

The **Constitution** Unit

DEVOLUTION MONITORING PROGRAMME 2006-08

Wales Devolution Monitoring Report

January 2008

Prof Richard Wyn Jones & Prof Roger Scully (eds.)



Sefydliad Gwleidyddiaeth Cymru

Institute of Welsh Politics

Cymru mewn **Ewrop**  **Wales** in a **Regional Europe**

ISSN 1751-3863

The Devolution Monitoring Programme

From 1999 to 2005 the Constitution Unit at University College London managed a major research project monitoring devolution across the UK through a network of research teams. 103 reports were produced during this project, which was funded by the Economic and Social Research Council (grant number L 219 252 016) and the Leverhulme Nations and Regions Programme. Now, with further funding from the Economic and social research council and support from several government departments, the monitoring programme is continuing for a further three years from 2006 until the end of 2008.

Three times per year, the research network produces detailed reports covering developments in devolution in five areas: Scotland, Wales, Northern Ireland, the English Regions, and Devolution and the Centre. The overall monitoring project is managed by Professor Robert Hazell and Akash Paun at the Constitution Unit, UCL and the team leaders are as follows:

- Scotland: **Charlie Jeffery**
Institute of Governance, University of Edinburgh
- Wales: **Dr Richard Wyn Jones & Dr Roger Scully**
Institute of Welsh Politics, University of Wales, Aberystwyth
- Northern Ireland: **Professor Rick Wilford & Robin Wilson**
Queen's University, Belfast
- English Regions: **Martin Burch, Alan Harding & James Rees**
IPEG, University of Manchester
- The Centre: **Akash Paun**, The Constitution Unit, UCL

The Constitution Unit and the rest of the research network is grateful to all the funders of the devolution monitoring programme.



WALES OFFICE



All devolution monitoring reports are published at: www.ucl.ac.uk/constitution-unit/research/devolution. Contact Akash Paun on a.paun@ucl.ac.uk for further information.

Wales Devolution Monitoring Report

January 2008

Prof Richard Wyn Jones
&
Prof Roger Scully (eds.)

LIST OF FIGURES	5
ABBREVIATIONS AND ACRONYMS	6
SUMMARY AND INTRODUCTION	7
1. PUBLIC POLICY	9
1.1 Introduction	9
1.2 Health and Social Services	11
1.3 Education, Culture and the Welsh Language	13
1.4 Economy and Transport	14
1.5 Environment, Sustainability and Housing	15
1.6 Equalities	17
1.7 Social Justice and Public Service Delivery	18
1.8 Petitions	20
1.9 Conclusion	21
2. THE LEGISLATIVE PROCESS	23
2.1 Primary Legislation	23
2.2 Parliamentary consideration of draft LCOs	29
2.3 The House of Lords scrutiny of the First LCO	33
2.4 WAG's Legislative Programme	36
2.5 Private Members' Legislation: Second and Third Assembly Ballots	38
2.6 Communities and Culture Committee inquiry into civil society	39
2.7 Conclusion	40
3. ECONOMIC DEVELOPMENT AND THE BUDGET	41
3.1 Introduction	41
3.2 European Structural Funds	42
3.3 The Budget and the Comprehensive Spending Review	43
3.4 Committee Inquiries	44
3.5 Conclusion	46
4. INTERGOVERNMENTAL RELATIONS	47
4.1. General	47
4.2. Formal intergovernmental meetings	48
4.3. Informal intergovernmental meetings	48
4.4. Legislative powers and related issues at Westminster	49
4.5. Machinery of government matters	50
4.6. UK Government green paper	51
4.7. Finance: the UK Comprehensive Spending Review	51
5. RELATIONS WITH EUROPE AND LOCAL GOVERNMENT	54
5.1 Europe	54
5.2 Local Government	56
6. ELECTIONS, PARTIES AND PUBLIC ATTITUDES	61

6.1.	Elections	61
6.2.	Parties	62
6.3.	Public Attitudes	67
6.4.	Conclusion	70
7.	ASSEMBLY AND THE MEDIA	71
7.1	Introduction	71
7.2	BBC cuts	72
7.3	Trusting the BBC?	74
7.4	Happy Anniversary S4C	75
	BIBLIOGRAPHY	77

List of Figures

Figure 6.1	Local Government By-Elections, August-December 2007	61
Figure 6.2	Constitutional Preferences in Wales 1997-2007	68
Figure 6.3	Most Influence over 'the way Wales is run'	69
Figure 6.4	National Identities (%) in Wales, 1997-2007	70

Abbreviations and Acronyms

AM	Assembly Member
CALRE	Conférence des Assemblées législatives régionales d'Europe (Conference of the European Regional Legislative Parliaments)
CoR	Committee of the Regions
CSR	Comprehensive Spending Review
D-G	Director General
EEC	European Economic Community
ERDF	European Regional Development Fund
ESF	European Social Fund
ESG	Expenditure Sub-Group
EU	European Union
FSB	Federation of Small Businesses
GoWA	Government of Wales Act
GVA	Gross Value Added
HCW	Health Commission Wales
JMC	Joint Ministerial Committee
LCO	Legislative Competence Order
MEP	Member of European Parliament
MP	Member of Parliament
NAfW	National Assembly for Wales
NBAR	National Behaviour and Attendance Review
NHS	National Health Service
PFI	Private Finance Initiative
RSG	Revenue Support Grant
SNP	Scottish National Party
WAG	Welsh Assembly Government
WAS	Welsh Ambulance Service
WASC	Welsh Affairs Select Committee
WCVA	Wales Council for Voluntary Action
WEFO	Wales European Funding Office
WLGA	Welsh Local Government Association

Summary and Introduction

After a long period during which party politics in Wales was distinctly frenetic – due first to election campaigning and later to post-election deal-making and deal-breaking – the period of this report has been one of settling down. Party politics became distinctly quieter, although we can expect things to move back up a gear once campaigning starts in earnest for the May 2008 local government elections.

Perhaps the most striking aspect of the past few months has been the relative ease with which the Labour-Plaid Cymru coalition in Cardiff has bedded-down. Despite the historic enmities between the two parties, and the vigorous debate within Labour about the wisdom of entering into coalition with Plaid, inter-party relationships within the Assembly government have thus far been, by all informed accounts, genuinely cordial and positive. Though one can expect tensions between the parties at other levels – most obviously at Westminster – to spill-over into the National Assembly arena at some points in the future, every sign at present suggests that the current coalition will prove sustainable for the whole four-year term of this Assembly. Cynics can, with some fairness, suggest that the current disarray among the Welsh Liberal Democrats means that neither side has any other viable option except to co-operate with each other. But there does seem to be more to it than this. At ministerial level, and even among most backbenchers in the Assembly, there appears to be genuine (if wary) mutual respect. While such talk is clearly premature, it is nonetheless indicative of the current mood (in Cardiff Bay at least) that there has already been some discussion in the margins of the Assembly that the coalition could continue beyond 2011.

Given that the LCO process – a mechanism introduced by the 2006 Government of Wales Act that allows for the transfer of ‘Measure-making powers’ to the National Assembly via Orders in Council at Westminster – is still in its infancy, it is too soon to pass definitive judgement on its efficacy. Especially given that both sides of the Cardiff-London relationship are still clearly ‘feeling their way’. Nonetheless, the experience so far will have done little to temper the views of those who have previously been critical of the new arrangements.

With the LCO system obviously an interim arrangement, and with the Labour-Plaid coalition agreement having committed both parties to attempt to secure a referendum on primary powers proper by 2011, the initial meetings of the ‘One Wales

Convention' chaired by Sir Emyr Jones Parry (also a product of the coalition agreement) take on particular significance. As of yet the exact role of the Convention remains unclear. Supporters of primary powers will however have been buoyed by the latest data on public attitudes towards Wales' constitutional future. The ESRC-funded survey, conducted by the Institute of Welsh Politics (Aberystwyth) and the National Centre for Social Research, was carried out in the period immediately after the National Assembly election. It showed that while there continues to be no substantial trend in support for Independence for Wales (it remains at 12 per cent), support for strengthening devolution continues to grow, and now stands at 44 per cent. 28 per cent support the constitutional status quo. At the same time opposition to the principle of devolution has continued to decline, and now stands at 17 per cent.

1. Public Policy

Paul Chaney, Cardiff University

1.1 Introduction

Despite the 2001 *de facto* separation of the executive from the legislative branch of devolved government, it remains relatively commonplace for the mass media to conflate the two – and for reference to be made to ‘the Assembly’ / ‘Y Cynulliad’ as being responsible for devolved public policy and law. At the commencement of the third Assembly *Y Llywydd* / Presiding Officer, Dafydd Elis Thomas AM, called for a more informed understanding of the ‘ownership’ of public policy initiatives. He stated:

We all have a responsibility for clarity regarding our roles and responsibilities. How can we expect the public to hold us to account and fully participate in Welsh democracy when there is so much confusion between the legislature, the Assembly, and the Executive, the Government? Is it not time that we now refer to ourselves and each other in clearer terms to enable us to move on and take Wales forward as the Assembly and, the Welsh Government?¹

On related matters, the policy programme set out in *One Wales* – the document that finally sealed the coalition government agreement reached in late June between Plaid Cymru and Welsh Labour – has major implications for the future scope and development of devolved policy making.² The key issue is whether public policy will continue to be underpinned by the present cumbersome and opaque legal processes founded on executive devolution, or whether the National Assembly will gain full primary legislative powers giving it the scope to pass laws to enforce public policy in any area not reserved to either the Westminster parliament or the European Commission.³ This is a salient issue because *One Wales* states:

There will be a joint commitment to use the Government of Wales Act 2006 provisions to the full under Part III and to proceed to a successful outcome of a referendum for full law-making powers under Part IV as soon as practicable, at or before the end of the [current] Assembly term.⁴

¹ ‘Lord Dafydd Elis-Thomas calls for better communication with the people of Wales’, NAFW Press release (18 September, 2007)

² Inter alia, it contains a pledge to consider the evidence for the devolution of the criminal justice system.

³ And not hitherto added to the schedule of devolved legislative competencies in the wake of GoWA, 2006.

⁴ *One Wales: A Progressive Agenda for the Government of Wales*, p 6, at: wales.gov.uk/about/strategy/strategypublications/strategypubs/onewales/?lang=en

Accordingly, late September saw the Counsel General, Carwyn Jones AM (Welsh Labour), call for a debate on this matter. He said: 'in a situation where the Assembly is able to exercise primary legislative powers, I think it's inevitable that the question will surface as to whether it's sustainable for the single jurisdiction of England and Wales to be retained'. He underlined the need for a debate on 'the establishment of a single administration of justice in Wales' by concluding that: 'the many facets of the legal community in Wales need to play a central role in informing the Welsh Assembly Government's consideration of those matters'.⁵ This is a timely intervention since contemporary academic legal analysis concludes that the current legal powers of the National Assembly will 'start areas of separate "Wales-only legislation" leading to the creation of a Wales statute book different to that applying to Wales and England'.⁶ Whilst critics of this development may be vocal, the tenets of good governance (*inter alia* – democratic legitimacy and accountability) suggest that this is the way ahead for devolved policy-making in Wales.

Mid-October saw the publication of the UK Comprehensive Spending Review (CSR).⁷ It revealed that Assembly government spending will go up from £14bn to £16bn by 2010. However, debate centred upon whether this level of funding will be adequate for the realisation of the coalition government's ambitious policy programme. Such speculation was fuelled by Welsh ministers' refusal to publish a breakdown of the costs of the *One Wales* initiatives. According to Jenny Randerson AM (Welsh LibDems), 'it is inconceivable [that it] has not been costed ... they know they can't afford it'. The CSR also revealed tensions between the two governing parties. Secretary of State for Wales Peter Hain MP (Welsh Labour) said: 'in real terms this means a 2.4 per cent above inflation increase in funding each year for the next three years – amounting to a 16 per cent increase in Welsh spending power'.⁸ In contrast, Plaid Cymru MP Adam Price said it was the 'worst financial settlement for Wales since devolution ... the people of Wales will be £700m worse off than they should have been had the (UK) government stood by its budget promise'. Shadow

⁵ 'Counsel General urges debate over changing legal landscape', WAG Press Release, (21 September 2007)

⁶ M. Navarro and D. G. Lambert (2007) 'Some effects of the Government of Wales Act 2006: The Welsh Journey from Administrative Decentralization Passing Through Executive Devolution to Quasi-Legislative Devolution in less than Eight Years', in P. Chaney, E. Royles, and A. Thompson. (eds) *Contemporary Wales: An Annual Review Of Economic, Political and Social Research*, (2007), Cardiff, University of Wales Press pp. 13-39.

⁷ '2007 Pre-Budget Report and Comprehensive Spending Review'. Downloadable from UK Treasury website: www.hm-treasury.gov.uk/pbr_csr/pbr_csr07_index.cfm

⁸ 'Spending Announcement Provides 16 Per Cent Budget Boost for Wales, Says Peter Hain', Wales Office Press Release, (October 10, 2007): www.walesoffice.gov.uk/2007/10/10/spending-announcement-provides-16-per-cent-budget-boost-for-wales-says-peter-hain

Welsh Secretary Cheryl Gillan (Welsh Conservative) said the spending announcement will 'place significant pressure on the Labour-Plaid coalition and its ability to deliver its policy commitments'.⁹ The autumn budget revealed an increase in spending on public services; however, the increase was not as great as seen in previous years. According to WAG, an extra £1.2bn has been allocated for health services over the next three years. Furthermore, the plans include £120m to be spent on childcare, and £155m on transport. Not all were happy with the spending plans. According to the Welsh Local Government Association, the 'settlement again sees local government at the bottom of the pile when it comes to public finances in Wales. We expected a tough settlement but today's unacceptable outcome ... will place huge pressures on local authorities who are already squeezing everything possible from the system'.¹⁰

In November Plaid Cymru announced a range of potential policy initiatives in its 'alternative Queen's speech'. The coalition government partner set out a series of proposals that, in specific areas, confirmed, or, more significantly, moved beyond the coalition government's policy programme. Such measures included draft UK parliamentary Bills to devolve control over water resources to the National Assembly – as well as proposals to create an independent Welsh civil service, and to replace the minimum wage with what the party claim is a more comprehensive welfare measure, a 'living wage'.¹¹

1.2 Health and Social Services

Late September saw the health minister, Edwina Hart AM (Welsh Labour), announce an independent review of the Health Commission Wales (HCW), an executive agency of the Welsh Assembly Government.¹² HCW is responsible for giving guidance, support and facilitation to NHS Wales in relation to acute services commissioning. The agency was at the centre of controversy over decisions it made on the availability of some new medicines and treatments. According to David Melding AM (Welsh Conservatives) 'in the general health community in Wales there is a view that the commissioning role of this organisation is far too reactive ... given

⁹ BBC Online, 'Rise in Welsh spending slows down', 9 October 2007, at: news.bbc.co.uk/1/hi/wales/7035508.stm

¹⁰ 'Punitive Assembly Government budget will lead to cuts in key frontline services, says WLGA', WLGA Press Release (November 5, 2007): www.wlga.gov.uk/content.php?nID=23;ID=126;IID=1

¹¹ The 'living wage' was also a key pledge in Plaid Cymru's 2007 election manifesto, see: BBC News,

'Plaid Cymru pledges "living wage"', at: <http://news.bbc.co.uk/1/hi/wales/6502603.stm>.

¹² Health Commission Wales: <http://new.wales.gov.uk/topics/health/hcw/?lang=en>

the advances in modern medicine we are not quite up to the pace in Wales'.¹³ The autumn saw the health minister also announce a further review, this time in relation to NHS Wales' pay and conditions policy. This followed concerns about the uneven implementation of the pay policy introduced under the 'Agenda for Change' initiative that was introduced in October 2004.¹⁴ The review follows WAG's announcement in July that nurses in Wales would receive a 2.5 per cent pay rise, thereby bringing Wales in line with pay scales in Scotland. This received cross-party support. Then Shadow health minister Jonathan Morgan AM (Welsh Conservatives) said: 'I am pleased the health minister has responded positively to concerns and decided to implement the pay increase in full'.¹⁵ The HCW and NHS Wales pay reviews are scheduled to be completed by early 2008.

On 17 October 2006 the National Assembly unanimously passed the following motion: 'we call on the Welsh Assembly Government to develop and present for consultation ... a wide-ranging strategy to improve the quality of food consumed in Wales'. Accordingly, eleven months on from the resolution, 25 September saw WAG launch the consultation draft of its Quality of Food Strategy.¹⁶ The final Strategy will be published in 2008. On other matters, in late November WAG announced its intention to seek an LCO to give it new powers to legislate to regulate care costs for vulnerable people. At present there is wide variation in the amount charged by the 22 local authorities in Wales (with maximum weekly costs ranging from £16.20 in Rhondda Cynon Tâf to £150 in Powys; some local authorities have no maximum tariff). Gwenda Thomas AM (Welsh Labour), deputy minister for social services, said WAG was concerned to secure a 'fairer and more consistent approach to charging'.¹⁷

Back in May 2005, WAG revealed its Healthcare Standards for Wales; these set out 32 standards that all healthcare organisations in Wales are expected to meet.¹⁸ Late November saw the publication of Healthcare Inspectorate Wales' report on the progress made against the Healthcare Standards. This identified a number of areas of concern including the amount of dignity and respect patients are afforded when

¹³ 'Pay and treatment reviews for NHS', reported in anon (26 September 2007):

<http://news.bbc.co.uk/1/hi/wales/7014732.stm>

¹⁴ Department of Health: Agenda for Change:

www.dh.gov.uk/en/Policyandguidance/Humanresourcesandtraining/Modernisingpay/Agendaforchange/index.htm

¹⁵ 'WAG to offer nurses full pay rise', reported in M. Brindley, *Western Mail* (6 July 2007)

¹⁶ 'Quality of Food: How to get Involved':

<http://new.wales.gov.uk/consultations/currentconsultation/healandsoccarecurrcons/qualityfood/?lang=en>

¹⁷ 'Vulnerable care charges "unfair"', at: news.bbc.co.uk/1/hi/wales/7113918.stm

¹⁸ www.hiw.org.uk/page.cfm?orgId=477&pid=15775

admitted to hospital – and the complex governance structure of NHS Wales. In addition, the report highlighted areas of good practice including measures in relation to child protection and patient nutrition. In respect of the latter the report stated: ‘many [health] Trusts across Wales have invested considerable time and resources to improving the quality and choice of food available to patients’.¹⁹ Following the report the health minister ordered every NHS Wales organisation to publish a Healthcare Standards Improvement Plan.

