



Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales

Cofnod y Trafodion The Record of Proceedings

[Y Pwyllgor Cydraddoldeb, Llywodraeth Leol a
Chymunedau](#)

[The Equality, Local Government and
Communities Committee](#)

02/02/2017

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Cofnodir y trafodion yn yr iaith y llefarwyd hwy ynnddi yn y pwyllgor. Yn ogystal, cynhwysir trawsgrifiad o'r cyfieithu ar y pryd. Lle y mae cyfranwyr wedi darparu cywiriadau i'w dystiolaeth, nodir y rheini yn y trawsgrifiad.

The proceedings are reported in the language in which they were spoken in the committee. In addition, a transcription of the simultaneous interpretation is included. Where contributors have supplied corrections to their evidence, these are noted in the transcript.

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

Gareth Bennett	UKIP Cymru
Bywgraffiad Biography	UKIP Wales
Janet Finch–Saunders	Ceidwadwyr Cymreig
Bywgraffiad Biography	Welsh Conservatives
John Griffiths	Llafur (Cadeirydd y Pwyllgor)
Bywgraffiad Biography	Labour (Committee Chair)
Sian Gwenllian	Plaid Cymru
Bywgraffiad Biography	The Party of Wales
Rhianon Passmore	Llafur
Bywgraffiad Biography	Labour
Jenny Rathbone	Llafur
Bywgraffiad Biography	Labour
Joyce Watson	Llafur
Bywgraffiad Biography	Labour

Eraill yn bresennol
Others in attendance

Marie Brousseau– Navarro	Cyfarwyddwr Polisi, Deddfwriaeth ac Arloesedd, Swyddfa Comisiynydd Cenedlaethau'r Dyfodol Director of Policy, Legislation and Innovation, Office of the Future Generations Commissioner
Nicola Charles	Cyfreithwraig, Llywodraeth Cymru Lawyer, Welsh Government
Mark Drakeford	Aelod Cynulliad Llafur (Ysgrifennydd y Cabinet dros Gyllid a Llywodraeth Leol) Assembly Member, Labour (the Cabinet Secretary for Finance and Local Government)
Sophie Howe	Comisiynydd Cenedlaethau'r Dyfodol Future Generations Commissioner
Paul Webb	Dirprwy Gyfarwyddwr, Diwygio Gwasanaethau Datganoledig, Llywodraeth Cymru Deputy Director, Devolved Services Reform, Welsh Government

Swyddogion Cynulliad Cenedlaethol Cymru yn bresennol
National Assembly for Wales officials in attendance

Osian Bowyer	Y Gwasanaeth Ymchwil Research Service
Chloe Corbyn	Y Gwasanaeth Ymchwil Research Service
Chloe Davies	Dirprwy Glerc Deputy Clerk
Steve Davies	Cynghorydd Cyfreithiol Legal Adviser
Gwyn Griffiths	Uwch-gynghorydd Cyfreithiol Senior Legal Adviser
Naomi Stocks	Clerc Clerk
Elizabeth Wilkinson	Ail Glerc Second Clerk

Dechreuodd y cyfarfod am 09:15.

The meeting began at 09:15.

Cyflwyniad, Ymddiheuriadau, Dirprwyon a Datgan Buddiannau Introductions, Apologies, Substitutions and Declarations of Interest

[1] **John Griffiths:** Let me welcome Members to this meeting of the Equality, Local Government and Communities Committee. We'll begin with item 1, introductions, apologies, substitutions and declarations of interest. We've had one apology from Bethan Jenkins this morning. In terms of declarations of interest, I would like to declare that I am a member of Unite and Community trade unions. Are there any other declarations of interest?

[2] **Jenny Rathbone:** Yes. I'm a member of Unite and a former shop steward.

[3] **Joyce Watson:** I'm a member of Unite.

[4] **Rhianon Passmore:** I'm a member of the GMB.

[5] **Sian Gwenllian:** Rwy'n aelod o **Sian Gwenllian:** I'm a member of the undeb y newyddiadurwyr, yr NUJ. National Union of Journalists.

[6] **John Griffiths:** Diolch yn fawr. Any other declarations of interest?

[7] **Gareth Bennett:** I'm a former trade union member, but not currently.

[8] **Janet Finch–Saunders:** And I'm not a trade union member.

[9] **John Griffiths:** Right. Thank you very much for that declaration, Janet. We haven't had any other apologies or substitutions.

09:17

**Bil yr Undebau Llafur (Cymru): Sesiwn Dystiolaeth 1—
Ysgrifennydd y Cabinet dros Gyllid a Llywodraeth Leol
Trade Union (Wales) Bill: Evidence Session 1—
Cabinet Secretary for Finance and Local Government**

[10] **John Griffiths:** We'll move into item 2 on the Trade Union (Wales) Bill, and our first evidence session with the Cabinet Secretary for Finance and Local Government and his officials. Today we will begin our scrutiny of the Trade Union (Wales) Bill. The Bill was introduced to the Assembly by the Cabinet Secretary on 16 January this year, and the Business Committee referred the Bill to this committee for Stage 1 scrutiny, with a reporting deadline of 7 April. We as a committee launched our public consultation on the Bill on 17 January, and we will be taking oral evidence from a range of stakeholders over the coming weeks to inform our work. So, I would very much like to welcome Mark Drakeford AM, the Cabinet Secretary for Finance and Local Government, to committee this morning. I wondered, Mark, if you could introduce your officials for the record, please.

[11] **Ysgrifennydd y Cabinet dros Gyllid a Llywodraeth Leol (Mark Drakeford):** Diolch yn fawr, **The Cabinet Secretary for Finance and Local Government (Mark Drakeford):** Thank you, Chair. With Gadeirydd. Gyda fi y bore yma mae me today is Paul Webb, who leads on Paul Webb, sy'n arwain ar y Bil ar the Bill in terms of the civil service ochr y gweision sifil, ac mae Nicola side, and Nicola Charles, who leads Charles yn arwain ar y Bil ar ochr y on the Bill in terms of the legal gyfraith. service.

[12] **John Griffiths:** Okay. Did you want to make any opening remarks, Cabinet Secretary, or shall we move straight to questions?

[13] **Mark Drakeford:** I'm happy to move straight to questions, Chair, if you are.

[14] **John Griffiths:** Okay. Thank you very much. In that case, the first questions are from Gareth Bennett.

[15] **Gareth Bennett:** Thanks, Chairman and thanks, Minister. The constitutional position seems complicated from my reading of it. What is your view on the Welsh Government's legal competence to legislate in this area?

[16] **Mark Drakeford:** Well, Chair, thank you for that question. Maybe I should have said—I'm not a member of the committee, of course, so I don't have to declare an interest, I guess—that I too am a member of Unite the union. So, maybe I should say that at the outset. I thank Gareth Bennett for that question, which is, of course, a very important matter for the committee. The Bill is within competence in the view of the Welsh Government, because it is about management, delivery and continuity of devolved public service. The Supreme Court has made it clear that, provided the provisions of a Bill are fairly and realistically in relation to one or more of the subjects in Schedule 7 to the Government of Wales Act 2006, and do not fall within the exception in the Schedule, it does not matter whether a provision might also be classified as a subject that has not been devolved, such as employment rights and industrial relations. Significant elements in the UK Government's Act relate specifically to public services, which, in Wales, are unambiguously devolved responsibilities of this National Assembly. The Act refers explicitly to health services, the education of those under 17 and fire services, all of which are plainly devolved. In our view, it is untenable for UK Government Ministers to argue that their legislation must be regarded as concerned exclusively with non-devolved issues. Because this is our view, and because the UK Government's Act seeks to legislate in areas that are the responsibility of the National Assembly, then in bringing forward the Bill we believe that we are consistent with the provisions set out in section 108 of, and Schedule 7 to, the 2006 Act, and that they bring the provisions of the Bill in front of this committee squarely within the devolved competencies of the National Assembly.

[17] **Gareth Bennett:** The problem with that analysis is that it seems to go against the analysis that the Westminster Government has already made: that it isn't within legal competence. Do you think that the Westminster Government's attitude is likely to change?

[18] **Mark Drakeford:** I couldn't tell you, Chair, whether their attitude will

change. I can tell you that their attitude is wrong. They know that their attitude is wrong because they themselves received advice from their law officers telling them that they were wrong. That letter is now in the public domain, when their own law officers told them that their argument in relation to Wales was very weak. So, whether they will wish to return to it is a matter for them, but our view is that it was clear from early on—not simply to us, but to the UK Government as well—that their argument that this was an entirely non-devolved matter was flawed from the outset.

[19] **Gareth Bennett:** Thanks.

[20] **John Griffiths:** In terms of the UK Government's letter, then, Cabinet Secretary, obviously this committee would like to be fully informed as to any relevant correspondence between the UK and Welsh Governments, given the importance of the differing views on competence and, indeed, matters generally. That letter, then, is in the public domain. Is there any other relevant correspondence between the Welsh and UK Governments that's in the public domain?

[21] **Mark Drakeford:** Yes, Chair. There is a series of letters between my predecessor in this job, Leighton Andrews, who wrote on a series of occasions to his counterparts at Whitehall while the Bill was at Westminster and was going through processes there. The First Minister wrote to the Prime Minister at the time, David Cameron, again setting out our case in relation to the Bill. I don't think anybody could argue that strenuous efforts were not made by Welsh Ministers to persuade UK Ministers to take a sensible course of action in relation to their Bill. All of that correspondence, which took place in the last Assembly, is available on the public record.

[22] **John Griffiths:** Well, I'm sure that the committee will be interested in that, and I'm sure that the clerk can make that available. Is there any other correspondence that, subsequent to any of that, Cabinet Secretary, is not in the public domain?

[23] **Mark Drakeford:** Well, Chair, I have received a letter from the Cabinet Office Minister responsible for the UK Bill since this Bill was introduced on the floor of the National Assembly. That is a letter from Ben Gummer MP. My office has been in contact with the Cabinet Office seeking their agreement for me to share that letter with the committee. Their position at the moment is that that letter isn't for public consumption.

[24] **John Griffiths:** Is that a letter that would be germane and relevant to this committee's work in terms of scrutinising this legislation and understanding these issues, Cabinet Secretary?

[25] **Mark Drakeford:** Well, Chair, of course, I've had the benefit of reading the letter and reading it carefully. My conclusion is that the content of the letter is relevant to the work of this committee in the scrutiny of this Bill, and it's why I sought to gain the consent of the writer to making the content of the letter available to you.

[26] **John Griffiths:** I think that the committee might be interested in pressing that point, because I think it's very important that we are in possession of as much information as possible that would help this committee scrutinise this very important legislation. So perhaps these are matters that the committee may wish to discuss further and, perhaps, have further communication with you, Cabinet Secretary.

[27] **Mark Drakeford:** Well, Chair, I will certainly relay that view to my counterpart at Whitehall and relay the content of these last few exchanges.

[28] **John Griffiths:** Okay. Well, we're grateful for that. Okay, perhaps we can move, then, to—. Sorry, Rhianon, did you have a question on this?

[29] **Rhianon Passmore:** Yes, on that particular point, Chair, if I may. In regard to that, it would be very welcome if we could have sight of that correspondence. In regard to the high-level ministerial contact from this place to the UK Ministers and the Prime Minister herself, I appreciate that that will be coming back to us at a later time, but could you outline some of the rationale from the UK Government in terms of the questioning from, I think, Gareth Bennett, earlier on in terms of the UK's response on legislative competence?

[30] **Mark Drakeford:** Chair, I think the UK Government's position was very simple and I don't think you could describe it as sophisticated. Despite attempts by Leighton Andrews and the First Minister to draw out the argument, the reply from UK Ministers tended to be, as you will see in the correspondence, a simple assertion of their belief that these were non-devolved matters and that they were going to go ahead and legislate. And, as Members who were in the last Assembly will recall, a legislative consent motion came before the National Assembly, as part of our belief that the UK Government required the consent of the National Assembly in order to

legislate. That permission was denied, because the legislative consent motion was not agreed. But, despite that, the UK Government went ahead in any case. So, I think, when you see the correspondence, you will see it was difficult to get the UK Government to articulate the rationale behind the assertion they made. They just relied on their belief that this was non-devolved and therefore the National Assembly had no say in the matter.

[31] **John Griffiths:** Before we move on, actually, to another line of questioning, Cabinet Secretary, I wonder if I could ask, just for clarity, whether there were any provisions in the latest UK Trade Union Act or the 1992 Act that fall within the competence of the National Assembly for Wales that you might have chosen to disapply that you have not chosen to disapply.

[32] **Mark Drakeford:** Well, Chair, it is my view that the whole of the 2016 Act is a draconian and regressive piece of legislation aimed deliberately to undermine the legitimate role of trade unions. What we have done is to focus our Bill narrowly and specifically on those provisions that directly impact on how public service employers deal with public services here in Wales. I think it is arguable that there may have been other parts of that Act that were within our competence, but, given the competence arguments that we've rehearsed already, our view was that we should draw the Bill—choose our battles, and choose the ground on which we felt that competence was strongest under our feet. It's not to say that we are conceding that there were not other aspects that could have been within competence, but it's a choice about how you make the arguments that are strongest on your side the most effective.

[33] **John Griffiths:** Okay. I'm grateful for that, Cabinet Secretary. And, Sian, I believe you have some further questions.

<p>[34] Sian Gwenllian: Ie. Wel, gan droi at y tri maes penodol rydych chi wedi penderfynu canolbwyntio arny'n nhw, pam eich bod chi'n meddwl bod angen cael gwared ar y darpariaethau yn Neddf y Deyrnas Unedig yn y tri maes yna, sef gweithredu diwydiannol, amser cyfleuster, a didynnu tanysgrifiadau o gyflogau? A fedrwch chi egluro beth yw pwysigrwydd y tri maes yna?</p>	<p>Sian Gwenllian: Well, yes, I'd like to turn to the three specific areas that you've decided to focus on. Why do you believe that there is a need to remove the provisions in the UK Act in those three areas, which are industrial action, facility time, and the deduction of union subscriptions from wages? Can you explain why and the importance of those three areas to us?</p>
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[35] **Mark Drakeford:** Wrth gwrs. **Mark Drakeford:** Of course. Thank Diolch yn fawr am y cwestiwn. Rwy'n you very much for that question. I'll mynd i droi i Saesneg i'w ateb nhw, turn to English to answer, Chair. Gadeirydd.

09:30

[36] There are, as Sian Gwenllian has said, three particular areas in which our Bill seeks to preserve the status quo. And I want to make that point, Chair, if I could, very early on, that what we are seeking to do is to preserve the successful model of social partnership that we have here in Wales. Although the Trade Union Act has made its way through the UK Parliament and onto the statute book, none of its provisions are yet in force. So, none of the changes that the UK Government's Bill proposes are actually happening, and what our Bill tries to do is to make sure that, where we think that those things would be disadvantageous to public services in Wales and the social partnership model, they don't happen. So, we are not the people seeking change here; we think the way we are doing things has a track record of being successful.

