to say that we should not look at the statistics because more people, since Labour came to power, need hospital treatment. The trouble with the First Minister is that he tries to pretend that everything is going well. However, what we heard was Government propaganda ...”⁵⁶

Labour Party Members were angry that the Deputy First Minister, Mike German, had claimed that the majority of the achievements listed in the First Minister’s report had been driven by the Liberal Democrats in the coalition. The day before the annual report was published he told the *Western Mail*:

“Of the First Minister’s top eight achievements, six came directly from the Welsh Liberal Democrats’ manifesto for the last Assembly Elections. The partnership government has been driven by the Welsh Liberal Democrats, and here is confirmation from the First Minister of the prominence of our policies in the major achievements of the last 12 months.”⁵⁷

Responding Tom Middlehurst (Lab), told the plenary session:

“This unhappy alliance has allowed a man, rejected by the electorate in the constituency that he contested, to assume the title of Deputy First Minister and to be given a further string of titles and gifts. However, he is not content with this largess. He then has the gall to humiliate the First Minister, who gave him his position, by publicly ridiculing him. He claimed that he and the ragbag Members of the Welsh Liberal Democrat group are the effective leadership in the Welsh Assembly Government. The Labour Party and other Assembly parties know that that is untrue. Sadly, his advanced announcement and his determination to pre-empt the First Minister’s report, rather than the substance of the issues contained in the report, have attracted the headlines. He shows breathtaking arrogance, which is, perhaps indicative of the nature of the man and the group that he leads.”⁵⁸

Health Debates

Despite the announcement of an additional £322 million for health in November’s budget statement, health policy continued to be a thorny issue for the Assembly Government in this period. In September waiting lists rose to record levels with the number of patients waiting more than six months for a first out-patient appointment reaching 83,433 compared to the figure of 5,956 when the Administration came into power in 1997. The number of people currently waiting for an in-patient appointment also reached a record high of 72,400. Furthermore, there were reports in the media that over a thousand operations were being cancelled in Wales each month due to lack

⁵⁶ *Assembly Record*, 30 October 2002.

⁵⁷ *Western Mail*, October 29 2002.

⁵⁸ *Assembly Record* 30 October 2002.

of resources and that NHS Wales will face a deficit of almost £60 million by the end of this financial year.

Labour's draft manifesto for the forthcoming Assembly election, leaked to the press in November, recognised that reducing waiting lists had been more of a challenge to the party than had been envisaged:

“Despite important progress there is still far too much waiting for treatment. Cutting waiting lists has proved to be a far greater challenge than anyone anticipated.”⁵⁹

Alun Cairns (Conservative, South Wales Central) demanded that the First Minister apologise for breaking the promises his party had made on reducing waiting lists during the election campaign in 1997:

“The latest statistics show that the number of people waiting more than six months for out-patient treatment rose from 5,956 in March 1997 to 83,433 by 30 September 2002. The number of people waiting longer than 18 months for in-patient operations rose from 1,402 in March 1997 to 4,335 by 30 September. First Minister, do you think that it is time that you apologised?”⁶⁰

Plaid leader, Ieuan Wyn Jones asked why Edwina Hart had appointed Derek Wanless to review the provision of health and social services:

“Is it because we have an excellent health service in Wales? Is it because all the money has been well spent in Wales? Is it because we have great delivery of healthcare in Wales? It was precisely because we do not. The fact that she has called in Derek Wanless underlines the failure of the Labour Government in Wales to deliver proper healthcare. What is she doing with Mr Wanless? She has asked him to review how money is spent on the delivery of services in Wales. She is also withholding money from the budget, for two years, until that review is published. She does not trust the Government to deliver proper healthcare with the current system, and has called in an outsider to run the system on its behalf. Those are the depths to which the Labour Government has sunk in terms of the crisis in the health services in Wales.”⁶¹

Both opposition parties have indicated that health will be the main focus of their Assembly Election campaign in May.⁶²

Melding Resigns as Chair of the Standards Committee

David Melding, Conservative AM for South Wales Central, resigned as Chair of the Standards Committee after the Assembly refused to support a motion originating from

⁵⁹ The Western Mail, 14 November.

⁶⁰ Assembly Record, 19 November 2002.

⁶¹ Assembly Record, 19 November 2002.

⁶² See Western Mail, 18 October and 11 November 2002.

the Committee which would have amended the Standing Orders on the declaration of Members' interests.

The Standards Committee had been asked by the Presiding Officer to review the section of Standing Order No. 4 which legally obliged Assembly Members to declare membership of the Freemasons. This followed complaints from the Freemasons that they were being singled out for differential treatment. Following two years of deliberations, the Committee concluded that a new Standing Order should extend the declaration on Freemasons to membership of all private clubs and societies. Furthermore, if a member failed to register such an interest, it would be dealt with by the Standing Committee and not through criminal proceedings as was the case with the existing Standing Order on Freemason membership.

Urging the Assembly's plenary session to vote for the change, David Melding explained that the Committee's decision was based on several considerations:

4. Whether Freemasons were in some way unique as to justify a requirement focusing on a single organisation.
5. Whether the Freemasons showed improper favour to other Freemasons.
6. Whether the Standing Order could stand in a Court of Law.

The Committee had agreed there was no conclusive evidence against the Freemasons as an organisation and that it was not unique in being a secret society. It was also told by legal advisors that a requirement focusing on one group in society could be illegal. As David Melding put it:

“In singling out the Freemasons for unique treatment, a court acting under schedule 8 to the Government of Wales Act 1998 could decide that the Assembly had acted illegally in imposing this requirement uniquely on Freemasons. That is the legal advice. At no time was that seriously challenged. I repeat it now and put it before you that, if we decide not to follow legal advice, then we could be behaving in a reckless and ill-considered way.”⁶³

In the debate that ensued, several Labour members felt it would be offensive to other private societies to be labelled under the same banner as the Freemasons. Peter Law (Lab) commented:

“I object to another Standing Order being introduced to decriminalise a failure to register membership of the Freemasons. That is not right. We are bowing to threats, and that it is not necessary. When you consider the proposed Standing Order No. 37, you begin to wonder what we will have to register in future. The Standing Order is a catch-all, and relates to no end of different societies ... If you compare Masonic lodges with the location in which the Buffs meet, you get a perception of the power of the Freemasons. The difference between the two societies is immense.”⁶⁴

⁶³ David Melding, Assembly Record, 13 November 2002

⁶⁴ Peter Law, Assembly Record, 13 November 2002

On the other hand, David Jones (Con), the only AM who is a member of the Freemasons, opposed the proposals on the basis that they were just another ploy to allow the continuation of a ‘witch hunt’ against the society:

“The Committee on Standards of Conduct has rightly concluded that the current arrangements are unsustainable in terms of human rights. Therefore, what has it decided to do? Instead of breaching the human rights of a small section of this Assembly, it has decided to breach the human rights of an even bigger section by making Rotarians, members of the round table, soroptimists and almost anyone register their interest. That is not because the Committee regards those groups as being subversive and a threat to the Assembly’s integrity, but because it wishes to continue the witch-hunt against Freemasons. That is highly disreputable.”⁶⁵

Although a majority of members voted for the motion, it did not meet the two-thirds requirement for a change the Standing Orders. Those who voted against were mostly south Wales Labour Members but also included three members of the Conservative Party. The following day, David Melding resigned as Chair of the Standing Committee on the grounds that the Assembly had failed to support the proposals which had been unanimously agreed by his Committee. He was also concerned that a precedent had been set whereby the Assembly plenary could reject the proposals agreed upon unanimously by a Committee. In a statement to plenary he said:

“In acting as it has, the Assembly has, at least temporarily, destroyed the Committee’s authority. The judgement of the Committee on Standards of Conduct on substantive issues should be confirmed by Plenary when the Committee has achieved consensus. Otherwise, there is no hope of the Assembly having an effective standards regime based on internal regulation within the bounds set by law. If this seems self-evident, I remind members that the precedent set last week is that a unanimous recommendation by the Committee can be overturned by Plenary, even in the face of persuasive legal advice. I believe that, by resigning as Chair, I can offer the Committee some protection from what I consider to be arbitrary pressures. The Assembly must not allow the current debilitating situation to persist. It should move quickly to set a new and honourable precedent to never overturn a clear decision by the Committee on Standards of Conduct, other than for strictly legal considerations. Without such a convention the Committee will be permanently enfeebled.”⁶⁶

David Melding is hoping that AMs will vote again to approve the Committee’s proposals. Meanwhile, the Assembly may well be leaving itself open to a legal challenge.

Assembly Chamber Delayed Beyond May Election

⁶⁵ David Jones, Assembly Record, 13 November 2002

⁶⁶ Assembly Record 19 November 2001

The starting date for construction of the new Assembly Chamber has been further delayed with the selection of the successful contractor for the building unlikely to be announced until early summer 2003. Work on the Assembly was suspended when the Assembly Government terminated a contract with Richard Rogers Partnership to design the new building in July 2001.

It had been expected that a new contractor for the building would have been appointed by this autumn and that construction work would have begun in January 2003. However, Finance Minister Edwina Hart, told plenary in October that the invitation to tender for the contract in October would be followed by the short-listing of two final tenders in January 2003 with the successful candidate announced in the summer of 2003. According to the Minister this procurement process had been chosen on the advice of the project manager, Schal International Management Ltd, who were appointed in May 2002.