In June 2006, a full public inquiry was launched into the service delivery standards of the Welsh Ambulance Services NHS Trust (WAS). In November 2007 inspectors concluded that WAS ‘has improved dramatically ... life-or-death emergency response times have improved and a new fleet of ambulances and rapid response vehicles has been introduced’. Notwithstanding this, in the same month the health minister announced an official review to examine whether the ambulance service is responding to all the [2006] Wales Audit Office report’s recommendations and ‘whether the Trust’s plans for further modernisation are robust and deliverable’.²⁰

1.3 Education, Culture and the Welsh Language

The state education inspectorate Estyn’s National Curriculum autumn assessment figures reported that, when compared to last year, key stage one (ages 3-7 years) and two (ages 7-11 years) results showed that fewer pupils met expected standards across a range of subjects.²¹ However, children aged 14 years did better in English and Welsh than in 2006. The inspectorate report revealed the persistence of the gender attainment gap. Data showed that girls outperformed boys in all three age groups and every subject area. The greatest difference between the sexes was 16.5 percentage points for 14-year olds studying Welsh. Shadow Education Minister Alun Cairns AM (Welsh Conservatives) stated: ‘it’s alarming that the trend hasn’t started to converge after so much effort, so much resources and so much political priority had been given by Rhodri Morgan and the Labour Party’. In response, a Welsh Assembly Government spokesperson said: ‘a slight dip in performance is to be expected once in a while, if results get better every year we simply face criticism that things must be getting easier’.²²

¹⁹ Healthcare Inspectorate Wales: Healthcare Standards:

www.hiw.org.uk/Documents/477/All%20Wales%20Report%2006%2D07%20%2D%20Final.pdf

²⁰ ‘Minister announces review into the ambulance service’s progress’, see M. Brindley, *Western Mail* (29 November 2007)

²¹ Estyn: www.estyn.gov.uk The consultation closed on 31 December 2007.

²² ‘Fewer pupils meeting standards’ BBC Online, (4 September 2007), at: news.bbc.co.uk/1/hi/wales/6978155.stm

In March 2006, the Minister for Education, Lifelong Learning and Skills made a commitment to undertake a national review of school behaviour and attendance. September 2007 saw the publication of WAG's 'National Behaviour and Attendance Review Steering Group's Interim Report'.²³ This policy development document is designed to inform the second stage of the review. *Inter alia*, the report found that: 'large numbers of existing professionals have received little or no training for their roles in managing attendance or behaviour'; 'that although there is adequate guidance on managing exclusions from the Welsh Assembly Government, in practice, the implementation processes vary considerably from [local] authority to authority'; and that 'although some excellent alternative curriculum and out-of-school provision exists, this too, tends to vary from authority to authority. In some parts of Wales, there are presently too few places available'. The Steering Group's final report is scheduled for early 2008.

In mid-November, the Further Education and Training Act (2007) gave the National Assembly framework powers to pass primary legislation – or Assembly Measures – relating to further education and training. This will allow WAG to legislate in respect of the recommendations from the Independent Review of Further Education in Wales – the Webb Review – that was published on 11 December.²⁴ The latter identified the need for policies that address the requirements of: 'the large numbers of people that do not have literacy or numeracy skills'; 'employers who do not find the education system responsive enough to their needs'; and 'young people who are gifted and/or talented'. WAG will respond to the Review's recommendations in its draft Skills and Employment Strategy due to be published for consultation in early 2008.

1.4 Economy and Transport

The coalition government's *One Wales* policy agenda states that 'we will support the aim to halve child poverty by 2010 and eradicate child poverty by 2020'. In furtherance of this, in late September, Huw Lewis AM (Welsh Labour) was appointed as the chair of a new independent expert group on child poverty. This will provide 'evidence-based advice and feedback' to the Assembly Government on progress towards its cross-cutting child poverty targets. Notwithstanding the urgency of the

²³ 'National Behaviour and Attendance Review', at: www.nbarwales.co.uk

²⁴ 'Report of the Independent Review of the Mission and Purpose of Further Education in Wales in the context of the Learning Country: Vision in to Action', at: new.wales.gov.uk/topics/educationandskills/policy_strategy_and_planning/127035/webb-report?lang=en

problem, it was announced that further appointments to the group will not be made until early spring 2008.²⁵

In September, the NAFW Enterprise and Learning Committee began hearing evidence following its earlier decision made on 11 July to undertake an inquiry into planning for future railway provision in Wales. Committee chair Gareth Jones AM (Plaid Cymru) told the Committee that the decision to hold the inquiry had been taken 'in the wake of the publication of the UK Government's White Paper on providing sustainable railways²⁶ – and the Department for Transport and the Welsh Assembly Government's assessment of the planning needs for railways in Wales over the next 20 years'.²⁷ The inquiry will report in 2008.

On 21 November, the Enterprise and Learning Committee debated the terms of reference for its inquiry into the economic contribution of higher education.²⁸ Committee chair Gareth Jones AM (Plaid Cymru) stated: 'we are acknowledging that there is good practice out there ... what we feel is ... that there are certain key areas that could be improved and in which more could be done, certainly in regeneration terms and in other aspects of economic impact'.²⁹

1.5 Environment, Sustainability and Housing

Following the floods of summer 2007 the Environment Minister, Jane Davidson AM (Welsh Labour), announced that a new policy framework for flood and coastal risk management will be issued in spring 2008. It will be developed by a partnership between WAG, and representatives of public and private bodies – including the Environment Agency Wales and local government. Proposals for the new policy include using playing fields and low-lying areas as storage ponds in the event of flooding – rather than trying to prevent the influx of water through the construction of traditional flood barriers. According to the minister the new strategy will involve 'working with nature, rather than against it'.³⁰

²⁵ 'Minister appoints Huw Lewis AM to chair child poverty group', WAG Press Release, (26 September 2007)

²⁶ 'Delivering a Sustainable Railway', Department for Transport. See:

www.dft.gov.uk/about/strategy/whitepapers/whitepapercm7176/multideliversustainrailway?page=31

²⁷ Transcript of the NAFW Enterprise and Learning Committee, 19 September 2007, at:

www.assemblywales.org/bus-home/bus-committees/bus-committees-third-assem/bus-committees-third-els-home/bus-committees-third-els-agendas.htm?ds=9%2F2007&submit=Submit

²⁸ *Ibid.*

²⁹ *Ibid.*

³⁰ 'Eye on Wales', BBC Radio Wales (18.30 24 September, 2007)

In the wake of the foot-and-mouth outbreak in Surrey in August, the Welsh Assembly Government spent £7m on a range of policy measures to prevent the spread of the disease to Wales – including animal movement restrictions and information campaigns. On 12 October, the Rural Affairs Minister, Elin Jones AM (Plaid Cymru), announced that meat exports from Wales would resume after a precautionary ban.³¹ At the same time she condemned an apparent U-turn by the UK Treasury which announced that, contrary to initial indications, it expected the Assembly Government, and not the UK Government, to pay for the animal health measures in Wales.³²

December saw Elin Jones announce the publication of the first (draft) Fisheries Strategy for Wales.³³ The strategy aims to look at the long-term future of fisheries. According to WAG, the fishing industry brings around £200m into the Welsh economy and supports about 3,000 direct and indirect jobs. Amongst the draft strategy's aims are: the 'development and management of fisheries at sustainable levels as a part of a healthy and productive ecosystem' and to 'further the partnership working already established between policy makers and those in the industry'. The consultation period on the Strategy ends on 7 March 2008.

The September meeting of the NAFW Sustainability Committee saw the committee outline the terms of reference of its inquiry into Carbon Reduction. It will focus on the following topic areas: residential carbon reduction; carbon reduction by transport, industry and public bodies, and from electricity generation (including renewable energy); as well as reduction in relation to rural land use management. Each topic will be examined in turn with the relevant Welsh Minister being scrutinised at the end of each topic. The committee's final report and recommendations will be published in 2008 and will set out future actions that could be taken by both the Welsh Assembly Government and the National Assembly for Wales in order to make more rapid progress on carbon dioxide emission targets.³⁴

³¹ BBC Online, 'Farm outbreak restrictions lifted', (7 October 2007), at:

<http://news.bbc.co.uk/1/hi/wales/7048738.stm> *bbc*

³² BBC Online, 'Row over foot-and-mouth-aid cash', (11 October 2007), at:

<http://news.bbc.co.uk/1/hi/wales/7038724.stm>

³³ 'First Fisheries Strategy for Wales Published'. Downloadable from:

<http://new.wales.gov.uk/consultations/currentconsultation/envandcouncurrcons/1878951/?lang=en>

³⁴ Scoping Paper for the Committee's Carbon Reduction Scrutiny Inquiry - Annex A. See:

www.assemblywales.org/bus-home/bus-committees/bus-committees-third-assem/bus-committees-third-sc-home/bus-committees-third-sc-agendas.htm?act=dis&id=58420&ds=10/2007

Following on from commitments made in *One Wales* (and also in WAG's Environment Strategy published in May 2007³⁵), in an Oral Statement to the National Assembly on 17 October, the Minister for Environment, Sustainability and Housing announced that WAG would be setting up the first Climate Change Commission in the UK. The latter is a multi-interest policy forum aimed at informing WAG's climate change policy and the Climate Change Bill introduced at Westminster in November 2007. The commission met for the first time on 10 December and will continue to meet on a quarterly basis. According to WAG 90 per cent of the Welsh government's energy supplies are currently derived from renewable sources and it aims to increase this to 100 per cent by 2010.

One Wales states: 'our ambition is to ensure that all households, in all communities and irrespective of their means, can afford a decent home'. In mid-October the First Minister re-affirmed this commitment, stating: 'our aim is to ensure that housing is affordable in the areas of most severe pressure'. In early December the Deputy Minister for Housing, Jocelyn Davies AM (Plaid Cymru) presented an LCO to the National Assembly. If successful, this will enable NAFW to pass an Assembly Measure such that the right to buy (the mechanism under the 1980 Housing Act that allows council tenants to purchase their home) could be suspended in areas of severe housing pressure.

1.6 Equalities

In September, the NAFW Equality Committee announced the initial stages of its inquiry into issues affecting migrant workers. Although precise figures on the number of migrant workers in Wales are difficult to determine, data sources show that there were approximately 17,020 new migrant workers registering for a National Insurance number in Wales in 2006-07 compared to 16,440 in 2005-06. Of these, 8,990 (53 per cent) were from the new EU accession or 'A8' countries.³⁶ The committee's report will be published in 2008.

In September, the committee announced a further inquiry into the Accessibility of Polling Stations in Wales. Under the sub-heading 'Scope for law making' the terms of reference paper for the inquiry provides a good illustration of the complexity facing

³⁵ 'Environment Strategy for Wales, WAG:

wales.gov.uk/about/strategy/strategypublications/environment_strategy/?lang=en

³⁶ Czech Republic, Estonia, Hungary, Latvia, Lithuania, Slovakia, Poland and Slovenia.

policy makers in the absence of direct primary legislative powers for the National Assembly – and, as such, it is worth reproducing in some detail, albeit in edited form:

The framework around polling station accessibility is essentially provided by primary legislation, for example, the Electoral Administration Act (2006),³⁷ [...] the Representation of the People Act (1983) as amended and the Political Parties, Elections and Referendums Act (2000). Additionally, the National Assembly for Wales has previously passed secondary legislation providing for the reimbursement of costs associated with temporary ramps through the National Assembly for Wales (Returning Officers' Charges) Order 2002 which has been amended by the National Assembly for Wales (Returning Officers' Charges) Order 2006. Schedule 7 of the Government of Wales Act 2006 (Acts of the Assembly) refers to electoral matters under Field 12 (Local Government), so measure-making powers could be sought. However, there are exceptions set out in Field 12, including electoral registration and administration, so careful consideration would have to be given to any recommendation that such powers be sought.³⁸

The committee will report in 2008.

In mid-December the Enterprise and Learning Committee published its interim report into approaches to, and treatment of, dyslexia in Wales. This highlighted the need for early identification of the condition and the screening of every child in Wales at age 6 or 7 years – and, for these services to be made available in both English and Welsh.³⁹ The committee's final report is due to be published in April.

1.7 Social Justice and Public Service Delivery

Early October saw the publication of the annual Statistical Bulletin from the Local Government Data Unit. This examines the effectiveness of public service delivery by Welsh local government. It presents a mixed picture. Areas identified where improvements are needed included: attendance levels in secondary education (these have remained more or less static for several years and fell slightly during 2006-07) and, in health, the rate of delayed transfers of care ('bed-blocking'). However,

³⁷ Electoral Administration Act 2006, Chapter 22:
www.opsi.gov.uk/acts/acts2006/pdf/ukpga_20060022_en.pdf

³⁸ 'Scoping paper for the Committee's inquiry into the accessibility of polling stations in Wales', Papers of the NAW Equality Committee, 27 September 2007, at: www.assemblywales.org/bus-home/bus-committees/bus-committees-third-assem/bus-committees-third-eoc-home/bus-committees-third-eoc-agendas.htm?act=dis&id=59094&ds=10/2007

³⁹ 'Interim report and recommendations from the Dyslexia Rapporteur group on Dyslexia Support in Wales, Enterprise and Learning Committee': www.assemblywales.org/bus-home/bus-committees/bus-committees-third-assem/bus-committees-third-els-home/bus-committees-third-els-agendas.htm?act=dis&id=67984&ds=12/207

improvements in public service delivery were noted in respect of: a decline in the amount of household waste that local authorities dump in landfill sites; an increase in waste recycling; improvements in the energy efficiency of public buildings and social housing; a reduction in the proportion of children who leave school without a qualification; and an increase in independent living scheme places for vulnerable adults.⁴⁰

Policy outcomes in respect of 'bed-blocking' was further criticised in November. Citing a range of WAG strategic policy documents that aim to reduce this problem (including *Designed for Life* – the current 10 year strategy for health and social care services) a Wales Audit Office evaluation report stated: 'performance against Assembly Government targets to reduce the number of delayed transfers of care has been variable – although there have been reductions in the numbers of delayed transfers of care since 2003, there have been recent increases particularly in the Cardiff and Vale and Gwent health and social care communities'.⁴¹

Illustrating the manner in which the Assembly Government's policy agenda overlaps with the nominally wholly reserved area of criminal justice, in late October, Social Justice Minister, Brian Gibbons AM (Welsh Labour), announced consultation on a draft framework that will help Community Safety Partnerships⁴² take a more co-ordinated approach to tackling problems of alcohol-related crime, disorder and anti-social behaviour in the evening and night time economy.⁴³

Generally reflecting the earlier provisions of GoWA 1998, section 74 of GoWA 2006 sets out the nature of the formal partnership between WAG and the 30,000 'third sector' – or voluntary – organisations in Wales. According to the Wales Council for Voluntary Action these contribute an annual Gross Value Added to the economy of over £3bn.⁴⁴ On 13 November 2007, a plenary session of the National Assembly agreed 'The Third Dimension – A Strategic Action Plan for the Voluntary Sector

⁴⁰ Local Authority Performance 2006-7 is downloadable from the Local Government Data Unit website www.dataunitwales.gov.uk

⁴¹ Delays in hospital 'compromise patients' independence', Welsh Audit Office. Downloadable from: www.wao.gov.uk/news/news_1735.asp

⁴² There are 22 Community Safety Partnerships in Wales, one in each local authority area. Designed to coordinate policy on tackling crime, they comprise a variety of organisations including: the police, local authorities, the Fire and Rescue Service, NHS Wales, voluntary organisations, businesses, and community groups. See:

<http://new.wales.gov.uk/topics/housingandcommunity/safety/partnerships/?lang=en>

⁴³ 'Crime Reduction', WAG:

<http://new.wales.gov.uk/topics/housingandcommunity/safety/crimereduction/?lang=en>

⁴⁴ 'Third Sector in Wales 2007', Cardiff, WCVA: www.wcva.org.uk

Scheme'.⁴⁵ This new strategy reflects the priorities of both coalition government partners. According to the Deputy Minister for Regeneration, Leighton Andrews AM (Welsh Labour), the strategy was concerned with 'championing the sector's interests at the highest level and across the whole of government with particular focus on promoting social enterprise and encouraging greater third sector involvement in the delivery of quality public services'. The strategy addresses eight main areas: 'valuing voluntary action, strengthening communities, facilitating 'citizen voice', accelerating social enterprise, personalising public services, strengthening public/third sector engagement, improving third sector support services, enabling raised performance and growth'. However, in the plenary debate not all were happy with the strategy. For the Welsh Conservatives, David Melding AM linked WAG's plans for the third sector to the current funding levels for public services and local authorities. He asserted: 'I do not think that we can just rely on the voluntary sector to pick up the slack after what is a harsh settlement for local government from the Welsh Assembly Government'.⁴⁶

1.8 Petitions

The past quarter provides the first insights into the way that NAW/ WAG respond to policy proposals forwarded from the Petitions Committee. Accordingly, the following example outlines the workings of this new policy-making mechanism. As reported in the previous Devolution Monitoring Report, on 4 July the Committee considered a petition calling for the re-opening of a rural railway station at Carno in west Wales. It agreed that it should be formally referred to the National Assembly's Enterprise and Learning Committee for further consideration. In December the Petitions Committee discussed the formal responses that it had received on the 'Carno petition' from the Enterprise Committee, the Minister for the Economy and Transport and Network Rail. In its submission, the Enterprise Committee 'wished to express its support for the Carno Station Action Group'. In a qualified, yet supportive response, the Minister for the Economy and Transport stated that ongoing Welsh rail policy (The Cambrian Line Infrastructure Enhancement Project) 'provides passive provision for a single platform station in the locality of Carno. The optimum site for a new station within the locality is not known. A technical feasibility study would need to be completed ... [however

⁴⁵ 'The third dimension: A Strategic Action Plan for the Voluntary Sector Scheme'. WAG: www.assemblywales.org/hom-pdfviewer?url=chamber-agenda-third_dimension

⁴⁶ The Record of Proceedings, 13 November 2007

...WAG believes that...] with careful timetable planning, the Cambrian Line will be able to serve local, regional and national markets.⁴⁷

New petitions considered by the committee over the past quarter include those calling for: the banning of plastic disposable carrier bags in Wales on environmental grounds;⁴⁸ the immediate appointment by WAG of a Chief Scientific Advisor;⁴⁹ and a comprehensive review of screening systems for a range of cancers.⁵⁰

1.9 Conclusion

Notwithstanding the changes in policy making processes seen in the wake of the GoWA (2006), the evidence of the past quarter suggests that the absence of full legislative devolution in Wales has perpetuated the complexity of policy-making in the National Assembly, a consistent theme spanning the first three Assemblies. For example, the continuing opacity of WAG's powers was demonstrated by the Equality Committee's 'Inquiry into the Accessibility of Polling Stations in Wales', whilst the cumbersome way in which Assembly Measures are developed was illustrated by the creation of dedicated legislative committees for successive LCOs. These issues raise serious questions about the accountability of contemporary governance (because of the complexity of the division of powers between Westminster and Cardiff) – as well as the capacity of just over 40 backbench AMs to offer effective scrutiny of WAG policies because, individually, they are required to attend numerous cross-party committees (at the time of writing there are 14 policy committees and 5 legislative committees).