[37] So, we are against the 40 per cent ballot threshold for industrial action by workers engaged in delivering important public services, because those important public services are clearly devolved, although we're yet to see the term 'important public services' defined in regulations. But we know, from the passage of the Bill, that health, education of children aged under 17, and the fire services, are certainly part of what the UK Government intend.

[38] The 40 per cent ballot threshold is an arbitrary threshold. It impacts on the democratic rights of workers, and it is the antithesis of social partnership. The provision could mean that four out of five people taking part in a ballot would have to vote in favour of industrial action before that action would be lawful. That does not seem to me to strike the right balance between the rights of workers in the final analysis to take industrial action when all other measures have been exhausted. I also think it is likely to be highly counterproductive; it is likely to lead to what we used to, a long time ago, call 'wildcat strikes', where people unable to take action in a legitimate way find other ways of taking action, which is much more disruptive to public services. We, in Wales, try to manage this and manage it successfully through the partnership model we have of people coming around the table together and, in an equal way, being able to navigate a path through some difficulties.

The 40 per cent threshold will make that more difficult.

[39] As far as facility time is concerned, I don't think we can be under any illusion about what the purpose of the facility time restrictions are in the Bill, because UK Government Ministers made it clear, when the Bill was going through the Houses of Parliament, that the provisions are there to reduce the amount of facility time available to trade union representatives, as though facility time were only a cost on the public purse, whereas we know very well that the duties that trade union officials undertake through facility time prevent an enormous amount of difficulties that, otherwise, employers would face. Because here are people discharging health and safety obligations, making sure that difficulties are spotted early on and are resolved in grievance or disciplinary matters. Facility time is a very valuable tool for employers as well as employees, and attempting artificially to cut down on it will make the conduct of industrial relations and the social partnership model more difficult, not easier.

[40] As far as check-off is concerned, again, it is part of the way that we do things here in Wales. I have never received a single complaint from any employer about check-off facilities. They simply allow trade unionists to pay their dues in a way that is straightforward for them and comes at no significant cost to employers and means that trade unions are able to play the part we need them to play in the successful conduct of industrial relations. If you change those things, all of them have an impact on the conditions of employment in devolved public services; all of them aim to impact on the way in which public services are provided, therefore each one of them relates to section 108 of the Government of Wales Act and brings those three measures within the competence of this Bill.

[41] **Sian Gwenllian:** Diolch yn fawr. Mi fydd, rwy'n siŵr, aelodau eraill y pwyllgor yn mynd ar ôl y tri maes yn fwy manwl, ond a ydych chi'n gweld y tri maes yna yn dod at ei gilydd fel pecyn? A ydy hi'n bwysig bod y tri yna, neu a ydy un yn bwysicach na'r lleill?

Sian Gwenllian: Thank you very much. I'm sure that other committee members will look in more detail at those three areas, but do you see those three areas coming together as a package? Is it important that the three are there, or is one more important than the others?

[42] **Mark Drakeford:** Na, yn fy marn i maen nhw i gyd yn dod gyda'i gilydd fel pecyn o bethau. Maen nhw

Mark Drakeford: No, in my opinion they all come together as a package of issues. They all have an impact on

i gyd yn cael effaith ar y ffordd rŷm ni eisiau gwneud pethau yma yng Nghymru, ac maen nhw'n cael effaith un ar ôl y llall hefyd. So, nid ydw i'n meddwl eu bod nhw mewn rhyw fath o restr lle mae un yn fwy pwysig nag unrhyw un arall. Maen nhw'n dod gyda'i gilydd. Dyna pam rŷm ni wedi eu rhoi nhw i gyd yn y Bil.

the way in which we want to do things here in Wales, and they have an impact one on the other, consequentially. So, I don't think that they're in any kind of list where one is more important than the other. They all come together. That's why we've put them all in the Bill.

[43] **Sian Gwenllian:** Wedyn, rydych chi wedi sôn am y bartneriaeth gymdeithasol, ac mae hyn yn rhan o hynny, onid ydy? Pam mae'r bartneriaeth gymdeithasol yma mor bwysig? Efallai fedrwch chi egluro yn gyntaf beth ydy'r bartneriaeth gymdeithasol. Beth mae hynny'n ei olygu ar lefel genedlaethol, a sut mae hynny'n treiddio i lawr i lefel lleol?

Sian Gwenllian: Then, you've talked about the social partnership involved, and this is part of that, isn't it? So why is this social partnership so important? Perhaps you could first of all explain what the social partnership is. What does it mean on a national level, and how does that then percolate down to the local level?

[44] **Mark Drakeford:** Rydw i'n cytuno yn llwyr: mae partneriaeth gymdeithasol yng nghanol y Bil, yng nghanol y pwrpas o ddod â'r Bil o flaen y Cynulliad Cenedlaethol.

Mark Drakeford: I do fully agree that social partnership is central to the Bill and the purpose of bringing this Bill before the National Assembly.

[45] Social partnership is absolutely at the heart of the debate here. Since devolution, we have developed in Wales a distinctive approach to the way in which we try and address some of the very significant issues that face all our public services. The model, Chair, is very simple, I think. You can take a view that industrial relations are essentially adversarial and should be fought out between the different players involved, or you can take the view that all those partners that have a stake in making our public services as good as they possibly can be—that they all have a collective interest in making that happen. And it's the second model that we've developed here in Wales.

[46] So, we have a series of mechanisms that we have developed over the period of devolution to make sure that there are forums in which the Welsh Government, the employers in public services, the representatives of employees in public services, and sometimes wider partners as well, are able

to get around the table together. So, the workforce partnership council, as an example, meets three or four times a year. It is chaired alternatively by the First Minister and by myself; the joint secretaries of that forum are the employers and the Wales Trades Union Congress. So, you can see, it's designed to be a forum where partners come on a basis of equal participation and equal voice in order to address a series of common interests. Just in the last period, for example, the workforce partnership council has taken a very important role in looking at the skills support that we need for the public sector workforce as the pattern of employment in the public services alters. It agreed action on blacklisting in the construction sector, it had the report of a living wage in the NHS, it produced a refreshed two-tier code in the workplace in Wales, and it did all that by agreement. That is the cornerstone of the social partnership model, and, when action is taken that tips the balance in a different way, makes it harder for people to come together in that spirit of collective co-operation, then our model is undermined. That's why we are taking action in this Bill: to make sure that we can secure the ground that we have already in Wales, and can go on discharging those challenging responsibilities in that way in the future.

[47] **Sian Gwenllian:** Felly, mae'r term 'partneriaeth gymdeithasol' yn rhywbeth sydd yn cwmpasu ffordd o weithio sydd wedi datblygu yng Nghymru dros y cyfnod ers datganoli, ac mae'n golygu nifer o wahanol fforymau ar lefel cenedlaethol, ond hefyd ar lefel lleol.

Sian Gwenllian: So, this term 'social partnership' is something that encompasses a way of working that has developed in Wales over the post-devolution period, and it means a number of different fora on a national level, but also at a local level.

[48] **Mark Drakeford:** Ar lefel lleol. Hefyd, wrth gwrs, mae'r term yn dangos y ffordd rydym ni'n trio tynnu at ei gilydd pobl sy'n bwysig yn y maes, a hefyd mae'n dweud rhywbeth am y ffordd rydym ni'n trio gweithio gyda'n gilydd. Dyna pam rydym ni'n defnyddio'r term. Rydym yn gallu dangos y ffordd rydym wedi ei wneud e ar lefel genedlaethol, ond hefyd rydym yn gallu dangos beth rydym wedi ei wneud mewn sectorau ac hefyd rydym eisiau treial cael yr un

Mark Drakeford: Yes, at a local level. Also, of course, the term shows the way in which we try to pull together people who are important in the area, and it also says something about the way we're trying to work together. That's why we use the term. We can show the way we've done it at a national level, but also we can show what we've done in sectors and also we want to try to have the same method of action at local level as well.

ffordd o weithredu ar y lefel leol hefyd.

[49] **Sian Gwenllian:** Nid yw bob tro yn gweithio, wrth gwrs, nac ydy? Mae yna enghreifftiau diweddar o anghydfod ynghylch amgueddfeydd Amgueddfa Cymru, onid oes? Nid yw'n gweithio bob tro, yn amlwg.

Sian Gwenllian: It doesn't always work, of course. There are recent examples of conflict over the museums of the National Museum Wales, aren't there? It doesn't always work, obviously.

[50] **Mark Drakeford:** Na.

Mark Drakeford: No.

[51] It's never part of our argument, Chair, that social partnership can be a magic wand that means that there are no areas of difficulty. I think we would claim that it has a very successful track record in narrowing down those areas, but it can't eliminate them. And in the end, when all the other methods that we would wish to see attempted haven't succeeded, it is right that people who work in public services have the right to withdraw their labour. But it is a last resort, not a first resort, and we think our model makes that much more likely.

[52] **Sian Gwenllian:** A beth sy'n bwysig, mae'n debyg, efo'r bartneriaeth gymdeithasol ydy bod o'n arwain at wasanaethau cyhoeddus effeithiol i bobl y wlad. A oes gennych chi dystiolaeth o hynny—bod y bartneriaeth gymdeithasol yma wir yn gwneud gwahaniaeth i bobl sydd yn defnyddio'r gwasanaethau cyhoeddus yng Nghymru?

Sian Gwenllian: And what's important in terms of the social partnership, I suppose, is that it leads to effective public services for the people of the nation. Do you have evidence of that—that this social partnership really does make a difference to people who are using these public services in Wales?

[53] **Mark Drakeford:** Wrth gwrs. Rwy'n meddwl ein bod ni'n gallu dangos hynny yn glir. Jest un pwynt cyffredinol i ddechrau. Mae'n bwysig imi ddweud yn glir fod y bobl sy'n aelodau o undebau—y bobl sy'n gweithio yn y maes gwasanaethau cyhoeddus—yn aelodau o'r cyhoedd

Mark Drakeford: Of course. I think that we can show that clearly. Just one general point to start. It's important for me to state clearly that the people who are members of the unions—those who work in the area of public services—are also members of the public. They use the same

hefyd. Maen nhw'n defnyddio'r un services. So, I don't want to go down gwasanaethau. So, nid wyf yn fodlon the route that the Westminster mynd lawr y llwybr mae'r Llywodraeth Government is going down, where it yn San Steffan yn mynd i lawr, lle always tries to divide those people mae'n trio bob tro i rannu pobl sy'n who work for a service and those who gweithio oddi wrth y bobl sy'n use a service. They are the same defnyddio gwasanaethau. Yr un bobl people. So, just to pursue those ydyn nhw. So, jest i fynd ar ôl yr examples for a minute. enghreifftiau am funud.

[54] So, back in 2013 there was a difficult set of circumstances in the education field. There was a long-running dispute involving members of the education unions. It led to strike action in England. Here, we were able to get the parties around the table together. A way forward was agreed, and strike action in Wales was avoided.

[55] In the following year, there was a dispute with the fire service. It was initially an England and Wales dispute. Again, we were able to bring people around the table together. We were able to find a small set of important changes that allowed the fire service in Wales not to take action here in Wales, whereas strike action on 5 November went ahead across our border.

[56] In 2015, when I was the health Minister, the Secretary of State for Health in England, Jeremy Hunt, imposed a series of non-negotiated changes on 'Agenda for Change' staff in England. It led to strikes by nurses, by midwives, by occupational therapists and by a wide range of other professional workers in the English NHS.

[57] Now, Chair, I can tell you that reaching a different agreement in Wales was not an easy thing, because we had no more money to offer in Wales than had been offered proportionately in England. These are very tough times for public services, and I had to be clear when I met with the health unions that I couldn't solve the problem simply by finding extra money. What I was willing to do was to talk to them about the quantum and how it would be distributed in Wales. We reached a very different agreement where we took the sum of money that was available, and we distributed it in a way that was to the advantage of the lowest paid workers in the health service. That's how we were able to agree the living wage in the health service. And, you know, there were tough negotiations.

09:45

[58] I don't want to suggest for a minute that social partnership is an easy model or a cosy model—it's not. It involves some very tough talking, but it involves some tough talking between people who are agreed on the need to try to secure an agreed outcome. We were able to do that for 'Agenda for Change' staff. We had no strikes at all amongst 'Agenda for Change' staff here in Wales. Last year—this is the fourth year running—there were junior doctors on strike in England, and not just on strike but on strike in a very, very bitter way, where relations between the Department of Health and some of its key staff were at a very low ebb indeed.

[59] I've had some disagreements with the BMA over the years, and relations are not always easy, but our approach was to get the junior doctors' representatives in the room, talk to them about the way that we want to do things in Wales, and find a different path ahead with them. As a result, we had no junior doctor strikes here in Wales. So, when I say that we've got a model that succeeds, I think we have very, very good evidence of the way that we've been able to do things in Wales and that it contrasts with where public services end up when you take a much more confrontational approach.

[60] **John Griffiths:** Thanks for that, Cabinet Secretary. I think we have to move on, Sian.

[61] **Sian Gwenllian:** Just one small one.

[62] Jest i fod yn *devil's advocate* Just to play devil's advocate for a moment, one could argue that the reason that things work so well in Wales is that the trade unions are run by Labour and that the Government is run by Labour, so it's easier for you to have these negotiations and, therefore, it's easier for you to work hand in hand. Perhaps there may be some secret discussions and it may be of advantage to the Labour Party to reach that point. This is a question that people do raise.

am funud, mi fuasai rhywun yn gallu dadlau mai'r rheswm bod pethau yn gweithio mor dda yng Nghymru ydy bod yr undebau llafur yn cael eu rhedeg gan y Blaid Lafur a bod y Llywodraeth yn cael ei rhedeg gan y Blaid Lafur, felly ei bod hi'n haws ichi gael y trafodaethau ac ei bod hi'n haws, felly, i weithio law yn llaw. Efallai bod yna drafodaethau dirgel yn digwydd, a'i bod hi'n fuddiol i'r Blaid Lafur i gyrraedd y sefyllfa yna. Mae hwn yn gwestiwn y mae pobl yn ei ofyn.

[63] **Mark Drakeford:** Wrth gwrs y mae pobl yn dweud hynny. Nid wyf yn cytuno gyda hynny o gwbl, wrth gwrs. Nid yw'r BMA yn rhan o'r Blaid Lafur o gwbl. Nid wyf yn meddwl bod yr undebau yn y maes addysg yn rhan o'r Blaid Lafur. Hefyd, nid yw'r FBU wedi bod yn rhan o'r undebau sy'n perthyn i'r Blaid Lafur. Wrth gwrs, fel Llywodraeth Lafur, mae rhyw fath o gydymdeimlad gennym ni â'r undebau—mas o'r undebau y cafodd y Blaid Lafur ei chreu—ond, o ran yr enghreifftiau yr wyf wedi'u rhoi, nid ydynt o gwbl yn dweud ein bod ni'n gallu gwneud pethau fel hyn yng Nghymru achos rŷm ni i gyd law yn llaw bob tro.