Opposition Members believed that the Minister wanted to prolong the process in order to avoid making a controversial decision before the Assembly Elections in May 2003. As Alun Cairns (Con) commented:

“Are today’s revelations on the Assembly not the ultimate illustration of failure, indecision, dithering and lack of leadership? It highlights a lack of management skills. Costs have spiralled from £12m to £40m, the completion of the project has been delayed by several years, and the architect has been sacked but may be re-appointed, although we will not know for sure because the Assembly Government has decided to kick the issue into the long grass until after the next assembly election.”⁶⁷

And Labour member Ron Davies remarked:

“Every time you accept advice it leads to further delay. You are well motivated on this issue, but if you cast your mind back nearly three years ago, when the present administration was formed, we had a site, we had money available, we had an architect, we had consultants, we had contractors, we had the will of the National Assembly, and the project was ready to go. Since then we have wasted hundreds of thousands of pounds on consultants, legal fees and an abortive attempt at seeking an adjudication against the architect. We are now in a situation whereby we do not have an architect, consultants, a project manager, a builder or a design. We do not know what the building will contain, how much it will cost or even work on it will start.”⁶⁸

⁶⁷ Assembly Record, 23 October 2002

⁶⁸ Assembly Record

3. FINANCE

Adrian Kay, University of Bristol

On 15 October Edwina Hart promulgated the Assembly Government’s draft budget for 2003-04 and indicative budgets for the two subsequent years. In many ways, the budget announcement was similar to the previous two years: another generous Comprehensive Spending Review settlement this year leading to substantial increases in the headline budgets of the major areas of Assembly expenditure. The figures for the main Major Expenditure Groups are set out in Table 4 below:

Table 4: Assembly Government’s Draft Budget 2003-04 (£ million)

Major Expenditure Group	2002-03	2003-04 Draft budget	% change	2004-05	2005-06	% change 02/03 to 05/06
Health and Social Services	3,749	4,158	+11	4,345	4,427	+18
Local Govt	2,995	3,203	+7	3,277	3,467	+16
Housing*	507	506	0	491	471	-8
Communities	79	98	+24	122	131	+66
Environment, Planning and Transport	917	968	+6	1,002	1,042	+14
Agriculture and Rural Affairs	227	250	+10	248	258	+14
Economic Development	536	568	+6	572	579	+8
Education	1,072	1,171	+9	1,245	1,386	+29
Culture, Sport, Language	75	93	+24	101	108	+44
OVERALL TOTAL**	10,518	11,333	+8	11,931	12,745	+21

* The apparent fall in spending in housing seems to be due to moving budget lines between Expenditure Groups, in particular to the new ‘Communities’ heading.

**The Expenditure Groups referring to administration, inspection and forestry have been omitted. Consequently the columns do not sum to the overall total.

Source: *Assembly Government Draft Budget 2002*

The are three salient issues in this budget which mark it out as slightly different from the previous two budget rounds, each of which are considered below:

- Size of the under-spend (or end year flexibility in ‘government-speak’).
- Size of the reserve.
- Future direction of health spending.

Under-spend

In the 2002-2003 budget debate in Autumn 2001, there was a great deal of discussion of the large under-spend in the Assembly's budget. At the time, the forecast was for an under-spend across all areas equivalent to three per cent of the total budget in 2000-01. Edwina Hart made this a key priority in her budget statement at that time⁶⁹ and set a target of reducing the over spend to one per cent of the budget. The Finance Minister repeated in her budget speech this year the June announcement that this target had been achieved in 2001-02, or as she preferred to put it:

“... in 2001-02, the Assembly Government ensured that over 99 per cent of its budget was spent to plan.”⁷⁰

Size of the Reserve

The reduction in the level of under-spending is related to questions around the size of the reserves in the budget. In the budget debate, the Conservatives sought to make an issue of the £90 million set aside as a reserve in 2003-04. Both David Jones and Nick Bourne called this ‘peanuts’ compared to an overall budget of £11.3 billion and argued that this left the Assembly vulnerable to unforeseen events like foot and mouth.

Two points can be made in response. First, the Assembly is covered by the UK government's reserve contingency funds. Indeed all of the costs of compensation to Welsh farmers for lost stock were paid out of this. However, the Conservatives point is valid to the extent that the rural economy support package had to be met partly from existing budget allocations.

The second issue is that when the level of under-spending was running at three per cent, emergency reserves were less of a problem. There was, in effect, a reserve of £300 million that could be used in an emergency. However, as the under-spend has been reduced, so have these ‘extra’ forms of reserve, thus increasing the importance of the actual level of reserves put aside. On that point, it seems a reasonable question why only 0.8 per cent of the overall budget has been put aside and, in particular, what agreements are in place with the UK government for extra funding (and how quickly that can be accessed) in the event of some contingency which places unforeseen stress on the Assembly budget.

⁶⁹ See finance chapter in the quarterly report *Coalition Creaks on Health*, IWA, December 2001.

⁷⁰ *Assembly Record*, 15 October 2002, p.44

Future Direction of Health Spending

The final subject is the most interesting. Derek Wanless has been appointed adviser to the Assembly Government's review of health and social care. He was the author of the Treasury's report on the future of the NHS published in April 2002 which received a great deal of UK media coverage and has been seen as influential in New Labour's thinking on health policy reform. In particular, it raises the whole philosophy of performance management, with funds tied directly to targets enforced by a tough monitoring and audit regime. At the time of the UK budget in April and Gordon Brown's announcement of extra money for health over the next three years, there seemed to be some difference, in tone at least, between Paul Murphy (the then Secretary of State for Wales) and that of the Assembly government.⁷¹ For example, with reference to Alan Milburn's plans to fine local authorities that did not meet targets on the transfer of patients into care from hospital the First Minister said:

“...we do not need that direct stick and carrot system. We can work by consensus without any loss of the real incentive to ensure that bedblocking is eliminated.”⁷²

The composition of the Review Team in Wales and its final terms of reference are due to be agreed imminently. Importantly, the Finance Minister reported that the review:

“...will be crucial in terms of setting the agenda for the NHS and social care reform in Wales.”⁷³

The consistent theme of Edwina Hart's budget speech was the need to connect extra finance with improved performance: a definite departure from her previous two budget speeches. To this end, she committed the Assembly Government to the position that:

“... allocation of resources beyond the end of the next financial year will be determined by the direction that the review can lead us in ensuring that investment is matched by reform and delivery.”⁷⁴

The health budget illustrates this commitment. For example, compare the increases in expenditure on health and education over the three-year period. On these plans, health will decline as a share of the overall Assembly budget. The Finance Minister labelled the increase in health spending as “relatively modest”. Instead she has put aside substantial reserves to be spent according to the Review's recommendations. It will be important to chart whether this priority that reform should accompany extra resources will bring Welsh health policy more closely into line with England or will represent the development of a genuinely distinctive health system in Wales.

⁷¹ For a fuller discussion, see the finance chapter in the previous quarterly report *Engaging with Europe*, IWA: June 2002.

⁷² *Assembly Record*, 23 April 2002, p.8.

⁷³ *Assembly Record*, 15 October 2002, p.46.

⁷⁴ Assembly Government Press Notice, ‘Major investment in frontline services to be matched by improved delivery, says Edwina Hart’, 15 October 2002.

4. POLICY DEVELOPMENT

Nia Richardson, IWA

Economic Development

A grant package worth more than £16.5 million has been put together by the Assembly Government and four other public agencies ('Team Wales') for the *Bluestone* project, an all-year round adventure holiday park near Narberth in Pembrokeshire. The park will cost an estimated £455 million to build, will create 600 jobs and will be open in two years time.

Another 'coup' for the Team Wales partnership was winning the bid to retain the final stage of the World Rally Championship for the next four years. It estimate that the event, which will now be re-branded as the *Wales Rally GB*, will attract £50 million to Wales over the next four years.

As part of the Assembly Government's economic strategy, *A Winning Wales*, a new Technology Commercialisation Centre is being established to attract leading edge technologies to Wales. The Centre will employ a team of 'technology scouts' who will undertake an international search for world-beating technologies.

A blueprint for innovation entitled *Wales for Innovation*, currently out for consultation, has five main action areas:

- Communicating what can be achieved through innovation.
- Developing high growth businesses.
- Equipping people to innovate.
- Simpler, more accessible, business innovation.
- Maximising the economic development impact of Welsh universities and colleges.

By 2005, Team Wales investment in this plan will exceed £260 million. Proposals outlined in the document include:

- Driving forward a £4 million campaign promoting the benefits of innovation to companies, higher and further education institutions and the public.
- Establishing a single innovation grant scheme worth £25 million over the years 2003-5 as part of a more streamlined approach to innovation support.
- A £15 million drive to promote the application and exploitation of new and existing technologies in Wales.
- Investment of £60 million by 2005-6 for strengthening the activities of ELWa and the WDA which are focused on winning the commercial benefits of ideas and talent in Welsh universities and colleges.

A Manufacturing Advisory Service has been established to offer advice to SMEs on how to take advantage of 'best practice' in manufacturing processes and technologies.

The main office will be at the former Corus Research and Development Centre at Port Talbot. It will be operated by the National Centre for Product Design and Development Research at the University of Wales Institute Cardiff.