Despite these concerns, the *One Wales* policy programme has seen the introduction of several new strategies including on the voluntary sector and on areas that have hitherto lacked an indigenous all-Wales policy framework – such as the Quality of

⁴⁷ Petition ref P-03-58: Petition: Carno Station: Re-Opening - Responses from the Minister for the Economy and Transport and Network Rail to the report by the Enterprise and Learning Committee', NAW: www.assemblywales.org/bus-home/bus-committees/bus-committees-third-assem/bus-committees-third-pc-home/bus-committees-third-pc-agendas.htm?act=dis&id=67320&ds=12/2007

⁴⁸ Petition ref P-03-063: Banning Plastic Bags - Response from the Proposed Environmental Protection and Waste Management Legislative Competence Order (LCO) Committee, NAW, 20 September 20, at: www.assemblywales.org/bus-home/bus-committees/bus-committees-third-assem/bus-committees-third-pc-home/bus-committees-third-pc-agendas.htm

⁴⁹ Petition ref P-03-075: Petition: Royal Society of Chemistry Calling for the Immediate Appointment by the Welsh Assembly Government of a Chief Scientific Advisor - Response from the Welsh Assembly Government to the report of the Enterprise, Innovation and Network Committee on Science Policy: www.assemblywales.org/bus-home/bus-committees/bus-committees-third-assem/bus-committees-third-pc-home/bus-committees-third-pc-agendas.htm?act=dis&id=67333&ds=12/2007

⁵⁰ Petition - Cancer Screening Vigil 2007: Petition to Review Screening Systems for Cancer Regimes: www.assemblywales.org/bus-home/bus-committees/bus-committees-third-assem/bus-committees-third-pc-home/bus-committees-third-pc-agendas.htm?act=dis&id=64172&ds=12/2007

Food Strategy and the Fisheries Strategy. Policy development work also continued with the initial work of the Climate Change Commission, several policy reviews in the area of health, the Enterprise and Learning Committee's 'Inquiry into the Economic Contribution of Higher Education', and the publication of the Review of Further Education in Wales. Overall, the past quarter is significant in that longstanding political adversaries Welsh Labour and Plaid Cymru have managed to oversee national policy development in a coalition government. Nevertheless, key challenges remain for the future delivery of all *One Wales*' policy proposals – not least because of intra/inter-party tensions over the substance and priorities of the coalition government's policy agenda – and ongoing budgetary constraints.

2. The Legislative Process

Marie Navarro,⁵¹ Cardiff Law School

2.1 Primary Legislation

There were 10 Acts in 2007 giving powers to the Assembly in relation to Wales. This is significantly lower than the 24 such Acts passed in 2006, and marginally below the average of 12 a year since 1999. Most new Acts give powers to the Welsh Ministers. Acts conferring powers directly on the Assembly under the Government of Wales Act 2006 are too new to enable a pattern to emerge yet, but this will be monitored in future reports.

2.1.1 Acts giving powers to the Welsh Minister or the Assembly (2007)

No Acts in 2007 giving powers to WAG or the Assembly were passed before mid-July. The ten Acts mentioned above received Royal assent between the end of July and November. They are as follows:

Rating (Empty Properties) Act 2007 c.9

Mental Health Act 2007 c.12

Concessionary Bus Travel Act 2007 c.13

Tribunals, Courts and Enforcement Act 2007 c.15

Consumers, Estate Agents and Redress Act 2007 c.17

Statistics and Registration Service Act 2007 c.18

Offender Management Act 2007 c.21

Further Education and Training Act 2007 c.25

Serious Crime Act 2007 c.27

Local Government and Public Involvement in Health Act 2007 c.28

Out of these ten Acts eight gave substantial powers to the Welsh Ministers. The other two – the Consumers, Estate Agents and Redress Act 2007 c.17 and the Offender Management Act 2007 c.21 – only gave ‘shared powers’ to Wales. These two Acts retained the powers at central government level but required the ‘English’ Secretaries of State to consult or secure agreement of the Welsh Ministers in relation to the law they make which applies to Wales.

⁵¹ Research Associate, Editor of Wales Legislation Online, www.wales-legislation.org.uk

Two Acts in the list also gave powers to the Assembly to make Measures. They are the Further Education and Training Act 2007 c.25 and the Local Government and Public Involvement in Health Act 2007 c.28. These were discussed at length in the previous monitoring report.

All the Acts which gave powers to the Welsh Ministers to make subordinate legislation also gave powers to the Assembly to annul ('negative resolution') or to agree ('affirmative resolution') some of the subordinate legislation that WAG may propose. Such Assembly powers are less extensive and less systematic than the corresponding powers kept by the UK Parliament in relation to central government's subordinate legislation, but affirmative and negative resolution procedures are nonetheless present in each Act giving powers to WAG.

From these Acts, it is interesting to see that primary legislation in its application to Wales is now following the traditional pattern of distinguishing between legislature and executive; the powers of both WAG and the Assembly now reflect a traditional separation of executive and legislative power. WAG makes the subordinate legislation subject to annulment or agreement by the Assembly under certain provisions. The presence of affirmative and negative resolution procedures shows that the Assembly is now treated as a proper legislature in charge of controlling the most important subordinate legislation and receiving reports from the executive. The nature of WAG's executive powers corresponds to those of Secretaries of State. It was only because of the peculiar executive nature of the Assembly in the previous Government of Wales Act 1998 that executive powers wider than those normally given to Secretaries of State were devolved on rare occasions to the Assembly. Such broader executive powers were called 'framework powers' and were introduced by the White Paper 2005 to give better flexibility to the old Assembly in its executive form. Under the structure of the 2006 Act, these powers were too wide to remain as executive powers. Thus they are now devolved as legislative Measure-making powers in the form of matters which are added in Schedule 5 to the Government of Wales Act 2006. This change has also had the welcome effect of making it easier to understand the powers of the devolved institutions.

2.1.2 Bills introduced in Parliament affecting the powers of the Welsh Ministers:

In summer 2007 for the first time the UK Government published its legislative programme in draft, to help promote better governance in the United Kingdom.⁵² This is a new constitutional development, and it will be interesting to see what benefits it will bring to the legislative process in London. Some of the 23 proposed bills will first be published in draft, and will be subject to public consultation and to scrutiny by pre-legislative committees. For some of the Bills the government indicated in its document that it will be working closely with the devolved administrations. The exact phrase used was either *'The Government is working closely with the Devolved Administrations on the responsibilities they have in this area'* or *'the Government will work closely with the Devolved Administrations on matters which may have an impact on their responsibilities.'* This is a new procedure; such intentions had not previously been publicly stated.

The full list of bills in the draft legislative programme is reproduced below. Those involving close work between central government and the devolved administrations (including WAG and the Assembly in Wales) are shown in bold.

Children in Care Bill

Child Maintenance and Other Payments Bill

Climate Change Bill

Constitutional Reform Bill

Coroners Bill

Counter Terrorism Bill

Criminal Justice and Immigration Bill

Crossrail Bill (ENGLAND ONLY BILL)

Education and Skills Bill

Employment Simplification Bill

Energy Bill

European Communities (Finance) Bill

Health and Social Care Bill

Housing and Regeneration Bill

Human Tissues and Embryos Bill

Local Transport Bill

⁵² 'The Governance of Britain, The Government's draft legislative programme', at: www.cabinetoffice.gov.uk/reports/governance.aspx

National Insurance Contributions Bill

Pensions Bill

Planning Reform Bill (ENGLAND ONLY PART)

Planning Gain Supplement Bill

Regulatory Enforcement and Sanctions Bill

Sale of Student Loans Bill (ENGLAND ONLY BILL)

Unclaimed Assets Bill

2.1.3 Bills introduced giving powers to the Welsh Ministers in Wales

The following twelve Bills introduced in Parliament following the November 2007 Queen's Speech would give powers to the Welsh Ministers:

Alcohol Labelling Bill

Children and Young Persons Bill

Climate Change Bill

Disabled Persons (Independent Living) Bill

Dormant Bank and Building Society Accounts Bill

Education and Skills Bill

Health and Social Care Bill

Housing and Regeneration Bill

Human Fertilisation and Embryology Bill

Local Transport Bill

Planning Bill

Regulatory Enforcement and Sanctions Bill

Sale of Student Loans Bill

The Local Transport Bill and the Children and Young Persons Bill give examples of what is hoped to be a developing good practice of drafting clear clauses for Wales: for example in the Local Transport Bill most references in previous legislation to the 'Appropriate National Authority' is replaced simply by the term 'Welsh Ministers', which is straightforward and easy to read and avoids the use of joint powers. In the Children and Young Persons Bill there are many parallel provisions for England and then for Wales which are separated into two clearly expressed provisions. There is also a remarkably clear commencement section. These two Bills demonstrate clear drafting legislation of devolved powers in Wales. It is regrettable that not all Bills are drafted so well.

The Education and Skills Bill is another good example of clearly devolving powers to both WAG and the Assembly, as well as providing clear provisions for England only at the same time.

The Marine Bill⁵³ has been published in draft with the following territorial extent provisions:

It is proposed that the Bill will apply to England, Wales, Scotland and Northern Ireland. However, discussions are ongoing regarding the extent to which each Devolved Administration will be involved in each of the areas of the Bill.

2.1.4 Bills giving powers to the Assembly in Wales

Two new bills give Measure-making powers to the Assembly adding to the list of matters in Schedule 5. They are:

The Education and Skills Bill

The Local Transport Bill

The Education and Skills Bill would add another area of legislative competence to Schedule 5 in the Field of Education by means of a Matter 5.10 A (there is already a Matter 5.10). Future consolidation LCOs will be necessary to comprehensively define the area of competence in the education Field in the same way as draft LCOs set out a comprehensive list of exemptions from the legislative competence of the Assembly by setting out a table at the end of Schedule 5.

The following matter is proposed:

'Matter 5.10A

The inspection of education or training provided (whether or not at a school) for children who are not above compulsory school age.'

The Local Transport Bill demonstrates how unnecessarily complicated Schedule 5 may become. The titles and the parts of the provisions contained in the bill have been reproduced to show that Matter 10.1 could probably have said: 'Trunk road charging schemes in Wales', repeating the title of the part in the Bill itself. Sometimes it is difficult to understand the benefits of such complicated drafting, especially when the purpose of the Matters is surely to enable the Assembly to make clear and

⁵³ Marine Bill: www.commonleader.gov.uk/output/page2174.asp

comprehensive legislation under clear powers. Too much detail here could undermine the whole purpose of having Matters inserted in Schedule 5.

The provisions are as follows:

‘PART 7

MISCELLANEOUS PROVISIONS

Trunk road charging schemes in Wales

Section 109 Powers of the National Assembly for Wales

In Part 1 of Schedule 5 to the Government of Wales Act 2006 (c. 32) (Assembly Measures), in field 10 (highways and transport) insert—

“Matter 10.1

Provision for and in connection with—

- (a) the making, operation and enforcement of schemes for imposing charges in respect of the use or keeping of motor vehicles on Welsh trunk roads;
- (b) the application of the proceeds of charges imposed under such schemes towards purposes relating to transport.

This does not include provision about traffic signs, apart from provision about the placing and maintenance of traffic signs within the meaning of section 177 of the Transport Act 2000.

Interpretation of this field

In this field—

‘motor vehicle’ has the meaning given in section 185(1) of the Road Traffic Act 1988, except that section 189 of that Act (exception for certain pedestrian controlled vehicles and electrically assisted pedal cycles) applies as it applies for the purposes of the Road Traffic Acts;

‘road’ has the same meaning as in the Road Traffic Regulation Act 1984; ‘Welsh trunk road’ means a road for which the Welsh Ministers are the traffic authority (within the meaning of section 121A of the Road Traffic Regulation Act 1984).’

In the *Western Mail* there has been a lot of interest about the nature of the Assembly’s new powers in the LCOs proposed so far. Nowhere have comments been made on the complexity of the legislative powers being granted to the Assembly in primary legislation. LCOs are getting all the attention but Parliament continues to be willing, though in complex terms, to devolve further primary law making powers to the Assembly quietly through bills. This procedure for adding Matters of competence through bills is the first choice of government and LCOs are

now established as the route for transferring powers only when no Bill could carry the demands from Wales. A total of 43 Matters in Schedule 5 are now either proposed or in force. Only 13 originate in LCOs meaning that Parliament was content to devolve or propose 30 Matters to the Assembly. This contrasts with the view often expressed in the press that Parliament will refuse to agree to give legislative competence to the Assembly.

2.2 Parliamentary consideration of draft LCOs

2.2.1 *Welsh Affairs Committee's Pre-legislative Scrutiny of the first LCO and lessons learnt so far*

Reading the transcripts from the Welsh Affairs Select Committee (WASC) – of their consideration of the first LCO relating to further educational needs – is fascinating, and shows the emergence of conventions as to the role of the committee itself, as well as the role of the Wales Office.

First it has become clear than the use of LCOs is supplementary to the use of Acts of Parliament, to be utilised when it is not possible to give powers to the Assembly through bills (this is especially clear from the evidence session with the Under-Secretary of State for Wales and WAG minister Jane Hutt, detailed below).

The committee also expressly asked why WAG did not go through the 'clearance process' with Whitehall before publishing this first draft LCO. This indicates that there is a vetting process which has been established before WAG can even publish draft LCOs. Jane Hutt replied that this will not happen again.

The committee expressed concerns about the timing of the scrutiny of the LCO which, it was suggested, should take place at the same time as scrutiny in the Assembly.⁵⁴ WASC also reminded the Wales Office to write to it about the publication of draft LCOs so that the committee can, if possible, start its work with the Assembly in a joint pre-legislative scrutiny committee.⁵⁵ Jane Hutt suggested such joint scrutiny for future LCOs.

⁵⁴ Welsh Affairs Committee, evidence session from Huw Irranca-Davies MP, Parliamentary Under-Secretary of State, Uncorrected Evidence, at: www.publications.parliament.uk/pa/cm200708/cmselect/cmwelaf/uc44-i/uc4401.htm

⁵⁵ Welsh Affairs Committee, evidence session from Ms Jane Hutt AM, Minister for Children, Education, Lifelong Learning and Skills, Uncorrected Evidence, at *ibid*.

Reading the transcript of the committee's deliberations reveals that some Members of WASC seem to find it difficult to accept a differentiation between the law in England and that of Wales, even though such divergence can be considered a natural consequence of devolution. The committee was reminded of that by Huw Irranca-Davies and Jane Hutt. Some MPs have been playing the role of protector of the integrity of England and Wales as a single jurisdiction, asking to be convinced that there was a Welsh-specific need justifying the separate competence of the Assembly.

Another interesting point in WASC's debate was the amount of discussion on the scope of the LCO. On this same basis the second LCO (relating to environmental protection) was severely criticised by the committee because of its unclear potential breadth. The length of the debate of the first LCO and the intervention of Jane Hutt and Huw Davies demonstrate the difficulty of defining precisely an area of competence. This is unique to Wales. In Scotland and Northern Ireland no one has to explain the exact scope of the competencies of devolved bodies; it is only what they cannot do which is listed, and it is much easier to define exceptions than the precise scope of powers. Jane Hutt explained that WAG designed the Matters to be broad enough to allow a real exercise of powers, and to ensure that small omissions in the powers specified would be overcome by the broad wording. The committee insisted on the need for clarity, and for narrowing the definitions (which could be detrimental to the exercise of power, and could mean that another LCO would be necessary to cover omissions).

Defining any scope of competence is a difficult exercise, especially in the context of this interim system of Welsh legislative devolution. A balance has to be found between clarity and practicality, where the matters have to be broad enough to give the Assembly some space for manoeuvring without giving the Assembly undefined legislative powers. It will be interesting to see how future debates proceed, and if the scope of matters will expand or reduce.

Finally, MPs on the committee were very interested to know what will be the number and provisions of Measures that the Assembly would pass once competence is devolved. This shows that they have not yet accepted the idea of deciding only whether to let the Assembly legislate within a particular area, and not making this contingent on the use to which the legislative competence will be put in Cardiff. They are still trying to scrutinise future Measures, which was not part of the system put in

place in the 2006 Act. The Under Secretary of State for Wales insisted that he was reluctant to speculate about future Measures and that the LCO is equivalent to signing a blank cheque.

The 2005 White Paper *Better Governance for Wales* first proposed the LCO procedure to replace the Wales-only Acts of Parliament and to give Wales a faster procedure to get the legislative competence it needs. In passing the 2006 Act Parliament accepted the principle that primary legislation could be different in Wales. Given this background, MPs ought now to focus in their scrutiny on the extent of the competence being transferred not the law that might in future be made under it.

Devolution is a constantly changing process and Westminster and WASC will become accustomed to its new role of facilitating the Assembly's new powers. MPs will come to be more inclined to sign blank cheques to the Assembly in the spirit of the philosophy of devolution set out in the 2006 Act.

2.2.2 Wales Office's role and decision making:

The evidence from Huw Irranca-Davies helped clarify the processes which are being developed by the Wales Office in scrutinising LCOs, and in deciding whether to introduce them to Parliament.

The Wales Office first considers whether it is appropriate for the Assembly to have legislative competence in the area in question, or whether it is better to retain the power at central government level. If it is decided that it is appropriate for the subject area to be devolved, then the Wales Office considers three criteria: first, the scope of the LCO; secondly, does it have a justifiable purpose; and thirdly, the appropriateness of the wording of the LCO to meet the specific purpose.

The draft LCO and the explanatory notes made by WAG have to satisfy these three tests and answer the following questions: Is the description of the purpose for which the powers are sought clear? Are these powers for a purpose? (This implies that Wales cannot apply for powers just for having them ready in the future if ever they decide to use the power). Is the particular order too narrow to enable the Assembly to efficiently legislate in the area? The Under Secretary of State also stated that the Wales Office role is to scrutinise the scope and *vires* of the draft LCOs.

In relation to framework powers (the alternative to LCOs) – i.e. clauses in Bills which directly add Matters to Schedule 5 of the Government of Wales Act – Mr Davies explained that the Government had decided to provide a special explanatory memorandum to accompany future such framework clauses. The Secretary of State for Wales will also give an annual statement detailing each framework power, while the Wales Office is offering briefing sessions (conducted jointly with WAG) to each House on this process.

WASC published its report on the first LCO on 21 December.⁵⁶ The committee recommended a change in the definition of powers in the Order, with subsequent powers for the Welsh Assembly Government to amend it by statutory instrument at a later stage. It favoured a narrower evolving definition rather than a fixed wider one. The committee also highlighted the omission of higher education and recommended that it be included in the Order, demonstrating that it is not opposed to wider LCOs.

2.2.3 The Emergence of new principles in the consideration of draft LCOs:

New principles are slowly emerging following each of the steps in the passage of the first LCO.

In summary:

- There is a need and a will to synchronise scrutiny in the Assembly and Westminster, and even a possibility of joint scrutiny in the future.
- There has to be a clearance process of WAG draft LCOs by Whitehall before they are published.
- The Wales Office uses three criteria to accept LCOs for putting before Parliament: a devolved field, a justifiable purpose and the appropriateness of scope of the LCO to meet WAG's particular purpose.
- Parliament is slowly adapting to the changes and its new role in relation to LCOs and the way in which this new phase of devolution operates. Everyone has to remember that devolution works two ways and that England and Secretaries of State can also learn from Wales as was the case with the Children's' Commissioner for Wales.

⁵⁶ Welsh Affairs Committee, *The proposed Legislative Competence Order in Council on additional learning needs*, Second Report of Session 2007-08, HC 44, at: www.publications.parliament.uk/pa/cm200708/cmselect/cmwelaf/44/44.pdf.

- The Wales Office has created new conventions for the framework powers in Bills with a special explanatory memorandum for each and an annual legislative statement to Parliament.