Mark Drakeford: Of course, people say that. I don't agree with that at all. The BMA isn't part of the Labour Party at all. I don't think that the unions in education are affiliated to the Labour Party, either. The FBU hasn't been affiliated to unions under the umbrella of the Labour Party. Of course, as a Labour Government, we have some empathy with the unions—the Labour Party arose from the unions—but the examples that I've given are not at all saying that we can do things like this in Wales because we're all hand in glove.

[64] **John Griffiths:** Okay. Rhianon, you had a short follow-up question.

[65] **Rhianon Passmore:** Thank you, and thank you for that articulation of the social partnership model. With regard to section 13 of the Bill—the requirement for public sector employees to publish information with regard to facility time—what is the perceived impact that that would have in terms of those trade union officials, if we were to go down that path that they're going down in England? Why do you think that the UK Government has inserted that?

[66] **Mark Drakeford:** I think that the UK Government was clear, Chair, in why they pursued that course of action. They said during the passage of the Bill that those provisions were there to, and this is a quote,

[67] 'encourage those employers to moderate the amount of money spent on facility time'.

[68] Again, in another quote, they said it was,

[69] 'to limit the paid time off taken by the employers' trade union representatives for facility time'.

[70] So, this is not, as sometimes it is portrayed, a sort of thirst for knowledge, in which UK Government Ministers are simply wishing to put information into the public domain. Their intention was clear—that it was to try to reduce the amount of time that trade union officials would have at their disposal to carry out that very important industrial relations work that I identified earlier.

[71] Chair, I said in the introduction statement on the floor of the Assembly that it's 2.8 per cent of public service workforces that have a full-time trade union official, and it's 2.2 per cent of private sector employer settings that have a full-time trade union official. So, it is not like this is something that is endemic. I worry more about the 37 per cent of workplaces that don't have any trade union representation, because the record shows that when you have effective trade union representation, it works for the benefit of employers and the public services, and therefore the people who use those public services, just as much as it does for trade unions. That's why we've never had a single complaint or inquiry from any public sector employer in Wales seeking to act in the way that the UK Government's Act would require them to do.

[72] **Rhianon Passmore:** Thank you.

[73] **John Griffiths:** Okay, we'll be coming back to facility time later. Perhaps at this stage we could turn to Jenny Rathbone and some questions on agency workers.

[74] **Jenny Rathbone:** Okay, before I come to the issue of agency workers and whether or not you're going to include it in the Bill, I think I just need to clarify exactly who is or isn't covered by this Bill. You've set out quite clearly some of the agencies that are not covered, but if I take social welfare, No. 15 in your list of areas that are covered, where does that leave—? Most social care in the home is delivered by private agencies at the moment. I just wondered whether they're—. They're obviously commissioned by local authorities or, in some cases, health boards. Are they covered by this, or are they excluded from it?

[75] **Mark Drakeford:** Chair, this is a trade union Bill, so it would depend whether those workers were members of trade unions.

[76] **Jenny Rathbone:** Absolutely, but if they were members of trade unions

working for a private organisation delivering public services, are they covered?

[77] **Mark Drakeford:** I'll just ask Paul, to be sure that I give you the right answer.

[78] **Mr Webb:** 'Important public services' would cover both those directly employed by the provider and those who are commissioned by the provider. So, the definition that would restrict strikes in those circumstances would cover both.

[79] **Ms Charles:** As far as the Bill's concerned, this will just apply to devolved Welsh public bodies.

[80] **Rhianon Passmore:** Sorry, could you speak up?

[81] **Ms Charles:** Sorry, as far as our Bill is concerned, it will only apply to devolved public bodies. So, it won't apply to any bodies in the private sector, even if they are working in services that have been commissioned by a public sector organisation. It is simply the devolved public bodies that are covered in the Trade Union (Wales) Bill.

[82] **Jenny Rathbone:** So, somebody who's delivering social care in somebody's home, working for X, Y and Z company, but obviously commissioned by a local authority, they would be covered.

[83] **Ms Charles:** They wouldn't be covered.

[84] **Jenny Rathbone:** They would?

[85] **Ms Charles:** They wouldn't be covered.

[86] **Mr Webb:** I think there's a distinction here that we need to draw. On the ballot threshold—the 40 per cent restriction on the ballot threshold—the intention of the UK Government is to introduce that to cover both directly provided and indirectly provided services. Therefore, indirectly provided services, because we are disapplying that provision to Wales, that, whether it would or wouldn't—I'm getting myself in tangles here. That means that somebody who is providing a service employed by a private sector employer would not be subject to that 40 per cent ballot threshold. Facility time and check-off for somebody who is represented by a union entirely within the

private sector would not be covered because our Bill addresses public service providers.

[87] **John Griffiths:** Cabinet Secretary, I think it might be useful if a note might be provided to the committee.

[88] **Mark Drakeford:** Absolutely, I was just going to say that, Chair. Given that it is clearly complex and differs between the different provisions, and the fact that we're yet to see the UK Government's definition of 'an important public service', we'll write to you and set it out clearly for committee members.

[89] **John Griffiths:** That would be very useful.

[90] **Jenny Rathbone:** Thank you, because it's a pretty fundamental issue.

[91] **John Griffiths:** Jenny.

[92] **Jenny Rathbone:** Okay, I just wanted to ask you about the issue of agency workers. It's not in the draft Bill that we've got in front of us, but I know you were consulting on whether the Bill would prevent the use of agency workers during strike action. I just wonder whether you can clarify what your current thoughts are on that.

[93] **Mark Drakeford:** Thank you, Chair. Indeed, we carried out a consultation on that issue between 13 September and the closing date at the start of December. The normal time available to the Welsh Government to report on a consultation of that sort would end at the beginning of March, but I hope to be able to publish the results of the consultation earlier than that. I'll then need to reflect on what the consultation has told us. Should there be a need to bring forward a Stage 2 amendment to include that matter within this Bill, there will still, I believe, Chair, be ample time for the committee to consider that.

[94] **Jenny Rathbone:** Okay. Well, this is a pretty important matter, because, on the one hand, nobody's going to want to have brain surgery being delivered by an agency worker, but, on the other hand, they might want to have an agency worker to deliver social care in the home for their elderly relative. So, obviously we will have further opportunity, I hope, to discuss this.

[95] I suppose I just want to ask why you introduced the Bill without having already decided whether or not you were going to include this matter in the Bill.

[96] **Mark Drakeford:** Well, Chair, this is because we are inevitably sometimes having to chase moving targets as far as the UK Government is concerned. At one point, they indicated that they were intending to legislate to allow the use of agency workers to cover people taking industrial action, but that trail has gone very cold. There's been nothing further said publicly about their intentions in that area.

[97] So, there was a debate as to whether or not we ought to have a consultation on something that we didn't know was going to happen, but, in the end, knowing that this Bill was likely to be in front of the National Assembly, I felt it was right to test the views of the public services and the public in Wales on that matter, so that if it were something that we did need to attend to, we would be able to take the opportunity of this Bill. So, it's carefully timed to allow Members of the Assembly to scrutinise whatever course of action the Government may choose to take once the consultation results have been fully analysed and we understand what the views of people in Wales might be. But the timing is the difficulty—the uncertainty created by not being clear about what the UK Government itself intends to do in this area.

[98] **John Griffiths:** Okay. Jenny, some further questions, I think, you have on the check-off arrangements?

[99] **Jenny Rathbone:** I wasn't going to do check-off. I was interested in pursuing facility time.

[100] **John Griffiths:** I see, okay. In that case, then—

[101] **Jenny Rathbone:** I'm happy to pursue the check-off.

[102] **John Griffiths:** Perhaps I could begin, Cabinet Secretary, by asking you really to expand on why you are seeking to remove those restrictions on deductions of union subscriptions from wages in the public sector.

[103] **Mark Drakeford:** Well, Chair, I don't want to sound boring on this matter, but I'm just going to say it again: we are not seeking to change the position. So, you ask me why I'm seeking to change something. I'm not

seeking to change something. I'm simply seeking to allow the position that has been there since 1992 and was perfectly satisfactory to Conservative administrations at the time and since. Why should that be changed in Wales? So, in some ways, it is not for me to justify the change, because I'm not seeking change.

[104] The intentions of the latest UK Government and their Act of last year are clear. They are designed to try and make it more difficult for individual members of trade unions to sustain their membership, to remove a facility that has been there without difficulty for many, many, many years. We see no case for doing that, we've had no complaints about it raised by employers, it does not cost significant amounts of money, and the changes would themselves add complexity and regulatory burdens to business. So, our view is that these things are both unnecessary and, if they were to take place, they would damage our ability to go on pursuing a social partnership model where all partners at the table are in a position to discharge their part of that bargain.

[105] **John Griffiths:** Thank you for that. Janet.

[106] **Janet Finch-Saunders:** What about the fact that many trade union members feel that they're being misled because the deductions and everything are usually, quite often, well hidden within the payslip? We're in an age now of direct debits and things. Surely people should have the choice, or an option, and not feel that they're sort of misled in this way.

10:00

[107] **Mark Drakeford:** Well, I don't accept that at all, Chair. No employer is obliged to offer check-off facilities, and no employee is obliged to take advantage of them. I don't see any evidence that people feel that making use of that facility is somehow an infringement on their ability to organise their own affairs. If you don't want it, you don't have to have it.

[108] **John Griffiths:** Okay. Rhianon.

[109] **Rhianon Passmore:** Thank you. You've answered this, in part, already. In terms of the importance of those three issues that we've covered already, in terms of facility time, check-off and others, what is the perspective, and what is the thought process behind the impact of the status quo disappearing in terms of Welsh public relations? What would be the impact in

terms of this Bill not going through?

[110] **Mark Drakeford:** Well, if the changes in the UK legislation were to impinge on Welsh public services, we would be obliged to conduct those relations in a way that we think would be injurious to the proper conduct of industrial relations in our public services, and that will make it more likely, not less likely, that people who use those public services would be adversely affected. We think that the changes will lead to things being more difficult, and outcomes worse. We think continuing with our successful model will protect the way in which we do things in Wales now, and allow us to continue to develop that social partnership model.

[111] **Rhianon Passmore:** Okay, thank you.

[112] **John Griffiths:** Okay. And Jenny.

[113] **Jenny Rathbone:** I think your point's well made. Obviously, our attempt is to eliminate duplication, not to magnify it. I just wanted to seek any clarification that you might be able to give us on whether employers charge for processing charitable donations. It was recently introduced as something that employees could do, and that employers would do it as part of pay-as-you-earn. It seems to me that they're both simple processes, and I just wondered whether employers charge for either of these services.

[114] **Mark Drakeford:** Well, Chair, it's a very good point, isn't it? Check-off is used for other purposes than trade union membership. We encourage, for example, as a Welsh Government, public service employers to allow people to join credit unions, by check-off through their wages, and that's been very broadly supported by all parties across the Assembly, where we've got a very strong record of cross-party support for credit unions. Nobody seems worried about the costs of that, and the costs are de minimis, as they say. The system is running. Adding this into it really does not add materially to costs. There are examples in Wales where trade unions make a contribution to the cost of covering it, but it is at a modest scale, and the modest scale reflects the modest costs to employers. The fact that this one example of check-off is being singled out tells you, I think, that this is not an argument about costs and mechanics and things. It is about trying to reduce the effectiveness of trade unions and their ability to carry out their legitimate role on behalf of their members.

[115] **John Griffiths:** Just a few further questions on that area, Cabinet

Secretary, in terms of how a committee can establish the facts. Would you have figures? Could you provide the committee with figures on the number of public sector employers in Wales who provide those check-off facilities and the number who charge trade unions for the service?

[116] **Mark Drakeford:** I can be of some help to the committee, Chair, I hope, but in general, my view is that these are matters for local operational determination. We do not routinely collect information of the sort that you have just described, nor do we see any reason to do so. These are matters to be negotiated between trade unions and employer-side representatives in the workplace, but we know that check-off is used substantially across the public service workforce in Wales. There are around 80,000 individuals that we are aware of, but that figure doesn't include teachers, civil servants or Welsh Government-sponsored bodies. So, the actual figure is likely to be higher. But these are arrangements that are for agreement between individual employers and trade unions, and I don't seek to interfere in the successful way and the unproblematic way that those arrangements have continued in Wales for many, many years.

[117] **John Griffiths:** Do you consider, Cabinet Secretary, that there should be an expectation on public sector employers in Wales to recoup the cost of providing the check-off services—recoup that from the trade unions?

[118] **Mark Drakeford:** Well, no public body has ever raised that matter with me, Chair. We know that there are examples where trade unions do provide a sum for the service to cover any costs. As I say, I regard it as an operational matter and an unproblematic matter that has been successfully negotiated at local level between employers and employees, and that there's no reason—there's no problem here to solve, and therefore I don't intend to take any action to try and address a matter that doesn't need addressing.

[119] **John Griffiths:** Okay, thank you for that, Cabinet Secretary. Perhaps, then, we could turn to facility time. We touched on it, Joyce, but I know you have further questions.

[120] **Joyce Watson:** Yes. You've given a very good overview of facility time, but I want to ask some specifics of you, Cabinet Secretary. One of the arguments by the UK Government has been that publicising the use of facility time would bring to bear some more transparency. They give that, really, as a reason, if you like, for removing it. The implication seems that people are using inordinate amounts of time by being granted facility time at cost to the

employer. So, that's my reading of it. I would like you, if you would, Cabinet Secretary, to explain why you think that it's an integral element of the social partnership work that you have taken great pains to describe very eloquently.

[121] **Mark Drakeford:** Thank you, Chair. Maybe I can provide a little bit more detail to the answer I gave earlier in identifying those purposes that are successfully discharged through the use of facility time, and why facility time is to the benefit not simply of workers and their trade unions, but to the service itself and, therefore, to members of the public. So, I believe that successful use of facility time means that there are savings to the employer, and to the Treasury therefore, as a result of reduced employment tribunals. In my experience of trade union officials who have facility time, they are problem solvers. That's what they spend their time doing; they spend their time trying to make sure that difficulties in the workplace do not escalate and end up in the expensive part of the system. They are always working away at things that can be resolved and should be resolved, but if they weren't there and they couldn't be resolved would only end up being pushed further and further up the chain of more and more expensive ways of trying to resolve them.

[122] People there to carry out duties under facility time produce benefits as a result of reducing days lost to workplace injury. The health and safety responsibilities that people using facility time discharge are really important. They mean that those things, which, if they went unattended, would cause a risk to workers but also to people using public services, are identified and resolved early on. They play an important part in occupational health services, which means that there is reduced loss of time through illness, and so on. They help reduce dismissals and the loss of people with scarce skills, and they are absolutely instrumental in bringing forward new ideas as to how services can be better developed and provided. I've had, Chair, the privilege over the last five years, of presenting awards here in the Senedd, where, for example, the South Glamorgan branch of UNISON provide awards to people who work in the health service who bring forward new ideas to improve the way that services are provided to the public.