The Economic Development Committee at the Assembly has published a draft of the second part of its review of energy policy in Wales. The report on Energy Efficiency concludes that Wales should set an example in the development and promotion of energy efficiency, particularly to households, commerce and industry. The Committee has made 14 recommendations which include calling on the Assembly Government to:

- Support the UK government's targets for energy efficiency by promoting energy efficiency in all areas and at all levels.
- Seek powers to impose higher energy efficiency standards through building regulations as they apply in Wales.
- Identify an individual, or unit, responsible for co-ordinating and monitoring the promotion of energy efficiency on a Wales-wide basis.
- Make use of its procurement policy to support and promote energy efficient products.
- Use its resources and influence to ensure that all public buildings, including schools and council buildings, have the highest possible standards of energy efficiency.⁷⁵

Structural Funds

Six projects have been approved in the first grant application round under the Interreg Programme. The programme, which aims to stimulate development between Ireland and Wales, will fund the following six projects:

- *Celtic Enterprise and Business Support Network*:: will develop an enterprise and business support network between south east Ireland and south west Wales that will exchange best practice and facilitate joint projects.
- *Utilisation of opto-electronics technologies*: aims to increase the utilisation of opto-electronics technologies in West Wales and Eastern Ireland.
- *The Celtic Countryside Partnership*: a pilot project that aims to facilitate the participation of rural communities in integrated environmental, social, cultural and economic development.
- *AGRI-net WORKS*: will develop a programme of events and seminars to encourage the exchange of best practice between rural and agricultural businesses.
- *Use of ferries to observe water quality in the Irish Sea*: involves fitting optical sensors to the Irish Ferries vessel Ulysses which operates on the Holyhead to Dublin route, to measure water quality in the Irish Sea.
- *Cultural and economic impact of cinema in Ireland and Wales*: involves an audit of cinemas in west Wales and eastern Ireland and preparation of a strategy for future development.⁷⁶

⁷⁵ Economic Development Committee, Paper, 14 November 2002

Rural Development

Rural communities are to benefit from an investment of £3.05m a year through a new regeneration programme called Rural Community Action – Gweithred Cymunedau Gwledig. The investment will be spent on:

- £2m for rural regeneration.
- £750,000 to support rural retail services,
- £300,000 for a Wales Rural Observatory to develop the rural agenda.

Additional funding will be available under the programme over the coming years to promote entrepreneurial skills for young people in rural areas.

Different ways of boosting the local Welsh food supply to the public sector are currently being investigated through two new pilot programmes under the Local Procurement Pathfinder scheme. The first pilot, managed by the Wales Procurement Initiative Team, will consider how to encourage the use of local produce in catering contracts in the public sector. The second will look at the supply of the raw ingredients to the food processing industry which supplies public sector authorities such as health authorities. The Welsh Development Agency Food Directorate will be running this pilot.

Proposals for the creation of a new Welsh red meat body have run into some difficulties. Four of the five prospective partners – National Farmers Union Cymru, the Farmers Union of Wales, the Meat and Livestock Commission and the Welsh Development Agency – have agreed to the proposals outlining the structure of the new body but the fifth, Welsh Lamb and Beef Promotions Ltd, is yet to agree.

Health and Social Services

Strategies for three primary care services were published during this period and put out for consultation until the end of December:

1. A Strategy for Pharmacy outlines a ten-year vision on improving and speeding up access to pharmaceutical care. The Strategy also proposes a review of the future role, organisation and nature of community pharmacy in Wales which will also consider modernisation and the use of e-pharmacy. As part of the strategy the Assembly Government will commission a study of patient and professional needs for out-of-hours services by March 2003.
2. A Dental Strategy proposes a feasibility study into expanding the number of dental undergraduates in training in Wales. It also recommends the development of an uniform all-Wales system for the management of access to emergency dental services.
3. A draft strategy on Optometry looks at the professional development of optometrist and how the use of IT can be expanded within the service.

⁷⁶ Assembly Government Press Release, 10 October 2002

A paper building on the *Better Health Better Wales* document was published in September. *Well Being in Wales* recognises that to improve health and reduce inequalities in health, action needs to cut across policy areas and suggests ideas on how this should be achieved.

The Assembly Government together with Children in Wales and the National Family and Parenting Institute is currently working on a Parents' Code for Wales. The Code will provide guidance on a range of issues around positive parenting and family relationships. Although the code will not be law, the Assembly Government is to provide £50,000 for a Parenting Support Project which will accompany the guidance and will be jointly run by the National Family and Parenting Institute and Children in Wales.

Health Minister Jane Hutt has made funds available to the NHS in Wales to set up a Welsh Translational Research Centre for the study of cancer. Its main objective will be to translate the science in the laboratory into treatment. The Centre will be supported by a new Cancer Bank which will store samples from patients with cancers who have given their permission for further research on their tumour and blood samples. An additional £4.5 million has been allocated by the Minister for Health and Social Services to develop radiotherapy services in Wales.

Education

Further education lecturers and support staff have been given a pay rise to bring them to the same pay scale as teachers by 2004. The £9m pay-out will provide for an across the board pay increase of about 3 per cent and a further increase of about 1.7 per cent for further education lecturers in the lower pay bands.

Responding to the UK Secretary of State for Education and Skills' proposals for reform of the teaching profession in England and the School Teachers' Review Body's report on reducing teachers workloads, Education Minister Jane Davidson announced that £3 million of new funding would be available next year to increase the level of administrative support in schools. The funding will rise to £15 million by 2005-06. Schools will be able to use the additional money to employ more administrative assistants, bursars, or trained staff to deal with disaffected pupils.

The Task and Finish Group on Truancy and School Attendance have published their conclusions. Their recommendations include:

- New systems to share innovative practice on tackling truancy.
- A pilot project to reduce absences in two schools and to evaluate how funding should be focused.
- An audit of schools' and ELWa's attendance policies, how up-to-date they are and how well they link together.
- Options for legal action on parent-condoned truancy cases.
- Truancy sweeps on a regular basis in each Local Education Authority.

Culture

CyMAL (Museums Archives and Libraries Wales), an organisation to develop and implement policies for local museums, libraries and archives will be established within the Assembly Government in April 2004. Located outside Cardiff it will receive funding of £2 million a year and will have up to 25 staff.

The National Museums and Galleries of Wales is also to benefit from an Assembly Government grant of £3.5 million to expand its Collections Centre at Nantgarw, near Pontypridd. The money will be spent on expanding the storage space by 50 per cent for the curatorial, conservation and research requirements of the Museum's industrial collections.

Culturenet Cymru, a new bilingual cultural ICT network, has been created. The proposals have been developed by the ICT Working Group of *Cymru'n Creu*, the Assembly Government's advisory Culture Forum, and are supported by a grant of £1.5 million over the next three years. The initiative will enable *Cymru'n Creu* members to offer online services and, generally, to enable cultural organisations to generate more digital content amongst.

Artes Mundi, a major £40,000 biannual art prize has been launched by a partnership including the Arts Council of Wales, BBC Wales, BT, Cardiff County Council, the National Museums and Galleries of Wales, Wales Tourist Board and the Welsh Development Agency. It will be awarded every two years to an artist who has achieved recognition for the quality of their work in their own country and who is emerging internationally. The short list for the first prize will be announced in Autumn 2003. Seven to ten artists will be short-listed and their work will be exhibited at the National Museum and Gallery of Wales in Cardiff from February to April 2004.

Along with five other cities across the UK Cardiff has been shortlisted for the bid of European Capital of Culture 2008. A decision is expected by May 2003. Cardiff's bid was supported by £1.1 million from the Assembly Government.

Local Government, Housing and Communities

Several initiatives on regenerating communities got underway during this period. The *Communities First* programme was put into action in Llanelli with three of the town's most deprived communities receiving £900,00 worth of funding. The money will be spent on the refurbishment of community centres, training of community workers, the creation of a community newspaper, and the match-funding of a new healthy living centre.

£2.5 million is being made available over the next three years to support post offices in deprived or isolated parts of Wales. People running post offices will have to apply for the money and will need to demonstrate that their post office business delivers important services to the local community.

A new fund has been created for community and voluntary facilities and activities across Wales. Priority will be given to applications from disadvantaged areas. Communities Minister Edwina Hart explained its purpose in the following terms:

“Many community centres and church halls are run down and even the good ones are too often under-used. I want young people – and older people - to have the chance to engage in a range of recreational activity, from yoga to football. I want to see community centres become the hub of activity once again.”⁷⁷

The Drug and Alcohol Action teams which are responsible for implementing the *Welsh Substance Misuse Strategy* and for developing partnership with key local agencies are to be replaced by four new strategic teams. Each team, one for each of the four Welsh police authority areas, will co-ordinate action on tackling drug and alcohol misuse across Wales. They will come within the Assembly Government’s Crime Prevention Unit which will be renamed the Community Safety Unit. In addition, Edwina Hart announced that the Assembly Government is giving £2.5 million to help police in their fight against class A drugs and organised drugs gangs. A further £1.3 million will be provided next year and over £636,000 per annum in each of the following years.

Environment

The Environment Development Fund which distributes £1 million a year for sustainable development within Wales’s three National Parks and five Areas of Outstanding Natural beauty (is to be continued following a successful pilot scheme. To date the fund has financed more than 200 projects and attracted some £4 million in match funding.

Work on a new Soil Strategy for Wales is underway following the completion of a Scoping Study. The report examines the nature and condition of the soils of Wales and the main issues and pressures affecting the resource. Environment Minister Sue Essex explained:

‘The European Commission is currently developing a thematic strategy for soils due for consultation with member states in 2004. It is envisaged Wales will have already contributed significantly to an EC initiative by preparing a soil strategy supported by the Scoping Study commissioned earlier this year.’⁷⁸

An additional £2.4 million has been allocated towards an Assembly Government grant established in 2002 to assist local authorities to meet new EC regulations on fridge disposal. These require CFCs from fridges to be removed and treated before they can be scrapped. So far the grant has aided the disposal of more than 28,000 fridges.

⁷⁷ Assembly Government Press Release, 18 October 2002

⁷⁸ Assembly Government Press Release, 2 October 2002

Sustainable Business Wales, a draft action plan to improve the understanding of Sustainable Development in the business sector has been published. It outlines how the Assembly Government and its agencies can improve support for Welsh businesses in their efforts to generate sustainable economic growth for Wales.

Planning

A research report on second and holiday homes commissioned by the Assembly Government as part of the Wales Planning Research programme 2001/02 was published in October. It found that the number of second and holiday homes across Wales was around 1.31 - 1.52 per cent in 2001 with the main concentrations clustered in coastal locations. The report found no link between second home concentration and house prices. However, in localised, desirable settings, retirement, commuting patterns and second homes all impact on house prices pushing some locations out of range of less well-off buyers. The report also noted that many local planning authorities make only limited use of the planning tools currently available to them to promote affordable housing.⁷⁹

In her response the Environment Minister contended that many of the issues raised in the report were already being dealt with by the Assembly Government. For instance, the issue of Welsh language communities and housing was being partly addressed in the new Planning Policy Wales document. This recognises the need for local planners where the language is it should be taken into account when determining housing applications. However, she undertook to work closely with local authorities in dealing with second and holiday homes 'hotspots'.