2.3 The House of Lords scrutiny of the First LCO

As to the House of Lords' scrutiny of LCO No1, the Members' research document entitled *The National Assembly for Wales: Legislation and legislative competence since May 2007*⁵⁷ states at page 3 that 'The House of Lords Constitution Committee has conducted a detailed legal examination of the proposed LCO and, with the exception of a few technical drafting points, has cleared the proposed LCO.'⁵⁸

An extract reproduced below shows the methodology which will be used by the Lords Constitution Committee to scrutinise draft LCOs. Principles for such scrutiny are emerging:

Pre-legislative Scrutiny

7. The process by which LCOs are passed is somewhat complex

[...]

8. The first phase involves the Welsh Assembly Government and the Secretary of State agreeing on the scope of the powers sought and preparing the text of the proposed LCO. An explanatory memorandum is also prepared by the Welsh Assembly Government.

9. The second phase is a period of pre-legislative scrutiny by an *ad hoc* committee in the National Assembly and, generally at the invitation of the Secretary of State, by the House of Commons Welsh Affairs Committee and the Constitution Committee. The *ad hoc* committee and the Welsh Affairs Committee may meet together to consider the proposal and take evidence. The Counsel General or the Attorney General also have a role in relation to proposed LCOs: under section 96 of the 2006 Act, they may refer to the Judicial Committee of the Privy Council (subsequently the Supreme Court of the United Kingdom when it begins to sit) "for decision the question whether a matter which a proposed Order in Council under section 95 proposes to add to Part 1 of Schedule 5 relates to a field listed in that Part".

⁵⁷ Available at www.assemblywales.org/07-098.pdf

⁵⁸ Lords Constitution Committee, *Scrutiny of Welsh Legislative Competence Orders*, 2nd Report of Session 2007–08, HL 17, at: www.publications.parliament.uk/pa/ld200708/ldselect/ldconst/17/17.pdf

10. The three committees mentioned above will consider the proposed LCO simultaneously. It is for the other two committees to explain their criteria when undertaking such scrutiny, but the Constitution Committee will apply the usual yardstick of concerning itself with “matters of principle affecting a principal part of the constitution”. The overarching question will be whether, from a constitutional point of view, the request for legislative competence is within the overall letter and spirit of the devolution settlement.

11. In assessing proposed LCOs, the Constitution Committee will have regard to the terms of the proposed LCO in question, the explanatory memorandum and the formal requirements of Part 3 of the 2006 Act (in particular sections 94 and 95) and Schedule 5 to the Act. In relation to scrutiny of proposed LCOs, it needs to be borne in mind that LCOs contain only enabling provisions. It is the manner in which the National Assembly subsequently chooses to use those enabling powers to make Measures that is more likely to give rise to questions relating to the legislative competence of the Assembly— but those questions will be for the courts rather than Parliament to determine, as Parliament’s formal role in the Welsh legislative process ceases at the point that an LCO is approved by both Houses.

12. The Constitution Committee’s consideration of proposed LCOs will include consideration of the following questions.

(a) Does the proposed LCO appear to confer legislative competence that risks falling foul of the “general restrictions” defined by Parts 2 and 3 of Schedule 5 to the 2006 Act? The restrictions relate to: (a) altering functions of Ministers of the Crown; (b) criminal offences punishable by fines over level 5 or more than two years imprisonment; and (c) amending certain Acts of Parliament.

(b) Does the proposed LCO and any envisaged Measure described in the explanatory memorandum appear to apply beyond Wales or extend beyond England and Wales? In the 2006 Act, sections 94(4)(b) and (6)(b) impose territorial restrictions on the National Assembly’s legislative competence.

(c) Does the “matter” set out in the proposed LCO properly fall within the “field” under which it is to be placed in Schedule 5? To take an example: should a request for legislative competence to require smoke detectors and fire alarms to be fitted in domestic dwellings fall under “Field 7: fire and rescue services and promotion of fire safety” or “Field 18: town and country planning”, both, or neither? The 2006 Act is, to all intents and purposes, a written constitution for Wales and it is therefore important that there be clarity about the legal base for any legislation.

(d) Do the provisions of the Measure envisaged in the explanatory memorandum accompanying the proposed LCO properly “relate to” a

“matter” set out in the proposed LCO or another matter specified in Schedule 5, as required by section 94(4)(a)? As indicated above, at the pre-legislative stage of proposed LCOs the Constitution Committee will not have before it the text of any Measure.

Therefore, it will only be possible to consider whether there are any obvious problems in respect of what is said about planned Measures in the explanatory memorandum.

(e) Does what is proposed appear to be incompatible with the Convention rights set out in the Human Rights Act 1998, contrary to section 94(6)(c) of the 2006 Act? The proposed LCO itself— being merely enabling in character—is unlikely to affect Convention rights; but consideration may be given as to whether the manner in which the power may be exercised in making a Measure is likely to have any significant human rights implications that ought to be flagged up at the outset.

(f) Does what is proposed appear to breach European Community law, contrary to section 94(6)(c) of the 2006 Act? Similar constraints on the depth of scrutiny apply here as they do in relation to Convention rights.

(g) Have the necessary procedural requirements been followed in the making of the proposed LCO?

(h) Will Measures made under the proposed LCO significantly affect the institutional structure of government in Wales?

(i) Are there any other constitutional implications that ought to be drawn to the attention of the House and the Secretary of State?

13. Finally, because the Joint Committee on Statutory Instruments will not be involved at this pre-legislative stage, we shall attempt to bring any technical drafting points to the attention of the House and the Secretary of State.

14. At the time of making this report, we had considered one LCO: the National Assembly for Wales (Legislative Competence) Order 2007 (Additional Learning Needs). We concluded that this LCO did not raise any matters of constitutional principle.

The Members’ research document also reports on the following:

‘The Constitution Committee has scrutinised the proposed LCO. It has reached the conclusion that no matters of constitutional principle arise from this proposed LCO, though the Committee did highlight a few technical drafting points. The Constitution Committee made a recommendation to the Welsh Assembly Government in relation to the explanatory memorandum that accompanied the proposed LCO:

'The Memoranda from the Welsh Assembly Government that accompany the proposed LCOs are important in enabling everyone who is required to consider the LCO to understand fully its scope and context. We consider that it would aid clarity if in future a copy of Schedule 5 to the 2006 Act – showing paragraphs that are in force and those proposed by the LCO – were to be annexed to each memorandum, with footnotes indicating the source of each amendment.'

2.4 WAG's Legislative Programme

2.4.1 Draft Measures

As a reminder the three expected Measures were:

- an NHS Redress draft Measure to give greater rights to patients through a new NHS redress system (*already introduced*)
- a Transport Measure aiming at integrating systems, creating a green public transport system and extending an existing safer routes to school scheme (*consultation period started*)
- an Education Measure seeking to reform the 14-19 curriculum (*no signs of it yet*)

After the publication in draft of the NHS Redress Measure before the summer, no further draft primary legislation has been introduced in the Assembly but the one relating to school transport has been published in draft to be subject to consultation.

The NHS Redress draft Measure is well under way in its legislative process and has been subject to extensive scrutiny. Not only was the draft Measure subject to pre-legislative scrutiny but it was also subject to scrutiny by three different Assembly committees. No one can say that that particular draft Measure has not been scrutinised at length. The quality of the draft and the quality of the scrutiny will be discussed below.

The School Transport Measure, referred to as the Learner Travel Measure, having been published for consultation is now being promised to be laid in January. WAG

explains the delay in its laying by the fact that the idea and proposals were subject to consultation.⁵⁹

It is a very good start for the Assembly legislative process that the Assembly is choosing the longest and best road for its legislation.

2.4.2 Legislative Competence Orders

LCOS introduced so far:

Following the minister's statement on the Legislative Programme for 2007/08 the legislative plan in relation to the LCOs was:

Three LCOs should be introduced prior to the summer recess:

- Additional learning Needs. (*already introduced, see below*)
- *Two weeks after the first LCO*, a second one would be introduced, this time 'a wide-ranging Order in relation to environmental protection and waste management.' (*already introduced, see below*)
- A third LCO on affordable housing will be introduced *before the final week of this term* if political consensus is achieved with the Lib-Dem or Plaid, otherwise it will be brought before the Assembly *in the autumn*.

After the summer and before the end of the year, three additional LCOs will be introduced:

- A Welsh Language LCO *in the autumn* to allow political debate
- A widely framed LCO relating to vulnerable children and child poverty, for Consolidation Measure
- An LCO on Charges for Homecare and other non-residential social services.

The order of LCOs three and four have been changed, and five LCOs have been introduced so far.

The two new ones since the last report are:

- The **National Assembly for Wales (Legislative Competence) (No-4) Order 2008**.⁶⁰ It relates to the charging for Non-Residential Social Care (Domiciliary Care). The Order inserts Matter 15.9 under the Field Social Welfare.

⁵⁹ The draft LCO was published for consultation in June 2007 at:
<http://new.wales.gov.uk/docrepos/40382/40382313/631927/ConsultationOnTheLearnerTravel?lang=en>

⁶⁰ Available at www.assemblywales.org/bus-home/bus-guide-docs-pub/bus-business-documents/bus-business-documents-doc-laid.htm?act=dis&id=66926&ds=12/2007

- The **National Assembly for Wales (Legislative Competence) (No-5) Order 2008**⁶¹ was laid on 3 December. It contains proposals for Affordable Housing and it inserts Matter 11.1 to the Field Housing.

From the point of view of enabling the Assembly Government to implement comprehensive policy objectives, the width of the proposed LCOs so far published is to be welcomed (with reservations on the drafting of the Environment LCO⁶²) and their scope is in the spirit of the White Paper 2005:

‘There is a range of possibilities [...]

a) something very specific, such as the functions of the Ombudsmen in Wales [...]

b) **something rather wider, such as the protection and welfare of children.** This would be a limited policy area, but one cutting across a range of the Assembly’s functions, such as education, local government and social care [...]

c) **something considerably wider, such as the structure of the NHS in Wales [...]**⁶³

The draft LCOs published so far are only at level one and two (something very specific and something wider); we haven’t seen so far an example of something considerably wider yet – it would be fascinating to see how such a wide LCO would be perceived both in Cardiff and in London.⁶⁴

2.4.3 The involvement of Civic Society in LCOs

Civil society is getting involved with the three LCOs discussed in the last report, providing evidence in both written and oral form. There were: 14 responses for the Proposed Additional Learning Needs LCO; 10 responses for the Proposed Environmental Protection and Waste Management LCO, and; 23 responses for the Proposed Vulnerable Children and Child Poverty LCO.

2.5 Private Members’ Legislation: Second and Third Assembly Ballots⁶⁵

The first ballot for Assembly Members who are not part of the government to pass laws for Wales under the Assembly’s new powers took place on Tuesday 26 June

⁶¹ Available at www.assemblywales.org/bus-home/bus-guide-docs-pub/bus-business-documents/bus-business-documents-doc-laid.htm?act=dis&id=67564&ds=12/2007

⁶² The use of the word ‘including’ is confusing and there have been conflicting interpretations as to whether the words coming after ‘including’ were limitative or simply illustrative.

⁶³ Para. 3.18 of the White Paper 2005, *Better Governance for Wales*.

⁶⁴ LCOs in progress in the Assembly can be found together with their explanatory memorandum at: www.assemblywales.org/bus-home/bus-legislation/bus-legislation-lco-in-prog.htm

⁶⁵ See www.assemblywales.org/newhome/new-news-third-assembly.htm?act=dis&id=53476&ds=7/2007

2007, and a second one took place on 3 October. There were two further ballots on 12 December. On each occasion there were two ballots: one for a Measure and one for an LCO.

On 3 October, the Measure ballot was won by Jenny Randerson AM who plans to introduce a draft Measure for healthier school meals in Wales. The LCO ballot was won by Ann Jones AM who plans to introduce a draft LCO enabling Measures to be made for domestic fire safety.

On 12 December, the Measure ballot was won by Dai Lloyd AM who proposed an Impact Assessments for the Selling off of Playing Fields Measure, which would place a duty on local authorities to consider the impact on surrounding communities, in terms of health and social inclusion – before selling any playing fields'. The LCO ballot was won by Helen Mary Jones who proposed a Carers LCO to make provision for the establishment of a statutory requirement for health bodies and providers of social services to identify carers, and to inform carers of their rights; and to make further provision in relation to referral pathways for carers.

Following the June ballots, Mike German's proposed Measure, entitled *Proposed School Closures (Consultation and Categories) Measure* was rejected on the principles by a vote in plenary on 7 November. Mike German was therefore refused leave to introduce the draft Measure. The principle of Jenny Randerson's *Proposed Healthier School Meals Measure* was accepted and she was accordingly granted leave to bring forwards a draft on the same day.

So far it is notable that there are far fewer proposals for Measures than proposals for LCOs, a disappointing figure given that Measure-making should be the primary role of the new Assembly. The list of entries made by AMs so far is available at:

www.assemblywales.org/bus-home/bus-legislation/bus-leg-measures/business-legislative-ballots.htm

2.6 Communities and Culture Committee inquiry into civil society

The committee started an inquiry into the Funding of Voluntary Sector Organisations in Wales. It issued a call for evidence on three central issues:

- 'the ease or difficulty of obtaining funding from the Welsh Assembly Government or relevant national funding bodies.

- the ease or difficulty in complying with constraints or conditions placed on funding.
- issues related to the duration or timing of funding.¹⁶⁶

This inquiry will be very important for the future of the involvement of civil society in the legislative process in Wales. It is all very well to encourage civil society to participate in the new democratic processes, but for such participation to be effective it needs to be financially supported. Civil society needs to adapt to the new demands in Wales, and often have to convince their central offices in London why they need further funding and training.

2.7 Conclusion

New constitutional principles are emerging in relation to the operation of the new devolution settlement in Wales, following the coming into force of the Government of Wales Act 2006. After a fast start, the speed of laying new draft legislation before the Assembly has slowed down, almost to a halt. Most attention has been on the LCOs which are not the major and most important source of legislation produced in Wales. LCOs are empty from substantial legal provisions, there are only designed to allow the Assembly to make Measures on the topic, instead of Parliament. And in terms of substantial primary legislative provisions there have only been two draft Measures.

The Assembly has carried out very thorough scrutiny both of the LCOs and draft Measure which were laid before it. Hopefully there will be more 'made in Wales legislation this year' and they will be more substantive pieces of legislation which will not only delegate powers to WAG.

⁶⁶ See www.assemblywales.org/newhome/new-news-third-assembly.htm?act=dis&id=64483&ds=12/2007

3. Economic Development and the Budget

Professor Peter Midmore, University of Wales Aberystwyth

3.1 Introduction

The *One Wales* agreement between Labour and Plaid includes a commitment to the development of a prosperous society. This will be achieved through the creation of jobs, stimulation of enterprise, promotion of tourism and enhanced employment skills. Such uncontroversial objectives are shared broadly, across all parties represented in the Assembly. A Conservative opposition debate⁶⁷ on the need for enhanced innovation and skills to improve overall economic performance in Wales concluded, not only with consensus on, but also unanimous acceptance of, a Liberal Democrat amendment on strengthened support for adult learning. More interestingly, it also signalled a turn away from longstanding debates about the GVA per capita performance measure, and whether it represents a target or an aspiration: according to David Melding: 'Although there will be significant points of difference between us ... there are key areas of agreement ... I see no value in spending time criticising [the *One Wales* document] just for the sake of it.'⁶⁸

Nevertheless, opposition parties were keen to explore some of the more bizarre consequences of the role of Plaid Cymru as junior government partner. It was more or less inevitable that previous critiques of economic development policy by Ieuan Wyn Jones would be compared with his current responsibility for defending what is, essentially, the same policy. In the event, Kirsty Williams got in first, commenting on his reply to the very first question asked of him in his role as Minister for Economic Development and Transport: 'for a moment, I thought that we were back in January of this year and that I was listening to Andrew Davies telling me what was happening in the Welsh economy'.⁶⁹ The Plaid leader deflected the question in much the same way as his predecessor would have done. Nevertheless, while the policy of the coalition is to raise GVA per head, it will use other indicators for the lifetime of the agreement, particularly aiming to raise the rate of employment among working age adults to 80 per cent. There are further indications of a shifting framework of policy: the enthusiasm for the Lisbon Agenda (the overall strategy agreed by the EU in 2000, aiming to rebase the European economy on knowledge production) appears to

⁶⁷ Assembly Record of Plenary Proceedings, 17 October 2007.

⁶⁸ *Ibid.*, p. 90.

⁶⁹ Assembly Record of Plenary Proceedings, 19 September 2007, p. 22.

be more genuine, with greater emphasis on innovation and skills in the economic development budget.

3.2 European Structural Funds

Although there has been novelty both in coalition politics and in the new arrangements for scrutiny and separation of legislature and executive following the Government of Wales Act 2006, old issues revealing the fault lines of the devolution settlement and continued economic dependence remain prominent. Half of Wales continues to receive aid from the EU for its lagging regions: the Convergence Programme, successor to the Objective One Programme, will provide funds for a variety of economic development activities from 2007-13, in West Wales and the Valleys. Formal announcement of the legal adoption of the two programmes (derived from Regional Development and Social Funds, respectively) occurred on 25 September,⁷⁰ at the same time as the rather smaller Ireland-Wales Territorial Cooperation Programme; the Regional Competitiveness and Employment Programmes for East Wales were adopted slightly later. The difference in value between the programmes is substantial: the Convergence Programme area will receive £1426m of EU spending, whereas the rest of Wales will get just £92m from regional development and social funding, and the Cross-Border Programme shares €52.7m of grant aid between Wales and Ireland. There are, of course, requirements for match-funding, and questions about whether the resources available are adequate without distorting other spending priorities. The previous Structural Funds Programme which ran from 2000-06 reported considerable achievements, including total investment (including grants and matched funding) of almost £3.9bn, and an additional 40,500 jobs.⁷¹ Alongside that, however, is the continuing poor economic performance of Wales as a whole (with only 77 per cent of UK average GVA per head in 2006), and West Wales and the Valleys in particular (65 per cent of UK average in 2005). It is also notable, given the imbalance between Convergence areas and elsewhere, that the position of Powys – which did not benefit from Structural Funds in the 2000-06 period – has declined (to 70 per cent of UK average in 2005) so that it had a poorer performance than Gwynedd – which did benefit from the EU's largesse and, in 2005, had a GVA per head of 71 per cent of the UK average.⁷²

⁷⁰ Assembly Record of Plenary Proceedings, 25 September 2007, pp. 37-41.

⁷¹ See EL(3) 07-07 Paper 2, submitted by WEFO to the Enterprise and Learning Committee meeting of 17 October 2007.

⁷² ONS First Release, Regional, sub-regional and local gross value added: at: www.statistics.gov.uk/pdfdir/gva1207.pdf.