[123] The people who work in our public services, our very committed and dedicated workforce, are often the best source of ideas as to how to make the service better, and facility time allows trade union officials to identify those ideas, promote them with management and get them put into practice. In all of those ways, facility time results in benefits to the workplace, to the service and to the people who use it. The UK Government provision wants to

regard facility time simply as a matter of costs, and they would want to report it just as a burden on the service. They have no interest at all in reporting the rewards, the benefits that you get from facility time and the way that, in the longer run and in the round, that reduces costs to the service and to the public.

[124] **Joyce Watson:** If I can, in response to your last statement, there was an assertion within this Bill that if you did reduce facility time and if you did improve the transparency that surrounds it, that would potentially deliver significant savings in public money. It brings you squarely back, and I'm quoting—not my views here, but the views of the UK Government, just to be clear. So, you remain steadfastly convinced that that is absolutely diametrically opposed to what you believe the true cost might be.

[125] **Mark Drakeford:** Well, I believe that the case that you've articulated, which is the UK Government's case, does not stand up to examination. I provided figures earlier on, Chair, of the very, very small number of settings where there are full-time trade union officials. I've also tried to set out why, where employers have agreed to providing facility time of that sort, it's because it is in their interests to do so, and they understand that. They see that a small investment in preventing things from going wrong leads to the saving of costs later down the line. They don't want to report it in that way, because they're not interested in the sort of bargain that I've described today in which the contribution of trade unions is valued, understood and put to work as part of a wider social partnership approach.

[126] **Mr Webb:** Just to add for the benefit of the committee, the provisions of the Trade Union Act 2016—the UK Act made provision for reporting of facility time and a power for UK Ministers to restrict the use of facility time. The power of UK Ministers to restrict facility time cannot be utilised until there has been at least three years of reporting facility time, and, therefore, the quantum of facility time that would be delivered would be unchanged for that period.

[127] **Joyce Watson:** I think we've given it a fairly good airing.

[128] **John Griffiths:** Jenny.

[129] **Jenny Rathbone:** There's no point in us passing equality Acts, race relation Acts and other Acts of this nature if we don't have people in the workplace who are going to deal with issues of bullying, racism and

homophobia. Unfortunately, in some cases, it's the employer doing this; in other cases, it's other employees. So, I think that trade union representation is absolutely essential to prevent all these things, and I just wondered why we are being shy about the transparency issue, given that we—. I'm completely convinced that there is a really important role for trade union representatives, and is this resistance from employers who don't want the burden of having to get people to fill in time sheets? What is the problem here?

[130] **Mark Drakeford:** The problem is not a problem of transparency, Chair, I believe, because this information is available for anybody who wants it. If you want to know how much facility time Cardiff and Vale health board provide, you can ask them and they can tell you. So, it's not that the information isn't there. The argument is about a partial and distorted reporting of facility time, in which all that the Act requires is that the cost of providing it is published, with no obligation at all to make any assessment of the benefits that have been derived from it. That's why I'm opposed to the model that the Act sets up: it's because it provides a distorted account of the way that proper industrial relations are conducted. And if we were to do that in Wales, as well as creating all those burdens of having to report something that is then misleading to the public, it actually distorts the lens through which we would regard facility time, and that has an undermining effect on the way that we seek to do things here.

10:15

[131] **John Griffiths:** Okay. Janet, a further question on this?

[132] **Janet Finch-Saunders:** Yes. Can you actually, yourself, as the Cabinet Secretary who is introducing this Bill and hoping this Bill will go through, provide us with the figures on the cost of facility time and details of any monitoring arrangements for the use of facility time? I think that's really a key part of this. As you will be aware, Cabinet Secretary, we've always agreed on this: that there needs to be more, an increase, in transparency in all actions and duties carried out within our public bodies in Wales, and whilst you say the percentages are low, that's still a lot of taxpayers' money that is being spent on facility time for unions that might not actually be appreciated by many—certainly, council tax payers, or taxpayers in the main.

[133] **Mark Drakeford:** Well, Chair—

[134] **Janet Finch–Saunders:** Have you got the figures yourself?

[135] **Mark Drakeford:** No, I don't have the figures, Chair, because I don't think—. Well, let me answer the question in a number of different ways. First of all, Janet, I think what you're asking me to do is to spend more public money on new regulatory burdens for no good purpose, because of course I sign up to the transparency agenda, where there is a worthwhile outcome to be pursued. All the information that you have highlighted is already available. If any council tax payer in any part of Wales wanted to know how much facility time their local council is providing, they can ask them, and they'll be told. I don't collect it centrally, because there's no purpose in my doing so. And if I were to collect it centrally, I would not be willing to do it in the partial and biased way that the Trade Union Act 2016 requires, where facility time is regarded simply as a burden, with no account at all to those taxpayers of the very many things they get back as a result of that very small upfront investment.

[136] **Janet Finch–Saunders:** Could I just come back on that? There is the argument, of course, about the actual costs of bringing this Bill forward in the first place, given the priorities we have in Wales, and how often Welsh Government refers to challenging circumstances, tight situations in terms of financial terms; what—? How do you feel that our citizens in Wales feel that this is a really important Bill to come forward, and at this time, when there are far more competing priorities?

[137] **Mark Drakeford:** Well, of course, Chair, Janet is right that there are political choices to be made in the programme that the Government brings in front of the National Assembly. I believe we are on very firm ground in bringing this Bill forward. We made a commitment in the last Assembly, when an LCM was passed here by a very significant majority of Members of the National Assembly not wishing to see this Bill applied to public services in Wales. When that LCM was ignored by the UK Government, Ministers made a commitment on the floor of this Assembly to bring forward this Bill. That commitment was repeated in the manifesto of the Labour Party, so it's been in front of the public in a manifesto, and Labour leads the Government here. The intention to bring forward a Bill was announced by the First Minister at the end of June last year, when he set out the legislative programme for this year. So, of course there will be people who would have other priorities and different views, that's the nature of politics, but there is a thread that leads to this Bill that has democratic legitimacy written all the way through it, and I feel absolutely confident that we are bringing this forward in a way that is

legitimate in that way.

[138] **John Griffiths:** Okay. Rhianon, a question on these issues.

[139] **Rhianon Passmore:** In regard to the comments around time wasted on this Bill and the necessity of pushing this forward, do you perceive or have you any comment in terms of this UK legislation that is focused on the diminution of workers' rights in Wales? Do you feel that that is regressive for Wales, and that that is detrimental to relations industrially in Wales? And therefore, would you feel that this Bill would counter that effectively and therefore not produce negative industrial relations in Wales?

[140] **Mark Drakeford:** Well, Chair, the Bill saves money. Janet asked me a question about the costs of bringing forward the Bill; the Bill saves money. The regulatory impact assessment sets out that we will not need to incur costs in Wales if this Bill succeeds, which otherwise employers would have to incur in pursuing the facility time reporting and so on. So, this Bill means that there will be more money available in Wales for front-line public services than there would be if the UK Government's Bill were to be imposed in Wales. And beyond that, in the way that Rhianon has just articulated, if, as we believe, the UK Government's Act would make the conduct of industrial relations more conflictual in Wales and harder to carry out successfully, then, of course, that will incur further costs, all sorts of costs—direct financial costs, indirect costs in the impact on users of services and so on. So, absolutely, our position is that our Bill will save costs in Wales, not add to them.

[141] **John Griffiths:** Okay. We'll move on then to some of the provisions around ballots. Janet, I think you have some questions.

[142] **Janet Finch-Saunders:** Yes. The UK Government argued that the provisions on ballot thresholds in the UK Trade Union Act 2016 seek to address the rights of people who are adversely affected by industrial action, and ensure that industrial action has a strong democratic mandate. Could you give me your view on the requirement that at least 50 per cent of all members entitled to vote must exercise their right to vote in order for industrial action to be taken?

[143] **Mark Drakeford:** Well, Chair, that part of the UK Bill is not part of our Bill in front of this Assembly. Personally, I regard that provision of the UK Act as regressive. I see that they don't intend to apply it to the sort of elections

in which we are all involved.

[144] **Janet Finch–Saunders:** There's a big difference between the general election—that includes all the people.

[145] **John Griffiths:** Janet, please don't talk across. Carry on, Cabinet Secretary.

[146] **Janet Finch–Saunders:** You can't compare.

[147] **Mark Drakeford:** Well, I think you can compare, Chair. You know, we may have different views on that. If a 50 per cent turnout would apply to Assembly elections, there would be two Members of the Conservative Party left in this National Assembly. So, why it is right to insist that in a trade union ballot 50 per cent of the members must take part in order to secure, as I wrote down when Janet was saying, 'a strong democratic mandate', and then why it is not required for people who end up here to have a ballot in which at least 50 per cent take part? It baffles me. And I think it's not to do with democratic mandates at all—it is trying to undermine the ability of trade unions to carry out their legitimate activities. But on the specific point that I was asked, this Bill doesn't address that matter.

[148] **John Griffiths:** Okay, Janet?

[149] **Janet Finch–Saunders:** Yes. I've got more questions.

[150] **John Griffiths:** Yes, carry on.

[151] **Janet Finch–Saunders:** Could you outline why you are seeking to remove the 40 per cent support threshold for industrial action affecting important public services where these services are provided in Wales?

[152] **Mark Drakeford:** Well, Chair, I said in an earlier answer that this introduces an entirely artificial threshold—a threshold designed to make legitimate industrial action much, much more difficult. And the reason that I'm against that in Wales is that I think it is counter-productive, and it risks leading to longer-running other forms of protest that would, in fact, be even more damaging to services and to people.

[153] So, if people find that courses of action that are fair and which they have a right to pursue are being closed off to them, then I think that will

have perverse and unintended consequences. I don't think it will promote the harmonious conduct of public services. I don't think it will lead to the conduct of industrial relations in the spirit of conciliation and of a collective wish to pursue common goals. I think it will intensify a conflictual model, and that it will make things worse not better. And that's why we don't want to see it here in Wales.

[154] **Janet Finch–Saunders:** Would you agree with me that there is a need to find the right balance between the right of trade union members to take industrial action, but also the rights of our general population to be able to access very important and vital public services at all times?

[155] **Mark Drakeford:** There is always a balance to be struck, Chair. We do not seek to undermine the balance struck in the 1992 trade union Act, the Act supported by Mrs Thatcher, by Mr Major and other Conservative Prime Ministers of the past.

[156] **Janet Finch–Saunders:** Can you provide further information on the impact of the Bill on the costs of industrial action in Wales?

[157] **Mark Drakeford:** As I said in my answer to Rhianon Passmore earlier, Chair, we think that this Bill will reduce the cost of industrial action, because we think that it will make industrial action less likely, not more likely. Our view is that when you have an adversarial approach built into the way that industrial relations are conducted—and that's what the UK Government Act does; it makes those relations more adversarial—that that is more likely to lead to poor industrial relations. That is more likely to lead to strikes. We think that the investment we make through the social partnership model, in avoiding those outcomes, is best secured by our Bill, and the costs will be lower, not higher, as a result.

[158] **John Griffiths:** Okay. Thank you for that, Cabinet Secretary. If there are no further questions on the ballot provisions, there is a further and final section of questions in terms of the definition of devolved Welsh authorities. Rhianon.

[159] **Rhianon Passmore:** Thank you, Chair. You've already articulated much of this in early responses, Cabinet Secretary. Given the purpose and effect of the Welsh Government Bill, can you clarify the Bill definition of 'devolved Welsh authorities' for the record, and also your interpretation of the UK's 'important public services'?

[160] **Mark Drakeford:** Thank you, Chair. We thought hard, of course, about how we should define ‘devolved Welsh authorities’ for the purposes of this Bill. Members here will know that there have been extensive discussions as part of the Wales Bill, which has now completed its parliamentary processes. One of the issues that was very extensively discussed between the Welsh Government and the UK Government was the definition of ‘Welsh authorities’. In the end, I believe that the Wales Bill, once enacted, will now establish once and for all what is meant by a devolved public body. And given that we’ve now got an authoritative and agreed set of parameters set out in that Bill, it makes sense for our Bill, the Bill before this committee, to rely on the work that was accomplished in the Wales Bill. And so we use the definition in that Bill, or Act, as it’s about to become, and reference our Bill against it. I think that makes—it’s just good sense, really.

[161] **Rhianon Passmore:** Okay. Thank you. And with regard to ‘important public services’—

[162] **Mark Drakeford:** Well, we wait to see what the UK Government has to say on the matter. It’s yet to define it. What I’ve relied on in my evidence today is what was said by UK Ministers during the passage of their Bill. As I’ve said, they specifically were clear that their definition would include health services, would include education services up to the age of 17, and would include fire services. All of those are unambiguously devolved. We will wait to see, when they publish further, more detailed proposals, whether they intend to go beyond that, and whether that will trespass into further devolved services here in Wales.

[163] **Rhianon Passmore:** Thank you.

[164] **John Griffiths:** Okay. If there are no further questions, then, may I thank you, Cabinet Secretary, for giving evidence today, and thank your officials as well? You will be sent a transcript to check for factual accuracy. Thank you very much.

[165] **Mark Drakeford:** Thank you, Chair, and we will follow up the points we agreed to follow up—and a note on the correspondence issue as well.

[166] **John Griffiths:** Diolch yn fawr.

[167] **Mark Drakeford:** Thank you very much.

[168] **John Griffiths:** Okay. We will be taking further evidence from the Cabinet Secretary on 9 March when we've completed our evidence gathering. The committee will now break for 10 minutes until 10:40.

*Gohiriwyd y cyfarfod rhwng 10:30 a 10:42.
The meeting adjourned between 10:30 and 10:42.*

Craffu ar Waith Comisiynydd Cenedlaethau'r Dyfodol Scrutiny of the Future Generations Commissioner

[169] **John Griffiths:** Welcome back to Members to item 3 of the committee's work today, which is scrutiny of the future generations commissioner. This is the first time that the commissioner has appeared before an Assembly committee since taking up her post at the beginning of 2016. She is here today to discuss her work to date and, indeed, her priorities going forward. So, welcome to the committee today, commissioner. Could you introduce your colleague for the record, please?

[170] **Ms Howe:** Yes, this is Marie Brousseau-Navarro, who I'm sure many of you will know. Marie is my director of policy, legislation and innovation.

[171] **John Griffiths:** Welcome to you both. Perhaps I could begin the questioning today by asking what have been the main challenges in the first 12 months of your role, commissioner, your main achievements since taking up the post, and, also, what your objectives are in the short, medium and long term.

[172] **Ms Howe:** Certainly. In terms of the challenges, obviously, setting up a new organisation from scratch. I always say, when you apply for a job like this, you get excited and passionate about the issues, and you don't think about the boring things like payroll and pensions and office accommodation and things like that. But nevertheless, that is the necessary infrastructure. So, that's been quite a challenge—not having a kind of shadow period, if you like. So, straight into the role, having to set up, when the Act is actually coming into force and the public bodies are out there having to implement it and obviously wanting advice and support.