A revised Technical Advice Note (TAN) on Design has been published which provides an increase in the level of detailed advice given on design. It is mainly targeted at local planning authorities and is geared to boost good design in building development across Wales.

Transport

In October the Strategic Rail Authority announced that it had invited four bidders to prepare final offers, by Spring 2003, for the new 15-year passenger rail franchise for Wales and Borders that will come into force in the Autumn:

- Arriva Trains
- GB Railways /Connex
- National Express Group
- Serco Rail/Netherlands Railways

⁷⁹ Full details of the report are provided by the authors in an article in the Winter 2002/03 edition of the IWA's journal *Agenda*.

5. THE LEGISLATIVE PROCESS

Jane Williams, Department of Law, University of Wales, Swansea

2002 Education Act

On 16 October the Assembly in plenary debated one of the major pieces of primary legislation passed in the last parliamentary session, the Education Act 2002 which received Royal Assent on 24 July 2002. It confers new functions on the Assembly and facilitates aspects of the Assembly Government's *Learning Country* agenda.

The process of this Bill is instructive in any attempt to assess the emerging arrangements for primary legislation for implementing Welsh Assembly Government policy through primary legislation. Any such assessment must distinguish between *legislative* and other forms of scrutiny such as consultation prior to legislative proposals being finalised. For these purposes *legislative* scrutiny should be taken to mean the kind of scrutiny given to Bills by standing committees in Westminster, or given to subordinate legislation by the Assembly in plenary session and in its committees. The planning of the Education Bill and its parliamentary timetable allowed relatively little *legislative* scrutiny by the Assembly.⁸⁰ Coming after the event the Assembly's debate might be described as a form of "*post-legislative*" scrutiny. The debate on 16 October disclosed a fudging of legislative scrutiny and other kinds of participation. Those now charged with reviewing the workings of current arrangements (of which more below) will no doubt avoid such confusion.

This "fudging" was exemplified in the Minister's response to a Conservative amendment criticising the paucity of legislative scrutiny prior to Royal Assent. Education Minister Jane Davidson described the criticism as "unfair and inaccurate" and drew attention to the following:

- The consultation that took place on *The Learning Country*.
- Consideration of the Assembly Government's legislative proposals by the Education and Lifelong Learning Committee prior to introduction of the Bill.
- Close working between the Minister's officials and their Whitehall counterparts during the passage of the Bill and the Minister's progress reports to the Education Committee.
- The degree of legislative scrutiny provided by the Assembly's subordinate legislative procedures.

While all these things can properly be claimed as positive effects of the Assembly in terms of the overall democratic legitimacy of the eventual legislation for Wales, none of them actually constitutes *legislative* scrutiny of the Bill in the sense described

⁸⁰ The process attracted some criticism in consequence – see, "*Education Policy Breaks Loose – Monitoring the National Assembly December 2001 – March 2002*", footnote 79, p 31, referring to criticisms made by Jon Owen Jones MP and Ron Davies AM.

above. Taking them in turn, public consultation prior to finalisation of policy proposals is laudable but does not amount to legislative scrutiny of the eventual Bill. Consideration of the proposals by the Assembly's subject committee is a form of *pre-legislative* scrutiny. However, in the absence of a draft Bill, close workings between Assembly Government officials and their Whitehall counterparts is collaboration between executive limbs not legislative scrutiny. The final bullet point represents legislative scrutiny of the implementation of subordinate legislation rather than the provisions in primary legislation.

The different provisions for Wales in the 2002 Education Act can be seen as evidence of the growing success of the Assembly Government in securing the primary legislative changes it desires in order to implement its policies.⁸¹ It can also be seen as evidence of real engagement of the Assembly Government with stakeholders in Wales and with its own subject committees in policy formation. However, they cannot properly be put forward as an answer to the criticism that sufficient formal *legislative* scrutiny is lacking. Nor, it must be assumed, would any member of the Assembly Government or the Assembly as a whole be likely to accept that these other forms of scrutiny are sufficient, in the absence of adequate formal *legislative* scrutiny, to ensure the democratic legitimacy of the legislation.

Consequently concern about the amount and quality of formal *legislative* scrutiny of primary legislation for Wales remains justified. Presumably, it should not be a consequence of devolution that new Wales provisions receive less such scrutiny than their English equivalent. Yet that may happen if, as occurred in relation to the Education Bill, the debate in the Westminster parliamentary stages of the Bill focuses on the policy for England, while in Wales the Assembly's voice - in carrying out *legislative* scrutiny as opposed to a government pressing forward its own agenda - is heard too late to have impact on the content of the Bill.

Pre-legislative Scrutiny: Modernisation Committee Report

These concerns fuel enthusiasm in Wales for publication of draft Bills, whereby an opportunity is given for detailed, formal *pre-legislative* scrutiny – that is, scrutiny of a draft of a Bill before it is introduced to Parliament. The draft NHS (Wales) Bill⁸² represents perhaps the best example to date. The Assembly in plenary and the relevant subject committee as well as the Welsh Affairs Committee and the Welsh Grand Committee in the Westminster Parliament all had a formal role in the process. It remains to be seen how the outcome of this particular pre-legislative scrutiny will play into legislative scrutiny during the parliamentary passage of the Bill. It further remains to be seen what, if any, general lessons may be learned from this as to the relative roles of pre-legislative and legislative scrutiny in the democratic process of new law. The NHS (Wales) Bill is an important experiment, coming as it does at the

⁸¹ Due firstly, to closeness of political sympathy between current administrations in Whitehall and Cardiff; and, secondly, to growing sophistication in using and adapting the machinery of government to enable this to happen (that is, communications between Whitehall and the Assembly Government).

⁸² Described in the previous quarterly report *A Bilingual Wales*, IWA, August 2002, pp 41 – 43.

same time as inquiries are underway both in Wales and Westminster into the legislative process for Wales.

It is not only in the context of Welsh devolution that the benefits of draft Bills are being appreciated. On 29 October the House of Commons debated the report of the Modernisation Committee⁸³ which includes a recommendation for a session by session increase in the number of Bills published in draft. This refers to *all* parliamentary Bills, not just Welsh Bills, subject to the obvious caveats to cover circumstances of urgency. An associated recommendation, also approved by the Commons in the same debate, and which may be of assistance in the Welsh context, is for ‘carry over’ of Bills in the Commons from one session to the next, thereby relieving the pressure to avoid sudden death if a Bill fails to complete all stages in one parliamentary session, which tends to lead in turn to truncation of legislative scrutiny.

Draft Mental Health Bill

This Bill, like the NHS (Wales) Bill, was published in draft, but the process of pre-legislative scrutiny differed in that the Assembly had no special formal place. This suggests that so far the view in Whitehall may be that the Assembly should have a formal role only where the draft Bill is a Wales-only Bill. If so, it is regrettable since there may be as many, and sometimes more Welsh substantive provisions in an England and Wales Bill as in a Wales-only Bill. Furthermore, it seems wrong in principle for the Assembly to be treated in the same way as any other body or person who might wish to respond to a consultation.

Nonetheless, the Assembly took the opportunity to conduct a pre-legislative scrutiny even though this meant convening a special meeting in September of the Health and Social Services Committee. The Committee took evidence from interested groups and concluded that:

“... key provisions of the Bill conflicted with the aims of the Mental Health Strategy and the National Service Framework in Wales”⁸⁴

The Committee proposed that if there was a will for the Bill to proceed for England there should be a separate Bill for Wales. In the event the Bill was not included in the Queen’s Speech.

⁸³ Hansard 29 October 2002, and see the Modernisation Committee’s Report at www.publications.parliament.uk/pa/cm/cmmodern.htm

⁸⁴ See minutes of the meeting of the Health and Social Services Committee HSS-17-02, and the letters appended thereto from the Chair of the Committee to the Department of Health and the Assembly Minister for Health and Social Services. This double communication of the Committee’s views – one to the Whitehall department and one to the Welsh Assembly Government Minister – reflects the complexity of the Committee’s position in relation to primary legislative proposals. Arguably its views should also be communicated to the respective legislatures – to the Assembly in plenary and to the departmental select committee in Westminster.

The Health and Social Services Committee also criticised the timing of the consultation, necessitating a special meeting of the committee. It will be recalled that the formal stages of pre-legislative scrutiny of the draft (NHS) Wales Bill, though completed before the summer recess, were also fairly compressed. A practical explanation for this may be that the resources of the Office of the Parliamentary Counsel in Whitehall, to which falls the function of drafting the Bills, are simply too taken up with dealing with the current session's Bills going through Parliament to be able to turn any earlier to draft Bills for the following session.

Review and Reform

The many issues arising from experience of the post-devolution legislative process for Wales are now amongst a range being considered in three different fora, each charged with the task of making recommendations for reform. The House of Lords Committee on the Constitution is looking into relations between the administrations and the role of the Parliaments and the Assemblies.⁸⁵ The Welsh Affairs Committee is reviewing the legislative process as it affects Wales. And, finally, the Richard Commission is charged with a wide-ranging review of the Assembly's powers and electoral arrangements.