It is possible to argue that, in the absence of Structural Funds support, the situation would have been significantly worse. Nevertheless, in this final period of significant support before the focus of European regional policy shifts eastwards from 2014 onwards, it will have to become rather more efficient if the employment activity targets of the *One Wales* programme are to be achieved (from current employment levels, this requires an increase of over 80,000 net new jobs⁷³). The present approach is to use Convergence funding to support significantly fewer projects which will have greater impact and be more closely aligned to employment-creating objectives (expressed through Strategic Frameworks). This means that local authority influence will be smaller, and exerted through the four relevant Spatial Plan Area Groups (for North Wales, Central Wales, Pembrokeshire and Swansea Bay) in coordination with WEFO-organised Spatial European Teams. Unlike in the past programme, there will be no bottom-up local amounts of match-funding for specific areas; although there was concern expressed by Conservative AM Alun Cairns that local authorities' access to European funding will be more difficult, Bob Macey, Chief Executive of WEFO asserted that programmes 'are open to all partners, but the projects that come forward must deliver against that European agenda as negotiated with the European Commission.'⁷⁴

3.3 The Budget and the Comprehensive Spending Review

The Government of Wales Act 2006 provided a new framework for examination of the budget process, with scope for taking evidence on spending proposals, and making of a report, by the Finance Committee, to the annual plenary session which takes the final decision on them. The first iteration of this process did not run smoothly, since the Westminster Government was engaged in its own triennial Comprehensive Spending Review, delays in the announcement of which compressed the timetable for scrutiny. With only modest scope for increases in public expenditure in the UK as a whole, the Barnett formula which governs Welsh spending provides for annual spending growth of just 1.8 per cent in real terms over the next three years.⁷⁵ In terms of total spending, only the Departments of Children, Education and Lifelong Learning and of Health and Social Services will receive more than this average allocation. In some areas (particularly the Economy and Transport Department) spending will be virtually at a standstill.

⁷³ Based on the August-October Labour Force Survey, this is available at: www.statistics.gov.uk/pdfdir/lmsuk1207.pdf.

⁷⁴ Record of Proceedings, Enterprise and Learning Committee, 17 October 2007, p. 39.

⁷⁵ Assembly Record of Plenary Proceedings, 10 October 2007, pp. 57-78.

The Finance Committee had time to take evidence on the Draft Budget on just two occasions, firstly to hear the case for it from the responsible minister, Andrew Davies, and secondly to determine the reaction of its main clients, the Welsh Local Government Association and representatives of Welsh NHS Trusts.⁷⁶ Concerns which emerged relate to the transparency of the process of prioritisation of resources for specific objectives, and the overall anomalies which are caused by the Barnett formula itself, which does not take into account qualitative differences in spending needs of Wales, compared to those of England. The evidence of the local authorities and the NHS trusts articulated concerns which relate to cost pressures far outweighing changes in general price levels. NHS Trusts have concerns about rising costs of drug therapies. Similarly, according to Steve Thomas of the WLGA, local authority costs do not 'run at the same rate as inflation in the average basket of shopping from Tesco';⁷⁷ in particular, rising adult social services demands imply a 6.7 per cent increase in costs. In further evidence, Councillor Derek Vaughan suggested that 'leaders in councils across Wales are so concerned about the rise of only 2.2 per cent that they are starting to ask whether we will be in a position to implement some new initiatives',⁷⁸ i.e. commitments under the *One Wales* agreement. In fact, Anglesey (the poorest performing economy in Wales) and Conwy will receive a 1.1 per cent increase, and Powys (the poorest performing economy outside the Convergence area) will receive only 1.0 per cent. In the past, efficiency gains have helped to offset the impact of rising purchase costs, but the likelihood now is of substantial rises in local taxes, poorer service provision (for example, raising the threshold levels at which homecare for the elderly is provided), and probably a combination of the two. In the plenary debate on the draft budget proposals, opposition parties expressed significant concerns that manifesto commitments included in the *One Wales* agreement (in particular, top-up child bond payments, assistance for first time home buyers, and free prescriptions) would be delivered at the cost of poorer core service provision.

3.4 Committee Inquiries

A further impact of the Government of Wales Act has been to reshape the committee structure, so that cross-cutting scrutiny of cognate areas of government activity can be examined in overview. The relevant committee for economic development is that

⁷⁶ Record of Proceedings, Finance Committee, 8 and 13 November 2007.

⁷⁷ Record of Proceedings, Finance Committee, 13 November 2007, p. 13.

⁷⁸ *Ibid.*, p. 21.

covering Enterprise and Learning, which, given the emphasis on skills and innovation in economic policy objectives, appears to be a well-suited combination. However, with fewer committees covering wider areas of concern, the attention given specifically to economic development has been diluted. Nevertheless, in the important area of conducting inquiries and producing reports, the new cross-cutting role is amply reflected in the Enterprise and Learning Committee's inquiry into the economic impact of higher education. Unsurprisingly, universities in Wales and the funding body for higher education emphasised the economic benefits they provide through direct and 'multiplier' benefits (the multiplier ratio is estimated as being favourable, particularly because higher education is a kind of invisible export).⁷⁹

Most interest, however, centres on the critical contribution that academic research can make to stimulating business activity, and both the Confederation of British Industry and the Federation of Small Businesses made the point that gaining access to the higher education sector can be problematic and requires government assistance.⁸⁰ Especially for the small businesses which have most potential for employment growth through innovation, Non Rhys of the FSB identified a 'cultural gap' between small businesses and the academic sector.⁸¹ Work on this inquiry continues in the spring.

In parallel, the Finance Committee commenced an inquiry into the use of private finance for public projects, in particular the PFI scheme, to determine the balance between benefits, costs and risks, and the consequences for policy development and implementation. Lower usage of PFI has been a characteristic of the differentiation of the Labour administrations in Cardiff Bay from those of Westminster, epitomising the 'clear red water' between them,⁸² although there are also enthusiasts who identify scope for transcendence of spending constraints in improving the capital stock for public service provision.⁸³ The inquiry has so far taken evidence from two PFI projects: Penweddig School and Baglan Moor Hospital.⁸⁴ Both have positive experiences from the transfer of project risks to private investors, but both also were initiated at a time when capital spending constraints (now less onerous) precluded

⁷⁹ Record of Proceedings, Enterprise and Learning Committee, 28 November and 5 December 2007.

⁸⁰ Record of Proceedings, Enterprise and Learning Committee, 12 December 2007.

⁸¹ *Ibid.*, p. 19.

⁸² A. Beddow and D. Cohen, 'Allocating health (and social care) expenditure in Wales', *International Journal of Public Sector Management*, Volume 16 Number 5, 2003, pp. 337-345.

⁸³ Batcup, M. 'Welsh investment vehicle', *Agenda*, Winter 2007, pp.36-38

⁸⁴ Record of Proceedings, Finance Committee, 18 October 2007.

public sector financing. This inquiry will also take further evidence in the spring before a report is completed.

3.5 Conclusion

Recent turbulence in global financial markets, particularly the reduction in liquidity arising from the credit crunch, has made an economic slowdown much more likely, with some economists expecting a recession to begin in 2008. Although house prices are expected to stabilise, the volume of sales is also likely to weaken, and there are some signs of general inflation quickening. In these circumstances, increasing the recent rate of growth of employment in order to meet the *One Wales* employment target is going to be difficult. While the budget adopted will maintain the most high profile public services, erosion of local authority services, higher council tax bills, and declines in Welsh aggregate demand will almost certainly test the cohesion of the *One Wales* coalition.

4. Intergovernmental relations

Alan Trench, the Constitution Unit, UCL

4.1. General

There have been two major issues in relations between Cardiff and London since the last monitoring report, which covered the period up to July 2007. One has been the acquisition of legislative powers by the National Assembly, and the other has been finance and the Comprehensive Spending Review. Lurking behind both (particularly the former), and applying more generally have been party-political tensions, notably within the Labour Party. The differences of view between the pro- and anti-devolution wings of the party have shaped and to an extent been played out in debates about the powers the National Assembly should have. For anti-devolutionists, who also often have a visceral opposition to Plaid Cymru and the 'One Wales' coalition formed in the summer, there has been a sustained behind-the-scenes effort to limit the growth in the Assembly's powers, as a proxy for opposing the coalition with Plaid. For this group (which comprises a large proportion of the Welsh MPs at Westminster, as well as some AMs in Cardiff Bay), the vote in favour of the coalition was merely an unsuccessful tactical engagement rather than a strategic defeat that determines the outcome of a larger conflict. A further element in this mix during the autumn of 2007 was the personal political ambitions and uncertainties of Peter Hain, who, as Secretary of State for Wales, sought both to maintain support from his 'constituency' of Welsh Labour MPs as well as to see the National Assembly develop. Other developments in intergovernmental relations need to be understood against this political backdrop.

As far as London's interest in territorial politics is concerned, this has been dominated by issues arising from the SNP administration in Edinburgh and its concern with independence. The reaction to the SNP has remained relatively low-key (though aspects of this are discussed below); for its part, the SNP have taken two initiatives of note. One has been to rename what in law is the Scottish Executive as 'The Scottish Government' (rather like what happened in Wales, when the executive side of the National Assembly renamed itself the 'Welsh Assembly Government' in 2002). The other has been to publish a white paper on independence and the constitutional position of Scotland in the modern world, and to launch a 'national conversation' on these issues. This has in turn prompted a response from the Unionist parties in the Scottish Parliament, who are to establish a separate 'Scottish Constitutional

Commission' to review devolution but not to consider independence as an option.⁸⁵ It remains unclear how this will affect the parallel debates in Wales.

4.2. Formal intergovernmental meetings

There have been no meetings of the plenary Joint Ministerial Committee or summits of the British-Irish Council since July. Nor have there been any publicised meetings of functional JMCs (although the European Union format continues to meet without publicity).

This non-event is itself worth noting, as there have been continued public calls and behind-the-scenes pressure from the Scottish Government for greater use of formal channels for intergovernmental relations. These have not borne fruit, because of reluctance in London.

4.3. Informal intergovernmental meetings

An interesting development was the visit of Rhodri Morgan to Edinburgh to meet Alex Salmond, Scottish First Minister, on 7 December. Salmond's invitation was made some months previously, but the First Minister had felt unable to accept it earlier. The meeting was a private one, but appears to have involved some blunt exchanges of view; it will not have created a harmonious alliance between the two devolved governments. This is scarcely surprising, given the differences of party politics and territorial interest between the two, however, and the very fact that a channel of formal communication between the two has been opened is notable.

The First Minister balanced his visit to Alex Salmond with one to his party counterpart, Wendy Alexander, and suggested that the Assembly Government would co-operate with the Scottish Parliament's proposed Scottish Constitutional Commission, which had been voted on a few days earlier. Such co-operation would relate to technical matters particularly on finance, given the proposed Assembly Commission on finance and fiscal matters.⁸⁶ Morgan appears to have been trying to maintain a balance between finding common ground with other parts of the UK, where that exists, and aiding party colleagues; but given how polarised in party-political terms the constitutional debate in Scotland is becoming, this is difficult.

⁸⁵ For more details, see *Scotland Devolution Monitoring Report: January 2007*, particularly section 5.2.

⁸⁶ See D. Fraser 'Funding "will be next step in UK devolution"' *The Herald* (Glasgow), (8 December 2007).

4.4. Legislative powers and related issues at Westminster

As discussed in section 2 above, five legislative competence orders (LCOs) are now formally under consideration, as proposed LCOs receiving pre-legislative scrutiny in the National Assembly. These relate to

- Additional Learning Needs
- Environmental Protection and Waste Management
- Vulnerable Children
- Domiciliary Care
- Affordable Housing.⁸⁷

The proposed LCO on climate change appears to have been held up due to a behind-the-scenes dispute between Cathays Park and Whitehall about its scope.⁸⁸ There have similarly been reported disagreements about the scope of LCOs relating to housing.⁸⁹ Process has also given rise to problems: tetchiness (if nothing more) about the level of detail about the Assembly's legislative intentions that would be required before LCOs could be introduced at Westminster, as well as decisions by the Assembly Government to introduce draft LCOs into the Assembly before reaching a conclusion in negotiations with the UK Government.⁹⁰ Given that no LCOs have in fact yet been passed at Westminster, this suggests that even the most controllable part of the process, between two executive arms of government that are already well used to working with each other and which have substantially similar political outlooks, is not working smoothly even at this early stage.

Following the UK Government's statement of its legislative programme for the 2007-08 session, in the Queen's speech delivered on 6 November, 10 Downing Street issued a press statement (drafted by the Wales Office) drawing attention to three bills – the Education and Skills Bill; Planning Reform Bill; and Local Transport Bill – which it said would be used to confer additional powers on the National Assembly by adding 'matters' to Schedule 5 of the Government of Wales Act 2006.⁹¹ Each of these concern areas where the Assembly Government already has executive

⁸⁷ Details available at www.assemblywales.org/bus-home/bus-legislation/bus-leg-legislative-competence-orders.htm

⁸⁸ See M. Shipton, 'Climate change law row', *Western Mail*, (24 September 2007)

⁸⁹ M. Shipton, 'Assembly housing plans delayed by Whitehall', *Western Mail*, (14 November 2007)

⁹⁰ M. Shipton, 'Fears over interference in Welsh lawmaking', *Western Mail*, (18 October 2007); T. Livingstone, 'Hain seeks to defuse power transfer tensions', *Western Mail*, (29 November 2007); T. Livingstone, 'Anger over right to buy plans', *Western Mail*, (5 December 2007)

⁹¹ Available at www.pm.gov.uk/files/pdf/31.Wales.pdf

functions, and devolution of legislative powers is therefore something contemplated by the latest (June 2007) version of Devolution Guidance Note 9 on *Post-Devolution Primary Legislation for Wales* (discussed in the last *Wales Devolution Monitoring Report*). However, several other bills mentioned in the Queen's Speech also concerned devolved executive functions but were not on that list – specifically, the Homes and Communities Agency Bill, the Health and Social Care Regulator Bill, the Vulnerable Children and Young People Bill and the Climate Change Bill. No explanation has been offered publicly for why these are not similarly being used to confer legislative powers on the Assembly (though arguably some of these may fall within the scope of proposed or planned LCOs). Private information suggests that this is because the Assembly Government did not press for this to happen; it was aware of the possibility, and had it chosen to argue a case the Whitehall departments involved might have been willing to accede to its requests.

4.5. Machinery of government matters

There have been no major changes to departmental structures or the machinery of government in Whitehall since the summer, but there have been important developments on the civil service side. The most significant has been the appointment of a senior official as 'Director-General, Devolution' in the UK Government, with a brief to improve the UK Government's strategic approach and co-ordination in handling its relations with the devolved administrations. The individual appointed, Jim Gallagher, is from the Scottish Executive, where he formerly headed the Finance and Justice Departments, though for the last couple of years he has been on a secondment as Professor of Government at the University of Glasgow. Gallagher took up his post in September 2007, and there have been suggestions that although creating such a post had been under consideration for some months the timing of his appointment was caused by the publication of the Scottish Executive's white paper on independence and related matters.⁹²

Gallagher's appointment has been followed by other changes within Whitehall, including the establishment of a Cabinet committee on the Constitution (CN), chaired by Jack Straw. The committee was similarly established over the summer, appears to meet fairly regularly (unlike many such committees), and is largely concerned with devolution matters although its formal remit is 'To consider constitutional affairs and

⁹² Scottish Executive, *Choosing Scotland's Future: A National Conversation. Independence and responsibility in the modern world*. (Edinburgh: Scottish Executive, 2007). Available from www.scotland.gov.uk/Publications/2007/08/13103747/0

citizenship.’ Another senior official has been appointed at Director level in Cabinet Office to service that committee and deal with practical co-ordination of devolution issues across Whitehall. There are now about half a dozen staff in the Ministry of Justice and Cabinet Office working on the co-ordination of devolution, compared with about one and a half a year ago (and in addition to staff in the Wales and Scotland Offices).

4.6. UK Government green paper on The Governance of Britain, and a British bill of rights.

In his appearance before the Commons Liaison Committee on 13 December, Prime Minister Gordon Brown was asked about devolution generally, and specifically about his suggested British bill of rights (raised in the UK Government’s green paper on *The Governance of Britain* published in July 2007, and discussed in the last *Wales Devolution Monitoring Report*). His response was to maintain a hard line, saying:

Where the powers have not been devolved to the Scottish Parliament or to the Welsh Assembly or indeed to the Northern Ireland Assembly, these are powers that Westminster continues to hold and acts in a way that is consistent with that. So the future of the issues that I am dealing with - there may be some but most of them are entirely within the province of the UK Parliament and have not been devolved.⁹³

4.7 Finance: the UK Comprehensive Spending Review

On 9 October, the UK Government announced its Comprehensive Spending Review. In the ‘regional press notice’ for Wales, the Treasury claimed the CSR would result in an average annual increase of 2.4 per cent in spending by the National Assembly, and a total increase of £4.3bn over 3 years in the Assembly’s budget. However, the UK Government’s attempt to claim the settlement as favourable was rejected by many, noting that this was a very tight settlement for all spending departments. As health and education in England had done better than they might (and better than some other departments), the impact of slowing growth in public spending as transmitted through the Barnett formula for Wales was mitigated. There is reason to consider that, at least compared with Scotland and Northern Ireland, Wales has done relatively well (its increase in public spending will be in the order of 1.9 per cent per year, compared with 1.4 per cent in Scotland and Northern Ireland). However, there

⁹³ House of Commons, *Minutes of Evidence taken before Liaison Committee: The Prime Minister Thursday 13 December 2007*, Uncorrected Transcript to be published as HC 192-I, Q. 45. Available at www.publications.parliament.uk/pa/cm200708/cmselect/cmliains/uc192-i/uc19202.htm For a discussion of the hazards of this approach, see A. Trench ‘Brown’s brave quest to define Britishness could backfire’ *The Herald* (Glasgow), (13 July 2007)

can be little doubt about the constrained financial situation that will face the Assembly over the next three years.

What was not evident from public statements regarding the CSR are the difficult second-order issues that arose, which occasioned some hard bargaining between Cathays Park and the Treasury. These concerned devolved commitments to Treasury-specified levels of capital spending, the use of accumulated surpluses from underspending in previous years (end-year flexibility), spending on the 2012 London Olympics, and the baseline for calculating increases in public spending. The Treasury has been concerned for some time about relatively low levels of capital spending by the devolved administrations, and has sought to increase these. In the 2004 Spending Review it tried to impose overall minimal levels of capital spending on all spending departments (including the devolved administrations), but this attempt broke down rapidly in the face of concerted opposition from spending departments. In 2007 it tried again, and simply imposed these limits unilaterally. In Scotland's case, the quid pro quo was an agreement to release accumulated underspends, which had accrued as balances in Scotland's favour with the Treasury, and it appears a similar deal was reached with Wales. (The practical impact of this is reduced, however, by the fact that Wales's tighter finances mean its underspends are modest – Scotland's, by contrast, add up to about £1.2bn). Little of this was apparent from the published documents for the CSR; the new edition of the Statement of Funding Policy is substantively very similar to its predecessor, the capital and current spending targets are described as 'indicative', as they were in previous Spending Reviews, and there is no mention of the deal about underspends and capital spending, though in the Scottish case this is implicit in at least one Scottish Government press statement. Perhaps the worst of these issues for Wales relates to the 2012 Olympics, which is treated as spending on all-UK matters – not on ones for the benefit of England (or London) only. As a result it does not attract any Barnett consequential. In November 2007, Tessa Jowell, the UK Government's Olympics Minister and Minister for London, confirmed the estimated cost as totalling £9.325bn – yet much of that (as much as 90 per cent) is for regeneration, which in any other circumstance would attract a Barnett consequential.⁹⁴ In addition, allocations from the National Lottery to the various distribution funds (including the Arts Council of Wales and Sports Council

⁹⁴ For the costs of the London Olympics, see '2012 chiefs face costs criticism', BBC News (14 November 2007), available at http://news.bbc.co.uk/1/hi/uk_politics/7094992.stm and '2012 Olympics budget "on track"', BBC News (10 December 2007), available at news.bbc.co.uk/1/hi/uk_politics/7135824.stm

Wales) have been reduced to help cover the cost. In many respects, it would seem that the Olympics illustrate the UK's system of devolution financing at its worst.