[173] I took the decision early on—I guess you would expect me to—that, in terms of setting up my office, I wanted to embed the five principles contained within the Act in the way that I went about setting up the office,

and in particular to seek opportunities to collaborate with others. Because what I recognise is that the budget that I have is very small, the scale of the task is huge and, actually, there's no way that I'm going to be able to achieve that with the resources that I have. So, I have to look to partnership opportunities with others.

10:45

[174] Some of that is around actually getting the work done and some of that is around what I would call the no-brainers around the back-office function. So, things like: I aimed not to set up any new infrastructure on my own, so I share office accommodation with the Welsh Language Commissioner, I do payroll with the ombudsman, and I do HR and some aspects of my finance with the children's commissioner. Whilst I think that's the best thing to do in the long term, and it embeds the principles of the Act, often those sorts of partnership arrangements can take a little bit longer to establish. But as I said, I think they're the right thing to do.

[175] And then, really—as I said, that's the back-office functions—in terms of the front-facing functions, if you like, again I've sought to adopt a similar approach. So, my office staffing is based to a significant extent around joint appointments and secondments. So, you will have seen in the stuff that I've submitted that I have a joint piece of work with Sally Holland, the children's commissioner, where we're seeking to provide a kind of coherent response, if you like, to public bodies, so that they don't have the children's commissioner asking one set of things and the future generations commissioner asking another. So, we have a joint piece of work going on there. I've seconded people from the Wales Audit Office and people from public bodies themselves, including the Welsh Government and some of our local authorities. So, that I think is the right thing to do, as I said, but it's been quite challenging to get those arrangements in place.

[176] In terms of the challenges out there, if you like, obviously, the future generations Act is new and the breadth, you know, the scope of it, is absolutely enormous. Actually, you can produce as much legislation as you like, in a way, and the legislation is a very good piece of legislation, I think, but actually implementing it is all about the changing of culture out there in our public bodies. And so, if I have to point to one challenge in my first year—and it will be a continual challenge, I think, along the next six years—certainly, it's that cultural change. So, avoiding everyone falling into a kind of compliance or tick-box exercise.

[177] You asked me, then, about achievements in the first year. Again, in line with embedding the principles of the five ways of working, particularly around involvement, I've spent a huge amount of time in my first year being out there listening, engaging with the 44 public bodies that are covered by the Act. There is a range of other stakeholders and partners; you know, anything from the WWF—not the wrestling, the wildlife—to, for example, Boots the chemist. You might think that that's quite an odd mix—and everything in between. But actually, what I've been really encouraged by is the level of interest amongst stakeholders across Wales as a whole, not just those public bodies who are covered, about the possibilities that the Act brings in terms of these new ways of working.

[178] There are some initial pieces of work that I've been engaged in whilst we're going through the process of setting down, or narrowing down, the priority areas that I will focus on. Perhaps I'll come on to that later. But there are some pressing issues, I think, that couldn't wait for me to go through the detailed process of involving and engaging people to set my priorities. So, issues like the M4 and issues like the city deal. I am engaged in a piece of work looking at the decision on the M4, with a view to submitting evidence to the public inquiry on the M4. And actually, beyond that, we're using the approach that we're taking to the M4 and how decisions might have been taken differently, or how the issue might have been looked at differently, to help inform us by developing a framework to use with other public bodies on other decisions in terms of how you might change your thinking. So, that work is well advanced and will be ready in time to submit to the public inquiry in the next couple of weeks.

[179] I've also had some interventions around the city deal. Again, there's a concern that the city deal has the potential—. I'm talking about the Cardiff region city deal. I've also had engagement in the Swansea city deal, but, specifically, the Cardiff region city deal—some concerns about the approach that the 10 local authorities concerned are taking in terms of embedding the principles of the Well-being of Future Generations (Wales) Act 2015 and making sure that the investment that goes into the city deal is investment that is going to be focused at lifting all of our communities out of poverty, and is going to be focused on the definition of a prosperous Wales, which talks about an innovative, productive and low carbon society, for example. So, making sure that those principles are embedded—. So, a fair degree of engagement with the growth and competitiveness commission in developing their report, which I was pleased to see did embed the principles of the Act—

. It's now for those local authorities to be taking that forward.

[180] A number of other things around—. I'm sorry, I know you've probably got lots of questions, so I won't list everything, but some early work with the Wales Audit Office, in terms of developing our approach—our joint approach—to my obligations under the Act and their obligations under the Act, again making sure that we're working firmly in partnership, because it'll be incredibly unhelpful to public bodies out there if we're giving mixed messages. I think there are—. The auditor general and I are certainly on the right page in terms of the approach that we want to take to the Act, which is to avoid a kind of compliance tick-box exercise that it's just another plan or annual report to produce, and that is actually going to drive change. Getting the audit approach to that right will be fundamental in terms of whether we do get a compliance response or whether we actually get cultural change.

[181] And then a range of different requests for support, which I've been quite encouraged by—. There is going to be an issue in terms of how I have the capacity to manage them, but, for example, we're doing some work around procurement—how we can embed, working with the Welsh Government, the principles of the Act in the procurement system, with an initial focus on what that might look like in terms of food procurement. We've had early discussions with transport officials on the development of their new WelTAG, which is the transport appraisal system, and early discussions with the skills department in Welsh Government about the development of their skills strategy and, similarly, with planning officials and officials who are working on developing the Government's manifesto commitment around the childcare offer.

[182] So, there's probably a lot more that I could tell you, but I know that you'll want to ask some questions.

[183] **John Griffiths:** Yes, we will be coming back to a number of those items that you mentioned, commissioner, but I think that Rhianon has a further question on these matters at this stage.

[184] **Rhianon Passmore:** Thank you, Chair, and welcome, Sophie. In regard to those who, perhaps, are watching this committee, could you outline the principles that run through the Act? I know you've touched upon them in some of what you've already stated, but could you encapsulate what it's intending to do and the main principles within it?

[185] **Ms Howe:** Absolutely. So, the Act essentially embeds five sustainable development principles, which it requires the 44 public bodies that are covered by the Act, including the Welsh Government, all of our health boards, all of our local authorities, and a number of the national bodies, to take forward. Those principles are planning for the long term—so, in taking decisions, we need to understand what the long-term implications of those decisions are and be taking action to make sure that whatever decision we take, the wording in the legislation is,

[186] ‘does not compromise the ability of future generations to meet their needs’.

[187] Obviously, we would be looking at that across the four pillars of sustainable development—so, when we’re taking those decisions about the long term, we’re thinking about the social, economic, environmental and cultural, and that’s quite a shift in itself to make sure that we’re not just getting into silo thinking and mentality.

[188] The second sustainable development principle—I prefer to call them ways of working—is a focus on prevention, so, seeking to prevent problems before they occur or to prevent problems from getting worse. I would say that we have significant challenges in that regard across a number of sectors, but the health sector is a particular issue there, in terms of how they’re going to shift from, essentially, firefighting to actually focusing on health prevention.

[189] The third principle is around integration. So, that is really coming back to the seven well-being goals, which I’ll touch on in a moment. That’s again recognising that, really, no decisions exist in isolation. So, you close a leisure centre—that might be done by one public body, but it has an impact on health, say, another public body—or you take a decision to build the M4, and that has a range of implications across a range of different areas. So, integration is about thinking in the broadest sense. Collaboration is, essentially, working in partnership, recognising that no one public body—and actually I go beyond just public bodies—no one sector can address some of the challenges that we’re facing in Wales alone. So, we need to be working—. Yes, sometimes, it’s as simple as working across departments within one public body, actually, sometimes it’s working across a number of public bodies, and often then working with the business sector and the third sector and beyond. Then the final principle is involvement, and there’s not a hierarchy of the ways of working within the legislation, but, if I personally

had to choose one, I would put involvement somewhere right at the top there. So, this is about involving citizens in the decisions that we take, because I think if you start from the principle of involving citizens then, actually, a lot of the other ways of working will flow from that. Because people will tell you that they want you to plan for the long term, they want you to stop their problems occurring in the first place. They're not interested in your service boundaries or your geographical boundaries.

[190] **Rhianon Passmore:** Can I interrupt, then, and ask how you approach that? Because it's such a broad—purposefully broad—mandate. So, in terms of your strategy of how you approach your areas of work, how would you articulate that?

[191] **Ms Howe:** We're doing a number of things, again recognising the challenges of the breadth, which is both the beauty of the legislation and the very challenging part. I'm going through a process at the moment of narrowing down the areas that I will focus on, and we're doing that through an ongoing conversation, which started last year—we're moving into the next phase of it now. So, I've identified four broad challenge areas that I think are the biggest challenges facing Wales in the future. Those are climate change, economic change, population change at both ends of the scale—so the ageing population and the importance of early years—and citizen disengagement. The conversation we're having now is: do you agree that those are the biggest challenge areas? If so, what are the specific issues within them that have the biggest impact on those areas? Then we'll be doing a further piece of work, which will look at where are the opportunities to address some of those challenges.

[192] Beyond that, what I do recognise is that the business of running public services is complex. Not all of it will fall within those challenge areas, so what I am doing is developing an approach to helping public bodies to apply those five principles, those five ways of working, in the Act, and helping them to prompt some of their thinking around how they might contribute to the national well-being goals. We're trialling some of those approaches, for example in the work that we're doing in procurement, the work that we're doing on the childcare workforce, and some of the early advice that we're giving in terms of, for example, the metro system and some of the discussions we've had with skills and on WelTAG.

[193] **John Griffiths:** Thank you for that, commissioner, and, again, we'll be coming on to some of those areas, and I think, in terms of prioritisation,

Joyce, you had some questions.

[194] **Joyce Watson:** Yes, you've answered the first, but you've said that these are your priority areas. I suppose the obvious question flowing from that is: what made you decide and how did you reach that conclusion?

[195] **Ms Howe:** The process started with the engagement that I've done over the last year with all of the public bodies and hundreds of other stakeholders. We've also engaged a number of academic experts and done significant analysis of the facts and figures, essentially, to identify those broad challenge areas. I guess the issue is that there isn't any policy that doesn't have some implication on the well-being of future generations, and it's about trying to narrow those down. Everyone that I've spoken to—. There are a range of different views, but they seem to centre around those four issues being the most significant challenges. But I'm in an open dialogue and they may well change over the course of the next couple of months.

[196] **Joyce Watson:** So, that being the case, when do you expect to put it in writing? If you like, from the conversational to the determined: this is what we're going to take forward—.

11:00

[197] **Ms Howe:** In the next two weeks, I'll be releasing a report that outlines the thinking around those challenge areas, some of the evidence base around those challenge areas, which will, hopefully, stimulate the conversation and debate, and I have a range of engagement opportunities planned around that. I'm likely to finalise, following that next phase of the engagement, what those priority areas are around about June.

[198] **Joyce Watson:** And will those—? You may want to answer this—you may not—but do some of those priorities, or none of those priorities, align with the Welsh Government's approach to tackling poverty?

[199] **Ms Howe:** I think that some of the early issues that are coming up certainly do relate back to the Welsh Government's approach in terms of tackling poverty, particularly if you look at economic change—so, jobs and skills for the future—and the fact that, across the UK, the estimation is that about 35 per cent of jobs are going to be lost to automation. A lot of those will be low skilled jobs, which is going to make it even more challenging in terms of tackling poverty, and that's why we need to be planning for those

now, so I think, in terms of the skills agenda, that's going to be significant in terms of tackling poverty. There are also issues around early years and adverse childhood experiences, which are coming up as quite significant issues. Obviously, we all know the evidence base around the outcomes of children who live in deprived areas, so there's likely to be quite a bit of alignment around that, and, again, then, the citizen disengagement if you want to look at it on the negative side, or citizen involvement if you want to look at it on the positive side. I think that there is certainly a feeling at the moment that some of our most deprived communities feel disconnected from some of the decisions that are taken on their behalf, so I would envisage that there would be quite a clear connection in the work that I may well undertake under that area.

[200] **Joyce Watson:** Okay, fine. Thank you.

[201] **John Griffiths:** Okay. On this—

[202] **Rhianon Passmore:** Very specifically, and very swiftly, because I know I've jumped in: in terms of civic engagement or involvement, or disengagement, how do you see that strand of work? What is your objective in touching upon it?

[203] **Ms Howe:** So, I think that there's actually a lot of engagement going on, to varying degrees and of varying quality. I think that we tend to fall into a kind of tick-box approach, often, to doing engagement. The Welsh Government issued, I think, 647 consultations last year. I wouldn't mind betting that there weren't very many ordinary people who responded to them, and yet we say, 'Right. Well, we've consulted, so therefore all is well', and, you know, there are different ways of doing that type of consultation. Some are better than others, but that tends to be where we focus. What has been interesting with the work that has been going on with public service boards at the moment on well-being assessments is they've got far more into a better territory of having a kind of ongoing conversation with people. So, not asking them a specific question, 'What do you think about this policy, this school closure, this whatever?' but actually saying, 'What do you like about your community?', 'What don't you like about your community?', asking more open questions to get a better sense of their well-being, and I think public bodies need to move into that territory on a longer term basis.

[204] The third area that I'm particularly keen on focusing on is what I would call the sort of 'walking in the shoes of', and I think we need to get

much better in terms of looking at the lives of the people who we're developing policy for, before we develop it. The work that I would like to do, first of all, is to do a kind of bird's eye view on what types of consultation, engagement and involvement are going on, because we're all doing lots of it. We're often talking to the same people. The very clear message out of the discussions that I've had with people so far is that they have consultation fatigue. They don't necessarily recognise that anything much has changed. We're spending a lot of money doing it, and there's a question as to how effectively we're doing it, and I think we tend to be doing it mostly in those first two areas around consultation—some ongoing engagement, but not very often do we put in place mechanisms to walk in the shoes of people before we develop policy.

[205] **Rhianon Passmore:** So, your objective would be to streamline something more effective and more utilised by those who are currently not participating. Okay. Thank you.

[206] **Ms Howe:** Yes, and to develop some good practice around that.

[207] **John Griffiths:** Okay. Well, we will be coming back to engagement and collaboration. Rhianon, do you have some questions on resources?

[208] **Rhianon Passmore:** I have. You already touched upon this in something that you previously stated in regarding the area and longer term thinking and sustainable futures. How have you taken into account this committee's, or previous committees' poverty recommendations specifically—and you've already touched upon this briefly—around driving up the quality of jobs and the low-skilled jobs that you've referenced, and in the specific vehicle of procurement and best practice around procurement and grant funding?

[209] **Ms Howe:** So, I'm not sure if we have specifically referenced back to the committee's inquiry on that. I'll make sure that we are looking at that in the ongoing work that we're doing. But, clearly, in applying the principles of the future generations Act, so those five ways of working, and then maximising the contribution to the seven well-being goals, you know, poverty and addressing poverty, so, work to increase opportunities for job creation through procurement; work to increase the right sort of opportunities through that procurement; checking back as to whether that has actually been done and that it's actually generated opportunities in Wales, rather than being just a tick-box.

[210] **Rhianon Passmore:** So, would you see social procurement as a key platform for Welsh Government to work within, specifically within the context now of the Wales Bill and also the European Brexit issue?