Evidence given in the course of these inquiries constitutes a rich source of information of the various views and arguments about the current process and the kind of changes that are now required. In general there appears to be approval or at least acceptance of the probable utility of the 'Rawlings principles' adopted by the Assembly in its Review of Procedure.⁸⁶ These are an attempt to establish conventions for the allocation of new functions to the Assembly. They have been discussed in evidence with some of the key experts appearing before the Welsh Affairs Committee.⁸⁷ The process of inquiry itself can be useful in raising awareness in Westminster and Whitehall of debates that are already well underway in Wales. The First Parliamentary Counsel, for example, stated that his Office only became aware of the 'Rawlings principles' when asked to prepare to give evidence in the course of the Committee's inquiry.⁸⁸

The Richard Commission's terms of reference go beyond making the current system work better and include consideration of what further powers may need to be devolved.⁸⁹ It has drawn up a provisional programme and has started to take evidence, first from key observers, Assembly Government Ministers and officials, then from the Presiding Office, Wales Office and other Whitehall departments, turning in the New Year to Assembly Members, MPs, local authorities, the police and other public bodies, and visits to other UK devolved governments and EU institutions. The Commission will also be holding public meetings around Wales, taking evidence

⁸⁵ See *Engaging with Europe* pp 47 – 48.

⁸⁶ See *Education Policy Breaks Loose*, op.cit. The Assembly Review Report can be found on the Assembly's web pages at www.wales.gov.uk.

⁸⁷ See in particular the evidence given at the Committee's sittings in Cardiff on 21 October.

⁸⁸ Oral evidence 5 November.

⁸⁹ See *A Bilingual Wales*, op.cit., pp22 – 23.

from political parties, the electoral reform society and the electoral commission. It will hold follow-up sessions with Ministers and others before formulating conclusions and recommendations leading to publication of a report in December 2003. Evidence taken was being made available on the Commission's website from mid December 2002.

6. RELATIONS WITH LOCAL GOVERNMENT

Alys Thomas University of Glamorgan

Local Government Bill

The consultation process surrounding the draft Local Government Bill, put out for consultation in June, continued between Local Government, the Assembly Government and Whitehall. The Bill, with its key clauses granting the Assembly the same powers as the Secretary of State in England, appears to have gone some way in granting the flexibility and enabling powers desired by the Assembly Government. As Edwina Hart had put it, she wanted:

“... maximum flexibility in the Bill to enable the Assembly to develop situations that are sensitive to the particular needs and circumstances of Wales.”⁹⁰

She reported to subsequent meetings of the Local Government and Housing Committees that the Office of the Deputy prime Minister’s consultation had closed on 23 August and the UK Government were considering whether any changes should be made to the draft Bill. Having consulted with Local Government she reported that this had:

“... resulted in a decision to not proceed with the planned merger of Revenue Support Grant and National Non-Domestic Rates into a single funding stream.”⁹¹

Clause 24 of the Bill confers on the Assembly the various regulation making powers in the Bill which in England will fall to the Secretary of State.⁹² The Explanatory notes outline the key differences between England and Wales. These include separate clauses for grant making provision for Parish Councils in England and Community Councils in Wales and also notes provisions which apply to England only such as creating a NDPB for Valuation Tribunals – an initiative specifically rejected by the Assembly Government. There are a number of specific Welsh clauses:

- Providing changes in financial reporting **with provision for the Assembly to make two local government finance reports a year, one dealing with police authorities and one dealing with other authorities and bodies.** This was asked for by the Assembly Government.
- Outlining differences between the operation of non-domestic rates in England and Wales
- Conferring powers with regard to Welsh Fire Authorities.⁹³

⁹⁰ LGH Committee Minutes 10 July 2002. See the previous Quarterly report, *A Bilingual Wales*, IWA, August 2002.

⁹¹ LGH Committee Minutes 2 October 2002, 16 October 2002.

⁹² Local Government Bill (9 53/2), November 2002.

⁹³ See Explanatory Notes to Local Government Bill, November 2002 and LGH Committee Minutes 10/7/02.

Wales Programme of Improvement

In November the Assembly Government launched a consultation on *Performance Indicators to support The Wales Programme for Improvement 2003-04*. The consultation is aimed at further consolidation and refinement of the number of indicators to “provide authorities with a period of relative stability.” The Assembly Government’s sensitivity to complaints from local authorities about overload are stressed:

“The National Assembly believes it is important to reduce the burden placed on authorities of collecting performance information while retaining a need for the performance management framework to allow robust assessment of continuous improvement.”

When the consultation is complete, an Order will be passed which will take effect from 1 April 2003 and a draft guidance document will be prepared on the basis of the consultation and circulated. The consultation takes place in the context of the wider agenda set out in the policy statement, *Freedom and Responsibility*, which outlined the Assembly Government, Welsh Local Government Association and Local Government Data Unit commitment to developing a strong performance management culture. The Local Government Data Unit is currently undertaking a fundamental review, likely to take about two years, of the performance measurement framework relating to local government in Wales. This aims to bring together performance management into a coherent and consistent framework.

7. RELATIONS WITH WESTMINSTER AND WHITEHALL

Mark Lang, Welsh Governance Centre, Cardiff University

New Secretary of State for Wales

Neath MP Peter Hain became Secretary of State for Wales on 24 October. He succeeded Paul Murphy who was transferred to the Northern Ireland Office as part of the reshuffle resulting from the resignation of the Education Secretary Estelle Morris. Hain immediately brought a new style to the Wales Office which may have far reaching constitutional consequences since, for the first time since the advent of the National Assembly, Wales now has a strong pro-devolution advocate in Whitehall. At the Welsh Office Hain was a key campaigner in the 1997 referendum, a point he drew attention to in November, his Statement on the Queen's Speech, his first address to the National Assembly:

“As a passionate devolutionist and co-ordinator of the 1997 referendum campaign, I am especially proud to address the National Assembly for Wales ... Devolution has facilitated the political expression of a new common Welsh citizenship, based not upon an obsolete nationalism but upon social justice, inclusiveness, radicalism internationalism, and above all, a strong commitment to community which, for me, is at the heart of our proud Welsh identity.”⁹⁴

It is difficult to imagine Paul Murphy describing his Welsh credo in such terms. As Welsh Secretary Mr Hain also retains his position as the UK Government's representative on the Convention for the Future of Europe. Again this may prove important given the links between Welsh and European constitutional futures that First Minister Rhodri Morgan has sought to highlight.⁹⁵

In Opposition between 1995-97 Peter Hain served as a Welsh Whip while Rhodri Morgan was a Shadow Welsh Office Minister. However, when Labour won the 1997 General Election Hain was appointed to a Welsh office Minister, leaving Morgan without a job in government. Later, Hain's role as campaign manager for Ron Davies and, more damagingly, Alan Michael, against Rhodri Morgan, in the Welsh Labour leadership elections of the late 1990s, led to some friction between the two men. Nonetheless, the new Welsh Secretary will undoubtedly want to make the National Assembly a success regardless of any personal differences he may have with its First Minister.

It is also clear that Hain will play a vital part in the Assembly Elections in 2003, which may have been a key factor in his appointment to the post. Following criticism of Paul Murphy's low profile, especially in the 2001 General Election, it is widely

⁹⁴ *Ibid.*

⁹⁵ See the previous quarterly report, *Engaging with Europe*, IWA, June 2002.

believed that Mr Hain will have a much higher profile as Secretary of State for Wales than his predecessor. An example of his pro-active style occurred within a matter of weeks when he intervened in the long-running controversy over windfarms to strongly advocate an energy future for Wales based on renewables. He attacked what he described as a ‘nimbyism’ that he claimed was prevalent in Welsh opposition to new developments. He said Wales had the opportunity to lead the UK on developing renewable energy but first it had to tackle entrenched opposition to development:

“We’ve got to end the curse of nimbyism which is really like a plague, or we will end up with, whether we like it or not, more nuclear power stations ... If the nimbyism that is rife now had existed 100 years ago we would never have built any roads or railways, an sewers or hospitals. We are going to have to look at our planning system, as this is our future security and literally the future survival of society that is at stake.”⁹⁶

Queen’s Speech

The Assembly Government’s wish list for future legislation was debated in the Assembly on 19 March.⁹⁷ It included measures on common land, Sunday licensing, St David’s Day public holiday, land use planning, education, audit, a housing ombudsman and passenger transport as well as the proposed Bill to implement the second tranche of Welsh health service reform.

In the event the Queen’s Speech on 13 November promised a Wales-only Bill on just one subject, the further reform of the health service in Wales. The draft NHS (Wales) Bill was considered formally by the Assembly before the recess and will now be revised and introduced to Parliament in the current session.⁹⁸ The lack of a positive response to the rest of the Assembly’s primary legislative requirements will be used as further ammunition by those who argue for primary legislative powers to be devolved. However, it is not yet clear whether any of the remaining measures sought by the Assembly may be included in England and Wales Bills introduced during the course of the session. Her Majesty’s address gave no indication that this would be so but some of the Bills that were announced may offer opportunities – reform of licensing, for example. The Welsh Assembly Government will also have substantial input to Welsh provisions in other England and Wales Bills such as that proposed on local government.

⁹⁶ Western Mail, 25 November 2002.

⁹⁷ The list is set out in the previous quarterly report *Engaging With Europe: Monitoring the National Assembly March to June 2002*, IWA, pp 32 – 34.

⁹⁸ The Bill was also subject to a public consultation conducted by the Secretary of State for Wales, an inquiry by the Welsh Affairs Select Committee and consideration by the Welsh Grand Committee. The UK Government’s response to the Welsh Affairs Select Committee Report was published on 15 October – see www.publications.parliament.uk

8. RELATIONS WITH THE EUROPEAN UNION

Mark Lang, Welsh Governance Centre, Cardiff University

Regions and the Convention on the Future of Europe

The European Convention should recommend a stronger voice for the Regions, First Minister Rhodri Morgan told the third Conference of Presidents of Regions with Legislative Power, held in Florence in November. He called for:

- Better and earlier Commission consultation with the administrations of the Regions
- A beefed-up role for the Committee of the Regions, and for legislative regions within it.
- Regions to play a part in monitoring the Commission's commitment to subsidiarity.
- A clearer division of competences between the EU and Member States so that responsibility is more transparent.