No steps have been taken to advance the proposed commission on Assembly finances, taxing and borrowing powers announced by Jane Hutt in June 2007 and reported in the last monitoring report. This commission has yet to be established, and as of December 2007 no chairperson had been named. However, indications of its resources were given with the Assembly Government's budget, which suggested that £1.5m over three years will be available for this commission and that chaired by Sir Emyr Jones Parry to set up the All Wales Convention. Given the prior claims on resources that the Jones Parry commission and Convention may be able to make, the fact that the work of the Convention is expected to involve extensive public campaigning (which is expensive) raises questions about the sorts of resources available to the finance commission. A putative half-share would be £750,000 over three years, or £250,000 per year. If the Commission is to undertake the sort of serious research work that would be necessary to make a convincing case to UK Government ministers, this may well not be adequate – even if there is some sharing of the cost with parallel work in Scotland or Northern Ireland.

5. Relations with Europe and Local Government

Dr Malin Stegmann McCallion & Dr Elin Royles: Institute of Welsh Politics, Aberystwyth University

5.1 Europe

In European matters Wales was the first in the UK to formally have their Structural Fund Programmes approved; the NAFW's Parliamentary Service's European and International Team are currently drafting a European and International Strategy for Wales; and part of this is NAFW's participation in the Committee of the Regions Subsidiarity Monitoring Network.

5.1.1 Structural Funds

EU approval of the ERDF and ESF Programmes for the 2007-13 Structural Funds for the West Wales and the Valleys programmes was formally given by the European Commission on 8 and 9 August respectively. The West Wales and Valleys programme was the first in the UK to gain approval and can now, according to the First Minister, Rhodri Morgan, 'get on' with completing the region's transformation into an innovative and dynamic economy.⁹⁵ The ERDF programme for East Wales was legally adopted on 13 August 2007 and the ESF programme was legally adopted in early October.⁹⁶ At the launch of the Welsh ESF Programmes on 20 September, the First Minister announced that the West Wales and the Valleys Convergence Programme was the first region in the UK to be legally adopted by the European Commission. With match funding from public and private sectors, the programmes (both ERDF and ESF) will total around £3bn of investment in Wales.⁹⁷ Danuta Hübner, Commissioner for Regional Development Policy, said '[W]ith the priority put on innovation and a knowledge-based economy, both Welsh programmes will be able to make Wales a vibrant, entrepreneurial region at the cutting edge of sustainable development'.⁹⁸

In terms of broader European issues, on 12 September 2007 the European Commission launched a consultation and discussion paper on the EU budget

⁹⁵ Welsh Assembly Government Press Release, *Landmark EU Approval Welcomed by First Minister* (1 August 2007)

⁹⁶ Welsh Assembly Government Statement, *Commission adoption of new Structural Fund Programmes for Wales (2007-2013)* (25 September 2007)

⁹⁷ Welsh Assembly Government Press Release, *Wales leads the way again on EU funds* (20 September 2007)

⁹⁸ *Ibid.*

review.⁹⁹ In addition to the Common Agricultural Policy ‘health check’, previously discussed in the September 2007 *Wales Devolution Monitoring Report*, the budget review includes a consultation on the future of EU regional policy.¹⁰⁰ This consultation process is based upon the questions regarding the long-term prospects of regional policy included in the Fourth Cohesion Report published in May 2007. The First Minister reported to the European and External Affairs Committee on 23 October 2007 that ‘the Assembly Government is presently considering its response’ on these issues.¹⁰¹

5.1.2 National Assembly for Wales: European and International Strategy

The National Assembly for Wales’ Parliamentary Service’s European and International Team is currently developing a European and International Strategy for Wales for 2007-11. Members of the European and External Affairs Committee and other Assembly Members now have an opportunity to make an input into this Strategy.¹⁰² The European and International Relations Strategy draft document focuses on the Assembly’s existing international relationships and makes recommendations on how to expand its international programme. The two purposes of this programme are to:

- ‘Look outwardly to Europe and beyond to develop co-operative partnerships that assist the Assembly in its aim of heralding devolution and widening engagement in the democratic process; and
- Raise the profile of the Assembly and Wales at the European regional level and internationally as an example of participative parliamentary democracy’.¹⁰³

The aim is to further develop the NAFW’s engagement within the EU through continuous dialogue with EU institutions, the European Parliament and the European Commission, membership of the Committee of the Regions, and through other organisations such as CALRE. In addition, the National Assembly will work together with WAG, for instance in promoting the parliamentary element to Welsh bilateral links when required.

⁹⁹ Commission of the European Communities (2007), *Reforming the Budget, Changing Europe. A Public Consultation Paper in the View of the 2008/2009 Budget Review* SEC(2007) 1188 final.

¹⁰⁰ For the key questions see European Commission Press Release *Commission assesses impact of funding for regions, launches debate on next round of cohesion policy* (30 May 2007)

¹⁰¹ EUR(3) 03-07 (p2): 23 October 2007 Minister’s Report

¹⁰² EUR(3)-04-07: Transcript

¹⁰³ European and External Affairs Committee EUR(3) 04-07 (p3) (23 October 2007), National Assembly for Wales: European and International Relations Strategy.

5.1.3 Committee of the Regions Subsidiarity Monitoring Network

At the last European and External Affairs Committee meeting on 27 November 2007,¹⁰⁴ it was recommended that the NAfW apply to become a member of the Committee of the Regions' Subsidiarity Monitoring Network. The NAfW participated in both pilots for this network (November 2005 and October 2006), which were regarded as successful. On the network's website,¹⁰⁵ members can access up-to-date information on European Commission proposals and on how proposed legislation will affect regions (as well as local authorities). By becoming a member, the NAfW would 'have access to information between CoR and its partners and the potential to participate in co-ordinated "consultations";¹⁰⁶ it would also facilitate NAfW's networking opportunities with regional assemblies and regional actors.

5.1.4 Conclusions

The future of the Structural Funds and the EU's Regional Policy are important to Wales and the response of the First Minister and the WAG to the consultation process will be examined with great interest particularly with regard to the implications for whether Wales will be eligible as a recipient of funding post 2013. One can also look forward to the NAfW's European and International Strategy, which will provide a focus for the National Assembly's external relations during the third term.

5.2 Local Government

In the first months of the third term, and during consultation on the draft budget in particular, something of a change in relations between the Assembly and local government has taken place, from the previously positive partnership to a level of disagreement unseen post-devolution. However, it is too early for the degree of change and its overall implications to be fully assessed.

5.2.1 The Local Government Settlement

It was accepted that the delayed 2007 UK Comprehensive Spending Review would put pressure on the Assembly Government's budget and lead to a tougher local government settlement. However, the Assembly Government's draft budget

¹⁰⁴ The scheduled meeting for 11 December 2007 was cancelled; the next meeting to take place is scheduled for 7 February 2008.

¹⁰⁵ <http://subsidiarity.cor.europa.eu>

¹⁰⁶ EUR(3) 04-07 (p4): 27 November 2007, Title: Committee of the Regions Subsidiarity Monitoring Network

proposals published on 5 November 2007 prompted an angry reaction from local government. It was deemed 'punitive', treating local government as a poor relation rather than an equal partner.¹⁰⁷ The Revenue Support Grant (RSG) (the central funding mechanism for local authorities used in conjunction with the introduction of three-year revenue and capital settlement from 2008/09) proposed increases of 2.3 per cent (£85m) for 2008/2009, 2.6 per cent (£100m) for 2009/10 and 2.9 per cent (£111m) for 2010/11.¹⁰⁸ For individual local authorities, the 2008-09 RSG increases announced on 14 November ranged from 1.1 per cent to 3.6 per cent, with a number of authorities in north and rural Wales receiving budget settlements below 1.5 per cent, well below inflation.¹⁰⁹ The WLGA suggested that the overall strategic intention behind the settlement was to diminish local government and its services.

The timing of the draft budget meant that there was only a six-week consultation period before the final local government settlement was due to be published. In this short period, however, a number of voices supported local government. In its scrutiny of the draft budget, the Finance Committee's report stated that it had 'grave concerns that the current local government settlement is inadequate to safeguard core services and asks the Minister to review the total funding'.¹¹⁰ The local government settlement also formed the focal point of the plenary debate on the draft budget on 11 December.¹¹¹

The WLGA highlighted a number of issues regarding spending pressures and contrasted the local government budget allocation with the increased funding for Assembly Government departments. It also pointed to a shortfall of £120m between the draft budget allocation and the figures produced by the Expenditure Sub-Group (ESG) report. As in the past seven years, the ESG report was produced by local government and WAG officials in partnership, and had been endorsed by Andrew

¹⁰⁷ Finance Committee, FIN(3)-06-07 : Paper 1 : Welsh Local Government Association Written Evidence to National Assembly for Wales Finance Committee on the Welsh Assembly Government Draft Budget (13 November 2007) pp. 9-10

¹⁰⁸ WAG, Local Government Finance Report 2007-08 (Provisional Settlement - Councils) :

new.wales.gov.uk/topics/localgovernment/finandfunding/publications/financereport0708/?lang=en

¹⁰⁹ WAG, Provisional Local Government Revenue and Capital Settlement 2008-09, Settlement Tables A-F new.wales.gov.uk/ds/jlg/publications/localgov/1787070/provlg0809tables-e.xls?lang=en; see WLGA Press Releases 'An appalling result for council tax payers in North and Rural Wales says WLGA' (14 November 2007) and 'North and Rural Wales councils speak out over punitive budget settlement increases' (11 December 2007) Downloadable from: www.wlga.gov.uk/content.php?nID=7;lID=1

¹¹⁰ Finance Committee, [FIN\(3\)-09-07 : Paper 1 - Report from the Finance Committee - GEN-LD6847 - Draft Budget Proposals - 2008-09](http://www.wales.gov.uk/ds/jlg/publications/localgov/1787070/provlg0809tables-e.xls?lang=en) (6 December 2007) para 30.

¹¹¹ The Record of Proceedings, 11 December 2007: www.assemblywales.org/bus-home/bus-chamber/bus-chamber-third-assembly-rop.htm?act=dis&id=68595&ds=12/2007

Davies and Brian Gibbons.¹¹² The level of shortfall in the draft budget suggested that this partnership mechanism had broken down.

In terms of the implications, WLGA argued that the settlement would result in reduced frontline services and staffing.¹¹³ Higher council tax increases up to (and possibly above) the capping limit of 5 per cent set by WAG was likely to be considered.¹¹⁴ As a result, as central delivery agents, local government questioned their ability to deliver many of the new *One Wales* policy initiatives.¹¹⁵ The issue of new responsibilities points to a broader re-assessment of relations. In December 2003, WAG committed (in the so-called Essex-Jones agreement) to ensuring that 'new initiatives and new responsibilities must be fully funded before they are passed on to local government'.¹¹⁶ It was unclear whether the budget took account of this statement. A high-level meeting on 14 November confirmed that the principles continued to apply but that it was appropriate to revisit the agreement.¹¹⁷ In order to protect frontline services, the WLGA proposed alternatives to the draft WAG budget by calling for increasing local government RSG funding for 2008-09 to 3 per cent by transferring £26.4m from other budget lines, and through the reserve allocation for 2009-10 and 2010-11. It argued that this could be achievable without pulling back from key *One Wales* commitments. With regards to those authorities facing below inflation increases, a call was made for a 1.5 per cent minimum increase.¹¹⁸

The Welsh Assembly Government's response to local government was robust. Appearing before the Finance Committee, Andrew Davies argued that additional resources amounted to a 3.2 per cent as opposed to a 2.3 per cent increase for local government for 2008/09.¹¹⁹ The minister attempted to downplay the gravity of local government's response: 'at this time of year, it seems to be part of the annual pantomime for there to be talk of very high council tax levels for the following spring when the budget is announced'.¹²⁰ He also argued that compared to England, WAG funding to local government had been consistently higher. Furthermore, council tax is

¹¹² Op cit, Finance Committee, FIN(3)-06-07 (13 November 2007)

¹¹³ Finance Committee, FIN(3) 06-07 Transcript (13 November 2007); see WLGA, Press Release, *Emergency meeting warns of job losses across the board in education* (28 November 2007), Downloadable from: www.wlga.gov.uk/content.php?nID=7;ID=137;IID=1

¹¹⁴ *ibid*

¹¹⁵ Op cit, Finance Committee, FIN(3)-06-07 (13 November 2007)

¹¹⁶ *ibid*

¹¹⁷ Finance Committee, [FIN\(3\)-08-07: Paper 1a : reply to issues highlighted in Finance Committee meeting held on 8 November \(28 November 2007\)](#)

¹¹⁸ WLGA Press Release, *WLGA budget proposes alternative to Welsh councils funding crisis* (4 December 2007) Downloadable from: www.wlga.gov.uk/content.php?nID=7;ID=142;IID=1

¹¹⁹ Finance Committee, [FIN\(3\)-05-07: Transcript](#) (8 November 2007)

¹²⁰ *ibid*

proportionately lower in Wales than in England.¹²¹ In the plenary debate on 11 December, Andrew Davies made similar arguments. He also recognised WLGA's alternative proposals but while committing to consider all constructive alternative proposals argued that he was not prepared to cut the budget as proposed.¹²²

5.2.2 Growing strains?

There have also been signs of strain in Assembly Government–local government relations in policy areas such as waste. This was likely to be a key issue as the 'One Wales' programme recommended increased targets for recycling and composting with direct implications for local government in Wales. There seemed to be strain in this area on publishing a WAG report on 13 September on the current funding and needs of waste management in Wales. It illustrated vast contrasts in the costs of waste collection across Wales and argued that the most cost-effective method was by the community recycling sector rather than local government.¹²³ In response, WLGA called for better dialogue with the WAG, and pointed to inaccuracies in the data on which the report was based.¹²⁴ Subsequently, on 15 October at a meeting to discuss new recycling and composting targets, Jane Davidson called on local government to consider a target of recycling and composting 70 per cent of municipal waste by 2025.¹²⁵ WLGA's response was to emphasise local government's commitment to addressing the waste problem, particularly through greater regional collaboration. It argued, however, that the target was extremely challenging, and questioned whether it was realistically achievable given the finances available for local authority waste management.¹²⁶ The draft budget also raises doubts on local government's ability to invest in achieving such ambitious targets.

5.2.3 Local Government and Public Involvement in Health Act 2007

The Act received Royal Assent on 30 October conferring new powers on the Welsh Assembly Government, allowing it to introduce Assembly Measures to implement aspects of the public service reform agenda associated with local government as

¹²¹ *ibid*

¹²² *Op cit*. The Record of Proceedings (11 December 2007)

¹²³ WAG Press Release, *Report shows huge variation in waste collection costs* (13 September 2007)
Downloadable from:

new.wales.gov.uk/news/ThirdAssembly/Environment/2007/1752261/?lang=en

¹²⁴ WLGA Press Release, *Assembly Government report a wasted opportunity says WLGA* (13 September 2007) Downloadable from: www.wlga.gov.uk/content.php?nID=7;ID=114;IID=1

¹²⁵ WAG Press Release, *Dramatic new targets for rubbish recycling* (18 October 2007) Downloadable from:

new.wales.gov.uk/news/ThirdAssembly/Environment/2007/1743155/?lang=en

¹²⁶ WLGA Press Release, *Need for ambition but realism on waste, says WLGA* (18 October 2007)
Downloadable from: www.wlga.gov.uk/content.php?nID=7;ID=121;IID=1

outlined in *A Shared Responsibility* published in March.¹²⁷ On 7 November, Brian Gibbons as Minister for Social Justice and Local Government listed the legislation as one of his priorities for the next six months.¹²⁸ The Welsh Assembly Government is likely to consult on proposed legislation. In the current climate, local government will be vigilant with respect to the implications of such legislative proposals, particularly with regards to additional legal duties and additional resource implications.

5.2.4 Conclusion

A very positive relationship developed between the Assembly and local government during the first two terms of devolution, 1999-2007. It remains extremely early in the new coalition government's existence to adequately assess changes in relationships. The third term presents a new context and, to date, WAG has not been clear about its approach to relations with local government. However, the current budget round created a feeling that there was no adequate recognition within WAG of local government's role which perceived itself as being treated as an inferior partner. The overall budgetary context can be seen as one of the key reasons for this. Local government's capacity to increase its own resources through council taxes can also be seen as a contributory factor. However, it could be argued that the developments during the first few months suggest a new direction for relationships between the Assembly Government and local government. For the first time since devolution, a coalition government has formed a clear majority and in such a context external partnerships are possibly less important. This new situation could create a new balance to the partnership, requiring reconfiguration of the rules of the game.

Whatever the longer term effects of the past few months, the final budget will undoubtedly affect Assembly Government–local government relations in the short term. Its effects will certainly remain high on the political agenda in the run up to the forthcoming local elections in May.

¹²⁷ WAG, *A Shared Responsibility*, (March 2007) Downloadable from:

<http://new.wales.gov.uk/docrepos/40382/DeptLGandC/1287263/asharedresponse.pdf?lang=en>

¹²⁸ Health, Wellbeing and Local Government Committee, HWLG (3)-07-07, Evidence from Minister for Social Justice and Local Government, Brian Gibbons AM, 7 November 2007

6. Elections, Parties and Public Attitudes

Professor Roger Scully & Professor Richard Wyn Jones: Institute of Welsh Politics, Aberystwyth University

6.1. Elections

Despite considerable media speculation throughout the summer and early autumn of 2007, no UK general election was held during the months covered by this report. Seven local government by-elections were held in Wales between August and December 2007. Only two of these contests saw seats change hands, with one Conservative gain from the Liberal Democrats in Pembrokeshire during September, and one seat going from Tories to Lib-Dems in November. Overall, the results failed to show any very strong trends, although (very much in line with the strong showing by Independents and minor parties during the 2007 National Assembly election) Independent candidates tended to perform well.

Figure 6.1: Local Government By-Elections, August-December 2007

<i>Ward</i>	<i>Council</i>	<i>Month</i>	<i>Winner</i>	<i>Change?</i>	<i>Swing</i>
Blaina	Blaenau Gwent CBC	August	Independent	Ind. Hold	11.9% Lab to Ind
Mochdre	Conwy CBC	September	Labour	Lab Hold	8.5% PC to Lab
Moriah	Caerphilly CBC	September	Labour	Lab Hold	18.8% Lab to Ind
Pembroke St. Michael	Pembrokeshire CC	September	Conservative	Con Gain from LD	29.8% LD to Con
Llandybie	Carmarthenshire CC	November	Independent	Ind Hold	3.4% Lab to Ind
Rhiw	Conwy CBC	November	Lib-Dem	LD Gain from Con	20.7% Con to LD
Treharris	Merthyr Tydfil CBC	December	Independent	Ind Hold	9.6% Ind to LD

Source: www.gwydir.demon.co.uk/byelections

6.2. Parties

After a long period during which party politics in Wales was distinctly frenetic – due first to election campaigning and later to post-election deal-making and deal-breaking – the period of this report has been one of settling down. Party politics became distinctly quieter, although we can expect things to move back up a gear once campaigning starts in earnest for the May 2008 local government elections.