[211] **Ms Howe:** I would see procurement as a critical issue there. I'll make sure that as our work develops we're looking back at what the committee recommendations were.

[212] **Rhianon Passmore:** And how could Welsh Government improve effectivity in relation to grants? Is there a specific piece of work around that, or is there a thought process around that?

[213] **Ms Howe:** There's some interesting practice that is emerging out there, which, I would say, has happened in spite of procurement rather than because of procurement. So, if I give you an example: Public Health Wales have recently moved to new office accommodation. Their head of estates there took a completely different approach, and actually had quite a tough time in challenging the procurement processes around—. She used the well-being of future generations Act as a framework for doing that.

[214] So, very briefly, some of the things that she did was she took old furniture from, I think, 13 different office sites that they had and found a company that actually breaks down all that furniture and recycles it. But, on top of that, they actually do that with quite a large proportion of people in employment who have been long-term unemployed, or people who have learning disabilities. They did that through a grant-making process, which was the tricky bit in terms of procurement. What she was able to argue was that, 'Actually, by using this company, we, as Public Health Wales, are actually meeting our wider benefits.' So, going through the process of procurement, my feeling is—and certainly her feeling is—that it doesn't always get you to that point, and we need to be looking at much more innovative ways. What is really encouraging, as I said, is that she very clearly—I was speaking with her at a conference recently—used the Act to give her permission to be able to do that, and I think that's going to be the power of this legislation.

[215] **Rhianon Passmore:** So, you would view it as an enabler.

[216] **Ms Howe:** Yes.

[217] **Rhianon Passmore:** Okay, thank you.

[218] **John Griffiths:** I wonder if I could just ask you a couple of questions, Commissioner, on resources. One of them, I guess, is a question that would normally invite a predictable answer, but I'll ask it anyway: given the remit that you have, which is very extensive, are you content that you have enough resources available to you, both in terms of expertise as well as actual funding? Is it sufficient to enable you to do the job that you're required to do, and that Wales requires you to do?

[219] **Ms Howe:** As you'd expect, the short answer is 'no'. The longer answer is: am I going to make a plea here for more resources? No, because I think that that's unrealistic. I guess the resources are what they are. I have the lowest level of funding of any of the statutory commissioners, arguably with the biggest brief. But that's exactly why I'm taking the approach of trying to develop partnerships, because I do think there is quite a lot of duplication going on out there. I think it makes sense to identify who might have levers, resources or expertise that you can draw on, and I have been incredibly encouraged by the number of people who want to work with us, from the other commissioners to—. As I say, I've got someone who is based in my team from South Wales Police. I've got some partnership working going on with Welsh Government, which is a sort of additional resource, if you like, around how we look at the goal of a globally responsible Wales, some quite exciting possibilities around a partnership developing with Cardiff University business school, and we have similar arrangements with Bangor University as well. So, yes, it's challenging and it will mean that there will have to be some realistic discussions around the expectations of what my office can achieve because, in essence, this is a wholesale cultural change programme, it's not just about enforcing legislation, hence why I am going to have to narrow down the areas that I focus on. I'm having to have, already, some difficult discussions with people who want me to take up every issue. I was tweeted heavily by a tree in Penarth that was trying to get me to save it from being chopped down because, obviously, that was going to impact on the well-being of future generations. I was impressed by the ability of its branches to send me messages on Twitter.

[220] **John Griffiths:** Indeed.

[221] **Ms Howe:** That's small-scale, but it does go up to some quite significant issues that, of course, have implications for the well-being of future generations Act, but I have to be quite specific in narrowing down

those priorities. But I do think that there are lots of opportunities around the partnership arena.

[222] **John Griffiths:** Thank you very much. Jenny.

[223] **Jenny Rathbone:** In terms of partnership and integration, the Public Accounts Committee made some very specific recommendations around all the commissioners sharing back-office functions, and I just wondered whether you could tell us how you're taking that forward.

[224] **Ms Howe:** Well, I actually found those recommendations very helpful, particularly as they were sort of in place just as I was coming into my post. To be fair to the other commissioners, they already have their kind of infrastructure, so it's much more difficult to move from something. I was in a better position because I was starting from scratch, but that's exactly why I've tried not to set up any infrastructure on my own. So, that's why I'm doing payroll with the ombudsman, human resources and finance with the children's commissioner, and sharing office accommodation with the Welsh Language Commissioner. Whilst those things are important, I actually think they're probably the small-fry things, as compared to the more public-facing, actually-getting-the-business-done things, which is—as I said—why I've got this partnership with the children's commissioner, with the Wales Audit Office, and why I'm also exploring some work with the Equality and Human Rights Commission on how we can—. You know, there's potential to jointly use powers in particular areas.

[225] I've just started mapping out that approach with the Wales Audit Office because I think there's almost a kind of virtuous circle, where the Wales Audit Office has resources to do examinations—far more resources than I have—however, they can't make recommendations from their examinations. I can take their examinations and do reviews, and I can make recommendations. At that point, where those issues intersect with the responsibilities of other commissioners—so, say I might do a review of early years, for example; clearly of interest, I would say, to the children's commissioner, and the children's commissioner might have some more effective powers in some areas than I have—it's about bringing those things together, working out who has the most effective tools in their toolbox, if you like, to push the issue forward and then taking it forward that way. I think that's where you get the bigger sort of savings, or the bigger impact.

[226] **Jenny Rathbone:** Thank you.

[227] **John Griffiths:** I think that's very useful. Just a question on the advisory panel: has it met yet? If it has, how often; and what was the subject matter of its discussions?

[228] **Ms Howe:** The advisory panel has met once, I guess as a sort of introductory meeting and to agree terms of reference and to work out where it's going to add most value. We're due to meet again on 10 February. In the interim, I have been sharing with them, via e-mail and so on, my thoughts on emerging challenges and priority areas. I've had some really useful feedback from the older people's commissioner, but, actually, many of the people around the table at that advisory panel I'm doing business with on a kind of day-to-day basis. As with most sorts of committees, it's not necessarily the business in the actual meeting that gets done; it's making those connections there, and then taking that forward. So, they will be having—. As I say, they've already contributed to the paper that I'm going to be publishing on challenge areas, and there's potential, I think, for further joint working with them, which I'm hoping to discuss at my meeting on 10 February.

11:15

[229] **John Griffiths:** Okay, thank you for that. On engagement and collaboration, Commissioner, we've already touched upon it, but I think Jenny has some further points.

[230] **Jenny Rathbone:** I think my top priority area to explore with you is how well public service boards have been established—you know, how well local authorities, health boards and other public bodies are embracing the new ways of working and, in particular, how they are interfacing with the third sector.

[231] **Ms Howe:** I think that they're a mixed bag, if I'm honest. Some of them are still in the territory of getting very exercised and agitated about the mechanics—you know, the terms of reference; who has voting rights and who doesn't have voting rights; and by which deadline they have to submit which report—all of which is important, but actually if they get too fixated on that, they're missing the whole point of what they're there to do.

[232] There are some interesting things emerging. So, Cwm Taf public service board, for example, are doing some really interesting work together as a board, drawing on the expertise of each member of the board, around

vulnerability. They're starting with case studies of people who each of the different services are coming into contact with, and they have a case study that is called something like 'Everyone's issue but nobody's problem', highlighting, for example, one case, which I won't go into detail on, but there's one family in touch with 13 different agencies and no-one is actually solving their problems. So, they're doing some really interesting mapping around that. I think, those who are taking that sort of approach are far more valuable. My message to them has been: I'm less interested in whether you get your plan published by 31 March next year, and more interested in what is actually in it and what you're going to do to actually deliver it.

[233] I think that there's something about them focusing down on a small number of areas where they go for gold, use the framework that I'm going to be working with them on in terms of applying the lens of the future generations Act, and really working that through. To do that, they need to be constructive partners, but they also need not to be too cosy with each other. There needs to be some constructive challenge in those PSBs. What I'm seeing so far, interestingly, is that the main organisations that seem to be providing that challenge are Natural Resources Wales, who are sort of newcomers to the party, if you like, and the emergency services—so, fire and rescue and police are providing quite a lot of that challenge as well.

[234] In terms of the third sector, I have a piece of work going on at the moment to look at engagement with the third sector, because the anecdotal feedback goes from, 'Yes, they're very engaged and informed and contributing to the work of PSBs,' to 'PSBs only have them there as a way to pay lip service to having them there and they're not really that engaged.' So, I haven't had the piece of work back yet, but I have a piece of work looking at the different approaches that different PSBs are taking in terms of engagement with third sector.

[235] **Jenny Rathbone:** It is quite complicated, is it not, because you have third sector organisations that employ 100 people, and ones that are entirely voluntary run? There isn't any, sort of, 'elected person' like the leader of the council or the head of the health board, so that seems to me a complexity of area that perhaps your office ought to be recommending on how best to engage.

[236] But, other things, in terms of the ongoing constraints on public sector

budgets—. I think the public has a right to assume that all public service boards will be doing things like analysing who owns what in a local area, so that we can see what premises can be deployed for different purposes, or got rid of if they're no longer needed, or if there is an important railway line that needs to go through this area. That seems to me where a lot of money is tied up. How much—? I've heard of one public service board doing that, but do you think others are realising that that is one of the things they must do?

[237] **Ms Howe:** I think that the focus so far has been, probably, on legacy issues from local service boards and trying to move the thinking around the table in PSBs into the new ways of thinking. They've also been very focused on their well-being assessments, and I've been doing a piece of work on looking at their well-being assessments, not just for the sake of assessing their assessments, but actually looking at how well they've done those and how well that will provide a platform for them to be doing exactly the sorts of things that you're talking about. So, I see those well-being assessments as quite an important part of that. They are just coming out at the moment, and then they will be expected to use those to set their plans by April 2018, and that's where I think we'll start to see some of these things coming out. Some of them, I think, are further ahead. There is one PSB that is doing a whole-PSB piece of work around their estates strategy and doing exactly what you talked about.

[238] Different areas have different priorities. The real risk with them—and I've seen this with some of them—is that they fall into coming together once a month, having a series of presentations from a series of people, and off they go again and they haven't actually decided anything. So, my challenge to them in this phase now, from their well-being assessments being published within the next year where they've got to set their plans, is them really focusing down on the areas where they can make a difference jointly.

[239] **Jenny Rathbone:** Just going back to third sector involvement, given the emphasis on diversified leadership and partnership approach that we've just been talking to the Cabinet Secretary for finance about, could you just say whether you've got any high-level recommendation to public service boards about how they have meaningful engagement with and the involvement of the third sector?

[240] **Ms Howe:** I think that it's not all about the PSB, because, as you pointed out, to be fair to the representative person on the PSB, they can't possibly represent all of the interests that are going on, and the early

feedback that I'm having from the work that I'm doing is that that's a real challenge in terms of the two-way conversation and dialogue. I think that the principles of partnership and involvement need to flow through everything that each of those organisations are doing, and they need to involve different people from the third sector in those different levels of intervention and considering an issue. That is happening in some areas well, it's happening in other areas in a—they invite the third sector at the last minute when they've, sort of, decided what they're already going to do. So, I think that, in terms of the involvement principle, my recommendations are likely to—I need to wait to see what comes out of my piece of work, really. But they're going to have to put in mechanisms for demonstrating genuine involvement at all levels of the organisation, rather than just relying on it being done at the PSB level.

[241] **Jenny Rathbone:** Thank you.

[242] **John Griffiths:** Are you able to say, at this stage, commissioner, whether there's any emerging pattern in terms of public bodies' perceptions of the difficulties they have in fulfilling their duties under the legislation? Is there any emerging pattern, any sort of headlines to that or—?

[243] **Ms Howe:** Yes. So, I think a lot of the public bodies feel quite beleaguered, if I'm honest. Some of them view the legislation as, 'Oh, God, it's another piece of legislation that we've got to write another plan for,' and so on, and so on. I have some sympathy for that. They have a myriad of frameworks, performance indicators and strategies that they have to comply with, all very well intended, but not necessarily joined up in any way at all. So, to give an example of that, you've got the requirements under the local government Measure to report. They're supposed to be doing their well-being planning not as a separate thing, but as a central part of—so, you wouldn't expect to see the local government Measure requirements as separate to the well-being planning, because that just suggests that they're all just going off into their silos again. But, the reporting period is 31 March, which is when they have to publish the well-being objectives, then they have to report on the local government Measure a couple of months later, and report on their well-being objectives. Well, that doesn't make sense, because they will have only just set them, and in the middle of that you've got local government elections. So, you'll have requirements to set well-being objectives by one administration, and then possibly a change of administration, which could turn it all on its head, and new objectives may need to be set.

[244] I think we're going to get those teething problems in the first year with the legislation, but the broader point is that there is a raft of things out there at the moment that public bodies are required to comply with that don't necessarily fit with the Well-being of Future Generations (Wales) Act 2015. So, if you take the integrated medium-term plans—the three-year plans that health boards have to produce—they're three-year plans. Well, how does that fit with the long-term vision of the well-being of future generations Act? The difficulty that they have in navigating therefore the system is that, on the one hand, they've got to comply with this legislation about the long term, and, on the other hand, the Welsh Government are monitoring them on their delivery of their three-year IMTP. So, I think there needs to be some fundamental stripping back at a Welsh Government level, integrating, analysing where all the connections are—what works with the Act, so, 'Let's keep that', and what works against the Act, 'Let's work out a way of doing that better'.

[245] So, that's the one that every single public body has raised with me in one shape or form. The other issue is around this compliance and audit issue, which is why I'm having quite a focus on my relationship with the Wales Audit Office. So, again, the approach that has tended to be taken is quite a tick-boxing approach, so audit will look at whether they've got the right piece of paper saying the right thing, not at whether anything has actually changed. What you tend to get with that compliance approach is that the public bodies stop thinking for themselves and they will literally just follow what the Wales Audit Office or others have told them that they need to do. That really works against doing some sensible things. So, as an example of that, in the joint conference that I had with the Wales Audit Office and all of the public bodies recently, we had a case study of a brilliant programme in the health precinct, which Janet will know about I'm sure, where, to cut a long story short, occupational therapists came together with the exercise referral scheme sort of by accident, because they happened to meet and think it would be a good idea. Fundamentally, there are some brilliant outcomes from it, and one man in particular was talking about it actually transforming his life. That set-up has failed internal audit four times because it didn't comply with the north Wales partnership framework agreement or some such something. What I'm saying is that we need to get a much better focus on outcomes and find a space for public bodies to be able to find those, rather than having to go through lots of processes of filling in forms, ticking boxes and justifying against performance measures that don't always make sense or are contradictory.

[246] **John Griffiths:** Could I just follow up briefly, commissioner, because, as ever, we haven't got a great deal of time? Are you working with Welsh Government to take a strategic overview of all of those reporting and monitoring and administrative requirements to see if they can be integrated together in some way, or at least complement each other in a better way?