The First Minister declared:

"The on-going Convention on the Future of Europe presents a real opportunity for the EU to demonstrate that it takes seriously the principle that decisions should be taken at the level closest to the people affected by them

"From a standing start in 1999, the Assembly has made tremendous strides to establish itself at the EU level. The UK has been imaginative and flexible in its approach and the way things work here is envied by many other regions around Europe, including some that have greater powers than the Assembly.

"The Welsh Assembly Government - and administrations like it across Europe - has a key role in implementing EU rules and legislation. Now is the time for the EU to enhance the part played by regions in making the decisions that they have to implement in practice.

"Wales is a fully-fledged and active participant in the regional tier of government in the EU. We have much to learn, and much to offer, in our dialogue with other European units of governments operating at our level. After the eastward enlargement happens after 2004 we will be very much out on the western periphery of the EU. I am determined that we should remain politically close to the centre of gravity."⁹⁹

⁹⁹ Assembly Government Press Release, 14 November 2002.

Structural Funds Mid Term Review

At the end of September contractors were appointed to conduct mid-term evaluations of the European Structural Funding programmes in Wales. The reviews will assess the impact to date of the Objectives 1, 2, and 3, URBAN II and INTERREG IIIA funding programmes. The European Commission requires the Assembly Government, as the managing authority for European funding programmes in Wales, to conduct mid-term evaluations of each programme and submit a report to the Commission by the end of December 2003.

The Welsh European Funding Office is responsible for commissioning the mid-term evaluations and will manage the contracts. Each evaluation will consider four themes:

- Whether the environment in which the programme is operating has changed.
- How well the programme is delivering what it set out to achieve.
- The continued relevance of the programmes strategy.
- Any action needed to improve the programme.

Objective 3 projects approved in Wales passed the 300 mark in September. More than £30 million pounds worth of European grants has now been given to fund projects in East Wales, including Cardiff, Newport, the Vale of Glamorgan, Monmouthshire, Powys, Wrexham and Flintshire. The Objective 3 programme runs until 2006 and has £80 million of European money available to back schemes that will get people into work and better jobs through training, lifelong learning and promoting equal opportunities.¹⁰⁰

In October details of the first projects to receive funding under the new Ireland/Wales INTERREG Programme were announced. The first series of projects include six joint schemes that will help to develop links between West Wales and Ireland. They range from a programme to increase the use of opto-electronics technologies to a project to use ferries to observe water quality in the Irish Sea. The £40 million INTERREG III Programme supports joint Irish/Welsh projects that promote the sustainable development of West Wales and South Eastern Ireland.¹⁰¹

Wales European Centre

An update on developments in relation to the Wales European Centre (WEC) was given to the European and External Affairs Committee by the Deputy First Minister, Mike German, at the end of October. As previously reported, the future of the Centre has been in doubt since the Assembly Government announced that it was withdrawing its participation and establishing its own direct representation instead.¹⁰²

¹⁰⁰ Assembly Government Press Release, 23 September 2002.

¹⁰¹ Assembly Government Press Release, 10 October 2002.

¹⁰² See the previous quarterly report, *Engaging with Europe*, IWA, June 2002.

The Deputy First Minister said that the Welsh Local Government Association had also decided to establish its own dedicated non-stakeholder presence in Brussels. He also stated that the remaining members of WEC had been consulted on options for representation in Brussels and had indicated that they preferred a partnership body where each member would operate independently, as opposed to a federal approach. The Board of WEC had recommended to members a limited company structure as opposed to a joint contractual arrangement.¹⁰³

Links with Silesia

First Minister Rhodri Morgan signed a co-operation agreement with the President of the Polish Region of Silesia, Dr Jan Olbrycht, in October in anticipation of the expansion of the EU. At the signing ceremony in Cardiff Rhodri Morgan said:

“This agreement builds on the strong links that arise from our past and present coal mining and iron-making traditions. We have much to share with and our friends in Silesia, particularly in the development of a modern knowledge-driven economy. We also have expertise to share when it comes to the regeneration of derelict land.”¹⁰⁴

The meeting between the First Minister and Dr Olbrycht was their third in two years. The First Minister visited Silesia in December 2001. Dr Olbrycht visited Wales in May 2002 – when he became the first elected leader from an EU accession country to address the National Assembly.

The Memorandum covers a wide range of areas including regeneration, land reclamation, sustainable development, social inclusion, tourism, education, rural development, SME development and EU Structural Funds. Silesia is the most industrialised and urbanised Polish region. With a population of almost 4.9 million, it is the most densely populated and the second most populous region in the country.

¹⁰³ Minutes of the European and External Affairs Committee, 31 October 2002.

¹⁰⁴ Assembly Government Press Release, 16 October 2002.

9. PUBLIC ATTITUDES

Denis Balsom, Editor Wales Yearbook

An NOP poll for HTV published in November predicts that the Assembly election next May will deny Labour a majority and result in the continuation of the present Labour / Liberal Democrat coalition.¹⁰⁵ The poll, the first in Wales for 18 months, suggests the following make-up of the Assembly after May 2003, with the current position in brackets: Labour 29(28), Plaid Cymru 16(17), Liberal Democrats 8(6), and Conservatives 7(8).

Table 5: Constituency Votes

Q. At the election for the Welsh Assembly you will have two votes. If the elections for the Assembly were held now, which party would you vote for in the constituency election?

	November 2002 Poll	Assembly Election 1999
Conservative	14%	16%
Labour	43%	38%
Liberal Democrat	13%	14%
Plaid Cymru	27%	28%
Other	2%	5%
(Don't Know)	14%	

Table 6: Regional List Votes

Q. Your second vote will be for a list of candidates put up by each party to represent (your electoral region). If the elections for the Welsh Assembly were held now, which party would get your second vote?

	November 2002 Poll	Assembly election 1999
Conservative	15%	17%
Labour	32%	36%
Liberal Democrat	19%	13%
Plaid Cymru	31%	31%
Other	3%	5%
(Don't Know)	13%	

In many ways, the poll shows that the Liberal Democrats have been the overall beneficiaries of the coalition to date and of the new electoral system. Although the data do not suggest great change in the outcome of the constituency contests, the public are showing a marked tendency to switch their votes in the second, regional, election. Thus support for Labour declines 11 per cent on the second ballot, whilst that for the Liberal Democrats increases 6 per cent and that for Plaid Cymru 4 per cent. This swing increases the number of top-up seats that will be allocated to the

¹⁰⁵ NOP interviewed a representative sample of 1200 electors, by telephone, across Wales between 15 – 20 November 2002

Liberal Democrats, largely at the expense of the Conservatives. The poll also confirms that the electorate in Wales has developed quite distinct patterns of voting for the National Assembly, from that usually seen for Westminster and the House of Commons. When asked how they would vote if a Westminster General Election were to be held, Wales showed a small swing to Labour, but with the Liberal Democrats and Plaid Cymru remaining static with similar support to that achieved at the last general election.

Table 7: Westminster Voting Intention

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

	November 2002 Poll	General Election 2001
Conservative	18%	21%
Labour	51%	49%
Liberal Democrat	14%	14%
Plaid Cymru	14%	14%
Other	2%	2%
(Don't Know)	23%	

However, in the forthcoming Assembly election however, the poll suggests that support for Plaid Cymru, in particular, increases dramatically to run second only to Labour. This phenomenon, first seen in 1999, saw Plaid Cymru establish themselves as the second party of Wales and the official Opposition in the Assembly. As yet, they seem unable to capitalise on this position and threaten Labour's dominance. Whilst Plaid Cymru will counter that the campaign has barely begun and much remains to be played for, it appears that the electorate is taking a rather more sophisticated view and learning to use the new electoral system more effectively. Rather than allow many Labour second votes to be wasted, electors are switching to the Liberal Democrats in greater numbers than before, perhaps vindicating Mike German's strategy. The issue for the Labour Party will be the price that the Liberal Democrats will demand, in terms of policies to be enacted, to ensure their participation in a second coalition.

Recent elections have seen a considerable reduction in the number of electors that turn out to take part and exercise their democratic rights. At the last Assembly elections only 46 per cent voted. At the European elections, a few weeks later in 1999, the figure was a miserable 28 per cent. Although Wales polled more heavily than the rest of Britain in the 2001 Westminster general election, the turn-out at 62 per cent was still a post war low. The new Electoral Commission, and others, will be urging greater engagement in the coming Assembly elections, but the current omens are not promising.

Table 8: Predicted Turn-out in the May 2003 Assembly election

Q: How likely are you to vote in the election to the Welsh Assembly in May next year?

Certain not to vote	11%
Very unlikely	9%
Fairly unlikely	8%
Fairly likely	19%
Very likely	14%
Or are you certain to vote?	37%
Don't know	3%

The number of electors who said they were certain to vote in next year’s Assembly election was only 37 per cent. Although low, this level is similar to that found in 1998 at an equivalent six months prior to actual polling day when the turn-out was 46 per cent. However, voters are known to respond to a keen electoral contest, where the outcome is uncertain. So whilst many constituency contests in Wales will automatically return safe candidates, the uncertainty over the eventual outcome and the shape of a new Assembly, as suggested in this poll, may increase interest and participation. As at other recent elections however, at the moment, it still appears unlikely that more than 50 per cent will bother to turn out on the day.

As the first National Assembly comes to the end of its term the future constitutional status of Wales remains a contested issue with the Richard Commission charged with reviewing the present arrangements. The poll shows substantial support for an institution significantly stronger than that established in May 1999. Either a Scottish-type Parliament with tax and law making powers, or a stronger purely legislative Parliament would appear more popular than the present arrangements. A sizeable minority however, would still wish to see the clock turned back and return to Westminster rule. Nonetheless, given the narrow margin by which the referendum was carried in 1997, one might still argue that Welsh politics have come a long way.