6.2.1 Labour

For Wales' largest (and long hegemonic) party, the most striking aspect of the past few months has been the relative ease with which it has been able to work in coalition with Plaid Cymru in Cardiff. Despite the historic enmities between the two parties, and the vigorous debate within Labour about the wisdom of entering into the coalition, inter-party relationships within the Assembly government have thus far, by all informed accounts, been genuinely cordial and positive. Though one can expect tensions between the parties at other levels – most obviously at Westminster – to spill over into the National Assembly arena at some points in the future, every sign at present suggests that the current coalition will prove sustainable for the whole four-year term of this Assembly. Cynics can, with some fairness, suggest that the current disarray among the Welsh Liberal Democrats (see below) means that neither side has any other viable option except to co-operate with each other. But there does seem to be more to it than this. At ministerial level, and even among most backbenchers in the Assembly, there appears to be genuine (if wary) mutual respect.

Many Welsh Labour MPs remain deeply hostile to the coalition agreement with 'the nationalists'. There thus remains scope for internal Labour divisions between the 'London' and 'Cardiff' branches of the Welsh Labour Party. But another significant line of difference has also been observable within the party in recent months. This concerns disagreements over the correct interpretation of the May 2007 election result. Interestingly, divisions appear to be largely generationally-based, rather than corresponding with more traditional cleavages such as left and right or pro- and anti-devolution factions. Some prominent younger members of the party, most notably Eluned Morgan MEP and Huw Lewis AM, have given notably downbeat assessments of Labour's performance and called for radical measures in response.¹²⁹ By contrast, more experienced and senior members have tended to be more sanguine. Paul

¹²⁹ For Eluned Morgan's views see news.bbc.co.uk/2/hi/uk_news/wales/7011770.stm. See also Huw Lewis AM, 'Winning for Wales: Remaking the Welsh Labour movement for Government' (August 2007) available at www.wales2020.com/current

Flynn MP, for example, has interpreted the poor Labour performance in the National Assembly election as primarily a response by the public to the disastrous – in Flynn’s view – decision of Tony Blair to hang on to the premiership until after the devolved elections.¹³⁰ And First Minister Rhodri Morgan has identified parallels between May 2007 and Labour’s results in Wales in the 1983 UK general election, when the Conservatives won 13 of the 36 Welsh seats but fell away substantially in subsequent elections.¹³¹

In general, the views of the older generation appear to be winning out within the Welsh Labour Party. The implications of these views are, of course, much more comforting for Labour. There has certainly been little public sign of the intensive, intra-party post mortem that occurred following the 1999 Assembly elections, or the resulting changes in organisation, party image and personnel. This is, in many respects, surprising, given that this relatively complacent view fails to account for some quite obvious features of recent electoral politics in Wales: such as why Labour’s vote share fell by so much more in Wales in 2007 than it did in Scotland, and why Labour’s general election vote share fell by far more in Wales between 1997 and 2005 than in either Scotland or England. But only time will tell whether or not the voice of experience also turns out to have been the voice of wisdom.

6.2.2 Plaid Cymru

The unveiling of official figures on party spending during the 2007 National Assembly election campaign provided further illustration of the extent to which Plaid Cymru has developed as a serious political party and electoral machine since the advent of devolution.¹³² For most of its history, Plaid has lived a distinctly hand-to-mouth existence. That it was able to out-spend its main rivals during the campaign – if only by a relatively modest amount – is testament to a remarkable transformation in its financial status and organisational strength. Another sign of the party’s maturation during the period of this report was Plaid’s decision to reverse its previous policy and nominate party members to the House of Lords.¹³³ Given that this issue has proven highly contentious in the past, the U-turn in the party’s stance was accomplished with remarkably little dissent.

¹³⁰ see paulflynnmp.typepad.com/my_weblog/2007/08/the-deadly-fail.html

¹³¹ Rhodri Morgan extended reverie on the parallels with 1983 may be found on Vaughan Roderick’s podcast for Radio Cymru on the 21 December 2007.

¹³² For details see www.electoralcommission.org.uk/your-area/wales/campaignexpend.cfm

¹³³ ‘Plaid sign up for the Lords for the Lords’, *Wales on Sunday* (11 November 2007): icwales.icnetwork.co.uk/news/politics-news/2007/11/18/plaid-sign-up-for-the-lords-for-the-lords-91466-20122388/

More redolent of continuity than change, however, have been the recent travails experienced by Plaid in its Gwynedd heartland. The decision of the Plaid-led County Council to push through a programme of school closures and administrative consolidations has been presented by opponents as threatening the vitality of Welsh-speaking communities, and led directly to several long-standing members abandoning the party and form a new political entity called 'Llais y Bobl' (which translates as 'People's Voice' – but should not be confused with 'People's Voice', the vehicle of ex-Labour dissidents in Blaenau Gwent).¹³⁴ It remains to be seen what impact Llais y Bobl might have on Plaid's control of the council in May. Further ahead, the Labour Party will hope that Plaid splits might help it to an otherwise unlikely win in the Arfon seat at the next UK general election.

In government Plaid ministers have sought to portray an image of quiet competence; bank-bench support has hitherto remained solid, surviving even a very tight financial settlement and budget. Compared to the trail-blazing of the nationalists' Scottish sister party, Plaid's very quiet revolution as a junior partner in government can appear less than inspiring. And party strategists will certainly be considering the resonance with the public that the actions and achievements of Plaid ministers can have. But Plaid's strategic goals seem clear. First, demonstrable competence in government aims to 'decontaminate' Plaid's image: with each week that passes it becomes more difficult to imagine their opponents credibly reviving their old lines of attack that often depicted Plaid as a collection of wild-eyed romantics and language zealots. Secondly, of course, there is the prize of a referendum on primary powers and the prospect of the National Assembly becoming something much closer to a full legislature. Some senior Labour figures at Westminster continue to rail in semi-public fashion against the referendum pledge. But given the centrality of that pledge to the coalition agreement, buttressed by endorsement from Welsh Labour's special conference in July 2007, Labour could not renege on the referendum without both severely damaging its future credibility as a coalition partner in Cardiff Bay and generating deep internal divisions. Nonetheless, Plaid's decision to form a coalition with Labour remains a significant gamble, given the ebbing popularity of Labour at the UK level.

¹³⁴ 'Plaid man quits over school closure plan', *Daily Post* (11 February 2008)
www.dailypost.co.uk/news/in-depth/gwynedd-school-closures/2007/11/16/plaid-man-quits-over-school-closure-plan-55578-20114694/

6.2.3 Conservatives

Nick Bourne could have been forgiven for spending the holiday season in rather self-congratulatory mood. All in all, he had an excellent 2007. Bourne completed the year as Leader of the Official Opposition in the Assembly. And Jonathan Morgan's earlier announcement that he would not seek nomination as Tory candidate for Cardiff North in the next Westminster election, but rather remain in the Assembly, effectively means that an acceptable succession has been secured, although there is no immediate pressure on the Conservative leader to stand aside (and, presumably, move on to the Lords).¹³⁵ Meanwhile, although the party's three Welsh MPs make little attempt to disguise their disdain for devolution in general, and Bourne's strategy of repositioning the Tories in Wales as a more avowedly Welsh and devolution-friendly party, they have (by their own admission) no alternative strategy.¹³⁶ And all the while, the steadily improving prospects of the Conservatives across the UK continue to bolster Tory support, at least in those parts of Wales where there is some tradition of Conservative strength.

But the limits of Bourne's strategy may be in sight. The establishment of the All-Wales Convention will almost certainly require the Welsh Conservatives to finally decide where they stand on the question of the extension of primary powers to the Assembly. Thus far the party – *qua* party – has studiously avoided this issue: witness, for example, its manifesto for the last National Assembly election. Given the Welsh party leadership's denunciations of the constitutional status quo, to argue now for its maintenance would strain credulity and credibility. And yet there appears no immediate prospect of the Welsh Tories crossing the Rubicon and advocating the implementation of Part 4 of the 2006 Government of Wales Act. What position can the Welsh Conservatives possibly take, then? One obvious possibility would be for the Tories to guarantee that any future Conservative administration in London will allow a referendum on the issue, but without the party being committed to take a united position. (In short, this would be very similar to the position taken by the Labour government on the divisive issue of EEC membership in the 1970s, where party members and even ministers were allowed to take opposite sides in the referendum). This would offer a route out of an intractable party management

¹³⁵ 'Tory AM won't stand for Parliament', *Western Mail* (9 June 2007):

<http://icwales.icnetwork.co.uk/news/wales-news/2007/06/09/tory-am-won-t-stand-for-parliament-91466-19268723/>

¹³⁶ See, in particular, Stephen Crabbe MP, 'The Devolution Experiment is leading to socialism and separatism,' *ConservativeHome* (24 October 2007), Available at <http://conservativehome.blogs.com/platform/2007/10/stephen-crabb-m.html>

problem; guaranteeing a referendum would also have the tactical benefit of causing embarrassment to Welsh Labour MPs, and the possible strategic benefit of undermining one of the main planks of the One Wales coalition agreement. There have been no official suggestions as yet that such a move is in the offing. But it is hard to envisage that the Welsh Conservatives will content themselves with the role of passive bystanders as the constitutional debate proceeds. Some kind of Conservative initiative is predictable, even if its exact nature is not.

6.2.4 Liberal Democrats

At the Assembly level, at least, the Welsh Liberal Democrats remain in a rather sorry state. Long-rumoured tensions within the six-strong Assembly group surfaced in embarrassing fashion in December.¹³⁷ And while the announcement that Mike German would remain as leader until after the forthcoming council elections has meant that the leadership question has been temporarily 'parked', it has yet to be resolved.¹³⁸

When German does eventually step down, a very obvious potential leadership candidate is Kirsty Williams, AM for Brecon and Radnor. Indeed, given the nature of the Welsh party, it is likely that Williams would best the Cardiff Central AM Jenny Randerson – the only other credible candidate – should both end up in a race for the leadership. In this context, Williams' Institute of Welsh Politics annual lecture delivered in November takes on a particular interest.¹³⁹ The lecture served to underline her strengths as a future leader as well as illustrating the extent of the challenges that she and her party face. Capable, energetic and engaging, there is little doubt that Kirsty Williams would present a 'voter-friendly' public face for the Welsh Liberal Democrats. But while the lecture lambasted the 'cosy consensus' that dominates devolved politics in Wales, the alternative proffered was little more than another version of that very same centre-left, patriotic consensus. And while there is nothing necessarily wrong with centre-left patriotism, the problem for the Liberal Democrats is that the centre-left of Welsh politics is a very crowded place.

¹³⁷ 'AM 'silent' over leaflet poking fun at colleague', *Western Mail* (6 December 2007): icwales.icnetwork.co.uk/news/politics-news/2007/12/06/am-silent-over-leaflet-poking-fun-at-colleague-91466-20209619/

¹³⁸ 'Lib-Dem leader German prepares to step down', *Western Mail*, (15 October 2007): icwales.icnetwork.co.uk/news/wales-news/2007/10/15/lib-dem-leader-german-prepares-to-step-down-91466-19951516/

¹³⁹ 'Breaking through the Consensus' kirstywilliams.org.uk/speeches/000006/breaking_through_the_consensus.html

More than six months after the Assembly election the question remains: what, beyond acting (potentially at least) as a 'hinge' party in any future coalition negotiations, are the Welsh Liberal Democrats for? It may be considered that this question is particularly germane for those party members who argued in the post-election period that the party should remain aloof from any governing coalition in order to 'renew itself' in opposition. From the outside at least, and Williams's best efforts notwithstanding, the Welsh Liberal Democrats do not seem to be a party busily engaged in renewing itself, but rather gives every impression of being mired in regret at missed opportunities.

6.3. Public Attitudes

The most important evidence available for several years on public attitudes in Wales was presented in autumn 2007. An ESRC-funded survey, conducted by the Institute of Welsh Politics and the National Centre for Social Research, was carried out in the period immediately after the National Assembly election. In addition to exploring voting patterns in the election, the survey also probed extensively into public attitudes towards devolution. A detailed presentation of the survey's results was given at the National Assembly in November; this report will summarise the most salient findings.

One question asked in this year's survey was the now-standard one probing respondents' preference as to how Wales should be governed. Findings from the 2007 survey on this question, along with findings in previous major surveys conducted during the past decade, are presented in Figure 6.2. This shows that while there continues to be no substantial trend in support for independence for Wales, support for strengthening devolution continues to grow and is now well above two in five. At the same time, the trend of declining opposition to the principle of devolution has also continued: the proportion of survey respondents choosing this option is now well below one in five, and little more than the proportion favouring independence. Opposition to devolution has actually fallen more substantially in Wales over the last decade than it has in Scotland, and opposition in Wales now is lower than it was in 1997 in Scotland.¹⁴⁰ This decline has been most noticeable among groups who were most likely to oppose devolution in the referendum. This includes those who see themselves as primarily British (rather than Welsh) in terms of national identification, and also women.

¹⁴⁰ In Scotland, the proportion of respondents choosing the No Devolution option in the standard constitutional preference question was 18.1 per cent in their 1997 post-referendum survey; by 2006 (the most recent year for which figures were available) this had declined to 9.0 per cent.

Figure 6.2: Constitutional Preferences in Wales 1997-2007

<i>Constitutional preference</i>	1997	1999	2001	2003	2006	2007
Independence	14.1	9.6	12.3	13.9	11.5	12.2
Parliament	19.6	29.9	38.8	37.8	42.1	43.8
Assembly	26.8	35.3	25.5	27.1	25.0	27.5
No elected body	39.5	25.3	24.0	21.2	21.3	16.5
<i>N of respondents</i>	641	1173	1044	935	955	837

The trends shown in Figure 6.2 are supported by the similar implications that can be drawn from responses to other survey questions. Figure 6.3 presents results from a pair of questions that have been asked in several surveys – probing respondents' perceptions both of the level of government that has the most influence in running Wales, and of the level of government that they believe should have the greatest influence. As is shown, perceptions of the actual importance of the Assembly have been steadily rising. Nonetheless, there remains a stark disparity between how people think things are and how they would like them to be. And the proportion desiring the devolved level of government to have greatest influence has now reached the same level in Wales as in Scotland.

There is no longer any serious question over whether the majority of the Welsh people support some degree of self-government. They do. If devolution was the 'settled will' of the Scottish people in 1997, it certainly is so for the Welsh ten years on. What remains at issue is how much more self-government the public would be willing to support.

Figure 6.3: Most Influence over 'the way Wales is run'

Does Influence

<i>Response</i>	<i>2001</i>	<i>2003</i>	<i>2007</i>
NAfW	17.0	22.4	35.6
UK Govt	64.4	57.9	53.2
Local Councils	15.5	15.0	5.4
EU	3.2	4.7	5.9
<i>Weighted N</i>	<i>1033</i>	<i>917</i>	<i>827</i>

Ought to Influence

<i>Response</i>	<i>2001</i>	<i>2003</i>	<i>2007</i>
NAfW	56.2	56.0	74.3
UK Govt	26.3	29.1	17.7
Local Councils	16.5	13.8	7.7
EU	1.0	1.2	0.2
<i>Weighted N</i>	<i>1033</i>	<i>917</i>	<i>857</i>

One factor that academic analysis has consistently shown to be important in explaining public attitudes to devolution is national identity: those seeing themselves as Welsh are more likely to support independence or a parliament than British identifiers.¹⁴¹ Given the trends in attitudes to devolution, one might expect there to have been substantial changes in the national identity profile of Wales; this expectation would fit with the idea that nearly a decade of devolved institutions and government might have made the people of Wales feel more Welsh in some respect. Figure 6.4 reports trends in national identity since 1997 on the 'Moreno' measure, which allows for respondents to choose between degrees of Welsh and British identity. What we see here, contrary to expectations, is little or no trend, beyond a modest increase in the proportion of exclusively 'Welsh' identifiers. Although the people of Wales have undoubtedly become more Welsh in their desired centre of governance in the last decade, this has not translated into – or been caused by – their having become more Welsh in national identity.

¹⁴¹ See Richard Wyn Jones and Roger Scully, 'A Settling Will? Wales and Devolution, Five Years On', *British Elections and Parties Review* (2003) 13: 86-106.

Figure 6.4: National Identities (%) in Wales, 1997-2007

<i>NATIONAL IDENTITY</i>	<i>1997</i>	<i>1999</i>	<i>2001</i>	<i>2003</i>	<i>2007</i>
Welsh, Not British	17.2	17.7	24.5	22.7	25.1
More Welsh than British	25.7	20.7	23.5	28.1	21.4
Equally Welsh and British	34.3	38.3	29.4	30.2	33.8
More British than Welsh	10.4	7.8	11.2	8.9	9.8
British, Not Welsh	12.4	15.5	11.3	10.0	9.9
<i>N of respondents</i>	<i>660</i>	<i>1173</i>	<i>1045</i>	<i>929</i>	<i>840</i>

6.4. Conclusion

The period of this report has been a relatively quiet one for partisan and electoral politics in Wales. After the excitement of the election and coalition negotiations, things have settled down. But there are at least two issues that we can be certain will be of importance. First, how will the governing coalition in Cardiff continue to work, and what impact will this have on public support for the political parties. And second, how will the debates over the future governance of Wales continue to proceed? These matters will define much of the substance of Welsh politics over the months and years ahead.

7. Assembly and the Media

Professor Kevin Williams, University of Wales Swansea

7.1 Introduction

Broadcasting matters in the nations of the Britain in the last months of 2007 were dominated by the noises made by Scotland's First Minister about devolving broadcasting to Holyrood. Motivated – at least superficially – by the long-running dispute over calls for a wholly Scottish produced version of the BBC Six O'clock News, and a decline in the share of UK broadcasting income spent in Scotland, the SNP government announced plans for a broadcasting commission to review the future of the industry in Scotland. Under the direction of a former BBC Scotland Head of News and Current Affairs, the commission will analyse the state of broadcasting in Scotland and make proposals for change. Scottish broadcasters and journalists have chipped in with the usual complaints about London's metropolitan bias. However, it is the threat of potential job cuts and declining output, following plans to make good the estimated £2bn shortfall from the BBC licence fee settlement, that weighs heavily on the future of Scottish broadcasting. With the brand new £130m headquarters for BBC Scotland at Pacific Quay, one of the most advanced broadcasting facilities in Europe, it is not difficult to see the importance of the need for continued and expanding investment in Scottish broadcasting.

Alex Salmond's calls for the devolution of broadcasting have not been echoed to any significant extent in Wales. Rhondda Labour MP Chris Bryant issued his vision of the future of broadcasting in Wales.¹⁴² Bryant warns that 'if we do not take stock now – and make significant policy changes – there is a real danger that we shall by default lose the enormously rich broadcast mix we now enjoy'.¹⁴³ He makes a number of recommendations for change but insists that broadcasting should remain a reserved matter. Partial devolution is, however, advocated in his proposal that scrutiny of S4C's budget should be become a matter for the National Assembly. Like others before him he draws attention to the limited public scrutiny the channel is subjected to. The House of Commons Culture, Media and Sport Select Committee, he notes, has neither the time nor the Welsh language competence to devote to examining how S4C accounts for its annual spend of getting on for £100m of public money.