[247] **Ms Howe:** Well, it's a conversation that I had with the Cabinet Secretary last week around the need to do that. I'm aware that the Government have started to do some of that mapping to work out where all of these different strategies and frameworks and requirements are. I guess, you know, I don't have the resources to do that, but my challenge to Government is that they must do that in order to demonstrate that they are themselves complying with the Act in terms of integration, the shift to prevention, the shift to planning for the long term, and so on. I think, certainly from what Mark Drakeford said, there is some level of frustration within Government about that, but it's an enormous tanker that you've got to shift, and, as I keep coming back to this, it's cultural change that we need to be looking at. The answer to our problems is not to write another strategy on something; the answer is to work out what's already out there. Probably, anything that we write in a new strategy is often already contained somewhere else. It's this getting to implementation, supporting implementation and freeing some space for people to implement rather than just blindly following strategies or writing strategies and thinking that our work here is done.

[248] **John Griffiths:** Okay, thank you for that. I think, Rhianon, you had a further question.

11:30

[249] **Rhianon Passmore:** You've touched upon this, and that is a huge issue in terms of moving forward. Are you clear, in terms of your expectations of, for instance, public service boards or local health boards, as to what you expect from them? It's sometimes quite easy to say that organisations that are newly set up don't know what they're doing. From your office, are you clear about your expectations of them?

[250] **Ms Howe:** Well, that's quite a difficult question in and of itself, and it's something that we are really wrangling with, because I could take an approach of issuing them guidance saying that, 'You must demonstrate in your plans that you are addressing these areas—climate change', or whatever it might be. But actually, what I would be doing by doing that is just adding

to the layers of complexity of all of the things that they already have to do. So, the approach that I'm taking is trying to help them apply the lens of the Act to the issues that they determine are the priorities for their areas.

[251] Now, shortly, my paper on challenge areas will be going out, and the letter that will be going to those public service boards and public bodies will say, 'These are issues that I've identified, and here's the evidence base for them'. It would be surprising if, in what comes out of the well-being assessments and subsequently the setting of the objectives and plans, some, if not all, of these issues weren't covered, and I'd have to question the effectiveness of the process that they'd gone through, I guess, and then help them with this framework that we are developing to help them not to tick boxes, but to give them prompts and questions that they should be asking. So, when we talk about maximising our contribution to a more prosperous Wales and we look at the definition of 'innovative', 'productive', 'low carbon', 'decent jobs' and 'skills', what are the things in the areas that they focus on—what are the touch points that they should be checking back: 'Is what we're doing here innovative; it is low carbon, or could we do more in terms of low carbon; to what extent is it providing for skills and decent jobs in these particular areas of poverty?' So that's the approach I want to take, rather than saying, 'These are a load of things that you need to do, get on and do it.'

[252] **Rhianon Passmore:** And the timescale for that framework to be delivered?

[253] **Ms Howe:** The early part of it, and the testing, is around the M4 issue, because we've used that as a kind of live example. I would expect it to come out in a useable form probably around July time.

[254] **John Griffiths:** Okay, thanks for that. The mention of the M4 is very useful, because we now move on to specific areas of work, one of which, I think, is the M4, and I think Jenny has some questions.

[255] **Jenny Rathbone:** Yes. On the principle of always following the money, obviously the M4 is a very good example of that, as the sums of money potentially involved are huge. You wrote a pretty excoriating critique of the Welsh Government's failure to apply the well-being goals and the future generations Act to its own policy making, and I just wondered if you'd had any response to that letter.

[256] **Ms Howe:** I have had a response from the Cabinet Secretary, which gives some further information—fairly limited, but further information—on the five ways of working. So, just to, I suppose, recap my main concerns about the approach that the Government took, they had made an attempt to apply the seven well-being goals to the proposal for the M4, but, in what we'd seen, they had completely missed in their sustainability appraisal the five ways of working. The process that we are talking through is that you apply the five ways of working first and then you work out how, if, then, it's a programme that you're going to go ahead with or whatever comes out of that process of applying the five ways of working, you then apply the seven well-being goals and work out how that programme, project or whatever it is can maximise its contribution to the seven well-being goals. So, in my view, they missed the first part of that process.

[257] I have some significant concerns particularly in terms of their long-term planning and the long-term thinking around that. So, some of the analysis around what automation will do in terms of the need for an M4; the predictions on autonomous transport, so driverless cars—lots of people are predicting that they will become the norm in the next decade, but actually, if we're looking at this stretch of road and planning for the next 60 years, undoubtedly there will be some form of autonomous travel within that time period, and that is likely to impact on congestion.

[258] There are also the issues of integration, and in the response to the Cabinet Secretary I specifically raised the issue of integration with the metro system. The Cabinet Secretary's response pointed to—they are integrating the stations and the infrastructure of the metro system with the M4, but, actually, that's not the point that I'm making. The point that I'm making on integration is you should have an early consideration of, 'If we're going to have a metro system, could we have a bigger, better, slightly different metro system that would actually negate the need for the M4 in the first place?' So, it's not about them—. Yes, if they both go ahead, it is important for them to integrate, but, actually, there's a conversation and some thinking to be done even before that about how the metro system would impact on need. And then, of course, there are all of the issues around the £1.1 billion of investment, which, essentially, future generations are going to be paying back. So, as advocate for future generations, I think it's right that I raise that as an issue. But my full response will be coming out for the public inquiry.

[259] **Jenny Rathbone:** Okay. I think the lack of integration, given that both these initiatives—both the metro and the M4 relief road—are coming out of

the same department of Government—. Have you had any further explanation as to why they're not fully integrated as a decision-making process?

[260] **Ms Howe:** No.

[261] **Jenny Rathbone:** Could I just now move on to city deals, which are obviously somewhat related, in terms of how you think the city deals and, obviously, in the case of the M4/metro—we're dealing with the Cardiff city deal—how do you think that they are going to be applied to both ensure that we have joined-up decision making, but also as a way of breaking into generational cycles of poverty?

[262] **Ms Howe:** Well, you know, I think we've got to give credit where credit's due in terms of the city deal, and I know it hasn't been without its bumps along the road so far in terms of the decision-making process. But, actually, just by virtue of the fact that we've got 10 local authorities, the Welsh Government and the UK Government coming together to focus on an ambition around a region, that is very much getting us towards collaboration principle and the long-term planning principle in itself.

[263] I think that there could have been—maybe there still is—a risk that everyone sees it in a traditional way—'Yes, we've all come together to agree this but, actually, we all want our piece of the pie, so I want to be able to deliver my infrastructure programme'—or whatever it is—'in my local authority area.' Again, this is part of the cultural change, because I think if we go down that road, we will be missing significant opportunities, particularly around addressing issues of long-term intergenerational poverty. So, I was really pleased to see that the growth and competitiveness commission report focuses heavily on skills, and I think that's where the focus needs to be.

[264] Linking that back to the M4, if we have an M4 or if we don't, the metro system will go ahead. Actually, at the moment, we don't have the skills in Wales to be able to deliver all of those programmes, so I think there's a significant contribution that the city deal could make in terms of investing in those skills. I think that's far more likely to have a much longer intergenerational impact on poverty than just building a few shiny infrastructure programmes.

[265] I was pleased to see that there was quite a focus again in the growth

and competitiveness commission report around liveability issues, and how that is quite a driver for economic prosperity. So, you know, it's not enough to just build infrastructure, as important as that may be; things like green infrastructure—so, how pleasant a place to live is, what sort of community facilities they've got there and so on and so on—are as important in attracting economic investment to an area as any sort of more traditional infrastructure that you could build. Again, I think there are opportunities there to be looking at the city deal through that lens in terms of how you would use that to apply that to some of our most deprived communities in terms of a longer-term vision of lifting those communities out of poverty.

[266] **Jenny Rathbone:** Thank you.

[267] **John Griffiths:** Thanks for that. Joyce.

[268] **Joyce Watson:** Just a quick question because we're on city deals: have you been working alongside anybody who's involved within the A Regional Collaboration for Health project in Swansea?

[269] **Ms Howe:** Yes, I have, and actually, I don't know whether I should say this on the record, but there's always that thing between Cardiff and Swansea, and the adage that 'west is best', and certainly, from what I saw, in the early stages, from the approach that the Cardiff deal might be taking, as opposed to what the Swansea deal might be taking, the approach that the Swansea deal is taking was far more interesting and innovative in its early, kind of conceptual stages, if you like. So, the focus in Swansea is on connectivity, but also, then, on renewable energy. And obviously, the recent developments on the tidal lagoon are really useful in that sense, but they have a range of innovative businesses in the region that are developing some really fantastic technology, solar technology and so on and so on.

[270] But also, the particularly interesting aspect is ARCH, which is essentially the health element of those city deal proposals. So, on the face of it, if you looked at that, you start with the economy, and actually you're working back through environmental considerations, social considerations and health. I think that's a really good place to start. So, I've been quite impressed with what I've seen so far. I've been along to the ARCH board, and been talking to them about how they can be thinking about their long-term planning in terms of health and tackling some of the big challenges around early years adverse childhood experiences and so on. And they've been very engaged.

[271] **Joyce Watson:** Good.

[272] **John Griffiths:** Okay, thanks for that. We will move on then, and local government is a subject I think Janet has some questions on.

[273] **Janet Finch-Saunders:** Before I ask the questions on the paper, welcome to our committee. I realise the task that lies ahead for you, but the more I'm getting to know about it, really, even though we've passed it as legislation, as you can appreciate, we passed 25 piece of legislation last term—. But this one interests me, and the effect of it, if implemented, and I've raised this in Plenary as well about the need to support it, and you in your role. But in terms of local government reorganisation, and the regional model of working, and the White Paper coming forward, how do you think that's going to impact on your role and on the Act itself?

[274] **Ms Howe:** I guess the—. Just to say, I've met with officials in local government departments prior to the White Paper being published—I didn't know exactly what was in it, but sort of broad concepts—and raised some issues or concerns that I was hoping that they would address, and I also met with the Cabinet Secretary last week. I guess as a sort of overarching principle, I think that there's a clear case for local government reform in terms of being able to provide effective services, avoiding duplication and so on and so on. However, I think you can create whatever structures you like, and if we take our eye off the ball in terms of the cultural change that needs to underpin that, then I'm not convinced that they will actually be driving the sort of outcomes that we want to see. So, the clear message that I've given to the Cabinet Secretary, and to officials, is that it would be really worrying—. The Government are doing some—. There are some good programmes around leadership in the public sector, leadership in local government, and how we support and encourage the type of leadership that we want to see. There's an interesting programme, which the Government are funding with Academi Wales now, on graduates and bringing those through public services and local government with the sorts of leadership that we would want to see. So, I think it would be really unfortunate if we got so obsessed with what the map's going to look like, and what the structure's going to look like, that we kind of forget about all of that stuff.

[275] So, I guess that's the overarching message. There is something for me about—again I suppose it's related to sort of taking the eye off the ball—. So, I would not want to see public service boards downing tools when they've

only just been established, whilst they wait to see what's going to happen with all of these regional structures. So, I think that there's a bit of a risk there. And I've said to the Cabinet Secretary that it would be really very useful if he could make a clear statement that it's not about downing tools and waiting to see what happens.

[276] **Janet Finch–Saunders:** Business as usual.

[277] **Ms Howe:** Yes. I guess there are two other areas that I would like to see addressed, I guess. The underpinning principles of any reform should be that it should improve services for the citizen. I think we need to do more work to understand what local government reform will do in terms of improving services for the citizen, because if it doesn't, you've got to ask: what's the point? I think we need to do more work to understand how citizens experience services at the moment and how, in whatever structure comes out, they might experience services there. That, for me, comes back to this involvement principle. It comes back to walking in the shoes of and understanding the lives of the people who we serve.

11:45

[278] I guess the last point, which is related to that, is that we need to make sure that, whatever structures are constructed, people understand where decisions are being made. I think, again, the Cabinet Secretary has navigated a really challenging and tricky path around this and I commend him for where he's got to so far on that, but I think we need to make sure that whatever comes out the other end of that is something that is clear to the citizen and doesn't make things more complex for them.

[279] **Janet Finch–Saunders:** Thank you. On the issue of the different statutory timescales in the Well-being of Future Generations (Wales) Act 2015 and the Local Government (Wales) Measure 2009, in particular—how can they be overcome?

[280] **Ms Howe:** I referenced that a little bit earlier and it has been raised as an issue. I think there will be a number of these technical issues, if you like, popping up in the early phases of the Act. As I said earlier, there is a broader thing about all of our strategies and programmes and whether they help or hinder implementation of the Act. What I've done on that is to agree with the Wales Audit Office, Welsh Government and the Welsh Local Government Association, a letter that has just gone out to all of the local authorities

saying, 'Yes, you do have a statutory deadline to publish these on the thirty-first, but, essentially, the principles we're all interested in is what you're going to actually do in terms of embedding the five ways of working and not whether you're a couple of weeks late on publishing your—'

[281] **Janet Finch-Saunders:** Could we have a copy of that?

[282] **Ms Howe:** Yes, absolutely.

[283] **John Griffiths:** Okay, thanks for that.

[284] **Janet Finch-Saunders:** Have you had any discussions with the Welsh Government about work to assess the extent to which their current and planned policy and legislative agenda supports or hinders implementation of the Act? I think it's fair to say that what I noticed, during my first term of the Assembly, last term, was the amount of legislation coming through that actually cut across other portfolio responsibilities. It was quite difficult for us to be able to scrutinise, at any one time, areas that fell outside the role of the particular committee that you were on. So, I think that maybe some legislation went through where all the cross-cutting areas haven't—. And there was duplication, and in some cases contradiction—one was outplaying the other.

[285] So, this term, I'm pretty keen to ensure that it's straightforward, and also that past legislation, which was taken and has gone through the process, is not undermined in any way by anything coming forward, or else we're just literally going to be like one of those hamsters in a ball, if we just keep reinventing—. I'd rather see less and allow the future—. I think this is an encompassing piece of legislation, but it needs to be given the wings and the air to go.

[286] **Ms Howe:** Yes, I absolutely agree with you. As I was saying about the strategies and the different performance requirements—

[287] **Janet Finch-Saunders:** I hate that word. I've seen so many public bodies, where they end up on a shelf and then you can pull one out that's 10 years old and it's very little—. It's about implementation and it's about delivery.

[288] **Ms Howe:** Yes, I completely agree. I don't have the answer to that other than the Government have a statutory duty to ensure that there's that

kind of integrated approach. I've started the discussions on strategies and how we might map those through and work out whether they're contradictory and what the approach may be to strip some of those back. But I agree with you on legislation and that's why I think that there's a really key role for Members, and I really welcome what you say in terms of—. I see, also, the Act as being an overarching Act or set of principles, if you like, by which the lens of everything else that we do should be applied. So, I would really value the support of Members in raising those questions through committees or whatever structures you have to do that—to keep challenging back on how this is integrated with anything else.

[289] **Janet Finch–Saunders:** May I have a tiny one on the back of that?

[290] **John Griffiths:** Time is very short, Janet, so if it really is very, very short.