Table 9: Future Constitutional Options for Wales

Q. Which one of these statements is closest to your view of how Wales should be governed?

	All	By intended Assembly vote			
		Lab	Con	LD	PIC
There should be an elected Welsh Parliament with law-making and tax raising powers.	25%	23%	18%	19%	38%
There should be an elected Welsh Parliament with law-making, but no tax raising, powers	18%	20%	13%	19%	20%
Wales should retain the Welsh Assembly with its present range of powers.	23%	28%	16%	26%	22%
Wales should return to being governed solely by Westminster and the Secretary of State for Wales.	29%	25%	50%	32%	17%
DK	4%	4%	3%	3%	3%

The election next May will be an important landmark. The second National Assembly will no longer be a new institution, feeling its way or uncertain of its place. Wales has created a political leadership of its own, which will be fighting for approval and endorsement in a way much more detached from London and Westminster politics than hitherto. The Assembly Government has shown its willingness to seek solutions to Welsh problems that are distinct from those policies that might be adopted for England and this increasing diversity is likely to continue. Yet being different is not enough. Wales has been the poorer partner of the United Kingdom for too long – the point of adopting a different solution is to achieve a better outcome. Increasing GDP will remain the primary goal of any incoming Welsh Assembly Government. If the election were to be characterised by a robust and informed debate, between all of the parties of Wales, and further endorsed by the active participation of voters, the new administration of First Minister and Cabinet could legitimately claim a popular mandate for progress and change.

10. POLITICAL PARTIES

Gerald Taylor, University of Glamorgan

Conference Season

The party conference season began in September with most eyes firmly fixed on the coming Assembly elections. It raised issues of policy and possible alliances in the Assembly after next May's vote. Plaid Cymru kicked off with speculation about the security of Ieuan Wyn Jones' leadership, but his speech calmed nerves, and was seen as "a personal triumph"¹⁰⁶. However, even this performance was overshadowed by Dafydd Wigley's final conference speech as an AM. His departure as the Assembly member for Caernarfon leaves north Wales a less cluttered field for Ieuan Wyn Jones, AM for the neighbouring Ynys Mon constituency. Another issue for Plaid's electoral campaign is the precarious position of the party's funds. According to Conference reports the party was between £150,000-£200,000 in debt as a result of the 2001 Westminster election.

At his conference Liberal Democrat leader and Deputy First Minister, Mike German, claimed his party to be the 'driving force' in the Assembly. His strategy was to targeted Conservative voters to maximise the party's influence ahead of a further coalition after May 2003. At the Conservative party Conference talking points were the lack of Welsh speakers from Wales on the platform and Iain Duncan Smith failure to mention Wales in his speech to the Welsh reception

The Labour party Conference raised issues of the relationship between the Labour government at Westminster and the Labour-led Assembly Government in Cardiff Bay. In fact, this had first been raised a few weeks before with the publication of the Government's annual poverty report alongside a survey which showed Wales lagging behind Britain in terms of income.¹⁰⁷ This was taken up by the Conservative leader Iain Duncan Smith:

"... people in Wales are beginning to understand now that they are suffering with poorer quality services than exist in England despite the fact that they spend less per head of the population on public services over there."¹⁰⁸

Coalition Debates

¹⁰⁶ Western Mail, 21 September, 2002

¹⁰⁷ 19 September, 2002

¹⁰⁸ Western Mail, 18 October, 2002

At the Welsh Liberal Democrats' Autumn Conference the party voted overwhelmingly to renew the party's coalition with Labour in the Assembly after the elections. This was despite Labour's insistence on the continued use of first-past-the-post for Welsh local government elections. At the same time the party's leader in Wales, Lembit Opik, MP for Montgomeryshire, sought to keep open the possibility of future coalition with Plaid. For his part Conservative leader, Nick Bourne, ruled out a coalition with the Liberal Democrats, although the party's policy co-ordinator, David Melding, declared:

As we become more successful in opposition in Wales, the electorate will expect us to think more and more about joining a government as a coalition partner.¹⁰⁹

However, at their Policy Forum, Welsh Conservatives seemed more concerned with ensuring that their members would turn out to vote rather than stay at home in the hope that a low turnout would damage the credibility of an institution they did not support. Meanwhile Plaid leader Ieuan Wyn Jones ruled out a coalition with the Conservatives under any circumstances.

Rod Richards Resigns

Rod Richards, Independent Conservative AM for North Wales and one of the more experienced politicians in the Assembly, resigned his seat in September on grounds of ill health. He was elected to the National Assembly via the regional list in 1999 and was leader of the Conservative Group for some months until he was forced to resign after being accused of assaulting a woman in London. He was later acquitted of the charge but sat as an independent Conservative in the Assembly after he was expelled from the Conservative group for not following the party whip.

Richards' has been replaced by David Jones, who was third on the party list for the North Wales regional seat in 1999. Jones, a solicitor, claims to be in the 'libertarian' wing of the Conservative Party. He is also a close friend of Rod Richards and is said to share many of Richards' right-wing political views. His arrival at the Assembly could alter the balance of the current Conservative group that mainly consists of middle-of-the-road Conservatives. He has agreed to take the seat in a 'caretaker capacity' for the six months running up to the election in May 2003.

Candidate Selections

¹⁰⁹ Western Mail, 8 October 2002.

Rod Richards' resignation was no means the most intractable candidate problem for the Conservatives. Incumbent Assembly Member, farmer Peter Rogers was placed seventh on the list for 2003, behind recent Plaid defector Guto Bebb, while another farmer, and fuel protestor, Brynle Williams headed the list. This was something of a shock given that incumbent AMs headed the Conservative list in every other region. Peter Rogers was left with little option but to fight his home Ynys Mon constituency if he wished to retain his position as an AM. This led to the curious situation of his declaring the possibility of standing as an independent, but facing no sanction from the Conservative Group. The Conservative list selections also placed women in third spot on all but one, South Wales West, providing the possibility of the first woman Tory AM.

Another high profile AM set to depart at the next elections is Plaid's Pauline Jarman, AM for South Central. She is also leader of Rhondda Cynon Taff, and her decision was to enable her to devote herself to leading the council into the 2004 elections.

The Labour party with their constituency selections settled turned their attention to their regional lists and decided to ensure that all candidates had been through a one member one vote selection process following criticism of the democratic credentials of their list selection process in 1999. Given that the regional lists were unlikely to provide more than one, and possibly not even one, seat for the party it was decided simply to enter Labour's constituency candidates onto the regional list ranked by order of electoral strength. Thus the biggest Labour majority seat's candidate would be ranked first and so on. However, the party also wanted to encourage ethnic minority candidates and the list seemed a good opportunity for this. The party, therefore, decided to place one ethnic minority candidate on each of the five lists, with one in the first list place, one in the second, and so on down to the fifth.¹¹⁰ A problem was that these candidates would not have gone through a constituency selection process. The party decided to remedy this by piggy-backing the candidate details and statement of eight potential ethnic minority candidates with the statements for the European election candidates which were circulated in October. In this way members were asked to select five of these candidates for the regional lists.

Meanwhile, the Deputy Presiding Officer, Wrexham Labour AM John Marek, voluntarily put himself forward for reselection to head-off disciplinary hearings against him. The disciplinary hearings were the result of complaints by Labour Wrexham councillors, Marek's criticism of the council had brought the party into disrepute. If they had been upheld then Dr Marek would have automatically been disqualified as a candidate.

In the event an alternative course was presented to him, apparently by the Wales Labour Party General Secretary, Jessica Morden. This was that he should ask the Wrexham party to provide him with another 'affirmative nomination', with all party units having vote. If he should fail to be nominated by 50 per cent then a reselection contest would be triggered in which Marek would be allowed to stand. If this happened it would mean that Marek would become the only incumbent Labour AM who wishes to remain in office to face a reselection contest for his seat.¹¹¹

¹¹⁰ Western Mail, *Labour allocates slots to ethnic minorities*, 14th September, 2002

¹¹¹ BBC online, *Senior AM faces reselection ballot*, news.bbc.co.uk, 15th November, 2002

The Green Party announced it would be campaigning for an Assembly seat in May, directed at the South West regional list with Martyn Shrewsbury as their lead candidate. The campaign was highlighted at the Greens first public conference in Wales for some years, and follows the rebuilding of the party after its collapse following internal disagreements after the party in Ceredigion worked closely with Plaid Cymru to support their capture of that seat at the 1992 General Election.

Finally, the UK Independence Party announced it would be fighting to win a regional seat in each of the regional lists on platform to abolish the Assembly. The party's opposition stems from a belief that the European Union is attempting to undermine the integrity of the nation states by promoting the establishment of regional assemblies. A London spokesperson was quoted:

“The London, Welsh and Scottish Assemblies are all part of a move towards regional government under the Committee of the Regions in Brussels.”¹¹²

Policies

Assembly Government problems with health delivery during this period culminated in the appointment of Derek Wanless, a former adviser to Chancellor of the Exchequer, Gordon Brown, to review health and social care and report after the May elections.¹¹³ However, this move did not stem the pressure on the Health Minister and her reforms, and a spokesman for the First Minister felt it necessary to publicly state the “full confidence” of the Cabinet in the Health Minister.¹¹⁴

This provided an opportunity for Plaid to monopolise on the publication of their own proposals launched in a speech by Ieuan Wyn Jones.¹¹⁵ These health proposals were one is a series of *Policy for Wales* publications drafted by the party's new Policy Development Unit, financed by the new Policy Development Grants available through the Electoral Commission as part of the provisions of the *Political Parties, Elections and Referendums Act 2000*. Policy documents already released by Plaid's policy unit cover economic development, education, broadcasting, the Welsh language and water policy as well as health.¹¹⁶

Meanwhile, Labour has begun consultation on its draft manifesto for the Assembly elections, *Labour's Priorities for Wales*, which itself focuses on education and health, with further discussion of jobs and prosperity and communities. These ideas are derived from policy documents emerging out of consultation within the party's Welsh Policy Forum and agreed at Wales Labour Party Annual Conference earlier in 2002.