¹⁴² C. Bryant, *Broadcast Wales: The future of Broadcasting in Wales* www.broadcastwales.org.uk

¹⁴³ Ibid

Bryant also echoes the suggestion posited last year by University of Cardiff academics Justin Lewis and James Thomas¹⁴⁴ that S4C should become an all-Wales channel in the sense of offering output in Welsh and English. Supporting the notion of broadcasting subsidies, he makes the point that the cost per head of Welsh programming per hour for S4C is nearly twice as much as it is for Welsh programming as a whole. More financial support is provided to Welsh language than English language television in Wales. Drawing attention to the extent of S4C's subsidy as well as making demands for broadening the channel's reach to make it more inclusive of Wales as a whole has regularly featured in the discourse of non-Welsh speaking MPs and commentators. What was new about Bryant's call is the response it received. For example newly appointed Heritage Minister, Plaid Cymru's Rhodri Glyn Thomas, did not rule out the possibility of S4C becoming a bilingual channel.¹⁴⁵ After the analogue switch off S4C will no longer re-broadcast Channel 4 output and have more time to fill. Capturing the broader audience in Wales beyond only fluent Welsh speakers will become more significant in such circumstances. The minister believes there is a need for 'more programmes through the medium of English about Wales'. While the S4C authority chair said the channel has a 'duty to welcome non-Welsh speakers', the chief executive insists that 'no money earmarked for Welsh programmes should be used to produce English medium programmes'.¹⁴⁶

7.2 BBC cuts

The provision of the English language TV services for Wales is potentially threatened by the re-structuring announced by BBC Wales in November as part of the Corporation's plan to make so-called efficiency savings of 3 per cent per annum over the next five years. In a period which will see the switch-off of the analogue service and the growth of the digital market, the extent of the savings is considerable. In Wales a potential total of up to 155 job losses over five years is envisaged. It will also bring to an end BBC 2W which had attempted to provide some sort of regular, scheduled programming for the English speaking audience in Wales. The axing of 2W is explained by the digital switchover. The digital service 'will not be able to sustain two different versions of BBC Two' and as a result the BBC Wales digital-only service will disappear as one service will carry BBC Two Wales across all digital

¹⁴⁴ James Thomas and Justin Lewis, 'Coming out of a mid-life crisis'? : The past, present and future audiences for Welsh Language Broadcasting, *Cyfrwng: Media Wales Journal* Vol 3, 2006

¹⁴⁵ Adrian Browne, 'Digital S4C "could be bilingual"', BBC News, (30 October 2007), news.bbc.co.uk/go/pr/fr/-/1/hi/wales/7067729.stm

¹⁴⁶ Ibid

platforms providing the 'very best of both network and BBC Wales television'.¹⁴⁷ However the cost of generating material for 2W, highlighted by the growing number of repeats in recent years, as well as audience discontent at losing certain kinds of network shows, must also have been considerations.

The Heritage Minister expressed concern about the future of public service broadcasting in Wales if these cuts are fully carried out and in particular their effect on public debate in Wales. His worries were shared by the only Welsh MP on the Culture, Media and Sports Committee, Adam Price of Plaid Cymru, who described the cuts as 'devastating' and expressed the view that 'the quality of news programmes may be compromised'. Secretary of State for Wales, Peter Hain, while acknowledging the 'challenging times ahead', was 'confident that BBC Wales would be able to maintain its commitment to quality news and current affairs output in English and Welsh'. His confidence rests on the recent successful track record of BBC Wales in attracting network commissions. The announcement of a reported additional £20-40m to be spent in the nations and regions of the United Kingdom promises 'very significant' opportunities for BBC Wales to offset the production losses coming from the proposed 'efficiency savings'.¹⁴⁸

While Controller Menna Richards rightly points to the 'huge progress made over recent years' by BBC Wales in winning network commissions, the competition will be much harder in the future.¹⁴⁹ There will be pressure to address what has been described as BBC Scotland's '£21m commissions crisis'.¹⁵⁰ The temporary freezing of commissions from RDF, the company that provided footage for a promo that misrepresented the Queen, reinforced the sense of crisis in Scottish broadcasting. RDF owns virtually all the major independent production companies north of the border. Senior figures in the Scottish broadcasting industry have articulated the need to redress the imbalance, pointing out that the BBC spends only 4 per cent of its budget in Scotland while in terms of population it should be around 9 per cent.¹⁵¹ This has become the goal for the SNP administration; according to the Scottish First Minister 'it is not acceptable that the networks which purport to serve the whole of the

¹⁴⁷ *Challenges and opportunities for BBC Wales*

www.bbc.co.uk/pressoffice/pressreleases/stories/2007/10-October/18/Wales.shtml

¹⁴⁸ Ibid

¹⁴⁹ Ibid

¹⁵⁰ Steven Vass, '£21m commissions crisis at BBC Scotland' *The Sunday Herald* (8 July 2007).

¹⁵¹ Magnus Linklater, 'This is the English Broadcasting Corporation' *The Times* (25 July 2007)

UK should marginalise the creative community in Scotland'.¹⁵² Pressure seems to have had some effect with the BBC D-G, at the official opening of Pacific Quay in September, promising to increase the Scottish contribution to the BBC's TV networks. The danger for BBC Wales is that such political pressure may result in a flow of resources away from Wales to Scotland. Some in Scotland have already intimated that the decision to locate Doctor Who in Cardiff was as much political as anything else. The Scottish Conservative Culture spokesman asks 'are the commissioners seriously saying that Cardiff was selected as the location for Doctor Who because drama standards were higher in Wales than elsewhere?'¹⁵³ Politics plays an important role in all commissioning decisions but it is the success BBC Wales has made of the series that has enabled it to gain more network commissions.

7.3 Trusting the BBC?

Unease at the way in which the BBC is responding to a partially devolved political system was taken up by the newly formed BBC Trust, which in November announced a review of the reporting of the UK's nations on network news. This was, according to Trust chair Sir Michael Lyons, a response to feedback from audience councils, public meetings and audience research which indicates the matter is of interest to viewers. In July the Audience Council for Wales had criticised network news coverage of the National Assembly.¹⁵⁴ Under the stewardship of Professor Anthony King the Review will examine allegations that the non-English nations have been inadequately covered since devolution.¹⁵⁵ Research will be carried out by academics at Cardiff University, where the chair of the Trust's editorial standards committee is based.¹⁵⁶ The review is scheduled to be completed in the summer of 2008.

Since the announcement of the review some have observed that network news has carried more stories from and about Scotland, Northern Ireland and Wales and has been far more careful to tell the viewer when stories relate to England only. However, we should also be concerned about the way in which stories from around Wales are covered. Metropolitan bias is seen in many parts of Wales not as a matter of London-centrism but Cardiff-centrism. Some of the critics who complain about the London bias of the BBC seem oblivious to what sort of Wales is represented and reported on Welsh TV screens. BBC Wales has made strenuous efforts to redress this criticism

¹⁵² Maggie Barry, 'Salmond Blast at "lack of TV Backing"' *Mirror* (9 August 2007)

¹⁵³ Ted Brocklebank, 'Out TV talent has been abandoned' *The Express on Sunday* (12 August 2007)

¹⁵⁴ R. Wyn Jones and R. Scully (eds), *Wales Devolution Monitoring Report: September, 2007*

¹⁵⁵ Karen Price, 'Media Experts welcome probe into BBC News' *Western Mail* (18 November 2007)

¹⁵⁶ *Ibid*

by rolling out a community strategy across the country and the morning flagship news strand on Radio Wales is anchored from Cardiff and Bangor. In spite of these developments Chris Bryant still believes that the 'news output still seems dominated by the metropolitan hub in Cardiff'.¹⁵⁷ A commitment to local news is recognised by BBC Wales in its plans for the future – new posts are envisaged to deliver a local multimedia broadband service MyLocalNow to the diffuse communities that constitute Wales.¹⁵⁸ This is contingent on BBC Trust approval.

7.4 Happy Anniversary S4C

S4C celebrated twenty-five years of serving the Welsh-speaking community in November. The channel has come a long way since its inception as a bulwark to support the language and culture of Welsh speaking Wales. Since 1982 S4C has helped to put Welsh broadcasting on the map as one of the first dedicated minority language broadcasters in Europe. It has also played its part in helping to develop a strong independent broadcasting production sector in Wales. In the run-up to its anniversary the channel commissioned a report to assess its contribution to the Welsh economy.¹⁵⁹ The report estimates that S4C generated £87m of added value for the Welsh economy, roughly equivalent to the funds it gets from the Department of Media, Culture and Sport to operate the channel.

However, the channel during its history has undergone some major strategic changes. Corporate and commercial considerations have become increasingly important in the channel's calculations. At the same time viewing figures have steadily dwindled. A rise in S4C's peak time share of viewers last year cannot hide the trend of continuous decline. Research into the channel's audience reveals that S4C's audience share dropped by 60 per cent from 1995 to 2004. According to one of the research's authors, 'all terrestrial broadcasters have seen a decline in viewers following the emergence of digital TV but S4C has seen the biggest drop'.¹⁶⁰ Claims for more resources, including increased output from the BBC under the recently agreed strategic partnership, have to be seen in this context. Subsidy is not only a matter of financial support from the Department of Culture, Media and Sport. OFCOM chief, Ed Richards, highlighted the need for S4C to address the 'upheaval' that digital

¹⁵⁷ Bryant, op cit

¹⁵⁸ *Challenges and opportunities for BBC Wales* op cit

¹⁵⁹ DTZ and The Welsh Economy Research Unit, Cardiff University *The Economic Impact of S4C on the Welsh Economy 2002-2006* (September 2007) www.s4c.co.uk/abouts4c/corporate/e_econrep.shtml

¹⁶⁰ Quoted in Price, Karen 'Crisis of "too-Welsh" S4C' *Western Mail* (7 April 2006)

television will bring to the current model.¹⁶¹ So far, the radical response that many such as Chris Bryant see as necessary has not been forthcoming.

¹⁶¹ Speech to the Institute of Welsh Affairs, (19 November 2004)

Bibliography

- Barry, M., 'Salmond Blast at "lack of TV Backing"' *Mirror* (9 August 2007)
- Batcup, M., 'Welsh investment vehicle', *Agenda*, Winter 2007, pp 36-38
- Beddow, A. and Cohen, D., 'Allocating health (and social care) expenditure in Wales', *International Journal of Public Sector Management*, Volume 16, No. 5 (2003), pp. 337-345
- Brindley, M., 'WAG to offer nurses full pay rise' *Western Mail* (6 July 2007)
- Brindley, M. Minister announces review into the ambulance service's progress', *Western Mail* (29 November 2007)
- Brocklebank, T., 'Out TV talent has been abandoned' *The Express on Sunday* (12 August 2007)
- Browne, A., 'Digital S4C "could be bilingual"', BBC News
<http://news.bbc.co.uk/go/pr/fr/-/1/hi/wales/7067729.stm>
- Bryant, C., *Broadcast Wales: The future for Broadcasting in Wales*. Available on www.broadcastwales.org.uk/
- Cabinet Office, 'The Governance of Britain, the Government's draft legislative programme', London: The Cabinet Office (September 2007)
- Commission of the European Communities (2007), *Reforming the Budget, Changing Europe. A Public Consultation Paper in the View of the 2008/2009 Budget Review* SEC(2007) 1188 final.
- Crabbe, Stephen, 'The Devolution Experiment is leading to socialism and separatism,' *ConservativeHome* (24 October 2007)
- Department of Transport, 'Delivering a Sustainable Railway', (Department of Transport, 2007)

DTZ and The Welsh Economy Research Unit, Cardiff University *The Economic Impact of S4C on the Welsh Economy 2002-2006* (September 2007)

Fraser, D., 'Funding "will be next step in UK devolution"', *The Herald* (Glasgow) (8 December 2007).

H.M. Treasury, 'Pre-budget Report and Comprehensive Spending Review', (H M Treasury 2007)

House of Commons, *Minutes of Evidence taken before Liaison Committee: The Prime Minister Thursday* (13 December 2007), Uncorrected Transcript to be published as HC 192-I, Q. 45.

Jones, Peter. (ed.) *Scotland Devolution Monitoring Report: January 2007* at www.ucl.ac.uk/constitution-unit/research/devolution/MonReps/Scotland_Jan07.pdf

Lewis, H., 'Winning for Wales: Remaking the Welsh Labour movement for Government' (August 2007). Available at www.wales2020.com/current

Linklater, M., 'This is the English Broadcasting Corporation' *The Times* (25 July 2007)

Livingstone, T., 'Hain seeks to defuse power transfer tensions', *Western Mail* (29 November 2007)

Livingstone, T, 'Anger over right to buy plans', *Western Mail* (5 December 2007).

National Assembly for Wales, 'Scoping Paper for the Committee's Carbon Reduction Scrutiny Inquiry - Annex A' (August 2007)

National Assembly for Wales, 'Scoping Paper for the Committee's Inquiry into the accessibility of polling stations in Wales', Papers of the NAFW Equality Committee (27 September 2007)

National Assembly for Wales, 'Interim report and recommendations for the Dyslexia Rapporteur group on Dyslexia Support in Wales, Enterprise and Learning Committee (12 December 2007)

The National Assembly for Wales, 'Legislation and legislative competence since May 2007' (November 2007)

National Assembly for Wales, 'The National Assembly for Wales (Legislative Competence) (No.4) Order 2008', (November 2007)

National Assembly for Wales, 'The National Assembly for Wales (Legislative Competence) (No-5) Order 2008' (November 2007)

Navarro M. and Lambert, D. G. Lambert (2007) 'Some effects of the Government of Wales Act 2006: The Welsh Journey from Administrative Decentralization Passing Through Executive Devolution to Quasi-Legislative Devolution in less than Eight Years', in P. Chaney, E. Royles, and A. Thompson. (eds) *Contemporary Wales: An Annual Review Of Economic, Political and Social Research*, (2007), Cardiff, University of Wales Press pp. 13-39.

ONS, 'First Release, Regional, sub-regional and local gross value added' (14 December 2007)

Petitions Committee, 'Carno Station: Re-Opening', Papers of the Petitions Committee P-03-58 (December 2007)

Petitions Committee, 'Banning Plastic Bags', Papers of the Petitions Committee P-03-063 (September 2007)

Petitions Committee, 'Royal Society of Chemistry Calling for the Immediate Appointment by the Welsh Assembly Government of a Chief Scientific Advisor', Papers of the Petitions Committee P-03-075 (December 2007)

Petitions Committee, Cancer Screening Vigil 2007, Papers of the Petitions Committee PET(3)05-07 (November 2007)

Price, K., 'Media Experts welcome probe into BBC News' *Western Mail* (18 November 2007)

Price, K., 'Crisis of "too-Welsh"' S4C, *Western Mail* (7 April 2006)

Richards, E., Speech to the Institute of Welsh Affairs, (19 November 2004)

Scottish Executive, *Choosing Scotland's Future: A National Conversation. Independence and responsibility in the modern world.* (Edinburgh: Scottish Executive, 2007). Available from www.scotland.gov.uk/Publications/2007/08/13103747/0

Shipton, M., 'Climate change law row', *Western Mail* (24 September 2007).

Shipton, M., 'Assembly housing plans delayed by Whitehall', *Western Mail* (14 November 2007).

Shipton, M., 'Fears over interference in Welsh lawmaking', *Western Mail* (18 October 2007)

Shipton, M., 'AM 'silent' over leaflet poking fun at colleague', *Western Mail* (6 December 2007):

Thomas J. and Lewis, J., 'Coming out of a mid-life crisis'? : The past, present and future audiences for Welsh Language Broadcasting, *Cyfrwng: Media Wales Journal* Vol 3, 2006

Trench, A. 'Brown's brave quest to define Britishness could backfire' *The Herald* (Glasgow) (13 July 2007).

Trewyn, H., 'Plaid man quits over school closure plan', *Daily Post*, (11 February 2008)

Vass, S., '£21 m commissions crisis at BBC Scotland' *The Sunday Herald* (8 July 2007).

WAG, 'Environment Strategy for Wales (Cardiff: WAG, May 2007)

WAG, 'First Fisheries Strategy for Wales', (Cardiff: WAG, 2007)

WAG, 'One Wales: A Progressive Agenda for the Government of Wales', (Cardiff: WAG, 2007)

WAG, 'The third dimension: A Strategic Action Plan for the Voluntary Sector Scheme' (November 2007)

Wales Office, *Better Governance for Wales*, London: Wales Office (August 2005)

Western Mail: 'Tory AM won't stand for Parliament', *Western Mail* (9 June 2007):

Williams, K., 'Breaking through the Consensus', Institute of Welsh Politics Annual Lecture, (November 2008).

Williamson, D., 'Lib-Dem leader German prepares to step down', *Western Mail*, (15 October 2007).

Withers, M., 'Plaid sign up for the Lords for the Lords', *Wales on Sunday* (11 November 2007):

Wyn Jones, R. and Scully, R. (eds), *Wales Devolution Monitoring Report: September, 2007*

Internet Resources

BBC News: <http://news.bbc.co.uk>

Cabinet Office: www.cabinetoffice.gov.uk

Committee of the Regions: <http://cor.europa.eu/en/index.htm>

Conservative Home: www.conservativehome.blogspot.com

Department of Health: www.dh.gov.uk

Department of Transport www.dft.gov.uk

Electoral Commission: www.electoralcommission.org.uk

Estyn: www.estyn.gov.uk

H M Treasury: www.hm-treasury.gov.uk

Healthcare Inspectorate Wales: www.hiw.org.uk

Local Government Data Unit www.dataunitwales.gov.uk

NAfW Enterprise and Learning Committee: www.assemblywales.org/bus-home/bus-committees/bus-committees-third-assem/bus-committeeNAFs-third-els-home.htm

NAfW European and External Affairs Committee: www.assemblywales.org/bus-home/bus-committees/bus-committees-third-assem/bus-committees-third-eur-home.htm

NAfW Finance Committee: www.assemblywales.org/bus-home/bus-committees/bus-committees-third-assem/bus-committees-third-fin-home.htm

NAfW Health Wellbeing and Local government Committee: www.assemblywales.org/bus-home/bus-committees/bus-committees-third-assem/bus-committees-third-hwlg-home.htm

NAfW Record of Proceedings: www.assemblywales.org/bus-home/bus-record-of-proceedings.htm

National Assembly for Wales: www.assemblywales.org

National Statistics Online: www.statistics.gov.uk/

NBAR Wales: www.nbarwales.co.uk/english/

Office of Public Sector Administration: www.opsi.gov.uk/

Paul Flynn: www.paulflynnmp.typepad.com/my_weblog/2007/08/the-deadly-fail.html

WAG: www.wales.gov.uk

WAG Press Releases: www.new.wales.gov.uk/news/?lang=en

Wales Office: www.walesoffice.gov.uk

Wales on Sunday: <http://icwales.icnetwork.co.uk/>

Wales Council for Voluntary Action: www.wcva.org.uk

Wales Legislation Online: www.wales-legislation.org.uk

Western Mail: <http://icwales.icnetwork.co.uk/>

Welsh Audit Office: www.wao.gov.uk

Welsh Local Government Association: www.wlga.gov.uk