[291] **Janet Finch–Saunders:** Yes, just a quick one. Data collection: so many agencies are collecting data. Some collect the same data and keep it to themselves and, in some areas, there's very poor data collection. As part of your role, will you be looking at that so that we can actually have better data and better information to inform Government and those bodies who are expected to deliver our vital services?

[292] **Ms Howe:** There's a bit of that going on in terms of the well-being assessments that PSBs are doing. There is, again, interesting work in some areas that is developing, but in specific areas, so, for example, around—. I mentioned vulnerability earlier, which actually is quite a significant issue in terms of the amount of public money that's being spent by various different agencies around the same people, and not necessarily giving those people what it is that they want or need. So, there's things like multi-agency safeguarding hubs that are being set up, but I think progress there is slow. I was with one of the Gwent PSBs a couple of weeks ago and the chief constable of police told me there that he has had £2 million in his budget for the last two years to say that he will set up all of the infrastructure around a Gwent-wide multi-agency safeguarding hub, and he can't get buy-in from the other partners, and that's about sharing information and sharing information to put the right interventions in place.

[293] **John Griffiths:** I'm afraid we do have to move on. Sian, do you have some questions on the budget, budgeting?

[294] **Sian Gwenllian:** Oes, ychydig o gwestiynau o gwmpas cyllid a'r gyllideb—. Un ffordd o weld os ydy strategaeth yn gwreiddio ydy edrych ar flaenoriaethau cyllidol y sefydliad lle mae'r strategaeth i fod i weithio ynddo. A ydych chi'n gweld bod blaenoriaethau'r Ddeddf yma yn dechrau cael eu hadlewyrchu yng nghyllideb Llywodraeth Cymru 2017–18? A ydy honno'n dechrau symud tuag at fod yn dilyn y blaenoriaethau sydd yn y Ddeddf?

Sian Gwenllian: Yes, I have a few questions in relation to finance and the budget. One way of seeing whether a strategy is bearing roots is to look at the financial priorities of the organisation where the strategy is meant to be implemented. Do you see that the priorities of this Act are beginning to be reflected in the Welsh Government's budget for 2017–18? Is it starting to move towards following the priorities set out in the Act?

[295] Ac a ydy'r broses o lunio cyllideb Llywodraeth Cymru yn ddigon tryloyw? Os mai un o'r amcanion yn y Ddeddf ydy bod yn fwy tryloyw, a ydy hi'n amser meddwl bod angen cyhoeddi'r gyllideb yn llawn, yn hytrach na fel rydym yn ei gweld hi rwan? Ychydig o benawdau cyffredinol sydd yna, sydd yn ei gwneud hi'n anodd iawn i'r gwrthbleidiau, yn sicr, ac Aelodau meinciau cefn, graffu ar y gyllideb. O dan y Ddeddf yma, mae angen bod yn fwy tryloyw. Felly, beth ydy'ch barn chi ar hynny?

And is the process of drawing up the Welsh Government's budget sufficiently transparent? If one of the aims of the Act is to be more transparent, is it time to think about whether the budget needs to be published in full, rather than in the form that we see now? There are a few general headings, which makes it very difficult for the opposition parties, certainly, and backbench Members, to be able to scrutinise the budget. Under this Act, there is a need to be more transparent. So, what is your view on that?

[296] Wedyn, y trydydd pwynt: a ydy natur tymor byr y cyllidebau yn gweithio yn erbyn yr amcanion o gynllunio tymor hir sydd eu hangen o dan y Ddeddf yma?

Then, thirdly, does the short-term nature of budgets work against the objectives of long-term planning that are required under this Act?

[297] Felly, tri pheth, mewn ffordd: a ydy'r blaenoriaethau'n cael eu hadlewyrchu, a ydym ni angen bod yn fwy tryloyw o ran y gyllideb, ac a ydy'r broses tymor byr yn gweithio yn

So, there are three things, in a way: are the priorities being reflected, do we need to be more transparent in terms of the budget, and, is the short-term process working against

erbyn cynllunio tymor hir?

long-term planning?

[298] **Ms Howe:** Thank you. There were some things to be hopeful for, I think, in the budget that was published most recently. There are clearly some long-term proposals in there. Whatever you think about the M4, it's a long-term proposal, and there are a number of other initiatives there. I think, again, the proposal to establish an infrastructure commission, with a view to giving them a mandate to be doing some of that long-term planning around infrastructure—and, obviously, then that will have a financial impact in terms of long-term planning—is to be welcomed as well. However, I guess that I still have some significant concerns around the extent to which, in that last budget round, the ways of working within the legislation were adequately embedded and I think that, probably, the Cabinet would recognise themselves that they have some way to go. I've had conversations with Mark Drakeford about this and he recognises—and has told me—that they want to start now, in terms of planning the next budget round, so that they are better able to think about how they approach applying those five ways of working.

[299] I think there are some significant issues in terms of the shift to prevention and I would like to see budgets much more reflecting that shift. Although it's incredibly challenging, the health service has got to be, I think, one of the major issues there in terms of that shift to prevention. It's interesting—I spoke at a debate yesterday with the NHS Confederation where the question was, or the motion was, 'This house believes that preventative and community services are the right thing to do, but it's impossible to do in the current climate'. My argument is that nothing's impossible—or you think it's impossible until it's done. There are a number of things, I think, that they could do to shift towards prevention, but I think that needs real leadership from the Government to be making those shifts.

[300] I think that in terms of—sorry, I'm just going through the ways of working—in terms of integration, in particular, there are a number of programs that are in the programme for government and we'll see how those start to translate through the four strategies that are being developed but that require integrated thinking. Arguably, they all require integrated thinking, but, for example, the investment in the new commitment around childcare—how will the Government do that in a way that isn't just providing a resource for working parents but actually has long-term benefits to tackling adverse childhood experiences, to tackling childhood obesity, to understanding what the future skills agenda is going to look like? A lot of the

international evidence is suggesting that early years is actually crucial to developing those skills that are going to be the skills for the future. So, I'm not yet seeing that sort of integration in terms of the budget, but I think, to be fair to the Welsh Government, they are on a journey as much as everyone else. And I do think that there is a commitment to be looking at how they can start to turn the tanker.

[301] In terms of transparency— yes, I guess it's as challenging to the rest of us who are external to the process as it is to yourselves, in terms of understanding that budgetary process. Do I think it's necessarily about seeing budget lines? Possibly not. But I think the narrative around it, in terms of where are they doing this integration, how are two separate ministerial portfolios or budget lines coming together around one issue, where are they making the shift from just doing what we normally do to, actually, prevention—. So, I think that, certainly, I would like to see more in the budget narrative around that.

[302] **Sian Gwenllian:** Can I just ask you why you wouldn't want to see the specific lines, because that's what happens in local government?

[303] **Ms Howe:** I'm not averse to seeing the lines, but I think the explanation around it is the critical thing. Then, in terms of the short-term nature—again, going back to what public bodies are saying out there, that is one of the biggest challenges that they face. One-year or two- or even three-year settlements, they say, don't enable them to plan for the future. Now, I have sympathy for that approach, but I don't have sympathy if people are saying, 'And therefore we can't do anything'. I think sometimes that is used as an excuse for not doing things. The example that I give is, if I want to move house in 10 years' time to a house that I've had my eye on for ages, I might not have the resources to do that now and I might plan over the next 10 years, I might lose my job, and things change, but actually you've still got that long-term vision; you're still working to that plan. You may adjust and you may have to change direction, but, just because you don't know what your resources are going to be in 10 years' time, it doesn't mean that you shouldn't have to set a plan or a vision to try, on a year-by-year, or a three-year by three-year basis, to get towards your vision. So, I think there's more that the Government could do in that regard, but, again, I absolutely recognise that it flows down the system from what the UK Government give to the Welsh Government, the Welsh Government give to local government, to health and so on and so on. So, it is challenging, but I don't think it's an excuse not to do anything.

12:00

[304] **John Griffiths:** Okay. We've got literally a few minutes left, I'm afraid, so we need very short questions and short answers. The last section I think we've got time to deal with, really, is Welsh Government objectives and national indicators—Rhianon.

[305] **Rhianon Passmore:** In terms of those national indicators, a very simple question: what is your view on them? I'll follow that with another short question.

[306] **Ms Howe:** So, trying to keep it short, I think there are too many of them. In my response to the Government, I suggested that there should be around five headline indicators, which would have a much better chance of people actually connecting with them, and a subset—a bigger set—of indicators that supported them. I have specific concerns about the fact that a large number of the indicators—the national survey in particular—don't touch anyone under the age of 16. So, when we're talking about future generations, that's quite a critical omission, really. The Government did commit to doing something on that, but I haven't seen yet how they're going to take that forward.

[307] **Rhianon Passmore:** Okay, thank you. In terms of your role, when you finish this role—when you leave it—what is it that you would like to have achieved?

[308] **Ms Howe:** Obviously, I would like to see a shift, in terms of progress against those 46 national indicators. But, actually, I think the bigger bucks are around the culture change—whether we can demonstrate that we're being more integrated in our thinking, whether we can demonstrate in our decision making that we're thinking long term, that there's been a significant shift in terms of focus and resources towards prevention, and that our policies are far more constructed around an understanding of the needs of our citizens, rather than how they might best suit our organisations or normal way of doing business.

[309] **Rhianon Passmore:** Thank you.

[310] **John Griffiths:** Okay, thanks very much for that. There are a number of matters that we weren't able to reach, commissioner, I'm afraid, but perhaps

we can follow those up in writing.

[311] **Ms Howe:** Yes.

[312] **John Griffiths:** Thank you very much for coming along to give evidence today. I know this was your first scrutiny session in front of an Assembly committee. Thank you very much to Marie, as well. You will be sent a transcript to check for factual accuracy.

[313] **Ms Howe:** Great, thank you very much. Nice to see you all.

[314] **John Griffiths:** Diolch yn fawr.

12:03

Papurau i'w Nodi Papers to Note

[315] **John Griffiths:** Okay. The next item is item 4 on our agenda, papers to note. Paper 3 is correspondence from the Presiding Officer, Elin Jones, to committee Chairs regarding the Senedd@Newport outreach event. On the assumption that the committee would like to take part, that the committee is content to take part, even if individual Members are unable to make it—. The committee was scheduled to meet in that particular week on the Thursday, 23 March. If you're content, we'll bring a paper back to the committee outlining possible approaches to our involvement on that day. Is committee content with that? Jenny.

[316] **Jenny Rathbone:** Can we try and make sure that we meet in a venue that is accessible to the citizen, in light of Sophie's comments—obviously, you know Newport far better than I do, but a place where we might be able to attract some ordinary members of the community, as opposed to officers and—?

[317] **John Griffiths:** Indeed. If indeed the committee decides to meet in Newport, because there are other options to meet here and then go to Newport, but perhaps we can flesh that out in—.

[318] **Jenny Rathbone:** Well, wherever we're going to meet, if we can try and reflect that principle, rather than going to the offices of a health board or a local authority, where there are already things going on that people can or

cannot engage with—.

[319] **John Griffiths:** Okay, we'll make sure that that's reflected in the paper that comes to committee on the options.

[320] **Sian Gwenllian:** A gaf i jest ategu hynny? Rwy'n meddwl ei bod hi'n bwysig ein bod ni ddim jest yn mynd fel pwyllgor i Gasnewydd ac yn eistedd rownd bwrdd ac yn trafod. Mi fuasai'n well gen i ein bod ni'n cyfarfod fel pwyllgor yn y fan hon, ond yn gwneud gwaith ymgysylltu yn ymwneud â rhyw ymchwiliad yr ydym ni yn ei wneud—ein bod ni'n mynd ac yn siarad efo pobl allan yn y gymuned, yn hytrach na'n bod ni jest yn mynd *en bloc* fel pwyllgor.

Sian Gwenllian: Can I just endorse that? I think that it is important that we don't just go as a committee to Newport and sit around a table and discuss. I would prefer that we meet as a committee here, but that we carry out associated work or work that's linked to some inquiry that we're doing, so that we go and speak to people out in the community, rather than just going *en bloc* as a committee.

[321] **John Griffiths:** That's certainly one of the options that we'll consider and will be in the paper that we bring back, Sian.

[322] Paper 4 is a letter from the Chair of the Constitutional and Legislative Affairs Committee regarding 'A Stronger Voice for Wales: engaging with Wales and the devolved institutions'. I think we may, as a committee, wish to respond to that letter if that's the view of committee members. But perhaps we could return to that at a future stage. Rhianon.

[323] **Rhianon Passmore:** I'd like to pick up, in terms of what this is driving at and the different key areas that they're looking at—. But in terms of what Sophie Howe articulated earlier in terms of the different frameworks and the planning cycles, and how they do not currently work across our different organisations—. So, if we can use some of what we've just heard with regard to some of that feedback when we do, I presume, feed into this inquiry.

[324] **John Griffiths:** Yes, okay. Jenny.

[325] **Jenny Rathbone:** I think the specific issue that we perhaps need to reflect on is that—I think it was the Home Affairs Committee of the UK Parliament that's just published a report on refugees and asylum seekers, which cuts across the work we've been doing. I just wondered if there might

have been better collaboration on understanding that they were doing this—maybe we were starting it first—so that we could have then read their report and then picked up the issues from there. It feels like there's a fair amount of duplication and they've got in ahead of us, and obviously that's a bit frustrating. So I just wondered, Chair, if you can tell us whether you knew about the timescales of the Home Affairs Committee.

[326] **John Griffiths:** No. But I think, as you say, Jenny, it would be useful at both ends of the M4 if we were better connected in terms of relevant committee work or any other relevant work that better informs both of us. So, I think those are matters we would want to reflect on. It's relevant to this matter, but generally relevant to the work of the committee anyway. When we return to our response to this letter at a future meeting, perhaps we can consider that in a bit more detail. Is that okay? Thanks for that.

[327] Paper 5 is correspondence to the WLGA regarding refugees and asylum seekers and paper 6 is correspondence to the Minister for State for Immigration regarding refugees and asylum seekers. Is the committee content to note both of those? Okay.

12:08

**Cynnig o dan Reol Sefydlog 17.42 i Benderfynu Gwahardd y Cyhoedd
o'r Cyfarfod**

**Motion under Standing Order 17.42 to Resolve to Exclude the Public
from the Meeting**

Cynnig:

Motion:

bod y pwyllgor yn penderfynu that the committee resolves to gwahardd y cyhoedd o weddill y exclude the public from the cyfarfod yn unol â Rheol Sefydlog remainder of the meeting in 17.42(vi).

accordance with Standing Order 17.42(vi).

Cynigiwyd y cynnig.

Motion moved.

[328] **John Griffiths:** In that case, then, our next item is item 5, which is a motion under Standing Order 17.42 to resolve to exclude the public from the

remainder of the meeting. Is the committee content to do so? Okay. We will move into private session.

Derbyniwyd y cynnig.

Motion agreed.

Daeth rhan gyhoeddus y cyfarfod i ben am 12:08.

The public part of the meeting ended at 12:08.