¹¹² Western Mail, 30 November 2003.

¹¹³ Western Mail, 17 October, 2002

¹¹⁴ Western Mail, 6 November, 2002

¹¹⁵ Western Mail, 11 November, 2002.

¹¹⁶ They are available on the party's website, www.plaidcymru.org, under the Policy Unit link

The draft manifesto was subject to discussion and agreement at a special meeting of Labour's Welsh Policy Forum at the end of November.¹¹⁷

Merthyr By-election

The Merthyr council by-election in the Penydarren ward, caused by the death of the Labour councillor Terry Mahoney, was lost by Labour to Independent candidate Alan Jones.¹¹⁸ Labour, who were already in a minority on the council, have now fallen to 15 seats, with 14 held by Independents and a further four by Plaid Cymru.¹¹⁹ Nonetheless, Labour appear still to be able to exercise effective control over the council, as can be seen by the election of a new Labour leader of the council, Councillor Harvey Jones, to replace the outgoing Labour leader Councillor Ray Thomas. Labour's minority control of the council safeguards Labour's control of the Welsh Local Government Association (WLGA), which would be jeopardised if the council were lost to Independent control.

¹¹⁷ Wales Labour Party, *Labour's Priorities for Wales*, Cardiff: Wales Labour Party. (The author had access to the draft manifesto as a delegate to Labour's Welsh Policy Forum.)

¹¹⁸ See the previous monitoring report, *A Bilingual Wales*, IWA, August 2002, p. 61

¹¹⁹ See Merthyr Tydfil council website, www.merthyr.gov.uk/wards+members.asp

11. PRESS AND THE MEDIA

Nia Richardson, IWA

Image Problems

Following in the footsteps of Prime Minister Tony Blair and former Secretary of State for Wales, Paul Murphy, the First Minister, Rhodri Morgan will now be holding televised media briefings at the beginning and end of each Assembly session. This will be in addition to the weekly off-camera briefings to the media held by the Business Manager and Minister for Open Government, Carwyn Jones. The decision to allow cameras to the First Minister's briefings was made on the basis of media requests and the Assembly Government's policy of open government. In the first of what have been described by the press as 'White House-style' conferences, held at the beginning of the autumn session, the First Minister admitted that the Welsh public remained cynical about the Assembly:

“The Assembly had a rocky beginning but we believe it has stabilised now. We have a long way to go in terms of public acceptance. There is an increasing mood of cynicism about politics everywhere.”¹²⁰

It was the First Minister's comments on the Assembly's failure to establish itself within the affections of the Welsh public which made the headlines in response to the First Minister's annual report. Despite his efforts to promote the achievements of his government in a glossy, fully illustrated publication entitled *Delivery*, the Western Mail's front-page headline remained, 'Wales still has image problem'. The story underneath reported the First Minister as saying:

“We cannot as yet say that people in general are saying ‘thank God I live in Wales’. We are not there yet.”¹²¹

Health Service

The English press reported that the Assembly Government would not follow England in establishing foundation hospitals and in introducing top-up fees for university students almost a week ahead of the Welsh press. The Guardian's Regional Affairs Editor, Peter Hetherington, wrote on 15 November:

“The devolved government of Wales has rejected New Labour's policy of creating autonomous foundation hospitals, arguing that it undermines the health

¹²⁰ Guardian 14 October 2002.

¹²¹ Western Mail 31 October 2002.

service concept of universal provision. Instead, the First Minister, Rhodri Morgan stressed yesterday that Wales was pursuing a different reform of making the service more accountable to communities and of treating patients as partners. He made clear that a ‘consumerist’ agenda pursued by the government in England had little relevance in Wales.”¹²²

The crisis faced by NHS Wales once again attracted media coverage as waiting lists rose to record levels. There were also reports that the NHS in Wales was on the brink of a winter bed crisis¹²³, that it was facing a £60m deficit¹²⁴ and that hospitals in Wales were cancelling 1000 operations each month.¹²⁵ However, it was further rises in waiting lists that attracted the main condemnation editorial writers. The South Wales Echo ran a front-page ‘Dear Jane’ letter to Health Minister Jane Hutt calling on her to resign:

“The time has come for Welsh Health Minister Jane Hutt to face the facts and ask herself: ‘should I resign? Hospital waiting lists released yesterday make grim reading, but not for the first time. Surely time has run out for the NHS leader? If not, she should tell us why not ...

From day one of the assembly, Jane Hutt has been the Health Minister for Wales. It was her promise that the queues and waiting times would get shorter. That has not taken place despite the extra millions of pounds that have already been spent and promised. We accept that Ms Hutt has tried her best – and is once of the most sincere ministers in the UK – but the job has not been done. The promises have been broken, whatever the excuses may be.”¹²⁶

The Western Mail added:

“No amount of political spin-doctoring or good-news announcements about additional funding can gloss over the fact that the NHS is in crisis. A thousand operations are cancelled every month in Wales, a thousand beds are blocked because patients cannot be moved into community care and waiting lists continue to plunge to new depths. Even the much-flaunted news that Health Minister Jane Hutt eliminated 18-month orthopaedic waits no longer provides a slight glimmer of hope in among the grim statistics as the list is again starting to rise. Ms Hutt says she is committed to improving the health service and few would doubt her good intentions or the mountain of decades of under-investment she must climb. She has made much political capital of the fact that health budget has increased by 50 per cent since devolution, yet it appears to have done little to stop the decline. Wales is an ageing nation, plagued by high rates of disease. It must not be allowed to become a country that watches its citizens die with both hands tied behind its back.”¹²⁷

¹²² Guardian 15 October 2002.

¹²³ Western Mail, 26 September 2002.

¹²⁴ Western Mail, 4 November 2002.

¹²⁵ Western Mail 31 October 2002.

¹²⁶ South Wales Echo, 31 October 2002.

¹²⁷ Western Mail, 31 October 2002.

Mike German Saga

The Mike German saga continued when the Welsh Mirror revealed in October that the WJEC (Welsh Joint Education Committee) was considering taking civil action against the Deputy First Minister. Under the front-page headline ‘Expensesgate’ the paper reported that although no action had been taken against the Minister by the police and the Crown Prosecution Service following investigations, the WJEC were considering launching a private civil action against the Liberal Democrat leader. WJEC Chairman, Jeff Jones, told the paper that they were going to write to Mr German asking him to repay the money he spent using a WJEC credit card during his time as Head of the European Unit. In response, Mr. German told the paper;

“After six year the WJEC have never made any claim or sent me any bill. Of course if they ever do – just like any honest employee – I will respond appropriately. All investigations have come to nothing. The WJEC action based on the same evidence is bizarre under the circumstances. There is nothing new; I have nothing to hide. I can only conclude that these threats are politically motivated.”¹²⁸

Nearly a month later the Western Mail reported that Mike German had paid the bill issued to him by the WJEC of £328, but “without admission of liability”.¹²⁹ Ten days later, on 15 November, OLAF, the European audit unit announced that it had forwarded its investigation papers to the serious fraud squad who in turn announced that there was “insufficient ground” to mount a criminal investigation into the work of the European Unit when Mike German was its head. Nonetheless, the WJEC Chair, Jeff Jones, told BBC Wales’ Dragon’s Eye political programme that the matter was far from over:

“Because of the activities of Mr. German as head of the European Unit we probably will have to pay back £1-2m to Europe. This is just the beginning not the end of anything.”¹³⁰

‘King Rhodri’

First Minister, Rhodri Morgan was once again the subject persistent attacks by the Welsh Mirror. In a full front-page spread a photo of the First Minister was accompanied by the headline ‘King Rhodri’:

“Q: What do you do when the NHS in Wales is in dire need of funds, crime is rising and the people need to see that the politicians care about their future welfare?

A: You open six Welsh embassies around the world costing millions a year.”¹³¹

¹²⁸ Welsh Mirror, 10 October 2002

¹²⁹ Western Mail, 6 November 2002

¹³⁰ Dragon’s Eye, 14 November 2002

¹³¹ Welsh Mirror, 19 September 2002

The paper's editorial commented:

“Wales has intolerable NHS waiting lists, drugs crime and illiteracy levels and child poverty. So why does Rhodri Morgan think spending taxpayers' cash on six ‘embassies’ around the world will improve things? This newspaper has already accused First Minister Morgan of putting Cardiff before the rest of Wales. Now he wants to add New York, Tokyo, Sydney and the rest. We need that money for Wales”¹³²

However, the First Minister received a kinder judgement from the Western Mail, responding to his statement that, if tax raising powers were transferred to the Assembly, then his administration would not use them. Beneath a headline ‘No tax vow shows Morgan's true colours’, the paper commented:

“By suggesting he would not raise taxes, were he able to, he is nailing surprisingly Blairite colours to the mast of the Assembly Government he leads. At a time when ‘Old’ Labour and union militancy is reasserting itself, Mr Morgan has chosen to identify himself with, if not the right of the party, then the broad centre. He is also firing a warning at his Liberal Democrat coalition partners and his Plaid Cymru opponents. They are being told that the guiding ethos of the Assembly is not radicalism but the same blend of social democracy and pragmatism which has characterised the Blair Government and the Labour-Liberal Democrat coalition in the Scottish Parliament. Although Mr Morgan has been criticised by Ron Davies for not pursuing a more vigorous leadership role in seeking legislative powers for the Assembly, the very fact that the First Minister is openly talking about a Government existing which can raise taxes suggests he is confident that devolution is here to stay; its position, he is insinuating, can only grow in strength and significance.”¹³³

¹³² *Ibid.*

¹³³ Western Mail, 2 December 2002. Rhodri Morgan had made his comments in an interview with the BBC Television ‘On the Record’ programme the previous day.